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## Promoting Children's Participation in Research, Policy and Practice

Editor

Jo Aldridge

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Editorial

## Introduction to the Issue: “Promoting Children’s Participation in Research, Policy and Practice”

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### Abstract

It is more than twenty years since the United Nations Convention on the Rights of the Child gave governments and states an international mandate to ensure the safety and wellbeing of children and young people and to promote their participation in decisions that affect their lives. Considerable advances have been made since that time that have, in some but not all instances, seen transformations in the status, roles and responsibilities of children and young people and in the ways in which they are perceived and treated. These advances have included greater inclusion of children’s voices in research, policy and practice underpinned by children’s rights to participation and ‘best interests of the child’ decision-making. Bringing together a unique collection of international articles from authors with considerable expertise in researching and working with children and young people, this thematic issue explores some of the ways in which facilitating constructive dialogues with children and young people, and engaging them more directly in consultation about their lives, has led to genuine improvements in the way they are treated and understood. It also considers some of the barriers that exist to prevent children and young people from full participation in public life, some of which occur as a result of structural or systemic factors, while others are the result of the decisions adults make on their behalf.

### Keywords

children; children’s rights; inclusion; participation; participatory research; vulnerability; young people

### Issue

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### 1. Introduction

The articles included in this thematic issue describe constructive and innovative methods and strategies (in research, policy and practice) for promoting children and young people’s social and political inclusion and participation in agentic decision-making, many of which are reflected in the principles set out in the United Nations Convention on the Rights of the Child (UNCRC; OHCHR, 1989). Some authors focus specifically on these—see, for example, Sandland’s (2017) examination of the UNCRC and the Convention on the Rights of Persons with Disabilities with respect to the participatory rights of children with disabilities—and on law and policy in national and international contexts. Horgan (2017), for example, considers Ireland’s strategy for consulting with children and

young people and their participation in decision-making, and concludes that different levels of participation are required for different purposes, which points to the need for a more nuanced interpretation of Article 12.

### 2. Children’s Rights and the UNCRC

Article 12(1) of the UNCRC (OHCHR, 1989) confers a duty on states parties to ensure that where they are capable of forming their own views, children have the right to express those views freely in all matters affecting them and that their views ‘will be given due weight in accordance with the age and maturity of the child’. Of course, the latter proviso inevitably raises questions about how the age and maturity of children and young people are to be judged and, more importantly, by who and in what con-

text? While acknowledging that there is no universally agreed definition of what constitutes a child or the phase of childhood, and that these are socially (and culturally) constructed concepts, nevertheless, and as a number of authors discuss in the articles included in this thematic issue, children and young people are not always afforded opportunities to decide whether they are either old enough or sufficiently mature to express their views in a range of settings, including in law, in education, in health and social care and so on. While what constitutes a child in different nations or states is often defined formally, in legal terms, and is most often determined by age, other contexts see children taking on paid work, or domestic or caring responsibilities, for example at different (sometimes very young) ages that may be in direct contravention of the law or of adult perceptions about what constitutes ‘appropriate’ childhood responsibility (from a practitioner perspective, Phelps, 2017, explores some of these issues in his consideration of ‘young carers’ contributions to and participation in policy and practice in England and Wales). Some children may choose to do this while others will have no choice and even where and when children are considered ‘old enough’ to decide, they still may never be given opportunities to express their views and opinions.

### 3. Enhancing Children’s Opportunities to Be Heard

In their analysis of children’s competence and competencies, Le Borgne and Tisdall (2017) argue that these are not intrinsic but ‘situated and relational’ (p. 6) and also often ‘under-recognised’ (p. 7). For many children, this is too often the case. Of course, some children and young people may prefer not to participate or engage at decision-making level even when they are given the choice, but it is critical for all children and young people to be afforded ‘the opportunity to be heard’, as is stated in section 2 of Article 12 of the UNCRC (OHCHR, 1989). As some of the articles in this thematic issue also show, too often domestic policies such as those in public health and in health and social care policy and practice, pay lip service only to children’s voices. In her article on Norwegian child bullying cases with respect to Article 12, Clark (2017) describes this as ‘voice-over’ (p. 15)—where children appear to have a voice but are not actually being heard. This apparent tension in formal responses to children’s participatory rights is reflected in other areas of their lives too; in Birnbaum’s (2017) research, for example, she demonstrates the value of children’s participation in post separation disputes in Canada and how this can have a positive effect on children’s resilience when dealing with parental separation, but also highlights the need to understand further ‘the balancing of potential harm and benefit to children who are invited to speak to professionals about their views and preferences’ (p. 6). Similarly, Banham, Allan, Bergman and Jau’s (2017) examination of child inclusive conferences in Family Courts in Western Australia reveal that Courts need to

balance the benefits to children of being involved more directly and the potential risk to them of participation and that ‘it is not always in the child’s best interest to give their views’ (p. 6). Sundhall (2017) argues that, in Sweden, it is precisely the influence of these kinds of decisions—of what she describes as ‘adulthood norms’ (p. 1)—that limit young people’s involvement in democratic processes, and that ultimately make her question whether it is possible to create dedicated political spaces for children and young people. In Scotland, there is a legal obligation to provide additional support for learning in schools and yet, as Swanson, Hong-Lin and Mouroutsou (2017) show, mathematics education is too often underpinned by ‘social constructions of ability’ that have led to inferior education for some children and limited opportunities for their voices to be heard.

These apparent tensions and contradictions in the ways in which children and young people are perceived and treated in different cultural contexts are reflected to some extent in the tension between the ideal of (universal) children’s rights and what is achievable or achieved in practice (i.e. nationally or domestically). With reference to Article 12(1), while children’s right to participation is fundamental to the international mandate of the UNCRC and its signatories (as long as children are able to express their views and in accordance with their age and level of maturity), part 2 states that children’s opportunities to be heard should be ‘consistent with procedural rules of national law’. In which case, how do children and young people themselves exercise their right to express their views if they have no legal standing or agency in their own country, that is, according to domestic policies and laws? Arguably, this can only be achieved through the actions of both adults and children/young people, that is, by continuing to promote children’s right to participation in decisions that affect their lives, and by states and governments *hearing* their voices and acting according to children’s expressed views and wishes.

The voices and perspectives of children and young people are in evidence throughout many of the articles included in this thematic issue and in a range of different settings. Hoadley, Smith, Wan and Falkov (2017), for example, show clearly how effective the voices of children and young people can be in family based interventions in children’s mental health services in Australia and that despite the challenges and complexities involved, mental health clinicians were better able to engage with children and families when children and young people were given opportunities to express themselves and their needs. Julie Rudner’s (2017) article on the need to better inform and educate planners in working with children and young people also considers education and practice in Australia, drawing on an evaluation of the delivery of a ‘designing children’s environment’ undergraduate course. In their article that explores the ways in which children and young people can contribute to the development of child-friendly resources in justice proceedings, Stalford, Cairns and Marshall (2017) employ

innovative adult-free ‘agenda days’ in order to provide space and opportunities for children and young people to contribute on their own terms.

#### 4. Children and Young People’s Participation in Research

Including and listening to children’s voices in research studies that use different kinds of innovative and ‘child-friendly’ methods can help facilitate and advance children’s participation—on their own terms and in ways that are meaningful to them—as well as encourage researchers to reflect on their own research praxis. This kind of critical reflexivity is the focus of Catherine Wilkinson and Samantha Wilkinson’s (2017) article on representation and responsibility in participatory research (PR) with young people and in which they make a number of recommendations for promoting children and young people’s roles as the co-producers of research. These arguments have been well rehearsed in the field of PR (including in my own research with children and young people—see Aldridge, 2014, 2015) but they are important nevertheless, particularly with respect to advancing both participatory and emancipatory research methods with children and young people. As Davidson (2017) acknowledges in her ethnographic study with young people living on a ‘disadvantaged’ housing estate in the UK, PR has benefited from greater status and theoretical analysis in recent years. Her own reflections on the ways in which the participants in her study, ‘simultaneously embraced, contested, subverted and refused’ (p. 1) strategies of enablement, are both insightful and illuminating, as well as demonstrate the value of a critical and reflexive PR approach.

Input from children and young people in these kinds of studies is vital in advancing PR and in emancipatory research approaches that see them take on the roles of researchers in their own right. But not all children and young people may be able to or even want to participate in research at this level—ascertaining their views and wishes is vital in any research involving children, including in PR. As Ergler (2017) demonstrates in her examination of children’s roles as co-researchers in New Zealand, these roles are often idealized and overlook the ‘messy realities’ of becoming and being a child researcher (p. 1). Furthermore, what do the relationships between participants-as-researchers and academic researchers look like? And how transformative can these roles and relationships be for children and young people? These, and other critical, reflexive questions are asked by Maclure (2017) in his examination of youth participation projects in Senegal.

Children’s contributions to research in projects such as these, including the roles and responsibilities they take on as co-researchers and the challenges therein, need to be incorporated in models of PR that can help both advance young people’s status (as researchers, as contributors in their own right, if that is what they want

and the PR field. Currently, it is too often the case that researchers who lay claim to methodological approaches that purport to advance children and young people’s participation, fail to explicate the nature, extent and limitations of their PR approach. In the main this is due to a lack of reference to tried and tested models of participation, and yet a number of these are available to researchers (see, for example, Aldridge, 2015; Cornwall & Jewkes, 1995; Hart, 2008).

One of the challenges of working with children and young people in research (as well as in policy and practice), including in PR studies that are intended to enhance their inclusion and more *active* participation, is the need to reconcile children’s participatory rights with their ‘vulnerable’ status. All children and young people under the age of 18 are defined or categorized as ‘vulnerable’ in research governance and ethics protocols, and researchers (and policy makers and practitioners too) must, all the time, work within these frameworks in order to safeguard and protect children from the potential risks involved in taking part. This is always going to be a challenge and it is one that is reflected in the discussions in many of the articles included in this thematic issue. Despite this challenge, it is critical that children and young people continue to be included in research—and in policy, practice and decision-making—about their lives and in ways that address and meet their expressed wishes and needs and that also respect and enhance their right to participation.

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Article

## A Clash of Conventions? Participation, Power and the Rights of Disabled Children

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### Abstract

This article considers the neglected topic of the relationship between the Convention on the Rights of Persons with Disabilities and the Convention on the Rights of the Child, with regard to the participation rights of disabled children. It analyses key articles in both conventions and considers relevant general comments from both convention committees (the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities), and their interpretation by academic contributors. The article argues that much work on this topic fails to develop an adequate understanding of power relations, and that the ‘social model of disability’ which underpins the disabilities convention, when applied to ‘childhood’ (as opposed to ‘children’) suggests that the implications of that convention for the participation rights of all children, not only disabled children, are profound. This is because the disabilities convention rejects the relevance of tests of capacity and ‘best interests’ for disabled adults, for reasons which are equally germane to disabled children, and children in general. The article concludes with discussion of the difficulties in implementing the insights derived from the analysis of the disabilities convention in substantive law in the absence of a right to freedom from age discrimination for children, and suggests other, less far-reaching, reforms that could be made this notwithstanding.

### Keywords

childhood; children; disability; participation; rights; social model

### Issue

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### 1. Introduction

The United Nations Convention on the Rights of the Child (CRC; United Nations, 1989) was the first human rights convention to contain an article dedicated to disability. Article 23(1) seeks to ensure that disabled children enjoy ‘a full and decent life’ which includes ‘active participation in the community’. Article 23(3) directs state parties towards the goal of ensuring ‘the fullest possible social integration’ of disabled children. In addition, Article 2 gives children a right to freedom from discrimination on various grounds including disability. Generally, the ‘participation rights’ of disabled children should be factored in to all actions, policies and decisions concerning or affecting children (Committee on the Rights of the Child [CRC], 2006, para. 5).

Since 2006, the position of disabled children has been further enhanced by numerous provisions of the United Nations Convention on the Rights of Persons with Disabilities (CRPD; United Nations, 2006). The CRPD is founded on the importance of ensuring participation for disabled persons. Article 1 builds ‘full and effective participation in society on an equal basis with others’ into the convention’s definition of disability and Article 3(c) provides that participation is one of the general principles running through the convention. Article 7, dedicated to disabled children, incorporates the best interests test, and the rights to be heard and have views taken into account, found in Articles 3(1) and 12(1) CRC, as Articles 7(2) and (3) respectively. Article 7 both guides the application of the rights found in that convention to children and acts as a bridge between the CRPD and the



CRC. Article 7(1) affirms that ‘States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children’ (see also preamble, para. (r)).

The interface between the CRC and the CRPD has been subject to little critical analysis (Sabatello, 2013). This may be because it is commonly understood that the CRPD merely elaborates on the rights given to children by the CRC, rather than providing new rights. I will argue, however, via an analysis which moves beyond issues around the substantive content of rights and into questions of paradigm and approach, that the potential impact of the CRPD on the CRC is profound. This arises from the adoption by the framers of the CRPD of what is called a ‘social model’ approach to disability, which carries within it a vision of participation which is incompatible with both the substantive content and the underlying ethos of the CRC, in terms of the latter’s construction of ‘the disabled child’ and ‘childhood’. I will first consider how children’s participation has been discussed in debates around CRC participation rights, suggesting that these debates suffer from an impoverished understanding of the relationship between participation and power. I will then consider whether the social model approach is more satisfactory in this regard, both in theory and in terms of how it plays out in Article 12 CRPD, this being that convention’s key article on participation rights. In the final substantive section of the article I will focus on the right to express a view and, have it taken into account, this being a cornerstone right for effective child participation in both the CRC and the CRPD. I will conclude that the main issue which the CRPD raises for the CRC is whether a ‘social model of childhood’ should be adopted. I argue that it should, although I concede that Rome was not built in a day, and so end by suggesting other, less contentious, changes that could be made to the way in which the CRC is interpreted, whilst we patiently await ‘the dawn of a new era’ promised by Kofi Annan on the day the CRPD came into existence (Bartlett, 2012).

## 2. Participation, Rights and Power

Although the rights contained in the CRC are integrated and indivisible, impacting on and informing the scope of each other, they are often categorised in terms of the so-called ‘3Ps’, of protection, provision, and participation. Protection and provision rights are rooted in welfarist concerns—the survival of the child, protection from harm or neglect, the meeting of needs, and the provision of services. Participation rights, by contrast, whilst depending for their efficacy or even possibility on functioning protection and provision rights, emphasise the present and future autonomy and agency of the child. At the risk of oversimplification, it can be said whilst protection and provision rights are concerned to secure the conditions of possibility for a good and meaningful life, participation rights in the CRC are concerned with living that

life, and seek to provide appropriately modified, child-focused, versions of traditional adult civil and political rights to self-determination and involvement in the polis. The provision of participation rights to children was one of the great innovations introduced by the CRC.

Participation rights are possessed by individual children, by groups of children—such as disabled children—in respect of decisions which affect them, and by all children collectively. They have both a social and political aspect, requiring that children be encouraged and enabled to engage both in society, broadly understood, and in democratic processes. Participation rights do not respect the public/private divide, applying equally to parental or other domestic decision-makers (albeit that here they must interact with parental rights to raise their children and guide their development provided by Articles 18 and 5) as to public actors and institutions in their dealings with children. The single most significant participation right in the CRC is the Article 12 right to be heard and have one’s views taken into account, considered by the CCRC (2003, para. 12) to be one of the four general principles (along with freedom from discrimination; upholding best interests; and the right to life, survival and development) underpinning the CRC. Other ‘participation rights’ are phrased as freedoms: of expression (Article 13); thought, conscience and religion (Article 14); and association and peaceful assembly (Article 15).

Supporting these primary participation rights, are rights to privacy (Article 16) and of access to media and information (Article 17). Participation is also emphasised as an aspect of other rights, such as the ‘right to participate fully in cultural life and the arts’ provided by Article 31, and specific groups are provided with bespoke participation rights, including disabled children, as already mentioned (Article 23) and children belonging to an indigenous minority (Article 30). Beyond this, the indivisibility of rights in the CRC means that all rights therein are in some sense participation rights: the right to freedom from discrimination, for example, is designed to ensure equal participation opportunities for all; the idea of best interests is swathed in normative assumptions about the benefits of participation; and Article 12 and the other rights listed above interact with other CRC provisions such as the rights to the highest standard of health (Article 24) and to education (Articles 28, 29).

The emergence of children’s participation rights reflected general trends such as consumerism and user involvement, but also developments in the sociology of childhood, with new paradigms of the child as autonomous and capable replacing historical constructions grounded in notions of dependency, lack and parental authority (Tisdall, 2008; Sinclair, 2004), based on research demonstrating the significant capacities of children. As the CCRC notes in General Comment [GC] 12 (CCRC, 2009, para. 21), citing Lansdown (2005): ‘Research shows that the child is able to form views from the youngest age, even when she or he may be unable to express them verbally’. Human rights discourse embraced and

amplified these new constructions of the child as subject (Thomas, 2007). This entails that the substantive content of participation rights respect the autonomy of the child, with ‘participation’ requiring something more than mere involvement or consultation. Participation rights should enable children to ‘learn how their views and those of adults are taken into account and shape the outcome of such processes’ (CCRC, 2009, para. 3), and ‘should not only be a momentary act, but the starting point for an intense exchange between children and adults on the development of policies, programmes and measures in all relevant contexts of children’s lives’ (CCRC, 2009, para. 13).

Child participation is understood to offer present and future benefits to the child or children concerned, including enhanced life experiences, the development of a sense of self-worth, and of capacities, confidence, and so on. It is also said to mean ‘better outcomes, both for young people and for organisations’ (Kirby, Lanyon, Cronin, & Sinclair, 2003, p. 18). More generally, better participation better upholds the legal rights of children and the obligations of governments and other actors towards them, and as such enhances democracy. Given this multiplicity of aims, it is not always clear how the concept of ‘successful’ participation should be understood. Much effort has been expended on developing strategies, policies, practices, and protocols designed to actualise, normalise and measure participation and participation rights (Kirby et al., 2003; Lundy, 2007), such as Hart’s ubiquitous adaptation of the ‘ladder of participation’ (Hart, 1992). And as far as ‘social’ participation in contexts such as education, leisure or sport is concerned, the notion of ‘well being’ has been shown to be positively correlated to the efficacy of participation rights (Lloyd & Emerson, 2016), so that greater levels of ‘well being’—with social scientists devising ways to measure changes—can be taken as indicative of more or less successful projects to realise participation rights. Things are trickier when it comes to political participation. The main mechanism used by adults—the right to vote—is not available to children. There is a ‘participation gap’ which Nolan (2010, p. 768) sees as ‘deeply problematic’ because it ‘not only poses a serious obstacle to the conceptualisation of children as full “citizens” but undermines the legitimacy of the outputs of so-called representative democratic decision-making bodies in relation to children’s rights issues’; and attempts have been made, by Nolan and others (Cohen, 2005), to devise ways to address the democratic deficit which have involved developing the notion of citizenship in novel ways.

The absence of the right to vote in the CRC reflects the reluctance of adult populations to share political power with children, and this reluctance has frequently been reported by research on participation in other contexts (VIPER, 2013). Concern has been expressed that too often participation initiatives remain on the lower rungs of Hart’s ladder of participation: ‘few’ of those studied by Badham ‘showed any tangible results’ of participation

initiatives, and that ‘One of the reasons for this emerging chasm between process and outcome is adult policy makers’ and professionals’ lack of attention to power in participation’ (Badham, 2004, p. 144), which tends towards tokenism rather than genuine partnership as envisaged by the CCRC. The issue here can be understood in terms of the balance between autonomy and benevolence: participation implies agency and, to some extent at least, constitutes the displacement of benevolence—as well as of adult power and authority over children. This is certainly the view of the CCRC, which sees participation rights as needed by children to address ‘many long-standing practices and attitudes, as well as political and economic barriers’ (CCRC, 2009, para. 4). The relationships involved are paradoxical, however. Arguments for more and better participation are commonly addressed not to children but to adults—national governments and NGOs, health and education establishments, parents and others—as the principal actors (Tisdall, 2008). Participation for children is seen to be ‘dependent on the cooperation of adults’ (Lundy, 2007, p. 929). It is they who must give (some) power to children.

Whilst in one sense clearly correct, this sort of analysis endorses a model of power as a ‘thing’ over which something like ownership rights can be held, and alienated. I would rather align myself with Foucault, who holds that, rather than being something which can be possessed, power is better understood as something which is exercised:

what defines a relationship of power is that it is a mode of action which does not act directly and immediately on others. Instead, it acts upon their actions: an action upon an action, on existing actions or on those which may arise in the present or the future. (Foucault, 1983, p. 220)

This view has various implications: power is not seen in abstract terms but rather as embedded in human relationships; it is diffuse and polycentred; a linear and multi-directional; and it should be studied in terms of effects not intentions. Gallagher gives the example of the right to vote in school council elections. What this actually means depends, amongst other things, on numerous pupil–pupil, pupil–teacher, pupil–school, and teacher–school, relations. If any of these relations change ‘the power which pupils are able to exercise will also be transformed’ (Gallagher, 2008, p. 399). That adults have given children in the school the right and power to vote, with the intention of fostering participation in the running of the school, is of little relevance to whether those intentions are mirrored in their effects, and tells little about the actual benefits, level, nature or intensity of the participatory experience.

For Foucault, power understood in terms of ‘actions upon actions’ is characteristic of the way that modern government functions. The idea of good government ‘depends not upon crushing the agency of subjects into sub-

mission, but rather in cultivating this agency in particular ways' entailing a 'subtle interplay between the hierarchical, coercive power of the governor over the governed, and the governed subject's power over herself, which we might call her autonomy' (Gallagher, 2008, p. 401). Modern government aims to construct subjects who are amenable to modern government (Foucault, 2007, p. 99). For example, whilst Article 28 CRC provides a right to education for all children, Article 29 requires state parties to operate their education systems so as to both develop the personality, talents, abilities, and capacities of the child to their fullest potential, *and* to prepare children 'for responsible life in a free society'. That is, the aims of education include the production of autonomous adult citizens who will share the vision of good government and who, as good, responsible, citizens, will themselves be governable. The risk of government, however, when it is the government of freedom, is that freedom will exceed its allocated place. The autonomous subject, educated by the state to be a good and governable citizen, might exercise that autonomy to resist governance. As Foucault puts it, 'there are no relations of power without resistances' and resistance 'exists all the more by being in the same place as power; hence, like power, resistance is multiple' (Foucault, 1980, 142). From such a perspective, notions of power based on ownership or possession, and which see it as alienable, seem hopelessly inadequate to capture all the competing and conflicting actions and flows which together constitute the operation of power and resistance in modern societies, and limit our ability fully to evaluate the risks and benefits of participation rights for disabled children.

Although Foucault has applied his ideas to the governance of children (Foucault, 2006, ch. 9), more work is needed to think through the ways in which ideas principally concerned with the governance of adult populations might function in the context of children's rights. As contemporary, human rights-grounded, discourses of childhood embrace notions of autonomy and agency, and outlaw control strategies using physical force, it is perhaps to be expected that strategies to encourage compliance in adult populations are also now also utilised for child populations. Moreover, Foucault's model of the modern operation of power—which he sees as being, initially at least, derived from the power of a father over his family (Foucault, 2007, pp. 94–95)—suggests that parents should be seen as part of the governmental structure regulating the autonomy of children (Articles 5, 18.1, CRC). From this perspective, participation rights function as a mechanism to include children in their own governance, as a strategy for neutralising threats to governance (Gallagher, 2008, p. 402). Conversely, participation rights, especially the right to express a view and have it taken into account, impact on parental as much as state exercises of power. Such questions can be theorised, but their answers cannot. As mentioned above, the operation of power should be studied in terms of its effects rather than the intentions behind its deployment.

Answers to questions about how participation works in practice involve the study of outcomes, of effects, and are strictly within the realm of the empirical, as the study of actions, and actions on actions.

### 3. The Social Model of Disability, Children, and Childhood

The CRPD has, since 2006, provided disabled children with further participation rights. The CRPD is a good example of the revolution which has overwhelmed traditional concepts of disability, with the emergence of the so-called 'social model' of disability. The social model, the exact contours of which are contested (Gabel & Peters, 2004), involves a rejection of both the 'medical model' which locates disability as an inherent, problematic quality of the individual; and the 'social welfare model', which sees social policy in terms of charity and philanthropy towards people with 'special needs'. Instead, it is a model grounded in equality, rights, and their infringement (Kanter, 2015). Social models of disability conceptualise disability as resulting from various barriers to participation that society places in the way of persons with impairments. The removal of these barriers is the mission of the social model and disability rights.

The emergence of the social model of disability has spawned a broad literature. Some criticise it as too all-encompassing and at risk of denying the subjective experience of being a disabled child (Watson, 2012, pp. 194–195). Others argue that the model must be modified accordingly, and make a distinction between 'disability' (a social/cultural phenomenon which is the result of barriers placed by society in the way of participation) and 'impairments effects' (the limitations which individuals experience which are 'directly associated with or "caused by" having a physical, sensory or intellectual impairment') (Thomas, 1999, p. 42). Those who defend the model, including some closely associated with its emergence, are content to accept such views, making the point that the social model never sought to become 'an all-encompassing framework within which everything that happens to disabled people could be understood or explained' (Oliver, 2013, p. 1024). It is a modified version of the social model which underpins the CRPD. Article 1 defines 'disability' (although not exhaustively) as 'long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others', and para. (e) of the preamble refers to 'attitudinal and environmental barriers'.

Although little work has yet done on the application of the social model of disability to disabled children, various supportive critiques have emphasised that it can accommodate a broad constituency of differentially-situated stake-holders (Shakespeare & Watson, 1997, pp. 298–299). The Committee on the Rights of Persons with Disabilities (CCRPD) has not addressed the question



directly, but evidently does not see a problem, applying the social model to barriers to education, play, and sport in its GC 4 (CCRPD, 2016, para. 58). Connors and Stalker (2007) have sought to measure the relative importance to disabled children of external barriers and internal impairments, which the authors (Connors & Stalker, 2007, p. 31) and others (Watson, 2012, p. 196) understand as constituting the application of the social model to disabled children.

However, there is a need for clarity on this issue, involving a vital distinction between the application of the social model to *children*, and to *'childhood'*. In their research, Connors and Stalker (2007) apply the model to children. But merely asking what barriers stand in the way of disabled children's participation does not capture the full implications of the model, because it leaves the concept of *childhood* untouched. The social model is concerned with more than challenging barriers to participation. It also involves a critique of 'disability' as an exercise of power, which holds:

- (i) that the benevolence of both the medical and social welfare models mask their operation as power and control, and the imposition of the value-judgments of the decision-maker (Banner, 2012; Holroyd, 2012), such that the CCRPD for this reason insists (CCRPD, 2014, para. 21) that the 'best interests principle' is not CRPD-compliant (see further below);
- (ii) that earlier models endorsed an inappropriate, individualising, focus to understanding disability; and
- (iii) that the concept of 'autonomy' as that term functions in liberal discourses is 'by and large a fiction' (Mégret, 2008, p. 513) because it underplays the extent to which individual autonomy is achievable only through social and other relations.

Here, the social model overlaps with other provocative developments, including Fineman's vulnerability theory (Fineman, 2008), Nussbaum's work on the 'capabilities approach' (Harnacke, 2013), and feminist and other work on the concept of 'relational autonomy' (e.g., Mackenzie, 2014; Series, 2015). Space precludes further discussion, but it is important to appreciate that the social model of disability is embedded in a broader project to deconstruct the autonomous subject so central to liberal political and legal theories.

The CRPD is premised on the view that *all* persons require support to be free and autonomous, which both serves to dissolve any firm barrier, such as that between 'able' and 'disabled'; (or, significantly, although the CCRPD does not mention this) that between adult and child. In international law terms, the challenge is to the barrier between, on the one hand, civil and political rights, exercised by an autonomous subject, and, on the other, economic, social and cultural rights, essential for the realisation in practice of effective civil and political rights, which involves 'a profound process of reformulating rights' (Mégret; 2008, p. 515). Sometimes de-

scribed as a 'support paradigm' (Series, 2015, p. 80), this is the model embedded in the CRPD, and there has been to date 'a general failure to understand that the human rights-based model of disability implies a shift from the substitute decision-making paradigm to one that is based on supported decision-making' (CCRPD, 2014, para. 3). The difference between the two paradigms is that the latter posits the individual concerned, seen as having legal capacity, as the decision-maker, whereas the former removes the decision from an individual found to lack capacity, typically via an inappropriate conflation of legal and mental capacity (CCRPD, 2014, para. 15), and hands it to a third party, to be made by reference to that third party's assessment of the best interests of the individual concerned. This seen by the CCRPD as discriminatory and antithetical to the participation rights of disabled persons (CCRPD, 2014, paras. 13, 45).

Applying this model to children entails seeing 'childhood' in the same way as 'disability'—as a set of legal and other limitations imposed on the subject, over and above those resulting from, or irrespective of, their present individual abilities and capacities. This is not to impute sinister motives to adults; nor to challenge the validity or propriety of the CRC's vision of childhood as ideally occurring 'in a family environment, in an atmosphere of happiness, love and understanding' (CRC, preamble); nor to dismiss the historical and continuing importance of the CRC in and of itself, precisely for the way in it constructs children's legal personality in the discourse of rights (Freeman, 2011). But it is to recognise that childhood, and the CRC as the legal expression of normative discourses of childhood, can be understood as: regulatory devices which produce normative judgments about children and child development (Gadda, 2008); systematic discrimination based on age; disempowerment; and as such, as barriers to participation. In short, it can be argued that childhood is in effect a species of disability, in the specific sense in which that latter term is deployed by the social model and the CRPD. The social model, accordingly, bites twice on the disabled child; once because she is a child and again because she is disabled. Its application to childhood involves asking questions about how power flows through discourses and actions around both childhood and disability, and their various intersections; how this power is constitutive of individuals, as in some sense the effects of power; and how it might be acted on by or for the benefit of disabled children. That is, the social model should be seen as an analysis of power relations rather than as a theory of disability.

The social model of disability was strongly endorsed by the CCRC in its CG 9 (CCRC, 2006, para. 5), meaning in the view of the committee that 'the barrier is not the disability itself but rather a combination of social, cultural, attitudinal and physical obstacles which disabled children encounter in their daily lives'. Correspondingly, 'The strategy for promoting [the] rights [of disabled children] is therefore to take the necessary action to remove those barriers' (CCRC, 2006, para. 5). This is uncontroversial.

sial as far as it goes, but as can be seen, to understand the social model only in terms of ‘barriers’ misses the broader, and more politically challenging, implications of a social model approach and how it might apply to disabled children. Specifically, the CCRC does not to recognise that one significant barrier confronting disabled children, and children generally, is the social, and legal, construction of *childhood* itself. The denial of the franchise to children is perhaps the clearest example of the point. As I will now discuss, this argument is supported by an analysis of the role that capacity plays in the construction of the child and her rights in and by the CRC, as it is here that the CRPD decisively parts company with the CRC, and the ‘best interests’ approach.

#### 4. Children, Capacity and Supported Decision-Making in the CRPD

The stance taken on the issue of capacity in the CRPD is ground-breaking and controversial. The key provision is Article 12. Articles 12(1)–(3) provide:

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law;
2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life;
3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.

Article 12, like the CRPD generally, is grounded in an understanding that the key issues to be addressed are the historical inequalities between the rights of disabled adults compared to non-disabled adults, and discrimination against disabled persons (Dhanda, 2007). What makes it controversial is its challenge to the status quo. It seems to prohibit the use of any test of capacity which is linked to, or triggered by, a person’s disability:

Legal capacity and mental capacity are distinct concepts. Legal capacity is the ability to hold rights and duties (legal standing) and to exercise those rights and duties (legal agency). It is the key to accessing meaningful participation in society. Mental capacity refers to the decision-making skills of a person, which naturally vary from one person to another and may be different for a given person depending on many factors, including environmental and social factors...Under article 12 of the Convention, perceived or actual deficits in mental capacity must not be used as justification for denying legal capacity. (CCRPD, 2014, para. 13)

The insistence that all persons have legal capacity is buttressed by the CCRPD with a corresponding reading of Article 12(3) as requiring supported decision-making as

the norm, and the ‘abolition’ of substituted judgment approaches. There is no room for compromise: ‘The development of supported decision-making systems in parallel with the maintenance of substitute decision-making regimes is not sufficient to comply with article 12 of the Convention’ (CCRPD, 2014, para. 28). However, the CCRPD does accept that Article 12(4), which requires state parties to provide ‘appropriate and effective safeguards to prevent abuse’ when providing support to a person in the exercise of their legal capacity, does permit a substituted judgment to be made ‘Where, after significant efforts have been made, it is not practicable to determine the will and preferences of an individual’. But even here, the task of the decision-maker is to do their best to implement the ‘will and preferences’ of the person in question, rather than make their own decision as to that person’s best interests (CCRPD, 2014, para. 21).

A detailed examination of debates around Article 12 is beyond the scope of the present article, but in summary, most CRPD scholars are supportive, even enthusiastic about, the approach taken in the CRPD and by the CCRPD in GC 1 (Arstein-Kerslake & Flynn, 2016). However, Richardson, herself broadly supportive, has noted (2012, p. 346), that the apparent contradiction in the CCRPD view—in seeing Articles 12(1)–(3) as providing that all persons have legal capacity, but conceding that Article 12(4) suggests otherwise—is hard to reconcile. Others are sanguine about the impact of the convention on domestic capacity law, and see GC 1 as a missed opportunity to clarify key issues, including the relation between Articles 12(1)–(3) and Art 12(4) (Dawson, 2015). Others still see the issue in temporal terms, of how to implement fundamental change to laws, practices and attitudes (Harnacke, 2013), given that ‘sufficiently developed concepts and legislative models are not in place for legal reform to reflect the new paradigm’ (Bartlett, 2014, p. 173), whilst making existing mechanisms function effectively to protect rights in the meantime.

Despite these uncertainties, it must be considered whether Article 12—in applying to ‘all persons with disabilities’ (Article 1, CRPD), and given that ‘legal capacity is a universal attribute inherent in all persons by virtue of their humanity’ (CCRPD, 2014, para. 8)—should be taken to include children. The CCRPD’s view is that ‘best interests’ tests, as disempowering and discriminatory, do not comply with Article 12 when applied to adults (CCRPD, 2014, para. 21), but as far as disabled children are concerned, the rights approach of Article 12 is subordinate to the ‘best interests’ approach of Article 7:

While article 12 of the Convention protects equality before the law for all persons, regardless of age, article 7 of the Convention recognizes the developing capacities of children and requires that ‘in all actions concerning children with disabilities, the best interests of the child...be a primary consideration’ (para. 2) and that ‘their views [be] given due weight in accordance with their age and maturity’ (para. 3). To com-

ply with article 12, States parties must examine their laws to ensure that the will and preferences of children with disabilities are respected on an equal basis with other children. (CCRPD, 2014, para. 36)

This statement is, however, more ambiguous than it appears. On the one hand, it appears that the CCRPD has done what it censures in others—it recognises that disabled children *have* the right to equality before the law, but does not allow disabled children to *exercise* that right. The principle of non-discrimination should preclude a situation whereby disabled adults are entitled to greater levels of support than disabled children, yet this would seem to be the effect of children being steered away from Article 12 and into Article 7 by the CCRPD. Having stated that legal capacity tests allowing substituted judgment by third parties do not comply with the convention, the CCRPD here not only defends the use of a legal capacity test, but the most discredited version of such; a test based on ‘status’, which it specifically disapproves in relations to disabled adults (CCRPD, 2014, para. 15). The paradigm shift occurring around the concept of disability as reflected in the CRPD is not, it seems, in view of the CCRPD intended to apply to disabled children.

And yet, the reference to ‘the will and preferences’ of disabled children points otherwise. In GC 1, the CCRPD states that ‘The “will and preferences” paradigm must replace the “best interests” paradigm to ensure that persons with disabilities enjoy the right to capacity on an equal basis with others’ (CCRPD, 2014, para. 21). Here, the CCRPD uses the term ‘will and preferences paradigm’ as simply another way of describing the supported decision-making paradigm, as a key aspect of the social model of disability: in the social model, the purpose of support is to assist the supported person to articulate their will and preferences in the form of decisions. In using the same term when discussing the situation of disabled children, and in the same breath as it refers to the best interests paradigm, the CCRPD seems, then, to have conflated the old and new paradigms, constructing disabled children as a moment of difference in personhood, allegedly protected but also not protected by Art.12. It is submitted that this is inconsistent with the philosophy of the CPRD. This can be seen most clearly in the way that the participation rights of disabled children to express views and have them taken into account are differentially constructed in the CPRD compared to the CRC.

### **5. The Right to Express Views and Have Them Taken into Account**

This right is found in both conventions. Article 12(1) CRC provides:

States Parties shall ensure to the child who is capable of forming his or her own views the right to express those views freely on all matters affecting the child,

the views of the child being given due weight in accordance with the age and maturity of the child.

Article 7(3) CRPD is similar, but imposes greater obligations on state parties:

States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

As can be seen, Article 7(3) contains three modifications of the Article 12(1) CRC right. First, Article 7(3) unlike Article 12(1) refers to equality between disabled children and other children, implying that Article 7(3) is corrective (designed to buttress the rights that disabled children already possess under the CRC) rather than novel (designed to provide new rights). Secondly, the reference to capacity to form a view is absent from Article 7(3). It could be suggested that nothing turns on this because a view which has not been formed cannot be expressed. It can perhaps more plausibly be argued, however, that this is indicative of the general attitude of hostility towards ‘capacity’ tests which runs through CRPD, as discussed above.

The third difference, that Article 7(3) CRPD unlike Article 12(1) CRC requires disabled children to be ‘provided with disability and age-appropriate assistance’, further contradicts the claim that the CRPD is merely corrective. The right to express a view on matters which affect one, and to have that view given due weight, is essentially a civil right grounded in the state’s obligation to comply with natural justice, and as such imposes ‘a strict obligation to undertake appropriate measures to fully implement this right for children’ (CCRC, 2009, para. 19, discussing Article 12(1) CRC). But the right to assistance in the realization of that right, guaranteed by Art.7(3) CRPD, is an entitlement or ‘social’ right, and the obligation on states in respect of such rights is that they need be provided for only ‘to the maximum of its available resources’ (Article 4(2) CRPD, see also Article 4 CRC). In conventional international human rights law terms, Art.7(3), by conflating the two types of right, and subordinating the latter to the former, undermines the distinction made by Article 4(2) CRPD and Article 4 CRC. There is no doubt, however, that this mixing of ‘types’ of rights, which is a feature not just of Article 7(3), but of the CRPD generally, was intentional, reflecting the social model approach towards rights (Dhanda, 2008; Mégret, 2008; Weller, 2011). As such, it is submitted that the best reading of Article 7(3) is that it rejects the relevance of capacity and applies a supported decision-making approach to the participation rights of disabled children.

It is unfortunate that the CCRC did not analyse or even refer to Article 7(3) in either GC 9 (2006), dealing

with the rights of disabled children, or GC 12 (2009), dealing with Article 12 CRC rights. In GC 9, the CCRC does state that compliance with Article 12(1) requires that disabled children 'should be represented in various bodies such as parliament, committees and other forums where they may voice views and participate in the making of decisions that affect them as children in general and as children with disabilities specifically' (CCRC, 2006, para. 32). The CCRC also notes with concern that disabled children are too often not consulted about decisions to remove them from their family environment and place them elsewhere (CCRC, 2006, para. 48), and urges states to comply with Article 12(1) in this context. But other topics—health, education, juvenile justice, civil rights and freedoms, sport and leisure, and others—are discussed without any reference to the rights in Article 12(1) or how they might apply, and there is little discussion of the rights of individual disabled children. Overall, GC 9 is very much protectionist in tone.

The Article 12 CRC rights of children are also considered in GC 12. Although as a General Comment it is appropriate that it deals with generalities, nonetheless it is striking that the position of disabled children is barely mentioned. The CCRC does state that disabled children should be 'equipped with, and enabled to use, any mode of communication necessary to facilitate the expression of their views' (CCRC, 2009, para. 21), but beyond that, disabled children are only referenced, along with indigenous children or very young children, as examples of subsets of children who have a group right to be heard under Article 12 or for whom particular considerations apply to state plans for the implementation of Article 12 rights (CCRC, 2009, paras. 9, 87). And as seen above, the participation rights of disabled children are dealt with only summarily by the CCRPD in its GC 1.

In summary, the participation rights of disabled children have not been clarified by either committee. The CCRC has taken an approach in line with the ethos of the CRC, viewing the Article 12 rights of all children as *never* amounting to the right to self-determination enjoyed by all adults. This is evident in its reading of the relationship between Articles 3(1) and 12(1) CRC. The CCRC sees 'no tension' between the two articles, but 'only a complementary role of the two general principles'. Article 12(1) is 'the methodology for reaching the goal of hearing either the child or the children', whereas Article 3(1) 'establishes the objective of achieving the best interests of the child' (CCRC, 2009, para. 74). From a Foucauldian perspective, Articles 3(1) and 12(1) can be seen as 'actions on actions', and the methodological error which the CCRC makes is to view the intention behind these actions as determinative of their effects. Although in practice there will often be no tension involved in applying the two articles together, sometimes there will be. And this tension is fundamental: it is the tension between control and resistance, benevolence and autonomy. This is not to deny that a dispute can be resolved, for example whether a child's view is determinative of the outcome

or not. But the resolution of the tension, irrespective of the CCRC's view, can and will only be achieved on a case by case, individualised basis, and it will be a question of the particular configuration of actions upon actions, the flows of power which can be brought to bear, in the particular situation. A child well-equipped with rhetorical and diplomatic skills, or unusual reserves of determination and belligerence, may secure a more favourable outcome from her encounter with adults than her less well-equipped peer, for example. But the point is that, whilst the nature of tension may be theorised, its resolution can only be achieved in practice and the play of actions upon actions. However, the CCRC does not even concede the (prior) stage of recognising a tension in the first place.

For the CCRC, like the CCRPD, there is never a point at which a child, however 'mature' and capacious, may decide on his or her own best interests in a way in which relevant adults disapprove (see, e.g., CCRC, 2009, paras. 29, 30), which leads to the conclusion that the participation rights of children are at root mechanisms for governance rather than autonomy, or the incremental recognition of autonomy is itself a mechanism for governance. Hence, the CCRC is inaccurate when it claims that 'age alone cannot determine the significance of the child's views' (CCRC, 2009, para. 29), because it is precisely age, and status as a child, which justifies this approach to participation. The CCRC is only able to reach this view by making no more than a passing and token reference to the social model of disability, the CRPD, its attempts to shift the paradigm around participation, and the implications of that, not just for disabled children, but for all children and, especially, the concept of childhood itself.

## 6. Concluding Comments

'Participation' entails engagement in relationships which are shot through with power dynamics, and hence there is a need to analyse participation rights as embroiled in this play of actions on actions. I have argued that much work on child participation has been hindered by the failure to do this. I further argued that the social model of disability, itself a critique of power relations around disability, functions similarly when applied to *childhood*, as opposed to *children*; revealing childhood itself, like disability, to be a constructed set of barriers to participation. Childhood, generally and in the CRC, may, and should, be constructed positively, recognising and celebrating the inherent worth, dignity, autonomy and developing abilities of the child. But it also encodes a set of normative assumptions about incapacity, dependency, irrationality, immaturity, which cloak the disempowerment of children thereby achieved with an appearance of justificatory adult benevolence and responsibility. It is only by acting on those assumptions that the CCRPD is able simultaneously to disapprove the application of tests of legal capacity and best interests achieved through substituted judgment for adults whilst finding no fault in their



continued application to disabled children, and children in general. It is nonetheless striking that the CCRPD emphatically rejects and blithely endorses the use of legal capacity in the same breath.

TenBroek (2009, p. 39) has suggested that ‘the main value of the [CRPD]...is that it forces us to face the contradiction between the “myth system” and “operation system” of our laws’. TenBroek’s point concerns equality between adults, but it applies equally to the gap between the myth of equal protection of the laws and the reality of inadequate protection of disabled children, and children in general. The problem, though, from a legal point of view, is the absence of tools to make such an argument. The CRPD offers only protection from discrimination on the grounds of disability. The CRC also offers children protection from discrimination on the grounds of disability, as well as the other grounds in Article 2. But what is missing, from this point of view, is an explicit right to protection from discrimination on grounds of age. In a sense, the entirety of the CRC and the concept of children’s rights recognises and seeks systematically to address age-related discrimination against children, and Article 2, whilst listing specific heads of discrimination, is non-exhaustive, applying broadly to ‘discrimination of any kind’ or based on any ‘other status’ of the child, which would seem to include the status of the child as child, that is, age-related discrimination (although the ‘other status’ component was intended to protect, for example, children born to unmarried parents: Buck, 2011, p. 125). To date, however, although Article 2 has subsequently been expanded in scope, and is now seen as prohibiting discrimination based on unlisted factors such as sexuality, or HIV status, for example, there has been little appetite to develop this possibility (Besson, 2011, p. 103; Breen, 2005). Indeed, it is common to see Article 2(1) discussed with no reference made to the possibility that it applies to age-based discrimination. But without such a right, attempts to implement the social model of childhood in the sense developed in this essay cannot get off the ground.

It may well be (thought) futile to develop a position on the participation rights of disabled children which questions the relevance of capacity and the best interests approach. There is little prospect of, and little support for, any such position (although it is not too long since the same could be said in the context of the rights of disabled persons). But less fundamental reform may be more palatable. Specifically, it is argued that the continued reliance on a ‘status’ approach to capacity, which holds that all below the age of 18, whatever their actual capacity, may not exercise their own rights when a third party disagrees as to their best interests, is not defensible. If international child law is not (yet) prepared to follow international disability law in abandoning tests of legal capacity and substituted judgment in favour of universal legal capacity and supported decision-making, then it can at least abandon the ‘status’ approach to capacity in favour of the ‘functional’ approach.

There should be a corresponding shift from substituted judgment to supported decision-making in the exercise of capacity. The explanation of the relationship between Articles 7 and 12 CRPD as they apply to children offered by the CCRPD does not preclude the application of the Art 12(3) right to supported decision-making to disabled children. Franklin and Sloper (2009, p. 13) have observed that knowledge regarding supported decision-making for adults ‘has remained rather polarised from that of children’s participation’, and more recently the VIPER (2013) research reached the same conclusion. Supported decision-making should be the ideal for all children, but there is extra support for taking this approach to disabled children in the requirements imposed on state parties by Article 7(3) CRPD. As Weller (2011, p. 77) has argued in the context of mental health, there is a need for a ‘culture of supported decision-making’ in the context of children’s disability rights. This would at least be a move in the right direction.

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Article

# Consultations with Children and Young People and Their Impact on Policy in Ireland

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## Abstract

This article will examine the participatory structures for consulting with children in Ireland. It provides a background with reference to the National Strategy on Children and Young People's Participation in Decision-making (Department of Children and Youth Affairs, 2015)—the first of its kind in Europe—its key objectives, and recent progress in meeting these. Examples of two consultations with children, on health and afterschool care, and their impact on policy, will be discussed. The potential for consultations of this kind to influence and child-proof policy will be reflected on; the argument in this article is that there are different levels of participation for different purposes. The author worked with colleagues on two national consultations in 2015 and 2016 involving children between 5 to 17 years of age utilising a variety of child-centred activities. The methods are strengths-based consultative approaches that allow children to identify and explore issues based on what they know and experience in their everyday lives. Initial reflections indicate that consultations with children can be an important and challenging tool in accessing their views on policy issues of importance to them which help to child-proof policy and ensure it is in the best interests of children.

## Keywords

child participation; children's rights; consultations; Ireland; policymaking

## Issue

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## 1. Introduction

The Committee on the Rights of the Child suggested that the ways in which policy is developed and implemented is reflective of children's place in society and the political priority accorded to their rights (United Nations, 2003, para. 10). This article aims to show the potential of children's participation in national policymaking to mobilize policy change and to contextualize policy discussions.

The article briefly examines the child participatory agenda with a specific focus on consultation exercises. The policy context for children and young people's participation in Ireland is discussed including the participatory structures and mechanisms established in the past 25 years since Ireland's ratification of the United Nations Convention on the Rights of the Child (UNCRC). Child 'voice' in policy in Ireland is then reviewed through examination of two recent government consultation exercises

with children and young people—consultations with 7 to 17 year olds on healthy lifestyles to inform the National Obesity Policy and Action Plan (Department of Health [DoH], 2016) and consultations with 5 to 12 year olds to inform the Action Plan on School Aged Childcare (Department of Children and Youth Affairs [DCYA] & Department of Education and Skills [DES], 2017). The contention is that there are different levels of participation for different purposes and that consultations, even as one-off exercises, can be an effective form of participation. The article concludes with some thoughts on auditing children's participation in consultation.

## 2. Child Participation

### 2.1. Influences on the Child Participation Agenda

The child participation agenda has been influenced by the UNCRC emphasis on children as rights holders,



childhood studies perspectives on children as social actors, and more recent conceptualizations of the spatial-relational nature of children's lives (Horgan, Forde, Martin, & Parkes, 2017). These influences have underpinned moves to promote children's inclusion as participants rather than 'apprentice adults' in society (Alanen, 2001). The UNCRC has put children on the social and political agenda. In particular, Article 12 commonly known as the 'Participation Article' is widely recognized as the basis for the child participation agenda in recent decades. It has been the catalyst for developing policy and practice-based participatory initiatives with children internationally (Percy-Smith, 2010).

## 2.2. Consultation as Child Participation?

Children's participation in decision-making is complex: it is undertaken for different purposes and is reflected in different levels of involvement, different contexts and different activities (Sinclair, 2004). A participation industry has developed since the UNCRC was published involving academics, researchers, participation officers, practitioners, and policymakers. Despite the flurry of participatory activity in recent years with innovative approaches and skilful facilitation, Shier, Hernandez Mendez, Centeno, Arroliga and Gonzalez (2014, p. 1) argue 'there is less evidence that children and young people's actions are having real influence on the policy-makers whose decisions affect their life-chances and well-being'. Similarly, Byrne and Lundy (2015) found little evidence of particular examples where children's views had informed a final policy. There is scant literature exploring face-to-face children's participation in public decision-making (Perry-Hazan, 2016) and a lack of empirical evidence of the discernible impact of children and young people's more general involvement in the policy process. Consequently, there is much need for analysis of how children's participation in the policy process can be meaningful, impactful and effective in bringing about change or, as Woodhouse (2003) puts it, how to include children as real partners in policy-making and implementation.

There is consensus that inclusion of children and young people's voice improves decision-making, creates better policy and services, and enhances democratic processes (Ahsan, 2009; Head, 2011; Lansdown, 2005; Wyness, 2012). Various patterns of children's participation are evident in public policymaking with Shier et al. (2014) outlining that, in the case of children and young people influencing public policy, 'influence' occurs in many ways, such as:

- Being a direct participant in a policy-making body;
- Acting in an advisory or consultancy role to policy-makers;
- Meeting face-to-face with policy-makers, being listened to and taken seriously;
- Mobilising a large body of opinion to put pressure on policy-makers: marches, petitions, etc;

- Using the media effectively to give added force to your views.

The focus of this article is one-off consultation exercises with children and young people where their views are gathered to be used in decision-making and policy. Consultation exercises have often been seen by children and young people as sterile and unsatisfactory and experienced as an event rather than a process (Cairns, 2001). In Hart's (1997) ladder of participation, consultation would be placed on the middle rungs—'consulted and informed'—where youth are assigned specific roles and consulted about projects devised by others. Nonetheless, the argument in this article is that there are different levels of participation for different purposes. Shier (2001), in fact, points out that successful processes do not have to imply the highest step on the ladder and a fully developed participatory process might not always be the most suitable in a particular situation. Likewise, Head (2011, p. 546) maintains that full participatory roles and responsibilities are not feasible or necessary for every task or project. This article looks at two consultation exercises conducted with children and young people to inform key policy objectives related to health and afterschool care in Ireland. Both were designed as one-off events but, despite the limitations of such a format, the argument is made that these can be effective tools in child-proofing policy and making it more meaningful. Some of the critical literature on child participation asserts that mainstream attempts to 'involve youth' in public affairs may sometimes be top-down, tokenistic and in some cases patronizing (Head, 2011; Perry-Hazan, 2016; Vromen, 2003). Critical reflection on these issues is necessary rather than assumptions that the fact of an initiative being undertaken in itself is a statement of success (Horelli, 1998). In the Irish context, these consultation exercises need to be more than a tick box exercise fulfilling government commitments to consult with children under the National Strategy on Children and Young People's Participation in Decision-making (DCYA, 2015).

## 2.3. Challenges Related to Children's Meaningful Participation in Policy-Making

Policymaking is one of the most challenging arenas in which children's participation rights are implemented (Perry-Hazan, 2016). Barriers to securing children's rights through policy include significant power gaps between children and policymakers (Nir & Perry-Hazan, 2016). Government-led or official processes may function as a form of social control rather than empowering child participants (Cele & van der Burgt, 2015; Nolas, 2015). In this regard, Nir and Perry-Hazan (2016) refer to 'framed participation' which grants children decision-making power, but constrains this power to within confined boundaries where adults determine the scope of participation. This requires us to question who controls the space, who sets the agenda, who decides who to invite, who con-

trols the resources and above all, who decides what children and young people are allowed to do and what is prohibited (Shier et al., 2014). Further related to power issues, adultism or discrimination based on stereotype has been well documented in descriptions of participatory initiatives with children (Sinclair, 2004). For example, Perry-Hazan (2016) documents reactions of adult officials to children in committees in the Israeli parliament as fawning and infantilising. Exclusion of children who come from disempowered or minority families, younger children, those less academically and socially successful, and 'ordinary children' (Collins, Augsberger, & Gecker, 2016; Nairn, Sligo, & Freeman, 2006; Perry-Hazan, 2016) is another potential problem with participatory initiatives. Other barriers include institutional and procedural constraints (Adu-Gyamfi, 2013; Faulkner, 2009); and difficulty in guaranteeing the accountability of the participation process (Shier et al., 2014). Finally, Cele and van der Burgt (2015), discussing children's participation in physical planning in Sweden, point out that participants in their study comprising local planners, landscape architects, and researchers equated participation with consultation projects, but, few knew how to actually integrate the results of these methods into planning practice.

Co-operation between children and experienced adults can go beyond individual personal gains for the children involved (Kjørholt, 2002), with the potential to translate innovative ideas to effective practices and policy developments (Perry-Hazan, 2016). For this to happen, however, there must be consideration of what can make participation in policymaking meaningful and impactful for children and young people. Locating children's views alongside the views of the stakeholders is critical. Children's participation is often removed from the time and space where decisions are ultimately taken (Tisdall, 2015). When children's participation platforms are separated from those of adults, it is more likely to be tokenistic and to lack any impact, whereas joint projects have the potential of being more influential on policy (Gal, 2015). Marshall, Byrne and Lundy (2015, p. 378) in their study of children's direct contacts with policymakers in Northern Ireland concluded that this type of engagement enabled policymakers to understand children's lived experiences of their decisions more fully and resulted in these 'duty bearers' being more likely to follow up with meaningful actions in relation to the issues expressed by young people. Requirements for engagement of children in public decision-making include transparent and informative processes, in which children are informed regarding the scope of their potential influence and feel that their views have been acknowledged, valued, and taken seriously (Marshall et al., 2015). Research appears to indicate that most children and young people are more concerned that participation is meaningful and that decisions are explained to them rather than that their views are always acted upon (Davey, Shaw, & Burke, 2010, in Horgan, Forde, Parkes, & Martin, 2015). However, in public matters their participation may come from

a desire to make a difference (Gal & Faedi Duramy, 2015) and so can they often be disappointed with a lack of real change. Assessing the impact of children's participation, then, is an important step in including children in the policy conversation. Yet, the field of participatory policymaking is marked by a lack of evaluation, effective monitoring and follow-up on the impact of children's views on decisions (Shier et al., 2014).

### **3. Policy Context for Children and Young People's Participation in Ireland**

In many countries, recent policy frameworks for addressing the well-being of young people have increasingly adopted a social inclusion approach and emphasise more avenues for the voices of young people (Head, 2011, p. 541). Article 12 of the UNCRC and its incumbent obligations has resulted in the Irish Government developing policies and practices that support the participation of children in decision-making across issues that affect their lives. The commitment to involving children and young people in decision-making became national public policy in 2000 with the publication of the National Children's Strategy which states: 'children will have a voice in matters which affect them and their views will be given due weight in accordance with their age and maturity' (Department of Health and Children, 2000, p. 11). Its successor, the National Framework for Children and Young People, commits to ensuring that 'Children are respected, connected and contributing' as one of its national outcomes and sets 'Listen to and involve children and young people' as a transformational goal (DCYA, 2014, p. 7).

#### *3.1. The Participatory Structures for Consulting with Children in Ireland*

Following the adoption of the UNCRC, various countries including Australia, Israel, Sweden, the Netherlands, and the UK established mechanisms facilitating children's participation at multiple governmental levels from local and regional to key government departments through child and youth councils, advisory boards, summits etc. (Perry-Hazan, 2016). In the Irish context, a Citizen Participation Unit, established within the DCYA in 2011, has been key to the development of participatory mechanisms and initiatives for children and young people. The role of the Unit is to ensure that children and young people have a voice in the design, delivery and monitoring of services and policies that affect their lives, at national and local level (DCYA, n.d.). Key structures for achieving this include Dáil na nÓg (national youth parliament), Comhairle na nÓg (local youth councils), and a children and young people's participation support team. All of the work on Article 12 since Ireland's ratification of the UNCRC has culminated in the publication in 2015 of the National Strategy on Children and Young People's Participation in Decision-Making (DCYA, 2015), the first of its kind in Europe.

The strategy is rooted in Article 12 of the UNCRC, and informed by Laura Lundy (2009)'s non-hierarchical, rights-based model of participation, emphasising space, voice, audience and influence elements to involving children in decision-making. The goal of the strategy is to ensure that children and young people have a voice in their individual and collective everyday lives and it prioritises key spaces and places where children are entitled to have a voice including their local communities, education, health and well-being, and the courts and legal system. A key objective of the strategy is central to the focus of this article, namely, 'mainstreaming the participation of children and young people in the development of policy, legislation and research' (DCYA, 2015, p. 4). Importantly, it highlights the role of policy-makers in realising this goal, committing Government departments and agencies and other stakeholders to involve children and young people in the development of policies, legislation and research.

#### 4. Child Voice in Policy—Consultations

##### 4.1. Recent Consultations with Children and Young People and Their Impact on Policy

The Irish government has conducted numerous consultations with children since the early 2000's on a range of policy issues. The DCYA claims that 'several of these consultations have resulted in significant developments in public policy and services, aimed at improving the lives of children and young people' (DCYA, n.d.). The author was part of a team recently commissioned by the DCYA to attend, record and write reports of two such consultations for government departments. The following discussion provides an overview of these consultations and briefly examines their initial impact on policy.

##### 4.2. Consultations with Children and Young People on Healthy Living

One of the commitments of The National Strategy on Children and Young People's Participation in Decision-Making (DCYA, 2015) was that the Department of Health would consult with young people as part of the development of a National Obesity Policy and any health promotion campaigns arising from that strategy. The consultations were conducted by the DCYA at two events, one with 48 children aged 8 to 12 and another with 34 young people aged 13 to 17, in city centre locations in Dublin. Children were recruited through the Irish Primary Principals' Network (IPPN) with efforts made to include a range of primary school types including Catholic, non-denominational, Irish language, co-educational, single sex, urban and rural schools. Young people were recruited from the 31 Comhairle na nÓg throughout the country. Considerable focus was placed on ensuring that good representation was achieved among participants regarding socio-economic status, gender, eth-

nicity and geography. Methods used were innovative, age-appropriate and strengths based including warm-up exercises such as listening games, lifelines divided into key childhood stages in which children and young people reflected on their life experience to date regarding supports and obstacles to a healthy lifestyle, body mapping where the outline of one of the children's body was drawn onto a large sheet of paper and the children were asked to draw/write on the outline the things that make them healthy, floor mats divided into three sections: 'at home', 'at school' and 'in your area' where children were asked to think about what can make a child healthier in each of these contexts, world cafe workshops where key topic discussion zones were created to obtain more detail, and voting on the most important issues identified as barriers and facilitators of healthy living. These exercises were all done in small groups of six to eight with adult facilitators. The Healthy Lifestyles Have Your Say consultation report (DCYA/DoH, 2016) was published and launched alongside the National Obesity Policy and Action Plan (DoH, 2016).

The children (8 to 12 year olds) voted on the issues they felt were most important to a healthy lifestyle. They identified the following themes, in this order: choice of food, in particular more fruit and vegetables, drinking milk and water, getting enough vitamins and going to healthy restaurants; getting sufficient sleep; exercise and activity; not smoking; and supporting parents in enabling their children to be healthier. The following factors, listed in order of popularity, were identified by the young people (13 to 17 year olds) as facilitating a healthy lifestyle: magazines identifying images that have been photo shopped; good mental health and support; nutrition clinics; PE in schools that suits everyone's needs; school canteens selling healthy options; parents providing healthy food choices; listening to children; good teachers who guide students and relieve stress; and youth clubs.

The consultations impacted on the National Obesity Policy in a number of ways. The views of the participants assisted in framing the multi-dimensional approach incorporating the family, as well as the broader health environment of school, health services, local area planning and other determinants of health. Some specific actions in the policy which were informed by the views of children and young people include developing a 'whole of school' approach to healthy lifestyles programmes including the curriculum, on nutrition, physical activity and exercise, smoking, alcohol and mental wellbeing; developing and implementing training programmes for and by teachers on overweight and obesity, including anti-stigma; provision of potable water in schools; expanding parenting programmes that incorporate healthy lifestyle and behavioural change; development of guidelines and support materials for those working in urban development and planning in relation to reducing the obesogenic environment; and providing clinical services specifically for children. Overall, however, it is difficult to know what

the process was in terms of utilising and prioritising children's views from the consultations given that some issues of importance to them, including PE in schools and issues related to mental health, are not fore fronted in the Action Plan.

#### 4.3. Afterschool Care Consultations

Following commitments made in A Programme for Partnership Government (Department of the Taoiseach, 2016), and informed by consultations with a number of key stakeholders including children, the DCYA and the Department of Education and Skills published the Action Plan on School Age Childcare setting out actions to lead to a quality affordable system of 'out of school hours' childcare with a range of choices for parents and their children. Children were recruited by the DCYA from primary schools, as before, through the IPPN. Consultations with children were held as six one-off events lasting approximately three hours in a number of neutral settings around the country with 177 primary school children in total comprising 81 children aged 5 to 7 years and 96 children aged 8 to 12 years. The consultations with 5 to 7 year olds were conducted in their schools to enable smaller group work in a more familiar environment and were shorter in duration. The aims were to identify what children like and dislike about their current afterschool care arrangements and the places where children would most like to be cared for after school. Methods were strengths-based consultative approaches that allowed children to identify and explore issues based on what they know and experience in their everyday lives and on what they would like to change or improve on those issues. The consultations consisted of Ice-breaker games, a 'Post-it' activity to identify where children are currently cared for after school, a Placemat exercise where children were asked to draw/ write what they do and what they like to do after school on specially designed large floormats, a Timeline activity with children asked to design their ideal after-school experience on rectangular mats with a number of clouds depicting stages of the day after school, and Voting where children were given coloured cards to draw/write what they don't like about their day after school and put these into a ballot box. The consultations were subject to the standard ethical guidance and procedures for research with children (DCYA, 2017). All of the DCYA facilitators were very skilled and experienced in participatory work with children and young people and were police vetted.

The findings from the consultations with children commissioned for the Action Plan indicate that children want to be able to relax and feel comfortable after school. A home-like environment was preferred, with outdoor and indoor play identified as a priority of the afterschool experience by children of all ages. Relationships with family, extended family, friends, childminders and other carers were noted as being very important to children. Eating and cooking were also identified as important ac-

tivities for children after-school. Children expressed a dislike of being in structured environments with rules. Other dislikes included not being treated appropriately for their age along with lack of food choice.

The consultation report (DCYA, 2017) was extensively referred to in the Action Plan and impacted on it in a number of ways. In terms of overall approach, the Action Plan states that the school age childcare model developed recognises the rights of children under the UN-CRC and that the voice of children is critical to informing policy in this area. The Programme for Government, 2016, which prompted this policy contained proposals to support and expand quality after-school care based on utilising existing primary school buildings. While perhaps addressing issues related to locality and costs, this clearly would not address the limitations of such a direction as identified by children. The Action Plan (DCYA & DES, 2017, p. 7), while still committed to the maximising the use of schools and existing community facilities which have suitable environments available for SAC 'where demand exists and where it can be facilitated by the school patron/ trustees', acknowledges that a home-like environment was preferred by many of the children consulted. 'If children's preference is to go home after school and enjoy certain patterns and activities, and it is not possible to facilitate this, then the system of SAC must seek to reproduce their preferences in a variety of settings, other than their home' (DCYA & DES, 2017, p. 62), including exploring the potential role of the youth sector and ensuring quality standards in physical environment, adult/child ratios, the provision of appropriate food and nutrition, access to outdoor play, inclusion, and the health, well-being and protection of the child in all settings used. However, as with the previous consultation discussed, there are some aspects which did not find their way into the Action Plan. For example, while homework emerged strongly in the older children's timelines and reflects the reality of children's educational experiences and the practice of homework in the Irish education system, this is not dealt with in the Action Plan.

## 5. Auditing Children's Consultations

Drawing on the literature and the author's own experiences of participatory research and policy consultations with children and young people, the following are a number of issues which give some sense of how meaningful for children and how impactful on policy the consultation experience is. Together these could comprise some of the elements of an audit on children's participation in policy.

### 5.1. Timeliness

The timing of consultations with children can be critical. Children are often brought into the process too late and are only asked to comment or critique existing plans (Cele & van der Burgt, 2015). Yet, Tisdall (2015) notes that



while a last minute consultation may be pointless, too early may also be futile and theoretical in nature. A further problem that has been identified is the difference in time perspectives between children and adult stakeholders. Cele and van der Burgt (2015) argue that children need to see a result of their participation as soon as possible. As planners and policy-makers often have perspectives that reach over years, there must be some more immediate change to show children that they have been listened to. In this regard, the National Obesity Policy and Action Plan and the Action Plan on School Age Childcare were both published relatively quickly (within nine to ten months of the consultations with children being completed) which, on the surface at least, appears to indicate to those children involved that they had fed into and informed national policy issues.

### 5.2. Participants

The mix of participants in terms of background, age and whether or not they were regularly consulted children is an important consideration (Lansdown & O’Kane, 2014). One of the consultations included Comhairle participants who could be considered ‘youth leaders’ (Checkoway, 2011), but both consultations invited participants who were involved as a one-off exercise and were from a variety of school types, geographic locations and socio-economic backgrounds. With regard to the age of participants, Irish government departments have tended to consult with older children aged 8 years and upwards. This partly reflects a general societal view of younger children as less competent (Ahsan, 2009; Lansdown, 2005) and demonstrates that a child’s participation is often valued in terms of how well she can adapt to adult practices (Cele & van der Burgt, 2015). The afterschool care consultations, representing a new departure in practice, included children from 5 years of age with DCYA adult facilitators who had received specialised training from Early Childhood Ireland in age-appropriate creative engagement with younger children.

### 5.3. Child-Friendly

The consultation process was child friendly using a variety of age appropriate methods, including visual and verbal games, facilitated by trained staff, with plenty of breaks, and with refreshments provided for longer sessions with older children. While consultations generally took place in neutral venues, in some cases this was constrained by practical issues. For example, the decision to consult with younger children (aged 5 to 7) in smaller groups meant that these consultations had to take place within the children’s school settings because of their earlier school finishing times. The potentially negative impact of the more structured and highly controlled space of the school on children’s participation has been explored in research (Horgan, 2016; Spyrou, 2011). However, findings from these consultations indi-

cate that the spatial context did not silence their opinions but also reflects the fact that most of the consultations were conducted outside of school settings to balance this potential. Children and young people are often dependent on whether or not child friendly versions of consultation documents are produced, and the ways in which these are made available by adult gatekeepers (Byrne & Lundy, 2015). While, no children’s version of the consultation reports were produced, the reports themselves were written in an accessible way with short summaries, key messages and lots of use of children’s own words and drawings.

### 5.4. Audience

Ensuring that children’s views are communicated to those with the responsibility to listen is critical. The Lundy checklist on audience in the National Strategy on Children and Young People’s Participation in Decision-making (DCYA, 2015) asks, ‘is there a process for communicating children’s views? do children know who their views are being communicated to? and, does that person/body have the power to make the decisions?’ Children were told at the outset of each consultation of the purpose of the exercise and the government department and Minister with responsibility to produce the policy informed by their views. In some cases officials from the relevant government departments attended part or all of the consultation. The process for communicating children’s views was in the form of a report of the consultations written by academics, who attended the consultations and are familiar with participatory research/consultation work with children, for the DCYA and presented to the government departments responsible for the relevant policies on school age care and obesity.

### 5.5. Information Gained

In some cases what is considered to be ‘good’ information gained from children is information that ‘can be used’ by professionals and is ‘planner-friendly’ (Nairn et al., 2006). In these consultations, the team of facilitators were all trained in strengths-based participatory approaches with children, so that while discussions were fun and quite broadly based, they were also ‘policy friendly’ in the sense that they asked children about their experiences and opinions on healthy living including barriers and contributors or what they liked and disliked about their current afterschool care and their views on an ideal afterschool care experience.

### 5.6. Dissemination

‘Deep participation’ could be defined as that which involves young people in formulating the research questions right through to dissemination of the findings (Ansell, Robson, Hajdu & van Blerk, 2012, in Horgan, 2016). Children’s involvement in disseminating the find-

ings of the consultations varied. Representative children and young people involved in the Healthy Lifestyles consultations were invited to the launch of the National Obesity Policy and asked to present a brief overview of their views and experiences. The DCYA prepared the children by briefing them on the consultation report findings and getting them to prioritise what they wanted to say. The launch of the school-age care policy did not involve the children. The process appears to be very much led by the Department which is developing the policy and has commissioned the consultation report. The DCYA sent copies of the consultation reports to all the schools that took part and asked them to let the children who participated see the reports.

### 5.7. Impact

Lansdown and O’Kane (2014) refer to wider external outcomes as those which indicate that a concrete change has happened in the community, or at local or national level, as a consequence of children’s participation (including increased resources, regulation in an area). Returning to Lundy’s checklist on Influence (DCYA, 2015): were children’s views considered and taken seriously by those with the power to effect change? and, have the children been provided with feedback as to the reasons for decisions taken? There is evidence of children’s views being incorporated into the final policy statements and Action Plans as discussed earlier, although the process as to which issues were prioritised is unclear. However, it appears that there is limited feedback to children involved in the consultations other than the policy reports themselves and media coverage surrounding the launches.

### 5.8. Continuity

Tisdall (2015) and Marshall et al. (2015) identify peaks with regard to children affecting public policy in contrast to ongoing sustainable inclusion of children in public policy formation. It is quite early in the process to evaluate this with regard to the Irish context given that the National Strategy on Children and Young People’s Participation in Decision-making was published only two years ago, although activity since the publication has been strong. For practice to be meaningful, however, engagement with children must not end at the consultation, but requires ongoing dialogue.

## 6. Conclusions

Children’s right to participate in public decision-making is increasingly being translated into practice in Ireland. Yet, we are only beginning to mine the potential of consultation as an aspect of child inclusion in public policy-making in Ireland. Reflection on the implications of such consultation practices for policies and services, drawing on recent results and analyses, is apposite. Generally, the

consultations discussed appear to achieve in terms of timeliness, participant mix, child-friendly methods, connection to policymaker audience, and quality of information gained. However, real progress must be made in the areas of dissemination, impact and continuity. Policy development addressing the priorities of children, as discussed by them in consultations, could be viewed as child-proofed and child-informed policy. Given the arguments proposed in this article, that there are different levels of child participation for different purposes and that deep participation is not required for every purpose, consultations can be an important tool of the participation process. They contribute to policy grounded in children’s realities and produce more responsive policy and services. However, to achieve this such consultations need to be organised and facilitated with knowledge, skill and respect for children’s competencies as social actors, as well as with clear ideas on how to include the results from consultations in policy. There is considerable potential for child participatory policy development by embedding consultations of the kind discussed in this article as an integral part of policymaking, along with built in assessments of the long-term impact such views have on government delivery for children.

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## Conflict of Interests

The author declares no conflict of interests.

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Article

## The Voices of Young Carers in Policy and Practice

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### Abstract

This article presents examples from England of the participation of children with caring responsibilities (young carers) in policy and practice at both local and national levels. The ‘voices’ of young carers themselves have become more prominent at many levels and in diverse contexts such as through local young carers’ fora and through dialogue with decision makers, including social care commissioners and Members of Parliament. This participation has for a number of years in England, been strongly advocated for and facilitated by voluntary sector services in particular. Drawing on a number of practice examples, the article will highlight a range of young carers’ participatory activity and the extent to which this is woven into policy development and practice. It will consider the processes and protocols of recruitment and safeguarding and the outcomes of young carers’ participation, including the influence of their ‘voices’ in bringing about real change and the impacts on themselves as individuals. Consideration will be given as to whether the voices of young carers has been truly representative of children and young people with caring responsibilities and where particular attention may need to be focused when listening to their voices. The potential risks of young carers’ participation at a practical level will be explored as well as the barriers to participation for young carers and approaches for enhancing their participation.

### Keywords

caring; child’s voice; involvement; participation; policy; practice; young carers

### Issue

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### 1. Introduction

According to the most recent census (Office for National Statistics, 2011), there are 166,363 ‘young carers’ (aged 5–17) in England. A ‘young carer’ is the term used for children and young adults who have informal caring responsibilities, often for a family member. Legislation in England (HM Government, 2014a) defines a ‘young carer’ as a ‘person under 18 who provides or intends to provide care for another person’. Young people with caring responsibilities up to the age of 25 are often described as ‘young adult carers’ (Becker & Becker, 2008). Early research that first identified children as carers made clear recommendations that children should not have to provide care and that services and support should be in place to fully address the person with care needs to en-

sure that children do not have to provide care in families. However, for many children, caring is a reality and continues because caring and additional needs are not disclosed or identified in families or because services are inadequate. As will be highlighted later, a preventative and whole family approach (which is now embedded within legislation in England), is needed to support children and families. Such an approach however is not always apparent as evidence shows (Aldridge, Clay, Connors, Day, & Gkiza, 2016; Children’s Commissioner for England, 2016).

Young carers may undertake a wide range of caring responsibilities including emotional support, practical tasks, personal care and household management. Although research has found some positive impacts of being a young carer including children’s knowledge and understanding; maturity; life, care-related and social skills

(e.g., Dearden & Becker, 2000); allaying fears in children and consolidating parent-child relationships (e.g., Aldridge & Becker, 2003), evidence strongly points to a range of negative impacts on a child's health and well-being, and education (e.g., Aldridge & Becker, 2003; Aldridge et al., 2016; Dearden & Becker, 2004; The Children's Society, 2013).

Frank and Mclarnon (2008, p. 57) proposed that "young carers and their families are experts on their own lives and as such must be fully informed and involved in the development and delivery of support services." Young carers are certainly knowledgeable about, and understand better than most, their own caring roles, their own family situations and the needs of the person they care for. Their individual voices about their own situations, as well as their corporate voice are therefore both valid and crucial. Phelps (2012) asserts that it makes sense to involve young carers and their families in planning and designing services, and that this is likely to lead to improved and long lasting outcomes. Phelps also proposes that it should be possible for local authorities to recognise young carer participation as 'core business' and to allocate to it sufficient resource.

Over the last twenty years in the UK, there has been significant primary research with young carers and young adult carers, as there has been in other countries. A vibrant charity sector, or 'third sector', has also become established in the UK, supporting young carers through young carer 'projects' or services. This includes several national organisations that seek to develop policy and practice, support young carers directly and campaign on their behalf. Young carer services, originally developed in response to early research (e.g., Aldridge & Becker, 1993), have played a significant role in shaping their own models of practice, by listening and responding to the voices of young carers. They have also provided a platform for the voices of young carers at a national level. Through informal research methods such as online questionnaires, focus groups, feedback forms, the collation of views at workshops and larger events, extensive data from young carers across the UK has been accumulated which has complemented and generally confirmed findings from academic research, as well as illuminating potential areas for further research. Moreover, close links between research establishments and third sector organisations, who have often been gatekeepers to young carers, have been a catalyst for change.

In recent years, young carers have become increasingly involved with participatory activity at a national level. Young carers for example, have supported the training for the Department of Health of 'School Nurse Young Carer Champions', they have had opportunities to influence strategic leaders and policy makers through the NHS (n.d.) 'Commitment to Carers' and have fed into the government consultation for the carers strategy.

This article will initially set out some of the participatory practice that has taken place particularly through the third sector in England and how this has benefited,

practice, policy and young carers themselves. It then explores safeguarding and recruitment and how this relates to young carers, before discussing key issues around the participatory rights of young carers and their best interests, barriers to participation and improving engagement and whether the voices of young carers have been representative.

## 2. Examples of Participation in Practice

### 2.1. *The Young Carers Festival*

The Young Carers Festival in England has for seventeen years been an important driver of participation of young carers nationally. The Festival is run annually by a leading national charity, The Children's Society that works to improve policy and practice for young carers and families, in partnership with the YMCA Fairthorne Manor Group and attracts around 2000 young carers from around the country. The voices of young carers have played a central role in guiding the direction of the festival and in steering the policy work of its organisers.

From its onset, the 'Voice Zone' marquee has been integral to the festival and is where participative and consultative activities take place. Activities cover a wide number of themes and have fed into key national consultations and reviews. The festival hosts many high profile MPs and decision makers, including the Children's Commissioner for England and Government Ministers who have come to speak with young carers, take part in 'question time' events where young carers pose the questions, and participate in TV and radio shows broadcast from the festival.

### 2.2. *The National Young Carers Forum (NYCF)*

In 2007, funded by the Department for Education, The Children's Society in partnership with another leading national charity supporting young carers, the former Princess Royal Trust for Carers, (now Carers Trust), ran the 'Include Partnership' programme of work across England. This four year programme aimed to support local authorities develop their own capacity to support young carers and families. It included training for professionals from education, health and social care, and was responding to the call from young carers for social workers and teachers to be trained, so that they would be better understood and supported.

The first NYCF, composed of young carers from twelve young carer services was established. Services were selected from urban and rural areas and young carers from these services were selected to reflect diversity across the country. Forum members were targeted from a range of different backgrounds including black and ethnic minority groups, those caring for parents with mental illness, substance misuse, physical and sensory disability and those caring for siblings. The Forum informed and played an integral role in the programme. Young car-

ers presented at conferences and participated in training and consultative events for professionals from education, social care and health, where they told their stories and took part in discussions.

A series of 'residential' were run at youth activity centres, each with a balanced and diverse itinerary, combining participation and consultation, with fun activities, such as climbing and abseiling. Young carers were interviewed at the first residential and a DVD, 'Listening to Young Carers' (LaunchPad Productions, 2007), was developed out of these interviews. This was used extensively to help train professionals across England, so they would hear first-hand, the experiences of young carers.

This use of media, to chronicle and showcase the participative activities of young carers, is common practice and one with which many young people are comfortable with and consent to. Moreover, filming, interviewing, or forms of social media, such as blogging or vlogging, that yield an end product, may well for this 'social media generation', be almost a necessary requirement and one which paradoxically may help to take the focus off young carers themselves and provide what many may view as a 'legitimate vehicle' to share their personal experiences. Using media can help create a collaborative focus and develop teamwork, whilst the development of an end product such as a film, is something that young carers can feel proud to have been involved in creating. Subsequent residential focused on developing skills to support young carers in their participatory roles and included workshops to develop media and public speaking skills. Towards the end of the funded programme, a final residential celebrated the Forum's achievements and focused on developing a guide and poster, to inspire local services to establish their own fora and drive change at a local level.

### 2.3. *The Young Carers in Focus Programme*

The Young Carers in Focus (YCiF) programme, led by the charity The Children's Society, and partners, was a four-year programme enabling young carers to share their experiences and advocate for change both locally and nationally. A national network was established of around 180 young carer 'Champions' aged 10–25, who received training in media, leadership skills, public speaking and interviewing techniques. The 'Champions' participated in an extensive programme of participatory activities, which included meeting politicians and the Children's Commissioner for England. They participated in national conferences, supported professionals' training, shared their experiences on local and national TV and radio, and took part in a range of consultative activities. Some young carers, were also recruited to the role of 'Champion Evaluators', to support the evaluation of the project (Fleming, 2016).

One legacy of the programme was the development of an 'Influencing Change Toolkit' to support other young carers to influence change themselves at a local level. As with the previously mentioned resources developed by

the former NYCF, practical tools like this are valuable in drawing together acquired knowledge, promoting practice and supporting organisations to initiate and develop their own participatory initiatives.

### 2.4. *A Local Young Carers Forum*

Many young carer services have established a young carer forum to represent the views for their local service. One example is a well-established forum in Norfolk, England which aims to influence policy and practice at a county-wide level as well as national level through its involvement with politicians and development of innovative practice. Within the county of Norfolk, around eleven separate providers deliver a range of services for young carers. In partnership, these providers have formed 'The Norfolk Young Carers Forum', coordinated by the lead service, Carers Trust Norfolk and funded by the Big Lottery which gives grants to organisations in the UK to help improve their communities.

The Forum is composed of three area-wide fora and a county-level forum and gives young carers a 'voice' to raise awareness of issues affecting them and to influence policy and practice within the county. Young carers themselves play a leading role in setting priorities for the Forum, such as improving awareness of young carers within schools. Staff then work with the young people to develop an action plan that addresses these priorities. Care is taken not to impose actions on the young carers, but to allow them to determine their own involvement according to their individual comfort level, strengths and interests. The Forum has previously run large awareness raising events, including one 'question time' event with the then, Minister of State for Care and Support. It has also been involved with the council's commissioning process where Forum members were consulted before a service delivery specification was drawn up and were subsequently involved in the scrutiny process of tender submissions (Phelps, 2012, pp. 15, 40).

More recently, having identified awareness raising in education as a priority, the Forum decided to run an event to coincide with the annual National Young Carers Awareness Day in the UK. Young carers were heavily involved in the event planning, delivering and administration. They drew up the invitation list, chose the location and developed the programme. At the event itself, young carers ran the registration and delivered presentations and activity sessions. They served refreshments, took photos, supported with social media and presented schools with awards for performing well against a set of standards which were designed by the Forum itself.

### 2.5. *Shaping Grant Programmes*

Since 2009 Carers Trust has been involving young carers in the grant making process, and the development, design and delivery of specific grant programmes that it runs for individual carers and for carer services. Although

their substantive role is to review and assess funding applications, young carers have taken on the name of 'Programme Guiders' to reflect the holistic nature of their role and how their decisions help shape the grant programmes. The Programme Guiders are treated as 'colleagues' and are asked to initially sign a 'contract' that sets out the responsibilities of the role, its expectations and its potential benefits.

Young carers review applications prior to gathering for short residentials to make funding decisions. These residentials are funded through the grant programme budgets and take place across the UK, primarily at activity centres and over weekends or holiday periods. Itineraries follow a similar structure. The first day is set aside for travel, signing up to the group contract and making acquaintances. On day two, young carers share their feedback on applications and assist with the decisions for allocating funding. The final day is dedicated to follow-up actions and assigning these to group members.

### **3. The National Young Carers Coalition (NYCC) and Changes to the Law in England**

Between 2012 and 2014, the NYCC, a coalition of national organisations (charities and academic institutions) which work with and on behalf of young carers and their families, campaigned to reform and consolidate the law for young carers in line with reforms for adult carers. The NYCC believed this would be achieved through changes to both adults' and children's law and specifically at that point in time, through the Children and Families Bill and the Care Bill. Coalition members believed that neither of the original bills included the necessary provisions for young carers, particularly with regards to assessment and determining eligibility for services in order to improve the situation for young carers and their families through a 'whole family approach'.

The NYCC carried out significant work including developing briefings for MPs, meeting with government officials and submitting evidence to the Joint Select Committee. Throughout the campaign, the Coalition coordinated the voices of young carers and their supporters and thoroughly involved services and young carers themselves in a variety of ways, including encouraging young carers to write and 'tweet' (on the social media platform Twitter) to their MPs.

During the campaign, and in response to an invitation to attend the Young Carers Festival, the then Minister for Children and Families, sent a video message directed to young carers that set out the Government's intentions to improve support for young Carers and families. In his video message, the Minister stated that he often met and spoke to many young carers who always asked him what the Government could do to help make their lives easier. Moreover, he stated that the Government were keen to ensure that young carers were involved in the work that the Government were doing, and encouraged those attending the festival to have their say.

Shortly after the bills passed through parliament, the NYCC organised a celebration event where young carers met Ministers, MPs and Peers who had supported the campaign. These legislative changes to bring about a 'whole family approach' to assessment and support, were considered an 'historic change' by the Coalition and a journey in which many young carers throughout England had been involved. NYCC members viewed the participation of young carers as essential to the campaign in informing and grounding its messages.

### **4. Outcomes and Influence**

Many who facilitate young carers' participation, are quick to cite a range of positive outcomes. Hearing directly from young carers can be both emotive and motivating. Feedback from delegates at events commonly indicates that hearing stories first-hand from young carers is the most informative, motivating, and memorable part of an event. Furthermore, direct involvement by young carers often draws media attention which can magnify the reach of messages emanating from those events or particular activities where they are involved.

Although contributions from young carers regarding legislative changes in England and in other policy/practice developments is hard to measure, the voices of young carers at the very least, have helped shape change over a fifteen to twenty year period and is evidenced from what professionals from third sector organisations who support young carers and their families have said:

Really in terms of getting those messages, that messaging right, it would have looked very different if those voices of the young people haven't been there and it wouldn't have been the right way to go I don't think, so really their voices have been the ones that have influenced the change. (National Young Carers Lead, Third Sector Organisation, personal communication, March 3, 2017)

While it may be difficult to demonstrate the impact of participation in some instances, for other activities it is perhaps more straightforward. The participation of the Programme Guiders for example, has undoubtedly impacted local service delivery, with many hundreds of thousands of pounds worth of funding being steered towards specific local interventions, thus affecting provision directly for several thousand young carers. Without their involvement, funding would still have been allocated, however the process, according to the team managing it, was transformative, "having young carers involved in our process has changed it immensely. It definitely makes me and my whole team feel really confident with the feedback that we're giving to applicants about why the application has or hasn't been funded" (Carers Trust, 2015). Similarly, the Forum Lead in Norfolk described the difference that participation had made as

'massive' and highlighted an immediate impact of the education event which the Forum had helped deliver. Forum members were invited to present to headteachers to discuss their work and the new accreditation system for schools working with young carers, which the Forum had developed (Young Carers Forum Lead Participation Worker, personal communication, February 9, 2017).

### 5. Benefits of Participation for Young Carers

Young carers are not a homogenous group. They will have their own individual reasons for wishing to participate and they will benefit in different ways. However, there are several common intrinsic benefits of participation that young carers do highlight. Being part of making change happen and doing something of value, appear to be key benefits for young carers and their perception of working for a wider benefit and cause may be empowering for them.

Other commonly expressed benefits are making friends and having fun. One young carer reflected that, "I got to meet loads of new people and because I made lots of new friends from places I've basically never been ever" (Carers Trust, 2015). The social benefits of being involved with others seems to be particularly important to young carers, and being with other young people who also have caring responsibilities may help them to relax and enjoy themselves. The Programme Guiders for example built strong friendships within the group and formed a Facebook group to keep in touch. One young adult carer credited the group and the friends they had made, with empowering them to overcome some challenging personal issues. Additionally, the reinforcement that participation provides, of knowing that they are not alone and finding mutual support, has been beneficial to some. As one young adult carer stated, "Being part of the steering group has given me a real understanding of how many other young adult carers' lives can be altered by something like this. It has shown me that you are never alone, and there are always people in the same situation ready to give the support and friendships needed" (Carers Trust, 2014).

For some young carers, having the opportunity to 'do something different', to have new experiences and learn new skills is beneficial. "I thought it would be quite good experience, like I could get some training and stuff. It's completely different from what I'd ever think of doing" (Carers Trust, 2015). Some young carers, particularly those who have become involved in participatory activity through national organisations, have benefitted from a range of experiences that they would otherwise have been unlikely to have had. Young carers who have been part of a 'Media Panel' for the charity Carers Trust, had the opportunity to visit the BBC studios, while other young carers have met with MPs and Ministers and visited the Houses of Parliament.

Developing the skills of young carers to support their participation is crucial for several reasons. Firstly, this can

be empowering for young carers and help to build confidence, something that young carers often state is an important benefit of being part of a young carer project. Secondly, it confers value on the young carer role, their contributions and on the children themselves. Thirdly, it promotes children and young people's right to participation and their ability to contribute effectively; and lastly, the skills the young people develop as a result of their participation are transferable and can be particularly valuable as they progress through education and into the workplace. Providing certificates of involvement, online badges, letters of recognition and other creative ways of capturing and accrediting participation and highlighting skills which have been developed are often valued. Offering rewards in the form of vouchers for example, may also be appropriate in recognition of the time committed to participatory activities, which can be particularly precious to young carers. What is important is that the potential benefits, outcomes and rewards, are clearly and realistically communicated and that young carers themselves are asked about how best to recognise their participation.

The experience of participation for some young carers can be profound and empowering. One former young carer stated that, "actually that whole experience was very life-changing for me...when they found actually that I enjoyed talking about my story and I wanted to make a difference for young carers, actually that very much empowered me and it gave you that confidence that people wanted to hear my story, and actually, it gave me skills that have gone on to serve me in my future career" (retrospective account from Andy, aged 29, personal communication, February 9).

### 6. Safeguarding, Ethical Issues and Recruitment

Although well delivered participation has benefitted young carers, participation has the potential to be damaging, especially where young carers are vulnerable. There have been instances where the appropriateness of young carer involvement has been questioned, for example, where telling their story in public has become distressing and where films involving young carers have not put the interests of the child or family first.

Safeguarding issues must therefore be paramount and clear procedures and protocols need to be in place. Ethical clearance, informed consent from parents and risk assessments are all necessary requirements to ensure the safe and effective participation of children and young people.

The best interests of the child must be the overarching consideration, and attention must be given to the safety and protection of the child, as well as ethical considerations, including confidentiality, the child's willingness to participate, and her situation vis a vis her parents and community. (Laws & Mann, 2004, p. 5)



Although services may seek to establish participation for a variety of reasons and to recruit and involve particular young carers, they must uphold their ethical responsibility and the best interests of individuals and families. Firstly, it must be established whether young carers wish to participate and to what degree. Young carers should not be pressured to take part. Many children may not identify or label themselves as carers and as highlighted in Aldridge et al. (2016) they may not wish to disclose their caring responsibilities to others, especially professionals. This may be because of concerns about interventions from social workers or through fear of being bullied. Some young carers will therefore not wish to participate at a level that involves 'going public'. Good practice should inform them that they can withdraw from taking part at any time and that they should not feel obliged to share things that they, or their family, are not comfortable sharing. Opportunities, expectations, guidelines and potential outcomes of participation should be clearly communicated early on, so that young carers can make informed decisions about their involvement.

Specific issues should be considered before involving young carers in participatory activities and it is vital to consider the current circumstances of both the young carer and their family. Caring roles and family situations fluctuate and good judgement by professionals, made in accordance with organisational guidance is required to determine whether the involvement of a young carer and type of involvement, would be detrimental at a particular point in time. Where support workers know young people and their families well, they can act as gatekeepers and make informed decisions about their involvement in consultation with children and families. They can also provide additional safeguards, including acting as a trusted adult for young carers to talk to. Since time is often limited for young carers because of caring responsibilities, services should consider the impact of participation on the time they have available for relaxation and social interaction. Similarly, because attainment and attendance at school can be negatively impacted by caring responsibilities, participatory activities should not further impact on a young carer's schooling. Choosing appropriate times for participation that do not conflict with a young carer's education are important and therefore developing training films for professionals that include the voices of young carers, as developed with the NYCC, will reduce the need for young people to miss their schooling.

## **7. Participatory Rights and the Best Interests of Young Carers**

As previously discussed, the participation of young carers in a variety of contexts can benefit both policy and practice, as well as young carers themselves. As also discussed, young carers possess a unique understanding of their own family situations and caring roles and it is therefore crucial that their voices are heard in pol-

icy and practice. However, it is at this point that accusations of 'tokenism', 'adultism' or 'ventriloquism' (Ruddick, 2007) could be leveled at the kind of approaches in policy/practice that prioritise children and young people's voices but that are ultimately facilitated and led by adults. Despite the affirmation that young carers offer unique insights into the young carer experience, these experiences need to be understood and evaluated in the context of the law, what is in the 'best interests' of the child and with respect to children's family circumstances. In such instances, professionals whose job it is to assess the needs of young carers (and their families) need to do so through consultation and listening to children and families but at the same time they must also make decisions on behalf of children whose legal status requires adults (professionals) to make decisions about their lives that are in their best interests and also protect them from harm.

In addition, there may be instances where the views or stated wishes of young carers contradict or conflict with their own best interests. For example, some children may want to care for a family member who is ill or disabled to the exclusion of their own personal needs. One study of former young carers for example found that as young people, they had often excluded themselves from social activities (Frank, Tatum, & Tucker, 1999). Some children choose to miss school to care for a parent, or to undertake what may be regarded as time consuming and inappropriate caring tasks. Government guidance on the other hand sets out that "a local authority should consider how supporting the adult with needs for care and support can prevent the young carer from undertaking excessive or inappropriate care and support responsibilities" (Department for Health, 2017a).

There are also reasons why young carers may not accurately express what they may wish to, or what is in their own best interests. Firstly, young carers may experience a range of complex emotions as a result of their caring responsibilities including guilt and fear (e.g., Aldridge et al., 2016) which could skew their understanding of their situation and prevent them from expressing themselves freely. Secondly, young carers, and in particular younger young carers, may not be clear about their own rights, such as their rights to education and to rest and leisure under the UN Convention on the Rights of the Child (UNCRC).

It is important therefore that the views of young carers with regards to policy and practice are adjudicated wisely. Their voice and influence is vital, but equally, it needs to be filtered through a prism of professional understanding based on legislation and the rights of the child, that protect them from undertaking excessive or inappropriate caring. A perspective in line with the 'Whole Family Approach' (Department for Health, 2017b), should also be maintained, where the voices of young carers, parents and other family members are considered carefully. Consequently, those with responsibility for decisions related to policy and practice need to

be aware of, and understand the law and its principles, including children's rights, with regard to the needs of young carers.

### **8. Removing the Barriers to Participation and Improving Engagement**

There are potentially a range of diverse barriers to the participation of young people (and their participatory rights) which include adult attitudes, intransigence, lack of professional training, and the funding and nature of organisations which might include their formality and internal politics (Cavet & Sloper, 2004). Whilst these would apply to the participation of young people generally, there are additional barriers to participating fully in practice and in activities that are intended to support them that many young carers are likely to face as a consequence of their caring responsibilities. As discussed, young carers often have greater time constraints than their peers with fewer opportunities to socialise, relax and have fun (e.g., Aldridge & Becker, 1993). Being mindful of this, and ensuring that social activities are woven into participation and that participative activities are creative and fun, is likely to improve engagement. Lack of transport may also often prevent young carers' participation, so measures to address this should be sought, such as providing transport, using accessible venues and technology. More generally, in order to support engagement, flexibility and the provision of a range of opportunities in which young carers can choose to be involved, should be offered. Not all young carers for example wish to stand up and speak in front of an audience. Some may prefer recording their story, writing an article, or developing supportive resources. What is important is that they are provided with opportunities for inclusion and for their voices to be heard.

The Programme Guiders recruited by Carers Trust were supported throughout by staff from support services. This was considered essential, firstly for safeguarding reasons, but also to support and encourage young carers, especially those with low confidence, or with learning disabilities. This required significant commitment from support staff who like the young people, were also asked to sign a 'contract' that set out their supporting role. Most of the Carers Trust Programme Guiders remained engaged in their role for several years, and although not evidenced, the support they received from support workers and the clear communications that they had been given at an early point which set out the role and the expectations, the guidelines for participation and the potential outcomes of their engagement, may have been important factors that supported this lengthy engagement.

Another factor which organisations should focus on and one that, anecdotally, is often not carried out well, is timely feedback to young carers on the outcomes of their participation, by those organising activities. For example, it is encouraging for young carers to receive

feedback about any changes in policy or practice that may have taken place as a direct result of their participation. Where feedback is protracted, this might well be discouraging and therefore well-designed and well-implemented evaluation processes, with relatively short timescales, are likely to improve the motivation of young carers and their engagement.

### **9. A Representative Voice?**

Despite commonalities in viewpoint, the voice of one young carer or group is unlikely to represent the views of all young carers. It is important therefore that the voices of certain young carers do not eclipse those of others, nor represent young carers whose opportunities to be heard are limited, or who have no voice. The voices we have heard to date are primarily from young carers who have been identified and who are accessing support from a dedicated young carer service, and despite efforts to work with young carers from particular backgrounds that may make them 'harder to reach', many young carers remain unidentified, unassessed and are not accessing this dedicated support (Children's Commissioner for England, 2016). It is possible that the 'voices' we have heard are different from the 'voices' of those children with caring responsibilities who are not formally recognised or supported as young carers, and who do not self-identify with the term 'young carer' (see Aldridge et al., 2016). For example, what we do know is that the 'voices' of young carers who have contributed their views in research and practice settings to date have often highlighted the value of young carer services, and called for these to be better funded (Aldridge et al., 2016). This is something that children with caring roles, who do not self-identify as young carers, are unlikely to call for.

However, the voices we have heard from have also expressed a need for early identification of young carers by school staff and GPs. Moreover, the importance of 'whole family support' and specifically the need for adequate support for the person with care needs (e.g., Aldridge et al., 2016; Moore & McArthur, 2007), has been consistently highlighted and has fed into the 'whole family approach' narrative. This principle now lies within legislation and puts more focus on prevention and the need to recognise that young carers are *children first* (HM Government, 2014a, 2014b; see also Aldridge, 2017). The nature of these needs as highlighted by young carers themselves is likely to be more universal as well as representative of those young carers yet to be identified and supported, and this is also evidenced in research studies both in the UK and elsewhere.

There is however, undoubtedly a need for the other voice—the voice of children not formally recognised as carers—to be elicited further and amplified. Ensuring that these children are heard from, will likely however bring further challenges. As stated by Aldridge et al. (2016, p. 15) "historically, researchers have experienced challenges in engaging with children and families where

'hidden' young caring is taking place". These children may be found within particular cultural communities or be caring for relatives with perceived stigmatised conditions and where there is fear of disclosing the caring situation because of social care intervention, or where caring is perceived as "normal" (Aldridge et al., 2016). As Kennan et al. (2011) also point out, trying to access hard to reach populations of children can lead to significant ethical, as well as methodological challenges, including having to navigate two layers of gatekeepers, both parents and professionals. Children who have caring responsibilities who have not yet been recognised as 'young carers', are likely to be 'hidden' as discussed and may not wish to be identified, and so finding these children in the first place may require considerable efforts. This was the case in the study in Ireland where successful recruitment was only achieved through perseverance and through raising the awareness of young carers and the importance of the research with gatekeepers (Kennan et al., 2011). As Phelps (2012, p. 15) suggests, "in order to hear what these young people are saying about their needs and current services, commissioners will need to take both a proactive and creative approach and seek to gather views from young people through other routes such as schools, youth services, health and social care settings". This was the approach taken in Ireland and is also being employed in Norfolk where it had been noted that those caring because of mental health or substance misuse issues, were 'vastly underrepresented' in their participation work. To address this, the Forum in Norfolk is looking to partner with dedicated services, such as substance misuse services, who are working with those young people who have not been identified as, or self-identify as young carers.

## 10. Final Reflections

The Participation of young carers in policy and practice has become very much established at both local and national level in the UK, and is now sometimes conditional within funding specifications. The voices, views and ideas of large numbers of young carers, cumulatively, have formed a large data set that has in general confirmed the findings of academic research on young carers and their families. Consistent messages from young carers themselves, such as the need for their whole family support, have undoubtedly helped shape policy and practice. Practice has clearly shown that young carers can indeed be true collaborators and be involved across the life-span of a piece of work, from its vision to its evaluation. The benefits of participation with young carers needs to be recognised by those developing or commissioning services, as well as those directly facilitating it.

However, it is also vital that the risks and challenges of participation and how they relate to being a young carer are understood, and that young carers may have complex needs and emotions as a result of their caring responsibilities, which could have a bearing on the percep-

tion of their situation and their capacity to express themselves effectively. Engagement of young carers is likely to be improved when the professionals who work with them set clear expectations and where participatory activities support their specific needs and their rights.

Areas for future development might include: 1) Developing improved recruitment processes, including guidance and screening tools for the recruitment of young carers in participatory activities; 2) Developing personal plans to maximise their involvement; 3) Ensuring participation opportunities continue for young carers as they make the transition into adulthood; and 4) A greater focus on hearing the voices of children and young people who do not identify as young carers and are not accessing dedicated support services to understand their experiences and needs.

Finally, since the political, practice and funding landscapes are never static, listening to children and young people who have caring responsibilities must be embedded and be a continual process, one that is adequately resourced and which is always open to exploring new avenues of thought and revisiting old ones.

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## Conflict of Interests

The author declares no conflict of interests.

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### About the Author



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Article

## Children’s Participation: Questioning Competence and Competencies?

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### Abstract

While Article 12 of the Convention on the Rights of the Child has encouraged children’s<sup>1</sup> participation in collective decision-making, the literature is replete with the challenges as well as successes of such participation. One challenge is adults’ perceptions of children’s competence and competencies. These are frequently used as threshold criteria, so that children viewed as incompetent or lacking competencies are not allowed or supported to participate. Despite this casual elision between children’s participation and their (perceived) competence and competencies, the latter are rarely explicitly defined, theorised or evidenced. This article draws on research undertaken in Tamil Nadu (South India) and Scotland (UK), with two non-governmental organisations supporting children’s participation in their communities. The article examines how staff members can validate and enhance children’s competence and competencies, by scaffolding children to influence decision-making and recognising and adding to children’s knowledge. These empirical findings suggest the need for increased scrutiny of the concepts of competence and competencies, recognising their disempowering potential. The findings argue that competence is situationally and socially constructed rather than a set and individual characteristic.

### Keywords

adults; children; community; competence; competencies; family; participation; school; social competence

### Issue

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### 1. Introduction

Article 12 of the UN Convention on the Rights of the Child (CRC) recognises children’s human right to participate in decisions that affect them. We now have documented successes, where children’s views have helped shaped decisions about their own lives—for example, in family courts (Birnbaum & Saini, 2012)—and for their communities—for example, in influencing local budgeting (Perezniето, Powell, & Avdagic, 2011) and addressing the marriage of young girls (Bandyopadhyay, 2015). Despite these successes, children’s participation is still too often not effective, meaningful nor sustainable. How can we capitalise on the successes of children’s participation and address the challenges too often experienced by children?

Adults—whether as parents, professionals or policy decision-makers—retain considerable control over what ‘counts’ as children’s participation: about which children should be heard, when, on what topic, and to what effect (Percy-Smith & Thomas, 2010). Throughout the literature and in practice, adults’ ideas of children’s competence or incompetence, competencies or the lack of competencies, continue to influence whether children are involved or not in decisions that affect them (Fortin, 2009; Tisdall, in press). Yet these terms are contested in themselves, rarely defined and duly considered in practice, and their relationships with children’s participation assumed but underexplored (Ljungdalh, 2012).

This article seeks to explore the relationships between competence, competencies and participation for

<sup>1</sup> The article broadly refers to ‘children’ as defined by Article 1 of the United Nations Convention on the Rights of the Child. This refers to children up to the age of 18, unless legal majority is obtained earlier.

children. First it does so in light of children's participation rights in the CRC and related literature, to explore how the concepts are used and the questions that arise. Second, the article draws on empirical findings from research undertaken in Tamil Nadu (South India) and Scotland (UK), with two non-governmental organisations (NGOs) supporting children's participation in their communities. The analysis shows how staff members can validate and enhance children's competence and competencies, by scaffolding children to influence decision-making and recognising and adding to children's knowledge.

## 2. Participation, Competence and Competencies

The nearly world-wide ratification of the CRC has galvanised attention to children's human rights—and particularly children's rights to participation. The most referred to participation right is Article 12, recognised as a general principle of the CRC (UN Committee on the Rights of the Child, 2003):

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. (Article 12(1))

The UN Committee on the Rights of the Child published a General Comment on Article 12, in 2009, which recognises the growing activities at local, national, regional and global levels to promote the implementation of Article 12 (para. 3). At the same time, the UN Committee note continued impediments to children's participation, in terms of 'long-standing practices and attitudes, as well as political and economic barriers' (para. 4) and was 'concerned about the quality of many of the practices that do exist' (para. 5). Fully realising children's rights to participate, then, remains problematic in too many contexts.

The realisation of children's participation rights remains highly dependent on adults, who in one way or another hold powerful positions such as legal guardians of children, administrative or political decision-makers, or front-line professionals. The attitudes of such adults toward children and childhood strongly influence whether or not the adults recognise, facilitate and support children's participation (Mayall, 2006). One of the most persistent adult concerns is whether children are competent enough to participate. Competency is frequently used as a threshold criterion, so that children who are considered incompetent are not allowed or not supported to participate. Hinton (2008) refers to this as the 'competence bias'. Adults perceive children as having limited or lesser competence than adults, with the concentration on children's lack of competence to participate rather than adults' lack of competence in enabling children to participate.

Despite the frequent use of competence within discussions of children's participation rights (e.g., Hart,

1997; UN Committee on the Rights of the Child, 2009), the terms are rarely explicitly defined or debated (Fortin, 2009). For example, Ljungdalh (2012) undertook a review of child and youth research, finding that competence is rarely defined nor is its relationship to participation clear on its causality (does competence lead to participation or participation lead to competence?). His analysis shows a complex and complicated use of competence, without consensus on definitions nor the relationships between competence and participation.

This complexity may in part be due to the increased interest internationally on competence within education and amongst professionals (e.g. see Ananiadou & Claro, 2009; Bjarnadóttir, 2004). In a review of professional competence for nursing, for example, Schroeter (2008) notes the many descriptors of competence. She distinguishes between competence as 'a potential ability and/or capability to function' (p. 1) in a given situation and competency as 'one's actual performance in a situation' (p. 2). Competency, then, is more than knowledge and skills but the actual application and demonstration of them. Hutchby and Moran-Ellis (1998) use the term 'social competence' to capture the relationality of competence: people express competence socially and in situ. Social competence is not necessarily achieved easily nor straightforwardly but can involve 'struggles for power, contested meanings and negotiated relationships' (Hutchby & Moran-Ellis, 1998, p. 16). Thus power—and particularly the power of adults—is key to children's practical achievement of competency.

This overview suggests that the 'competence bias' continues to have a strong grip—and often a constraining one—on the recognition and realisation of children's participation rights. The developmental paradigm, which emphasises children as having evolving capacities and presuming incapacity in comparison to adults (Lansdown, 2005), can be used to exclude children from participation. Children's exclusion is furthered when competence is presumed to be individualised and intrinsic, rather than recognising competency as enacted and relational. The individual assignation of incompetence to children reduces children's opportunities to participate, putting them in a less powerful position than those adults assumed to be competent. The 'competence bias' is thus associated with intergenerational hierarchies of power. It is the adults' power to ascribe incompetence to children, which prevents children's expression of social competence. Rights are arguably particularly important to recognise then, as a remedy to powerlessness, flowing downhill to the least powerful (Federle, 1994, 1995).

Below, we trace through research evidence from local participation projects showing the continuing power of the competence bias—and how staff members can validate and enhance children's competence and competencies and thus recognise children's participation rights. First, an overview of the research methods and the participation projects is provided, before considering the interplay between participation and competence

for children in the contexts of their communities, schools and families.

### 3. Methods

Research was undertaken in Tamil Nadu (South India) and Scotland (UK) to address how NGOs involve children in making decisions about their local communities. The study was exploratory, considering what enabled and inhibited the processes of children's participation within the two cases.

To answer the research questions, a qualitative case study approach was chosen. This approach provided opportunities for in-depth study of the actors' (children and adults) views and their opinions in an effort to better understand the implementation of children's participation in a real-life context (Yin, 2009). Yin's (1993) and Stake's (1994) typologies were useful to clarify that the research was using a case study approach to consider cause and effect relationships. The purpose of the research design was not to generalise findings to other cases, but to explore themes, connections, and patterns relating to the implementation of children's participation in two specific contexts. Such explorations have theoretical generalisability and, as such, implications for policy and practice (Luker, 2008).

Amongst other criteria, the chosen NGOs were selected because they had more than ten years of experience in delivering children's participation projects and implemented projects in the local community where children could influence decision-making about their lives. To realise children's participation, the NGO in Tamil Nadu primarily used two processes—participation workers supported children to organise and submit petitions to local decision makers and to undertake letter writing campaigns. In Scotland, the NGO worked closely with a group of children over several months, on a photography project. The two contrasting contexts (Tamil Nadu and Scotland) allowed children's participation to be considered in majority and minority<sup>2</sup> world settings; such cross-contextual research is lacking in childhood studies (Punch, 2015). This is not to erase the considerable differences—from socio-economic to cultural—between these two places—but to use such differences as resources, to question taken-for-granted assumptions and to develop new ideas (see also Crowley, 2012; Johnson, 2010) on how NGOs can support children's participation.

Both case studies involved observations, informal discussions and semi-structured interviews with children aged 13 to 16 years old and staff members from the NGOs. In total, 48 participants took part in the research project. The observations focused on staff meetings and meetings with children as well as children's activities: for example, capacity-building workshops in

Tamil Nadu or children delivering workshops Scotland. For the Tamil Nadu case study, the researcher was accompanied by an interpreter. The semi-structured interviews with 33 children and 15 staff members touched on various topics, including: understanding of children's participation, challenges and the lessons learned from the children's participation project. Relevant documents were obtained and scrutinised during the observation phase to give a broader understanding of the NGO work. These helped to create follow-up questions for the semi-structured interviews.

Thematic analysis was used to identify themes and patterns of meaning across and within the data, in relation to the research questions (Braun & Clarke, 2013). The analysis was both inductive and deductive. A within-case and cross-case synthesis (a matrix in a Microsoft Word document) was developed and then used to compare analytical categories across the two case studies. The cross-case analysis established "patterns of association within cases that hold true across cases, without losing sights of the particularities of each case" (Bazeley, 2013, p. 285). Moreover, the qualitative data from different sources (children, staff members) and the method of data collection (observation notes, semi-structured interviews, and documents) were triangulated. Triangulation recognised multiple perspectives on the cases, facilitating the comparison of perspectives and identifying similarities and differences. Triangulation was used to confirm (or contradict) patterns in the research (Fielding & Fielding, 1986).

Due to the nature of the research in development work, as a white person from the minority world, the researcher was positioned as an 'outsider', as someone with resources or as a potential funder. However, the researcher was already familiar with the Tamil Nadu context due to her work experience, so the living conditions were not a surprise, and she was familiar with the language and local community. In some ways, she was more of an outsider in the Scottish context because she had no similar work experience to draw upon. However, in both contexts she was a 'foreigner' due to her language and French origins.

Ethics were considered throughout the entire research project (Kvale, 2007, p. 24). The research gained ethical approval from the School of Social & Political Science's Research and Ethics Committee, at the University of Edinburgh. The research team considered a range of ethical issues throughout, from participant recruitment to data management to feedback to participants. Four issues required particular consideration. First, informed and on-going consent needed to be negotiated with research participants. This included ensuring that information was accessible, translated into suitable languages and explained in writing and verbally. The research team

<sup>2</sup> The terms 'majority world' and 'minority world' refer to what have traditionally been known as the 'Third and First worlds' respectively or more recently as the 'Global South' and the 'Global North'. The terms acknowledge that the 'majority' of the population, poverty, land mass and lifestyles is located in the former, which comprises countries in Africa, Asia and Latin America, and thus seeks to shift Western perceptions that frequently highlight the importance of 'Western' and 'Northern' populations and issues (Punch, 2003).

anticipated that written consent forms could be inappropriate to the Tamil Nadu case study, due to literacy issues and political concerns about signing written statements. However, written consent was regularly used by the NGO and thus participants were familiar and comfortable to provide consent in this way. Second, comfortable and culturally appropriate spaces for children were needed for their interviews. The interviews took place in the field office of the NGO. Third, all participants were informed of an exception to confidentiality, should the researcher become aware of the participant or someone else being at risk of significant harm. This exception was addressed in the initial research consent with potential participants. Each NGO had an established protocol with how to deal with such concerns, and an identified person to whom the research team could go to with any concerns. No such concerns were identified during the research. Fourth, confidentiality needed to be considered carefully, in at least two ways. An interpreter was needed for the Tamil Nadu case study for the Tamil Nadu interviews and fieldwork observation. The interpreter was fully briefed about the research in advance, including confidentiality, as part of their recruitment. Care was taken to consider confidentiality between respondents, in a case. This became an issue in the group discussion with participation workers, resulting in a decision not to continue with that discussion but to have individual interviews so workers could speak more freely. Further, in presenting the findings specific staff positions are not identified, to protect participants' anonymity; instead, broader categories are used of 'participation workers' and 'management team' in Tamil and 'staff' due to the small numbers of workers and lack of hierarchy in the Scottish NGO. More information on the methodology and the ethical considerations can be found in Le Borgne (2016).

The analysis identified that perceptions of children's competence and competencies were both facilitators and inhibitors of children's participation. Below, these findings are drawn out for the three contexts discussed by children: their communities, their families and their schools.

#### **4. Children's Competence and Competencies in Their Communities**

Adults' perceptions of children's competence and competencies made a considerable difference to the extent that children's participation activities influenced decisions in their communities.

In the Tamil Nadu case study, Aya (management team) described community perceptions of children: adults were considered supreme, whereas children were subordinate. Thus, children's ability to express their competencies was impeded. However, the NGO project was able to ease such impediments, by facilitating children to use processes available to all adults in the community to influence change. One such process was petitioning local decision-makers. A typical example is given by Kathira

(16 years old), who spoke proudly of herself and other children writing a petition and meeting the local authority officer through the help of the project's participation workers. The children were able to persuade the local authority to build toilets and provide access to drinking water in the slum area where they lived. Kathira's example illustrates how children, as a collective, were supported by the NGO to express their competency.

When children express their competency, it can change adults' views. Dahma (management team) described a dramatic example in which children were able to organise for a temple to be built, when adult community members had failed to do so. Dahma herself had thought the children were being too ambitious. But she supported the children when they insisted and project participation workers helped them set up a meeting with the community leader. Following the meeting, the children helped the community leader raise the required donations to complete the temple, which in due course was finished. According to Dahma, this success was highly approved of by the community and improved adults' recognition of both the project and the children's competence. Children themselves were able to shift adults' perceptions—this applied to Dahma herself, to the community leader and eventually the wider community. The example shows that adults' judgements of children's competencies are still decisive because adults had the power to decide whether or not to support children to participate and whether or not to interact with them (see Bacon & Frankel, 2014). Once again, the NGO was an important lever to facilitating (or not) children's participation, which in turn led to positive changes in their community.

In the Scottish case study, Martin (staff) explained that the photography project enabled children to develop their ideas about how to improve their community. The project captured the participants' perspectives—who they were and where they lived—via a photo exhibition and a published book. The book analysis revealed that children took pictures of problematic issues in their communities, such as the negative use of graffiti. A photo exhibition was organised for decision-makers, parents and other professionals working with children in the council. However, no visible changes in the community were identified after the exhibition, according to research participants. In comparison to the Tamil Nadu examples, the exhibition and book were not directly confrontational nor explicit on the changes requested by the children in their communities. The Scottish case study ably demonstrated children's competency, in making the book and holding the photography exhibition. But children's participation did not lead to noticeable change in their local community. The Scottish case study did not demand a substantial change in power relations nor particular negotiations with adult decision-makers.

Power and negotiation are integral to understanding social competence (Hutchby & Moran-Ellis, 1998). In the Tamil Nadu case study, children expressed their com-



petencies through negotiating and claiming their rights from, and in engaging in meaningful social action with, adults at the community level. The Tamil Nadu case exemplifies how participatory community projects can constructively change adult-child relations over time; this is important, particularly as children develop their own interpersonal skills and engage in ongoing dialogue with adults in their communities (Ackermann, Feeny, Hart, & Newman, 2003, p. 27; Johnson, 2017). However, in Scotland, where the children did not have a formal mechanism to influence decision-making, competence was emphasised by staff but their competency was limited in influencing community change.

### 5. Can Children's Competence and Competencies Be Transferred to Schools?

The participation projects helped children to demonstrate their competencies in school-related contexts. Children were able to transfer their competence and competencies to their school contexts but had far more difficulty in influencing change in schools themselves.

In the Tamil Nadu case study, Sasiva (15 years old) was president of her children's group in the NGO. Sasiva reported how her leadership skills became recognised in the school, when she was asked to assist the teacher in a mathematics class and she was appointed captain of the volleyball team. Sasiva herself felt she had transferred her increased competence in leadership to the school context. Her school teachers appreciated the NGO's work, recognised Sasiva's increased competence, and Sasiva was able to show her social competence within the school context. Equally, children in the Scottish case study were able to transfer their skills and knowledge to school. For instance, Olivia (14 years old) shared that, because she had been to the Scottish Parliament with the NGO, she was able to use that knowledge in class. She realised that she knew quite a lot compared to other students who had not been involved with the NGO, illustrating that Olivia gained specific knowledge by being part of the participation project, and that she was able to use it in the classroom context. Both case studies demonstrate that competences acquired in the NGO projects were used in the school context.

However, in the Tamil Nadu case study, the school context did not encourage children to demonstrate their competency by taking concrete action to influence change. This is illustrated by an unusual example—when the children did not follow the usual participation process. Three members (15 years old) created a petition to appoint a new teacher—to address their concern about the lack of teaching staff—directed to the Chief Education Officer. The children did so without informing their parents or NGO staff members. The Chief Education Officer was extremely angry when he received the petition because the children came on their own. He threatened not to allow the children to complete their exams. The children informed the NGO staff members about this in-

cident. The staff members then spoke with the children's parents and sent a letter to the Officer explaining that the children had gone to the City Municipal Corporation with the parents' approval. Both problems were solved: the children were able to take their exams and also secured a new teacher. However, without the mediation of staff members (and ultimately parental approval), the children would have been blocked from claiming their rights and, further, been punished by not being able to take their exams. The adults' perception of children's competence and competency did not change throughout this example. Children's competence and competency alone were considered threatening and unpersuasive to the Chief Education Officer. The children's demands needed to be validated by the NGO and their parents, which led to the ultimately positive outcomes. The question is not then about whether competent individuals are powerful or powerless; the pertinent questions are whether decision-makers ascribe competence to people and allow for the spaces for their competency to be expressed.

In the Scottish case study, limited spaces were identified for children to express their competency. Some of the children interviewed had attended their school's pupil council—where children gather to discuss school-wide issues and potential improvements (Cross, Hulme & McKinney, 2014)—without effect. Annabel's (16 years old) experience was similar to others in the case study:

I went a couple of times, but I did not really enjoy it. I am not saying that it's a bad thing but they are trying to act like we are making decisions...but they are doing what they wanted to do in the first place....I don't want to waste my time....I prefer to go and have my lunch. They will make the final decision anyway.

Her example shows that little negotiation was possible, as the decisions had already been made and there was therefore no space to include children's contributions. From fieldwork observations, the school knew which children had been part of the NGO activity but Annabel's example shows how her competence to participate was not realised in the school context. In the school council, power relationships were already well established and children had limited opportunities to influence change.

In both case studies, children were able to transfer certain competences to the school context, especially when competences were individualised, such as leadership skills or knowledge. However, when children wanted to express these competencies to influence school decision-making, they were confronted with resistance by certain adults. In both case studies, particular competencies were not welcome in the school context and children were stopped from achieving their desired results. In Tamil Nadu, children had to ensure parental approval and staff support before their social competence was recognised. Children's ability to navigate this situation shows competency in itself, embedded in the con-

tinued influence of the competence bias amongst certain adults.

## 6. Can Children's Competence and Competencies Be Transferred to Their Families?

As with schools, children in the study reported how they transferred competence from the NGO projects to their family contexts. Such a transfer was more evident in the Tamil Nadu case study than in the Scottish one.

In the Tamil Nadu case study, children gave numerous examples of family members' increasingly recognising the competences—and particularly knowledge—they had gained through their participation in the NGO. Sasiva (15 years old) gave an extensive example. When her father was sick, her mother asked Sasiva if she knew which hospital would admit him. Sasiva had learned this information from her NGO children's meetings and was able to inform her mother of what to do. Sasiva's mother now saw Sasiva as a useful source of knowledge on her community. Similarly, in the Scottish case study, some children said that their parents started seeing them as highly knowledgeable. A typical example was given by Olivia (14 years old): 'We always have discussion and debate, I say [name of the organisation] told me this and that and they say 'we are listening to an expert''. Olivia was able to bring her knowledge into family discussions at home thanks to what she learned from the NGO. These two examples show that children thought parents changed and recognised the children's competence due to children's involvement in the participation projects, particularly in terms of children having increased knowledge and the competency to contribute this meaningfully.

The importance of the NGO link was very evident in how former child workers were able to influence their parents in the Tamil Nadu case study. A number of children who had been involved in domestic work used the power from being involved in the NGO, and the power of the NGO staff itself, to influence their parents' decision about the children working. Maalni (15 years old) explicitly used the NGO's power to support her wish not to work. She told her mother that if she went to work instead of attending school, NGO staff members would go to the house where both she and her mother worked and imprison their employers, and fine Maalni's mother for sending her child to work. After that, Maalni's mother told her that Maalni did not need to go to work, illustrating that Maalni was able to influence decision-making in the family context by using legal arguments such as the risk of a fine and imprisonment. Maalni's example demonstrates how she influenced decision-making processes by mentioning the knowledge and authority of NGO staff members and other adults in her negotiations.

Children in the Scottish case study identified fewer influences on 'major' decisions within their families. Participation in the NGO project did not necessarily transfer to children thinking they should be able to influence

such decisions, either because the decisions were too important (e.g. financial) or too complicated to negotiate collectively (e.g. family outings). Children did say they influenced 'minor' decisions about their own appearance, bedrooms or dinner. Children's competence to participate was less easy to transfer into their family lives (see also Horgan, Forde, Parkes, & Martin, 2015).

Thus, the family contexts remained the most difficult for children to express their competency. Their competence was acknowledged, in several situations, in families—particularly in relation to children's knowledge gained through their participation activities. But this did not necessarily transfer to 'major' decisions such as whether children would work or financial decisions in families. In Tamil Nadu, this is highlighted by children needing to refer to the legal and informational authority of their NGO project. While children had felt this appeal was necessary, their social competence in doing so was ultimately highly successful in their views being heard and decisive. In a more subtle way, children's competence in Scotland also gained recognition because of its link to the NGO. Once again, we see how children were able to use the NGOs to leverage greater social competence.

## 7. Conclusion

The research evidence underlines that children's competence and competency are not intrinsic and individual characteristics but situated and relational. This is evident when contexts and relationships either supported or limited children's abilities to influence decision-making; it is evident when children reported their varied influences across community, school and family decision-making. The findings thus support a relational approach to children's agency (Leonard, 2015; Punch, 2016). For Leonard (2015), the concept of agency recognises children as actively constructing their own childhoods but she argues that children's agency must be located within the positioning of childhood relative to adulthood. She advocates considering how children and adults relate to one another, to understand the opportunities and constraints under which children practise agency and, thus, can be considered as agentic. For her, their agency emerges from and operates within generational relationships.

Both NGOs in Tamil Nadu and Scotland were seeking to support children to influence community change inter-generationally. The differences between the case studies illuminate how social competence is expressed socially and in situ. Children's competency was better achieved in the Tamil Nadu case study compared to the Scottish one, with the former's more direct and often confrontational participation approach directly linking children to community decision-makers (whether the community leader, the local decision-maker, or the Chief Education Officer). In the Scottish case study, children had less opportunity to demonstrate their social competences because the photographic exhibition did not provide a vehicle for

them to negotiate directly with adult decision-makers. The Tamil Nadu case study was more tightly linked to decision-makers, than the Scottish case study was, and more immediate impact was evident in the Tamil Nadu case study.

The 'competence bias' continued to influence children's expression of competency. When adults perceived children as competent, children's competencies were enhanced. This is evidenced within the NGOs, where staff members in both projects helped develop children's competences and encouraging their expression of competencies. When parents recognised children's knowledge, gained through the NGOs, the children gained recognition for their (increased) competence. The examples given above show the constraining perceptions of children's competence of several key adult decision-makers, in Tamil Nadu, which limited children's participation. The examples also show how the bridging by NGO staff members helped ameliorate or even change such limiting perceptions.

The research particularly brings out the key role of NGO staff members in children's social competence. The NGO activities in this research increased children's knowledge, which they not only used in their communities but were able to transfer to their school and family contexts. The NGO staff members were key to providing the link between children and adult decision-makers in their communities: this was done successfully in Tamil Nadu and less successfully in Scotland. Children's use of the legal and information authority of the Tamil Nadu NGO was striking, when they were ultimately able to gain a new teacher and avoid punishment, and in negotiating with their parents not to work. These examples also brought out that children were limited in expressing their social competence, without the NGO support.

This leads to two conclusions. First, strengthening the role of the staff members in children's participation is worthwhile (Johnson, 2017; Le Borgne, 2017) because they can play key roles in developing and validating children's competence and enhancing children's competencies. Staff's own perceptions of children's competences and competencies influence how well they support children and children's influence on decision-making.

Second, the competence bias remains pernicious and often unhelpful to children's participation. The bias can mean that participation workers, as key intermediaries, may be necessary to facilitate children's participation rights. But it may mean that children's competences are under-recognised. The children who petitioned for a new teacher had the competencies, but their context did not allow them to demonstrate those competencies. It required a change in the context—the intervention of the NGO—for children's social competence to be achieved. This change had the positive effect of ensuring children's views were heard. But it undermined children's recognition, because they could only achieve this through 'borrowing' parental and NGO power and not in their own right. Thus intermediaries, like NGOs,

can provide vital roles to ensuring children's participation rights are realised. However, if it were accepted that children always should have intermediaries (Gibbons, 2015; Nguyen, 2013), the competence bias of adult decision-makers can remain unchallenged. With the fixation on children having evolving capacities (as if adults are not also constantly evolving in their capacities?), there is always a risk of children needing to prove their competence or to meet some unexplained and unevidenced threshold to be considered competent. Instead, we could consider competence and competency far less relevant to children's involvement in decisions about their communities and concentrate far more on how all community members have potential knowledge, experiences, and expertise they can contribute.

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### Conflict of Interests

The authors declare no conflict of interests.

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Article

## Voice or Voice-Over? Harnessing the Relationship between a Child’s Right to Be Heard and Legal Agency through Norwegian Bullying Cases

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### Abstract

This article offers an analysis of the child’s right to be heard under Article 12 of the Convention on the Rights of the Child and its application in Norway, through a case study of bullying. The methodology combines a “top-down” legal interpretation of Article 12 in addition to an analysis of Section 9a of the *Education Act*, juxtaposed with bottom-up approaches. First, a legal analysis of Article 12 and the General Comments of the Convention on the Rights of the Child Committee is provided, with a view to demonstrating the strength of the connection between agency and voice. Looking from the bottom up, therefore, the article then pursues the voices of the bullied children themselves. It places its ear to the ground, so to speak, through an examination of complaints submitted by children to the Ombudsman for Children, in order to “hear” the voices of children subjected to bullying at school, before they are formulated in legal terms before judicial bodies. Finally, I offer a close reading of the report on Section 9a commissioned by the Norwegian Government, published in a 2015 Report (the “Djupedal Report”) in tandem with the leading Supreme Court 2012 decision on bullying, so as to critically examine the fulfilment of Article 12 in Norway. In the final analysis, I argue that in Norwegian bullying cases, though the child has the legal right to be heard, there is no voice, due to the limitations of legal agency for children pursuant to Article 12 of the Convention on the Rights of the Child.

### Keywords

bullying; child rights; legal agency; Ombudsman; right to be heard

### Issue

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### 1. Who’s Afraid of the Third Optional Protocol (OP3) Convention on the Rights of the Child (CRC)? The Puzzle of Norwegian Non-Ratification

A motivation for this study, and serving as its background, is the Norwegian Government’s persistent scepticism and, as of 2016 (“The government will not give children the right to appeal to the UN,” 2016), its dismissal of its ratification of the OP3 CRC on a communications procedure (adopted by the United Nations General Assembly on 19 December 2011 and entered into force 14 April 2014). Since 2010, there has been a steady stream of civil society advocacy for the Norwegian Government to ratify this new Protocol, when the communications procedure made its entrance onto the domes-

tic political stage (dated from the answer by the Minister for Foreign Affairs in Parliament to a question regarding whether the government would assume a proactive role in the then ongoing negotiations in the Human Rights Council to institute an appeal mechanism to the CRC; see Stortinget.no, 2013). In a symbolic gesture two years later, on 24 November 2012, the succeeding Foreign Minister was given pens from various youth organisations to encourage Norway’s signature and ratification of the new instrument that establishes a communications procedure. The domestic political landscape was coloured by a sense of confrontation, since earlier in 2012 when the OP3 CRC was opened up for signature, with an uncommon animosity between the Government and civil society. When Norway was preparing for its presentation

of its Universal Periodic Review Mid-term Report, it was faced with a joint NGO platform consisting of Amnesty International, boycotting cooperation with the Norwegian authorities so as not to legitimise their report. In addition to being “highly unusual in a Norwegian context, where transparency and dialogue are important elements in [Norwegian] democracy” this spelled an unusually unconstructive beginning for OP3 CRC, thereby adversely affecting the deliberations. So, upon the conclusion of debates in Parliament on 24 November 2012, which resulted in Parliament requesting the government to conduct a study in the spring of 2013 highlighting the advantages and disadvantages of ratifying the OP3 CRC, the OP3 CRC found itself in uncommonly precarious political terrain in terms of children’s rights protection in Norway.

The question of ratification—at least for the present—has been shelved by the current Norwegian Government and the future of OP3 CRC in Norway thus remains uncertain. The arguments against ratification advanced by successive Norwegian governments have been analysed from a political science perspective: dubbed the “Nordic Paradox”, such a thesis has sought to explain this anomaly through arguments concerning democratic deficits and the issue of state power in the face of international oversight of domestic mechanism. As an example of this analysis, see (Schaffer, 2015). This article, too, seeks to understand the paradox of Norwegian scepticism to this new child rights treaty when perhaps it has little to fear from it on the international stage. Though it was not one of the first twenty states that ratified the CRC, Norwegian support of the CRC is exemplified by its incorporation of the Convention, in addition to the recent constitutionalisation of two of its guiding principles in Article 104 of the Norwegian Constitution. In short, my analysis is spurred by the question of how it is that a state which has a demonstrated commitment to children’s rights in general, and to the CRC in particular, can take such a negative position with regard to a treaty that materialises the complaint rights of children as part of the child’s right to be heard. Particularly given that the identification and interpretation of CRC rights by the Committee will become a source of law in Norway, regardless of Norwegian ratification. The authoritative interpretations of CRC provisions will become the bedrock of the CRC Committee’s reasoning when it assesses Norway’s state reports as part of its monitoring of the CRC. From the perspective, then, of the domestic protection of CRC rights, specifically Article 12 on the right of the child to be heard, Norwegian non-ratification makes less sense.

In attempting to make sense of the enigma of Norwegian resistance to this new treaty, I employ the case of bullying to argue along the lines, instead, that Norwegian non-ratification of OP3 CRC is less of a paradox than it appears. Rather, I seek to argue that non-ratification makes sense given the seemingly unshakeable nature of the legal disabilities of childhood—manifested most acutely in

the blanket denial of legal agency to children. This article, then, is not so much about rights in school as it is about the right of the child to be heard, using bullying in Norway as a springboard for discussion. In the Western legal tradition, children have been incapable of initiating legal proceedings except when an adult representative initiates on their behalf. I frame my answer using this typology of legal *agency*, understood as the ability for children to sue *in their own name*. Though not a legal concept, legal agency offers a useful conceptual tool through which to avoid any confusion between the two separate legal concepts of the capacity to have rights (“legal personality”) as opposed to the capacity to act on those rights, to complain (“legal capacity”).

## 2. Introduction

I’m the monster? You’re the monster! These children tried to warn you, but you wouldn’t listen. No one ever listens to children! You think you’re innocent?! You’re accomplices! This certificate says that I have the fortune now! And there’s nothing you can do about it! [to Violet] What do you think? Too diabolical? Give me some feedback!

This is a quote from Count Olaf from the 2004 film adaptation of Lemony Snicket’s *A Series of Unfortunate Events* (Silberling, 2004), which speaks to the dire consequences to life and limb of failing to hear the voices of children. In the novel throughout, the children “speak”—including even the intelligent toddler, who speaks but is not understood by the adults who merely hear “Oots” and “Ohs”. The children speak, but the adults fail to hear their voices at each and every instance. By way of an ingress into Article 12 of the CRC, when the Count asks Violet for her opinion in the aftershock of the forced marriage, would this satisfy the requirements of the provision? Article 12 reads:

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

*Prima facie*, Count Olaf’s request to hear Violet’s views complies with Article 12 by offering the child a say, and there can thus be said to be compliance. However, the Count’s question is clearly rhetorical; indeed, it adds insult to injury making it clear that the adult world is not *substantively* interested in what children have to say and,

ultimately, it is the adult's narrative that prevails. The children speak but are very rarely heard.

The literary is not too far removed from the real. "It doesn't help to tell, they don't do anything anyway" are the chilling words that were spoken by Odin Olsen Andersgård who, in 2014, was driven to taking his own life as a result of his experience of bullying at school. Odin was one of 63,000 children who are, according to the Norwegian Institute of Public Health, said to experience bullying at any given time in Norwegian schools. The Norwegian Government presents children's rights in Norway as having the utmost importance, with an anti-bullying focus:

Norwegians consider children to be very important. They listen to children's views and try to include them when making decisions....There are very strict rules to prevent bullying at school, and just like in the UK, all schools must have an anti-bullying plan for teachers and pupils to follow. ("Norway's official websites abroad," 2016)

Norway also had the first anti-bullying campaign for children, which was instigated by students themselves (see comments of Knut Haanes, Deputy Ombudsman for Children in (Wakefield, 2007)). Yet, as Odin's case demonstrates, bullying remains a significant challenge to child rights protection in Norway.

Norway has been a pioneer in the field of children's rights. It has had two members, one the Chairperson on the Committee on the CRC. It has been said to be a "norm entrepreneur" (Ingebritsen, 2002, p. 11) in world politics, with Norwegians "being the first in the world to develop social policy measures to prevent bullying in schools" (Ingebritsen, 2006, p. 70) and Norway, being hailed by UNICEF in 2014 as "a true champion of children's rights with record donation" see ("Norway proves itself a true champion of children's rights with record donation," 2014). Further, it was the first country in the world to have a Children's Commissioner. The CRC was embedded in Norwegian law in 1991 when incorporated in the Human Rights Act, and in its 2014 revision Article 104 of the Norwegian Constitution was added, reflecting articles 12 and 3 of the CRC, expressing the child's right to respect for their human dignity, and enshrining their right to be heard in questions that concern them. This constitutionalisation is not insignificant as, in its transformation of rights into constitutional rights, having the legal effect that the right of the child to be heard acquires the status of *lex superior*, children enjoy the highest possible rank in the hierarchy of legal norms in the Norwegian jurisdiction. Further, as stated in the 2012 UNICEF Report on the Implementation of the CRC across 12 countries, "It is clear that Norway has a reasonably good legal framework to implement children's rights, in particular under Articles 3 and 12 of the CRC" (Lundy, Kilkelly, Byrne, & Kang, 2012, p. 62). However, the Report also states the lack of measures available to ensure the enforcement of children's rights, and the absence of child-specific com-

plaints mechanisms is highlighted as a particular concern. Few avenues are available to children seeking to complain about breaches of their rights: "Whilst incorporation and transformation had achieved good laws that were compliant with the CRC, (or at least with Articles 3 and 12), enforcement remains weak in the absence of effective monitoring, supervision and complaints mechanisms" (Lundy et al., 2012, p. 60). Finally, though there is increased use of the CRC in the Norwegian courts, "most litigation concerns Article 3, rather than the remainder of the CRC's provisions" (Lundy et al., 2012, p. 61).

This article offers an analysis of the child's right to be heard under Article 12 of the CRC and its application in Norway, through the case study of bullying. The methodology combines a "top-down" legal interpretation of Article 12 in addition to an analysis of Section 9a of the *Education Act*, juxtaposed with bottom-up approaches. First, a legal analysis of Article 12 and the General Comments of the CRC Committee is provided, with a view to demonstrating the strength of the connection between agency and voice. The article then pursues the voices of the bullied children themselves. It places its ear to the ground, so to speak, through an examination of complaints submitted by children to the Ombudsman for Children, in order to "hear" the voices of children subjected to bullying at school, before they are formulated in legal terms before judicial bodies. Finally, I offer a close reading of the report on Section 9a commissioned by the Norwegian Government, published in 2015 Report (the "Djupedal Report") in tandem with the leading Supreme Court 2012 decision on bullying, so as to critically examine how well Article 12 fares in Norway. In the final analysis of the article, I argue that though the child has the legal right to be heard in Norwegian bullying cases, there is no voice due to the limitations of legal agency for children pursuant to Article 12(2) CRC.

### 3. Children in the Legal Process

Traditional legal assumptions, what has been termed "liberal legal ideology" (Clark, 2015), have worked to deny legal capacity to children and have meant that children by definition and virtue of their legal status have been rendered ineligible to participate in legal proceedings. Otherwise referred to as the legal disabilities of childhood, these barriers fall short of international standards of child rights protection, most particularly Article 12 of the CRC, which enshrines a child's right to be heard. Jane Fortin characterises children's involvement in family law proceedings as a ladder (Fortin, 2009, pp. 248–249), evocative of Roger Hart's ladder of young people's participation (Hart, 1997). The different ways of being heard represent the ladder's rungs: the bottom rung being no views expressed to the court, progressing upwards to more direct involvement through party status, and ultimately to the ability to litigate on their own behalf as the uppermost rung of the ladder. Family law scholars Parkinson and Cashmore do not view Fortin's ladder as

a hierarchy of virtue, and assert instead that there can be a smorgasbord of approaches to hearing the voices of children in legal proceedings, informed, not least, by resource constraints (Parkinson & Cashmore, 2008). However, the point of the ladder is to elevate the child's legal involvement—it is not an end in itself, but exists as a tool to be used as a means to children having full recognition as rights holders before the law. Seen in this light, legal agency—the uppermost rung—must be provided for in order that children be elevated to their status as rights holders, particularly in cases where the state's legal machinery is not already engaged in family law or juvenile justice proceedings. Bullying provides a useful example of a case where children have reason to be complainants in their own right, without having been drawn into the legal system as defendants or participants in a divorce proceeding, for example.

#### 4. Voice and Agency: Forging the Connection

The universal right to legal agency, defined as having both legal personality *and* legal capacity can be said to be a new norm in international human rights law that is also extended to children (Clark, 2015). Though this right is not expressly granted in the CRC (cf. Article 12 of the Convention on the Rights of Persons with Disabilities), the child's right to legal agency was implicit in the extension of communication procedures to children from their very inception in the UN system. As elucidated by the CRC Committee ("the Committee") in its General Comment No. 3 on General Measures of Implementation:

*For rights to have meaning, effective remedies must be available to address violations. This requirement is implicit in the Convention and consistently referred to in the other international human rights treaties. Children's special and dependent status creates real difficulties for them in pursuing remedies for breaches of their rights. So states need to give particular attention to ensuring that there are effective, child-sensitive procedures available to children and their representatives. These should include the provision of child-friendly information, advice, advocacy, including support for self-advocacy, and access to independent complaints procedures and to the courts with necessary legal and other assistance. (General Comment No. 5 (2003) General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6), 2003, para. 24) (emphasis mine)*

As is evident here, in as early as 2003 the Committee moves beyond an implied right to legal agency, to stipulating the provision of mechanisms for its realisation.

##### 4.1. Article 12

Thus, states are required to provide children access to judicial and quasi-judicial complaints procedures, with

out qualification as to age. This is further supported by Article 12 of the CRC on the child's right to be heard, one of the four "general principles" of the CRC, which "highlights the role of the child as an *active participant* in the *promotion, protection and monitoring* of his or her rights" (*General Comment No. 5 (2003) General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6), 2003, para. 12*) (emphasis mine). This stems from the Convention's recognition of "the child as a subject of rights, and the nearly universal ratification of this international instrument by States parties emphasizes this status of the child, which is clearly expressed in article 12" (*General Comment No. 12 (2009) The right of the child to be heard, 2009, para. 18*). Children are to be actively engaged in the process of protection and monitoring of their rights, strengthened by the proviso that "Involvement of and consultation with children must also avoid being tokenistic" (*General Comment No. 5 (2003) General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6), 2003, para. 12*), distinguishing between "listening" as an end in itself, and as a means:

But appearing to "listen" to children is relatively unchallenging; giving due weight to their views requires real change. Listening to children should not be seen as an end in itself, but rather as a means by which States make their interactions with children and their actions on behalf of children ever more sensitive to the implementation of children's rights. (*General Comment No. 5 (2003) General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6), 2003, para. 12*)

Hence, it is not merely that the child should "express" her views (Art. 12(1)), but Article 12 stipulates that she is to be listened to, and heard (Art. 12 (2)). Accordingly, the concept of "voice" used in this article is that of *legal voice*. It posits that for children's voices to be meaningful in the context of the Article 12 "right to be heard", children do not merely have the right to "express their views", with respect to the Article 12 qualification of "matters that affect them". Rather, children have the right to have their voices "heard" by an adjudication body: "either directly, or through a representative" as per Art. 12 (2). This concept of voice is to be distinguished from *political* "participation" in that it hinges on the active participation of the child in the legal process through the provision of legal agency to children (see Section 4.3 below).

##### 4.2. Lifting the Lid on Article 12: General Comment No. 12 (2009) on the Right of the Child to Be Heard

The legal interpretation of Article 12 rendered by the CRC Committee in General Comment No. 12 (2009) further supports this claim of the centrality of legal agency to Article 12. It highlights seven elements of the right to be

heard, which can be seen to be central to the provision of legal agency to children, as follows: namely, (i) Article 12 as a rule of procedure; (ii) the necessity of the provision of children's access to complaints procedures; (iii) the presumption of capacity; (iv) the non-imposition of an age-limit; (v) the inadequacy of simply "listening" to children; (vi) *how* the child must be heard; and (vii), the child's right to be heard "directly". First, as one of the four general principles of the CRC, the Committee reinforces the procedural quality of Article 12: "this article establishes not only a right in itself, but should also be considered in the interpretation and implementation of all other rights" (*General Comment No. 12 (2009) The right of the child to be heard*, 2009, para. 2). It thereby "provides the *methodology* for hearing the views of the child or children and their inclusion in all matters affecting the child" (*General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1)*, 2013, para. 43) (emphasis mine).

Secondly, one of the five steps enumerated for the implementation of Article 12 is the provision by states of legislation to "provide children with complaint procedures and remedies", and that "children should have the possibility of addressing an ombudsman or a person of a comparable role in all children's institutions...in order to voice their complaints" (*General Comment No. 12 (2009) The right of the child to be heard*, 2009, para. 46). Thus, the "child must have access to appeals and complaints procedures which provide remedies for rights violations" (*General Comment No. 12 (2009) The right of the child to be heard*, 2009, para. 47).

This is in turn inextricably linked to one of the core obligations imposed upon states by Article 12, namely "to review or amend their legislation in order to introduce mechanisms providing children with...procedures for complaints, remedies or redress" (para. 48). Consequently, the wording: "in a manner consistent with the procedural rules of national law" in subsection 2 of Article 12 cannot be used as an obstacle to accommodation of the legal agency of children as it "should not be interpreted as permitting the use of procedural legislation which restricts or prevents enjoyment of this fundamental right" (para. 38). Where such legislation exists, often supported by deeply-held views about childhood vulnerability, states are advised that in order to fulfil these obligations they should adopt a number of strategies, not least of which is to "combat negative attitudes...to change widespread customary conceptions of the child" (*General Comment No. 12 (2009) The right of the child to be heard*, 2009, para. 49).

The presumption of capacity is the third element of the Committee's legal analysis of Article 12 that is indispensable to legal agency. The wording in Subsection 1 of Article 12, "capable of forming his or her own views", is not to be read as a limitation to capacity, which means that one "cannot begin with the assumption that a child is incapable of expressing her or his own views. On the

contrary, States parties should presume that a child has the capacity to form her or his own views and recognize that she or he has the right to express them; it is not up to the child to first prove her or his capacity" (para. 20).

Additionally, General Comment No. 12 makes it clear that the right is to extend to all children, regardless of their age and that Article 12 imposes no age limit on the right of the child to express her views. States parties are "discourage[d] from introducing age limits either in law or in practice which would restrict the child's right to be heard in all matters affecting her" (para. 21). Pre-verbal infants also come under its banner of protection, and "consequently, full implementation of article 12 requires recognition of, and respect for, non-verbal forms of communication including play, body language, facial expressions, and drawing and painting, through which very young children demonstrate understanding, choices, and preferences" (para. 21).

Another relevant element for our purposes is the ambit of the clause "being given due weight in accordance with age and maturity of the child", which is to be read in light of the presumption of capacity. Accordingly, it "stipulates that simply listening to the child is insufficient; the views of the child have to be seriously considered" (para. 28). That is to say, the child must be *heard*, their views being assessed on a case-by-case basis. As to how their view must be heard, this is provided for in subsection 2 of Article 12, which specifies the right "to be heard in any judicial and administrative proceedings affecting the child". This applies to any and "all relevant judicial proceedings...without limitation", and indispensably, for our purposes, "applies to proceedings which are initiated by the child...as well as to those initiated by others which affect the child" (para. 33). This right is to be facilitated by an appropriate environment, both accessible and child-appropriate (para. 34). Adult-oriented judicial and administrative systems will not suffice.

Finally, subsection 2 of Article 12 provides for the child being heard directly, pursuant to the wording "Either directly, or through a representative or an appropriate body". In General Comment No. 12, the Committee "recommends that, wherever possible, the child must be given the opportunity to be directly heard in any proceedings" (para. 35).

#### 4.3. Voice: Participation versus Legal Agency

The right to be heard, pursuant to this interpretation of Article 12, is to be distinguished from its common association with *political* "participation". As the Committee makes clear in General Comment No. 12, the drafting history of the CRC supports this distinction; indeed, the proviso "in all matters affecting the child" (Art. 12(1)) was added to ensure "that no general political mandate was intended" (para. 27). However, the right to be heard is used often in the sense of consultation with children, where "the views expressed by children may add relevant perspectives and experience and should be con-



sidered in decision-making, policymaking and preparation of laws and/or measures as well as their evaluation” (para. 12)—procedures that “are usually called participation” (para. 13). This view of Article 12 is referred to in the so-called “Three Ps” of the CRC, “provision, protection and participation”, and is reflected in current practice:

A widespread practice has emerged in recent years, which has been broadly conceptualized as “participation”, although this term itself does not appear in the text of article 12. This term has evolved and is now widely used to describe ongoing processes, which include information-sharing and dialogue between children and adults based on mutual respect, and in which children can learn how their views and those of adults are taken into account and shape the outcome of such processes. (*General Comment No. 12 (2009) The right of the child to be heard*, 2009, para. 3)

This view is not, however, without its critics: Nigel Cantwell (then-Coordinator of the NGO Group for the CRC, having taken part in the drafting) makes the case that participation presents us with cause for alarm as an example of rights inflation that is putting the human rights consensus at risk (Cantwell, 2011, p. 42). Cantwell details the drafting history of General Comment No. 12—from being the theme chosen for the 2006 Day of General Discussion for the CRC Committee, to its tumultuous deliberations and approval three years later. He then expresses disapprobation at elements of the Report which followed, which suggested an inflationary rights agenda, namely the full-participation of children in “all aspects of society” through a “leap” of an interpretation of Article 12, that “The new and deeper meaning of this right [to participate] is that it should establish a *new social contract*” (*Day of Discussion on the right of the child to be heard*, 2006, p. 2):

This is arguably quite a leap. One wonders what other CRC rights may suddenly be deemed to have “new and deeper” meanings, what those meanings might allegedly imply, and whether States Parties to the treaty are prepared to accept that they knowingly signed up to them. Clearly, if this kind of rights inflation is accepted, it will be almost impossible to avoid substantially sapping the strength of the original right in question and to engage states through credible advocacy. (Cantwell, 2011, p. 56)

In the end, “there seemed to be a recognition that matters were getting out of hand” and fortunately (as far as Cantwell’s critique goes) the text that resulted in the form of General Comment No. 12 demonstrates that the “Committee successfully resisted an “inflationary” mindset and settled on a text that is, overall, realistic and well-founded” (Cantwell, 2011, p. 56).

Cantwell’s critique of interpretations of Article 12 is levelled at the *political* elements of this form of par-

ticipation, as against constructions of the right that “can be considered as the symbol for [children’s] recognition as rights holders”, which “implies, on the long term, changes in political, social, institutional and cultural structures” (*Day of Discussion on the right of the child to be heard*, 2006, p. 2). Consequently, Article 12 is not to be construed as freedom of expression. If anything, Article 12 presents us instead with a right that grants *legal* agency in cases that directly impact upon a child, and particularly when administrative and judicial decisions are being made about their lives. Cantwell elucidates this through his reading of the drafting history of the CRC and the following points are manifested, among others: that Article 12 “is not a restatement of the general right to “freedom of expression” but is directly linked to the context and requirement of consultation with the child”. Secondly, “the ‘matters’ it seeks to refer to are clearly meant to be those that are directly pertinent to the life of the child concerned, not general issues that may have ramifications for children” (Cantwell, 2011, p. 55). For the most part, this is in line with the interpretation that the CRC Committee formally offers in General Comment No. 12 (see Section 4.2).

Article 12 is dubbed a number of labels, which both label and in so doing, interpret the provision. An analysis of the language used to describe Article 12 across all the General Comments of the CRC Committee thus affords an alternative means through which to ascertain the legal content of Article 12. Each General Comment, with the exception of a few, devotes a section to Article 12 as one of the general principles of the Convention, in light of which every substantive right must be interpreted. I study the language used in the titles, the pseudonyms if you will, of how Article 12 is labelled in all the CRC General Comments to date. My survey of the title language is supplemented with a detailed reading of the sections’ contents. This preliminary analysis of language reveals the minority of the “participation” element of interpretation: only two percent of General Comments use the word “participate” in their descriptions of Article 12. Not surprisingly perhaps, the most recent “General Comment No. 20 (2016) on the Implementation of the Rights of the Child during Adolescence” is the only General Comment to have used this language to describe Article 12. The survey is limited to the language used in the titles of the sections devoted to Article 12, as one of the four general principles of the CRC, the results of which are shown in Figure 1.

This preliminary survey of the title language is useful as a way of approaching the interpretation of Article 12 in the context of General Comments which can be varied, broad and, at times, disjointed. Notably, the predominance of the language of “right to” and “be heard” further supports the claim that Article 12 grants the right to be heard in judicial and quasi-judicial settings, and is to be distinguished from *political* participation in the form of the freedom to “express views”.

Nonetheless, as one would expect, the language used in the General Comments becomes more varied,

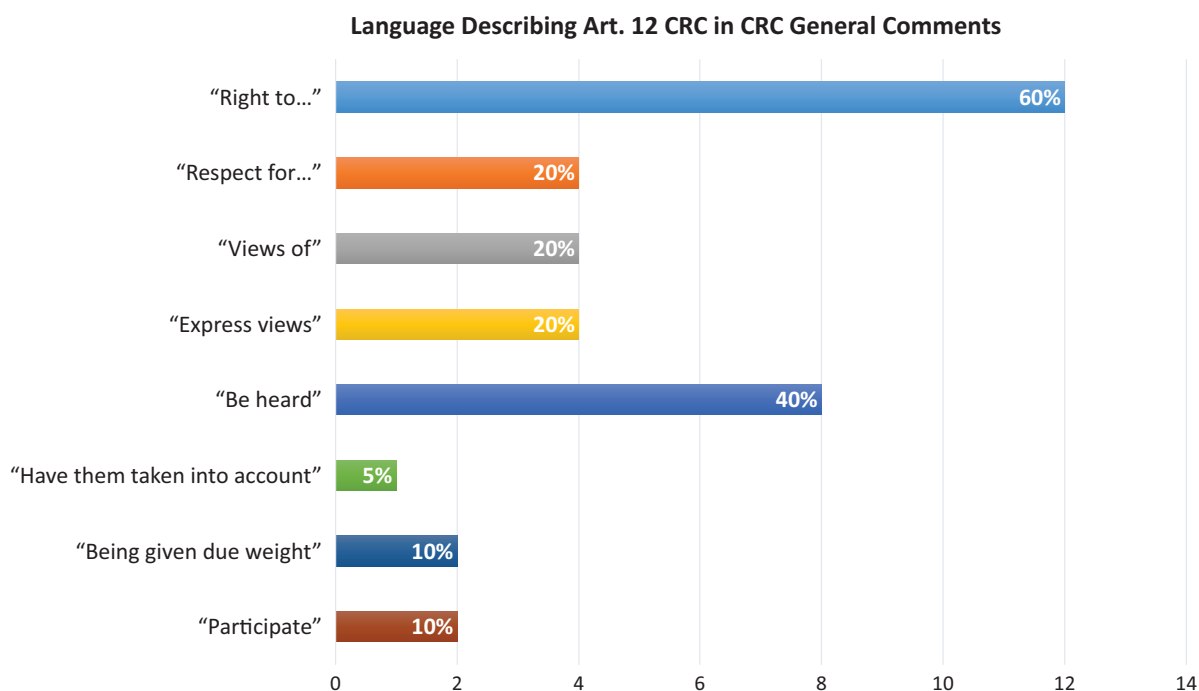


Figure 1. Language analysis of references to Art. 12 in CRC General Comments (1–20).

and at times difficult to generalise upon examination of the contents of these sections. A more detailed survey of the General Comments of the CRC Committee reveals more of a focus on participation. For example, “General comment No. 19 (2016) on Public Budgeting for the Realization of Children’s Rights (art. 4)” equates, and limits, the right to be heard as the right to participate: “States parties should regularly hear children’s views on budget decisions that affect them, through mechanisms for the meaningful participation of children at the national and subnational levels. Participants in those mechanisms should be able to contribute freely and without fear of repression or ridicule and States parties should provide feedback to those who participated. In particular, States parties should consult with children who face difficulties in making themselves heard, including children in vulnerable situations” (para. 52), and should ensure the provision of user-friendly information (para. 54), and freedom of information (para. 55). Regrettably, no reference is made throughout to children’s access to remedial procedures. General Comment No. 15 (2013) on the Right to Health, too, lists only the participation elements: “Article 12 highlights the importance of children’s participation, providing for children to express their views and to have such views seriously taken into account, according to age and maturity”. Promisingly, in “General Comment No. 14 (2013) on Best Interests of the Child (art. 3)”, reference is made to subsection 2, which is detailed under the section “Procedural safeguards to guarantee the implementation of the child’s best interests”. However, the right of the child is, again, delimited to the “right of the child to express his or her views” which is in turn linked to representation: “the child wishes to express his or her views and where this right is fulfilled through a represen-

tative”. No mention is made of the child’s direct right to legal capacity and agency as crucial to the right to be heard (*General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1)*, 2013, para. 90).

General comment No. 16 (2013) on State Obligations Regarding the Impact of the Business Sector on Children’s Rights is the most promising: it separates the *participation* element from the *legal agency*—political from legal voice. The Introduction and Objectives make this division clear:

Children are often politically voiceless and lack access to relevant information. They are reliant on governance systems, over which they have little influence, to have their rights realized. This makes it hard for them to have a say in decisions regarding laws and policies that impact their rights. In the process of decision-making, States may not adequately consider the impact on children of business-related laws and policies, while, conversely, the business sector often exerts a powerful influence on decisions without reference to children’s rights. (para. 4(b))

This is immediately followed with a direct link to lack of children’s legal agency:

It is generally challenging for children to obtain remedy—whether in the courts or through other mechanisms—when their rights are infringed upon, even more so by business enterprises. Children often lack legal standing, knowledge of remedy mechanisms, financial resources and adequate legal representation. (para. 4(c))

Thus, one of the stated aims of the said General Comment No. 16 (2013) is to provide states with guidance specifically on how to “Ensure access to effective remedy for children whose rights have been infringed by a business enterprise acting as a private party or as a State agent.”

States should ensure that adolescents are involved in the development, implementation and monitoring of all relevant legislation, policies, services and programmes affecting their lives, at school and at the community, local, national and international levels. The online environment provides significant emerging opportunities for strengthening and expanding their engagement (*General comment No. 16 (2013) on State obligations regarding the impact of the business sector on children’s rights*, 2013, para. 23)

In contrast, General Comment 20 (2016) on adolescent rights, connects the right to a remedy with legal agency: “The measures should be accompanied by the *introduction of safe and accessible complaint and redress mechanisms with the authority to adjudicate claims made by adolescents*, and by access to subsidized or free legal services and other appropriate assistance” (*General comment No. 20 (2016) on the implementation of the rights of the child during adolescence*, 2016, para. 23) (my emphasis). Accordingly, adolescents are to have the right to make claims directly to judicial bodies specifically empowered to adjudicate such cases.

Finally, though joint General Comment No. 18 (2014) on Harmful Practices (with the Convention on the Elimination of Discrimination against Women) does not devote a section to Article 12, direct reference is made to legal agency as a component of the right to be heard:

Victims seeking justice for violations of their rights as a result of harmful practices often face stigmatization, a risk of revictimization, harassment and possible retribution. Steps must therefore be taken to ensure that the rights of girls and women are protected throughout the legal process, in accordance with articles 2 (c) and 15 (2) and (3) of the Convention on the Elimination of All Forms of Discrimination against Women, and that *children are enabled to effectively engage in court proceedings as part of their right to be heard under article 12* of the Convention on the Rights of the Child (*Joint General Recommendation No. 31 / General Comment No. 18 on harmful practices*, 2014, para. 85) (emphasis mine).

As the foregoing analysis has tried to demonstrate, legal agency—defined as the right of children to submit complaints directly to judicial and administrative bodies—is an indispensable part of the Article 12 right to be heard. Though there has been much scholarship on the provision as a participation right, the tectonic shifts it heralds, in terms of granting legal agency to children, has received

little or scant attention. Laura Lundy has expressed criticism of the “abbreviations for Article 12” such as “pupil voice” as having the “potential to diminish its impact as they provide an imperfect summary of the full extent of the obligation” (Lundy, 2007, p. 927) thereby concluding that voice alone is not enough. She successfully advocates the importance of Article 12 in the educational context, but her analysis too runs the risk of weighing in too heavily on “voice” and subsection 1, at the expense of agency and subsection 2. This section has attempted to remedy that deficit. Through the analysis of the “abbreviations” used by the CRC Committee in its General Comments for Article 12, supplemented with a deeper reading of the articulations of the content of that right, I hope to have made at least as strong a case for legal agency as there is for participation in legal interpretations of Article 12. I take up the challenge keenly expressed by Kay Tisdall in her evaluation of Article 12 as participation rights, that “we need to question why there are not more radical notions of children and young people’s involvement in their social, economic, cultural and political contexts than to have due regard to their views” (Tisdall, 2015, p. 197). The legal agency of children is radical, as it deracinates the legal disabilities that lay at the legal foundations of Western liberal legal ideology. Having thus established the centrality of legal agency to Article 12, I now proceed with using this as the lens through which to examine the right of the child to be heard in bullying cases in Norway.

## 5. Tracing Children’s Bullying Complaints

### 5.1. Bullying at Law

The analysis that follows is not concerned with providing an extensive overview of the bullying laws in Norway as much as it concerns the right of the child to be heard, using bullying in Norway as a springboard for discussion. Historically, bullying laws in Norway have been ignited by tragedies marked by the absence of hearing the voices of bullied children, which have bruised the public consciousness and have prompted a spate of political and legal initiatives. The year 1994 witnessed a national tragedy of the horrific murder of five-year-old Silje Redergard at the hands of two six-year-old boys with whom she was playing on a football field in Trondheim. Dubbed the Norwegian Bulger case, it sets the scene for the series of government actions taken to counter bullying in the decade that would follow. The new initiatives against bullying that it spurred began in 2002 and were driven directly by the voices of children themselves:

I think really the focus on bullying started with the pupils themselves because they made the Ombudsman for Children aware of the problem that was in Norwegian schools and we really felt that it was time to do something about it because it seemed like the adult community were ignoring the very sad

fact that a lot of children really were scared to go to school. (Deputy Ombudsman for Children, cited in Wakefield, 2007)

The result was the Government-led “Manifesto against Bullying”, which galvanised action against bullying and led to the introduction of the new law in Section 9a of the *Education Act* affording children the same rights in their workplace as adults have in theirs; namely, it afforded pupils the legal right to a safe, bully-free working environment. Thus, the first bullying legislation was expressly driven by the child’s right to be heard—indeed it was children’s voices themselves that was the catalyst for change. Once again in 2014, the despair of not being heard that led to Odin’s suicide was thick in the public air, and mobilised the public once again into rallying against bullying. It resulted in the establishment of a government commission to consider the overall measures necessary to create a good psychosocial environment, and to prevent and address bullying and other incidents in schools. The resulting “Djupedal Report”, entitled “To Belong: Means for a Safe Psychosocial School Environment” and published in 2015, engaged closely with Section 9a and will be referred to at length in the analysis below, as it provides a useful literature survey of the field, in addition to providing inroads for discussing the legal implications of Section 9a, specifically children’s complaint rights in context and in practice. The Commission, like the literature on bullying itself, comprised of a mix of experts from policy and educational backgrounds, but with a lawyer admitted to the Supreme Court, Tor Kielland, who specialises in employment law and bullying. Much of the literature on bullying is in the social sciences, education and psychology, with little legal literature available, with the exception of the report commissioned from the Faculty of Law, University of Oslo (Welstad & Warp, 2010) by the Ministry of Education. Notably, for our purposes, the authors make the keen observation that “pupils’ voices are in the background” in Section 9a cases; that although the children are the holders of legal rights, they:

Do not have the same perspectives and assumptions as adults to assert their rights. In matters pertaining to students’ psychosocial environment there are stringent requirements for the role of responsible adults as competent communicators of children’s rights. Adult persons and school employees have by virtue of their age and their position an ethical claim on the pupils. They can largely choose whether to apply this in favor of the pupils or to their own or possibly school interests. For example, it may be the case that children and young people choose to express what the others *think* are perceived as a desirable response to a greater extent than their own, sincere experiences of a situation. (Welstad & Warp, 2010, p. 94)

Effectively, without using the terms, Welstad and Warp speak of a “voice-over” effect by adults on a child’s

voice due to the significant power imbalances in this context. They thus recommend the sharpening of requirements of the legislation by making the child’s right to be heard an independent part of Section 9a that “will have a symbolic value that sends the signals of the importance of emphasising the students’ own voice in matters affecting their school environment” (Andenæs & Møller, 2016, p. 79). More recently, in *Rights in School*, Andenæs and Møller provide a broad interdisciplinary account between pedagogical, legal and political perspectives, and briefly discuss the Section 9a right to a good psychosocial environment at school (Andenæs & Møller, 2016).

Turning now to the nucleus of the law, importantly, Section 9a provides children with “an individual right to a good school environment that promotes health, well-being and learning. The school will actively and systematically work to promote a good psychosocial environment where the individual student can experience security and social belonging” (Andenæs & Møller, 2016, p. 182). Thus, its two important elements, being the individual child’s *subjective* right, in addition to the responsibility of the school, are of the essence. Section 9a-1 reads: “All pupils attending primary and secondary schools are entitled to a good physical and psychosocial environment conducive to health, well-being and learning.” Written into Section 9a-3 is the individual child as direct beneficiary of the law, entitled to a “good psychosocial environment, where individual pupils can experience security and social belonging”. It is the student’s subjective experience that needs to be met:

It’s not that there is an adult at the school who decides whether a student has a good psychosocial school environment or not. In Proposition No. 72(2001–2002), the Ministry has stressed that it is the student who—based on their subjective experience—determines if the court is satisfied or not. If this principle had been altered, the pupil’s position would be significantly weakened. It would also be problematic if an adult person could tell a child that she must endure. This could be a new infringement....Part of the child’s dignity consists of recognising and respecting children and adolescents as rights holders, and Article 12 on the child’s right to be heard. (Djupedal & Norge, 2015, pp. 210–211)

Thus, it is to be the “voice” of the individual *child* that is to be the standard. Not the “voice-over” by adults in the school.

Secondly, it is the school’s responsibility to “make active and systematic efforts to promote” the stated aim of Section 9a: “the school management is responsible for the day-to-day implementation” and individual school employees have a duty to investigate, notify and if possible intervene upon learning or suspicion of “offensive language or acts such as bullying, discrimination, violence or racism.” Thus, Section 9a-3 comprises what is termed an *action duty* on the part of the school. Lastly,

and importantly for our purposes, 9a-3 enshrines the school's obligation to *make decisions*:

Paragraph 9a-3 third paragraph contains an obligation for the school through the principal to make decisions under the Public Administration Act if the student or parent asks for measures related to the psychosocial school environment. Measures can also be requested by students and student groups. The threshold for considering something like a request from the student or parents that triggers the obligation to make decisions is low. It is the student or parents who decide whether they want a decision or not when the pupil's right are not met. Individual decisions must consider whether a school pupil was justly dealt with, and which measures may be incorporated for the student's right to be fulfilled. The measures shall be lawful, appropriate and sufficient for the student's rights to be met. A plain decision shall be made in accordance with the procedural rules for decisions in the Public Administration Act and the CRC. That means, the school will evaluate whether the measures would be best for the child, and the child should be heard, according to Articles 3 and 12 of the CRC. However, it is not the students' and parents' subjective experience that are the basis when deciding what action is initiated. This depends on what has happened, and is a professional assessment of what measures would be appropriate and sufficient. The plain decision may be appealed to the County. (Djupedal & Norge, 2015, pp. 231–232) (Translated by the author)

Thus, it is the child's subjective "voice" which is to be the standard; the adults have a statutory obligation to "hear" and to act in the form of a reasoned individual decision. The current law and its so-called two-track approach, comprising of an action duty in addition to the separate duty to make decisions, are critically assessed in the Djupedal Report with a resulting recommendation for law reform that unites these currently existing two-tracks into a single procedure. Notably, the recommendations of the Djupedal Report were catalytic as the critical background to the new revised *Education Act*, since drafted by the Ministry of Education and approved by Parliament and entered into force 1 August 2017. Thus, though the Report is not so much a legally authoritative source per se, it now has strengthened legal status as *travaux préparatoires* for the revised Section 9a. I now turn to the Report and its recommendations.

## 5.2. The Djupedal Report (2015)

The Djupedal Report published in 2015 identifies five major challenges. The first of which, the rule of law, will be the focal point of this discussion, as it aims at strengthening student's legal rights through a more effective complaints procedure under Section 9a. Though this is not directly tied to the Article 12 right to be heard by the

Commission, the measures proposed in the Report, more generally, are stated to be "From Human Rights to Practice", where the "Commission looks at what is needed for students' rights under the CRC and *Education Act* to be fulfilled in practice" (Djupedal & Norge, 2015, p. 142). Thus, the Report has at the heart of its reform agenda the implementation of the rights of the Convention. In words that present a bleaker picture than the UNICEF *Study of Implementation*, the Commission states that

There is a need to clarify the central principles of the Convention in the *Education Act*. Reviews of the schools and county government decisions in 9a-affairs show that CRC Article 3 to a small extent is being drawn upon, and that it is almost not visible that the student is heard, pursuant to Article 12, CRC...there is a need to strengthen Article 12 and the right of children to be heard in the *Education Act*. (p. 205)

The Report then cites the CRC's Committee's Concluding Observations on Norway in 2010, expressing concern at the implementation of Article 12:

The Committee is however concerned that children's right to be heard is not fully implemented in practice or effectively practiced in all phases of the processes of making decisions or arrive at arrangements for children's lives...The Committee recommends that the State party continue and strengthen efforts to implement fully article 12 of the Convention, and promote due respect for the views of children of all ages in administrative and judicial processes...The Committee recommends that the State party take into account the Committee's General Comment No. 12 from 2009, the child's right to be heard. (p. 205)

Overall, the Report makes a hundred or so recommendations to Parliament for the strengthening of children's legal protection at school. Speaking to the rule of law challenge, the specific recommendations made in Chapters 15 and 16 include the following: that the general principles of the Convention (including Article 12 right to be heard) are established by law in the *Education Act*, Sections 1 and 9a (p. 23); a new *action* duty is proposed with statutory requirements as to how schools should treat violations of students (p. 23); and finally, the recommendation that the existing complaints procedure be changed (p. 24).

The Report cites student dissatisfaction with school, among other sources, to demonstrate the ineffectiveness—indeed illegality—of schools' practice under Section 9a: "Only two percent say they are satisfied with [their environment] at school. As for the students who feel that they are being bullied or harassed, the implication is that the requirements of the *Education Act* are not being met, and that school owners and schools are acting unlawfully. It is not acceptable" (p. 145). Further, adults in the schools have little knowledge of their obligations under the Act.



The Individual complaints procedure under Section 9a, as it stands, is assessed and found to be wanting. Despite providing students with “strong legal rights” and legal protection (p. 198), the lack of knowledge on the part of schools and the concomitant lack of enforcement are identified as principal causes of the ineffectiveness of Section 9a:

Students have, in the *Education Act* strong rights that trigger duties for the school owner, the school and all of its employees. However, it is a challenge that regulatory compliance is not good enough, and that the rights and obligations in the *Education Act* Section 9a are not fulfilled. The Commission believes the responsibilities that school owners and all the staff at the school have must be clear for students to have a safe psychosocial school environment that promotes health, well-being and learning. The Commission believes there is a need to examine the contents of the student’s right and the requirements for school owners and schools to ensure that students’ rights are fulfilled. The *Education Act* is currently a law without legal tools to impose the implementation of measures in decisions or the like. It is necessary to provide better legal protection for students through a clearer system with effective complaints and inspection services. (pp. 146–147)

Thus, a child or her parents have the right to request the school to take action pursuant to Section 9a-3, and the school must make a decision by the *Public Administration Act*, where the school is to reach a decision on whether the students’ rights are fully met, and which contains measures that should be fulfilled. However, as the Report indicates, there are no figures at the national or county levels that show how many decisions under Section 9a-3 are undertaken by schools every year:

Bergens Tidende conducted in 2013 a study in which they examined whether schools in the Bergen area made decisions under § 9a-3 third paragraph or not. They found significant differences. They found that 29 of primary schools had not made any decisions in the past three years, while a school had 29 decisions in the past year. There is no reason to believe that one school had so many more offenses than the other. The school with 29 decisions was, according to Bergens Tidende one of the schools with the lowest bullying figures in Bergen. When the school does not make decisions, it will be harder to complain, despite the fact that it is also possible to complain that the school has not made a decision within a reasonable time. Missing decisions are a challenge for legal certainty and effective legal protection. (p. 199)

Failing an effective decision, the students then have the right to appeal to the County Governors, a process which is found by parents to be costly and “little known and lit-

tle used compared with the percentage of pupils in the student survey in 2014 who reported that they were violated or bullied two or three times a month or more. The same applies to previous years also. This can be interpreted as a legal challenge” (p. 249). The figures from the annual reports submitted by the County Governors to the Directorate of Education illustrate the number of complaints under Section 9a-3, which have since 2011 been about 100 per year nationally: “There are variations between county departments in terms of the number of complaints they have handled. One office has zero issues, while the average is approximately five to ten cases a year. Common for offices is that the cases are mainly related to *Grunnskole* [elementary and lower secondary school, ages 6–16] students. There are practically no complaints related to *Videregående* [upper secondary, ages 16–19] education in the past four years combined” (p. 249).

Thus, the Report suggests a new complaints procedure, which should be seen in connection with the changes taking place internationally related to children’s human rights, specifically OP3 CRC where children have the right to appeal directly to the UN CRC Committee for state violations of their human rights when the national appeal possibilities are exhausted (p. 251). The Commission finds that the current scheme is not effective:

The Commission believes that in order for students’ legal rights to be real, it is necessary to provide an effective safeguard against infringement, which means that there are legal tools that are powerful and can protect students when the school owner and the school did not meet their responsibilities. This means that there must be an independent body to complain to, and that this body must have legal instruments to ensure that its decisions are being met. This does not exist in the current *Education Act*. A body that deals with complaints that cannot enforce measures to protect the pupil, does not provide effective protection of students’ rights. (p. 251)

The Report concludes that Norway would fall short of the effectiveness requirement for the domestic remedies that need to be exhausted in order for a complaint to be admissible under Article 7, OP3 CRC, where effectiveness is to be measured by the time and accessibility to children: the system must not be too lengthy or cumbersome, and must be known to children:

complaints regarding bullying in schools is one of the areas that children and young people are most concerned about. This suggests that the complaints procedure that exists, must be accessible to children and young people, and that it must be organized in such a way that they can understand it. The Commission believes that the considerations cited here, are important in determining how the complaints procedure for violations of school should be organized. (p. 251)

The consequence of the finding of ineffectiveness would be that the Committee can then sidestep the requirement for exhaustion of domestic remedies. The Report thus recommends an overhaul of the Section 9a complaints procedure, with a view to improving the legal rights of students with the introduction of a new activity obligation, and a national system and where the Ombudsman for Children is recommended as the first instance authority empowered to make binding decisions in bullying cases, thereby giving the complaints procedure “teeth”:

This is related to the introduction of activity obligation and the UN Children’s Committee has stated that national complaint schemes must be an effective remedy that is child sensitive, ensures a child’s need for a quick resolution of the matter and is available....By introducing a duty which clearly regulates how violations should be handled for that student’s right to be fulfilled, the student and parents could complain if they feel this obligation is not fulfilled, and that the measures adopted are not appropriate and sufficient. Through a new duty of activity, at the first instance, here we will say the Ombudsman, all requirements regarding the proceedings will need to be satisfied, whether the measures are appropriate and sufficient to enable students to again have a safe psychosocial school environment, and whether the school / school owner’s supervision has been inadequate compared with what expected by Chapter 9a. This corresponds to the Supreme Court’s consideration in the Kristiansand judgment. The Ombudsman’s decision can be appealed to the School Environment Complaints Board. (p. 194)

By establishing a national body to deal with complaints, it will be possible to build up a specialized expertise in this organ. The Committee sees that building up a specialized expertise can be important because these matters are complex and complicated. Feedback also suggests that county departments spend a lot of time to process each individual case. It would probably be more effective with an entity that has specialized expertise (p. 252)

Article 12 is thus viewed in the context of *legal agency*, with the need for an effective complaints procedure, in line with international legal developments in OP3 CRC. However, *political* participation is also addressed; that students are not afforded the right to participate is discussed in the Report as the third challenge, namely that students and parents are not involved sufficiently in the school’s work with the psychosocial school environment and the prevention and handling of violations and bullying. “For students, the Committee would highlight the student’s right to be heard in matters affecting them. The CRC is not sufficiently anchored in some schools. This may concern, for example, pupils not being allowed to

express their opinion on how challenges in student culture are to be resolved, and that students and parents are informed and involved in following up the results of the student survey”. (p. 147)

The Djupedal Report thus suggests reforms to the complaints procedure for children: clarifying internal procedures and allowing children and parents to complain to the Ombudsman, with a low threshold. It also advises the express inclusion of Article 12, as a guiding principle of the CRC into the text of 9a. However, the Report does not directly link these two. As we have seen, a central component of the Article 12 right is to provide the judicial and administrative forums for children to be able to submit complaints, and to have them heard in an effective and child-sensitive manner. What the Report characterises as due process rights can be seen as an element of the Article 12 right to be heard, as argued in section 2 above. That is to say, children have the right to legal agency in order to be able to initiate a claim against their school—as children—with a low threshold for complaints, and with hope for a speedy resolution of their case. Further, given also its constitutionally superior hierarchical status as *lex superior*, the Article 12 right to be heard as a means of grounding children’s complaint rights, cannot be underestimated. Thus, we have in Article 12, an additional (and perhaps stronger) basis upon which legal agency for children subjected to violations of their human rights can be grounded. Critically, as noted above, the Report was the catalyst for law reform and the revised Section 9a: Prop.57 L approved by Parliament 9 June 2017 (Law 38), which will have the elevated legal status of as *travaux préparatoires*.

### 5.3. Voicing Concerns: Child Complaints to the Ombudsman for Children

To return to Fortin’s image of the ladder of child involvement in judicial processes, children who have not been drawn into the machinery of legal procedures (through juvenile justice or family law proceedings, most commonly) struggle yet to find a ladder. Section 9a represents such a ladder within the educational context, and listening to the voices of children at the first stage of complaint affords a means of ascertaining which rung of the ladder most accurately represents the voices of bullied children. Currently, the Ombudsman does not have any powers to consider individual complaints from children: “The Ombudsman does not have the authority to decide cases or set aside decisions in the administration” (Section 1, The Ombudsman for Children, Norway *Act and Instructions*). Though the Djupedal Report recommended that the appeals to the County Governors be replaced with a specialised complaint procedure at the Office of the Ombudsman for Children, this was not taken up in the revised version of the law. However, children and young people up to eighteen years of age have been able to submit (anonymous) questions to the Ombudsman, online. The cases concerning bul-

lying in schools that are analysed here are taken from the questions archive on the website of the Ombudsman for Children ([www.barneombudet.no](http://www.barneombudet.no)), and the bullying cases are mainly found under the theme “bullying” and “school”, and cover the questions from October 2013 to October 2016.

The findings comprise a case digest of twenty-five cases. Of the cases, only two relate to a single incident, whereas twenty-three of the cases concern bullying by teachers and other pupils for at least a year or longer. The ages of the children submitting the complaints fall mostly within the fifteen to seventeen-year-old age bracket, with the youngest complainant being eleven years of age. There was one complaint received each from an eleven, twelve and thirteen-year-old, respectively. In twenty-one of the cases, the child stated that the teacher or the school ignored their complaint. Three children wanted to take legal action against the school and two children expressed a desire for civil action in the form of compensation. In one case, a sixteen-year-old girl was acting as a pseudo-guardian, voicing her concerns for her younger brother in seventh grade who had been bullied for several years. She describes the physical violence to which her brother was subjected: in 2015, he was beaten and had to be airlifted to a hospital where they detected concussion and was in urgent need of nose surgery. The girl wrote that the school did not care and the father was shut out when he wanted to see the principal.

The children’s voices are articulate, succinctly expressing the problems they are facing, as well as their dissatisfaction with the process at school. The desire to take the complaint further, reflects voices that are seeking remedies, and this is not limited to the older children. By way of example, the youngest of the complainants, expressed concerns that spoke to the gaps between school policies and practice. The eleven-year-old girl had been bullied since kindergarten by both students and teachers, and wrote that she felt that the school was just writing resolutions without much happening in practice. The Ombudsman for Children advised her that only when the school makes resolutions that do not work should she complain to the County Governor, and if that does not help, to contact the Ombudsman for Children again. This is quite a standard response to the questions submitted by the children.

From 2013 to 2016, we have a pool of twenty-five complaints submitted by children to the Ombudsman, spanning the ages that are most common among the complaints submitted to the County Governors (see Section 5.2 above). However, contrary to the findings from those very same reports, that “there were practically no complaints related to upper secondary education in the past four years combined” (Djupedal & Norge, 2015, p. 249) (2011–2014, coinciding with the years examined here) complaints were submitted to the Ombudsman for Children by twenty-eight percent of students in that age bracket. This can indicate that the County Governor ap-

peal process is too high a threshold. This is supported by the fact that only in one case did the seventeen-year-old indicate that complaints had been sent to the County Governor, indeed seven times, but to no avail, and with no consequence.

The genuine “voices” expressed by the children who are bullied at school can be seen as tokenistic in the sense that they are not “heard” as complaints in a formal quasi-judicial or judicial setting. Often, the responses they receive are templates, advising children that they should contact their school, and failing action, that they should contact their respective County Governors. Despite there being, here in the informal complaints to the Ombudsman for Children, a genuine expression of voice—absent their role as legal agents and being able to present their complaints before an adjudicator who can provide a decision granting relief—the voices of children are muffled and silenced. As this survey illustrates, this is reflected in the informal complaints submitted by children to the Ombudsman for Children, especially in the cases where these children’s bullying complaints are not formally registered by the school system—indeed they are said not to have complained at all—and are therefore invisible. Looking up from the ground, then, the picture does not seem too promising for children’s voice in bullying cases in Norway. Given that the “process of norm-setting, i.e. the creation of children’s rights legal standards, tends to be top-down and adult-driven” (Vandenhole, 2015, p. 39), to conclude with the inverse approach, the only decision on bullying before the Norwegian Supreme Court will now be explored for the light it may shed on the child’s right to be heard.

#### 5.4. Supreme Court “Kristiansand Decision” 2012

The Norwegian Supreme Court case, called the Kristiansand decision (HR-2012-241-A—Rt-2012-146) is a historical verdict; the first case before the Supreme Court concerning compensation for bullying in schools. In this ground-breaking case, a bullying victim was granted over 900,000 kroner in compensation after the Supreme Court rejected the appeal from the municipality. The importance of the unanimous judgment lies in it being the first time a municipality was held to be responsible for bullying at school, and in its wake, there have been successful awards of compensation before district and appeal courts.

The case concerns that of an adult in his late twenties initiating a compensation claim against the Kristiansand Municipality for suffering post-traumatic stress disorder as the result of severe bullying experienced at school from six to eleven years of age. It was dismissed by the District Court at the first instance; though bullying had been established, the school staff were acquitted of any wrongful conduct or negligence. The applicant therefore appealed, upon which, the lower court decision was overturned by the High Court of Agder, finding against the Municipality on the grounds of negligence by the em-

ployees by the doctrine of cumulative error, where “it is not necessary to prove each individual’s fault or negligence” (para. 38). This decision is situated squarely in the original intent behind Section 9a of the *Education Act*, whereby students are to be recognised as having employee rights in their working environment. The Court used the standard of care required by employers, with primary schools regarded as a “service”, where the students were not afforded the good working environment to which they were entitled. Of the essence is that this case was brought by an adult in his late twenties, and is indicative of the temporal problem that children face in claiming their rights. This reflects the criticisms raised in the Ministry’s Mapping of bullying cases before the County Governors (2010), as well as the Welstad Report (2011), where the length of time it takes for children’s cases to be heard was highlighted as a fundamental problem (Djupedal & Norge, 2015, pp. 249–250). Here, the applicant was well into adulthood by the time his voice could be heard, which raises the question: must a child reach adulthood in order to be able to claim her rights? Must she necessarily speak with an adult’s voice? I argue that this challenges the central element of Article 12, which affords *children* the right to be *substantively* heard by administrative and judicial bodies, *as* children. Section 9a affords children this right within the school environment.

What does this decision say about voice and legal agency? Only that, again, it is *as an adult* that the complainant is able to be heard, in addition to the marked absence of any references to the right of the child to be heard in bullying cases. Reference is made by the Court to Article 29 (1) CRC on Article 29 (1) that stipulates the right to a learning environment without tolerance for bullying, but the decision is thereby not formulated in terms of the right of the child to be heard. However, we may not want to throw the towel in just yet. The Kristiansand decision provides *indirectly* for the need to *hear* children who complain about bullying through adequate complaint mechanisms at the school and the local county level. Though this case is not an Article 12 case, indeed the only article from the CRC that is cited is Article 29(1), it can be read through an Article 12 lens. Namely, the school’s repeated failure to act, in addition to the Court’s reasoning as to why its chosen course of action was incorrect, sheds light upon *how* the student was not heard in practice.

## 6. Conclusion

The voices of children subjected to bullying in schools have not been heard; though the law in Section 9a provides for some form of agency, it has been grossly underused by children. This may speak to the cultural bedrock of childhood disabilities which is proving difficult to shift. Nonetheless, the existence of such a law could be seen as a promising step in the right direction signalling a developing law of legal agency for children in Norway who are

subjected to bullying. Yet, the Government’s law reform post-Djupedal leads to some uncertainty. In its response to the Djupedal Report, the Government announced its new measures to combat bullying in school in Circular dated 18 April 2016, in three areas: competence, support and guidance and legislative change. The Report’s recommendations adopted with regard to a better complaint procedure were limited to a “clearer action obligation” in Section 9a; a “strengthened right of appeal”; and “strengthened pupils’ rights”. Read in light of the new revised Section 9a, these changes run the risk—at best—of being cosmetic (as opposed to the substantive changes proposed by the Report), re-wording the current text in line with the current mechanisms for complaint, indicated further by the right of appeal to the County Governor remaining the same. No suggestion was made of the direct reference to the guiding principles of the CRC. More cynically, according to the legal expert on the Djupedal Committee, Tor Kjelland, and a lawyer admitted to the Supreme Court specialising in employment cases and bullying, the most recent amendment to the *Education Act*, Section 9a is a drastic and unfortunate retrogressive step for the individual rights of children (Fladberg, 2017). Thus, one is led to summarily conclude that children who are bullied in Norway have *in practice* had little voice, though it exists in legislation. Further, given the recent amendments to the *Education Act*, the provision of *legal* voice may seem like a receding legal possibility still. Interpreting the Government’s new changes in light of the political discussion on ratification of OP3 CRC leads one to surmise that OP3 CRC ratification may help to revisit domestic complaints procedures available to children in Norway. Ratification of this instrument would necessitate more substantive changes in complaints procedures for children in order to make them more effective, failing which, the child could complain directly to the CRC Committee.

The limited measures adopted, viewed through the lens of Norwegian non-ratification of OP3 CRC, illustrate ratification would thus not only signal a positive—even if only symbolic—attestation to the principles contained in the child’s right to be heard, it would also strengthen the domestic complaint procedures available to children subjected to bullying in Norway. In its national report submitted to the Human Rights Council for the Universal Periodic Review, the Norwegian government specified one of its national priorities as being to “Consider ratification of the optional protocols on establishing an individual complaints mechanism for the...UN Convention on the Rights of the Child” (*National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21*, 2014, para. 116). In the Review, the Human Rights Council made the formal recommendations that Norway consider becoming a party to, and to “accelerate the process of ratification” of OP3 CRC (*National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21*, 2014, para. 131). However, in 2016 the Norwe-



gian government unequivocally stated it will not give children the right to appeal to the UN. The argument was a political one, arguing “that it is highly uncertain what consequences the schemes may have for Norway’s political manoeuvre” as argued by Foreign Minister Brende (“The government will not give children the right to appeal to the UN,” 2016), thereby crystallising decades of arguments being made in Norway on democratic legitimacy. Though presenting itself as a pioneer in children’s rights, Norwegian government measures to combat bullying read in tandem with non-ratification of OP3 CRC offer an example of the lip service granted to child rights (by adults) without affording concrete complaint rights to children—thereby failing to take seriously the right of the child to be heard—as per Article 12.

OP3 CRC materialises Article 12(2) of the CRC, though it was not expressed in these terms during the drafting process in the Working Group Sessions in Geneva. By expressly rejecting ratification of this new instrument, the Norwegian government has in effect demonstrated its lack of commitment to Article 12(2) of the CRC and the legal agency of children. This is supported by the argument advanced here, that the most recent amendments to the *Education Act* Section 9a, are a step backwards for the legal agency of children. Thus, ratification would send a positive signal by the Norwegian government, thereby taking a step towards fulfilling one of the purposes of incorporation of the CRC, by realising the rights mandated by Article 12.

This article has argued for the forging of the connection between a child’s voice and agency: that, where it was implicit, it can now be seen to be an express right of children in international human rights law. This argument is no more radical than a reading of Article 12 as granting child participation rights, rights which “have been held up as the most radical and controversial contribution of the UNCRC” (Tisdall, 2015, p. 196). Anti-bullying efforts in Norway have been pioneering, but children’s voices are still not being heard. Studies have shown the delay in the processing of bullying complaints, the extremely low rates of Section 9a decisions rendered by schools and the low usage of appeals to the County Governors, all of which are confirmed by the Djupedal Report. As we have seen here, they are also reflected in the informal complaints submitted by children to the Ombudsman for Children, especially in the cases where these children’s bullying complaints are not formally registered by the school system, and are therefore invisible. The Ombudsman for Children’s lack of a mandate to hear cases results in these children often being given formulaic responses, referring them to the County Governor, to the police, or back to their schools. The children are speaking, but they are not being heard in a way that would satisfy Article 12. Thus, in Norway, we are currently witnessing what can be called the “voice-over” effect, which operates as a barrier that prevents children from having voice and agency. This “voice-over” is to be distinguished from voicelessness in a recognisable

way: children are publicly afforded the right to speak, and Norway is seen to be effective in its implementation of Article 12 and the child’s right to be heard in matters that affect her. Rather, children are not being heard and yet they *appear* to have voice. The child’s voice is not being substantively heard by the schools or through the lengthy appeals procedure to the County Governor. The Djupedal Report proposes substantive reform to Section 9a in order to realise Article 12, but to date, these have not been adopted by the Government in Prop. 57 L the revised law that entered into force 1 August 2017. The voice is thus a voice-over by decision-makers: adults in positions of political and social power claim that children have the right to be heard, whereas, to the contrary, children’s complaints are in substance not being heard.

This political disenfranchisement of children in addition to their legal disabilities in claiming violations of their human rights magnifies the impenetrability of their voices through these double soundproofing layers. They are not silent, but are silenced, and are presided over by the voice-over of adult narrators: either the adult survivors of childhood violations themselves, or by adults in positions of authority, such as teachers, guardians, school principals, politicians, judges or the like.

Norway has been hailed as norm entrepreneur in world politics in human rights and anti-bullying efforts and sees itself as a leader in child rights protection. However, recent debates surrounding the OP3 CRC and the unwillingness of the executive to ratify signal a palpable sea change. Norway advances a number of political arguments as to non-ratification of OP3 CRC, not least of which is the democratic legitimacy debate. Yet, this article suggests that non-ratification can be seen rather to be more consistent with domestic practice of not granting legal agency to children, thereby not satisfying one of the central pillars of the CRC—the child’s right to be heard. This can be explained in terms of the unshakeable quality of childhood legal disabilities—even in Norway—where children are in effect denied legal agency through their inability to complain about rights abuses as per Article 12.

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### Conflicts of Interests

The author declares no conflict of interests.

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Article

## Views of the Child Reports: Hearing Directly from Children Involved in Post-Separation Disputes

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### Abstract

Views of the Child reports are being increasingly used in Canada and other countries as a means of directly obtaining the child's perspective on disputes between their parents and/or guardians. The reports provide information about the child's perspective based on one or more interviews with a social worker. Yet, little research exists about their use and impact, the benefits and limitations of the approach, and less about what factors need to be considered in establishing practices and protocols to safely advance children's views before the court. This article draws on the direct experiences of 24 children between the ages of 6–17 years about their views and preferences during family breakdown. The children describe how they wanted to speak to someone about their views and preferences, raised questions about the accuracy of the reporting of their views, the need for protecting their confidentiality by having a say of what is included in the report, and their support for children's participation in decision-making post-separation. Practice, research and policy considerations are also highlighted in order for children's participation to be truly meaningful to them, their parents and the courts.

### Keywords

child custody; children; dispute; divorce; family; participation; rights; separation; Views of the Child

### Issue

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### 1. Introduction

There is growing recognition of the importance of having children participate in post-separation decision-making. The *United Nations Convention on the Rights of the Child* (CRC, Article 12) places an obligation on decision-makers to take children's views into account. Article 12(1) of the CRC recognizes the right of children capable of forming views to express those views in all matters affecting them, and directs that due weight be accorded those views, depending on the age and maturity of the child as well as the matter at issue. Article 12(2) provides for the right of the child to be heard directly or indirectly through a representative in any administrative or judicial proceeding affecting the child. Article 12 is particularly important as it is one of the few provisions of the

CRC that children can exercise themselves, and because it provides for children's involvement in decision-making that most directly impacts on their lives.<sup>1</sup>

Social science research demonstrates that children's participation in decision-making can reduce the negative effects on them during family breakdown (Cashmore, 2003; Smart, 2002; Smith, Gollop, & Taylor, 2000). Yet, ascertaining how to obtain children's views and the weight it should be given has been subject of much scholarly debate (Emery, 2003; Pryor & Rodgers, 2001; Smith, Taylor, & Tapp, 2003; Tisdall, Bray, & Marshall, 2004; Warshak, 2003).

There are several ways of engaging children in the family justice process and one size does not fit all. Some children may need to express themselves through different support mechanisms while other children may not

<sup>1</sup> United Nations Committee on the Rights of the Child (2009). Also, see the Honorable (Retired) Justice Donna Martinson (*G. (B.J.) v. G. (D.L.)*, 2010) involving a 12-year old boy, where she concluded that pursuant to both the Convention on the Rights of the Child and Canada's own domestic laws, "all children in Canada have legal rights to be heard in all matters affecting them" (para. 3). She goes on to cite some of the relevant social science research, and observes, "not hearing from them [children] can have short and long term adverse consequences for them" (para. 6).

need or want to talk to any family justice professionals (Cashmore & Parkinson, 2008; Neale & Smart, 1998).

Generally, children's views and preferences can be expressed through their parents, a child's testimony in court or a video, an appointment of child's counsel, a child custody and access assessment, a letter or affidavit from the child, through child-inclusive mediation, a judicial interview with the child, or with a Views of the Child report (Birnbaum, 2009; Birnbaum & Bala, 2009, 2010; Birnbaum, Bala, & Boyd, 2016; Birnbaum, Bala, & Cyr, 2011; Cashmore & Parkinson, 2008; Focus Consultants, 2007; McIntosh, Wells, Smyth, & Long, 2008; Morag, Rivkin, & Sorek, 2012; Parkinson & Cashmore, 2007; Parkinson, Cashmore, & Single, 2007). While there is no "best way" to hear from children during times of parental separation and each approach has its own strengths and limitations, the author argues that all children involved in any family justice dispute between their parents must be heard in a manner they are comfortable with and feel safe when expressing their views and preferences.

This article focuses on the Views of the Child reports<sup>2</sup> that are being increasingly used in Canada and other countries<sup>3</sup> as a means of obtaining children's perspectives on disputes between their parents and/or guardians to advance their rights as required by the CRC. The Views of the Child reports are based on one or more interviews with a child, but unlike a child custody and access assessment, they do not purport to provide opinions or parenting recommendations. They only provide the child's perspective about their views and preferences as reported to a social worker.

Unlike the social science literature and research on child custody and access assessments (Association of Family and Conciliation Courts, 2006; Birnbaum, Fidler, & Kavassalis, 2008; Galatzer-Levy, Kraus, & Galatzer-Levy, 2009; Melton, Petrila, Poythress, & Slobogin, 2007), child-inclusive mediation (Ballard, Holtzworth-Munroe, Applegate, D'Onofrio, & Bates, 2013; McIntosh, 2007), child legal representation (Birnbaum & Bala, 2009), or children being able to speak with a judge (Birnbaum et al., 2011; Morag et al., 2012; Parkinson et al., 2007), there has been very little research about the value, effectiveness, and impact of the Views of the Child reports (Birnbaum et al., 2016; Focus Consultants, 2007; Williams, 2006). As a response to this gap in knowledge and as part of a larger collaborative practice and

research initiative that includes the Office of the Children's Lawyer<sup>4</sup> and the Ontario Court of Justice and Superior Court of Justice<sup>5</sup> examining the utility of these reports from multiple perspectives (e.g., interviews with children, each of their parents, the parents' lawyers, social workers, and judges), this study draws solely on the direct experiences of 24 children between the ages of 6–17 years about their views and experiences with the Views of the Child reports.

The first section describes the methodology, objectives, and the themes generated by the children using a semi-structured interview guide asking each child the following open-ended questions: (1) can you tell me about whether you wanted to speak to a social worker about your parents' separation? (probe: did either parent say you had to go and talk to this person?); (2) can you tell me about whether you felt comfortable or not in talking with the social worker? (probe: did the social worker say things that allowed you to share your feelings and thoughts); (3) can you tell me about whether you were comfortable in the information you gave and reviewed before a report went to your parents and the judge (probe: any concerns how either parent would feel about what you said; the accuracy of information?); (4) can you tell me when you finished your interview, whether you had anything more you wanted to say or add to your views? (probe: did you have anything else you wanted to say hours or days later); and (5) can you tell me if you have anything else you want to share with me about your experience and whether this type of approach might be helpful to other children in similar circumstances? The next section is a discussion of the lessons learned from children using this approach as well as the limitations of the research. The final section concludes with practice, research and policy implications about these reports if they are to be used as another means of advancing children's participation post-separation. The author argues that the Views of the Child reports should be used as another tool in the family justice toolbox of obtaining children's views and preferences that supports their rights to be heard.

## 2. Methodology and Objectives

The pilot project began in five different Ontario court jurisdictions<sup>6</sup> in May 2016. Each parent, their lawyer and judge was provided with a one-page information

<sup>2</sup> Different provinces use different language when discussing this method. In British Columbia, the reports are called "Hear the Child Reports" and both lawyers and mental health professionals provide them on a private fee-for service basis. In New Brunswick and Nova Scotia they are called "Voice of the Child Report" and in Manitoba they are called "Brief Consultation Services". Also, Birnbaum et al. (2016) provide the results of an online survey of lawyers and mental health clinicians about their experiences with these reports as well as a review of Canadian caselaw about what judges report regarding the utility of these reports.

<sup>3</sup> In Australia, there is a significant body of research about child-inclusive and child-focused mediation (McIntosh et al., 2008); in England and Wales, the "voice of the child" in mediation is being promoted by the government of the United Kingdom (Ministry of Justice, 2015); and in the Netherlands, children's views must be reflected in all parenting plans placed before the court.

<sup>4</sup> An independent law office in the Ministry of Attorney General, Toronto, Ontario, Canada. The Office represents children's interests in child custody and access disputes, child protection matters, and estate matters.

<sup>5</sup> One major distinction between these two levels of court is that the Superior Court of Justice deals with divorce and property matters and the Ontario Court of Justice does not.

<sup>6</sup> These court jurisdictions were selected as they comprised both levels of court, had the highest number of family law disputes in Ontario and serviced both rural and urban populations across northern and southern Ontario.

sheet that summarized what the process was about. Any parent (or their lawyer, if represented) could request a Views of the Child report in a child custody and access dispute before the court. The inclusion/exclusion criteria were that the child should be 7 years of age and older, and the family could understand and speak English. In addition, disputes that involved criminal charges against one parent or the other, and where the child may have to testify, or where a child custody and access assessment had recently been completed, were excluded.

Each parent who consented was requested to complete a one-page intake summary describing their perspective on the issues in dispute. The judge could also provide comments in the court order about what information they were seeking from the report. The issues before the court that could be considered in making an order included, but were not limited, to the following: (1) parents lack the financial means of obtaining an independent child custody and access assessment of their child's views/wishes; (2) obtaining a child custody assessment would create unreasonable delay; and (3) where an independent report of the children's views and preferences is needed but not otherwise available for school, extra-curricular activities, residential schedules, relocation or other issues related to custody and access decision-making.

The social workers who interviewed the children and completed the reports attended a half-day training either in-person or by web-cast about the process, expectations, and the administration of the pilot.<sup>7</sup> They all had to have five years of experience interviewing children and prior experience with child custody and access assessments.<sup>8</sup> Each parent brought the children to the social worker's office for a separate interview of approximately one hour in length. Each child was given the op-

portunity to review the contents of the report before it was released to their parents and the judge. In addition, each social worker also obtained voluntary research consents from each parent and their children for telephone follow-up interview.<sup>9</sup> The children's research interviews were approximately 15–20 minutes in length, audio-recorded and transcribed verbatim for open, axial, and selective coding as recommended in qualitative data analyses (Strauss & Corbin, 1998).<sup>10</sup>

A total of 55 children had a Views of the Child Report completed. There were four children not brought to the social worker for the court ordered interview and the cases were closed. For the research follow-up interviews, one child declined to be interviewed, three children did not sign the consent form,<sup>11</sup> one parent declined to have their child interviewed even though the child signed the consent, the parents of 19 children did not sign the voluntary research consents on behalf of their children or did not return telephone calls, and five parents could not be located at the telephone numbers provided.

### 2.1. Thematic Results

There were 24 children (44%) interviewed between the ages of 6–17 years<sup>12</sup> (15 girls and 9 boys). The children's average age was 12 years old. The most common issue in dispute was visitation arrangements with eight children who had not seen the other parent between six months to two years. Themes that emerged from the children are highlighted below providing both supporting and contrasting views of talking to a social worker about their direct experiences with the Views of the Child reports.

(1) Can you tell me about whether you wanted to speak to a social worker about your parents' separation?

<sup>7</sup> The author (lead researcher), two lawyers representing the two Chief Justices' Offices, the legal director of the Office of the Children's Lawyer and a law professor provided the training. The Office of the Children's Lawyer provided the assignment of cases, the supervision, and the administration of the pilot. The only contact the author had after the cases were closed related solely to the research follow-up interviews with the different participants (e.g., social workers, children, parents, parents' lawyers, and judges) to hear their views and experiences with the Views of the Child reports.

<sup>8</sup> The social workers were all fee-for-service agents of the Office of the Children's Lawyer who conduct clinical investigations and reports pursuant to s.112 of the *Courts of Justice Act*. They were purposely selected for this pilot as they all had already been vetted for their clinical experience in conducting assessments and educational qualifications. More significantly the family law lawyers and the courts were already familiar with the work of the Office of the Children's Lawyer.

<sup>9</sup> The research was approved by the ethics committee at King's University College, Western. While both parents voluntarily signed consents for their children to be interviewed, only those parents who had decision-making about their children were interviewed. In addition, each child had to sign their own consent for the follow-up interview. A research assistant contacted each parent to confirm that they were still interested in allowing their children to be interviewed and the author then followed up with the research interview. The author confirmed with each parent before about the private and confidential nature of the interview and thanked them after for allowing their child to be interviewed. The brief conversation with each parent after allowed the author to check whether the parent was nearby and listening as well as provide assurance to each parent that their children were doing well. No child had to be referred to a child protection agency due to concerns expressed during the research interview or needed to be provided with names of a counsellor for a clinical follow-up.

<sup>10</sup> A qualitative methodology was used because it captures the breadth and depth of children's views and experiences. More importantly, qualitative research draws out the complexities and tensions that are inherent in interviewing children during parental separation, but also supports a more respectful approach to children's voices being heard on matters that affect them directly.

<sup>11</sup> Two children were referred to a child welfare agency because they expressed maltreatment during their clinical interview, one lawyer filed an 'objection' to the report as his client (the father) did not bring the child to the interview, and there were 2 cases where the social workers expressed concern about the child's situation and suggested a referral for a child custody and access assessment. In 4 cases, the social workers did not believe the child understood the meaning of consent for research purposes and the child did not sign the consent form. In one case, a child wrote "rocks on" on their consent form. It is interesting to note that many children who are interviewed for clinical purposes are rarely asked to consent to the interview. See Carroll-Lind, Chapman, Gregory and Maxwell (2006), Coyne (2010), and Williamson, Goodenough, Kent and Ashcroft (2005) for a discussion of children's participatory rights and confidentiality for research purposes.

<sup>12</sup> The author learned during the follow-up research interviews that a child under 7 years of age was interviewed as her older sibling was being interviewed.



The majority of the children wanted to speak to someone about their views and preferences and make them directly known to the decision-maker. For example, one 15-year old girl stated:

like, cause um, me and my brother, we've had a lot of social workers and lawyers and stuff, but none of them actually wanted to talk to us, they just wanted to talk to our parents, so I thought it was nice that they wanted to know our point of view.

Some children expressed initial caution about talking to a social worker about their feelings. One 12-year old boy stated, "first of all, I was kinda sketchy [sic] but then I got more comfortable with the idea". Three siblings (boys, ages 14 and 16, and girl, age 13) expressed different views about whether they wanted to speak to someone. The 16-year old stated:

at first, I thought going would be an annoying problem, but then I saw that if I did go then things could um, I could change what my mother wanted....So I wanted to speak up about that. So I didn't find it a huge pain, but found it a slight bit annoying as I had other plans, but they were cancelled for it....But I was ok with going.

His younger brother said, "no, I didn't want to go, but I was fine going there [social worker's office]". Their sister reported, "I did want to go, so I could like, I could um, express how I feel about it [dispute]". Another 10-year boy old expressed, "yeah, it was a good idea to talk to someone and have them ask me questions". Another 13-year old boy expressed concern about being heard by the decision-maker: "I did like going but I'm just saying that the judges probably won't read the report she wrote up".

(2) Can you tell me if whether you felt comfortable or not in talking to the social worker?

The majority of the children expressed that the social worker made them feel comfortable during the interview. One 12-year old boy commented, "it all seemed very sound and was not overly professional....Comfortable and not pressured". Another 13-year old boy stated, "I was comfortable in her office to talk"; while a 16-year old boy stated, "I answered most questions fine, nothing took me off guard or anything", while another 14-year old girl stated, "really fine and comfortable....Had a great social worker".

In contrast, a 12-year old girl reported, "I was fine with her but didn't like to talk to people about the issue [her parents break-up]" and another 10-year old boy stated, "I was comfortable except she said some pretty difficult questions for me to answer so I really didn't answer all of them".

(3) Can you tell me whether you were comfortable in going over your information before a report went to your parents and the judge?

The majority of the children believed that the social worker accurately reported what they said. One 12-year old boy stated, "there was no interpretation of what I said but only what I said....It was good"; another 7-year old boy commented that, "the report was accurate" and a 13-year old boy reported, "I actually thought she did a pretty good job, cause she pretty much got everything into the report".

In contrast, four children raised questions about the accuracy of what the social worker wrote about their information. In one case, a 13-year old girl reported that the social worker did not go over the report with her as she [social worker] did not have time.<sup>13</sup> As a result, the report went to her parents and the court without her [13-year old] knowing what the social worker wrote about her information in the report. The girl commented, "things I said were not how I put it". Another 12-year old girl commented, "she got a lot of things wrong like how many times I wanted to see my dad...how I have everything at my dad's place and nothing at my mom's when its actually vice versa". Her 10-year old brother said, "it looked like she [social worker] made some mistakes after we were done, cuz [sic] I said that I wanted to live with my mom but it said on paper that I want to live with my dad".

(4) Can you tell me when you finished your interview, whether you had anything more you wanted to say or add to your views?

It was interesting to hear from the children many weeks later that they did not have anything further to add or say after their initial interviews with the social worker. One 10-year old boy stated, "I said everything I wanted to", another 10-year old girl reported, "I said what I wanted to", and a 16-year old boy stated, "no, I answered what I thought and that's what I stuck with". In contrast, there was only one 12-year old girl who commented. "I didn't know if I wanted to say more or not". The final question posed to the children elicited the following comments.

(5) Can you tell me if there is anything more you want to share with me about your experience and whether it might be helpful to other children in similar circumstances?

The majority of the children were very appreciative of speaking to a social worker about their views and preferences and would recommend the process to other children in similar circumstances. A 10-year old boy reported:

if you tell somebody like her [social worker] then you will, it's kind of like you have a whole load of words in your head and you are going to fall down. But if

<sup>13</sup> In this case, during the mother's interview she reported that the social worker did try and telephone to review the report with her daughter, but her [parent] telephone was disconnected at the time.

you talk to somebody, the weight is going off and you feel relaxed.

Two siblings, a 13-year old boy commented, "I know this is important", and his 16-year old brother stated, "I didn't have a problem with it, so ya". While another 15-year old girl stated, "I was ok with it cuz(sic) I thought it [talking to social worker] would be helpful and to others". She added, "um probably just that you have to be honest about what you actually want and not what you think other people want for you". In another case, a 16-year old boy reported:

"I don't think anything was going to happen [in relation to what he told the social worker] but then my dad read it and got mad I guess because he claimed I lied.....I am still glad I said what I said.

Of the four children who reported that the social worker got their information wrong they still reported that they had a positive experience speaking about their views and preferences and would recommend other children speak to someone as well. Of these children, one 13-year old girl stated, "this helps a lot to figure out what you want" and another 12-year old girl stated, "it is a good idea, possibly depends on the person, for me I was not scared but certain kids could be scared or shy to voice an opinion".

### 3. Discussion and Limitations

Clearly the children were comfortable with and wanted to speak to a social worker about their views and preferences and did not need to add or change anything to their stories when interviewed weeks and months later about it. Children do have the capacity to express their views and opinions thoughtfully and reliably. Yet, caution should be exercised as not all children want to speak about their experiences to family justice professionals and caution must always be exercised regarding children's safety after their views are known.

There were six children interviewed that had not seen their other parent between six months to two years and subsequently were brought to both interviews by the same parent. While it is important to hear from all children no matter their age, some children may have a more difficult time responding as they do not have the longer history of a relationship with their other parent or an understanding of the parental circumstances. In addition, some children's views and preferences may also be colored by their loyalty to the parent they live with and/or being told negative stories about their other parent.<sup>14</sup>

While most children confirmed that their information was being accurately reported to the decision-maker,

some children raised questions about the accuracy of the reporting of their information. While this is concerning particularly when the information is solely about their views and preferences it is important to note that the research interviews were completed over the telephone because of the geographic distances involved and when the children could be available for the follow-up interviews. While every effort was made for the children to be in a private space so that their parent could not hear what they were saying, some parents may have been nearby. That proximity of the parents could have resulted in these children reporting that their information was inaccurate to allow them to save face. In addition, a parenting decision may have also been made based on the children's reports and the parent who did not like the decision may have engaged in discussions with their child about their interview.<sup>15</sup> Therefore, every effort must be made to ensure that children's information is not only reported accurately but that the children feel safe in what they are expressing given that these reports are being read by each of their parents and the judge. This was illustrated by one 16-year old boy who reported that his father called him [the child] a liar because of what he told the social worker.

All these children were articulate and thoughtful in sharing their views and preferences, however, some children may have emotional and cognitive limitations that may negatively impact their ability to express themselves. This can be a concern given that these reports are based on two interviews with the child and no other information (e.g., parents, lawyers, court records) and professional collateral sources (e.g., teachers, doctors) is being collected to provide more context. Moreover, caution also needs to be considered in cases where there is concern about domestic violence in the home. Finally, it was also clear that not all children want to be heard or need to be heard and their wishes must also be respected. From a research perspective, this study provided additional knowledge to the limited body of research about these reports and the absence of children's views and experiences with any family justice professional (Birnbaum & Bala, 2010; Birnbaum et al., 2011; Cashmore, 2003; Cashmore & Parkinson, 2008). Yet, there must also be an awareness of the intrinsic limitations of the Views of the Child reports as they may not reveal the true views and preferences of children who are subject to parental pressure or manipulation, or whose views may be changing. The interviews were limited in number and no additional personal or professional collateral information was obtained that may provide additional context to the children's views and preferences. While the children's interviews provided much insight and support for exploring further research with these types of children's interviews they clearly cannot be generalized to all child cus-

<sup>14</sup> Social workers did report if they observed that the child may be unduly influenced by a parent by quoting the child's exact use of words that may not be related to their age.

<sup>15</sup> There were 36% of the cases that settled as a direct result of the Views of the Child report as reported by either the parents, the parents' lawyers or judges at the time of the follow-up research interviews.

tody and access disputes that may require more in-depth assessments.

#### 4. Conclusions

The Views of the Child reports can be a useful and expeditious way of engaging children in the justice process by allowing their perspectives to be shared with their parents and ultimately to the decision-maker. Further research needs to identify the balancing of potential harm and benefit to children who are invited to speak to professionals about their views and preferences (Birnbaum et al., 2011). Further research also needs to explore the differences in views and preferences of siblings, if any, and how that might impact on children's views and preferences. While this study focused solely on child custody and access disputes, expanding the research to include children who are subject to child welfare proceedings is equally important.

Views of the Child reports do have a place in the continuum of services provided to children and families and can be an effective means of ensuring that children's voices are heard in any family justice disputes. At the very least, hearing from children can provide a triage mechanism to ascertain how the child is adjusting post-separation and whether further referrals are necessary to determine children's best interest. While Views of the Child reports are only one means of providing all children with access to justice they are not meant to replace child legal representation, child-inclusive mediation, child custody and access assessments, or a judicial interview with a child. Rather these reports provide another tool in the family justice toolbox that allows for children's views and preferences to be directly heard and shared with the decision-maker.

More discussion and research follow-up needs to take place between the legal community, mental health professionals, judges, the government and most importantly, children and youth themselves, so that children's participation can be truly meaningful to them, to their parents and to the courts during times of family breakdown.

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#### Conflicts of Interests

The author declares no conflict of interests.

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Article

## Acknowledging Children’s Voice and Participation in Family Courts: Criteria that Guide Western Australian Court Consultants

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### Abstract

The Australian family courts introduced Child Inclusive Conferencing after the country adopted the United Nations Convention on the Rights of the Child. The legislation governing these conferences is minimalistic but the Family Court Consultants in the Family Court of Australia and the Federal Circuit Court have well-developed and documented guidelines. The Family Court of Western Australia is, however, a separate entity and in the absence of regulatory guidelines its Family Consultants developed their own process and criteria. This model is unique, in Australia at least, because it has been organically developed by the practitioners providing the Child Inclusive Conferences with very little, if any, statutory and regulatory guidance. This model therefore serves as an example of how practitioners think child inclusive services should be offered. The model is, however, not documented and the aim of this study was to understand and document Family Consultants’ decision making regarding if and when they will conduct a Child Inclusive Conference in the Family Court of Western Australia. Ten Family Consultants were interviewed using semi-structured interviews. A thematic analysis was conducted on the transcripts of the interviews identifying 12 themes. Overall the data suggested that Family Consultants take into account a range of criteria and although they were very cognisant of the importance for the child to be engaged in decision making they noted specific challenges regarding how they could use Child Inclusive Conferencing to do this. These findings provide a basis for the development of regulations that ensure that Child Inclusive Conferences are used optimally to improve the inclusion of children in the family court procedures in Western Australia and potentially elsewhere. Further research is, however, necessary before such regulations can be finalised.

### Keywords

children; court; participation; rights; voice of the child

### Issue

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### 1. Introduction

Australia has since the beginning of the century introduced child inclusive practices in family court processes. Australia did this in part because it is an adoptee of the United Nations Convention on the Rights of the Child (UNCRC) and is therefore guided by Article 12 to involve

the child’s voice in family court processes. Involvement of the child’s voice, was in part, guided by research from two sources. First, research about children’s competencies and rights revealed children’s desire to be included in the process (Campbell, 2004; Graham & Fitzgerald, 2010a; James & Prout, 1997; Mayall, 1994; McIntosh, 2003; McIntosh, Well & Long, 2007; Parkinson & Cash-



more, 2008; Smart, Neale & Wade, 2001; Smith, Taylor, & Tapp, 2003; United Nations, 1989). Second, researchers found that children and adults who participated in a process that involved children, thought it was potentially beneficial to them (Fitzgerald & Graham, 2011a; Goldson, 2006; Lodge & Alexander, 2010; McIntosh, 2000, 2003; McIntosh, Wells, Smyth, & Long, 2008; Moloney & McIntosh, 2004). This led to an acceptance in Australia that what is required is not merely an interest in 'listening to the voice of the child' but listening to the voice of the child because they have the 'right to be listened to'.

The Family Court of Australia (FCoA) and the Federal Circuit Court (FCC) responded to the expectations of the UNCRC and the research mentioned above by developing models of child inclusive practice and provided professional directions for delivery pursuant to s11F FLA. The FCoA's Child Responsive Program and the Less Adversarial Trial approach and the FCC's Child Inclusive Conferencing (CIC) both require children to be interviewed at the early stage of their parent's dispute with the view to coming to a more amicable and quicker agreement on the care arrangements (McIntosh et al., 2007). McIntosh et al. (2007) who studied child-inclusive mediations as they occurred in these programs concluded that those who decide when and how the children should be involved should ideally have clear criteria that they apply consistently when they make this determination. This study also called for more dialogue around the setting of professional standards for child consultants (McIntosh et al., 2007).

However, Western Australia was the only Australian jurisdiction that used s41 of the *Family Law Act 1975* (Cwth) to establish a separate State Family Court. Western Australia, by passing the *Family Court Act 1975* (WA), which has subsequently been replaced by the *Family Court Act of 1997* (WA) (Fogarty, 2001), and created the Family Court of Western Australia (FCWA). The FCWA established the Family Court Counselling Service (FCCCS) that developed its service delivery protocols independently of those used by its counterparts working for the FCoA and the FCC in the rest of Australia. Thus, the FCCCS had to develop its own Child Inclusive Conference model because the procedures used by the FCWA differs slightly from that used by the FCA and the FCC. The Family Consultants are located within the FCCCS.

Family Court Consultants' (Family Consultants) role is to assist the Family Court to manage child related matters and to obtain the best possible outcomes for children before it. Section (s) 65 of the *Family Court Act 1997* (WA) authorises the court to order parties to attend, or arrange for children to attend, appointments with Family Consultants. Courts must seek the advice of Family Consultants before they order these Child Inclusive Conferences (CICs). The court can order CICs on its own initiative or in response to applications by one of the parents or a lawyer that independently represents the interest of children involved in the process. The section provides no further guidance regarding when exactly a

CIC should take place, the role of lawyers in the process, and what the nature of the Family Consultants' reports should be. The section is also silent regarding what the court should do with such reports and their relationship to family reports obtained under s64 of the *Family Court Act 1997* (WA) and/or single expert witness (SEW) reports obtained by the parents under the court rules. The Family Consultants therefore developed their own process and usually start by having a Case Assessment Conference (CAC) that involves them doing a thorough risk assessment and preparing case management recommendations that might include, if appropriate, the recommendation of a CIC. CICs are therefore usually standalone events that take place early in the Court process and Family Consultants typically first interview parents and then the children to determine their issues and risks. CICs therefore serve as preliminary assessments that allow Family Consultants to report to the court and other decision makers the children's views and experiences of their families at an early stage of the process. The Family Consultants' reports are, however, brief unlike the family and single expert witness reports that are based on a full family forensic assessment and further often include material from experts who have been involved with the family or from other government departments.

The minimal statutory guidance and lack of specific regulatory requirements and the small size of the team (there are currently 15 Family Consultants) meant that the CIC model was developed in an organic rather than systematic manner and that parts of the model have not been well-documented. The FCCCS's model has also not been formally reviewed or evaluated since its introduction in 2012, and the Family Consultants themselves recognise that they lack clear guidelines, to guide them regarding how to involve children. Family Consultants have nevertheless, since 2012, developed a body of accumulated collective wisdom through utilising their individual discretion (drawing upon professional development and experience independent from the FCA and FCC) when choosing to recommend a CIC. The aim of this study was to draw upon this independent accumulated wisdom to seek to document the understandings of Family Consultants when deciding if and when they will conduct a CIC in the FCWA. The purpose of this was to understand the model these practitioners developed so that it can be used to develop clear and well-documented procedures and criteria that will ensure CICs serve their purpose of effectively including children into the family court process.

## 2. Methodology

This study was developed from the philosophical assumption that there are multiple realities in the experiences of Family Consultants in deciding when to involve the child in a CIC. Social constructivism, Cresswell (2013), is an assumption that seeks the understanding of an individual's world and their subjective meanings of their

lived experiences and views. As Family Consultants currently decide on whether or not to involve a child in a CIC based on their own understandings of the current situation at play, social constructivism was selected as the worldview assumption for this study. This study utilises a phenomenological approach, essentially searching for a common understanding in the phenomenon that the Family Consultant experiences, namely calling upon their independent accumulated wisdom when making a decision to involve or not a child in a CIC. In order to document how they may undertake this decision, the Family Consultants were asked to describe how they independently made this decision.

### 2.1. Data Collection

Data was collected from semi-structured, face-to-face interviews with open-ended questions, where the Family Consultants stated how they independently came to their decisions. After completion of face to face interviews, the interviews were transcribed and preliminary data analysis was undertaken to create a summary of the identified themes from the data. The Family Consultants were then provided with the summary to validate correctness of data gathered, review the identified themes and, provide clarification and or feedback on the identified themes. This feedback was then included in the final data analysis.

### 2.2. Ethics

The protocols for the study were approved by Edith Cowan University Human Research Ethics Committee and the Western Australian Department of the Attorney General.

### 2.3. Participants

In line with a phenomenological approach this study utilised a purposeful sampling strategy, selecting ten Family Consultants who work in the FCWA, ensuring all participants who have experienced the phenomenon contribute their experiences. Ten Family Consultants were selected as these were available at the time of the study and all agreed to participate. The ten Family Consultants in the FCWA were contacted to participate by a senior member of the staff team. Although a small sample size, it is in line with Creswell's (2013), notion who suggests that the size of the sample depends on the qualitative design being undertaken, and phenomenology generally has approximately 3–10 participants.

### 2.4. Data Analysis

The study used a systematic approach to data analysis recommended by Moustakas (1994). The data from the interviews was categorised, and clustered into themes (Creswell, 2013) representing the Family Consultants'

comments of how they decided whether or not to initiate a CIC. The themes were then provided to the Family Consultants to review and comment upon. Any feedback received was included in the final data analysis.

## 3. Results

Within the data, twelve core themes were identified: Children's ability to understand issues and implications and to give feedback; risk; importance of meeting parents first; time factor; hearing the child's voice; focus on resolution; complexity of issues; best interest of the child; opportunity to follow up; therapeutic aspect; practice experience and intuition and the role and the limitations of the role of family consultants. Each of these themes are presented below.

### 3.1. Children's Ability to Understand Issues and Implications and to Give Feedback

Although all Family Consultants considered the age of the child, their cognitive capacity and their knowledge and experience of the situation, the data suggested that generally children from around 10 years are interviewed in CICs as Consultant C reported:

Age would be 10ish and onwards. And why because I know firstly that the court is interested in the voice of the child from that age group. Developmentally they are able to give reasons.

However, some Family Consultants stated that they would interview children who are younger than ten years of age aligning with UNCRC (Lansdown, 2011) that one should begin with the presumption of capacity to contribute. However, they also noted that how much weight is given to the child's voice in court would need to be put into context along with an opportunity for a follow up meeting to see how the arrangements are working for the child. Some Family Consultants explained that they tend to conduct a Family Report (discussed earlier) instead of a CIC if the child is younger. Moreover, in cases where a child is enmeshed in the conflict and has been strongly influenced by the views of one parent, they might not be interviewed as they would not be able to give unbiased feedback. However, it was stated that sometimes it could still be helpful to hear the child's experience even if it is biased.

This is consistent with how the phrases "capable of forming his or her own views" and "according to age and maturity" in the UNCRC (United Nations, 1989, p. 4) were intended. The practices reported by the Family Consultants are in line with the General Comment No. 12, the Committee on the Rights of the Child (Lansdown, 2011; United Nations, 2009) which discourages introduction of age limits and states that age alone cannot determine the significance of a child's views and the views of a child should be assessed on a case by case examination.

Furthermore, it was explained that if a child would be unable to understand the questioning or give feedback because of developmental delays, intellectual difficulties or a disability, they would not be interviewed. The Family Consultants reported they would not simply rely on the parent's opinions about their child's ability to be interviewed but would want a diagnosis from a doctor or psychologist to confirm.

### 3.2. Risk

Risk or risk of harm and consequences is a serious consideration for Family Consultants. The FCWA FCC Family Consultants usually complete a CAC prior to recommending a CIC. At the CAC a thorough risk assessment is undertaken and if risk is too high a CIC may not be recommended. CICs are generally recommended for cases where there is a low risk of harm to the child and not recommended if there is an immediate high risk of harm, such as family violence or allegations of sexual abuse or if there are investigations currently underway. However, a matter can go directly to a CIC without a CAC if no or little risk has been identified. Child safety and risks of contaminating the evidence were stated as issues to consider.

However, it was explained that in cases where there is no immediate risk, interviewing could be protective as it provides children with a way to express their views and experiences, which can then be fed back to the parent. For example, where the parent is denying or minimising issues such as mental illness and family violence and the effect it is having on the child. Lastly, it was stressed that sometimes a risk is only identified after speaking to a child as Consultant C reported: "So they give you a different insight to what's really going on."

### 3.3. Importance of Meeting Parents First

Meeting the parents first enables the Family Consultant to seek feedback from the parents on their view of the child's ability and willingness to engage in an interview and whether or not the parents are ready to hear the voice of the child and be guided by it. Such knowledge it was reported assisted in structuring the meeting with the child or children. Consultant E:

Every time you go into these types of conference having the background information and the knowledge and having some sense of the parents you can structure...questions to the children...with that in mind. Without it you run the risk of unintendedly putting the child at risk.

Additionally, it was considered a matter of respect to speak to the parents first and state with them the possibility that their child will be interviewed. It was also explained that if there has been contact with the family over a number of years and the Family Consultant knows the family well, they might be more likely to suggest a

CIC even if there are issues involved such as domestic violence, because they are better able to gauge the risk and benefits of a CIC. Family Consultants also noted that CICs can sometimes be used as a mediation conference as if parents are less hostile and conflicted Family Consultants might be able to use the child's views as a mediation tool.

### 3.4. Time Factor

CICs can speed up the court process and move urgent issues through the court quickly. A CIC, undertaken within the first three months of entering the court process, enables the Family Consultant to get to the point quicker and focus on the main issue and avoid unnecessary hearings and delays, reducing unnecessary anxiety and conflict as a drawn out process can increase hostility between the parents. Whereas Family Reports (discussed earlier) questions the child broadly, the CIC approaches the main issue directly without collecting unrelated information, thus having the potential to bring drawn out conflicts to a resolution. Consultant F explained:

It can also can expedite the court process,...you can jump through a lot of hurdles really quickly if you get the children's views early on in the piece because it makes it really clear for the court and it also can help the parents reach an agreement.

Whilst it was acknowledged that time constraints are a factor, Family Consultants indicated they make their decision based on what is most appropriate for the child and not solely because of limited resources.

### 3.5. Hearing the Child's Voice

It was stated in all interviews that children should have the opportunity to have their voice heard and to express their views and opinions, as Consultant H reflected: "Your focus is more on the child and the child's right or perspective. Over and above what the parent thinks."

For Consultant I, depending on the situation and the age of the child more or less weight or decision making choices may be given to their views: "They have to have some form of recognition or validation as to their views."

It was noted that sometimes it can be a difficult balance between enabling the child to express their voice while ensuring their safety. The "right to express those views freely" (United Nations, 1989) means that the child can choose whether or not she or he wants to exercise their right to be heard. This was highlighted by Consultant I:

So you really walk a tightrope in terms of trying to hear the child's voice and at the same time trying to protect the child from any conflict or adverse...reactions from the parents.

It was also explained that while children should have their voice heard, ultimately children prefer that the parents make the final decision, data supported by Parkinson and Cashmore (2008). Lastly, it was emphasised that a child's decision not to participate should be accepted too, as Consultant E stated: "Not wanting to participate is as valid as wanting to participate for a kid's point of view."

### 3.6. Focus on Resolution

A focus on resolution could assist the parents come to an agreement. As Consultant E noted:

Probably the first thing is whether the conference is going to be productive. Is there a possibility of it being productive as in reaching some agreement. Even if the agreement is just to agree to...hearing what the child says and to be guided by it.

Family Consultant's stated that where parents have opposing views on what is in the best interest of the child or where they are so enmeshed in long-standing disputes, the child's voice gets lost. Interviewing the child can provide more insight into what the child's views and opinions actually are, which is important for the court to know before making any orders.

This response from the Family Consultants highlights the argument postulated by Fitzgerald and Graham (2010b) and Graham and Fitzgerald (2011a) that the criteria of parent readiness (to hear what the child wants/says about what is happening) can be problematic as it can potentially lead to the child being excluded from the process. It has also been suggested that parent readiness to listen should be assessed to determine the level of the child's involvement and how it could be useful, as opposed to deciding if the child should be involved at all (Fitzgerald & Graham, 2011b), being the Family Consultants aim in undertaking a CIC.

### 3.7. Complexity of Issues

Generally, as discussed earlier, the tendency is to recommend a CIC in cases where the issue is a simple or very concrete with minimal risk, such as a name change, travel or a decision about what school the child should attend. For more complex issues or where there is a higher risk a Family Report (discussed earlier) might be conducted as in cases where there are issues such as significant family violence, substance abuse or mental health issues, to enable the issues to be unpacked and explored in depth.

However, it was pointed out that there are exceptions to these criteria and that every case is different and has to be assessed individually. Moreover, the relationship of the parents is also taken into consideration and Family Consultants (discussed earlier) would be more likely to recommend a CIC in cases where the parent's relationship is less hostile and conflicted.

### 3.8. Best Interest of the Child

Best interest, and safety and wellbeing of the child appeared paramount to Family Consultants, in line with both the UNCR and Family Law Legislation. As discussed earlier, if there are high risks or if there are likely repercussions for the child in expressing their views, then a CIC would not be recommended. Consultant H states:

First consideration is what are the consequences for...this child if this child is involved in this conversation and how can it work. I mean in a child inclusive you...be trying to talk to the parents you want that conversation to be a change agent really....You can't do that if they're not cooperating.

Furthermore, Family Consultants stated they would generally not undertake a CIC with a child who have been interviewed multiple times in the recent past, for example by a single expert (as discussed earlier), unless some major change had occurred, as multiple interviewing can put stress and pressure on the child.

The subject of multiple interviewing children is addressed by the UNCRC (Lansdown, 2011; O'Neill & Zajac, 2013) which acknowledges that "hearing a child's voice" is a difficult process that can have a traumatic impact on the child and emphasises the importance of avoiding unnecessarily reinterviewing children. Family Consultants also consider how much weight the court might give to the child's views to avoid the child being interviewed and then not listened to and feeling let down. If an order was made by the court to interview the child anyway the Family Consultant would ask the parents to prepare the child to minimise any negative impact.

### 3.9. Opportunity to Follow Up

The potential to conduct a follow-up meeting, which may influence their decision making was considered a positive, as Consultant I reported:

I'm thinking you can maybe do two or three Child Inclusives and I think that can give you a better result than having one family report....You get more of a longitudinal view of how everything is tracking.

It was expressed that Family Consultants, in some cases, find it concerning if decisions are made based on a document that was produced after one single conference with a child, as this can only ever capture the child's views on that particular day.

Furthermore, it was stated that a child might express very negative feelings towards one parent because they want to ensure they get to live with the other parent. However, once they have the desired living arrangement these negative feelings could subside. Moreover, it was explained that follow-up conferences enable trialling of matters, such as living arrangements, so adjustments

can be made and any risks be identified that have been missed earlier. Usually CICs are one off events but the Family Consultants can recommend further or follow up CICs if they feel the child would benefit from it, an example being reviewing a change of spent time or living arrangements.

### 3.10. Therapeutic Aspects

CICs are more flexible and friendly and are less forensic and adversarial assessments than the Family Reports (discussed earlier). Family Consultants are able to tailor CICs to the individual family and use it as a mediation tool with the parents. Furthermore, CICs can make the court process easier and achieve a more child focused process, as it enables the Family Consultants to work with a family over a period of time and prepare them for the court process. Consultant C explored this further stating:

And it is therapeutic when they do hear the views of the child. The way that we reframe it to the parents it can be quite therapeutic. Especially families who don't really talk often. So you're actually bringing them in the room together and you're reframing...what it's like for that child....Parents are seeing it on a different level. It brings a lightbulb moment sometimes.

Thus, providing the opportunity for a child to be included and to give his/her view can help parents gain insight and to motivate them take necessary steps such as attending a family violence course to ensure the child feels safe when spending time with them.

CICs can also help parents to feel that they are more involved and help them gain a better understanding of the situation which helps ease anxiety. Lastly, the issues that the parents are trying to resolve might not be the issues that the child is concerned about but through a CIC will only become apparent if the child has an opportunity to express their views.

### 3.11. Practice Experience and Intuition

It was explained, by three Family Consultants that on occasion the decision to conduct a CIC can be intuitive, that often decision making is inherent from practice experience rather than a conscious application of set criteria, as Consultant H reports:

I think it is really good to externalise this as well. So many of our decision making is inherent—it just comes from your practice wisdom. But you need to stop and go hang on why? So I think that's really important that we do this.

Family Consultants are social workers and psychologists and as such have extensive training and expertise in working with families so such responses, as Consultant

H refers to, may possibly be related to their experience in the role working in the FCWA.

### 3.12. Role of Family Consultants and Limitations of Role

The data suggests that Family Consultants perform relatively basic interviewing which can often be more helpful than a single expert interview. However, if there are issues such as a high risk, alienation by one parent, parents unwilling to listen and cooperate, or a child with special needs, then it could be more appropriate for a single expert to interview as Consultant B explained:

They should be heard but maybe just we're not entirely the best people to hear that...where there's these special requirements.

It was stated that on some occasions where an Independent Children's Lawyer (ICL) has already interviewed the child, it might be unnecessary for a Family Consultant to interview as well. Such factors placed limitations on the role of the Family Consultant as their focus at all times is best interest, safety and wellbeing, and the implications for the child being interviewed. Thus, in some circumstances they reported it would not be in the best interest of the child to conduct a CIC. It was stated that if the ICL is clear on the views of the child and what it is they want then there is no point in ordering a CIC. If the issue is more complex, then a Family Report will be ordered.

### 3.13. Summary of Themes

A thematic analysis of the data from the interviews with the Family Consultants identified twelve themes which were at times interrelated suggesting there is a range of criteria that impact on how the Family Consultants make decisions. Family Consultants are focused on ensuring the safety and wellbeing of the children and are conscious of the potential risk for children to be included in a conference. This, along with the complexity of the issues involved, Family Consultants were even more focussed on the need to assess for risks, including stress caused through participation in the interview process, and to achieve the most positive outcome for the child. This is in line with the literature that suggests that child inclusive processes must balance the right of the child to be heard with the responsibility to ensure the child's safety and that it is not always in the child's best interest to give their views (Fernando, 2014; Henry & Hamilton, 2012; Roebuck & Hoejer, 2009). Furthermore, the Family Consultants suggest that to truly listen to the views of the child, the child needs to have a more substantial role in identifying and determining what their best interests are and deciding what matters that affect them are (Banham, Guilfoyle, Lincoln, & Cavazzi, 2011). The Family Consultants reported they considered in their decision making how much weight the court might give to the child's views to avoid the child being interviewed and then not



listened to and feeling let down. Family Consultants appear to balance the best interest of the child with Article 12 which outlines the right of the child to express their views in all matters that affect them. The opportunity to meet with the parents first before making a decision to involve a child to get a sense of parent views, so as to gauge risks and benefits of including a child, is important as it enables them to collect as much information as possible to support the child. The CIC can be used to bring resolution to the issues; an opportunity to follow up to clarify any concerns; as a therapeutic tool to collaborate, build relationships; and put the parent and child at ease with the court process. More importantly, the data identified that Family Consultants are conscious of their decision making process; the role that practice experience and intuition play; and the importance of reflection and understanding why such decisions are made. Overall, Family Consultants were very aware of their role and the scope of their role and when necessary initiated other avenues, such as recommending a single expert interview, to ensure the child's voice is heard.

#### 4. Conclusion

The results of this study reflect the Family Consultants' development of a process and criteria (model) that allow them to achieve the aims of CICs as they understand them in the absence of explicit regulatory guidance. The model they developed appears to fit the organisational structure and requirements of the Family Court of Western Australia and serves to make CICs effective methods of determining and reflecting children's views at an early stage of the process. The importance of the model is that it was developed by practitioners who actually work towards ensuring children's views are reflected in the legal process from an early stage and that they did this with very little statutory and regulatory guidance. This process and criteria could therefore serve as a starting point to develop a regulatory framework to guide Family Consultants, the court, parties and their lawyers in Western Australia, but also in other jurisdictions. CICs are, however, only one small part of the proceedings in the court and despite Family Consultants' pivotal role they are also only one small group of people involved in these proceedings. Those developing statutory and regulatory provisions will therefore also have to take into account the experiences and views of children, parents, judiciary and other stakeholders if they want to develop a CIC process that leads to the optimal representation of children's views. Researchers must therefore ideally undertake research that establishes how children, parents, courts and lawyers believe the CIC process can be most effectively used to ensure that children are included in the process in a safe manner. Researchers should specifically identify the weight of Family Consultants' reports in comparison with the family and single witness expert reports and how differences between these reports should be reconciled.

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#### Conflict of Interests

The authors declare no conflict of interests.

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Article

## A Political Space for Children? The Age Order and Children’s Right to Participation

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### Abstract

This article discusses how adulthood is naturalized and how adulthood norms set limits on the possibilities of including children in democratic processes and understanding them as political subjects. The article examines the kind of resistance children and youth can meet when participating in democratic processes, with examples of speech acts from the Gothenburg Youth Council. It also discusses the theoretic concept of *childism* (Wall, 2008, 2010) and how childism can be a way to escape the dominance of adulthood norms. The concept of childism means addressing children’s experiences by transforming understandings and practices for all humans, not only for non-adults. How is it possible to create a political space for children and involve children in defining what should count as politically important?

### Keywords

adulthood norms; age order; childism; participation; youth council

### Issue

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### 1. Introduction

In this article, I discuss how adulthood norms set limits on the possibilities of including children in democratic processes and understanding them as political subjects. Adulthood norms are norms that imply an adult position which is implicit, invisible and thus naturalized. The theoretical starting point of this article is thus that adulthood is naturalized and fundamental to an understanding of the age categorization of children, and also that age (like gender) is constructed relationally. One is always young, old, older, or younger relative to someone else, but also relative to a certain context.

Since it started in the 1980’s, the research field of childhood studies has had the stated ambition of reducing the difference in power between children and adults. The research field launched concepts like: *the child as an actor*, *the competent child*, *children’s participation*. These concepts are about recognizing children as full human beings and as equivalent to adults (Alanen 1988, 1992; Hockey & James, 1993; James, Jenks, &

Prout, 1998; James & Prout, 1990; Qvortrup, 1994). This has been criticized by John Wall (2012) who argues that concepts like agency and competence assume and reproduce an adulthood norm where rights are not absolute but must be earned. In this article, I use Wall’s concept of *childism* in order to critically examine a case and discuss current structures and norms, as childism offers a tool for deconstructing the naturalisation of adulthood.

In the field of childhood studies, the meanings and the effects of adulthood are not much discussed. Just as theoretical approaches in queer theory and critical whiteness studies focus on the superior position and show that it is important not to restrict examination to the subordinate position, I believe that this idea is equally important when it comes to power relations between children and adults.

### 2. Age as a Power Order

The idea of working for children’s increased participation, which is formulated in Article 12 in the UN convention

on the rights of the child, is based on knowledge that, due to their age, children and young people are under-represented in political processes and are seldom heard in public. Age is a widespread and accepted reason to treat people differently. Age and different ways of regulating age are common ways to create social order (Näsman, 2004). That is why age can be regarded as a power order; a social order which carries hierarchies and discrimination, inclusions and exclusions. Ideas and norms regarding age are used in order to organize and discipline individuals, activities, and contexts. Age is regarded as a “neutral belonging” and these organizations thus gain an objective character as something biological and chronologic (Krekula, Närvänen, & Näsman, 2005; Närvänen, 2009).

The life phase of adulthood is generally ascribed a higher status when compared to other life phases since the individuals here are considered nourishing: they are contributing to the survival of society. The individuals belonging to the life phases of childhood, youth, and old age are, on the contrary, regarded as consuming: they are not contributing to society but merely using its resources (Hockey & James, 1993; Närvänen & Näsman, 2007).

Age is made binary by the division into children and adults, although age categorizations contain concepts such as teenager, youth, and young adult, which soften this binary division and imply that the boundary between child and adult is a flexible one (Sjöberg, 2013). In practice, however, children and adults are often positioned in a binary way. The naturalization of adulthood also means that it constitutes *the unmarked age* (Krekula & Johansson, 2017). The unmarked age is that which other age categorizations are related to and which itself constitutes the norm. In the case of adulthood, this is an invisible norm: a naturalization. Adulthood is so fundamental to being seen as a full human that we view it as natural that children are considered not yet fully human. Thus, adulthood becomes naturalized and at the same time age becomes a legitimate power order when it comes to the age categorization of children, since children’s subordination is regarded as something natural and often even desirable; children are viewed as “under development” and in need of adult protection and care.

My position in analysing and discussing adulthood norms is that it is not enough to analyse only the subordinate position, that of the child. In order to understand how dominance relations are constructed, reproduced, and challenged, it is also necessary to examine the superior position.

Age is constructed relationally in that the child categorization comprises characteristics such as immaturity, volatility, and spontaneity (in the sense of being non-reflective), while the adult categorization is constructed as the opposite: adult individuals become mature, stable, and reflective. The child categorization thus contributes to the association of adulthood with positive qualities (Alanen, 1992). When children are understood

as under development and in need of protection, this gives legitimacy to the primacy of adults which can be compared to how women, in a binary understanding of gender, are constructed as weak and emotionally unstable and how this gives legitimacy to male superiority. The age order is about how adults use children to define themselves in an ideological process of dominance and self-definition that can be compared with processes where men have defined women and colonizers have defined the persons they colonized as “the Other” (Sundhall, 2012; Thorne, 1987).

The emphasizing of *children’s agency* in the field of childhood studies has resulted in children being discussed in terms of citizenship, a concept that has traditionally completely excluded children (Archard, 1993; Freeman, 2011; Nakata, 2015; Oswell, 2013). In societies that regard themselves as democratic, there is still a large part of the population who are not permitted or assumed to be a part of the political life and to be involved in formulating what is politically important. This applies to the age categorization of children, who are excluded due to their chronological age. Their exclusion is thus due to their *difference* compared to the norm of the citizen, a synonym for the adult subject.

The basis for this article is an analysis of speech acts concerning the Youth Council of Gothenburg, Sweden, which I use to discuss how adult norms are naturalized and consolidated but also how they are made visible and challenged. This analysis of speech acts involves post-structuralist ideas of how language is performative and my interest in different kinds of texts focuses on what the text is doing and not what it means. I will use the concept of *childism* (Wall, 2008, 2010) and discuss how it can be a way to escape the dominance of adult norms. The concept of childism means addressing children’s experiences by transforming understandings and practices for all humans, not only for non-adults. Childism can then be an approach which challenges and changes structures and possibilities (Wall, 2010).

### 3. The Significance of Speech Acts for the Dominance of Adulthood

The naturalization of adulthood implies that it can be hard to spot, though the effects of the naturalization may be easier to uncover. One effect emerges through an embodiment and repetition of norms which lead others to believe in their naturalizing effects (Butler, 1993). Explicit references to adulthood and its prerequisite *childity* (Sjöberg, 2013) are often used for disciplinary purposes: “Grow up! Don’t be such a baby! You’re acting like a three-year-old!” Often, these references are made without anyone reflecting on how these speech acts work in a discriminatory and subordinating way, not towards those the words are directed against but to those who fit into the age categorization of children. The effect of the speech acts is thus to confirm the normality of adulthood. Some constructions function in such a naturalizing



way that one no longer understands that they are constructions or that the function is subordinating.

#### 4. The Need to Redefine Key Concepts

One aim of this article is to consider how to seriously include children in democratic processes. Two theorists who have discussed this issue by starting from the concept that adult norms are in control are Moosa-Mitha (2005) and Wall (2008, 2010, 2012). Both propose that the very definitions of concepts like *democracy* and *human rights* are problematic, not least in ownership of the right to define them. The conclusion is to redefine what democracy and human rights actually mean—only then can children be included.

Moosa-Mitha has discussed how adult norms exclude children by defining democracy and human rights as something that children do not yet deserve and that an implicit adulthood is used as the standard of a real citizen (Moosa-Mitha, 2005). If we instead reflect on the basis of alternative models of citizenship—models that put *difference* at their centre—we can see possibilities of defining children's citizenship in ways that take children's rights and status as citizens seriously, due to their identities as children rather than despite them (Moosa-Mitha, 2005).

Moosa-Mitha takes as a starting-point the more fluid and pluralistic way in which feminist theorists discuss difference by thinking about citizenship as situated in a politics of solidarity; a transversal politics where citizens with multiple subject positions get together and enact resistance against oppression (Moosa-Mitha, 2005). Moosa-Mitha also uses the concept *differently-equal*, as proposed by Yuval-Davies (1999). By emphasizing difference before equality, Yuval-Davies suggests that it is through difference that equality is defined and that difference can become the very foundation of citizenship, rather than a place of exclusion (Moosa-Mitha 2005; Yuval-Davies, 1999).

Moosa-Mitha discusses how difference is related to citizens' experiences of *belonging* and *participation*, and how citizenship is thus characterized by a recognition of citizens' differences regarding specific historical circumstances, vulnerabilities, and interests. The concept of participation can be widened to encompass an understanding of participation as an expression of agency, no matter how differently that agency is expressed. Presence is central in this understanding. It is not enough to have a voice; in order to have a presence in society, one's voice also has to be heard. Not to acknowledge the presence of a citizen is itself a form of oppression (Moosa-Mitha, 2005). Being treated as an equal member of society means having one's personal concerns viewed as questions of general importance. Since participation in the public sphere is so important for this, an exclusion from participation implies that one is excluded from being able to perform one's citizenship.

An alternative view of children's rights of equality would focus on normative assumptions and beliefs of social institutions that are gendered, racialized and adultist, and which exclude children from belonging as equals both within and outside the family. (Moosa-Mitha, 2005)

For children, belonging as equals in society is a prerequisite for being able to participate in democratic processes and being able to be understood as political subjects.

#### 5. Childism

John Wall follows the same route as Mehmoona Moosa-Mitha in discussing the concept of *childism*. Childism is a concept that was coined by two different theorists and it has two different meanings. I will here assume the definition of John Wall, which is completely opposed to Young-Bruehl's definition as discrimination against children (cf., sexism and ageism). Wall's definition is about redefining central norms so that they can include children's experiences, which is exactly what Moosa-Mitha discusses. The whole theory of human rights is constructed around adulthood. In all of the justifications of why humans should have human rights, children are placed in a position of lacking the right to have rights (Wall, 2008). Rights belong to rational subjects and throughout western history rationality has been discussed as a qualification possessed by the adult subject, but not by the child. In this understanding, children can only be nurtured, disciplined, or educated into rational individuals (Wall, 2008).

The inclusion of children in democratic processes requires an extended concept of the political subject and the political terrain. According to Wall, this new concept, which is analogous to feminism, queer theory, and environmentalism, is childism. In discussing concepts such as *agency* and *representation* in relation to political inclusion, Wall points out that the idea of politics as an expression of agency is not a new one, but derives from the Enlightenment. Until now, it has been possible to conceive of children as second-class citizens because agency is connected to an autonomous and independent adulthood. Agency is, in itself, a political norm based on a historical, adult-centred preconception. This understanding of agency attempts to fit children into political constructions which take adulthood as their starting point, rather than challenging the constructions themselves (Wall, 2012).

The result of this is the proposal of a model where children's political citizenship is based on *interdependence*, which is about an individual's simultaneous active independence and passive dependence. The advantage of basing citizenship on interdependence rather than agency is that children and adults then become more equal. However, according to Wall, children's voices will still be marginalized in such a dialogue because of the historical oppression against them. What is needed is a

a political space where children are entitled to express their own views and claim their difference toward others (Wall, 2012).

Regarding the difference model advocated by Moosa-Mitha, Wall argues that this model has the advantage of giving children the chance to claim historical marginalization. The difference model can be used to deconstruct the normative assumptions which view children as not being complete political subjects. The difference model also makes it clear that children are not a homogeneous group but, like all other age categorizations, are living under various circumstances and therefore might participate in politics in various ways. However, Wall argues that the model is nevertheless problematic because one of the most significant ways in which children are “different” is that they generally have less experience in fighting for political power (Wall, 2012). Age has an actual effect on one’s ability to execute political action and children have usually participated in political life for fewer years than adults. Age implies a genuine difference when it comes to the ability to fight on behalf of one’s difference (Wall, 2012). The solution to this problem, Wall argues, is to rethink the foundations of political representation in a way that is simultaneously both interdependent and difference-oriented.

This can be done, I now argue, by learning about the larger meaning of democracy from children’s particular experiences. What is learned is that political representation should ultimately mean empowering lived differences to make a difference to interdependent political structures. The negative aim of deconstructing power meets the positive aim of creating community in the truly democratic aim of a difference-responsive political whole. (Wall, 2012)

Wall emphasizes that children can be understood as *politically responsible*. Being politically represented does not only mean expressing one’s own interests, but rather, along with others, creating a more diversely constructed political whole (Wall, 2012).

## 6. The Youth Council of Gothenburg: An Attempt to Include Children in Democratic Processes

Some attempts have been made to include children in the political context and cater for children’s right to participation. These include, for example, the child and youth parliaments that are available in at least 30 countries, either on a national or a municipal level. These parliaments are often initiated by adults and researchers in the field have discussed how adults in many ways simultaneously extend and shrink the political and civil participation of children and young people (Kawecka Nenga & Taft, 2013). Youth councils and children’s parliaments have also been criticized by researchers for being elitist, adult-led, and empty symbols of participation (Gordon & Taft, 2011). Researchers have also discussed examples of

children’s parliaments where children and youth exercise direct, political power and achieve significant differences in their societies (Wall, 2012). Some relatively new movements are working for child-friendly cities and build upon a growing attention to “the rights to the city”. This refers not only to individual access to resources, but also to exercising collective power in order to promote urban development. Child-friendly cities not only aim to provide safe and accessible spaces but also opportunities for children’s and young people’s participation in local decision-making (Flanders Cushing & van Vliet, 2016). The city of Gothenburg has the explicit aim of being “a children’s and youth city” and it is declared that “the young perspective is especially important to the decision-makers of the city” and also that a goal of the city is that “young citizens of Gothenburg shall be given increased opportunities to influence” (City of Gothenburg, n.d.).

Gothenburg has had a Youth Council since 2004. The website of this Council states that:

The Youth Council consists of 101 young people from all districts of Gothenburg. In the Youth Council, young people between 12–17 years of age meet and discuss various questions concerning young people in Gothenburg. It is the young people themselves who decide which questions are to be discussed. Via the Youth Council, you who are young have the opportunity to influence municipal committees, boards, companies, and administrations. (Youth Council, n.d.)

My overall intention in researching the Youth Council was to examine how children and adults cooperate in projects like this, projects aiming at children’s right to participate in society. It was when I attended a conference during which the Youth Council presented their work that I first began to pay attention to the Youth Council. At the conference, an adult in the audience suggested a topic she considered adequate for the Youth Council to engage in: boys taking a lot of space in the classroom at the expense of girls. The Youth Council chairperson on the stage agreed with the problem at first, but then reacted with slight annoyance and responded that that should be the responsibility of the teachers and that more importantly it is the Youth Council members themselves, not adults, that formulate the issues they want to work with. On this occasion, I came to reflect on the possibility of adults taking over the privilege to formulate issues that they think is appropriate for the Youth Council to engage in and the consequences of such an approach.

During the two years that I have followed the work of the Youth Council, it has become clear to me that much of the Council’s work is aimed at ending the segregation between different parts of Gothenburg. Public transport, for example, has been a matter of great concern. Over the past ten years, the Youth Council has been working on the issue of expanded and free public transport. Their accomplishments have included the securing of free public transport for all schoolchildren until 10 pm on week-

days (instead of 7 pm), as well as a summer holiday card which gives free travel for all schoolchildren between the ages of 12 and 17 for three months during the summer. It is my understanding that the Youth Council consider public transport a question of justice on two levels: firstly, children and young people should not have to be dependent on their parents or guardians; and secondly, children and young people should be able to travel anywhere in the city and not be limited to a particular area.

In a meeting concerning public transport, the members of the Youth Council argue in favour of free public transport for children and youth. The adults invited to the meeting, a politician and a delegate from a transport company, do not agree with the Youth Council's description of children and youth as a particularly vulnerable group in society when it comes to economic issues. One of the adults says: "Free public transport for children and youth would promote justice and integration more for young people than for other groups. Justice is a broad concept." A Youth Council member argues: "As an adult, you create your own life but as a child you are born into an economic situation. You have less opportunity to influence your economic situation." In doing this, the Youth Council member is making the general power differences between children and adults explicit and the age order, which is often invisible and unproblematized, is made visible. After some exchanges of views, the adults at last agree with the Youth Council members' arguments about the specific experiences of being children and being dependent on adults. It is an example of childism when the Youth Council members, from their positions as non-adults, claim that their position differs from the privileged position of adults, in terms of dependence and the possibility of influencing one's life conditions (Field notes 2016-05-09).

I have attended several meetings and workshops initiated by the Youth Council to which they had invited adult politicians and officials. Sometimes I have recognized that the adults are doubtful about or question the ideas and proposals presented by the Youth Council. However, I have never seen such resistance from the adults as regarding the water slide discussed below. For this reason, I found it a particularly interesting case to examine.

During the summer of 2015, the Youth Council wanted to organise a 140-metre-long water slide at the annual Gothenburg Culture Festival. The aim of the water slide was to "create a meeting space for young people from all districts. The Youth Council believes that meetings between young people from various backgrounds and conditions contribute to greater integration" (Official statement on 2015-05-19 ref: 1130/15). The Youth Council would also inform about their work in connection to the water slide in order to reach more children and youth.

The Youth Council have an annual funding of 300 000 Swedish kronor (equivalent to about 31 663 euros) and the cost of organising the water slide was calculated at 165 000 Swedish kronor. Since this would exceed 10 000

Swedish kronor, the Youth Council, according to a regulation, had to ask permission from the City Council. The response from the City Council consisted of two texts, one from each political bloc. I will now discuss how adult norms are both made visible (and thus challenged) and made invisible (and thus reproduced) in the texts. One of the political blocs stated:

The Youth Council is an important part of the City's work to increase participation and impact among young people. Consequently, it is important to reach out widely among the young people of the City so that as many as possible get the opportunity to be heard. To increase the awareness of the Youth Council and its work is thus an important part of the work....A considerable sum of the Youth Council's budget will be used to rent a so-called water slide which will be the centre of attention for the activities of the Youth Council and act as a draw. This is a priority that may seem strange to many adults. However, the idea of the youth council was not that all of its decisions should be like the ones that adults would have made, but that new perspectives should come through....Last but not least we would like to offer the idea of not having an upper age limit, so that we who are older also get an opportunity to try the water slide (Opinion S,MP,V Gothenburg City Council 2015-06-10. Errand 2.2.5).

The other opinion was formulated thus:

It is unusual, if it has even ever happened, that the City Council have felt it necessary to contradict a proposal from The Youth Council. However, the current proposal has a scope and design that cannot pass unnoticed. Firstly, the proposal provokes thoughts about the size of the budget. The budget of 300 000 corresponds to the full annual city tax payment of five wage earners. There are a lot of working hours behind this money that the Youth Council can dispose of freely. Now the Youth Council wishes to use half of that money on a water slide (Opinion M, FP,KD. Gothenburg City Council 2015-06-10. Errand 2.2.5).

The opinions from the City Council are examples of speech acts where the adult norm is reproduced but also challenged. In the first text, a problematizing of the adult norm is formulated: "This is a priority that may seem strange to many adults", with the effect that the adult norm is no longer naturalized but rather made visible. It is also emphasized here that the idea behind the Youth Council is to enable new perspectives and promote decisions that adults perhaps would not make, which is a formulation that points to a childistic perspective: that the right to define what is politically important does not solely belong to adults but to children as well. The last sentence of the opinion is a playful way of breaking up the power relation through an appeal not to exclude adult water slide riders.

The second text contains different formulations which are not as playful. That the “five wage earners” are adults does not need to be written and as a result the power relation the opinion is based on is made invisible. These “working hours” are contrasted with the statement that the Youth Council “dispose...freely” of 300 000 Swedish kronor every year, and the opinion ends with a call for a review of how the Youth Council’s money has been used in recent years:

We would like a review of how the Youth Council’s budget has been used in recent years. The support given to the Youth Council given by the City needs to combine the procurement of young people’s ideas with expertise in how the aims of the initiatives are best met.

The emphasis that the Youth Council “freely” has responsibility for 300 000 Swedish kronor and the contrasting of this sum against the working hours behind it have a disciplinary undertone. The fact that children are not given the possibility of performing professional work under the same conditions as adults, both due to compulsory school attendance and various age limitations in working life, and thus are not given the same opportunities as adults to contribute to the economy of the society is made invisible. Adult norms remain naturalized through the speech act in the opinion. Moreover, the request for “a review of how the Youth Councils budget has been used in recent years” could be interpreted as a threat. Is the Youth Council really capable of dealing with that much money? What have they actually accomplished? Formulations like “the support...given by the City” and “expertise” imply that adult power is active; that adults have the power to define what is right and wrong in relation to the assignment of the Youth Council. “Expertise” is formulated as something adults can possess and offer children rather than something that the members of the Youth Council can have themselves.

The adult politicians do not seem to consider the possibility that the members of the Youth Council have themselves already discussed the high cost of the water slide. However, such a discussion did take place and some of the members were doubtful whether it was “worth such a large part of our budget”. One member said:

I am doubtful of the idea. It’s good to have a deeper thought behind an activity so we fulfil our aims....if you consider the adults in society who’ve been working and paying taxes...we’re responsible for every krona we’re using from the municipality. It is more important than the water slide. It can give quite the wrong signals. I think we should spend the money on something useful. (Field notes 2015-04-20)

This member’s argumentation against the water slide aroused protests among the other members, but one partly agreed:

I am ambivalent. It’s a lot of money, but it’s a good cause. Of course, some people will think that it’s a waste and that it’d be better to invest in something serious (Field notes 2015-04-20).

Thus, the adult norms were not upheld solely by individuals who are categorized as adults—and this is how norms work. Norms are not only reproduced or challenged by the groups which benefit from the norm; we all contribute to them (Butler, 1993).

## 7. Childism: Reclaiming the Childish and Making Fundamental Change

The water slide finally got clearance from the City Council and following a cold spell the weather changed in time for the August days during which the event was held. The local paper Göteborgs-Posten reported that “Thousands got to try the water slide. There were at least 6 500 rides on the 140-metre-long water ride this week-end” (Martinsson, 2015).

The chairperson of the Youth Council during 2015, Morgan Landström, was quoted in the print version of Göteborgs-Posten as saying:

We wanted to contribute to the Culture Festival and a water slide feels at the same time summery and childish. To us, it is important to create a place of community and openness for the youth of Gothenburg. (Dalghi, 2015)

Here, Morgan is reclaiming the word *childish* by using it in a clearly positive way. Refusing to accept the idea that childishness should represent anything negative is a way to challenge current adult norms.

One reason for the City Council’s approval of the water slide was the idea that the Youth Council should evaluate whether the event really did become a meeting place for young people from all over Gothenburg. The Youth Council thus performed a survey asking what districts the water slide riders came from. The results showed that children and young people came from all over Gothenburg to ride the water slide, and that the event got very good reviews: “The result is, to say the least, a positive one; 99% of the respondents had a positive opinion and 41% felt that a water slide was the best idea ever. No one thought that it was rubbish or bad” (Youth Council, 2015).

How, then, can we understand the possibilities of including children in democratic processes and understanding them as political subjects? How can a childistic perspective challenge the adult norms which set limits on this? Childism implies thinking in a new way and enabling a broader understanding of democracy through the specific experiences of children. The positions which decide what is to be considered politically important are held by adults. Child and youth parliaments can have the effect of leading children to embrace adult values but

they can also enable children to challenge the political worlds surrounding them in surprising and unforeseen ways (Wall, 2012). The discussion about the water slide exemplifies the thoughts of Mehmoona Moosa-Mithas and John Walls about how children's own lived realities and subjective experiences can dissolve adulthood's construction of power (Moosa-Mitha, 2005; Wall, 2012). A truly child-inclusive society is not a society where children are simply made into the equals of adults, but rather a society that allows itself to change fundamentally in answer to what makes children different (Wall, 2010). Human rights have always pointed to something beyond that which has been thought hitherto. The perspective of children can extend what it means to be human beyond "the white noise of adult-centrism" (Wall, 2010).

## 8. Conclusions

In this article, I have discussed the kind of resistance children and young people can meet when they are participating in democratic processes. The example of the water slide and the reactions to the proposal show the difficulties that children and young people are faced with during such participation and how they are questioned by adult norms. Every political proposal has to be open to criticism and this includes proposals from the Youth Council. However, it is how this is done that is interesting if one wants to try to understand what hinders children's participation and presence in society. The purpose of the Youth Council's water slide was to create a meeting place for children and young people in Gothenburg and the Council succeeded in creating this despite the resistance that they encountered. Childism is about being able to redefine the political landscape. The example of the Gothenburg Youth Council is not about changing the legislation or rephrasing policies but about the right to belong under the same conditions as adults and to be involved in defining what should count as politically important.

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## Conflicts of Interests

The author declares no conflict of interests.

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Article

## Inclusion as Ethics, Equity and/or Human Rights? Spotighting School Mathematics Practices in Scotland and Globally

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### Abstract

Mathematics education has been notoriously slow at interpreting inclusion in ways that are not divisive. Dominant views of educational inclusion in school mathematics classrooms have been shaped by social constructions of ability. These particularly indelible constructions derive from the perceived hierarchical nature of mathematics and the naturalised assumption that mathematisation is purely an intellectual exercise. Constructions of ability, therefore, emanate from the epistemic structures of mathematics education as predominantly practiced worldwide, and the prevalence of proceduralism and exclusion in those practices. Assumptions about ‘ability’ have become a truth to mathematical aptitude held by mathematics teachers in schools. This includes schools across Scotland. In Scotland, the government owes the ‘included pupil’ a legal obligation to provide additional support for learning under section 1(1) of the Education (Additional Support for Learning) (Scotland) Act 2004. However, classroom practices deployed around socially-constructed notions of ability have seen schools moving away from an emphasis on ‘additional’ to an expansive interpretation of ‘different from’ in the language of section 1(3)(a) of the Act 2004. This shift, therefore, reinstalls exclusionary effects to school mathematics practices by creating the conditions for some pupils, constructed in terms of disabilities or low ability, to be afforded a more inferior education than others. While philosophical conversations around whether these practices are ethical, egalitarian or democratic might ensue, there is also the human rights angle, which asks whether such practices are even lawful.

### Keywords

ability; Additional Support Needs; classroom practices; education; equality; equity, inclusion, law; mathematics; policy; school; social construction; streaming

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### 1. Introduction

In 1994, 92 countries and 25 international organisations signed up to the Salamanca Statement and Framework for Action on Special Needs Education (UNESCO, 1994). This heralded in a new era of policy-driven mandates worldwide, placing emphasis on inclusion within schools and societal institutions. Inclusion policies became mandatory within schools across many parts of

the minority and majority world. In Scotland, *Curriculum for Excellence (CfE)* has embraced inclusion and rights-based discourses, applying it to its progressive branding. This has been reflected in the move from Special Educational Needs (SEN) to Additional Support Needs (ASN), shifting the emphasis away from integration and equity, following the Warnock Report (Department of Education and Science, 1978), to one of increased participation and removal of barriers to inclusion (Allan, 2003).

This latter emphasis meant compensation for any disadvantage a learner's disability might create within mainstream schooling by offering additional resources. But, it also meant shifting the culture of schools and societal institutions to more 'inclusive' orientations. The school was to benefit from extra resources aimed at supporting teachers in accommodating the 'needs' of the pupil requiring ASN. Moving away from terminology such as 'impairment', this meant normalising disabilities as measures of natural diversity within society at large. While a 'medical model' approach is still highly prevalent, a more 'social model' has emerged. This has begun to shift the 'burden of representation' (Tagg, 1988; Swanson, 2004) of disability, as dominantly-conceived within a deficit/defectology mode of disability framing, from the individual designated as disabled, to the responsibility of society as a whole (Goodley, 2004, 2013; Valle & Connor, 2010).

In the UK, despite the greater emphasis on inclusion within schools, practices have often lagged behind policy, and there has been slippage in interpretations of intentions, or how to meet those inclusion objectives (Allan, 2008; Mouroutsou, 2017). In some instances, the 'inclusion objectives' themselves can be held up for scrutiny in terms of the assumptions they make about disability, inclusion, what constitutes 'normal', and the nature of childhood (Harwood & Allan, 2014). Arguably, a language of 'needs' may also be exacerbating the difficulty, by ensuring the element of patronage attends approaches to inclusion (Swanson, 2004). While these issues pertain variously to subjects across the curriculum, *school mathematics education* has been notoriously slow at interpreting 'inclusion' in ways that are not divisive. This can be witnessed in the prevalence of differentiated and distributed practices built around an indelible, socially-constructed notion of ability (Dowling, 1991; Swanson, 1998, 2005). Constructions of ability emanate from the epistemic structures of mathematics education as prevalently practiced worldwide, and the predominantly procedural and exclusionary nature of those practices. Consequently, assumptions held by mathematics teachers in schools about 'ability' as a truth to mathematical aptitude abound (Zevenbergen, 2001, 2003; Tytler, Swanson, & Appelbaum, 2015), including those across Scotland.

In Scotland, the government owes the 'included pupil' a legal obligation to provide additional support for learning under section 1(1) of the Education (Additional Support for Learning) (Scotland) Act 2004. However, classroom practices deployed around socially-constructed notions of ability have seen schools moving away from an emphasis of 'additional' to an expansive interpretation of 'different from' in the language of section 1(3)(a) of the Act. This has reinstalled exclusionary and inequality effects to the practices by creating the conditions for some pupils, constructed in terms of disabilities or 'low ability', to be afforded a more inferior educational experience than others. This is the case, even

as it is being asserted as inclusive and equitable under the discursive banner of 'special support'. While philosophical conversations around whether these practices are ethical, egalitarian or democratic might ensue, there is also the human rights angle, which asks whether these practices are even lawful.

This article addresses the issue of inclusion through a rights-based lens in respect of school mathematics education. While it discusses the conversations on equity, ability, democracy and inclusion within the international mathematics education field, it focusses on what these implications might be in relation to particular practices within the Scottish policy context. It consequently also draws attention to the contribution this makes to the international mathematics education field in respect of inclusion, social justice and rights-based pedagogical practices in mathematics classrooms. The arguments in this paper draw on, but also exceed, the conversations taking place in the field of mathematics education. They do so by moving beyond ethics and egalitarianism, which has been a strong focus of critical mathematics education recently (Ernest, Sriraman, & Ernest, 2016; Swanson, 2017; Stinson, 2017). Rather, they more directly attend to these issues in relation to rights and the implications for understandings of inclusion. These are prised through the lens of policy mandates and legal frameworks, from which one might scrutinise prevailing practices and interpretations of policy in school mathematics contexts.

The article proceeds by first addressing mathematics and mathematics education in terms of its hidden values and the politics of meaning around de/mathematisation (Chronaki & Swanson, 2017; Gellert & Jablonka, 2007) in the context of constructions of ability, failure, and disadvantage. But, it also calls for equality, ethics, and a more critical relationship with democracy in respect of mathematics education practices (Skovsmose & Valero, 2001; Swanson, 2017). It frames the discussions by offering some sense of the conversations with these emphases within the mathematics education field. These discussions fall under the following headings: 2) *School mathematics and the politics of meaning*. This leads onto discussion of the policy agenda on inclusion: 3) *School mathematics, inequality, and policies of inclusion*, which then opens to a focus specifically on Scotland in policy context: 4) *Mathematics education and inclusion in Scotland*. This segues into a centering of discussions from a more legal framework perspective, incorporating a strongly child rights-based approach to mathematics education in Scotland. This discussion takes place under a banner of: 5) *Mathematics education, inclusion, and the Law*. Concluding remarks tie structural inequalities in mathematics education together with inclusion and the Law. This approach is embraced in order to frame an international research agenda around the question of whether certain disability practices of inclusion in mathematics classrooms are more than a question of ethics and inequity, or if they are even lawful.

## 2. School Mathematics and the Politics of Meaning

Mathematics has dominantly been touted as an objective subject (Davis & Hersh, 1986; Swanson, 2005), one which is apolitical, dispassionate, and where human values are considered irrelevant. It has been viewed as the discipline that preceded humans, mapped into the cosmos, and, for Galileo Galilei, the language with which God wrote the universe, according to his now famous quote (Collins, 2006). So divorced has mathematics been perceived as being from the human condition that Giovanni Batista Vico (1668–1744), an Italian philosopher, lawyer, and classicist, was known to have stated that “mathematics is created in the self-alienation of the human spirit. The spirit cannot discover itself in mathematics. The human spirit lives in human institutions” (quoted in Davis & Hersh, 1986, p. x). This has not been isolated to mathematics, but school mathematics education has inherited to large degree these values and perceptions as its logic of schooling (Bishop, 2008).

One of the most notorious, commonly-held fallacies about school mathematics, following its ‘master discipline’, is that it is a neutral subject, one which is detached from the pesky political machinations of society and its trying subjectivities (Davis, 2013; Ernest et al., 2016; Swanson, 2005). There is the sense, like Mathematics itself, that school mathematics is not underpinned by any social or cultural values, and that it is a subject that is ahistorical and non-ideological. The ways in which it is shaped by societal influences, such as social inequality, is therefore dominantly viewed as external to school mathematics itself and can be explained almost entirely by economic forces such as scarcity and access to schooling, finance and other resources. Internal structural elements within school mathematics discourses and practices remain largely hidden within the social domain as a result (Bishop, 2008; Ernest et al., 2016; Swanson, 2005). Referencing these effects on mathematics education, Skovsmose and Valero (2001), in drawing on Skovsmose’s previous work, remark: “Mathematics has a power that escapes the boundaries of rationality and argumentation, and, through its applications, it has become one of the forces of social reflexive modernization” (p. 41).

Nevertheless, debates on school mathematics education effects have dominantly been framed in relation to ‘the attainment gap’ or differentiated achievement in schools, which largely mirrors socioeconomic inequality in society (Atweh, Forgasz, & Nebres, 2001; Dowling, 1998; Swanson, 2005). Highly class-driven societies, such as that of the United Kingdom (UK), often display a range of achievement levels in school mathematics that reflect regional, gender, racial, cultural, linguistic, ethnic, socioeconomic and other demographic differences (Gates & Jörgensen, 2009; Skovsmose & Valero, 2001; Swanson, 1998; Walkerdine, 2012). In fact, these correspondences appear to be so marked that socioeconomic-related differences and societal marginalisation can be prised through the lens of access to school mathe-

tics and achievement levels. Mathematics education research has responded to this ‘critical relationship to democracy’ (Skovsmose & Valero, 2001) in a number of ways and areas of research focus. There has been extensive research from many parts of the world, both majority and minority world contexts, reflecting on a troubling relationship between student demographics and access to the discourse and practice of mathematics education in schools (Skovsmose & Valero, 2001; Swanson, 2004, 2005; Walkerdine, 2012; Zevenbergen, 2003). This has been evidenced in prominent ‘equity and access’ agendas internationally (Atweh, Rossi Becker, Grevholm, & Subramanian, 2016; Atweh & Swanson, 2016) within the field of mathematics education over several decades, and looms large in a focus on mathematics education and socioeconomic status (Lubienski & Lubienski, 2005; Perry & McConney, 2010) or ‘disadvantage’ (Swanson, 1998, 2005), as well as conversations on mathematics education and democracy (Skovsmose & Valero, 2001; Vithal, 2010).

Socio-political discourses within the field of mathematics education (Valero & Zevenbergen, 2004) are relatively new. They often critically attend, amongst other noted concerns, to issues such as the alarmist discourses that abound warning of the detrimental effect to economies of national failure rates in mathematics education (Ernest et al., 2016; Swanson, 2013). In these discussions, it is acknowledged that mathematics education has often been used by nation states to pit their populations against each other in international competitions such as Programme for International Student Assessment (PISA), the National Assessment of Educational Progress (NAEP) in the USA, or the repeat of the Third International Mathematics and Science Study (TIMSS-R), sending signals of ‘crisis’ with respect to mathematics education and national interests, security and economics (OECD, 2016; Perry & McConney, 2010). This economic development functionalist perspective has been the dominant view in international and national conversations on mathematics education. The fixations with these perspectives within an era of what is often framed as globalising neoliberal governmentality (Foucault, 2004; Larner, 2000; Lemke, 2001; Ferguson & Gupta, 2002) is reflected in the (inter)national advocacies of ‘numeracy’ and ‘literacy’ in schools, and in the broader promotion of Science, Technology, Engineering and Mathematics (STEM) subjects worldwide. In this mode, Education ministries in countries across the world push the STEM agenda in the hopes of their countries’ gaining competitive economic advantage over their national rivals (Swanson, 2017; Tytler et al., 2015).

While economic and political utilitarian agendas have attended school mathematics education within nation states, and while some research emphasis has been given to these functionalist agendas, the question of ethics has been a relatively recent contribution (Maheux, Swanson, & Khan, 2012; Stinson, 2017). Relational and reflexive aspects of mathematics learning in schools have

at their core concerns about equality, respect, difference, and democratic responsibility. These ethical considerations require taking into account issues, not only of equality, relationality, intersubjectivity, relations of power, and democracy within school mathematics educational contexts, but also of the concept of 'inclusion' (Figueiras, Healy, & Skovsmose, 2016). How inclusion is conceptually deployed beyond policy mandates to better consider the dilemmas constituted as a result of slippage between policy and practice is of deeper concern to mathematics education in relation to an agenda of equality.

In particular, Figueiras et al. (2016) offer a critique of the notion of 'inclusion' in its appropriation in mathematics education. For them, inclusion begs the question of inclusion into what? This question is used to theorise on the 'formatting power of mathematics' (Skovsmose, 1994; Skovsmose & Yasukawa, 2004). This is the idea that mathematics has within its structures particular values that, through exposition in classrooms, carry a set of hidden agendas. The performance of these structural formatting codes in classrooms serves to recruit or interpellate (Althusser, 1971) the learner into a particular, differential subjectivity in relation to mathematics, which can be viewed as ideological.

Other theorists have drawn on Ngũgĩ wa Thiong'o's (1986) notion of 'colonisation of the mind' to describe this effect within mathematics education, also argued in its political and psycho-social effect as acting as a form of "occupation of the mind" (Khuzwayo, 1998). Swanson and Appelbaum (2012) take this further to ask whether the right to refuse the colonising power of mathematics is not in itself an act of 'radical democracy' (Rancière, 2009) at work. This provides a sense of the politics of values and meaning within mathematics education conversations. There is, therefore, a sense of grappling with what social justice (Gutstein, 2006) might mean for school mathematics informed by policy and practice.

Nevertheless, when examining the issues of rights and duties with respect to mathematics education, it is necessary to understand and attend to the many *micro-exclusions* that take place in mathematics classrooms and schools even as *macro-inclusions* of mathematics education are supported by policy-wide mandates and calls for widening participation in the subject. This seemingly paradoxical situation needs to be given due consideration, especially given the power of effect such micro and macro exclusions have on individuals and communities lives as a result of the 'strong voice' (Bernstein, 2000; Dowling, 1998) of mathematics in schools and the social domain. Understanding how schools and classrooms are governed by inclusion policies is necessary in analysing how school mathematics hierarchies in these contexts respond. Since school mathematics is a highly 'vertical discourse' (Bernstein, 2000) with its internal hierarchies of power, it is more difficult than other subjects that are more 'horizontal' (Bernstein, 2000) to address the rights of equality of access and treatment accorded by educational inclusion policy. The policy framework we draw

on for purposes of discussion and exemplification is the Scottish one, a context within which the authors operate as educators, lawyers, and academics.

### 3. School Mathematics, Inequality, and Policies of Inclusion

The inclusion of all children in mainstream schools is a key educational policy across Europe. In Scotland, there is a raft of acts and policies promoting inclusion of all children in the mainstream. The Standards in Scotland's Schools etc. (Scotland) Act 2000, enshrines the principle of the Salamanca Statement. This statement asserts that "...schools should accommodate all children regardless of their physical, intellectual, social, emotional, linguistic or other conditions" (UNESCO, 1994, p. 6). It introduces the presumption of mainstreaming, establishing the idea that all children should be educated in their local school unless specific circumstances arise. The circumstances are:

...to provide education for the child in a school other than a special school (1) would not be suited to the ability or aptitude of the child; (2) would be incompatible with the provision of efficient education for the children with whom the child would be educated; or (3) would result in unreasonable public expenditure being incurred which would not ordinarily be incurred. (Standards in Scotland's Schools etc. (Scotland) Act 2000, p. 7)

The Standards in Scotland's Schools etc. Act 2000 was followed by the Education (Additional Support for Learning) (Scotland) Act 2004, (ASL), which introduced the discourse of 'additional support needs' (ASN) and replaced 'special educational needs' (or SEN) so referred in the 1980 Act. This was done with the purpose of de-stigmatising, and while controversy reigns regarding which approach to adopt in addressing disability, de-stigmatisation is an ethical imperative to which most agree within the disability field (Watson, 2012). This means that all children and young people may require additional support at some stage during their school career, and local authorities and other agencies have the duty to provide additional support where needed. This denotes a move from 'special needs' to 'learning for all'. Following its amendment, the Education (ASL) (Scotland) Act 2009 provides some clarification regarding the rights of children with ASN.

The UK's Equality Act 2010 also supports inclusive education in Scotland and provides a single source of discrimination law, including all the unlawful types of discrimination, thereby promoting equity. Additionally, *A Guide to Getting It Right for Every Child* (Scottish Government, 2008) and the Children and Young People (Scotland) Act 2014 serve to promote inclusion in Scotland. Particularly, in Scotland, there is a shift not only in the language used, but in the conceptualisation of inclusion



too, as now there is an emphasis on provision of support with a focus on the right of every child to education. Nevertheless, the promotion of inclusion through Scottish policy and legislation is not automatically translated into adoption of inclusive practices in schools (Allan, 2008; Mouroutsou, 2017). Several tensions and difficulties exist associated with the way in which the policies that promote inclusion are interpreted and implemented in schools. Several commentators reference this critically in the light of difficulties associated with a continued adherence to a discourse of 'individual needs' with little development of a rights discourse more broadly (Riddell, 2009).

#### 4. Mathematics Education and Inclusion in Scotland

In PISA 2015, Scotland's scores in the three areas, including mathematics, were lower than in previous PISA surveys (Scottish Government, 2016). Nevertheless, this does not necessarily mean there is something amiss with Scottish schooling *per se*, and PISA tests are not based on any specific school curricula tasks. Their aim to measure 'abilities' beyond the school curriculum are therefore problematic in making judgements about schooling systems and curricula more widely. As asserted earlier, there is arguably too much emphasis placed on these international testing regimes, which are reductive in their approach to conversations that wish to address issues of inequality and democracy in schooling at a structural level. In fact, correspondences are made that are based on too broad a set of generalisations in coming to understand what influences inequality, underachievement, or 'failure' in schools. These causality discourses often become social constructions in themselves in the ways they are applied to particular judgements that bear political consequences and effect (Swanson, 1998, 2004, 2005). Often, international comparative tests place ministries of Education under pressure to act impulsively by applying a 'tick box' approach in aiming to correct perceived failing. They often create unrealistic pressure on ministries to institute a raft of autocratic measures to which schools are compelled to comply. This is exacerbated by media-hype around constructed 'crisis'. This may well incapacitate what might be a well-functioning schooling system by becoming governed by constant states of crisis, thereby installing a modernist ideology of ongoing 'crisis' as its *modus operandus*. By contemplating reform to curriculum policy too quickly, there is the danger of deflecting emphasis away from deeper structural, social and educational issues that have little to do with international educational competitions and their testing regimes other than this standardising, monitoring approach exacerbating them. Nevertheless, a telling finding from the most recent PISA results is that Scottish students were more likely than other nations' students to be grouped by ability into different classes and within classes (National Foundation For Educational Research, 2016).

Constructions of ability and practices that constitute them, based on conceptions of the learner and their background, have particularly deleterious effects on learners and classrooms. They install ideologies of elitism, disadvantage and exclusion (Bishop & Kalogeropoulos, 2015). The risks are well rehearsed in the literature, which speaks of how these ability constructions open up practices that enable constructions of failure (Sullivan, Zevenbergen, & Mousley, 2002; Swanson, 2004). A social class structure emerges from grouping by ability, producing a self-fulfilling prophecy and dialectic between the 'can's' and 'cant's' of school mathematics (Dengate & Lerman, 1995; Zevenbergen, 2001, 2003; Swanson, 2005). In two studies, Swanson (1998, 2004) analyses the critical relationship between the ways in which a group of students, constructed in terms of race, ethnicity, culture, language difference, and poverty, came to be positioned in terms of further deficit labels and constructions of disability through various performances of school mathematics discourses and practices. This occurred in ways that were structurally-informed by the differentiating codes and rituals of school context (Bernstein, 2000). In this way, constructed disadvantage worked to produce pedagogic disadvantage, acting to prevent these students from access to the 'regulating principles' (Bernstein, 2000) of school mathematics, and hence also to positions of 'success' through instruments of assessment. Drawing on the work of Dowling (1998) and Bernstein (2000), the interrelated concepts of context, power, discourse, subjectivity, and ideology worked together to reveal how disadvantage was constructed and reproduced within mathematics classrooms, affording possibilities and advantages to some and not others. Bernstein's (2000) concepts of 'recognition rules/codes' and 'realisation rules/codes' that affect success and failure in schools, and that produce various subject positions for learners from 'affirmation' to 'alienation', helped in providing a framework for analysis. Bernstein's concepts of 'classification' and 'framing', which speak to issues of power within and between school mathematics with its strong voice (Bernstein, 2000; Dowling, 1998), also formed an important part of the conceptual framework. These analytical categories provided a complex framework for sociological description of how disadvantage is (re)produced, but the research projects and theorisations on constructed disadvantage also allowed for analysis of tensions, resistances, and possibilities.

As it has been argued by Jørgensen, Gates and Roper (2014), school mathematics gives emphasis to inequality within the education system that then lends itself to social segregation. Ability grouping and other practices can have exclusionary effects by creating conditions for some pupils, constructed in terms of disabilities or low ability, to be afforded a more inferior education than others. These constructions beget further constructions that reinforce deficit perspectives. Rather than receiving an enriched, engaging mathematics education, learners deemed 'low ability', 'slow', or 'disabled', most often

receive an impoverished mathematics education (Swanson, 2004) that then acts as a barrier to future possibilities, advancement and wellbeing. This goes against one of the key social purposes of education, to improve life opportunities, by acting instead to reduce them (Davis, 2013). The ‘additional support’ is reduced to ‘different support’, and most often becomes exclusion from the mainstream and/or inferior access to the regulating principles of school mathematics for ‘success’. Long-term exclusion is thus deployed under the auspices of inclusive practice (Bishop & Kalogeropoulos, 2015; Sullivan et al., 2002). Those carrying constructions of low ability/disability tend to be the most vulnerable to practices of exclusion under a banner of ‘inclusion’.

Ngũgĩ wa Thiong’o’s (1986) conception of the ‘colonisation of the mind’ is given particular emphasis in the context of mathematics education, especially in this subject area, one which is most associated with cognition and intellectual work (Dowling, 1998). In some instances, divisive mathematics teaching practices create a culture of regimentation and threat (Naidoo, 1999), reinforcing the colonising power of mathematics education in this mode. The colonisation of the mind acts politically to install a class-based governmentality (Foucault, 2004) that acts to reify a particular dominant global reality and reinforce the existing status quo, dividing the world (Willinsky, 1998) according to those ‘who can’ and those ‘who can’t’ do mathematics. This acts inextricably with the political and psycho-sociological effect of internalisation of colonised ways of knowing achieved through a divisive mathematics education in practice. The effect of ‘low ability’ streaming has such a colonising affect/effect. While perceived as a state of nature, ability is often claimed to be measurable through testing, and mathematics tests are viewed as a straightforward guide of intellectual ability. William, Bartholomew and Reay (2004), however, note that what is deemed a measure of mathematical competence and intellectual ability, is often a measure of the pupil’s ability to cope with the social framing of tests, thus pointing to a question of cultural capital (Bourdieu & Wacquant, 1992). Gamoran (2004) makes reference to how low-level tracks or streams fuel a vicious cycle of low expectations in students and teachers. Teachers learn to have low expectations of certain pupils, especially disadvantaged and/or low achieving ones, and assign them slower-paced or more fragmented, procedural forms of instruction. This then causes pupils to adjust their expectations and efforts, which results in even lower achievement levels. Bishop and Kalogeropoulos (2015) speak of learning difficulties associated with the effect of labelling pupils as having ‘low ability’. If labelled a ‘slow learner’, this gives credence to the ‘need’ for ASN, giving way to the acceptance of exclusion from the mainstream classroom (Sullivan et al., 2002). The result is that this then becomes a normalised state of affairs.

Mathematics education in this tenor installs a class mechanism into schooling practices as an “occupation of the mind” (Khuzwayo, 1998). Learning your place in

the world, as a taken-for-granted socialisation of mathematics education, helps to legitimise the ‘weeding out’ or ‘gatekeeping role’ (Davis, 2013) mathematics and mathematics education serves in society, and thus ensures acceptance of the *status quo* as a divided world. The naturalised division of the world through mathematics education practices is premised on a logic of intellectual ‘ability’, often disguising classism, racism, gender discrimination, and other forms of prejudice (Dowling, 1998; Swanson, 2004, 2005).

## 5. Mathematics Education, Inclusion, and the Law

Practices of socially constructing ability in mathematics education have often seen ‘included’ children being socially excluded from their peers. While local education authorities (LEAs) are often unaware of these practices within schools, or may even endorse them through the way they may fit with their interpretations of inclusion, a child’s right to inclusion in education can be breached by measures implementing procedural justice set by the LEAs. It can be argued that the ‘included’ learners would likely suffer substantive injustice as a result. Examples span those related to streaming/tracking or ‘ability grouping’, often based on teachers’ perceptions of a pupil’s ability. It is as if such ‘knowledge’ of the pupil were a straightforward revelation of ‘fact’ about that pupil. This ‘knowledge’ of the pupil then becomes naturalised in the context of the school and schooling relations. This works between the epistemic and the ontological spheres, giving rise to a way of ‘knowing’ a pupil becoming foundational to their existence. It gives justification to segregation in the school, notably the assigning of different classrooms for different ‘ability groups’, based on an indelible construction of a notion of ability. Or, in the case of perceived ‘disability’, the practice is ubiquitous of removing the pupil from the mainstream class (often to a ‘special’ classroom space referred to as ‘the Base’ in the Scottish secondary school context), where they may be exposed to a reduced, inferior learning experience under an assumption of ASN accommodations. This then prevents them from access to the same mainstream learning experiences of their peers. Such exclusion in the application of method of inclusion would directly deny the pupils’ rights to inclusion in education under article 2 of the First Protocol to the European Convention on Human Rights on children’s rights to education. Furthermore, parents often have little say in state schools as to how their child is being grouped, the criteria being applied for such decisions, and to which classroom and context of learning their child is being assigned. This may breach the state’s duties in respecting “the right of parents to ensure such education and teaching (is) in conformity with their own religious and philosophical convictions” (United Nations, Office of the High Commissioner on Human Rights, 1989) under the same provision.

While it occurs extensively across Scottish secondary schools, Hamilton and O’Hara (2011) make note of the

increasing application of streaming or setting in Scottish primary schools. Whetton and Twist (2003) recognise that Scottish primary schools are more likely to use ability grouping than any other grouping system in their classrooms. While it is noteworthy that any form of ability grouping would act as a form of social organisation that promotes inequity and segregation (Ireson & Hallam, 2001), its use in Scottish schooling acts as a contradiction to the avowed stance on equal education as extolled in the national curriculum, *CfE*. This has implications for inclusion and child rights to equal education, not only as avowed but as practiced.

In Scotland, the legal framework requires the LEAs action in providing inclusion as seen in article 12 of the United Nations Convention on the Rights of the Child; the Human Rights Act 1998; the Scotland Act; Education (Scotland) Act 2016; Standards in Scotland's Schools etc. Act 2000; Scottish Schools (Parental Involvement) Act 2006; and Education (ASL) (Scotland) Act 2004. In the case of *X (minors) v Bedfordshire County Council* [1995], the House of Lords condemned the LEA's breach of common law duty constituting negligence in failing to take appropriate actions to assess or diagnose children's learning difficulties in order to provide appropriate educational assistance. This case set the precedence for the current law and its inclusion protections in the UK.

In the implementation of inclusion, the viewpoints of pupils, parents and LEAs are required. The importance of children's own views is provided in article 12 of the United Nation Convention on the Rights of the Child. Decision-making adults are encouraged to listen to the opinion of children and involve them in decision-making. The need to respect children's views effectively corresponds with section 12 of the Human Rights Act 1998 on freedom of expression. Section 12 gives effect to article 10 of the Human Rights Directives on individual rights to hold opinions and receive and impart information and ideas without interference by public authority and regardless of frontiers.

The reading of article 8 of the Convention suggests that the viewpoints of pupils and parents in the name of right to private and family life to be the principle consideration in implementing the inclusion policy on the school level. The Children and Young People (Scotland) Act 2014 is designed to put 'families and children at the centre' of all decisions that affect children and young people in Scotland. Further, one of the aims of the Scottish government policy, *Getting It Right For Every Child* (GIRFEC), is centred on inclusion of the voice of children and families (Scottish Government, 2008).

The Education (Additional Support for Learning) (Scotland) Act 2004 articulates duties to Local Authorities and other agencies for the provision of additional support where needed, but in respect of additional intervention, the responsibility is expected to start with the class teacher who is required to follow a specific sequence of procedures and processes, such as GIRFEC, if this becomes necessary. This is applying what is referred

to as a 'multi-agency approach'. Following this approach, children and families are to be directly involved in the decision-making process about what affects those children and young people. However, research into educational inclusive policy and practice in the Scottish schooling context seems to suggest otherwise (Mouroutsou, 2017). In practice, it seems that some school teachers and LEAs take the leading role in setting the measures and determining 'the barrier' as well as deciding on the issue of inclusion. Consequently, pupils and parents often have little to no input in decision-making. Against such a backdrop, current practices seem to overlook the legal requirements by teachers and LEAs. The issue of privacy is also breached in many instances, where teachers make individual accommodations, set separate tasks, or have 'inclusive' learners leave the classroom at various junctures in the school day. This is done openly in front of peers, so the right to privacy is thus one frequently breached in classrooms. The mathematics classroom is very often the place where practices of exception, i.e. exclusionary practices, frequently occur (Bishop & Kalogeropoulos, 2015; Jørgensen et al., 2014; Sullivan et al., 2002; Swanson, 2005). Prevalent examples are those of classrooms segregated according to 'ability grouping' where demarcations are highly visible, or where a learner is asked to leave the classroom and attend a support needs 'Base', thereby openly 'marking' bodies through the 'marking' of minds.

Children's right to express their views on arrangements that involve them was provided in article 12 of the United Nations Convention on the Rights of the Child on the international level; and in article 10(1) of the Human Rights Act 1998 in the UK. In Scotland, any decision that may affect the child or young person, due regard to that child or young person's view must be paid in accordance with section 2(2) of the Standards in Scotland's Schools etc. Act 2000 and section 4 of the Education (Scotland) Act 2016. Article 23 of the United Nations Convention on the Rights of the Child requires governments to recognise children's right to enjoy a full and respectful life in the context of social integration. This is clearly articulated in the words:

...children are given the right to education in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development. (United Nations, Office of the High Commissioner on Human Rights, 1989)

This corresponds with the right to education in article 2 of the first protocol of the Human Rights Act 1998. Specifically, this right is linked to the public authority's duty to respect the right of parents to ensure that the education and teaching provided by the LEAs is in conformity with their own religious and philosophical convictions. Similar tone is also observed in section 1 of the Standards in Scotland's Schools etc. Act 2000, which guarantees that

every child of school age shall be provided with school education or other arrangement by an education authority. The word 'shall' used in section 2(1) of the Act must be interpreted as a statutory duty of the education authority to do so.

Taking the right to education and LEAs' duty on board, it is not only fundamentally important for education law to address this need, but also to prevent 'included' children from being marginalised and discriminated against, by reason only of the difference determined by the barriers set by the LEAs. In the context of integration for the disabled, the Snowdon working party (Thorpe-Tracey, 1976) used the term "absence of the segregation" and "social acceptance", yet segregation and social exclusion is often widely instituted in schools. This is done through practices of determination by excluding certain pupils from the mainstream mathematic class, away from their peers, and offering a different replacement to their learning.

## 6. Conclusions

School mathematics discourse and practice is hierarchical as a consequence of mathematics' 'strong voice' in schools and society. This is reflected in the increasing policy and curricular emphasis on 'numeracy' and STEM in Scotland, but also as a widening trend in the international arena. School mathematics is therefore invested in power relations, thereby (re)producing a social class structure that affords access and opportunity to some and not others, based on constructions of ability and disadvantage. Practices of inclusion are framed by relations of power that operate within classroom mathematics discourses and practices in complex ways that often enable and effect exclusion. These issues are ones of ethics, democracy and equality in the politics of meaning in mathematics education, but are also an issue of lawfulness in accordance with rights-based approaches to practices in mathematics classrooms.

It can be argued that removing a child from the learning environment comprised of their peers, or publicly treating a child differently based on constructions of 'low ability' or 'disability' or some form of difference-as-deficit, would have negative social, cognitive and psychological impact on the child into adulthood. This is because depriving the children's right to learn with their peers in the mainstream classroom can be seen as an exclusion measure, which may lead to social deprivation in the school setting with potential further cognitive/psychological impact. Often, LEA's interpretations of their legal obligations and the provisions in place in the secondary school, seems to use 'different from' as a 'get-out clause' rather than 'additional to'. This prevents provision of meaningful education to the 'included' learners who are constructed as mathematically disabled and/or kept out of their peers' class and often directed to a replacement class with mostly low attainment learning outcomes.

Practices have lagged policy, and this has implications for research. A greater emphasis is needed on researching disadvantage in mathematics classrooms by taking into account a rights-based approach to issues that emerge beyond arriving at ethics or inequality in and of themselves, even as these are critically important. This meets social justice aims more substantively. Socially-just mathematics education in schools requires embracing greater legal tenure in policy, practice and research discussions on inclusion in ways that centralise a rights-based approach. There are also implications for professionalism in schools, with policy-makers, LEAs and teachers potentially needing to better understand the consequences of exclusionary practices and what these may look like, from a legal framework, a policy perspective, and pedagogically. This advocacy is not with the intention of demonising teachers or contributing to widespread discourses on 'teacher blame', but to rather draw attention to the deeply unequal and divisive structural conditions that may lead teachers and schools in specific contexts to make particular choices that effect participation in practices of exclusion under a decree of 'inclusion'. It is the specific enabling conditions for exclusion and inequality, and the relations of power that produce them, which is the focus of attention here, taking on rights-based and justice-oriented perspectives.

More importantly, there is a need for national and transnational conversations, from both critical sociological and rights-based approaches, on systemic exclusions and injustice performed through schooling systems in Scotland and world-wide. These conversations need to include critical debate on the social systems that feed and support hierarchical, class-based and unequal schooling systems. They should also include a return to public debate on the purposes of Education, and especially mathematics education, which often performs such injustices and divisions powerfully and under a veil of espoused political neutrality. There also needs to be greater inclusion of voice of children and young people in the decision-making of their lives and educational futures. Certainly, rights-based perspectives would necessitate such advocacy. How to achieve an inclusive, socially-just mathematics education in schools in international context is becoming an increasing imperative in the light of widening inequalities and polarisations globally. In response, mathematics education has a political and legal responsibility to address such undemocratic trends and increasing exclusions in schools and society.

## Conflict of Interests

The authors declare no conflict of interests.

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Article

## Incorporating Children and Young People’s Voices in Child and Adolescent Mental Health Services Using The Family Model

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### Abstract

Mental illness in children and young people is increasing in frequency and complexity, is emerging earlier and is persisting into adulthood. This is a global issue with implications for research, policy and practice. Children and young people require the experience of safe, nurturing relationships for optimal lifelong outcomes. Despite awareness of this in Child and Adolescent Mental Health services, a focus on the relational context in which children and young people present is not universal. A challenge in family focused practice is to ensure that no individual’s voice is ‘too loud’ and that children and young people’s voices are heard. This article illustrates how a balance between individual and systems understanding can be achieved in therapeutic work by incorporating the voices of children and young people and concerns of other family members. This article describes an approach to improving family focused practice in a public Child and Adolescent Mental Health service. Use of The Family Model, as a family focused practice tool, is presented across three service settings. The Family Model intervention is briefly described, outlining the way in which it supports collaborative practice and assists clinicians to achieve the balance described above. Vignettes will demonstrate how children and young people’s voices are explicitly incorporated in formulating mental health issues with two generations to generate developmentally informed care plans.

### Keywords

adolescent; children; family focused practice; mental health; psychology; The Family Model; young people

### Issue

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### 1. Introduction

Incorporating children and young people’s (Ch&YPs’) voices in mental health (MH) services is necessary and challenging. In Child and Adolescent Mental Health (CAMH) services, it is assumed that Ch&YPs’ views are routinely incorporated into usual care. Indeed, as the British Medical Association points out, developmentally appropriate shared decision-making has been a goal of such services (as cited in Rutter & Stevenson, 2010, p. 9) and this right of young people to have their perspective considered and taken into account in decision-making is

protected in article 12 of the United Nations Convention on the Rights of the Child (1989, p. 4) and is reflected in local policy (Australian Infant, Child, Adolescent and Family Mental Health Association, 2008, p. 15) and legislation, which emphasises that Ch&YPs’ views are to be considered with respect to their developmental capacity (Children and Young Persons (Care and Protection) Act No 157, 1998, p. 6). The attention given to consumer participation in CAMH research was described as limited a decade ago (Macdonald et al., 2007, p. 3) and though the importance of Ch&YP participation featured in health policy at the time, knowledge concerning the pragmatics

of Ch&YP involvement was also in its infancy (Day, 2008, p. 6). The literature in this field is evolving and though Ch&YP participation is not routine, it is now recognised that Ch&YP attain value and benefit from such participation (Weil, Lemer, Webb, & Hargreaves, 2015, p. 1).

A related priority of CAMH services is the provision of family focused care, as demonstrated by government and service provider investment and health policy (Foster et al., 2016, p. 129). This in part reflects the recognition of family functioning and the interplay between presenting symptoms, relationships, parenting, parental and sibling illness and stress, but it also reflects an appreciation of the challenges associated with an over-focus on the index or referred child (another notable barrier/imbalance to hearing the voice of the young person). Thus, CAMH services must balance parent/carer and Ch&YP communications.<sup>1</sup>

The challenge, therefore, is to ensure that Ch&YPs' voices are systematically 'heard' whilst acknowledging and incorporating parental (and others') concerns and difficulties in relationship work. One such approach is provided by The Family Model (TFM, Falkov, 2012), which helps clinicians to incorporate individual perspectives (both parent and Ch&YP) into family focused care using a collaborative, non-judgemental process. This facilitates a balanced approach whereby Ch&YPs' perspectives and those of key adults and other family members are considered when someone is unwell.

TFM provides clinicians with a structured clinical approach when engaging with the unwell person and their family members. The approach/method consists of a visual illustration of key areas/elements (*Domains*) and associated relational interactions (*arrows*), using a whiteboard or paper, to support a structured conversation between clinician and family members. The aim of this conversation is to acquire a shared understanding about how mental/physical illness in one family member can affect others and how they, through their understanding and responses can, in turn, influence the experience of the unwell person. TFM approach emphasises the core role of relationships in shaping experiences and determining outcomes for all family members. For example:

- Being a parent experiencing mental or physical ill-health can affect parenting, the interparental relationship and interactions with children;
- Ch&YPs' mental and physical ill-health and developmental needs can impact on parents and other family members in various ways.

This article will focus on the latter example in CAMH services.

## 2. Method

Clinical vignettes will illustrate use of TFM in three different CAMH settings. The reporting of entire session ma-

terial is beyond the scope of this article. Pseudonyms (as indicated by \*) have been used and demographic aspects have been altered to preserve confidentiality. The vignettes will show how TFM helped clinicians to engage and work in partnership with all family members to achieve a shared understanding of the challenges they were facing. In doing so we hope to illustrate how TFM helps clinicians to achieve a balance between empowering Ch&YPs' roles in managing their symptoms and developmentally appropriate input from their parents and other family members to enhance clinical outcomes. Stylised visual representations of de-identified TFM whiteboards have been provided to accompany the vignettes.

### 2.1. The Family Model

TFM visually demonstrates the key areas of focus and associated interactions using 6 *Domains* and 10 bidirectional *arrows* (Figure 1). The *Domains* include: *Domain 1* (parental difficulties/illness), *Domain 2* (Ch&YP's illness/difficulties), *Domain 3* (family relationships), *Domain 4* (strengths and vulnerabilities), *Domain 5* (services for Ch&YP and for adults), and *Domain 6* (a broader culture and community, ecological *Domain*).

TFM uses arrows to illustrate the bi-directionality and interdependence between *Domains*. The arrows represent the role of communication between all members when one or more individuals in a family are unwell. Falkov (as cited in Reupert, Maybery, & Nicholson, 2015, pp. 8–9) notes that how the core components (*Domains* + *arrows*) interact with and influence each other is determined by the quality of an individual(s) adjustment within his/her family, as well as the adequacy of the whole family's adaptation to living with the individual(s) affected by illness.

#### 2.1.1. Using TFM Clinically

TFM helps clinicians to visually identify and map ways in which family members are connected. The broad aim is to use TFM as a tool to foster engagement and to facilitate thinking about connections between symptoms and relationships in a balanced and understandable way, highlighting both the family's strengths and difficulties. Each person is provided with a photocopy of TFM (or TFM is drawn on a whiteboard). The approach is flexible and can be used with the unwell person (Ch&YP or adult or both) and with other family members, in single or across multiple sessions.

This article examines the single session version. Here the focus is on broadening thinking about the unwell person's experience in the family and the impact of that person on others in the family and their associated responses. The aim is to facilitate a better shared understanding and to use this to improve communication about symptoms and their impacts by developing a collaborative, family focused care plan. In developing such

<sup>1</sup> Henceforth we use the term 'parent' for brevity, anticipating that our readers will consider this inclusive of caregivers and guardians.

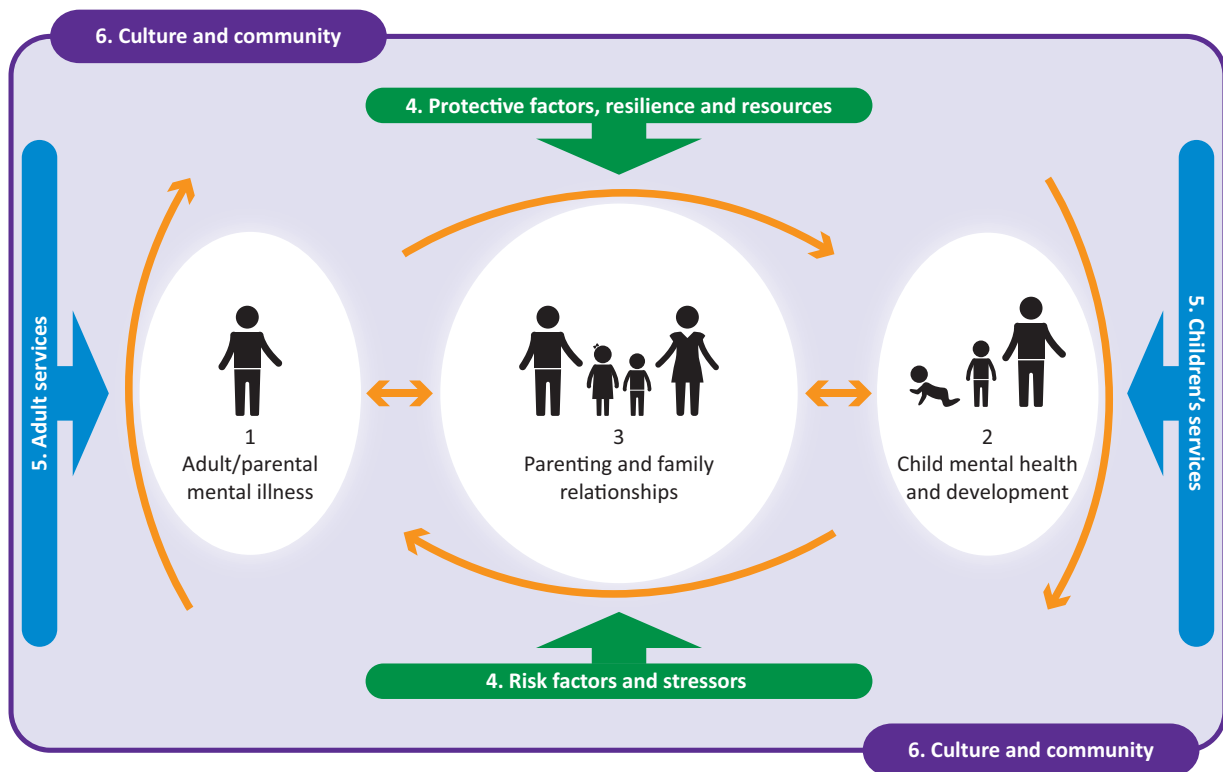


Figure 1. Cross-sectional components of TFM (Falkov, 2012).

a plan, the emphasis is on encouraging open discussion and empowering parents to engage with and respond to their Ch&YP's concerns. This also helps to develop practical, age-appropriate strategies for change so that each person can respond in a way that is manageable for themselves and supportive of the unwell person. Specifically, TFM session concludes with those present actively contributing to a collaborative Care Plan.

### 2.1.2. Overview of the Single Session Approach Using TFM

The session begins with introductions and a brief explanation about the purpose of the meeting and use of TFM. This is followed by an explicitly agreed 'non-blaming, non-judgemental' approach. These words are written on the whiteboard or on paper, in red, to emphasise the core values associated with this approach.

The Six *Domains* then provide the foundation for a structured conversation, which proceeds sequentially, using the *Domains* and arrows. It starts by asking each person what they believe are the two key issues for them, at the time of the meeting. Their responses are recorded in summary form, according to respondent position (Adult-D1; Ch&YP-D2).

In CAMH settings, the Ch&YP is typically identified as the patient, and adult caregivers recognised as carers, but not necessarily as consumers with their own problems and predicaments. This can result in an over-focus on the identified patient's problems, as heard through the voices of carers. Where the Ch&YP is the focus, TFM

approach helps to illustrate the stress for adults and other family members when a Ch&YP is unwell. It may also help to validate that others in the family may themselves also be struggling with significant stress or illness. This illustration of transgenerational difficulties helps to demonstrate the connectedness between, for example, the affected Ch&YP and parents, and helps to reduce over-focus on just the unwell young person or child. This transgenerational connection between *Domains 1 and 2* (adult and child mental health and development) is illustrated with arrows (which are drawn in red pen to emphasise the importance of the connections). This is a key point in the conversation where participants can observe, through their own responses, the connections between family members. This process is regarded as crucial in facilitating a shift in perspective, from an exclusive focus on the unwell individual to an appreciation of the interactions around that person.

*Domain 3* (parenting and family relationships) is an opportunity to further acknowledge everyone's role in the family and the importance of communication. Examples are sought from family members to illustrate communication, including imbalances (recurring patterns associated with negative reactions, distress or frustration and anger). These imbalances, shared verbally by family participants, and recorded visually by clinicians on a whiteboard or paper, help to clarify problems and establish goals for the Care Plan. Clinicians emphasise that working together in this way can help recovery and focussing on communication can improve problem solving and risk management.



An example of imbalanced communication is the tendency for parents accessing CAMH services to want their Ch/YP's problem 'fixed'. Whilst some parents can readily see that their role is important and that relationships are a key part of problem definition and resolution, in other instances there is a greater level of rigidity which might manifest as, for example, a reluctance to accept a role in their child's recovery. In such instances TFM has been helpful to improve parental appreciation of the relevance of family relationships as part of the Ch&YP's treatment and recovery.

A further example of imbalance involves Ch&YP who are in a caring role, for example in families where parental mental or physical illness is prominent, and where the extent of that role is proving to be sufficiently burdensome to impact on their development. By inviting each person to describe issues of importance to themselves in the presence of other family members, there is opportunity for improved understanding about each person's experience. This helps to illustrate both adult and child roles and highlights imbalances, in a non-blaming way. This can allow for more open conversation and mutual exploration of potential solutions via the care plan objectives.

*Domain 4* (including risk and protective factors) validates the difficulties being faced, not only by the affected person but other family members too. This is essential for credible engagement in the next step, which focuses on strengths and protective factors. This balanced approach helps to empower family members in providing support and in developing recovery and relapse prevention strategies. The focus on strengths as well as difficulties helps to ensure that personal resources, which may have become hidden or neglected within the family's crisis, are acknowledged and incorporated into care planning and treatment approaches.

*Domain 5* (services) provides an opportunity to reflect on the clinician's role and supports engagement. This *Domain* is based on the premise that prognosis is directly linked to the quality of the relationship between the family and key members of health-care teams. This is also the place to 'map' the services involved, their roles, and service gaps. A coordinated approach might include a multi-professional, inter-service meeting and consideration of the family's role. Confidentiality is of primary concern; clinician familiarity with good practice regarding information sharing, privacy and confidentiality helps ensure a balanced approach to any competing needs in the family. Respecting an individual's confidentiality is not in and of itself a barrier to thinking about and talking with family members.

*Domain 6* (culture and community) allows for consideration of the family's experience of stigma and discrimination, neighbourhood and community support. This includes opportunity to consider cultural, religious, spiritual and migration issues which are often insufficiently addressed in MH services and which may be important accompaniments to the presenting symptoms and crucial determinants to recovery.

### 2.1.3. Linkages

The *arrows* connecting the six *Domains* provide clear visual evidence for participants to see how their respective experiences as individuals are linked. The sequential process of the collaborative conversation helps to build 'a visual picture of experiences' and assists each person with integrating the shared information. The aim is to develop a shared formulation of each family's unique 'story' in an empathic and empowering way, which respectfully reflects common themes such as loss, adversity and resilience. This enriched view reflects both individual and collective experience of symptoms and illness and helps to generate a developmentally informed, jointly owned Care Plan.

## 2.2. Service Settings

The service settings include an outpatient CAMH service, an inpatient specialist adolescent MH unit and a paediatric inpatient setting in North Sydney. Demographically this is an urban area with a population over 370,000, significant cultural and linguistic diversity, with less than 60% Australian-born and 28% speaking a language other than English at home (Australian Bureau of Statistics, 2011). Mean income was higher than the national average and the unemployment rate lower.

### 2.2.1. CAMH Community Outpatient Setting

Northern Sydney Local Health District (NSLHD) Child and Youth MH Service (CYMHS) is a multidisciplinary specialist CAMH service located adjacent to a tertiary referral hospital. In 2016 a Quality Improvement (QI) initiative was undertaken to explore acceptability and feasibility of using TFM as a single session intervention. Referrals to the community outpatient clinic consisted of newly referred and existing clients and their families with two generations of mental ill-health, who were deemed to be 'complex' or 'stuck' by their referring clinician. TFM intervention was provided as a single, one-hour outpatient encounter with Ch&YP and their family by members of the multidisciplinary CYMHS team. Clinicians also had a goal of enhancing collaborative care planning for the referred families. The QI initiative collected written feedback from clients of the service, the content of which suggested TFM, as a single session, may be acceptable to Ch&YP and their families (Hoadley, Falkov, & Agalawatta, 2016).

### 2.2.2. Specialist Adolescent Inpatient Setting

The Brolga Unit is a purpose-built 12-bed adolescent MH acute inpatient unit within NSLHD, part of the CYMH service which accepts referrals from across New South Wales. It is expected that young people who require admission to the unit will have complex MH needs, often with other serious co-morbid psychosocial problems. The existing model of care entails work with the Ch&YP

and their parents to explore the impact and role of symptoms and problems across the family, complemented by evidence, values and strengths based approaches to treatment. An assessment of these systems forms an important part of case formulation and treatment planning. TFM was introduced in 2016 and was thought to be a potentially useful tool to enhance family focused practice, particularly to support formal recognition and communication of the bidirectional impact of family dynamics and the Ch&YP's recovery.

The single session option has been used early in the admission (usually after initial individual sessions with the Ch&YP and parents) and supports the expectation that assessment and treatment incorporates both the Ch&YP and the family. The diagrammatic representation of the session is used to review progress and forms part of the discharge transition documentation.

### 2.2.3. Paediatric Inpatient Setting

The RNSH CYMHS service provides admissions for Ch&YP to the RNSH paediatric ward. According to this ward's model of care, Ch&YP who are at risk of significant harm to themselves, or who require containment to prevent deterioration can be admitted following the principles of least restrictive care. As part of the assessment and treatment planning for some of the young people on this ward, CYMHS clinicians provide a single session TFM intervention.

The purpose of TFM session within this setting is to gather information about the circumstances warranting admission and to assess and facilitate the changes that need to occur to allow safe discharge. The Ch&YP's perspective is critical to this process as it is typically their communication concerning risk of harm to themselves that results in the need for admission. As admissions are intended to be brief and as the ward does not have the resources of a specialist MH unit, the focus of the session is to support the family in developing and agreeing on a care plan that supports discharge and transition to community-based services. The care plan may include, for example, the development of a system of communicating level of risk between parent and the Ch&YP. The Ch&YP is invited to discuss barriers to communication with parents, of particular importance where the Ch&YP's comfort with communication may allow de-escalation, or even the prevention, of future crises. TFM allows for balanced consideration of differing perspectives concerning risk and emphasises roles and family strengths.

## 3. Results

### 3.1. Vignettes

#### 3.1.1. Community CAMH Outpatient Vignette

Samuel\* was a 14-year-old male who was referred to the outpatient CAMH service after inpatient care for a first

episode of psychosis. Samuel initially presented to a tertiary hospital emergency department after several days of confusion and anxiety. The symptoms followed a 6-month period of social withdrawal and a decline in academic performance. There was no prior contact with mental health services and no history substance misuse. On Samuel's initial assessment behavioural disorganisation, auditory hallucinations and delusions of persecution, reference and control were described. There was a potential risk of harm to others consequent of thoughts of acting on the delusions of persecution involving his peer group. Samuel's inpatient management was predominantly biomedical and he achieved remission of positive symptoms and was discharged from inpatient care after a fortnight.

Samuel and his family's attendance at scheduled outpatient appointments was inconsistent. At appointments where he did attend, the community clinician was concerned by requests from the family to disengage from treatment. Attempts to involve the family in collaborative care planning resulted in apparent disengagement without evident alternative care plans. The clinician was concerned about Samuel's risk of relapse and about potential neglect of Samuel's medical care.

The complexity of the case and potential risk led to consultation with the local child protection service. With the assistance of the family's general practitioner, clinician concerns were communicated to the family who agreed to attend a care planning session as a family.

TFM was chosen to provide the framework for the session so as to explore family capacity to provide safe care and so that a shared understanding of Samuel's treatment needs could be established among clinicians and the family. Samuel's parents communicated up-front that, as they had received psycho-education, safety and relapse prevention plans as an inpatient and as Samuel was still taking his medication, they did not see a need for ongoing care. Samuel informed clinicians that though he had been adherent to date, he wanted to cease his medication. The clinician running the session was aware of the potential for conflict with the family and TFM provided the option to begin by exploring the family's strengths (*Domain 4*). Samuel volunteered that 'we box off the bad stuff' indicating that, from his perspective, the family managed potentially aversive experiences through avoidance. His parents endorsed this statement.

Subsequently, the clinician explored the impact of symptoms and illness across the two generations (*Domains 1 and 2*). Samuel spoke freely of his difficulty understanding why he had been admitted to hospital. This seemed to surprise his parents. His mother, in turn, spoke of a diagnosis of breast cancer one year earlier. She had received surgical and medical intervention for this with good response but had suffered from anxiety (*Domain 1*) in the context of this illness. Furthermore, when the clinician explored the impact of maternal medical illness on her mood (*Domain 1*), Samuel's mother stated, 'I never thought I was unwell', referring to the time after her cancer treatment.

An exploration of the services involved in her medical care (*Domain 5*) indicated poor adherence to follow-up medical imaging and reluctance to attend her general practitioners' appointments due to time constraints. Samuel's mother had understandably avoided environments which might remind her of her own illness and the clinician perceived that Samuel, similarly, might be using this strategy to manage his own anxiety about illness and treatment. The clinician chose to highlight the parallels heard in the communications of mother and son, illustrating this with arrows connecting *Domains 1 and 2* which allowed for more detailed discussion about communication as a family. The impact of the anxiety impacting on medical follow-up, as identified in both *Domain 1 and 2*, and how this might be addressed in a care plan was also demonstrated graphically (arrows from *Domains 1 and 2* to care plan). The clinician noted that the family's strategy might be as much a challenge as it was at times a strength and reflected that it was Samuel's original statement about boxing off 'bad stuff' that proved the catalyst for family developing a shared understanding.

An exploration of *Domain 6* allowed for a discussion of the family's migration story; Samuel and his parents were migrants from Columbia, having moved when he was 10 years of age. The dissimilarity of health services in Australia and the limitations to the availability of other

family and community supports were noted by the clinician. This reflection served to emphasise both the role of the nuclear-family's strengths but also their need for health service support.

The care plan was constructed in collaboration with the family at the end of TFM session drawing on features from each of the other domains. As Samuel's primary concern had been duration of medication treatment, this included an explanation about the role of medication in relapse prevention. Samuel seemed to feel heard, as evidenced by his engagement in the conversation and participation in the development of the care plan. Samuel agreed to maintain adherence for an appropriate duration, pending review. Both Samuel and his mother made commitments to engage in outpatient management for their respective psychiatric and medical illnesses. Samuel and his parents requested for further family sessions to be part of Samuel's future care and contracted to several more sessions with the service.

Figure 2 demonstrates the reciprocal impact of *Domain 1 and 2* concerns. Samuel and his mother worry about each other's wellbeing (depicted by the large red arrows and accompanying statements). The universal concern for the mother's illness and Samuel's primary concern (medication treatment) visually inform the care plan (green arrows).

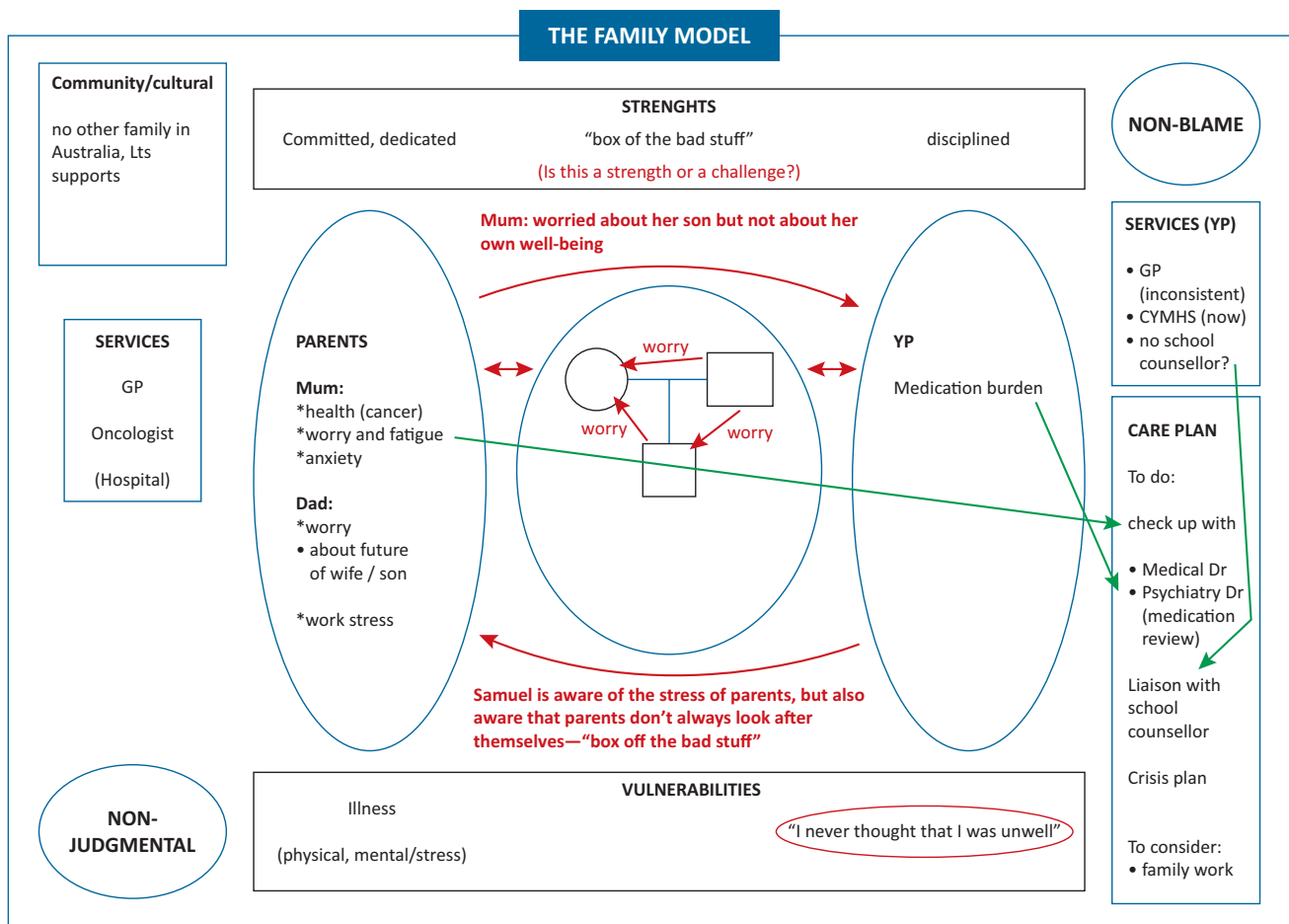


Figure 2. Outpatient TFM.

### 3.1.2. Specialist Adolescent Inpatient Vignette

Jane\* was a 15-year-old only child of Argentinian parents referred by the community CAMH service for 'diagnostic clarification'. Jane presented with symptoms of treatment resistant generalised anxiety disorder associated with deliberate self-harm and intrusive obsessional thoughts. She also reported recent onset perceptual disturbances in the context of worsening anxiety. She had not responded to high dose SSRI treatment and individual sessions with a psychologist. There was a history of prematurity and separation anxiety. Individual sessions indicated that both Jane and her parents act protectively towards each other as a priority. A single session TFM was used in the second week of her admission to facilitate discussion and develop a shared understanding of what the impact of individual anxieties and well-intended behaviours had on Janes' unremitting symptoms and their relationship.

During the TFM session, parents were asked about their two main issues. Both parents expressed their concern and care for Jane as their expected and understandable priority. Jane's mother acknowledged that her own anxiety (*Domain 1*) motivated her often intrusive interaction with Jane, particularly around health and nutritional issues. In contrast, Jane's father reflected how his anxiety about her wellbeing had led to his tendency to agree with Jane's requests. Jane identified worry and confusion as her main struggles (*Domain 2*). She was particularly worried about her parents' own worries and perceived her mother as intrusive as a result. This sharing of information, by each parent and young person, indicated important and difficult bidirectional connections across the generations.

This usefully illustrated the connections between *Domains 1 and 2* and facilitated sequential progression of the conversation to *Domain 3*, where more detailed explorations of key communications occurred. For example, Jane described how her parents tended to catastrophize and panic in response to her distress. Jane also suggested that her mother's intrusiveness had impeded her ability to make her own choices about the management of distress. Both Jane and her parents also identified guilt as a barrier to talking about negative emotions and described consequent arguments and escalation of her anxiety symptoms.

As the conversation progressed Jane appeared able to speak more openly about how her mother's intrusiveness generated fear and withdrawal within herself. This was particularly empowering for Jane as her parents were helped to maintain the 'non-blame and non-judgemental' approach whilst she spoke. The clinician helped reframe Jane's mother's pattern of defensive-response as a need to provide for and protect Jane due to her fragility at birth. This allowed for discussion about adolescent developmental needs and age-appropriate parenting responses.

*Domain 4* (strengths) were noted to be the family's capacity for connection through humour and their

value on sharing time together, despite their difficulties. It was possible to validate these qualities as invaluable resources.

*Domain 5* provided opportunity to review past service contacts and treatments and to highlight the gap in family focused work. This allowed for useful discussion about a balanced approach involving a combination of individual as well as family and relational components.

TFM provided a non-judgemental frame within which parents were able to better understand the origins of their anxieties (trauma of having a premature child without support), and how these well-intentioned expressions of anxiety impacted on Jane's mental health and development. In turn, Jane's avoidance of negative emotions led to behaviours that perpetuated her parents' worries and exacerbated her own anxieties. This vicious cycle of miscommunication was highlighted through the sequential process of TFM dialogue and illustrated using the bidirectional arrows (Figure 3).

A single TFM session helped to identify a pattern of transgenerational anxiety and to explore alternative strategies to communicate distress. The shared conversation also illustrated developmental perspectives in which all participants could appreciate their respective roles in both problematic communications and in potential solutions (Figure 3).

Jane's mood improved over a week-long admission and her perceptual disturbances dissipated without medication change. She was discharged home with ongoing outpatient follow-up, including a recommendation for ongoing family work to consolidate progress.

Figure 3 demonstrates the reciprocal impacts of *Domain 1 and 2* concerns. In this case guilt concerning responsibility for a parent or young person's symptoms or vulnerability, respectively, are depicted by the large red arrows and accompanying statements. The absence of services for parents (*Domain 5*), despite the apparent vulnerabilities (*Domain 4*), is highlighted visually by red arrows and informs some of the items in the care plan.

### 3.1.3. Paediatric Inpatient Vignette

Abigail\* was a 16-year-old Caucasian girl of Australian origin who lived with her parents and younger brother, Shaun\*. She was referred to a tertiary hospital emergency department by her school counsellor with suicidal ideation and a suicide plan. She presented with symptoms of depressive disorder and of emotional dysregulation, with a history of both non-suicidal self-injury and of overdoses with suicidal intent. Although she had experienced some alleviation of symptoms during a prior 4-month period of psychological treatment, her symptoms had escalated at a time when there were increasing academic demands and discord in the home environment.

Initial assessment indicated ongoing safety concerns and significant communication difficulties between Abigail and her parents. She was admitted to the paediatric ward with the aim of providing a brief (<72 hour) inter-

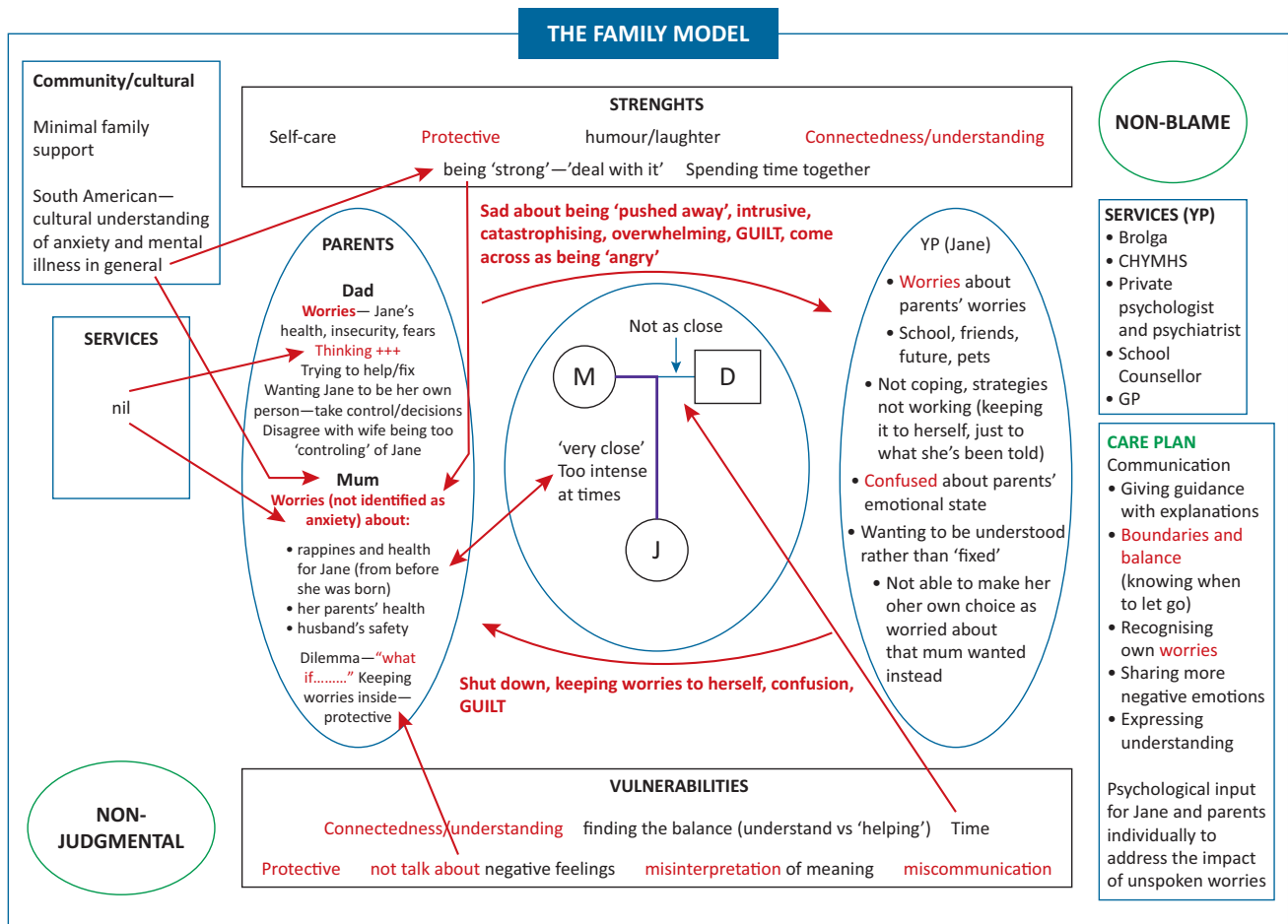


Figure 3. Specialist Adolescent Inpatient TFM.

vention, focused on safety and treatment planning. Following individual interviews with Abigail and her parents, a TFM session was arranged with the aim of developing a shared formulation of Abigail's crisis, the role and importance of communication, and a plan for discharge.

Abigail's parents noted difficulties balancing the demands of work with parenting and caring for the children's elderly grandmother. Both parents felt they had little time for themselves to exercise and relax (*Domain 1*). They also acknowledged high levels of interparental conflict (*Domain 3*), particularly with regards to the management of Shaun's externalising behaviours. There was anxiety (*Domain 1*) on her mother's behalf about the children's psychological health, and frustration on her father's part due to feeling ineffective and helpless in supporting and managing the family as he felt he should.

With her parents' concerns acknowledged, Abigail could discuss her increasingly low mood and anxiety (*Domain 2*), and explore her reluctance to communicate this to her parents. Abigail pointed out that she perceived her parents as overloaded and this was supported by the information visually depicted in the TFM model (*Domain 1*). Over time, Abigail's withdrawal had reduced opportunities for developing a close, trusting relationship with her parents and she did not see them as capable of assisting

her to manage her distress (*Domain 3*). Furthermore, she feared that additional stress might precipitate their separation. This communication prompted her parents to reassure her that there was no intention for the parental unit to break apart.

Thick red arrows were drawn between *Domains 1 and 2*, illustrating the importance of the connection between Ch&YP distress and the overloaded parental unit. Of particular importance was the clinician's ability to link some of this information to *Domain 4*. The strengths included Abigail's parents expressing their commitment to her support. Additionally, her parents could empathise and validate how hard this experience must be for her given her concern that they were overloaded and might separate.

All agreed that being closely connected as a family was both a strength and a weakness; the family reported sensing, but also fuelling, each other's stress. This provided opportunity to explore family interactions in more detail in *Domain 3*. Abigail explained that she had invested additional effort in academic achievement in an attempt to compensate for parental stress and she indicated disappointment that this had not helped the situation at home (*Domain 3*). Abigail's mother acknowledged that she too had immersed herself in her own work as a refuge from worry about her children (*Domain 1 and 3*).



The clinician discussed this interdependence between the children’s and parents’ difficulties (*Domain 3*) and used arrows to depict this relationship.

The clinician helped Abigail’s mother to recognise that to avoid her own distress she may not have attended to signs of Abigail’s anxiety. This avoidance was reframed as self-protective and as a behaviour that allowed her to function as a provider. This avoidant coping style had also frustrated Abigail’s father and created tension between them (*Domain 3*), specifically as it had not been effective in managing Shaun’s behaviours. The clinician suggested that though Abigail’s mother’s focus on employment was accepted as a strength, the accompanying avoidance at home was seen as a vulnerability (*Domain 4*). Abigail’s father explained that he felt his son’s behaviour was the cause of many arguments in the home. Reflecting the over-focus of his father, Shaun contributed that he often sensed that he was blamed and felt in the spotlight for the wrong reasons (*Domain 3*). Shaun reported resentment toward his parents, and his parents reflected that this might have increased his provocative behaviours and distanced him from the family, whilst also reducing their capacity to respond to Abigail’s needs. Again, the interdependence between *Domains 1,2 and 3* was visually represented with arrows to aid the family’s understanding.

In devising the Care Plan to support Abigail’s safe discharge, a system to communicate perceived risk that placed equal responsibility on Abigail and her parents was discussed. This was intended to address some of the challenges identified in *Domain 3 and 4*. As is typical, the communication system intended to allow Abigail to disclose risk in a clear and simple manner. Pre-agreed responses were aimed at minimising potential escalation of risk, and over time to support development of trust in consistent parental responses (*Domain 3*).

Although not discussed in the single TFM session above, the impact of *Domain 6* was implicit in the conversation about academic and occupational behaviours. The pressures experienced by a family living in a developed urban area, in which it is commonplace for both parents to work full-time and where the expectations of adolescents to compete with peers to achieve at school formed part of the cultural pressures impacting on this family.

Figure 4 demonstrates the impact of the *Domain 1* concerns on the young person’s symptoms (the large red arrow and accompanying statement). Much of the material was understandably challenging for the family and strengths in *Domain 4* are emphasised visually. Each Ch&YP’s communication about their MH concerns and challenges (in addition to parental input) informs the care plan (smaller red arrows).

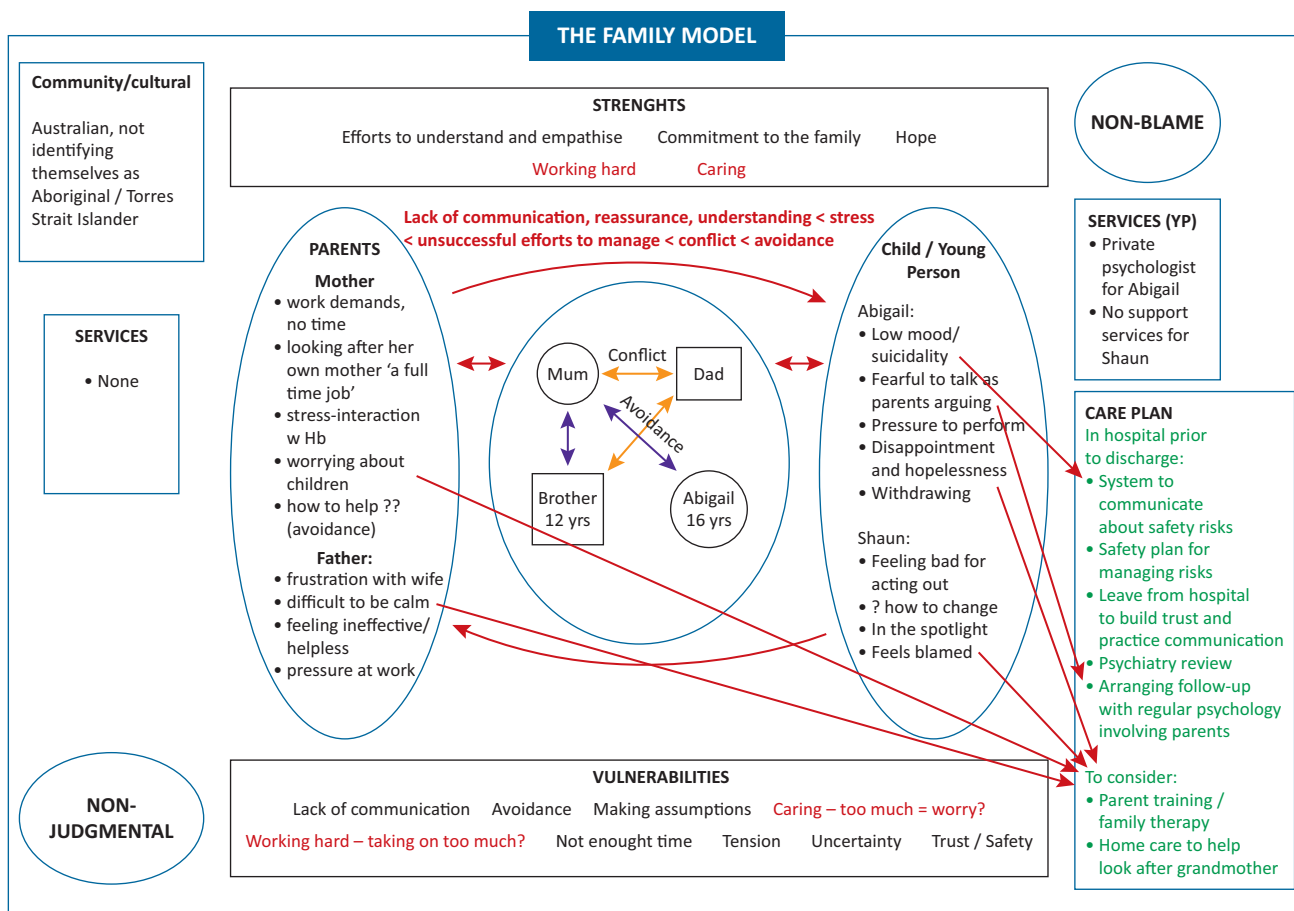


Figure 4. Paediatric inpatient TFM.

#### 4. Discussion

These vignettes help to illustrate the potential usefulness of TFM as a feasible, accessible and understandable intervention for both clinicians and family members in a range of CAMHS settings. The approach appears to support clinician engagement with both parents and their unwell Ch&YP in achieving improved communication and collaborative care planning. Despite clinical complexity/acuity, a balance was achieved between enabling the voice of the young person to be heard whilst ensuring understandable parental concerns about their child were appropriately attended to.

Despite the varied clinical settings and the diversity of patient predicament, clinicians were able to use TFM approach to ensure the 'voice' of the YP was heard in a way that was meaningful to parents, and so that the parents in turn were helped to better appreciate their own roles as both part of the clinical complexity and integral to the care planning process. Clinicians found that TFM frame together with the sequential conversation process and the communications of the young person (the identified patient in CAMH services) seemed to assist parental acknowledgment of their own challenges. For example, in Vignette 1 Samuel's communication indicated his frustration with the CAMH inpatient service and his mother subsequently provided an important insight into her own pattern of accessing care. In Vignette 2 Jane reported chronic withdrawal to minimise parental anxiety, paving the way for her mother to speak of her own fears for her daughter's vulnerability. In Vignette 3, Abigail's voice highlighted parental discord allowing her parents to speak about their own relationship, a taboo topic for the family previously.

The young person's voice also consistently allowed for collaborative care planning. Samuel expressed fears about lengthy medication prescription and the therapeutic alliance was improved by focusing on this in the development of the care plan. Jane's communication indicated repression of negative affect to protect herself from parental response and the care plan highlighted the role of parental anxiety and its consequences for the community service providing follow-up. Finally, Abigail spoke of a withdrawal from communication at home to protect what she saw as a fragile parental unit. As a result, parent-child communication strategies in the home environment were prioritised to assist with altering communication patterns to support safe discharge planning.

TFM was implemented at similar times across the three locations and though the above commonalities emerged, the implementation at sites with different practices and clinical priorities resulted in some unique elements. In the outpatient service, the use of TFM focused on families known to already be burdened by two generations of mental illness, and the impact of symptoms between parent illness (*Domain 1*) and the development of child illness (*Domain 2*) was central to the use of TFM. In the specialist adolescent unit, the use of TFM evolved to

support systematic family focused practice, and use as a discharge transition tool—communication to the outpatient service at time of discharge. The inpatient service could highlight visually what areas (*Domains*) were priorities for ongoing work, enhancing communication with the Ch&YP's community clinician and emphasising the importance on ongoing FFP.

TFM allowed for a more realistic and transparent formulation to be communicated not only during the Ch&YP's admission, but it also formed a thread through which ongoing treatment could be based. In the inpatient context, TFM facilitated discharge planning by enabling the Ch&YP to give their perspective about their strengths, in addition to stressors, triggers and relationships that may have contributed to a crisis. In this way, the Ch&YPs' communications assisted with the management of risk and in helping clinicians and the family consider options for the near future.

#### 5. Limitations

This is a small series of single case vignettes which presents anecdotal evidence suggesting the utility of TFM as a tool for brief family focused work in different service settings. Though the approach has potential as an accessible way of promoting family focussed work and improving collaborative practice there is a need for further evaluation, applying rigorous trial methodology and using larger samples to establish efficacy and effectiveness.

We reported improvement in the clinical presentations of the young people described in the vignettes. We encourage caution in the assumption that such improvement is maintained in the longer term. Single session psychotherapy has been described as efficacious and cost-effective (Talmon, 2012, pp. 7–8) and single session family therapy has recently been reported to be an effective tool in improving well-being for young people in the Australian context (Hopkins, Lee, McGrane, & Barbara-May, 2017, p. 110). Whether the collaborative care planning impacted on the long-term outcomes for the Ch&YP and their families is not within the scope of this article but is an important issue in need of further research to establish the efficacy and effectiveness of TFM as a single session intervention. Future work will also need to evaluate instances where the model does not demonstrate benefit and ultimately will need to look at overall efficacy data and cost indices of implementing TFM.

#### 6. Conclusions

These vignettes suggest that TFM use as a single session tool provides an opportunity for clinician-mediated communication between the Ch&YP and parents, whereby the Ch&YP can voice concerns in a non-judgemental, non-blaming frame and where clinicians might model adaptive communication styles and strategies. The Ch&YPs' voices were not heard in isolation and were always interconnected with those of their families. It is

notable that TFM acted as a conduit for clinicians with varied clinical backgrounds, across different sites whilst meeting diverse patient predicaments to facilitate empathetic communication within the family and the empowerment of the Ch&YP.

This experience to date suggests the approach worthy of more systematic evaluation to test the potential efficacy of TFM, with clinician skills acquisition (provision of training), family experience of the approach, and clinical outcome assessment.

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### Conflict of Interests

No conflict of interest.

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Article

## Educating Future Planners about Working with Children and Young People

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### Abstract

Planning and urban design professionals should ensure they engage children/young people in their work so planning systems and strategic policy can be more inclusive of the needs and aspirations of children/young people. Yet practitioners do not necessarily view children/young people as legitimate stakeholders, and professionals do not necessarily have the skills to be inclusive. To shift current policy and practice, planners and designers need to be better educated so they can facilitate children's/young people's contributions as well as advocate effectively for systemic change. The UN Convention on the Rights of the Child and the UNICEF Child Friendly Cities provide legitimacy and direction for current and future professionals about why engagement with children/young people should be a fundamental part of professional practice. However, it's important that students and practitioners learn how to engage with children/young people ethically. A key starting point is the way in which education is constituted as ethical practice when conducting research and engagement activities with children/young people. Lansdown's (2011) requirements for ethical engagement are applied to reflexively evaluate the design and implementation of a university subject, delivered in Victoria, Australia, that trains future planners about how to work with children and young people.

### Keywords

children; education; friendly city; young people; planning; urban design

### Issue

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### 1. Addressing a Gap in Planning Education

2017 marks the first year when young professionals who graduate from an Australian university, have only ever known corporatist forms of governance and planning. Neo-liberalism is normalised within the Victorian planning system (Gleeson & Low, 2000; March, 2012), which largely means the public good and the public interest often equate to economic outcomes, rather than prosperity or wellbeing. Furthermore, assumptions that the public interest represents the aggregate of private interests are taken for granted. So, while current communicative approaches in planning can take stock of different issues and desires during planning processes, structural issues that affect political, social and economic participation or level of influence are uncontested (Fainstein, 2014; Murphy & Fox-Rogers, 2015; Uitermark & Nicholls, 2015). This is a significant issue if planners are to be at

the forefront of change with regard to creating better cities for and with children, and thus necessitates appropriately educated planners.

This article evaluates the subject, Designing Children's Environments (DCE), which has been taught over the past six years. DCE was initiated to expose university students to issues that affect children/young people and their environments. A central tenet is that planners need to use their power by including children/young people in planning and decision-making about matters that affect their lives. Enrolled students learn about children's rights, ethics and research methods, and then work with children/young people on planning and design projects. A key objective is for students to appreciate the variety of conditions affecting children's/young people's wellbeing, as well as their agency, insight and competence when negotiating the world and participating in the public sphere (Cammaerts, Bruter, Banaji, Harrison, & Anstead,



2014; Chawla & Heft, 2002; Vromen, Xenos, & Loader, 2015). A child-centred approach influenced subject development, and its delivery. Students are encouraged to apply a child-centred approach to their work to ensure there is respectful engagement with children/young people and that they have a theoretical foundation to work with. Yet, competing demands and constraints when delivering this subject means objectives are not always met, which has ethical implications for doing these sorts of activities.

This subject is critically evaluated against Lansdown's (2011) elements of ethical research, which comprises matters such as training, child-sensitive and non-discriminatory conduct and accountability. While the focus is on the subject itself, examples of students' work and reflections are also analysed to ascertain whether aims of awareness raising, practical skills, and commitment to inclusionary practices in the future can be achieved. It is important for future planners to be properly trained for working with children/young people, but there are potential issues if learning activities, such as engagement with children/young people, are exploitative. This can occur due to limited time allocated to relationship building with children/young people, their lack of participation in project development, and the potential for students to transform this experience into a codified approach to engagement. Lessons learned from this assessment will be beneficial to other educational designers.

## 2. Promoting an Advocacy Approach in Planning

The 1960s and 1970s ushered in a new role for planners as advocates for disadvantaged populations in response to increased awareness that individuals and groups experience their worlds differently. Since then, communicative planning has been codified into practice (Albrechts, 2015; Allmendinger & Tewdwr-Jones, 2002). With the development of the UN Convention on the Rights of the Child (UNCRC) and the Unicef Child Friendly Cities Framework (CFCF) (International Secretariat for Child Friendly Cities, 2004), this has extended to children/young people. Unfortunately, its application has been adhoc, suggesting a need to increase awareness and competency amongst planners, who can change their practice, and in time the planning system.

While governance structures within signatory countries to the UNCRC should ensure children/young people contribute to decisions that affect them, it has not filtered through to all levels or spheres of government. In Victoria, as well as other parts of Australia, engagement with children/young people is still not an explicit mandate in planning law. Compliance with inclusive practices are dependent upon local government policy, availability of resources, and significantly—professional discretion. If professional commitment to including children/young people in planning processes can become more prevalent through education, then there is a possibility for creating systemic culture change.

This is a challenge for educators. Communicative planning draws attention to the validity of different perspectives at the expense of agitating for 'universal' goals or particular notions of the public good and social justice (Murphy & Fox-Rogers, 2015; Uitermark & Nicholls, 2015). Scholars' and practitioners' desires to reduce their position of power, recognise differences among their constituents, and treat them equally means they are not necessarily using their position effectively, or for those in need (Uitermark & Nicholls, 2015). When all interests are treated equally, processes and outcomes are reproduced within existing power structures (Murphy & Fox-Rogers, 2015; Uitermark & Nicholls, 2015). With a stronger emphasis on planners to take a neutral position, they end up brokering competing interests rather than addressing inequalities that lead to inequity. As such, the political agendas of more powerful stakeholders are favoured (Allmendinger & Tewdwr-Jones, 2002; March, 2012).

Fainstein (2010) argues that planners have power and they should use it. Structural inequalities that affect full participation in political, social and economic life need to be challenged. There is a dedicated and growing cohort of researchers and professionals who have, and continue to use, their expertise and resources to challenge processes and systems for disadvantaged groups, including children/young people (Aldridge, 2012; Chawla, 2002; Hart, 1992; Lynch, 1977, and others). This work is essential because children/young people generally lack access to, and leverage over, governance structures.

## 3. Ethics of Engagement

The UNCRC and the CFCF provide the regulatory support required when planners agitate for change. The Convention, to which 196 nations have signed, articulates the principles that support children's/young people's basic rights as well as governing responsibilities to ensure they are implemented. These are moral, political and contractual obligations that aim to create deep systemic change that will improve the lives of children/young people. Although the Convention and the Framework provide professionals with the regulatory rationale and principles needed to challenge the status quo, planners need to learn why and how the principles apply to their work, as well as the ethics of doing so.

The body of research that has emerged from scholars and practitioners since the 1960s, provides a wealth of resources guiding research, teaching and planning practice. This corpus includes studies about children's/young people's citizenship and right to participate in decisions affecting their lives (Simpson, 1997; Tonucci & Rissotto, 2001), their participatory competence (Chawla & Heft, 2002; Frank, 2006), methods (Driskell, 2002; Horelli, 1998; Porter et al., 2010) and ethics (Aldridge, 2012; Christensen, 2004; Lansdown, 2011; Morrow & Richards, 1996). Furthermore, there is a growing literature examining the pedagogical and practical outcomes that emerge when university students, children/young peo-

ple and professionals work together on planning and design projects (Derr, 2015; Derr, Chawla, Mintzer, Cushing, & Van Vliet, 2013; Torres, 2012).

Child-centred methodologies are the core of this scholarship and practice. Linking intellectual, political and practical goals, child-centred engagement in its ideal form, is research directed by children/young people from initiation through to analysis and reporting (Franks, 2011; Lansdown, 2011). Collaborative methods enable greater control by children/young people over the direction and methods of research, even when adult initiated (Franks, 2011; Lansdown, 2011). However, the ideal of child-led research is difficult to achieve in community-based projects when there are competing demands from research institutions, funding bodies, and government agencies that affect project development and outcomes (Aldridge, 2007, 2012). These constraints often lead to truncated participation by children/young people, in which a child-centred approach facilitates children's/young people's ability to share their views and influence research outcomes, but not its development, analysis or application.

Lansdown's (2011) resource guide on children's/young people's right to be heard, recognises that different forms of engagement can be still be productive and ethical, even when it is not child/youth directed. She identifies nine (2011, pp. 152–157) 'basic requirements for effective and ethical participation':

- Supported by training;
- Relevant;
- Transparent and informative;
- Facilitated with child-friendly environments and working methods;
- Voluntary;
- Safe and sensitive;
- Accountable;
- Inclusive;
- Respectful.

The communicative turn in planning tracks well against the need for relevance, transparency, accountability and inclusiveness, as these principles are well established (Healey, 1997; March, 2012), but variations in ethical considerations emerge in relation to voluntary participation. Planning theory and practice tends to focus on how to achieve diverse community representation, skills required to participate effectively in processes, how representation can be weighted in decision-making, and whose interests are most influential (March, 2012). These matters are important when engaging with children/young people, but there are additional issues of power and choice regarding their ability to provide consent or refuse participation in research activities. As Morrow and Richards (1996) identify, informed consent focuses on adult 'gatekeepers' and the need to protect children from harm, but formal ethics processes (not necessarily assessors) fail to recognise children's/young peo-

ple's competence, right and choice to participate in research. Aldridge (2012) highlights that this is a thorny issue as protection is at the cross hairs of objective and subjective evaluation, and needs to be balanced with the prospective value of research and how it is conducted.

Sensitivity and inclusiveness are weak areas within the planning sphere that require further development (Sandercock, 2000; Sarkissian, Hirst, & Stenberg, 2003), yet are essential when engaging or conducting research with children/young people. It is argued here, that this weakness creates ethical concerns when facilitating planning projects with children/young people. Patronising and discriminatory language and behaviour can arise due to adult socialisation, limited experience working with children/young people, and in many cases, limited experience with different ethnicities, cultures, religions and languages.

The overarching concept of commitment in child-centred scholarship and work poses another potential dilemma. It is dependent on adult stakeholders' willingness to dedicate time, energy and effort to project goals, supporting children's/young people's participation, and valuing their contribution with minimum interference. As indicated in the latter sections of this article, commitment can vary, which affects the balance between potential benefits of facilitating projects that bring university students, children/young people and planners together, and the costs of doing so.

#### 4. Methods Used to Develop This Article

Lansdown's nine elements for effective participation provide a useful framework for exploring whether the conceptual basis for the subject and its structure, content, assessment and delivery conforms with recognised standards for ethical research and practice. The elements are also useful for identifying ethical issues in subject implementation, and opportunities for improvement. As noted, the critique is primarily reflexive; but includes examples of students' work and their reflections to illustrate key points.

Research associated with DCE is covered by La Trobe University human research ethics approval (No. 2034–13): pedagogical inquiry, children's/young people's experiences of their environments, and industry partnerships in planning practice. Students are informed about this research at the commencement of the subject, and they are sent a follow-up e-mail that requests their written consent to be a participant; draft publication materials are shared to obtain further consent. All student work presented here has their consent.

Data were selected from students who were enrolled in DCE 2013–2016. The total number (N) of students, and the number (n) of students who completed a self-reflection are: 2013 (N = 18, n = 9), 2014 (N = 8, n = 8), 2015 (N = 22, n = 18) and 2016 (N = 18, n = 4). The self-reflection is not marked, so some students did not complete this task. Anecdotal comments suggest chil-

dren/young people enjoy working with the university students and sharing their ideas, but children's/young people's views about the design project were not formally assessed.

### 5. Structure, Content and Delivery of DCE

DCE was developed due to a desire to support children's/young people's participation and influence in planning, contribute toward cultural change in planning and policy that results in better environments for children/young people, assist government and community organisations with outreach, and address a gap in the curriculum by training future and existing planners to work with diverse populations. The aims are to raise students' awareness about the conditions affecting children's lives, provide practical child-centred research and engagement skills, and encourage a commitment to inclusionary practices. Content and delivery of DCE is an amalgamation of personal research experience, existing literature within children's studies, and discussions with colleagues.

Each year 20–25 students in their fourth and final year of their undergraduate planning degree (compulsory at this level) or in their first year of a postgraduate coursework planning degree, enrol in the subject. Students comprise domestic students, most of whom come from regional and rural areas and have Anglo-European and Christian backgrounds, as well as a substantial number of international AusAid students from Asia and Africa.

Time constraints for delivering the subject are tight as DCE is offered during the first semester of every year (March to June). There are five days of face-to-face contact that last seven hours on each day. The first three days are delivered early in the semester. Students work with children/young people on the fourth day, and the fifth day comprises presentations and studio work to refine the projects. Class time is augmented by skills-development practicums that students complete prior to working with children/young people.

#### 5.1. Training

Ensuring students are well prepared within a very short time for when they enter classrooms to work with children/young people is an ethical issue, especially since the subject is in a planning rather than education course. Therefore, DCE was designed to target particular knowledge and skills required for this purpose. There is strong alignment between intended learning outcomes, subject materials, activities and assessments; student learning is scaffolded to improve their knowledge, skills and confidence (Biggs & Tang, 2011; Meyer & Land, 2005).

As Table 1 shows, structurally, DCE addresses all key elements identified by Lansdown (2001) for effective training: enabling understanding and commitment to children's/young people's participation; access to training,

tools and development opportunities, support and supervision, support for intercultural relations, respectful codes of conduct, open communication about concerns. But while the majority of students enjoy the educational activities in this subject (see Figure 1), enjoyment does not necessarily lead to transformative learning outcomes.

This is often revealed through completed assessments. In the policy practicum, students are asked to identify the top UNCRC articles they think apply to their future careers as planners and why. The most frequently cited articles are 31—right to participate in cultural life; 3—primacy of the best interest of the child; 12—freedom of expression about matters affecting the child, 23—right of mentally or physically disabled children to a full and decent life; and 24—right to the highest standard of health. Together, these articles reflect the key themes of spatial planning, communicative planning and inclusive design by ensuring children/young people can participate in public life regardless of age, gender, ethno-cultural and religious background, sexuality, and ability. Students' rationales for article selection focus on the 'how' rather than the 'why', which suggests that students are not connecting broader issues and supporting theory of children's/young people's rights and structural inequality to their understandings of planning practice.

In the play observation activity, some students provide detailed explanations about the games children play, young people's attitudes, and moments of physical or social cooperation or struggle. In contrast, many students are perfunctory in their observations, demonstrating much greater commitment to analysing the space than the people and their interactions. For this cohort, student descriptions of play were minimal, such as simply noting that children used the slide. Figure 2 provides an excerpt from one observation that provides a more descriptive observation of activities.

In a different example, some students are very creative when developing their engagement plans. They identify activities for different cultural and linguistic groups; they deliberately seek to meet aged-based needs; and they incorporate games, digital technologies, or training of young people to conduct their own research. However, others provide a rudimentary plan not too dissimilar to this subject's main project.

Students then participate in engagement activities with children/young people on a project to develop recommendations about improving their school site or neighbourhood. Children are those attending primary school, and young people comprise those attending secondary school (from about age 13). Implementation of the project presents the greatest opportunity for ethical issues to arise.

#### 5.2. Child-Friendly Environment, Working Methods, and Voluntary Participation

Implementation of the subject meets Lansdown's (2011) minimum criteria for relevance, transparency and be-

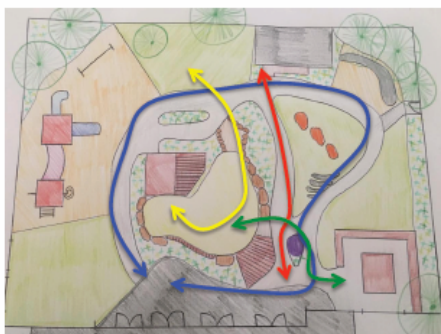
**Table 1.** DCE subject structure.

<b>Segment 1</b>		
<b>Purpose</b>	<b>Content</b>	<b>Activities</b>
<p>Unsettle students' cultural assumptions of childhood/adulthood.</p> <p>Help students identify how the planning system and professional practice has reinforced particular notions of children/young people over time.</p> <p>Address issues of structural inequalities re: economic, cultural/ethnic, ability, gender, sexuality.</p>	<p>Traces historical connections between planning, health and governing children/young people's moral and physical development.</p> <p>Conceptions of childhood over time (James, Jenks, &amp; Prout, 1998; Valentine, 2004).</p> <p>Children's/young people's citizenship (Hart, 1992; Iveson, 2006; Simpson, 1997).</p>	<p>Lectures, discussions and videos.</p> <p>Practicum: Short answer essay critiquing the claim that there is a false dichotomy between notions of child and adult; critical policy comparison to identify how different local government documents address matters affecting children/young people; and selection of key articles from the UNCRC that students believe are most integral to planning, accompanied by an explanation for selection.</p>
<b>Segment 2</b>		
<b>Purpose</b>	<b>Content</b>	<b>Activities</b>
<p>Develop students' knowledge and skills for working with children/young people.</p> <p>Develop students' understanding of child-centred and ethical approaches to engagement.</p>	<p>Theories of children's/young people's development are introduced: psychological, cognitive, emotional, linguistic, social, physical, and independence. (Centre for Learning Innovation, 2006, covers key theorists e.g., Bronfenbrenner, Erikson, Piaget and Vygotsky).</p> <p>Research methods for engaging children/young people are introduced. (Driskell, 2002; Freeman &amp; Tranter, 2012; Morrow, 2001; Santo, Ferguson, &amp; Tripple, 2010).</p> <p>University ethics processes and the specific application for the subject are reviewed.</p>	<p>Activities: Students identify how development theories would alter students' approach to different planning and urban design scenarios.</p> <p>Students write essays, conduct photo elicitation exercises with each other, complete questionnaires, engage with GIS mapping and drawing.</p> <p>Students attend a <i>Learning Landscapes</i> and learning to play program conducted by staff at a Melbourne based children's garden.</p> <p>Students attend a seminar with a renowned landscape architect who specialises in children's play spaces.</p> <p>Practicums: Development of an engagement plan for a multicultural local government area in response to a mock brief.</p> <p>Field observations of children/young people playing.</p>
<b>Segment 3</b>		
<b>Purpose</b>	<b>Content</b>	<b>Activities</b>
<p>Develop students' awareness of the continuities and differences over time across settlement types, and across countries with regard to planning for and with children.</p>	<p>Using case studies, students learn about the relationship of children/young people with the built form, active transport, physical activity, social relations and risk (Lynch, 1977; Malone, 1999; Owens, 1994; Rudner, 2012).</p>	<p>Activity: Students engage with children/young people about their outdoor school spaces or neighbourhood.</p> <p>Production of a masterplan and design in response to engagement activities.</p>





Figure 1. Students learning how to play at the Ian Potter Foundation’s Children’s Garden.



Movements between locations

Throughout the observation process, it became clear that children frequently moved back and forth between locations, either moving from one activity to another or repeating the same activity or movement. Four key movement paths were developed, these include:

- **Blue Pathway** – Here children (normally in the older age brackets) chased each other. Those who had access to tricycles rode them around and around the circle. In addition children who play alone often walked around and around the path, picking up leaves or skipping.
- **Red Pathway** – Boys, discovering the decline from the shed to the veranda, used this pathway. These boys rode tricycles and scooters down the slope and then push them back up again to start over.
- **Yellow Pathway** – Was majorly used by the younger age groups being observed. Here children moved between the sandpit and adjacent shelter to the AstroTurf area, which was covered with, leaves and sticks. Collecting these sticks they brought them back to other children playing and used them in a shop like play or as decorative pieces on their sand castles. Children in the yellow pathway were often intercepted with those using the blue pathway and became cautious when crossing
- **Green Pathway** – The children who used this pathway moved between the sandpit and the sheltered sitting area, more often than not meeting up with their parents or guardians, before going off and playing again. These children were also seen using the collected sticks from the sandpit to further create music on the water tank.

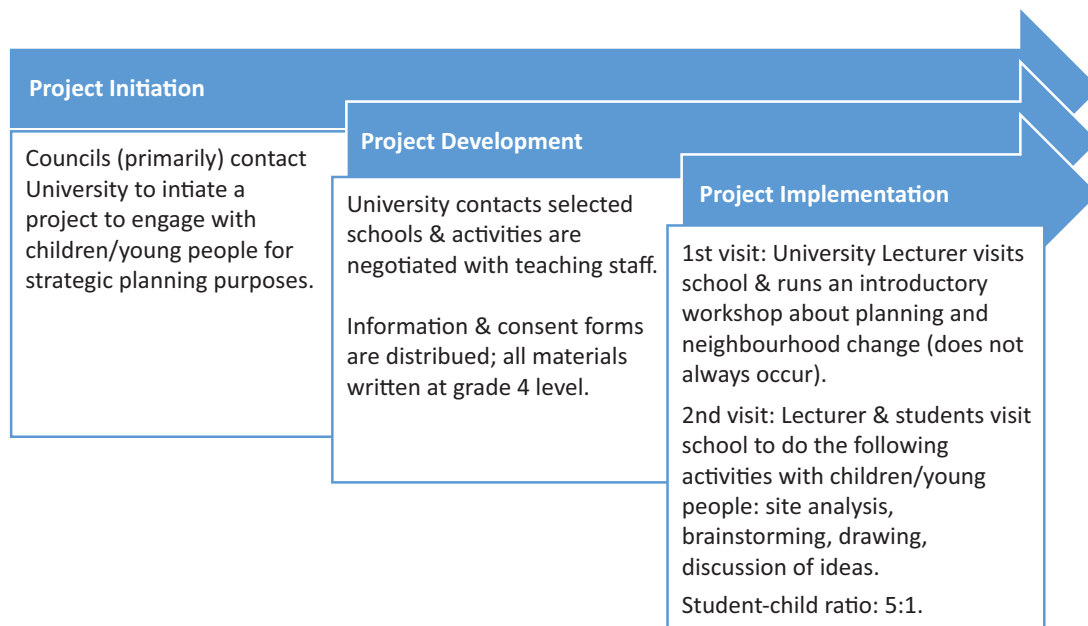
Figure 2. Excerpt from student observation assessment.

ing informative, and largely achieves ethical requirements regarding environment, working methods and voluntary participation. Council, university staff, students and teachers are generally committed to the process and achieving positive outcomes. Open communication is supported by ethics research processes that include the need for information statements and consent forms, negotiation of activities and project requirements between different stakeholders and the attitude of stakeholders. Issues can still arise, however, around commitment, voluntary participation and time. The project process is presented in Figure 3.

Procedurally, Council staff conducting strategic policy development contact the subject lecturer to request

assistance with their engagement activities. The subject lecturer then gains permission from principals and teachers from selected schools to do the project, and research activities are jointly determined. University students visit the school to work with the children/young people. Children/young people are reminded about, or introduced to the design process, the voluntary nature of participation, how their contribution will be used by Council staff and students, and their ability to stop participating at any time. During the contact session, children/young people “draw on their knowledge, skills and abilities” (Lansdown, 2011, p. 153) to provide insight about the places where they live, their likes/dislikes of the site or their neighbourhood, their travel modes, their obser-





**Figure 3.** Design project process.

variations of how their peers’ use the site, how the site changes in different seasons, etcetera. The session concludes after the children/young people have presented their ideas to each other, participating teachers and the Council representative.

Council staff and teachers work within a child-centred paradigm due to their training and professional role, but their participation suggests different levels of commitment to the activities. Council staff, who are primarily from social services sections of local government agencies, are dedicated to the project for purposes of strategy development through the inclusion of children’s/young people’s views; they assist during data collection, and translate children’s/young people’s ideas into Council strategic plans based on the university students’ reports.

Teachers’ participation is more ambivalent, depending on their degree of choice to support the project in relation to their principal’s directions, their ability or willingness to connect activities to curriculum requirements, and work pressures. They might be very supportive by augmenting the project with class room activities before and after the engagement session, participate only during the contact session, or use the time during engagement activities to do their own work.

Like teachers, the voluntary nature of children’s/young people’s participation is difficult to monitor; both are influenced by bureaucratic hierarchies, but children/young people are also affected by the greater authority and power held by adults. Since the school visit is usually confined to 50 minutes (sometimes 75 minutes) to fit with curriculum requirements, there is a high degree of adult direction. Fortunately, discussions with children/young people during contact sessions, and observation of their engagement suggests participation is voluntary, and those who want to stop, do so.

In contrast, university student participation is compulsory. Their level of commitment to the subject activities and to child-centred approaches ranges. Although it is worth noting that many students indicated they would have liked to work with children/young people over a series of contact sessions so they could jointly develop the research program with children/young people.

*5.3. Safety, Sensitivity and Accountability*

The importance of safety, sensitivity and accountability to ethical engagement is ensured through formal and organisational (university, Council, school) structures but competence varies amongst stakeholders. The subject coordinator, Council staff and teachers are trained in child protection regulation and ethics, as well as those students who work or volunteer with children/young people in other areas of their lives. All adults have working with children checks and each student cohort is registered with the ethics committee.

Even though risk, safety and sensitivity are integrated into subject materials and assessments, and issues are discussed further with students prior to engagement with children/young people, there is potential for error. It can be difficult for some students to grasp some of the issues, due to their limited experience. Students can be patronising, or reveal their own cultural socialisation through bias and expectation. Having a cohort of multi-national, ethnically and religiously diverse students helps during the preparation phases as cross-cultural issues can be discussed, but this does not preclude insensitive conduct from arising.

Photography is a troublesome area to monitor, even when teachers identify which children/young people cannot be in photos. Therefore, students refrain from taking photos in which children/young people can be iden-

tified e.g.: only taking photos from behind or from a distance. This is not always possible, as children/young people like to be in images and request to use students' cameras/phones to take photos. To address this, students upload photos onto the closed learning management system for collation before sending to the participating school. Subsequently all images that include children/young people are deleted from all devices, and no photos in which children/young people can be identified are used in reports.

An integral part of the process is timely and respectful acknowledgement of children's/young people's participation. Within two weeks of the engagement, students provide one design image per group to send to teachers at the school for distribution. The main report is provided to the Council staff member and teachers three weeks later. The masterplan report and play space design, which are written at children's/young people's level of comprehension, includes justifications that clearly acknowledge the children's/young people's ideas and how they have been used in the report. Children/young people receive participation certificates jointly signed by the subject coordinator and the Council staff member.

Accountability is the weakest aspect of the subject. It can be difficult for teachers to create space within their curriculum. Only one school elected to have a third visit, during which proposed designs were presented to the children/young people for further feedback. In this session, electronic hand held clickers were used to conduct an instant survey of children's/young people's assessment of the ideas and to guide discussion. Distribution of the report to children/young people cannot be guaranteed as this process relies on teachers.

Feedback is sought from teachers but is rarely received. Three schools out of ten provided feedback, which was positive: 1) teachers from one school wanted to make the project an annual activity; 2) one teacher e-mailed to indicate s/he was impressed by the quality of the students work; 3) one principal reported twice about the project through the school's newsletter.

For personal/lecturer accountability, this subject has been audited by an expert in children's environments. Plus, students complete a self and group evaluation that identifies their contribution to the project, as well as their perceptions about the level and quality of contribution of their group members. Every year the subject and engagement practices are improved because each project creates new learning opportunities.

#### 5.4. *Respectful and Inclusive*

According to Lansdown's (2011) criteria, project engagement activities should be inclusive and respectful. Although teachers select which children/young people participate, participants are usually selected based on their particular grade within a school e.g. all grade fours. Furthermore, non-discriminatory participation processes

are promoted; teachers are encouraged to include children/young people, irrespective of their ability, ethnicity, language, behaviour patterns, and so forth. Inclusion is enhanced by the student cohort, which reflects the diversity of children/young people. When children/young people do not provide consent forms to participate in the research, then priority is placed on their engagement in activities, which means children's/young people's ideas for that particular school cannot be reported in scholarly publications.

Data below comprise excerpts from student responses to a six question survey conducted at the end of the subject that queried their comfortability, likes and dislikes about working with children/young people, what they did well or poorly, and key skills for working effectively with children/young people. Comments from students suggest that engaging with children/young people through the project activity is an important method for learning about respectful and inclusive engagement, since insights and skills gained from preparation activities are not the same as learning from experience. Importantly, quotations indicate an effort to conduct ethical engagement and grapple with dilemmas about ensuring inclusion. Figure 4 illustrates students working with young people.

Students' assumptions about children/young people are often confronted during the contact session. Many students are surprised about children's/young people's ability to participate in the design exercise, articulate and draw their ideas. International students from non-Anglo-European nations find the experience interesting as this type of activity is not common in their countries. The following comment highlights students' surprise at the positive nature of the engagement:

This process of involving children in planning is a new thing and interesting to me, from the place I came from, this is not done....I was amazed to hear the comments they make for the improvement of their grounds; they were very positive about the planning process, positively contributed their ideas and also their ability to put their thoughts into drawings. (IM, female postgraduate student, Tanzania)

The majority of students demonstrate efforts to take a child-centred approach to the engagement. They actively seek to have 'honest' and 'authentic' interactions and to help children/young people feel comfortable, safe and respected in the process, as the following quotation illustrates:

I could have taken better notes! In fact, recording the children's voices with a recorder would have been the best thing because trying to represent their authentic voice needs clear notes within context and it was happening so fast that I am sure I missed things that would have helped with the meaning of their words....I really get that they are the experts in their



**Figure 4.** School students visit the university for the project. (Image by Marion Drummond, 2012).

lives too... (CL, female postgraduate, Mediterranean heritage, Australia)

Depending on group dynamics, some students find it easier than others to be child-centred and to elicit engagement from children/young people. A few students grapple with their status as adults and researchers in relation to the uncertainty of providing structure and order. They want to encourage and guide children/young people, but students do not want to direct the children too much, or dampen their spirits when they contribute.

When students became unruly, it was difficult to know the bounds of my own personal authority in the situation as we were essentially guests on school grounds and not there in any disciplinary capacity. Although I had no problems with my group, in the classroom when all students were together there were instances of students being disruptive and I was slightly uncertain as to how to handle this and just tried to keep them engaged. (RW, male postgraduate, Anglo-European heritage, Australia)

Balancing power is complicated by a desire to ensure that all children/young people participate. Students need to use skills that ensure all children/young people are valued because some are gregarious, and others are quiet or can be silenced. Managing individual and group behaviour is a common area of improvement identified by students.

### 5.5. Systemic Change?

DCE was developed so it challenges students to explore how planning relates to children's/young people's lives, and to understand children's/young people's views and experiences of their cities. A particular focus is to provide the knowledge and skills required to conduct ethical research and practice with children/young people. Lansdown's (2011) ethical requirements for research is

a useful framework by which to review the aims and objectives of community-based design subjects in which university students work with children/young people, as it establishes basic standards for engagement and reveals areas for improvement. The design, content, activities and assessments of DCE are generally successful at raising student awareness and developing their practical skills, but the evaluation process is a reminder that the quality of commitment, time, energy and effort has greater bearing as to whether the types of activities presented here are conducted ethically.

In the shorter term, the value and potential benefit of DCE needs to be negotiated each year with participating students, Council staff, teachers and children/young people. Shifting dynamics require nuanced and flexible reading of different personalities, priorities and dedication. Transparent, informative communications are essential, but are not always easy to achieve. There are gaps in expectations between different stakeholders that require management, and the characteristics of each student cohort is unique. For example, students' capabilities can be improved through adjustments to the subject, but external pressures on students as well as differing levels of commitment for engaging with the learning materials means there is a constant question about whether engagement activities should take place. Does it matter if some students do not have the time or do not have the interest to think more deeply about their work? Does engagement with children/young people need to be matched by dedication to the preparatory stages of the subject?

These questions lead to broader dilemmas about the ethics of engagement activities with children/young people when there are multiple goals in these sorts of exercises. From observations, it appears that working with university students is exciting for children/young people and they are happy to share their ideas. Yet, they are also being co-opted into an educational program that is primarily aimed at improving university students' competencies. Similarly, children/young people have an op-

portunity to contribute to Council strategies, but their participation is also being used to legitimize Council decision-making regardless of actual material outcomes (March, 2012).

Compared to other examples of projects that bring university and children/young people together (Derr, 2015; Derr et al., 2013; Torres, 2012), DCE appears to be more consultative than collaborative (Hart, 1992; Lansdown, 2011) due to fewer staff, Council timelines, and teaching pressures on participating schools. This means students are unlikely to distinguish between consultation and collaboration. Working with one school to develop a strong relationship over time could facilitate more collaborative approaches to project work, and reduce some of the risks involved during engagement activities. However, this needs to be counterbalanced against the potential for children/young people to influence local government policy that does result in material change.

In terms of future benefits, DCE contributes to longer-term goals of cultural change within planning since there will be more professionals in the workplace who are aware of, and able to fulfil their responsibilities under the UNCRC. Indeed, four graduates who completed the subject to date, have initiated Council projects that aim to engage children/young people in planning processes. However, there is the potential that student activities in this subject become a benchmark rather than a starting point for engagement with children/young people. Therefore, it is important to reinforce issues of commitment, curiosity and creativity, and ensure students access a variety of example engagement activities so they have a better understanding of other approaches, methods and outcomes.

Importantly, the review led to the significant realisation that DCE fits well within existing planning processes, but it does not do enough to help students challenge structural issues that situate children's/young people's engagement outside of regular planning practice. The participating Council staff are located in the community development or maternal and child health area, rather than planning and design; furthermore, they are often unable to convince planning and design staff to participate in engagement activities. As future professionals, students will have the power to identify and advocate for social justice for children/young people, but possibly without the benefit of work place role models to guide them.

Achieving more significant change with the planning system requires planners to take stronger advocacy positions, but it is difficult to create learning experiences that assist them to confront the planning system itself. University subjects can help students gain knowledge and skills to advocate, but the responsibility rests with their own commitment to working with children/young people to create change. This means that planners as knowledge producers, policy developers and plan implementers, need to negotiate the paternalising and empowering aspects of their roles and functions. As Uiter-

mark and Nicholls (2015, pp. 33–34) argue, “It is a genuine dilemma because status, knowledge, and skills are necessary in struggles for equality but the unequal distribution of these resources produces new hierarchies during the process of achieving equality”.

Participation enables children/young people to inform professionals and other stakeholders about their successes, struggles, and aspirations for their lives. When acted upon, children/young people can contribute to better policies that improve health, education, legal rights and safety and reduce discrimination and violence. Importantly, the UNCRC and CFC legitimise children's/young people's participation and influence in planning practice, thus enabling planners to develop a strong narrative that clearly explains how a focus on children's/young people's rights contributes to the public good and the public interest. Systemic and cultural change in planning is likely to occur when consistent application of practitioners' knowledge and expertise at engaging children/young people is pervasive.

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### Conflict of Interests

The author declares no conflict of interest.

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Article

## Achieving Child Friendly Justice through Child Friendly Methods: Let's Start with the Right to Information

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### Abstract

Making the justice process 'child friendly' is a key priority for the children's rights community. An abundance of commentary has been produced by the UN Committee on the Rights of the Child to highlight how justice proceedings can be made more accessible for children and, in 2010, the Council of Europe issued its comprehensive 'Guidelines on Child Friendly Justice'. Despite these efforts, children remain ill-informed, not just about the nature of justice proceedings in which they may be implicated, but about the very existence and scope of their rights and how to enforce them. Despite unequivocal acknowledgement that the availability and accessibility of information is the crucial starting point in a children's rights-based approach to dispensing justice, there has been surprisingly little attempt to scrutinise the availability, quality and accessibility of information about laws and policies affecting children. This article takes a closer look at what, exactly, 'child friendly' information means in practice. In doing so, we argue that attempts to develop child friendly information have yet to progress beyond adult-driven, largely tokenistic and superficial re-branding exercises. As such, efforts to develop child friendly resources are often of limited value in empowering young people to develop their legal literacy and realise their rights in practice. We reflect on our attempt to develop an explicitly children's rights-based approach to the development of child friendly resources with a view to enhancing their purchase. This took place in the context of a pilot project, commissioned by the Council of Europe in June 2014, to create a child friendly version of their Child Friendly Justice Guidelines.

### Keywords

child friendly; information; justice; online media; participation; right to information

### Issue

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### 1. Introduction: The Right to Information as a Central Tenet of Child Friendly Justice

'Child friendly justice' has become a familiar refrain accompanying developments in international and domestic justice processes involving children and young people. Virtually every provision of the UN Convention on the Rights of the Child 1989 (UNCRC; United Nations, 1989) includes at least one reference to children's rights in the context of justice proceedings, including children's

right to appropriate (legal) assistance and direction (e.g., Arts. 5, 14, 22 and 37) to participate in the decision-making process (Arts. 9 and 12), to the avoidance of undue delay (Arts. 10 and 37), and to be protected before, during and after justice proceedings (Arts. 16, 19, 20 and 21). The UN Committee on the Rights of the Child has fleshed out what these obligations entail through a series of General Comments (detailed guidance on how to interpret and apply the substantive provisions of the UNCRC) including: General Comment 12 on the right of the

child to be heard (UN Committee on the Rights of the Child, 2009);<sup>1</sup> General Comment No. 10 on Children's rights in juvenile justice (UN Committee on the Rights of the Child, 2007); and General Comment No. 5 on General measures of implementation for the Convention on the Rights of the Child (UN Committee on the Rights of the Child, 2003).

International support for the development of child sensitive justice processes has been further reinforced by the introduction, in 2010, of the Council of Europe Guidelines (the Guidelines) on Child Friendly Justice, developed as part of the Council of Europe's (CoE) comprehensive children's rights strategy (Council of Europe, 2016, pp. 18–19). These Guidelines were developed to enhance children's access to and treatment in the justice process. They apply to a range of justice contexts, including family, immigration, criminal justice, public administration and civil proceedings. They explain precisely how children's rights should be upheld before, during and after justice proceedings, and define child friendly justice as:

Justice systems which guarantee the respect and the effective implementation of all children's rights at the highest attainable level....It is, in particular, justice that is accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life and to integrity and dignity. (Council of Europe, 2010, para. IIc)

While it remains open to debate the extent to which these ideals have been successfully transposed into justice processes at national level, there is certainly evidence of a concerted effort in jurisdictions across the globe to accommodate more sensitively the interests and needs of children (African Child Policy Forum & Defence for Children International, 2012; Grandjean, 2009; O'Donnell, 2009).

A central component and, one might argue, the critical starting point of child friendly justice is the provision of information. The UN Committee states as such in its General Comment 12 on the right to be heard: "Particular attention needs to be paid to the provision and delivery of child-friendly information" (UN Committee on the Rights of the Child, 2009, para. 34). Children and their representatives cannot realise their rights without reliable and accurate information not only about the content and scope of their entitlement in any given context, but about how to enforce those rights. In the same vein, the CoE Guidelines on Child friendly justice state that,

From their first involvement with the justice system or other competent authorities (such as the police, im-

migration, educational, social or health care services), children and their parents should be promptly and adequately informed of their rights...and of what to expect from each stage of the proceedings. (Guideline 1)

To achieve this, the Guidelines prescribe that,

Child-friendly materials containing relevant legal information should be made available and widely distributed, and special information services for children such as specialised websites and helplines established" (Guideline 4).

Despite unequivocal acknowledgement that the availability and accessibility of information is the crucial starting point in any child rights based approach to dispensing justice, there has been surprisingly little attempt to scrutinise the availability, quality, accessibility and value of information about laws and policies affecting children. Rather, most attempts to critically engage with justice processes, even those that purport to be from a children's rights perspective, have focused on procedural and environmental factors: the conditions under and extent to which children's views are heard and taken into account by professionals/practitioners and parents (Birnbau, Bala, & Cyr, 2011; Brighthouse, 2003; Cashmore & Parkinson, 2008, 2009; Daly, 2017; Fortin, 2004; Leviner, 2015; Nolan, 2010); the methods by which children's best interests are assessed (Eekelaar, 2015; Mnookin, 1985; Parker, 1994; Piper, 2001); or the amenability of the physical (court) environment to children's specific interests and vulnerabilities (EU Agency for Fundamental Rights, 2017, p. 13). There has been a surprising lack of critical engagement with the actual 'triggers' or 'gateways' to child friendly justice. By this we mean the nature, quality and relevance of information to which children have access that enables them to understand and assert their rights at various stages of the justice process. We regard this as the crucial starting point in any child rights-based approach to dispensing justice and refer to it as children's legal literacy (see also Watkins, Lai-Chong, Barwick, & Kirk, in press). Literacy, in the conventional sense, denotes the ability to read and write. Children's experience of education, in the conventional sense, implies a heavy reliance on the acquisition of literacy skills since, without them, a child's progress within and experience of education will be limited. In the same token, a child's access to, progress within and experience of the justice process will be limited, damaging even, if they have inaccurate or insufficient knowledge and understanding of what their rights mean in practice.

With this in mind, this article takes a closer look at what, exactly, 'child friendly' information means in practice. Specifically, it will critically evaluate examples of so-called 'child friendly' versions of the law in terms of

<sup>1</sup> "Article 12...specifies that opportunities to be heard have to be provided in particular in any judicial and administrative proceedings affecting the child....A child cannot be heard effectively where the environment is intimidating, hostile, insensitive or inappropriate for her or his age. Proceedings must be both accessible and child-appropriate." (paras. 32 and 34).

how they are developed, how they are made available to children, and how they are used by children and their advocates. In doing so, we argue that attempts to develop child friendly information have yet to progress beyond largely tokenistic and superficial re-branding exercises. Rather, insofar as such attempts are routinely driven by adults and fail to engage with how children see and experience the justice process, the resulting outputs might make adults feel that they are discharging their duties but are of limited value in empowering young people to realise their rights in practice. We reflect critically on our efforts to develop an explicitly child rights-based approach to the development of child friendly resources which started with a pilot project, funded by the CoE, to create a child friendly version of their Guidelines. The CoE were rightfully concerned that in the years following their adoption the Guidelines remain largely unknown to both professionals and children in the justice system. Inevitably, therefore, it has been difficult to discern whether they had had any positive impact at all on how justice professionals engage with children or on how children themselves experience such processes. This is perhaps not surprising; the Guidelines run to 15 pages and just under 6,000 words, including a preamble, six main sections and 83 sub-sections. With this in mind, the authors were commissioned by the CoE in 2014 to run a modest pilot project aimed at demonstrating how a child friendly version of the Guidelines could be developed in partnership with children and young people.

## 2. Methodological Overview

Our research methodology was designed with the aim of reliably gathering young people's views on all aspects of the Guidelines including their form, accessibility, clarity, meaning, and potential impact on real lives. To achieve this, the pilot was undertaken in three stages. First, we conducted a desk-based mapping and review of existing information tools relating to children's rights. Second, two groups involving a total of 11 young people between the ages of 14–18 years were recruited to act as a Reference Group in both Ireland and England, all of whom had experience of the justice process in a range of contexts (including criminal justice, child protection, education and community care, and private family proceedings). It should be noted that our hope was to develop tools that could be used by children of different ages, but particularly those who would be implicated directly in justice proceedings (typically those of aged 12 and above).

This part of the process was coordinated by Investing in Children (IiC), a children's rights agency base in the northeast of England and a regular collaborator with the European Children's Rights Unit (ECRU) at the University

of Liverpool. IiC has a track record of successfully creating innovative ways in which children and young people, particularly those living in marginalised communities, can be supported to participate in dialogue about issues that affect them. The Youth Advocacy Project (YAP) Ireland is an IiC partner. Both IiC and YAP have a database of children and young people with whom they have worked and members of the Reference Group were recruited by advertising the opportunity to become involved (mainly through social media).

The Reference Group provided feedback on our methodological tools and findings as the project progressed. We were particularly keen to evaluate the clarity and accessibility of some of the existing information tools we had identified in phase 1, as well as their relevance and use by young people to support their rights. To enable the Reference Groups to fully understand the context and aims of this project and, indeed, of the CoE Guidelines, the authors provided face-to-face and online briefings. A four-minute animation was produced to support this process which was made available online so that all project participants in Ireland and the UK could refer to it at any time.<sup>2</sup>

Most importantly, the Reference Groups were tasked with recruiting other young people in their respective countries (through their existing social networks) to assist with the second aspect of the project which involved consultation with other young people about the relevance and value of the Guidelines in light of their experiences of the justice process. Mindful of the broad scope of the Guidelines, in terms of the range of judicial and administrative contexts and the range of children's rights principles reflected, we selected one specific justice context in which to locate children and young people's evaluation: the family justice process. This enabled us to involve children and young people who had been through family proceedings, i.e. either public child protection proceedings (care, fostering and adoption) or civil proceedings (divorce, custody and access), to share real life experiences and insights. We also ensured that young people who might be described as living in marginalised communities were included, notably young people in the care system, young people in trouble with police, or young people living in deprived areas.<sup>3</sup> The Reference Group recruited a total of 58 other young people with experience of the justice system who participated by means of three 'Agenda Days' (two in the UK and one in Ireland).

An Agenda Day is a unique technique developed by IiC to create an adult-free opportunity for children and young people to consider specific issues or concerns and identify priorities and proposals for improvement. 15 to 20 young people attended each Agenda Day and discussion was facilitated by members of the Reference Group. Adults did not attend. They were asked to consider how

<sup>2</sup> The online project briefing is available on YouTube at the following link: <https://www.youtube.com/watch?v=DuOV83ftf3k&index=2&list=PLXz7NWZi5SdKcqu4DE6m4MOEL3DqWMI9C>

<sup>3</sup> We did not aim specifically to recruit children and young people with disabilities to the project; some of those who participated may well have had special educational needs, but we did not ask them to disclose such issues. The only pre-condition for their participation was that they had some experience of the family justice process.

accessible the Guidelines are and to make suggestions as to how they could be made more so. They were asked to reflect specifically on how useful and relevant the Guidelines are in assisting young people who are living through justice proceedings and to make suggestions about what might need to be done to make more effective use of the Guidelines in practice. The young facilitators from the Reference Group drafted reports of the discussions at the 'Agenda Day' summarising their key findings and identifying priority areas and suggestions as to how to make the Guidelines more child-friendly. These reports were sent to the other participants for their endorsement before being made available to the researchers.

A video conference was then held to link representatives from the Reference Group and project team in England with representatives from the Reference Group and project partners in Ireland. This enabled us to exchange experiences of the Agenda Days, to tease out differences and commonalities in experiences, and to consider how the findings could be used to inform the development of some universally applicable child friendly alternatives.

The following discussion sets out the findings of this pilot which sought not only to develop a more accessible version of the Guidelines but, more broadly, to arrive at a meaningful and useful methodology for developing child friendly information in any context. Whilst the findings are of relevance to a pan-European audience, they respond very directly to cuts in legal aid in the UK<sup>4</sup> which have impacted profoundly on the availability of legal and financial support to enable children to enforce their rights (Law Society, 2017; Office of the Children's Commissioner, 2014; UK Children's Commissioners, 2015). The increasing paucity of affordable face-to-face legal advice and support for children renders reliable, accessible and adapted information all the more essential. It also reinforces the potential value of new media—particularly the online environment—as a platform for more creative engagement with children and young people on their own terms and for the development and dissemination of legal information in genuine partnership with them.

With this in mind, the remaining discussion explores in more depth the meaning and scope of children's right to information, not only as a central tenet of child friendly justice, but as a central tenet of their right to participate in decisions that affect them. We consider how 'child friendly' information is commonly understood and packaged by reference to prominent 'child friendly' versions of law and policy. We then present our attempt to apply a children's rights-based approach to the development of child friendly information and critically consider the difference this might make to the relevance and value of those materials. The analysis points, albeit cautiously, to the role of online media, not simply as a vehicle for developing appealing resources and facilitating dissemina-

tion, but as a means of shifting power dynamics in the justice process and positively exploiting children's natural capabilities to engage with and respond to digital media in a way that may far exceed normal adult capabilities.

### 3. The Meaning, Scope and Importance of Children's Right to Information

While it is somewhat pedestrian to note that information plays a central role in rendering justice processes child friendly, it is worth rehearsing precisely *why* this is the case. Perhaps most importantly information is an essential starting point for stimulating meaningful participation. Analysing the accessibility, quality, relevance and use of the information that children receive is a useful indicator of the participatory currency of a process. It is unsurprising, therefore, that the right to information is heavily endorsed by the CRC as one of a suite of participation rights. The freedom to "seek, receive and impart information" is an explicit component of the right to freedom of expression contained in Art. 13 UNCRC; and Art. 17 recognises the important function performed by the mass media to ensure that children have access to information and material from a diversity of national and international sources, especially those aimed at the promotion of their social, spiritual and moral well-being and physical and mental health. The availability of appropriate information is also at the heart of a range of substantive rights covered by the UNCRC, including adoption (Art. 21(a)); immigration and asylum (Art. 22(2)), health care for disabled children (Art. 23(4)); and educational and vocational training (Art. 28(d)). Without access to reliable, relevant information, children cannot meaningfully engage in any decision-making process. In the context of justice proceedings, this implies that children should have access to clear information about the nature, scope and purpose of each stage of the justice process, including how long it will take, where it will take place, why it is taking place at all, and who will be involved in the decision-making.

Unsurprisingly, the right to information headlines the 'General Elements of Child Friendly Justice' set out at the beginning of the CoE Guidelines and features heavily in the substantive provisions thereafter (no less than 23 times, in fact). Thus, we are advised that children should receive information in a manner adapted to their age and maturity, in a language that they can understand, in a gender- and culture-sensitive form (Guideline 2) and that it should be given directly to children as well as their parents and/or legal representatives (Guideline 3). Information rights also encompass the right to be protected against information or images that might be harmful to the child's welfare (Guideline 60).

Information that is designed to both equip children and young people with what they need to understand

<sup>4</sup> The Legal Aid changes came into force on 1 April 2013 by virtue of the Legal Aid Sentencing and Punishment of Offenders Act 2012, removing from the scope of legal aid funding a range of civil and administrative issues of relevance to children, including private family law (custody and maintenance), personal injury, education, a significant proportion of immigration cases, housing and welfare benefits.



the workings of the justice system and to provide them with the confidence to assert their rights will go some of the way to making their participation in justice proceedings meaningful. But the right to information demands a more nuanced understanding of the scope of the right to information and about how information should be conveyed, particularly in the context of justice proceedings.

#### 4. Three Distinct Layers of Information

Child Friendly Justice means better support from adults so that young people understand different laws and how to challenge them if they are not happy with how they are treated. (Bransford, Walker, O'Connor, & Redding, 2014, p. 6)

In terms of the scope of the right to information, the findings of this project point to three layers of information that support a genuinely participatory process, but we suggest that justice professionals' interpretations of the right to information rarely incorporates all three. We define the first layer of information as 'practical and procedural information'. The experiences discussed during the Agenda Days confirmed that, to stand any chance of making a meaningful contribution, children and young people who are involved in justice proceedings need practical information about how the legal process works, when and where it will take place, and the roles and responsibilities of the various actors, in order to understand what is happening. There are many examples of child friendly resources to explain different aspects of the justice process, many of which have been produced by specialist children's legal services.<sup>5</sup> And yet, some of the young people involved in our project alluded to the lack of information they had received about even the most basic aspects of their case, including the time and location of hearings and the names and roles of the various adults appearing in court hearings.<sup>6</sup>

But practical information on its own is unlikely to be enough to enable children and young people to contribute meaningfully to decision-making. For children to achieve that transformational redefinition of themselves as 'competent beings' with an active stake in the justice process, it is necessary to consider information from a slightly more nuanced position. It involves a second (commonly overlooked) layer of information: what we call 'foundational rights-based information'. Children and young people need to be informed not only about what is likely to happen, but also about what *should* happen. For instance, children cannot object to a failure on the part of justice and welfare professionals to hear their views (for example regarding their adoption or foster placement) if they do not know that such a right exists in the first place. They need to know that they have the

*right* to be heard in such proceedings and that what they say should be given due weight.

Acknowledging the importance of foundational rights information to children's active and meaningful participation, children's rights advocates have made some steps towards reproducing child friendly versions of existing laws, policies and guidance, particularly the UNCRC, through a variety of media. Whilst a comprehensive review of them all is beyond the scope of this paper, they generally share two key features: they repackage the text of the original document in simpler language; and they present it in a more visually appealing format (shorter, bigger text, more colourful, and often with animation).

Recognising the appeal of these types of resources, the young people involved in our project recommended that the Guidelines needed to be online and in a format young people understand, suggesting cartoons and animation, along with young people talking about the key components of child friendly justice. Some attempts have been made to achieve this already, but none of the young people we spoke to were aware of or had used them. For example, the European Union Agency for Fundamental Rights (FRA) has produced a brochure for children explaining the features of child friendly justice (EU Agency for Fundamental Rights, 2014). Published in nine languages with some illustrations, this brochure sets out key principles and procedural issues in simple terms and highlights their practical application by reference to some concrete examples. For example, it explains the 'best interests' principle as follows:

When adults make decisions about you, they should think if this decision is best for you. For example, when parents are divorcing, the decision where and who the child should live with, should be taken thinking about what is best for the child, not what is best for the mother or the father.

While the FRA's attempts to present justice concepts to children in a way that can be understood are welcome, this resource is not particularly accessible (it is buried in the FRA webpages) such that the likelihood of it being widely used by children and young people, or by professionals working with them in the justice system, is relatively slim. Indeed, not a single young person involved in our study had ever heard of the Guidelines, let alone the 'child friendly' resources aimed at explaining them, and they suspected that the justice professionals representing their interests had not heard of them either. As such, none had had the opportunity or, indeed, inclination to evaluate their experiences or assert their rights by reference to the Guidelines. Unsurprisingly, therefore, some of the young people in the project revealed alarming defi-

<sup>5</sup> See notably the 'Lawstuff' resource developed by CORAM children's legal centre (<http://lawstuff.org.uk>)

<sup>6</sup> This omission is reinforced by subsequent research, funded by the European Commission in which the authors are involved, aimed at developing (in collaboration with young people) training for legal practitioners on how to adopt a child friendly approach to legal case work involving children (Training and Assistance for Legal Experts [TALE], 2015–2017).

ciencies in information and knowledge about their fundamental rights in a justice context. The young participants who were in care had no idea whether they could access their own case files, or whether they had a right to maintain contact or reside with their siblings. Others questioned whether they had a right to legal aid or whether they could have a say in who they lived with following their parents' separation. Most conveyed a sense of being *subjected to* the justice process rather than *subjects party* to the process, and much of their feelings of isolation and subjugation seemed to result from a basic lack of information.

The young people thus recognised the value of and need for more guidance on the nature and scope of their rights in the context of justice proceedings and agreed that, had they been informed of the full extent of their rights as detailed in the Guidelines, their experiences of the justice process might have been more positive. Specifically, some young people involved in child protection proceedings felt that more explicit allegiance to the Guidelines might have reinforced their right to be heard in relation to decisions about their care and contact with siblings. Additionally, it would have rendered decision-makers more transparent in explaining the factors they had taken into account in determining what was in their best interests. The young people also agreed that the obligation to provide them with foundational rights-based information is incumbent on all adults involved in the justice process, including family members, the police, social workers, lawyers and judges.

### **5. Beyond Knowledge towards Understanding: Agency Asserting Information**

Despite the proliferation of online and printed resources that present children's rights in a supposedly 'child friendly' way, it remains the case that children and young people remain largely unaware of the true nature and extent of their rights. Even those children who routinely access this type of information still raise significant questions and barriers relating to their actual enforcement in practice. We think the problem partly lies in the fact that some basic messages underpinning children's rights information are commonly overlooked and even obscured: specifically, how they *can and should be used* to protect and enhance children's lives in *real life* situations. Certainly the young people involved in our study bemoaned the presentation of foundational rights-related information (including material relating to child friendly justice in a supposedly child friendly format) in largely abstract terms, detached from the specific realities of the processes and decisions confronting them. Our review of the materials supported this criticism: while many of the existing child friendly versions are appealing visually, they still present rights in relatively abstract terms. In other words, they focus largely on providing children and young people with *information* about their rights, but they stop short of really enabling children (and, indeed

their adult representatives) to *understand* how these rights might be applied to their specific situation. With this in mind, while we acknowledge that translating children's rights into simple language and presenting them in an appealing format are important, they are just two (relatively superficial components) that need to be present if abstract principles are to be made more relevant to children. Beyond this, the challenge, is to provide information (and support) that will provide children and young people with the reassurance they need in order to be able to insist that their voices are heard. It is at this point that the right to information is understood not merely as conveying facts to the child, but as a process of contextualising that information, presenting genuine choices, defining what support is available to enable the child to exercise those choices, calibrating expectations in the light of other factors that influence decisions about the child, and presenting realistic and clear projections as to what outcomes might arise from different courses of action.

This defines what we see as a vital third layer of information rights: what we call 'agency asserting information'. This is where the process of providing information transmutes into a space and opportunity for the child to use that information in a way that enables them to assert their rights or, as Roger Smith puts it, to become "necessary and active agents in making justice, regardless of whether they are offenders, victims, both or neither" (Smith, 2011, p. 252). It is at this stage that we start to value and use information as a critical gateway to participation and as an essential ingredient in creating a child friendly justice system; participation both depends upon and facilitates children's understanding of the information they receive and the processes they are going through and, in turn, enables them to have a meaningful stake in any decisions involved. However, this is not straightforward. Evidence from other areas of practice such as medicine, social work and education would indicate that, even when the legislative and policy requirements to listen to and take into account children's views are clear, efforts to achieve this are often tokenistic, largely because of the type of information given to children and the lazy methods and belated points at which it is provided. Indeed, a number of commentators in the UK and Europe have suggested that the priority is to be *seen* to be promoting participation rather than promoting participation *per se* (Cairns, 2006; Crimmens, 2005; Henricson & Bainham, 2005; Mori, 2005). As far as the vital ingredient of information is concerned, this can become a mechanistic, largely unilateral process with the adult passing information onto the child about particular aspects of their case (perhaps in the form of a leaflet, but more commonly in a letter, a text message, phone call, or a face-to-face meeting), and the child passively receiving that information, but with limited opportunity to clarify how they go about actually using that information in a way that might respond to their specific needs and desires.

This perpetuates what has become an established default position within many of the institutions (justice-related and otherwise) concerned with children and young people: that decisions—particularly those of a complex or sensitive nature—are best left to the adults. In other words, adults are presumed to be ‘better informed’. This neglects to consider that, in the absence of regular knowledge (or information) exchange with the child, adults may be as ill-informed as the child insofar as they are likely to have limited information as to what the child actually knows and understands, what they really need, and what they really want. Orama, for example, observes that “adult professionals tend to take for granted that they know what is in the best interest of children, often without even asking the children concerned” (Orama, 2009). This is supported by the burgeoning contemporary research on the justice process which points to a stubborn tendency on the part of adults (particularly justice professionals) to “make decisions on behalf of children without any reference to children’s knowledge, experience or preferences” (Lansdown & O’Kane, 2014; Daly, 2017; Emerson, Lloyd, Lundy, Orr, & Weaver, 2014).

## **6. Towards a Child Rights-Based Approach to Developing Child Friendly Resources: Five Key Components**

Informed by the findings of the project and the feedback from the young people, we identified five components that should be present if an information resource is to be genuinely child friendly. We attempted to test these by developing our own a child friendly version of the Guidelines. Ultimately, we wanted to move beyond merely re-branding content defined by adults or simply re-presenting the text in simpler language or in a more colourful format. The five suggested components are as follows:

First, children and young people’s views and lived experiences should be the starting point for developing the resource. This ensures that the child friendly resource responds to children’s perspectives and experiences in a meaningful way, and maximises the likelihood of children engaging with them. One of the fundamental limitations that we identified in existing models of child friendly information is that they were developed almost exclusively by adults *for* children; there is very little evidence of any attempts to engage *with* children directly in the process of developing the resources. The extension of participation debates beyond the actual substance and process of decision-making to actual research methodologies is nothing new; there is a wealth of literature exploring the ideological, ethical and practical aspects of participatory methods as a means of achieving participatory outcomes, including in a justice context. This intelligence, however, has yet to permeate efforts

to develop child friendly versions of law and policy.<sup>7</sup> This omission is significant for two reasons: first of all, it belies the wisdom that direct engagement with children in all aspects of research and human rights education generates more relevant, accurate and meaningful outputs; and secondly, it creates an artificial and unhelpful distance or distinction between the delivery of information about children’s rights on the one hand, and the process of enforcing those rights on the other. In reality, both are inextricably linked. The chances of enabling children to understand the substance and scope of their rights are much greater if that information is framed in a way that responds very directly and deliberately to children’s lived experiences and desired modes of communication.

Second, the resource should be easy to follow. The young people identified as a priority the use of language and terminology that they can understand, ideally supported by images that correspond closely with the text. The child friendly resource should not try to capture all of the detail of the original text; instead it has to highlight the key points that will be most relevant and useful to children and young people. Many of the young people with whom we have engaged in more recent work on child friendly justice (Stalford et al. (TALE), 2015–2017) reinforce the point that they, like adults, will rarely absorb or even read or listen to long-winded information resources, no matter how appealing their presentation. The young people engaged in our study mined from the 83 Guidelines just three issues that they felt were instrumental to achieving child friendly justice: the provision of clear, reliable and useful information at all stages of the process; specialist training and awareness-raising among justice professionals as to the mechanisms that need to be put in place to achieve child friendly justice; and the right to have a say in decisions that affect them.

Third, the resource should focus on facilitating understanding, rather than just conveying information. In addition to using simpler language, a child friendly resource needs to be designed in a way that not only informs children and young people about their rights (foundational rights information), but that enables them to appreciate and reflect upon how and when they apply in practice (agency asserting information). This points to the need to use child friendly resources not simply as an end in themselves (job done!) but as a tool for use by practitioners and other adults in face-to-face meetings with children and young people, accompanied by ongoing sign-posting to other relevant services and information, depending on the nature of the child’s legal query. In other words, to achieve true understanding and to support agency, a child friendly resource has to be relevant to children and young people’s lives and to respond to the reality of children’s everyday experiences of the justice process if it is to move beyond abstract information. The best way of achieving this is to illustrate specific points by reference

<sup>7</sup> At the time of writing, the authors are aware of the development of a (as yet unpublished) child friendly version of the Council of Europe’s Convention on Protection of Children against Sexual Exploitation and Sexual Abuse by the Centre for Children’s Rights, Queen’s University Belfast, in partnership with children and young people (Council of Europe, 2007).

to concrete examples, drawing on children's real life experiences of the issues covered by the law, policy or guidance. For instance, a resource telling children that they have a right to have a say in decisions that affect them in relation to contact or residence with their parents who are separating should be accompanied by specific examples as to how a child goes about asserting this in practice: who they should speak to and when; how much influence that may have on the decision ultimately made; and whether/how they go about complaining if they feel their views have not been heard or taken into account.

Fourth, a child friendly resource has to be appealing, requiring presentation in a format or range of formats that children will want to use. They should not be too lengthy or complicated and the amount of text used should be kept to a minimum (we have heard anecdotally that the average attention span of an online viewer is about 90–120 seconds!). Key points or words should be emphasised through repetition and, in an online context, supported by voice-over, images, animations or sound effects, whilst avoiding the temptation to over-clutter resources with too many gimmicks. We would therefore recommend that an online child friendly resource should last no more than 60–90 seconds and that any printed versions should be equally succinct.

Fifth, to ensure that the resource reaches the greatest number of children across the greatest range of contexts (age, region, culture etc.), it should be immediately available, preferably online, but supported by other media (ex. printed leaflets and posters etc). It should ideally be accessible through online sites visited routinely by children and young people (such as YouTube, Facebook or other social networking media), and integrated into practitioners' training programmes and everyday practice resources. Of course, in a rapidly changing and competitive technological environment, children are accustomed to engaging with graphically sophisticated resources. As such, there is a danger that any online models (including our own, developed on a shoe-string budget) become quickly dated and, consequently, have only a short-lived appeal to young people. Notwithstanding such constraints, we end our discussion with a note on the value of online media in achieving child friendly justice, since this was highlighted by the young people as a particularly familiar means of receiving and sharing information.

### **7. An Attempt to Develop a Child Friendly Version of the Child Friendly Justice Guidelines Using Online Media**

One of the key findings of our research is that young people are heavily inclined towards using the internet to search for advice on legal questions and that they endorse the use of the internet to promote access to that

information amongst their peers. As such, the final stage of our project involved the development of some pilot, child friendly alternatives of the Child Friendly Justice Guidelines, using basic animation technology and the online platform, YouTube. We developed three animations, narrated by members of our Reference Group, that responded to each of the priorities noted earlier that the children teased out of their reading of the Child Friendly Justice Guidelines: the right to information; the right to participate in decisions; and the importance of practitioner training.<sup>8</sup>

We emphasise the participatory currency of social media and online technology in the context of developing child friendly justice information for a number of reasons. First, it has a cultural appeal: the internet is now embedded in our culture and is the key way in which we access information, including information about our legal rights. This is becoming particularly important in legal areas (such as private family law) that have been subject to significant cuts in legal aid provision such that face-to-face legal advice and representation is gradually being replaced by online self-help guides (Rodgers, Trinder, & Williams, 2015). The practical appeal is also evident, insofar as costs (particularly relating to dissemination) can be contained, whilst also wide and rapid. Perhaps most importantly for our purposes, however, is the fact that online information resources have an ideological appeal, potentially advancing children's participation above and beyond many other methods of engaging children. This is because children, as natives of this environment, can be engaged in a more creative and intensive way, not simply as recipients of the information it hosts, but as active co-creators. In that sense, developing online information resources flips the power dynamic, with children leading the way in supporting adults (more likely to be internet 'immigrants' than natives) to convey information rather than the other way round (Prensky, 2001). While the notion that the digital native generation are digitally *literate* is highly contested (Livingstone & Brake, 2010) there is at least strong evidence that the internet generation has a preference and desire to communicate and locate information on the web.<sup>9</sup> For commentators like Prensky, efforts to provide information through this media demands two things: an acknowledgement that we, as adults, do not know everything (or, indeed, that we may know very little), particularly when it comes to online engagement; and an openness to recruiting the views and experience of young people from the outset.

While the dissemination of legal advice and other information via the web is taken for granted by many organisations, the observations of the young people in our project highlighted the nuanced differences between young people's and adults' perceptions of the best approach to online information dissemination. Key points raised by the Reference Groups included: a desire for on-

<sup>8</sup> The animations and project documentary can be viewed at: <https://www.youtube.com/playlist?list=PLXz7NWZi5SdKcqu4DE6m4MOEL3DqWMI9C>

<sup>9</sup> There is insufficient scope in this paper to explore the risks associated with young people's use of online media but we suggest that supported use of reliable online information materials that have been developed through rigorous, participatory methods should be encouraged.

line advice in a format that was engaging, easy to understand, and relevant to the young people's needs; endorsement of social media platforms as effective mechanisms for both locating and for actively sharing relevant legal advice; a desire for online resources that could be accessed by social workers and other justice professionals acting in the role of advisors as well as by children themselves in order to provide a quality control mechanism for those types of advisors; the value of commenting and discussion tools within some social media platforms to provide users with a Q&A mechanism; and the importance of maintaining avenues through which legal advice could be obtained other than online, for example, through lawyers, social workers and police who have received training in child friendly justice.

Participants did not, therefore, anticipate that social media and the web would fulfil all of their legal advice needs, or that social media would be a reliable option for all young people. Indeed, for information to be truly 'agency asserting', it has to be adaptable to the specific context and concerns of individual children or communities rather than represent or reinforce particular stereotypes. Face-to-face support and ongoing information provided (by text, phone or other digital media) in a more responsive way by practitioners or their peers as concerns and opportunities arise remain critical, therefore. Work by Roe and Livingstone further supports the need for this more nuanced understanding of how, why and, indeed, whether children and young people access information online. What emerges from Roe's work is the distinct difference in media consumption between young people based on gender, education, socio-economic status, family and country of residence (Roe, 2000).<sup>10</sup> Moreover, Livingstone's research argues that the notion of young people as simple consumers of online media is too simplistic (Livingstone, 1998). Online media consumption, she argues, has to be understood as part of young people's active participation within their peer culture and not as a result of their passive absorption of broadcasting.

These same points were echoed by the young people involved in our pilot and, indeed, in our subsequent work (Stalford et al, (TALE) 2015–17). They were keenly aware of the viral marketing potential of social media, a characteristic which has been acknowledged by policy makers in different sectors. This, in turn, reinforces the need to focus more strategically, not just on the content and format of online legal information, but on how young people can be instrumental in its dissemination:

Many public sector and non-governmental organisations, from educators to child welfare workers to activist movements hope that through social networking services they can address young people on their own terms, putting the potential of viral marketing to positive use." (Livingstone & Brake, 2010, p. 75)

In the same token, the young people supported approaches to social media use that are more sophisticated, more diverse, and more central to their legal advice needs than we currently see used in practice. But the fact that such information is developed by adults, in response to adult-determined preconceptions and priorities, fundamentally limits the potential appeal and impact of the information. Donnelly and Kilkelly (2011) discuss this problem in the context of information available to young people about healthcare. Specifically, they contend that by excluding young people from the very process of developing healthcare information, it effectively polices young people's access to the full range of information that they need. This, they argue, inevitably limits young people's ability to participate meaningfully in health care decision making because the information they receive is only partially relevant and useful to them. The problem of gatekeepers frustrating effective participation by limiting information in this way applies equally to decision making in a justice context.

Social media offers a positive (albeit partial) solution to those issues due to its power to present information in ways that support searching and sharing and which usually positively promote comment, correction and criticism. But this is a double-edged sword: whilst social media sites like Facebook, YouTube and Twitter may present information for public view and public scrutiny, in the context of legal advice provision (as well as many other areas such as health advice) the public scrutiny of these sites may not be adequate to ensure that content presents a true and reliable picture of the law. Indeed, the commenting and discussion function within social media sites may play a more valuable role in developing an authentic discourse between users that reinforces the law's relevance to young people's lives rather than its legal accuracy.

## 8. Conclusion

Efforts to highlight the value of achieving children's meaningful participation in decision-making continue to dovetail with efforts to render the justice process more child friendly. But both campaigns, we argue, have largely failed to scrutinise the currency of children's right to information as an instrumental component. Information is the life-blood of participation, but we need to substantially shift the way in which we think about and deal with it. Fulfilling the right to information has to progress beyond merely providing young people with practical and procedural facts (the first layer), and even beyond informing them about the nature and scope of their fundamental rights in relation to particular aspects of the justice process (the second layer). Information has to be reinforced, repeated and refined as the process unfolds so that young people know exactly how they can implement their rights. They need to know who has the authority, experience and knowledge to address their

<sup>10</sup> There was insufficient scope to explore these issues in our pilot.



concerns appropriately and how to access them. Importantly, the information they receive should be provided in a way that gives them confidence that their contribution will be welcomed and valued by a child friendly justice system and that any failure to do so is an injustice that should be contested. In short, the information has to have the potential to lead to a truly transformative change in the way children and young people experience the justice process.

The project described above represents an attempt to develop some tools in partnership with children that will assist in achieving this, although we acknowledge its limitations. Our animations are the product of a modest pilot; rather than promoting these as by any means a definitive model, the aim of our study and this paper has been to highlight the value of online technology and participatory methods as a vehicle for achieving child friendly information. We did not consciously recruit children with disabilities or children from minority ethnic or non-English speaking backgrounds. As such, our project does not interrogate how legal information should be adapted or presented to render it accessible to children with different impairments or levels of linguistic ability. Nor did we have the scope to explore fully how to engage children in disseminating child friendly information. That said, as the appetite for online legal advice and information grows, and as cuts in legal aid for children persists, there has never been a better time for innovation in this regard.

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### Conflict of Interests

The authors declare no conflict of interests.

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Article

## Doing It Write: Representation and Responsibility in Writing Up Participatory Research Involving Young People

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### Abstract

This article adopts a reflexive stance as the authors look back on their doctoral research projects; the first author exploring young people's relationships with community radio, and the second author studying young people's alcohol consumption practices and experiences, both in the North West of England, UK. The authors discuss the methods of data collection they employed, which enabled young people the opportunity to participate in meaningful ways. However, drawing on snapshots from their PhD theses, the authors question whether decisions made when writing up related to protecting anonymity, (re)presenting speech characteristics, and editing, independently of participants, potentially undid some of the hard work exerted in creating an equitable space for young people's contributions, resultantly perpetuating the regulation of young people and keeping them 'in their place'. The authors propose some recommendations for facilitating the inclusion of young people in the writing up of participatory research.

### Keywords

Dissemination; inclusion; methods; participatory research; qualitative research; young people

### Issue

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### 1. Introduction

Whilst I worked incredibly closely with the women at Sure Start Parr (as well as local artists and professionals who provided crucial assistance throughout the research project), I am aware now that, in writing this article, I am alone. Whilst I draw on our shared memories, this work is ultimately my creation. I acknowledge the power that I hold as I write about this project, and as I attempt to do justice to the extensive work to which we all contributed. (Foster, 2007, p. 368)

Participatory research, originating from Tanzania in the 1970s (Hall, 2005), is ingrained in work with marginalised and oppressed people living in developing areas. Par-

ticipatory research has since been studied and undertaken by scholars in disciplines ranging from Anthropology to Health. Child rights advocates, critical educators and youth workers have embraced the ethos of participatory research as research 'with' as opposed to 'on' participants. Participatory research is celebrated as actively involving participants in: data gathering (Gallagher, 2008); analysis (Morrow & Richards, 1996); dissemination (Pain, 2004); and follow-up action (Cahill, Sultana, & Pain, 2007). In reality, participants are most often involved in data collection, less so analysis (Mauthner & Doucet, 1998; Pain, 2004), and less frequently still dissemination (Mohan, 1999). Although we are not suggesting that participatory research is "parachute research" (Minkler, 2014, p. 245), participants are seldom invited

to participate in research after data collection. When participants are involved in dissemination this is typically through presentations. Academics often get on with their job and go solo when writing up. The epilogue opening this article by Foster (2007), a researcher undertaking a participatory project at Sure Start Parr, a children's day care service, epitomises the power and responsibility held by the researcher when writing publications. Our article carves out a space for thinking about the inclusion of participants in writing up, beyond the potentially burdensome and time-consuming process of co-authorship. Instead, we think of ways we can use the power and authority we currently possess in writing up to include participants, to more accurately represent them, and to "do justice" to their contributions (Foster, 2007, p. 368).

Representation is a complicated issue in social research inasmuch as the researcher reflects a vision of the reality of a participant that has been subject to distortion (Foster, 2009). With this article, we further critical discussions of participatory research (Cooke & Kothari, 2001; Gallacher & Gallagher, 2008; Mohan, 1999; Pain & Francis, 2004), recognising that representing participants in academic writing requires more thought and consideration in research that claims to be participatory. We reflect on our doctoral research projects: *Connecting Communities through Youth-Led Radio*, which explored young people's relationships with community radio (see C. Wilkinson, 2015), and *Young People, Alcohol and Urban Life*, which studied young people's alcohol consumption practices and experiences (see S. Wilkinson, 2015a). Although these projects were framed with "pockets of participation" (Franks, 2011, p. 15), we wrote up our theses independently of our participants. Herein, we critically reflect on how decisions we made when writing up ultimately (re)presented our participants.

First, we situate participatory research with children and young people in debates on writing up. We then offer a synopsis of our research projects (C. Wilkinson, 2015; S. Wilkinson, 2015a). Following this, we provide empirical examples from our research to reflect on our representations of participants, focussing on three areas: protecting anonymity, (re)presenting speech characteristics (such as accents and impediments), and editing decisions (for example the inclusion/exclusion of expletives in participant quotations). We conclude by emphasising the importance of involving young people in writing up participatory research, and provide some recommendations for how this can be achieved.

## 2. The Unwritten: Participatory Research with Children and Young People

The emergence of the sociology of childhood, which debunked the view of children as incompetent and "becoming-adults" (Lee, 2001, p. xii), has contributed to a reassessment of the inclusion and role of children in research. Participatory research has been positioned as one way to achieve this inclusion, supported by scholars

who believe that, through involvement in research, people have a better opportunity to influence decisions concerning their lives (e.g. Crivello, Camfield, & Woodhead, 2009; Grasser, Schunko, & Vogl, 2016). Whereas children and young people have been, and can still be, considered marginal in research, participatory research positions them as co-creators of knowledge. In participatory research, children and young people are often employed as peer researchers because they are believed to possess skills that adult researchers do not: they speak the same language as their peers; they have access/membership to hard-to-reach groups; and they have first-hand insight into matters affecting other children/young people (McCartan, Schubotz, & Murphy, 2012). In this sense, they are experts in their own lives (Burke, 2005; Mason & Danby, 2011). Owing to this 'expert' insight, knowledge produced from participatory research with children and young people can be considered more authentic (Grover, 2004), richer, and more reliable than that produced through traditional top-down approaches.

By involving children and young people in research, they arguably "cease being data mules in the carriage of other people's academic careers" (Smyth & McInerney, 2013, pp. 17–18), and are realised as agentic and competent actors in their own lifeworlds. However, Mohan (1999, p. 51) is concerned that "despite replacing a monologue with polyphony there are still questions of who writes up, who publishes the material and whose career benefits?" Mohan (1999) reflects that young people are often not invited to participate in research post data gathering. Discussing a project that attempted to engage young people with an intellectual disability in participatory research, Dorozenko, Bishop and Roberts (2016, p. 200) argue that, as academic researchers, they had "certain skills and expertise that lent itself to research", such as undertaking literature reviews; analysing qualitative data; and publishing. Thus, it would be "self-effacing (and dishonest)" to deny their contributions to these stages of the project (Dorozenko et al., 2016, p. 200). Muhammad et al. (2015) support this, stating that academics have the training and expectations to produce peer-reviewed articles, whereas young people may have distinct responsibilities (for instance school/work) that preclude additional tasks. A potential consequence is that "academic power and privilege can become omnipresent" in the writing and representation of data (Muhammad et al., 2015, p. 1055). We commend Mary Kellett's decision to include Ruth, Naomi and Simon, aged 10, as co-authors on an article about empowering children as active researchers (see Kellett, Forrest, Dent, & Ward, 2004). Kellett enables these children to take ownership of their research agendas, and challenges the status quo. Other authors (e.g. Cahill et al., 2004; Townsend et al., 1995) have been successful in producing publications collaboratively with participants.

Co-authorship may not be practical or desirable for research participants who have their own busy lives, and may also not be practical for the research project or



researcher. There is a balance here then between participatory ethos and pragmatic decisions around cost, time and resources. There have been (justified) concerns of over-burdening participants in participatory research (see Cornwall & Jewkes, 1995; Flicker, 2008). However, some participants may wish to participate more fully than the remit outlined by researchers allows, and may become sceptical after being prohibited from participating in the ways that they expected (Barreteau, Bots, & Daniell, 2010). This relates to an important critique, that some participatory research projects involve young people in tokenistic ways, resulting in low levels of self-advocacy and empowerment (Cooke & Kothari, 2001; Mohan, 1999). Related to this, Thomson (2007, p. 207) highlights how participatory approaches can cause harm if children's perspectives are rendered meaningless, due to unacknowledged personal assumptions of the researcher which resultantly keep children "in their place". Gristy (2015) highlights the problems of representation and speaking for others within participatory research. In this view, representation in the communication of findings is a political act. This is especially so when considering editorial decisions, for instance the choice of publication venue; word limits; and restrictions to lengths of quotations etcetera. Following Ansell (2001), choices must be made by the researcher, and although the consequences of these choices can neither be fully controlled, nor fully known, some responsibility must be assumed for the potential outcomes. With this article, we pinpoint aspects of writing up where further dialogue and joint decision-making is needed between academics and participants to do justice to participants' contributions, and to represent participants in ways they are happy with.

### 3. Overview of Research Projects

#### 3.1. Connecting Communities through Youth-Led Radio

C. Wilkinson's (2015) research project *Connecting Communities through Youth-Led Radio* explored the ways in which KCC Live, a youth-led community radio station in Knowsley, neighbouring Liverpool, UK, provides a space for young people to find and realise their voices, build stocks of social capital, and create their own communities. KCC Live was founded in 2003 as a college enrichment and work experience radio station, based at Knowsley Community College. KCC Live acts as an element of the college's retention strategy and intends to function as a bridge for young people Not in Education, Employment or Training (NEET) to (re)enter the labour market, though not all volunteers are NEET. The station typically has a 14–25 year-old volunteer base.

This research project adopted a participatory design in collaboration with 21 volunteers/staff members at KCC Live. Mixed methods were employed, including: 18 months of observant participation;<sup>1</sup> interviews and focus

groups with volunteers; interviews with management at KCC Live and Knowsley Community College; a listener survey, listener diaries, and follow-up interviews. The implementation of some of these methods contained participatory elements. For example, the young people were involved in designing and refining interview questions for management through mind mapping sessions. The young people and the researcher also co-produced the listener survey, and the young people assisted with distributing the survey. Accompanying the thesis were two co-produced audio artefacts: an audio documentary, 'Community to me is...'; which explored young people's understandings of community, and a three-part radio series, 'What we found', in which the young people discussed the research findings. The young people assisted in the recording and editing of these audio artefacts. Despite participating at various stages of the research—including the audio dissemination—the young people were not invited to participate in writing up.

#### 3.2. Young People, Alcohol and Urban Life

S. Wilkinson's (2015a) research project *Young People, Alcohol and Urban Life* explored the alcohol consumption practices and experiences of 40 young people, aged 15–24, living in the suburban case study locations of Wythenshawe and Chorlton, Manchester, UK (see also S. Wilkinson, 2015b). This research was conducted *with* young people, using a flexible suite of methods which they could 'opt into' (Leyshon, 2002, p. 182, emphasis in original), including: interviews; peer interviews; drawing elicitation interviews; diaries; mobile phone methods (S. Wilkinson, 2016); and participant observation. Offering a palette of methods enabled participants with different skills to participate in ways that were meaningful to them. The author refined and developed her methods through listening to the preferences of participants. For instance, some young people asked if they could be interviewed with their friends in what the author labelled 'friendship group interviews'. This illustrates the agency of participants to shape the research design.

Participants were also given the opportunity to interview friends about alcohol consumption. The peer interview method is a participatory tool that provides a way of foregrounding the perspectives of young people (Kellett et al., 2004). The researcher ran informal interview training sessions for the young people. This training equipped the young people with new skills, such as designing an interview schedule and gaining consent, which gave them more control over the project (see also Schäfer & Yarwood, 2008). Further, the transferable skills (Lushey & Munro, 2015) gained by young people, such as asking powerful questions and listening carefully, could be useful when seeking employment. Whilst some young people were more content using interview questions designed by the researcher, others were keen to develop their own questions (see also Schäfer & Yarwood, 2008).

<sup>1</sup> For more information about the author's use of observant participation, see C. Wilkinson (2017).

Analysis of data was undertaken independently of young people in this study, as was writing up.

#### 4. Reflections on Writing Up

Our individual research projects had much in common: they were both ethnographic, undertaken when we were doctoral students, employed multiple methods, and engaged with young people in data collection but not writing up. However, it is worth emphasising that the different topics (community radio and alcohol) may highlight different considerations in terms of writing up; for instance, aspects related to the representation of speech and voice may be given more of an emphasis for those involved in community radio, whereas concerns over anonymity may, arguably, be more pressing for a study concerning alcohol consumption. Given the young people's non-participation in the writing up of our theses, we now unpack aspects of our writing which required us to (re)present participants, considering three key areas, respectively: protecting anonymity; (re)presenting speech characteristics; and editing decisions.

##### 4.1. Protecting Anonymity

An important part of ethical practice in most research is ensuring participants' anonymity (Grinyer, 2009). However, in both of our research projects, some participants expressed a desire to be named in our theses and future publications (see also Pymer, 2011). In the second author's research, one young person questioned: "are we going to be famous?" (Author's field diary, 15/11/13), demonstrating pride at appearing in published work. These young people wanted to showcase their involvement to others (Wiles, Coffey, Robinson, & Heath, 2012). However, we both decided that revealing names would compromise the anonymity of participants (Trell, Hoven, & Huigen, 2014), which may have negative future implications—for instance, when seeking employment (particularly in S. Wilkinson's 2015a study of alcohol consumption practices). It is important to stress that we, supported by our respective university ethics committees, made the decision of what was 'best' for our participants.

To give the young people more ownership over their stories, the first author allowed young people to choose their own pseudonyms. After a group discussion prompted one young person to suggest choosing pseudonyms after pop stars, DJs and presenters, others were enthused by this idea and proceeded to select aliases from their celebrity idols. Interestingly, many young people questioned "are we allowed?" and "would I be allowed to call myself that?" (Author's field diary, 23/07/13), perhaps illustrative of their views of academic outputs as serious and mundane. Within Moorefield-Lang's (2010) research with middle school students, some participants chose to name themselves after cartoon characters. Akin to Moorefield-Lang (2010), the

first author believed that allowing young people to choose pseudonyms enhanced the participatory nature of the study, also affording the young people greater agency. As a result, young people featured in C. Wilkinson's (2015) thesis, related publications and conference outputs as: Madonna, Robbie, MJ and Modest Mouse, amongst others.

The second author also planned to allow participants to choose pseudonyms, to protect them from feeling a loss of ownership over their work (Alderson & Morrow, 2011). However, she later decided against this and allocated each participant a name. This was because, where members of the same family participated in the research, family links may be more easily guessed; for instance, by inadvertently using the real name of a relative, friend, or associate (Pymer, 2011). However, looking back, the author questions the appropriateness of some of the names she allocated to participants. For instance, she named one participant Vera, an arguably dated name, when the participant's real name was much more modern. Grinyer (2009, pp. 49, 52) also reflects on the conundrum of choosing "equivalent" names for participants, and the "unanticipated distress" caused by allocating names that have negative associations or that participants cannot relate to. In summary, as researchers we possess a certain level of power and authority in writing up and in choosing pseudonyms for our participants. We argue that anonymity needs to be discussed with each participant on an individual basis to ensure they have the level of ownership they desire over their own spoken words.

##### 4.2. (Re)presenting Speech Characteristics

Translating the spoken words of participants into text, a "static form of representation" (Mero-Jaffe, 2011, p. 232), requires a number of often taken-for-granted decisions by the researcher (or external transcriber). In our projects, we undertook the transcription ourselves as we wanted to retain closeness to the data. Accents, predominantly Liverpool (Scouse) accents, were a prominent part of data gathering in *Connecting Communities through Youth-led Radio* (C. Wilkinson, 2015). The author transcribed the data verbatim, attempting to accommodate nuances in the accent, see the excerpt below:

The only difficulties I've faced is getting into like doing me show properly and like doing me voices and things. (Fearne, 22, interview)

Above, the word 'me' used by Fearne in place of 'my' is characteristic of the Scouse discourse. In capturing this, the author attempted to honour Fearne's discourse and accent, considering such nuances "sonic gems" (Oleksik & Brown, 2008, p. 163) in a study concerned with youth voice. However, there is evidence (see Corden & Sainsbury, 2006) that regional expressions present in verbatim quotations can be considered unattractive, and may lead to negative judgements about the speaker.

Another instance which required the first author to think carefully about how to (re)present speech concerned a participant with a stutter. The author decided not to make the participant's stutter evident in the transcribed data and therefore omitted pauses and hesitations, as well as repeated words, sounds and syllables. The author made this decision due to awareness that quoting things as they appear can be hurtful to participants (Beason, 2000). Further, as only one volunteer at KCC Live had a speech impediment, reflecting this in written text may have compromised the participant's anonymity, particularly when combined with other information disclosed in the data (see Oliver, Serovich, & Mason, 2005). However, this is complicated as the "rule of thumb" is that data should be presented in such a way that participants can recognise themselves, while the reader cannot identify them (Barnes, 1979, p. 39). The author was concerned that the participant may not recognise himself in her (re)presentation of his speech. Demonstrating this conflictual issue, some participants in Corden and Sainsbury's (2006) study believe that attention should not be drawn to impaired speech, whilst others were concerned about the participants' reactions to knowing the researcher had changed their speech. Notably, the first author was reluctant to omit the stutter because she believed it had significance to the focus of the research on voice. Similar considerations were not as marked in the second author's study of alcohol consumption.

Following Mero-Jaffe (2011), the transfer of transcripts to participants is useful for validating the data, preserving research ethics, and empowering participants by allowing them control over *what* is written. We add here that the transfer of transcripts to participants should also be concerned with *how* things are written. The first author sent transcripts to participants to ask them if there was anything they were 'unhappy with' or would like to be removed. No participant requested changes to their transcripts regarding content and 'what' they said. One participant replied to say "amazing how many erms I say. I sound like a right tool box"—when the author asked if the participant would like her to remove the 'erms' the participant insisted "no! I just thought it was funny" (Author's field diary, 21/02/2015). Mero-Jaffe (2011) reflects how the minute detail of verbatim transcriptions has the potential to insult interviewees, who might feel that "natural features of their talk" (Pinter & Zandian, 2015, p. 242) were unrefined. Further, while certain authors reflect that it can be embarrassing for participants to read transcripts (Forbat & Henderson, 2005; Mero-Jaffe, 2011), we argue that it is important that this potential embarrassment occurs at the reviewing transcript stage, when it is possible to make changes to address any dissatisfaction, as opposed to seeing extracts from transcripts in published work. Thus, to ensure an equitable space in writing up, participants' views

and feelings on the transcript must lead the researcher's decision-making about how to present data.

#### 4.3. Editing Decisions

Editing decisions made by the author (and sometimes suggested by reviewers) can play a part in (re)presenting research participants. Mauthner and Doucet (1998, p. 138) reflect that: "we dissect, cut up, distil and reduce their [participants'] accounts, thereby losing much of the complexity, subtleties and depth of their narratives". Editing can be considered a "balancing act" (Pymer, 2011, p. 197) between removing certain information, whilst ensuring data remain meaningful.

One editing decision we were faced with was whether to include/exclude profanity. Within both of our data collection experiences, we were met with instances of participants swearing. The first author made a decision to exclude these swear words, using ellipses to indicate a word had been omitted, believing that including profanity would lower the tone of her doctoral thesis. As Foster (2009, p. 234) tells: "much of the life and exuberance of the research process may, necessarily, be omitted or flattened in order to produce an acceptably academic account". The second author included expletives within her thesis:

Going to have a fucking crazy one tonight at Deansgate.<sup>2</sup> Been waiting for this all fucking week man! (John, 22, Wythenshawe, text message)

Some people were sluts and went with lads that they would never even look at if they were sober. (Jenny, 16, Wythenshawe, drawing elicitation interview)

Whilst being mindful that the presence of 'bad language' in academic papers can result in messy texts (Barker & Weller, 2003; Kvale, 1996), S. Wilkinson (2015a) believed that removing the swear words would be stripping emotion and affect out of the writing. By quoting participants extensively verbatim, instead of solely representing the key message, she hoped to offer a more authentic representation of the young people's views. Some participants in Corden and Sainsbury's (2006, pp. 105–106) study believed that removing profanity would result in a publication that is "untrue", whilst others stated that reading swear words would give the impression of the participant as "ignorant" and "not very nice". This illustrates the extent to which both of our decisions, made without consulting participants, potentially influenced a reader's perception of them.

We were also tasked with deciding whether to correct the young people's English. Neither of us corrected young people's English where it was grammatically incorrect, and did not to use the term 'sic' to indicate errors originating with the participants. Below is an excerpt

<sup>2</sup> A main road running through the city centre of Manchester.

from a participant's diary in the second author's study which shows both grammatical and spelling errors:

It was a mans flat and there was about 60 people there. To be honest I was the only person that was drunk and everyone else was taking pills. The pills are called Nintendoes and they made you illusinaite like a Mario game. (Jemima, 15, Wythenshawe, diary)

Following Townshend and Roberts (2013), we believed that transcribing verbatim allows young people to use their voices and also avoids interrupting the narrative's flow. Proof-reading the above and correcting errors would have eradicated heterogeneity and potentially the different educational abilities of participants. However, it must be acknowledged that a participant may want their 'mistake' to be corrected, and may despair at seeing something grammatically, or even politically, incorrect attributed to them in published work (albeit by a pseudonym). Editing must be undertaken in the best interests of research participants, and this can be achieved in conversation with participants. By including young people in the writing up phase, we are more likely to sustain the equitable space carved out for young people as is currently active in data collection and, to a certain extent, data analysis.

## 5. Conclusion and Recommendations

It is often assumed that participatory research is a positive ethical and political framework for research with children and young people. Indeed, it can be, but this article has highlighted that the current rhetoric of participation risks setting up norms of appropriate engagement by implying that children and young people should participate in certain ways and not others (Gallacher & Gallagher, 2008). Despite advances in researching 'with' rather than 'on' participants, this article has identified that the writing up of research remains primarily the responsibility of the academic researcher. We have presented a number of ways in which this can be problematic, owing to decisions made by the academic, independent of participants, which ultimately affects their representation. It is important to stress that we, as researchers, made the decision of what was 'best' for our participants. This highlights wider ethical concerns outside of academia, such as media representations of the lives of young people, and notably the demonisation of teenagers.

With this article, we argue that including young people in the writing up of research is important as, through "owning and controlling" participants' stories, researchers can sustain hegemonic depictions of participants, and worse still, add further to this oppression (Lynch, 2000, p. 80). In our research projects, we were guilty of this by denying our participants' desires to be named in publications (C. Wilkinson, 2015; S. Wilkinson, 2015a); attempting to replicate speech characteristics in arguably demeaning ways (C. Wilkinson, 2015), and mak-

ing the decision to omit (C. Wilkinson, 2015) or include (S. Wilkinson, 2015a) profanity without consulting our participants. Even though work has been done to create a more equitable space for young people in participatory research agendas, adult researchers still maintain authority and power when writing up. When full-scale participatory research is not possible or desired, participation can always be improved (Greenwood, Whyte, & Harkavy, 1993). Thus, it is all about finding "appropriate and desirable levels of involvement" (Flicker, 2008, p. 84), without burdening participants or diverting them from other duties in their lives.

There are issues related to temporality, as the process of publishing an article can take months or years. As such, involvement—and particularly sustained involvement—from participants throughout this process may not be viable. We offer some recommendations for ways to facilitate the meaningful inclusion of children and young people in the writing up of research that do not require their full participation up to the point of publication. First, it is important to build participation into the writing activity. Second, we encourage collaborative publications, including the names of project partners as co-authors. We suggest that these recommendations can be pursued in the following ways: develop participatory guidelines pertaining to ownership, authorship, and dissemination; show participants verbatim transcripts of their data and *encourage* them to make suggestions and amendments, as opposed to asking them if there is anything they are 'unhappy with'; share drafts of papers/chapters with participants for feedback and be prepared to include dissenting views if there is disagreement on interpretation; constantly question whose voice is dominant in written work, and whose language is privileged. For these recommendations to be participatory, a trusting and mutually respectful research relationship is required.

Importantly, research projects often have limited funding which could prevent a researcher from revisiting the field after data collection and in advance of publication. Thus, with this article, we make a case for making this type of involvement part of the funding bid, and urge researchers to consider allocating a portion of funding to activity such as that recommended above. In line with Greenwood et al. (1993), researchers must continually evaluate the ways in which different facets of their research serve to enhance participation in order to avoid keeping children and young people "in their place" (Thomson, 2007, p. 207). Following the above recommendations, we believe that participatory research with children and young people can be more considerate to the ways in which they would like to be perceived in academic writing.

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### Conflict of Interests

The authors declare no conflict of interests.

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Article

## Saying It Like It Is? Power, Participation and Research Involving Young People

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### Abstract

Developments in the conceptualisation of childhood have prompted a fundamental shift in young people's position within social research. Central to this has been the growing recognition of children's agency within the landscapes of power between child participants and adult researchers. Participatory research has rooted itself in this paradigm, gaining status from its principles of social inclusion and reciprocity. While participatory research has benefitted from a growing theoretical analysis, insight can be deepened from reflexive accounts critiquing participation 'in the field'. This article presents one such account, using the example of an ethnographic study with young people living in a 'disadvantaged' housing estate in the UK. It describes how efforts to 'enable' young people's participation were simultaneously embraced, contested, subverted and refused. These, often playful, responses offered rich insight into how the young participants viewed themselves, their neighbourhood, and 'outsiders' efforts to give them voice. The article concludes by emphasising the importance of conceptualising participation not simply as a set of methods, but as a philosophical commitment which embraces honesty, inclusivity and, importantly, the humour that can come from this approach to research.

### Keywords

children's rights; power; participation; resistance; UK; voice; young people

### Issue

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### 1. Introduction

The conceptualisation of children as active in the construction of their own social worlds has gained recognition since the 1990s. Oft-cited alongside the 'new social studies of childhood' (James, Jenks, & Prout, 1998; Mayall, 2000) this perspective critiques Piagetian understandings of children as 'human becomings' who lack the competencies of adults. Instead, it addresses children as 'human beings' who, in the here and now, are in possession of opinions, views and perspectives which deserve to be taken seriously (Qvortrup, 2009; Uprichard, 2008). This swell of interest in the 'new studies of childhood' is often made with reference to the Convention on the Rights of the Child (CRC), adopted in November 1989 (Cashmore, 2002; Grover, 2004; Lundy, 2007; Matthews, Limb, & Taylor, 1999; Shier, 2001; Sinclair, 2004). The CRC, and Arti-

cle 12 in particular, has not only made children's participation in decisions affecting their own lives a fundamental right, but systematically links these rights to social inclusion, agency and empowerment (Freeman, Nairn, & Sligo, 2003).

This paradigmatic shift has, in the succeeding years, become a "powerful and pervasive mantra" (James, 2007, p. 261), not least within academic social research traditions of the Minority World. Researchers within childhood and youth studies have increasingly turned to epistemological approaches which recognise children and young people as producers of knowledge about their own lives, and which redress perceived power differentials between child participants and adult researchers (Percy-Smith & Thomas, 2010; Tisdall, 2015; Tisdall, Gadda, & Butler, 2014). Participatory research, and its fundamental connection to solidarity with oppressed and

disempowered people (see Maguire, 2008, for discussion of participation from a feminist perspective), has rooted itself in this paradigm by offering the methodological foundations upon which children and young people's 'voices' can be heard (Grover, 2004; Hill, 2006).

A growing body of literature has engaged critically with the discourse and practices of children and young people's participation (Gallagher, 2008; Skelton, 2007; Tisdall, 2008; Tisdall & Punch, 2012) and the notion that participatory methods can 'give' them voice (James, 2007; Komulainen, 2007; Soto, Swadener, Kincheloe, & Jipson, 2005). These debates have centred around the normative presumption that participation is inherently 'good' or 'valued' (Nelson & Wright, 1995; Skelton, 2007; Tisdall, 2008), with some going so far as to suggest participatory research is a "cliché" (Cornwall & Jewkes, 1995, p. 1668). Central to this critique is not only a challenge to the dichotomous theorisation of power upon which participatory research is often based but also a belief that power, and its effects, can be reduced or minimised.

The aim of this article is to provide a critical and reflective account of participation 'in the field'. It does this by exploring the landscapes of power operating within an ethnographic study involving young people growing up in a Scottish housing estate, named here as 'Robbiestoun' (both this, and participants' names used in this article, are pseudonyms). In this respect, it follows Gallagher (2008) and Alanen (2014), who suggest that theoretical insights can be deepened by examining research practices claiming to be participatory. The study in question combined participant observation with a toolkit of participatory methods. Used both in a youth work and community setting, the approaches were designed to allow a wide range of young people to reflect and express their views and experiences of antisocial behaviour. Efforts at enabling young people's participation were simultaneously embraced, resisted, subverted and refused. The article focuses on the more challenging aspects of participation which often find themselves written out of accounts of participation, or sanitised for academic publication. These, often playful and humorous, responses did not, the article concludes, represent non-participation. Rather, they illuminate the ways in which research practices can allow for deeper insight into how young people view themselves, their social worlds, and 'outsiders' efforts to 'give' them voice.

## 2. Participation, Voice and Power

There is no firm definition of participatory research: it spans a continuum of different types of projects, and can be undertaken in many different ways. Where it is frequently discussed is with reference to the degree of engagement participants have "within and beyond" the research encounter (Pain & Francis, 2003, p. 46). Participation can thus refer to process (sharing or taking part in an activity), or an outcome (specifically taking part in decision making). Such engagement has, in turn, become

aligned to the methods and approaches employed, with creative, practical or 'task based' activities being associated with sharing ownership and the co-production of knowledge with participants (Askins & Pain, 2011; Christensen & James, 2008; Kellett, 2010; Pain, 2004). Morrow and Richards (1996, p. 98) suggest that using methods which are "non-invasive, non-confrontational and participatory, and which encourage children to interpret their own data" is one step towards addressing the disparities in power between adults and children.

Others have pointed to child-centred research methodologies as a means of making children and young people's right to be heard and have their views taken into account central to the research process (Aldridge, 2012; Barker & Weller, 2003; Coad, 2007; Van Blerk & Kesby, 2009). This is often expressed in terms of 'giving' children and young people a 'voice', with voice being an ethical and moral requirement. The "more authentic" the voice, the more the balance of power shifts away from adult researchers (Wyness, 2013, pp. 341–342). Visual and non-verbal methods make an important challenge to 'voice' based forms of participation which have dominated children's participation, partly as a consequence of the CRC (Horgan, Forde, Martin, & Parkes, 2017, p. 278). This is particularly important in relation to research with individuals and groups who do not have the necessary cognitive or verbal skills or confidence to take part in conventional qualitative methods. However, these benefits are not unique to child participants, and their value can stretch across generations and contexts (see for example Aldridge, 2016; Cameron et al., 2013; Wickenden & Kembhavi-Tam, 2014).

While evidence has demonstrated the value in these methods, there is a paradoxical situation whereby participatory methods simultaneously promote the competence of the child, yet call for creative research methods. This not only intimates that 'conventional' research is inadequate for reconfiguring adult-child power relations, but that children and young people require 'special' methods. If, like Punch (2002) and Thomson (2007), children and young people are considered competent social actors, it follows that researchers should not necessarily require 'child-friendly' data collection methods. This position takes us beyond the binary categories of the adult and child which, for Ryan (2008), is equally problematic, since it renders many of the conceptual tools for understanding children and young people's lives unworkable.

For Thomson (2007) the issue with 'child friendly' approaches is not the methods in themselves. Rather the concern is in the way such approaches prioritise child-adult categorisations, while simultaneously neglecting how age intersections with generation, and other identities, such as class, gender or race. Horgan (2017) similarly critiques the tendency within children's rights discourses to conceptualise children as independent right holders removed from their social, economic and cultural context. In broad response to these concerns, theorisations of childhood and youth have begun to emphasise the dy-

dynamic and relational aspects of children's lives (Hanson, 2016; Tisdall & Punch, 2012). This viewpoint recognises that individuals, regardless of age or generation, live *interdependently* (see Wyness, 2013; also, Horgan, 2017). The value of this analysis is that it does not discount the existence of child-adult power relationships, nor the possible vulnerabilities of children and young people, but places them within the context of generational practices, negotiated interdependencies and wider societal structures (Plows, 2012).

The rhetoric of the authentic 'voice' of the child, and its association to participatory research, has also been debated. James (2007) has argued that such efforts risk simplifying and reducing the complexity of children as social actors. Looking globally, Tisdall and Punch (2012) have raised concerns that notions of agency and rights are Minority World conceptualisations, and therefore privilege certain types of 'voices'. Komulainen (2007) is equally critical of the notion of 'giving' children a voice, emphasising instead voice as a social process, with not only the involvement of a speaker and a listener, but ambiguity in interpretation. Spyrou (2011) states that in order for childhood research to deal with the problem of representation, we must first reflect on the social processes through which 'children's voices' are produced. While not dismissing the concept of voice, he concludes by stating that "reflective researchers need to move beyond claims of authenticity and account for the complexity behind children's voices by exploring their messy, multi-layered and non-normative character" (Spyrou, 2011, p. 151).

The notion of 'voice' is intimately connected to power, and the desire to use methods which challenge the disempowered social position of children. It is also—like power—messy, complex and multi-layered. Gallacher and Gallagher (2008) argue that participatory approaches often describe power as a "commodity" possessed by the adult researcher and denied to young participants. While such principles are congruent with a pro-child stance (Roberts, 2000), this model sees power as dichotomous both in the researcher-researched relationship and wider society. Gallagher (2008, p. 403) proposes an alternate view of power:

It may therefore be unhelpful to imagine children's participation as a process by which adults, who 'have' power, empower children by 'giving' them some of this power. It might be more interesting to look at precisely how power is exercised, through a whole range of different techniques, in the interactions between the individuals involved.

While not underestimating adult power in research settings, this analysis highlights the value of adopting a more dynamic and relational understanding of power and voice, and how they intersect with method. Holland, Renold, Ross and Hillman (2010, p. 363), for example, found that power dynamics amongst young people affected the 'par-

ticipatory' agenda, with stronger voices drowning out quieter members. Likewise, Gallagher's (2008, p. 3) own classroom research suggests that dichotomous conceptualisations of power fail to acknowledge the ways in which young people may "redirect, contest or refuse participatory techniques". He concluded that participants' attempts to subvert or resist his presence were expressions of these power dynamics. Hill (2012) faced similar challenges, with young people using strategies of resistance, such as physical absence, to disengage with the research. Plows (2012), meanwhile, has discussed the ways in which expressions of agency by young people which challenge professional values can be interpreted as 'problem' or 'difficult' behaviour. Here, an ideological position is associated to agency, whereby the participating child or young person is learning to be a good citizen when they do the 'right' thing (Hanson, 2016). This position can potentially neglect ambiguous forms of agency which, as researchers may be professionally challenging, but offer insight into the social networks and social conditions which shape children and young people's lives.

Before moving onto the empirical example, it is concluded that there is nothing inherently empowering or child-centred about participatory methods (Gallacher & Gallagher, 2008), nor can a particular method make claims to being 'more' authentic or 'more' participatory. Rather, the capacity of an approach to be participatory depends on the nature of the social relations between those involved, the ways in which methods are practiced, and the extent to which individual capacity and social conditions are observed and accounted for. As Guariento (2010, p. 95) suggests:

Researchers need to recognise the imperfections of a relationship that is necessarily unequal, rather than trusting specific techniques to solve these contradictions through their inherent power. Participatory techniques may help children's voices to come through more powerfully by leaving more space for individual styles of interaction and by opening more channels for expression; they cannot be relied on, however, to act as a tool-kit to redress a power imbalance.

The distinctiveness of participatory research should thus lie in its philosophical concern with mutuality, equality and empowerment, with methods being selected not for their creativity, but as most appropriate for democratising processes of knowledge production.

### 3. Study Background: Saying It Like It Is

The research which this article draws upon was a year-long participatory ethnography based in Robbiestoun (a pseudonym), a predominantly social housing estate on the outskirts of a Scottish city. Robbiestoun spans three distinct housing estates which historically have suffered from poor housing conditions, poverty and unemployment. Despite being the focus of a long term programme



of demolition and new build, the area continues to suffer from a range of problems associated with 'disadvantaged' localities, including above average crime rates, rising unemployment and poor levels of educational attainment. Using a local youth club as the research base, it explored how young people growing up in a 'disadvantaged'<sup>1</sup> place defined and understood antisocial behaviour. The overall aim was to capture how such definitions are constructed and, in particular, the ways in which 'the antisocial' can impact on young people's spatial and social relationships.

The study was situated in a body of literature which suggests that UK antisocial behaviour policy is a means of regulating conduct (Flint & Nixon, 2006) and casts a moralising spotlight on young people and those living in social housing estates (Squires, 2008). The aim was to select an area of study which was typical of public imaginings of the social housing estate, as a 'problem' place, with 'problem' people (see Damer, 1989). As part of a pilot study, several youth clubs were visited, and initial interviews were conducted with youth workers. These focused on perceptions and experiences of youth antisocial behaviour; responses by the police and antisocial behaviour professionals; and the extent and nature of youth services. Notably Robbiestoun was the only pilot area where young people were invited to lead this first discussion, a factor which influenced its selection as the research site. Punitive responses to youth-related antisocial behaviour and heavy surveillance of public spaces, youth workers informed me, was a key concern amongst the young people they worked with. The young people present suggested that antisocial behaviour policies were an expression of wider societal attitudes to youth, felt unfairly targeted by police, and expressed concern over initiatives designed to prevent them socialising in groups. As Abs commented, "It just shows you how young people are seen...classed as rats, like vermin" (Abs, 17). Youth workers concurred, arguing that the rhetoric around antisocial behaviour had enabled a wholesale change in the way young people are 'placed' in society: "[antisocial behaviour] has created something...perhaps potential hate for authority later in life. It has affected [young people's] experience of being young" (Tom, Youth Worker).

The pilot study revealed that antisocial behaviour was an expressed issue for a number of young people, and local youth services. Robbiestoun Youth Centre was willing to give permission to use the youth club as a base for the study, and more importantly, initial discussions with some young people living locally were positive. The pilot was formative in the study design, which came to prioritise concern for the disempowered social position of young people, and the relative absence of mechanisms for voicing these issues to those in authority. The aim was

to shift away from research as a site where participant's views are 'collected' or 'given', towards it being viewed as a social, relational and interactive process (Harden, Scott, Backett-Milburn, & Jackson, 2000, para. 5.3).

#### 4. A Toolkit Approach to Participation

To do this, a toolkit approach was used, which combined participant observation and qualitative interviews, with a range of well documented 'creative' methods (discussed below). The crucial element of the toolkit was that methods were employed non-hierarchically, with no single approach being judged as offering a more authentic form of participation. Rather, multiple methods were used to engage with a wide range of young people and their diverse experiences, in a way that was sensitive to their assets and personal preferences. This, simultaneously, avoided the tyranny of method, whereby methods assumed as more participatory drive out other possibilities (Cooke & Kothari, 2008, pp. 8–9).

The research commenced with weekly participant observation at two sessions at the Robbiestoun Youth Centre: an employability project for 16–25 year olds and an after-school session for young people aged 12–15. Since the young people's own leisure space was being entered, and access had been granted by adult gatekeepers, this period of 'hanging out' was critical to the formation of mutual respect and trust with young people and their youth workers. Time was taken to talk to all young people attending the club about the researcher's presence; everyday life in Robbiestoun; views on the research; and how (if at all) they would like to be involved. At the same time, research tools were incorporated into youth club sessions. Posters and leaflets were placed in visible spaces, serving as physical reminders about the research. A large map of the local area was also hung in the centre of the building. This was used as an initial prompt for conversations about the area, with young people being encouraged to add their views about the neighbourhood using coloured stickers and comments. Over the course of the fieldwork, the map served as a research 'hub', with emerging findings, photos, and anonymised quotes from participants being continuously displayed. A 'post box' (with blank postcards) was also placed in the youth club, with an invitation to write messages to adult decision makers in the neighbourhood.

The youth club was their space, their territory and, importantly, sessions represented their leisure time away from adults. Moreover, it was a busy location, with young people moving in and out of the research setting. Many young people attended sessions intermittently, and new faces would appear and disappear every week. Rather than imposing a structured approach to participation, the research was designed to fit into young peo-

<sup>1</sup> Several young people who attended the youth club expressed a preference for the term 'disadvantage' (over alternatives such as 'excluded', 'deprived' or 'poverty'). They felt that 'disadvantage' was associated to the area, not the individual deficits of residents. This rationale, with its recognition of the social and economic barriers facing young people, was in keeping with the emerging findings, and used by the researcher during the course of the study (Davidson, 2013a, p. 15).

ple's patterns of socialisation. A range of activities were incorporated into the weekly sessions, and young people could choose whether, and how much, they wished to participate. The main activities included place mapping (using maps of the neighbourhood to discuss their views); walkabouts led by young people; individual photo diaries in which young people recorded a typical day or night out; as well as group discussions or informal conversations over coffee.

Sampling was opportunistic, and sought to talk to, and observe, young people who could illuminate understandings of young people's everyday interactions with antisocial behaviour. As the study progressed, project activities were extended to other spaces, including the local library and a detached youth work project. Efforts were made to ensure an equal split by age and gender, however, the population of Robbiestoun was predominantly White-Scottish and this was reflected in the ethnicity of the initial sample. In response to this, a youth club working specifically with black and minority ethnic young people was included in the project. Overall, the approach allowed the research to engage with large numbers of young people over an extended period of time, with more than 70 young people participating in one or more task-based activity, and 38 individuals taking part in an interview. The majority of those interviewed were already well known to the researcher and had previously been involved in some element of the project.

The fieldwork concluded with 'Say It Like It Is', an art project aimed at enabling a small group of young people to collaborate in the analysis of the data. A general invitation to young people attending Robbiestoun Youth Centre was circulated, which resulted in a core group of five young people meeting weekly over nine sessions. Using a selection of materials produced during the research (anonymised text from interviews and group discussions, photos, maps and postcards) the group were asked to reflect on the broad research themes: young people's social relations; spaces and places for young people in Robbiestoun; feelings about growing up in the neighbourhood; and feelings about antisocial behaviour in their everyday lives. Working with a local artist, participants designed posters to respond to the findings, and express their views on these topics. Some young people collected their own materials to produce their posters, either by collecting objects or by taking their own photos. The research concluded with a public event at Robbiestoun Youth Centre which displayed the posters alongside the initial research findings. Key decision makers, including local councillors and police officers, attended the event, as did young people from the local area. Art activities were led by youth workers which allowed participants to comment on the various displays, and provide their own interpretation of the emerging findings. The young people's posters were subsequently exhibited for an extended period at the local community centre.

Reflecting the Economic and Social Research Council's Framework for Research Ethics (2015), consent to

participate was seen as an ongoing and open-ended process, and not something resolved through the formal signing of a consent document at the start of research. The research regarded all young people as having the capacity to give consent to participate independently of their parents or guardians, although this was underpinned by clear written protocols on disclosures relating to harm and child protection. Special care was taken to develop an ongoing process of consent sensitive to the needs and capacities of different participants. This included ensuring my research posters were visible, handing out leaflets, and most importantly talking to young people about the research and how they could participate. Extended time undertaking fieldwork meant that most young people were exposed to the research over a long period of time and were provided with multiple opportunities to negotiate when they wished to participate and when they wished to 'opt out'.

This section has described in some detail the different elements of the research. In doing so, it highlights the complexities of defining participatory research in practice. Several typologies or models of participation (see Tisdall et al., 2014, for an overview) have sought to articulate different degrees of participation. These have largely been criticised for their linearity, and their tendency to classify research as becoming more participatory as power is relinquished by adults and passed to children and young people. The research discussed here is not unusual in that it encompassed several different elements, with varying degrees of participation and levels of engagement (collective and individual). In some cases, the degree of participation was constrained by funding, pragmatism and timescales. The research topic had, for example, been specified by the funders, while the Art Project which arguably involved young people in decision making in the most explicit way was funded separately, and had a small budget and limited timescales. The more realistic intention of the research was that less weight should be placed on efforts to equalise power between the researcher and participants, and more given to ensuring that there was a genuine and continued commitment to providing participants a choice in what they want to share, how they share it and then actively listening to what they say. The toolkit enabled this possibility, treating individual participants as actors and giving them ownership of those elements of the research they were involved in (see Aldridge, 2016, p. 156). The research was also explicit about the limits of its participatory possibilities. Rather than aiming to be as participatory as possible, it emphasised honesty in its intentions, in how participants' data would be used and the extent to which it could realistically effect change.

## 5. Entering an Existing Landscape of Power

Beyond a catchy headline, the research was presented as an opportunity to 'be heard', conceptualising young people as subject to control, and deprived of influence.

While the methodology and epistemology had been researched, discussed and planned, initial experiences in the field felt far removed from these theoretical deliberations. The existence of power differentials was inevitable, yet the realities of navigating power within new research relationships was immediately challenging, as shown in fieldnotes taken during the first few weeks on-site:

None of them seemed that bothered about who I was or what I was doing. Attempts to talk about it were met with either silence or ambivalence. Issues of power need to be explored further. (Fieldnotes, week 1)

There are a few girls at the session today. It is difficult to talk to them. I try to introduce myself [to the group of girls] but they turn away and ignore me. I am left feeling stupid and totally powerless. It makes me think about the debates on participatory research ... that the researcher is powerful and subjects powerless. This is not straightforward—ideas of power are far more complex.’ (Fieldnotes, week 2)

This unmistakably shows the balance of power in the researcher-participant relationship. In the first extract, I am an ‘outsider’: a middle class adult from ‘the university’, entering a young person’s space on the basis of permissions granted by adult gatekeepers. In the second extract, the girls are swift to exercise their power using exclusionary social practices. Power, here, can be seen as a way of demonstrating a claim to the youth club (*their* space), their identities and their privacy.

In these early interactions and observations, it also became apparent that power dynamics were not only a feature of my relationships, but that they permeated young people’s peer relations. They influenced when they visited the club, who they came with, and what they choose (or felt able) to do when they were there. June, for example, was very willing to participate in an interview, but felt unable to engage in group activities due abuse and bullying she had experienced at the hands of her peers:

I think, because they come here and they give me a black eye, they battered my pal and recently threatened to stab me, it’s just like, why would I come down here, if they’re using it to get rewarded for something’. (June, 16)

In another example, the balance of power operated in a different direction. When recruiting participants for the art project, a question young people often asked was, ‘who else is taking part?’. One of the volunteers was identified as a ‘geek’ and a ‘swot’, the result being that several young people opted out as they did not wish to be seen ‘hanging out’ with this person (see also Davidson, 2013b). The outcome is that even those not participating in the project successfully exerted control over how the project was perceived, and the knowledge ultimately

produced. The power dynamics fused within these examples reminds us that “research is a practice that is part of social life rather than an external contemplation of it” (Christensen, 2004, p. 166), with the observed interactions speaking more widely to the inequitable power differentials within young people’s social relations and identities. Navigating these ethical dilemmas are not easily resolved, since attempting to create an inclusive, supportive environment may be empowering for some, yet result in greater control and influence over others.

## 6. Refusals, Subversion and the Re-Appropriation of Power

As the research progressed, young people continued to exercise power in multiple ways. Robert, for example, was keenly involved in my research, participating in group activities and an interview. However, towards the end of the fieldwork he announced ‘I have helped you enough’, at which point he had no further involvement in the research. On discussing this, he stated that the research had encouraged him to do things he had not done before, and share views on issues he had not considered. However, he felt he had ‘said what he needed to say’. In another example, I spent the evening baking with Steph and a group of her friends. This was not a formal research activity, but we were discussing issues pertinent to the research. Whilst washing the dishes Steph told me:

I don’t want you using the conversation we had tonight for your research, I haven’t agreed to it being used, ok? (Steph, 14)

In both these cases, decisions to opt out provided positive indications that the participants understood they had agency in the research process, and that they could say ‘no’ without fear of it being viewed as an act of dissidence. Others took delight from resisting, rebelling and subverting the research process. During one mapping activity, two boys—Tommy and Bobby—sneaked off with my pens. Disappearing upstairs, they spent the time scribbling offensive comments on the youth club walls, an act especially telling given our activity that evening focused on ‘graffiti as a form of antisocial behaviour’. A further example of rebellion took place during a detached session in a local park, where I was working alongside two youth workers. We provided a group of young people with chalk, and instructions for drawing an ‘evolving image’ over the paths. The group rejected our directions, and instead (with much hilarity) proceeded to spend the next hour drawing dozens of enormous ‘cocks and tits’ all over the park. Yet, on the same evening, the same group of young people sat down for a chat, and shared their resentment about being accused by the police of setting fire to a local football pitch:

Warren tells me that they were moved on by the police: ‘They took our names; then moved us on. This

happens all the time, and it know it is because of where I am from'. He is angry—he believes that he and his friends are unfairly targeted by the Police and by local residents. (Fieldnotes, week 18)

In these cases, the young people were not rejecting the research—but rather making it clear that the activity suggested was not how they wished to participate at that moment in time. Tommy and Bobby, for example, were frequently 'in trouble' with the police. They found participating in groups challenging, and were frequently excluded from youth services. The toolbox methods allowed different forms of participation, and it was during 'walking tours' where Tommy and Bobby exhibited confidence leading the group, expressing their views and their ideas. Warren and his friends, meanwhile, saw the youth workers and myself as entering their territory. They had had a recent altercation with the police, and combined with the wider context of surveillance and control in public spaces, they were initially hostile to participation. In this instance, understanding the context and respecting the group's desire to relax and have a laugh was central to engagement.

Other similar events took place during the fieldwork. One of the activities young people were invited to participate in was 'mapping' their local area. In groups, we looked at a large map of their community, marking places and spaces young people spent time in, those they liked and disliked, and those they felt were safe or unsafe. This was followed by walkabouts directed by the young people. For some, the exercise did not engage them. Maps were difficult to navigate in certain cases, and others were concerned that they would have to write to take part. A more pressing issue was that group discussions were easily dominated by the most powerful, often male, voices. On examining the maps after the sessions, I would find marginalia in the form of doodles around the edges of the maps and on post-it notes. Despite their relative silence in the session, these scribbles provided quieter young people a means through which to express their voice. Figure 1 shows examples of this marginalia: the first is a drawing of a police officer with the accompa-

nied text, 'I smell bacon', and the second depicts a local 'junky' (a negative colloquialism for a heroin user) carrying a bottle of vodka.

Opting *into* the research for diverse reasons was also encountered. While all regarded the topic as important to some extent, other reasons often had greater significance. Jules and Amy, for example, participated in the research because they thought it was fun. Robert was motivated by his 'crush' on Amy. Others, however, were driven by the offer of food provided as a 'thank you' for participating. In one activity, the group were determined in their efforts to provide only yes / no answers to get it 'over with as quickly as possible', asking repeatedly 'can I get my cake yet?'

As in the work of Fine, Weis, Weseen and Wong (2000) subjects frequently exploited the knowledge that the research was recording their stories and their concerns. This impacted on power inequalities in different ways. In some instances, participants would be keen to tell tales from the weekend, to share examples of their interactions with the police, or adult members of the community. There were also several occasions when the young people would prey on my gullibility, for example, on one occasion Jack told an elaborate story about one of the group being imprisoned for murdering someone with a spoon. Afterwards, the group fell about the floor laughing, with Jack shouting 'why not put that in your book!'

Key to managing such responses to the research was having an approach which was inherently flexible, and sensitive to the fact it was being conducted within young people's own territories, in spaces they had chosen to be. Thus, individuals like Robert could opt in (and out) depending on how they felt. By combining the toolkit of methods with participant observation, it became possible to adapt my approach according to the social and spatial context and young people's individual preferences.

## 7. Negotiating My Role in the Field

With such flexibility, of course, came ethical dilemmas in relation to my own identity and position in the research. Jack's comment—'why not put that it your book!'



**Figure 1.** Marginalia produced during group mapping exercise.



brought my reason for being in their space sharply into focus. While efforts were made to be honest about my presence, my identity was often ambiguous and required constant negotiation. This complexity was partly the result of my presence in multiple locations (fieldwork was conducted in youth clubs, the local library and on the street), and the use of diverse methods in these settings. 'Conventional' techniques used, such as interviews, were easily recognisable as 'research'. However, task-based activities were similar to the approaches used by youth workers, making my identity unclear and perhaps better aligned to the category of 'volunteer'. In one discussion with the youth workers we talked about how much young people understood who I was. One of the workers, Alex, turned to me and said 'stop worrying about it', adding 'let's face it you are a youth worker now, that's how they see you'.

While my attendance might have become normalised, there was nonetheless evidence that young people understood I was not a regular volunteer. For most I occupied a position of 'betweenness' (Barker & Smith, 2001), falling somewhere between youth worker, friend and researcher. The following extract from a walkabout with Bobby demonstrates one such example of this:

We are taking a photo of a smashed window. Bobby says 'Do you want to go and smash a window now?'. Surprised (and laughing), I turn and ask him, 'who do you think I am?'. 'Dunno' he replies 'but we can take a photograph of it!' (Fieldnotes, week 15)

This desire to test the balance of power frequently surfaced. Young people recognised that, unlike a volunteer, I was less likely to reprimand or challenge their behaviour. Tests of my identity (and my patience) included stealing all the biscuits / pens / post-it notes for planned sessions; using a photo diary to take multiple photos of a cannabis joint; and 'stealing' my bike. I accepted these as part of my work in the field, and actively participated in the humour and laughter most of these acts provoked. However, on occasion they had wider, and less comedic, intentions, as the example below shows:

Abs was throwing pieces of a game at Henry. He is thought [by youth workers and other young people] to have been targeting his house and Henry told me he smashed the window of his house. From where I was sitting I could see him throwing the pieces hidden up his sleeve. Just before throwing each piece he would smile wryly at me—I was his accomplice. The youth worker came over and asked me to confirm that he was the culprit. I said I hadn't seen anything. (Fieldnotes, week 11)

This incident was significant. The request from the youth worker to provide information placed me in the position of spy. Yet it was equally problematic to align myself with Abs. By colluding with him I may win his trust, but at the

same time would be seen to condone his behaviour and further marginalise Henry. As Abs's sly glances showed, he was attributing me a role in his actions. This interaction was later discussed with the youth worker, and provided a point through which to reflect on my identity and responsibilities within the field (both from my own, and the worker's perspective). In her research Mandell (1988) adopted what she calls 'the least adult role' in an attempt to distance herself from the authoritative, adult world. However, as Mayall (2000) points out there are inevitable differences between adults and children, a distinction that becomes particularly apparent when working with teenagers. The research was facilitated by youth work organisations and in this setting I was quite clearly an adult. I had no intention of befriending the young people I met; nor did I wish to 'hang out' with them as an equal. As a female academic in her 30s, from 'the university' (as it was referred to by young people), my age, status and social position made this impossible. Rather, I wanted to develop a relationship that was based on honesty, openness and trust. Crucially, the youth work setting is characterised by interactions taking place between adults and young people. Sitting out, or attempting to be one of the kids, had even greater potential to impact on 'normal business'.

As my time in the field developed, I became more comfortable challenging young people's behaviour. I am not suggesting that I adopted the disciplinary responsibilities of a youth worker, but more readily drew an ethical or moral 'line' over certain behaviours I witnessed. Hobbs (1989, p. 12) notes that "racism marked the parameters of [his] involvement in the cultural milieu" and his protests, he felt, did result in the loss of trust and data. Part of the cultural milieu of a youth centre is that of young people debating ideas, views and opinions. The young men who attended the employability group would, in particular, recount tales of violence against women, racist attacks and homophobic remarks. While I had no text book response about how to deal with these issues, I would normally use them to generate a discussion or debate. One recurring example was the well held view amongst males attending the club that 'Polish people have stolen all our jobs'. Like youth workers, such comments were used to explore how young people had come to hold such opinions, the reasons for singling out the Polish community and their own personal experiences of seeking work.

In line with Fine and Sandstrom (1988, p. 17), methodological value was gained from maintaining the difference between myself and the young people, since it gave me permission to operate with an inquiring mind, to ask questions, engage with young people's points of view and, importantly, make mistakes. These interactions, for some young people, may have cemented my identity as an adult, however, I was rarely seen as an 'adult-in-charge' (Johansson, 2012). To use Johansson's (2012) terminology, most often my role and positioning within the research was as 'adult-included-in-commonality', with



games, jokes and playful exchanges being the mainstay of my relationship with participants.

## 8. Saying It Like It Is?

This paper began by discussing the place that power has in research with children and young people, and the ways, conceptually, it has contributed to understandings of participation. Researchers working within the ‘new social studies of childhood’ have largely embraced participatory research as a means through which to challenge the power imbalance between adult (researchers) and child (participants), and promote equality and empowerment. Particular weight has been given to ‘creative’ methods as a means through which to make children and young people’s voices more authentic.

Critics have suggested that it is possible for research designed as participatory to create a generational divide based on a hierarchical notion of power. Not only does this assume that the movement of power is age related, but also that ‘children and young people’ are treated as a homogenous group. Skelton (2007), in her analysis of UNICEF’s participatory discourses and practices, notes that participation too often becomes removed from its social, political and cultural context, and that it can, in different circumstances, mean different things to different young people. She also notes that with its concern about levelling power, participation can give more attention to positioning the adult correctly, than the experience of the young person (Skelton, 2007, p. 174).

There is also a view of participation, especially in the context of the CRC, as being linked to the individual democratic rights of children (Cairns, 2006). With respect to Article 12, focus has been given to giving children and young people a ‘voice’ and children’s ‘right to participate’ (Lundy, 2007, p. 942). Skelton (2007, pp. 176–78) suggests that this ‘ideal’ model of participation confirms established patterns and reduces the possibilities for creativity, resistance and rebellion. Similarities can be drawn to the connected concept of ‘agency’ which, like voice, is too frequently held out to be an “unquestionable good” endorsed by a rights discourse (Lundy, 2007, p. 931). This view of agency not only fails to recognise young people’s right *not* to participate, but also potentially neglects those who are vulnerable or whose agency is bounded by structural constraints (Tisdall & Punch, 2012). Bordonaro and Payne (2012, p. 386) have also argued that there is too often a presumption that children should show agency, but only when it is expressed in the expected or normatively ‘correct’ form. ‘Ambiguous’ or challenging forms of agency, meanwhile, are judged ‘out of place’ and inappropriate to decision makers and policy makers.

This study was adult-initiated, and did not involve young people in its planning or implementation. It is in this respect that it may be criticised for not being a ‘pure’ form of participatory research (Gallacher & Gallagher, 2008). While the toolkit approach sought to re-

spect participant’s “time, capacity, resources and inclination to join in” (Alderson, 2012, p. 237), it was also constrained by the requirements of the funder, and associated timescales. While the fieldwork, overall, was flexible and iterative, for pragmatic reasons some elements were regulated—even controlled—by adults. Young people involved in the art project, for example, had only a short period of time to engage in the data, produce their posters and plan the exhibition, and as a consequence adults tightly structured sessions. Activities, such as mapping, were therefore restricted to the length of a session at the youth club. As such, research activities were often spent ‘rounding up participants’, keeping an eye on the clock, re-directing groups when they went ‘off topic’ and challenging acts of bullying and exclusion.

In the context of this work (a relatively short, time limited, exploratory study) it was accepted that the process was never going to be an equal one. However, the strength of the research came from its use of a toolkit approach which allowed diverse groups of young people to participate (or not) in ways appropriate to their needs, in spaces and places of their choosing. The creative methods gave access to aspects of young people’s lives that otherwise may have been inaccessible through a ‘conventional’ qualitative study. Photo diaries, mapping and walking tours allowed for collective and individual insight into everyday life within Robbiestoun, narrated or visualised in ways meaningful to participants. Group activities, meanwhile, provided opportunities to engage in dynamic conversations and “collective knowledge production” (Horgan, 2017, p. 252). ‘Deep participation’ (Horgan, 2017), in this context, would have required more intensive work, with a smaller number of young people. Given the lack of research on young people’s everyday experiences of antisocial behaviour, it was felt that such an approach would have narrowed the field and, in so doing, marginalised and excluded other voices, particularly those who had been victims of antisocial behaviour. Moreover, combining participatory methods with participant observation and interviews afforded the researcher a rich insight into everyday and informal forms of participation (Horgan et al., 2017; Tisdall et al., 2014).

This leads us to the question of how, and to what extent, method can impact on participation and power. Using examples of participatory research in practice, this article has argued that methods alone do not provide an easy resolution to inequality, nor do they necessarily empower. Young people—as can adults—participate, subvert, dominate and ignore research for different, and valid, reasons. Individual preferences and capacities can, for instance, impact on engagement. In this study many young people opted out of group activities, preferring instead to chat, informally, over coffee. Perhaps more critically, individual acts of resistance were not a straightforward reaction to how participatory the project was, or claimed to be, but rather were etched with intersecting lines of power associated to age, class, gender, race, place, and a host of other identities.

While it is not correct to suggest that resistance is peculiar to disadvantaged areas, in the context of this research the young people who frequently resisted and subverted the process also tended to be those who were most vulnerable and marginalised. Notably, their resistance was not unique to the research: youth workers with whom they enjoyed supportive relationships faced similar challenges engaging them in projects or organised activities. Tommy, Bobby, and others like them, were not resisting methods per se. Rather, their acts were an expression of their power(lessness), both within the group and wider society. Thus, while rebellion and ambiguous agency was frustrating from the perspective of the research, on reflection, these responses provided insight into young people's social worlds, their claims for status, identity and belonging in the context of a disadvantaged place.

Participatory research cannot straightforwardly seek to ameliorate these intersecting power differentials: rather its importance lies in its ability to expose inequalities, prompt reflexivity and begin the journey towards emancipation, social change and critical consciousness (Gaventa & Cornwall, 2008, p. 72). The aim, then, is not only to recognise that participatory research can assume different forms and use a multiplicity of methods (both individual and collective), but that good quality participation is heavily dependent on the ethos of those conceptualising and designing it (Cornwall & Jewkes, 1995, p. 1667), be it a community group, youth club or academic researcher. Most importantly is that participation should be approached in a way that opens up possibilities for creativity, resistance, rebellion—with space for fun and humour along the way. Such flexibility and responsiveness demands both ethical rigour and consideration of exclusionary practices between participants, since rather than reducing or minimising power, it embraces it as a fundamental aspect of research, and of wider society.

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### Conflict of Interests

The author declares no conflict of interests.

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Article

## Advocating for a More Relational and Dynamic Model of Participation for Child Researchers

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### Abstract

Primary school children participating as researchers has become a moral obligation to meet the goal of children's participation rights. Yet, critical voices rarely question the ethical and practical implications of turning young children into mini-clones of adult researchers. While enabling and constraining aspects of participatory methods and inherent power issues per se are widely discussed, adult researchers still seem to struggle to critically engage with celebratory accounts of children as researchers. In particular, the practical obligations, ethical challenges and tensions that impact on primary school children's research experiences, are underexplored. Findings from two projects on play, which engaged children as active researchers, suggest that more attention needs to be paid to the messy realities of becoming and being a child researcher. In particular, researchers should be more attuned to children's capabilities and the ethical hurdles for child and adult researchers. This article argues therefore for a more dynamic, meaningful and realistic model of participation, that speaks to the messy realities of becoming and being a child-researcher. In other words, the article questions the dominant orthodoxy of children as researchers as the 'gold standard' of participatory research with children.

### Keywords

children; ethics; participation; research

### Issue

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### 1. Introduction

Employing young people as researchers is currently in vogue. In 2016, I attended the "Children and Young People in a Changing World: Action, Agency and Participation" conference at Liverpool Hope University (Merryweather, 2016). A workshop and several sessions were devoted to young people as researchers. The majority of presenters celebrated co-investigation as the 'best' partnership between children and adults. Implicitly, there was a strong message to follow their example and involve child researchers in studies to overcome uneven power relations in the traditional adult-child research relationship, unveil children's most 'authentic' voice, and empower children in all areas of their life (see also Beazley, Bessell, Ennew, & Waterson, 2009; Porter et al., 2010). Nairn, Higgins and Sligo (2007, p. 2) have already

highlighted that the use of youth as researchers is "often underpinned by unspoken assumptions that involving children and young people as researchers is a good thing in and of itself". In other words, employing children as researchers is viewed as morally and ethically superior compared to adults being the sole drivers of a study. Critical voices are a whisper in this context (Alderson, 2012; Holland, Renold, Ross, & Hillman, 2010; Kim, 2016; Wyness, 2013).

In this article, I contend that the relative silence of critical voices can be attributed to the idealisation of child researchers and more critique concerning children as researchers is warranted. In particular, I argue that more attention needs to be paid to messy realities of being and becoming a child researcher. Drawing on two participatory research projects in which children aged 8–10 years became researchers to examine sea-



sonal and water-related play practices, I advocate for a more dynamic approach that responds to children's experiences and their competencies. Child and adult researchers should constantly negotiate their inclusion and roles in the entire cycle of a research project in order to develop more realistic and meaningful participation for children. In other words, this article explicitly questions the dominant orthodoxy of children as researchers as the 'gold standard' of participatory research with children.

The article begins with a brief reflection on the role participatory methodologies have historically played in employing children as researchers and moves on to introduce the two research projects on which the article is based: 'seasonal play' and 'water & play'. I discuss the different roles children took in the two studies on play and their associated ethical complexities before I conclude the article with two suggestions for further discussion.

## 2. The Framing of Children as Researchers

### 2.1. *The Development of Employing Children as Researchers*

At the beginning of the 1990s researchers, informed by postmodern and feminist theories, increasingly highlighted children as experts on their own lives. They placed children as competent, knowledgeable 'beings in the here and now' rather than as uninformed and 'becoming-adults' (Christensen, 2000; Holloway & Valentine, 2000; James, Jenks, & Prout, 1998). These developments have been further fueled by the United Nations Convention on the Rights of the Child, which requires researchers and policy makers to consult with children on issues concerning their life and to treat them as active citizens. As a consequence, seeing children as social actors in their own right has led to children's more active involvement in research projects and shifted and complicated how participation is framed (Horgan, Forde, Martin, & Parkes, 2017; Powell, Fitzgerald, Taylor, & Graham, 2012; Skelton, 2007).

Children's participation in research became both a research tool and an aim for researchers and the term 'participation' began to carry a double meaning (Gallacher & Gallagher, 2008). Firstly, the term covers children's involvement as active participants in a wide spectrum of child-friendly, child-centred or child-led participatory methods (e.g., photo-voice, drawing exercises, radio shows) (Barker & Weller, 2003; Porter et al., 2012; van Blerk & Kesby, 2013). Secondly, increasing children's participation in research became an aim and often unspoken moral and ethical requirement to comply with the United Nations Convention on the Rights of the Child, to recognise children as current citizens and capable social actors (Gallacher & Gallagher, 2008). Concepts of children's rights, justice and empowerment are a central part of these discussions and frame children's participation in research and wider societal issues (Graham, Powell, Taylor, Anderson, & Fitzgerald, 2013; Horgan

et al., 2017; Lundy & McEvoy, 2012). As a consequence, many research projects have moved from adult-centred to child-led studies in the search for child-friendlier methods and ways to increase children's voice in research and society (Gallacher & Gallagher, 2008; Porter et al., 2012; Wyness, 2013). Therefore, it is not surprising that debates around the ethics of care in research relationships and how children value and experience their participation began to emerge (Blazek, Smith, Lemešová, & Hricová, 2015; Hadfield-Hill & Horton, 2013; Pinter & Zandian, 2012). However, researchers also began to look at children's voices in research within the complexities of their status as 'beings and becomings' and the relational nature of children's lives (Leonard, 2016; Nielsen, 2016; Wyness, 2013). Despite ongoing discussions about whose voice is heard (Jones, 2003; Mills, 2017; Philo, 2003; Spyrou, 2015; Thorne, 2002), children as researchers seems to remain the latest development on the participation front to reveal children's most authentic voice.

Historically, adult researchers employing children as researchers saw their employment as a means through which to showcase children's recognition as current citizens and capable social actors. Another motivator to embark on such research was that adult researchers believed that child researchers gained more authentic insights into children's life worlds than adults (Freeman & Mathison, 2009; Kim, 2016; Nairn et al., 2007). Involving children as co-investigators or so called peer researchers in studies has taken many forms. Adult researchers have included children of all ages, although the dominant cohort usually consists of teenagers and young adults, in the design stage of projects (Kellett, 2011), data collection practices (Nairn et al., 2007; Porter et al., 2010; Schäfer & Yarwood, 2008) and analysis (Coad & Evans, 2008; Nind, 2011) as well as in the dissemination of findings (Kellett, 2004). These studies—which follow on from the example of others (see for example Alderson, 2001; Boocock, 1981; Oldfather, 1995)—have contributed to the popularisation of children as researchers. While only a few studies have worked with children or young people throughout the entire cycle of a project (Cahill, 2004; Kellett, 2011; McLaughlin, 2005) the ones that do tend to be small scale or train a well selected number of teenagers or young adults in research practices and procedures often on a one-on-one basis (Åkerström, Aytar, & Brunnberg, 2015; Fleming & Boeck, 2012; Kellett, 2005; Kim, 2016; Marsh, 2012; Porter et al., 2010).

When children become researchers their participation often remains piecemeal and subject to an adult agenda. For example, children and young people are often only employed for the data collection phase (Nairn et al., 2007; Porter et al., 2010; Schäfer & Yarwood, 2008). Although researchers often not explicitly state reasons for this practice, issues around logistics, adequate pay and time commitment as well as data confidentiality and quality of analysis (e.g., potential identifiability of participants despite anonymisation) have been mentioned

(Fleming & Boeck, 2012; Holland et al., 2010; Nind, 2011), Nonetheless, this overall limited involvement leaves little room for children's own interests, ideas and motivations to be integrated in a project as researchers, because they are positioned to respond to adult set tasks. It seems the focus on children's meaningful, genuine and authentic participation once proposed by Hart (2008) seems to have faded when we invite children as researchers on project (Ergler, 2015).

## 2.2. Endorsing Children as Researchers and its Challenges

In the introduction, I already highlighted that the employment of children as researchers is generally seen as a good "thing in and of itself" (for more details see Ergler, 2015; Nairn et al., 2007). The majority of presenters at the 2016 Liverpool conference (Merryweather, 2016) seem to have celebrated young people as researchers in various research stages as the gold standard of participatory research. Similarly, Kim (2016) highlights that research by children is on the rise as it is currently fashionable and encompasses normative and methodological advantages (see also 2.3). Therefore, it is not surprising that Alderson (2012) critiqued Beazley et al. (2009) for not going far enough in their thinking on children's participation in research. Alderson suggests inclusion of young people as co-authors to present a "more balanced multi-sided account of rights-respecting research". All in all, increasing the degree of children's participation in research per se seems to have been more important than their meaningful participation (see also Horgan et al., 2017; Kim, 2016; Pinter & Zandian, 2012). Priority has been placed on the rhetoric to include children as co-researchers and co-producers of knowledge from design to dissemination, rather than on the relevance of such activities (e.g., co-authorship) for children. Whether children enjoy a particular research stage or whether the research activities are meaningful to them is not discussed. The continuing involvement of children as researchers is surprising as evidence begins to emerge of logistical and procedural issues during the research process (Fleming, 2012; Nairn et al., 2007; Porter et al., 2010). For example, in Schäfer and Yarwood's (2008) or Nairn and colleagues' (2007) study, some youth peer researchers were unable to establish rapport with participants or policed their participation due to a mismatch of their subcultural capitals (e.g., education, manors) and misunderstanding of the role of a researcher. These misunderstandings impacted directly on the quality of data collected. Other researchers highlight the issue of payment in relation to inflexible payment systems of institutions (e.g., payrolls, timesheets, GST receipts needed) and real time commitment for adult and child researchers (Coad, 2012; Fleming & Boeck, 2012; Nairn et al., 2007; Porter et al., 2010). The scheduling of research activities and the social and economic costs of participation (e.g., dealing with being bullied, disregarding social conventions, double bur-

den of household chores and conducting research, transportation) is also mentioned as an important problem (Coad & Evans, 2008; Nairn et al., 2007; Porter et al., 2010). Others focus more on whether children can really be experts about the lives of other children (Tisdall, 2012). Nonetheless, the critical debates focus more on logistical challenges when children are employed as researchers rather than their meaningful participation or the messy realities of becoming and being a child researcher. Given all these issues and challenges, why do researchers continue to employ children as researchers?

## 2.3. Why Do Adult Researchers Invite Children as Researchers on Projects?

Researchers (e.g., Kim, 2016; Nairn et al., 2007; Porter et al., 2010) identify three intertwined practical and methodological advantages for employing children as researchers that are closely related to the underpinning principles of "The International Charter for Ethical Research Involving Children", namely respect, benefit and justice (Graham et al., 2013). Firstly, co-investigative projects intend to enhance the ethical dimension of respect by supporting children's active participation as current and not future citizens in societal matters (Kim, 2016; UNICEF, 1995). Secondly, researchers believe co-investigative studies teach children invaluable skills (Hampshire et al., 2012; Kellett, 2011) and produce 'better' research outcomes as child-researchers are closer to their peers (Coad, 2012; Nesper, 1998). Nonetheless, it has to be noted that the claim of producing better or at least different data has not been systematically assessed (Holland et al., 2010; Kim, 2016). Third, children's employment as researchers has been celebrated as a way to overcome some of the moral and ethical hurdles of non-participatory research, especially the issue of power hierarchies in the adult-child research relationships (Ergler, 2015; Graham et al., 2013; Matthews, 2001). This is centred on the idea that in co-investigative projects the decision making power on research design and procedures previously solely held by the adult researchers should be shared with child researchers (Cahill, 2004; Walsh, 2016). Adults and children thus, theoretically 'share' power in co-investigative projects gaining 'authentic' knowledge with and by child researchers. Justice as a principle in research then arises through the respectful dialogue between adult and child researchers. In other words, employing children as researchers can be seen as a moral and ethical requirement to seize the double meaning of participation underpinned by principles of respect, benefit and justice.

Despite these noble underpinnings for the employment of children as researchers, I question in this article the dominant orthodoxy of children as researchers as the 'gold standard' of participatory research with children. Therefore, my intention in the remainder of this piece is to argue for the need to develop a more dynamic and relational model of participation that speaks to the

messy realities of becoming and being a child researcher by highlighting some of the ethical and practical complexities that arose in my two studies on play. I conceptualise the terms 'being and becoming' deliberately in a twofold way. First, the term literally encapsulates the process of becoming and then being a child researcher. In this way, I emphasize that children are social actors who actively construct their research world and at the same time can increase their competencies through a scaffolded learning process (becoming researchers). However, such a conceptualisation also entails a reciprocal relationship between child and adult researchers as well as between child and child researchers. Adult researchers not only familiarise children with research practices, but also child researchers teach their peers and adult researchers different ways of looking at the world, the research process and outcomes. Adult and child competencies complement each other, but can also increase over time and through learning from each other. Second, child researchers are not operating in a vacuum. They have a past, present and future. Such a conceptualisation allows to incorporate that children and their future self are shaped by their past and present experiences in society and research. In other words, this conceptualisation views children as "being present and future agents of their present and future lives" (Uprichard, 2008).

### **3. A Brief Introduction to the Two Projects 'Seasonal Play' and 'Water & Play'**

#### *3.1. The Seasonal Play Project*

The first project 'seasonal play' was located in Auckland, New Zealand, and part of a larger study that compared the seasonal play practices of primary school children (aged 8–10 years) in the coastal suburb of Beach Haven and the central city of Auckland. The overall project was inspired by feminist approaches (Rose, 1997) and in particular the debate on children as competent actors who are experts on their life (James & Prout, 1997). My aim was to bring children's experiences and their own voices of playing and being active in different seasons to debates on declining activity and increasing obesity rates (Ergler, Kearns, & Witten, 2013, 2016). Although the two Auckland study areas were similar in their socio-economic composition, they differed in the built environment. The suburb was characterised by detached houses with gardens, while the central city children lived in apartments with limited access to outdoor spaces. However, in both study areas children had access to small green spaces and bigger parks with sports fields and playgrounds within walking distance. This large project was adult led and invited children to draw maps of their seasonal play destinations and share their play experiences in semi-structured interviews. However, children from both study areas were interested in the study beyond the adult set tasks that aimed to gain insights in their differing seasonal play worlds. For example, I noted in my di-

ary that Rosie from Beach Haven has asked me why they "can't meet the city kids". She told me that she and her friends had a chat on the playground wondering what and where children in the city play. This and other discussions led to the development of the project 'seasonal play'. The 'seasonal play' project aimed to bring all interested children from both study areas together to satisfy their curiosity in the large research project in a child centred way.

In both study areas, the ten (three from the city and seven from Beach Haven) interested children were invited to take the non-local children on a child-guided tour around their neighbourhood. 'Local' children were instructed to be the advocate for their neighbourhood and show the 'visitors' fun and boring neighbourhood activities for summer and winter, while the 'non-local' children were invited to adopt a researcher role and question the local children like a 'journalist' about their seasonal play practices, preferences and neighbourhood experiences during the walk (see also Acharya, 2010). To capture the walks, which took place on two Saturdays in December 2010 (summer in New Zealand), children were offered a digital camera, voice recorder and a GPS tracker, but they could decide how much they utilised this equipment or if they wanted to use it at all. The novelty in this approach was that children tailored their neighbourhood walk to someone the same age, moving the adult researcher and field assistants (four female and one male) as observers into the background. Children became de facto researchers leading the neighbourhood walk and through their analysis of the anonymised data collected during the adult-led study (for a more detailed discussion see Ergler, 2011).

#### *3.2. The Water and Play Project*

The positive experiences during the 'seasonal play' project and children's enthusiasm to be involved in the project as researchers instigated the second study 'water & play'. I invited nine and ten year olds from a coastal suburb in Dunedin, New Zealand, to become co-investigators in all research stages supported by one male research assistant. In this second study, the research agenda was not pre-set and developed over the course of ten bi-weekly two hour 'research club' sessions after school hours (plus three days of data collection during school holidays) in 2013. I planned to gain insights into children's wellbeing in and around water through participant observation. My first overarching aim, however, was that children should benefit through their participation. The research club was designed to be fun and playful. New friendships could develop or old ones deepened as children from different class rooms attended the sessions. The research club sessions provided enough time to play and get to know each other outside a class room setting. Moreover, children could pick up various skills during these sessions (e.g., critical thinking and problem solving, developing skills and confidence in speaking). My second

overarching aim was to provide an arena for a collaborative research environment by supporting children to conduct their own group project driven by their curiosities and competencies. In order to achieve this goal, children acquired diverse research skills ranging from developing research questions to being an ethical researcher as well as ways of analysing and disseminating findings (see also Kellett, 2005). I believe children should be exposed to and trained in research before they embark on their own project. For me, such practice signals fairness and respect for children's competencies and their role as social actors.

Children decided democratically on the project they wanted to carry out and how. They opted for finding out "what makes playing on the beach so popular and why is it so much fun", utilising an auto-ethnographic approach (see also Liggins, Kearns, & Adams, 2013). They had limited interest in involving any study participants beyond their group of ten; they were adamant about not sharing the privilege of being part of the study with children outside the 'research club'. Research activities involved playing at the local rocky and sandy beach, which were located side-by-side in this suburb. The next stage was an individual reflection in the form of a digital poster. This was followed by a mapping exercise to physically locate "fun things to do at the beach". Later in the process ten brief videos were developed and staged by the children "about what [they] like doing at the beach and why". These videos show for example the children playing cricket, drawing in the sand, and collecting stones and treasures at the beach. To capture their play experiences during the research process, children utilised their individual Ipad, pens, paper, notebooks, GPS trackers and a video camera provided by the adult researcher's institution. The project finished with an evening during which they presented their findings and videos to parents, teachers, local politicians and other community members.

In the following Section 4, I synthesise the dominant themes occurring in both projects in order to support my argument that more attention needs to be paid to the messy realities of becoming and being a child researcher. In particular, I reflect on and exemplify children's shifting roles in the projects and the complex ethical research realities during the course of both projects. Children are referred to by pseudonyms.

## 4. Findings

### 4.1. *Merging the Roles of Being a Participant, Researcher and Play Mate*

Participatory research with children puts the emphasis on children's genuine participation in research. Although adult researchers lead the studies, they try to understand children's life worlds collaboratively with children in order to improve their lives. In contrast to solely adult-led research that is more outcome focused, participatory research focuses on children's experience during

the research process. Nonetheless, the practice of research exists around pre-defined roles (Goffman, 1959; Punch, 2002). The way research is conducted has been normalised over the years. Traditionally, researchers take on an active role during the research process by leading activities to gain knowledge. Participants are often passive, because they are expected to follow an unspoken rule of responding adequately to pre-set tasks (e.g., semi-structured interviews). No matter how participatory the research is, the norm is that all parties involved should perform the roles agreed on. However, reflecting on the projects 'seasonal play' and 'water & play', theory and practice differs. The reality was messier.

When children become researchers, the lines between the distinct roles of a researcher and participant become blurred. On the one hand, given how research has been institutionalised, children are not only researchers, but also participants in studies that conform with institutional ethic guidelines. On the other hand, everyday activities such as play creep into the research process unexpectedly (see also Blazek et al., 2015). While children do not necessarily leave the formal research space and wander off to a playground, they nonetheless, easily and happily move between the roles of playmate, participant and researcher.

To move more fully into the role of a researcher during the 'seasonal play project', some children proudly told me that they decided to carry a GPS unit, digital camera and voice recorder for capturing the walk. Likewise, it became the norm for the 'water & play' researchers to carry the Ipads and other equipment to the beach "just in case" they wanted to record an activity or experience. The equipment, as children from both projects declared, became a signifier for being a "proper researcher". However, utilising the equipment seemed at times artificial and more a hindrance to also engaging in the play they wanted to capture (e.g., playing piano in a shop, climbing a tree, playing cricket, drawing on the sand, collecting "treasures" at the beach). Children quickly realised that capturing and participating at the same time in the play activity did not work out as they planned at the outset of the study. So, they took mental notes of their experiences to write them, for example, down at a later stage (see Figure 1 for an example of a play reflection). However, some children still wanted to capture the activities on camera. So, they included the adult observers in the research process and told them what and how they wanted certain activities recorded. Children reflected on the feasibility of the equipment to capture their play and creatively overcame the obstacles they encountered. Children were participants, researchers and play-mates at the same time.

Nonetheless, their role as a child researcher was less explicit during the walk in the seasonal play project. The playful exploration of the neighbourhood seemed to have more prominence for the city and Beach Haven children. Children were more engaged in sharing and enjoying their play spaces in both locations (city and suburb),



rather than documenting their play and the reasons why they enjoy these play spaces during different seasons. However, children still took their role as researcher seriously. For example, two boys, who found it difficult to formally capture their neighbourhood walk in the seasonal play project, took the project in their own hands on returning to the community hall. They reflected unprompted on the walk using one of the voice recorders (which I only discovered after listening to the tapes) mimicking the interview style of a reporter. The following is an extract from this interview.

Michael: This is Michael (Last name) here as a reporter and I would like to ask you a few questions, okay?

Josh: Okay.

Michael: What was the favourite bit of the walk?

Josh: The bush walk!

Michael: Why was it your favourite bit? What made it so exciting for you?

Josh: Uhu, oho (giggles) oh the laughing side, because umm (both giggle) because Michael was a chatterbox all the time like this is one of the things.

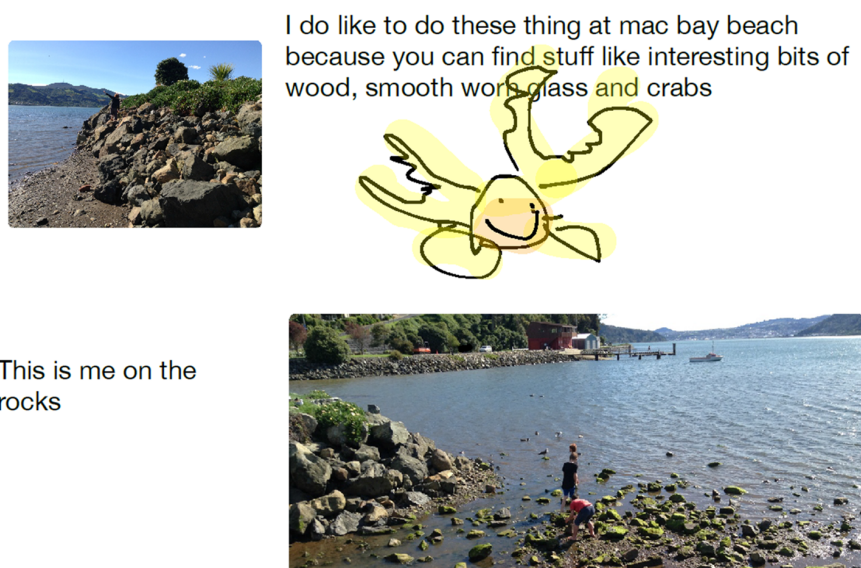
Collecting data and being a researcher for children can have many different facets. Michael and Josh moved from being participants responding to adult tasks to initiating activities and experimenting with their role as reporter/researcher. Michael and Josh continued to ‘play’ researchers after the neighbourhood walk. While during the walk, play seemed to be at the forefront for an adult observer, the two boys were clearly, as subsequent events showed, already reflecting on and process-

ing their play experiences. These events could be readily recalled once they slipped into the role of an interviewer and respondent. The intimate and unobserved space of the community hall allowed these two boys to reflect and capture their experiences in a playful way. They were able to communicate what mattered and was real to them (Mistry, Bignante, & Berardi, 2016; Pinter & Zandian, 2012) and merge academic goals with their own interests (Nind, 2011). Similarly, Anderson and Jones (2009) also observed that the material environment in which research is conducted shapes children’s voices. It shapes what they are willing to share.

Correspondingly, the children in the ‘water & play’ project decided to make a distinction between playing and capturing their play experiences after engaging in an informal play session testing the equipment at the beach. After reflection on the difficulties of capturing their play (see also discussion above), the children decided to go to the beach for two hours “just to play” and afterwards create a poster on their Ipads about their experiences using the diverse apps available (see Figure 1 for an example).

These examples demonstrate that children defined their role of a researcher in less orthodox ways than the normalised research practices suggest. Children moved quickly from one role into the other and back. Playing and researching collapsed (see also von Benzon’s, 2015, discussion on truth in research and children’s imagination); sometimes children’s reflections about the research process took centre stage while at other times their thoughts were buried in play.

Children’s playful engagement with research worked against the dominant practice of turning children into serious researchers (see for example Kellett, 2004). Children in the two projects replaced such an adult-centred research process with a more meaningful participatory frame: playing became part of researching and research part of playing. To be attuned to the lived realities of chil-



**Figure 1.** An excerpt of Tiki’s poster.



dren as researchers, adult researchers should be open to and encourage spontaneous and diverse research pathways and roles for children in research. Expecting all children to perform the role of an adult mini-clone researcher and be involved in all research stages leaves little room to explore their interests and capabilities. For example, one child in the water and play project dropped out half way through with the explanation that she did not enjoy learning about the research process. Likewise, two boys (Tiki and Samson) who decided after the community presentation to write the research up asked after a while whether I can simply interview them and then do the writing myself (see Ergler, 2015, for more details). Through being interviewed they could participate in the writing up process, but in a way and on a time scale that suited them better.

All these examples let me conclude that children need to find a place in the research project that is meaningful and realistic for the individual child. Finding such a place also requires to reflect on, discuss and find ways around the currently conflicting temporalities between institutional or adult timelines to design, conduct, analyse and disseminate research in a 'timely manner' and children's time scales. Children's motivations, interests and availability varies across the research cycle due to other commitments (e.g., school, sports), but also how well the task speaks to their capabilities and interests. In other words, children need to find a role that easily allows them to move between 'being' (playing) in the moment and performing (an adult like) role in research.

#### *4.2. Dealing with Procedural Ethics and Research Realities*

Children grasped the theoretical relationship between moral principles and ethical research procedures. Institutional ethical principles seemed to resonate well with children's intuitive ethical norms in both projects. Children from both projects talked about (represented here in Tiki and Samson's words) that "not hurting anyone's culture" or "respecting people" is important when conducting research. Children easily subscribed to "valuing people" and "not causing harm" as the backbone of sound ethical research. In reality though, conducting ethical research according to institutional expectations was more a learning process.

After the initial development of their own ethical framework in the water and play project, I slipped more formally into the 'teacher role'. I introduced through different role play exercises institutional ethical procedures on for example informed consent. The child researchers reported that the ethical values and practices discussed were "quite easy to remember" (Tiki and Samson from the water & play project). Translating this common sense knowledge into institutional ethical protocols during research looked like an easily achievable task. But being an 'ethical researcher' was less straightforward when children, for example, piloted the methods or collected data.

Child researchers had difficulties putting the procedural ethical guidelines into practice. They understood and embodied the institutional ethical protocols during the exercises designed to familiarise them with the ethical requirements (e.g., asking permission to take a photo), but the real meaning of the ethical code of conduct expected by ethic committees remained ambiguous in the context of the research setting.

Being an ethical researcher was overwritten by many other activities in practice. However, these diverse difficulties reminded me about the need for on-going reflection to address how ethical protocols can be put into practice (see also Farrell, 2005; Gallagher, 2009; Horton, 2008; Morrow & Richards, 1996). Children in both projects, for example, "played" with the cameras and took "funny" photos of each other or by-standers. Others forgot or felt uncomfortable asking for permission to film or take photos of people they knew well and interacted with on a daily basis. Even when children followed the standard institutional protocol and sought consent, they had difficulties dealing with "no" as an answer. For example, a group from the 'water & play' project, who practised the institutional protocol, asked to film and interview a group of teenage boys hanging out at the local playground. When the teenagers declined, the group of child researchers turned the activity into a game and chased the teenagers across the playground. They tried to capture the teenagers' activities without permission, switching between playing and data collection. Another group in the water & play project purposefully created a dispute at the playground over access to the swings to document a common situation for their video project. Getting 'good data' for their documentary took priority over 'not causing harm' for a participant's dispute which ended in tears. Making sense of ethical protocols and being an ethical researcher was less straightforward than the child researchers or I expected after the role play exercises. In addition, it showcases the need to move beyond current ethical discussions on issues of children's consent and representation (Alderson, 2004; Clough, Connolly, Dockett, Einarsdottir, & Perry, 2009; Graham, Powell, & Taylor, 2015) towards a child led ethical research frame and protocol.

Child researchers cannot be expected to immediately follow the procedural and institutional guidelines adults have developed over years. Expecting children to follow these guidelines does not engage children's intuitive moral understandings or value child researchers as co-investigators. More emphasis needs to be placed on the learning process and the co-development of a meaningful ethical approach that takes the circumstances of projects into account (Gallagher, 2008; Horton, 2008; Shaw, 2016). Moral principles and procedural ethical guidelines can only be fully implemented over time and when child and adult researchers reflect on the research process. Incorporating more reflexive practices to address the lessons children and adult researchers learn at every stage of the research cycle brings institutional

discourses and research realities closer together. It takes time to develop, grasp and implement moral principles and procedural ethical guidelines fully. Conducting ethical research is a learning process.

## 5. Conclusion

In this article, I questioned the dominant orthodoxy of children as researchers as the 'gold standard' of participatory research with children. I argued that the majority of adult researchers champion the employment of children as researchers without paying enough attention to the messy reality of becoming and being a child researcher. I proposed to focus more on how children experience, evaluate and grapple with becoming researchers rather than on logistical challenges of payment, time commitment, quality of data or future benefits for child researchers which dominate current debates (Fleming & Boeck, 2012; Hampshire et al., 2012; Porter et al., 2010). My goal is to complicate and contribute to discussions on what matters to children when participating in research and as active researchers (Horgan et al., 2017; Pinter & Zandian, 2012; Smith, Monaghan, & Broad, 2002) and more generally to debates on children's meaningful participation and their voice in research projects (see for example Horgan et al. 2017; Mills, 2017).

The intention of the article was twofold. Firstly, I wanted to show that if we value children as active researchers, more critique concerning children as researchers is warranted. The two projects showed that becoming and being a child researcher is a messy process and more complex than learning about and applying institutionalised research processes. Even when children want to learn about and engage in different stages of a research project or when they carve out their own research niche in an existing project, they define their role as researchers in less orthodox ways than simply performing the normalised roles of an adult researcher. Rather, child researchers combined playing and researching in the two projects (see also von Benzon, 2015). They conducted their research playfully, but also sought support from each other and the adult researcher to move their projects forward. In addition, they playfully taught me to reconsider what matters to them participating in research and as active researchers. Freire and others already highlighted the need to view participation in research as dialogical encounter and this should be expanded when children become researchers (Freire, 2001; Horgan et al., 2017; Weil, 1999). My findings reiterate the need to subscribe to a dynamic and relational approach in which child and adult researchers constantly negotiate their roles and the degree of involvement in research projects. Such an approach then takes into account that children participating as researchers move between 'being' (or playing) in the moment and 'becoming' researchers. In other words, the studies clearly showed that when children become researchers there is a need to pay more attention to reciprocal relationships

between adult and child researchers during the research process where both can play together and learn from each other.

Secondly, I hope that these discussions lead to further conversations about children's meaningful participation as child researchers during the entire cycle of a research project. I now provide two closely linked points I consider worthy of future discussion. First, when researchers aim to walk down the path of making children partners in research projects and desire to work side by side with children to carry out research together, we should ask the questions who is the expert and for what aspects of the research? Should adult researchers be viewed as the experts for conducting research and children for revealing their life worlds? Can we really train children as researchers when it takes so long to become an adult researcher? In other words, we need to engage more firmly in discussions about whether research is expert work or if anyone can become a researcher. The studies discussed here showed that although the children were interested in becoming researchers, delving into the complexities of conducting research did not always sit comfortably with their interests or capabilities. However, I do not want to imply that children do not have the capacity to become researchers or should be denied the opportunity to become researchers. Rather, we should be less romantic about the employment of children as researchers and move away from the current idealised picture of employing children as researchers. Even when children become researchers, we cannot close our eyes from the structural constraints of conducting research with children.

These constraints are far reaching and include, but are not limited to research ethics, design and funding. For example, adult researchers still need to comply with institutional research ethic protocols and as a consequence child researchers, too (unless we question the normalised research processes *per se*). Adult researchers are also expected to design, conduct and disseminate research in a timely manner, but definitions of 'timely' can differ between children and adults and can depend on the availability and time commitment of child researchers. Participating in research is only one activity besides school, sports, clubs and other leisure activities children are involved in. Moreover, the current funding landscape hardly allows flexibility in the development of additional research phases, uncertain outcomes or open research designs. To move beyond rigid research expectations at the outset and the inclusion of children as researchers as an either/or approach, funding agencies could be more open to and allow flexibility to comply with children's changing and diverse interests throughout the research cycle. Similarly, I believe if we take children as social actors seriously and want to involve them in the entire research cycle we also need to train them properly in a child-centric way in research methods. They have the right to know the research background to make informed contributions as researchers. However, at the

same time, this also means adults remain the gate keeper for research.

Second, is the employment of children as researchers simply an extension of adult led research or the gold standard of participatory research? The employment of children as researchers can be seen as answering the mandate of the United Nations Convention of the Rights of the Child and the International Charter for Ethical Research involving Children (Graham et al., 2013; UNICEF, 1995). Asking children to become researchers not only recognises their capacities and values them as current citizens, but also addresses the charter's principles of respect, benefit and justice (Graham et al., 2013). However, simply championing children's capacities as researchers can lead us away from asking critical questions about how children experience being an active researcher. For example, we should discuss more openly their participation as researchers in relation to the practical obligations, ethical challenges and tensions arising from child researchers' participation. These discussions would move debates from the logistical aspect (Fleming & Boeck, 2012; Porter et al., 2010) towards children's more meaningful participation as active researchers. However, do we then measure their meaningful participation as child researchers from an adult centric position and whether they are capable and interested in becoming a mini clone (although this was never my intention, some might accuse the presented studies of such an adult centred view). Or do we put a child centred lens on and question the research process in its current and dominant form?

All these discussion points have at their heart enhancing children's meaningful participation in research and embracing their opportunities to become active researchers. The majority of children enjoy being researchers and are proud of their achievements and the research outcomes. Nonetheless, we need a different model of participation for child researchers. We need a more dynamic and relational model that speaks to the messy realities of becoming and being child researchers.

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### Conflict of Interests

The author declares no conflict of interests.

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Article

## Youth Reflexivity as Participatory Research in Senegal: A Field Study of Reciprocal Learning and Incremental Transformations

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### Abstract

There is now widespread appreciation that children are capable of functioning as key protagonists of their own development, and that this capacity can be enhanced if they are afforded opportunities to participate in forms of inquiry that stimulate reflexivity amongst themselves and with outside researchers. There is likewise common acceptance that youth participation in research on issues that relate to their well-being can contribute to evidence-based knowledge that has multiple benefits. Rather more ambiguous, however, are questions concerning the nature of youth–researcher relationships and whether—or to what extent—youth participation in research can be characterized as a transformative process. Such questions are particularly salient in countries of the global South where the notion of youth participation tends to run counter to the persistence of hierarchical power arrangements, and where there are substantial socio-cultural differences between youth participants and professional researchers, many of whom are associated with international aid. This article addresses these questions by recounting a field study that engaged eight groups of youth living in rural communities and urban neighbourhoods in Senegal. Through processes of reflexivity that entailed analysis of issues they deemed to be socially problematic, and through subsequent dissemination of their analyses in narrative performances of their choosing, the youth attained a remarkable degree of project ownership. As a result, the field study also fostered a process of reciprocal learning among the participants and the researchers that contributed to the genesis of incremental transformations.

### Keywords

incremental transformations; learning-by-doing; participatory research; reciprocal learning; reflexivity; Senegal; youth

### Issue

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### 1. Children’s Participation in Research: Dimensions of Power and Transformation

Since the promulgation of the Convention on the Rights of the Child (CRC, 1989) and the advent of a “new paradigm” in the sociology of childhood (Matthews, 2007; Prout & James, 1997), there is now widespread acknowledgment that children and adolescents are social actors who possess unique cognitive and affective attributes. From the earliest stages of life children are endowed with keen awareness of their surroundings and, if given the opportunity, are capable of revealing unique insights into their own observations and experiences (Clark

& Statham, 2005; Keating, 2017). This is especially true when children are engaged in peer-to-peer interaction within their own social spaces (Elsley, 2004). In light of this heightened awareness of children’s capacities, the predominance of studies that focus on children as passive “research subjects” has increasingly ceded ground to participatory forms of research that aim to enlist the resourcefulness of children in generating knowledge and in interpreting their own lived realities. Through multiple approaches, ranging from the selection of research topics to decisions concerning research design, data collection and analysis, and the dissemination of findings, children are recognized as frequently capable of contribut-

ing “insiders” perspectives of their own experiences and those of their peers that may elude the full grasp of adult researchers (Tisdall, 2016).

Alongside the enlightenment that child participants can bring to research, there is also ample evidence of the pragmatic impact that can result from their involvement in purposeful forms of inquiry and in other realms of adult-supported dialogue and decision-making. For young people themselves, the attainment of investigative skills and new knowledge, and the corresponding enhancement of self-confidence in knowing that their voices carry weight in an adult world, are sources of empowerment (Flicker, 2008; Hill, David, Prout, & Tisdall, 2004). Likewise, for policy-makers and organizations that provide services for youth, there is growing affirmation that the participation of young people in applied research and evaluation can contribute to stores of evidence that are useful for the direction or realignment of social policies and services (Theis, 2010; Tisdall & Davis, 2004). From a more radical perspective, the ultimate rationale for engaging children in the accumulation and dissemination of research findings is to facilitate social transformation, particularly through the advancement of children’s rights (Ginwright & James, 2002; Stasiulis, 2002). Viewed in this light, by drawing upon their own acquired knowledge and critical reflections, young people can challenge prevailing discriminatory norms and undertake actions that aim to expand social justice for themselves and for other marginalized social groups (Butler & Princeswal, 2014; Cockburn, 2005; Couzens, 2017).

In principle, therefore, the benefits of child and adolescent participation in research are difficult to refute. Yet paradoxically, because children are governed by the norms and prescriptions of an adult world, there is also an inherent dissonance associated with claims regarding the merits of children’s participation. This incongruity is highlighted by stipulations of the CRC itself that parents and other guardians are responsible for children’s welfare (Articles 3 and 5) and that States Parties must undertake all necessary measures to provide children with essential services and protection (e.g., Articles 19, 27, and 28). As the CRC makes clear, while the agency of children and the discrete perceptual and social spaces that they occupy should be respected and cultivated, children also constitute a significant target population of policies and services to be developed, delivered, and evaluated by adults. The inexorable relation between children and adults is therefore implicitly understood as a manifestation of adult power. This is as inescapable in the domain of research as it is in every other form of interaction between children and adults. The exercise of power, however, is not a uniform process; it varies considerably according to custom and purpose, and underscores the multiplicity of participatory processes (Brookfield, 2001). Consequently, while children’s participation in research is now generally accepted by most social scientists and service providers who work in the fields of child studies and youth social programs respectively, in practice it

is replete with challenges and constraints that relate to prevailing power arrangements (Christensen, 2004; Tisdall, 2016).

In efforts to shed light on the variable characteristics of children’s active involvement in activities normally directed by adults, several prominent conceptual models have described the forms and dimensions of children’s participation, ranging from symbolic gestures to full-fledged child control (Cashmore, 2002; Hart, 1992; Lundy, 2007; Shier, 2001). While clearly useful in delineating typologies of children’s participation, as Tisdall (2016) has argued, these models tend to be “weak at recognizing the social, economic and cultural contexts of participation activities and changes over time and locations” (p. 76). In social contexts where traditions of civic democracy are historically grounded, power tends to oscillate according to the actors involved and the tasks that are undertaken. In such circumstances, significance lies less with who has power than how and for what purposes it is exercised, and the extent to which it is distributed. This is clearly relevant to the phenomenon of children’s participation in goal-directed activities that have long been regarded as the purview of adults. Service organizations, for example, may accede to young people’s active engagement in internally conducted deliberations and decision-making if such participation can be shown to enhance the quality and overall efficacy of child and adolescent social programs (Morrison, McCulloch, Mackie, Halliday, & Liddell, 2014; Tisdall & Davis, 2004). Similarly, in promoting children’s participation in various decision-making fora, organizations may consider such support as an investment in children as future citizens and consumers within the established social and institutional order (Bessant, 2004).

Alternatively, while embracing the precept of children’s participation, organizations may nonetheless be hampered by lack of resources, administrative capability, and necessary staff training to undertake the structural and procedural changes required to move from principle to practice (Cockburn, 2005; Naker, 2007). At a more interactive level, when adults and children are expected to work together, the extent to which power is divested among child participants will depend significantly on the acumen of the adults. In the event that adults are imbued with negative biases regarding the capabilities of young people (coloured, for instance, by attitudes towards characteristics such as children’s age, experience, level of education, or socio-economic status), or if adults lack the confidence or skills needed to relinquish responsibility and control to young people, children’s participation may prove to be restrained or altogether illusory (Couzens, 2017). Similarly, in research that purports to be participatory in design, adult concerns about methodological rigour and the exigencies of time frames, budgets, and issues related to validity and reliability may hinder the extent to which children and adolescents can be engaged as full research participants (Cockburn, 2005; Tisdall, 2016). Conversely, adults who are overly keen to engage youth

in research projects and in other educational and community service activities may be unwilling to sufficiently disengage themselves so as to allow a transfer of power to youth (Hill et al., 2004). Regardless of the reasoning, in contexts where power-sharing has become commonplace both culturally and in practice, such barriers to participation almost invariably are due to the ambivalence and biases of adults themselves.

In other societies, however, where the exercise of power—from the nation state down to local household levels—remains more concentrated, growing numbers of young people are confronted with a contradictory sense of their identities and place in society. In such contexts children tend to be widely regarded as family assets or protégés who must be subordinate to the conventional norms and values of the adult world. This is particularly evident throughout much of West Africa where children are expected to “know their place” within established social structures and to “not overstep the boundaries when interacting with their parents and other adults” (Twum-Danso, 2010, p. 135). In households and communities where cultural ties and ancestral roots are revered, hierarchical power arrangements are maintained through longstanding processes of socialization and, where deemed necessary, coercion (Massart, 2006). The role of children is therefore to listen, obey, and learn from their elders. In these circumstances, adult responsibilities for the socialization and protection of children are easily conflated with the right of parents (and other adults) to raise their own children. Accordingly, adults’ right to exercise authority over children invariably outweighs children’s right to participate in power-sharing or to act in ways that contravene adult authority (Quennerstedt, 2009).

Yet, paradoxically, while traditional notions of power over youth are still widely upheld, an array of social problems throughout West Africa—rising urbanization, weak education systems, high levels of unemployment, and unrepresentative governments—has led to growing waves of youth disenchantment with established structures of power. In addition, the impact of globalization has fostered forms of cultural hybridity that stem from interactions between the local and the global, and between the traditional and the modern, that have re-shaped the identities and aspirations of growing numbers of youth. The emergence of ideas associated with mobility, individualism, and emancipation has engendered an expanding youth culture in the global South (Nilan & Feixa, 2006). Consequently, for organizations working to assist youth in such environments, the discourse of children’s participation has become increasingly accepted as a means of channeling the energy and abilities of young people towards the possibilities of fostering social transformations that impinge on their livelihoods (Teamey & Hinton, 2014).

The notion of transformation, however, is itself subject to different interpretations. The most common view is that it constitutes a radical re-structuring of power ar-

rangements. From this perspective, through skilled leadership and clearly articulated objectives, social groups can be mobilized to undertake struggles for fundamental change and to assume the risks associated with resistance and contestation (Ratner, 1997). This viewpoint is very much associated with campaigns for the rights of disenfranchised adults who themselves are often at the forefront of acts of overt struggle. For children, however, the route to fundamental change is far more equivocal. For one thing, their involvement in efforts to foster social transformation is generally as much, if not more so, a process of learning as it is of concerted action (Butler & Teamey, 2014). For action through learning to occur, young people almost always have to rely on enlightened adult guidance. In addition, there are ethical issues associated with the engagement of children in social struggle. Precisely because they depend on adult guidance for protection, they must be safeguarded from the risks of backlash that can easily arise in protracted agitation for social justice (Lavan & Maclure, 2011). Consequently, rather than consider social transformation *per se* as the singular pinnacle goal of children’s participation in social or community-based research, or in actions designed to challenge unjust circumstances, an alternative perspective is to recognize that several *incremental transformations* can emerge from children’s participation in critical forms of inquiry (Shier, 2015), and that over time these small-scale transformations can gradually coalesce and serve as the impetus for broader societal change.

This view of transformation as a series of small-scale successes rather than a major volte-face from habitual social practices is a more pragmatic perspective with regard to children, especially where the rights of children are constrained by extraordinary structural barriers. As Shier (2015) has observed, the participation of young people in research can lead to four distinctive forms of transformation: a) empowerment of young research participants, mainly through a process of reflexivity that arises from their engagement in inquiry, analysis and subsequent critical awareness; b) reflexive learning among those adults who work with and mentor youth researchers; c) transformation of attitudes among a broader population of adults regarding issues raised by young researchers; and d) social mobilization and community action that follow from these antecedent transformations. Viewed in this light, social changes emanating from children’s participation in research and other discrete learning activities are far more likely to occur as a series of incremental stages rather than as precipitous forms of overt—and potentially risky—contestation against prevailing power arrangements.

In considering the possibilities of incremental transformation, however, a number of questions arise regarding the nature and outcomes of children’s participation in social contexts where, despite the growth of youth assertiveness as a function of cultural hybridity, the conventional exercise of power remains essentially authoritarian and top-down. In such circumstances, can chil-

dren and adolescents participate meaningfully in critical inquiry and in the analysis of social problems in their own communities? If so, to what extent can they attain a level of genuine partnership and shared ownership of the inquiry? And in the event that these gains are made, can the effects of children's participation extend beyond instrumental benefits for sponsoring organizations, and contribute to broader processes of social transformation? These are questions that frame this retrospective overview of a study that engaged youth participants in reflexive activities in the West African country of Senegal in 2007–2008. What follows is a synopsis of the stages of the project, and a discussion of the way it was conducted in relation to these questions.

## 2. Reflexivity as Research: A Participatory Field Study in Senegal

Senegal is a youthful country. With a population of approximately 16 million people and a current median age estimated at 18.7 years, children and adolescents figure prominently in the country's development trajectory (World Population Review, 2017). Although favored with a relatively stable democratic political system and an economy that has been experiencing modest growth, Senegal's levels of poverty and unemployment are high and its public services are under-resourced (World Bank, 2017). Of particular gravity for young people is the quality of the school system which is hampered by lack of adequately trained teachers, educational materials, and out-of-school training programs (USAID, 2017). As elsewhere in West Africa, agriculture and informal sector activities generate 90% of jobs. Yet low productivity has hindered the absorptive capacity of these sectors, and rapid urbanization has failed to generate commensurate employment opportunities (Wilson Center, 2014). Vast numbers of young people are therefore confronted with prospects of long term joblessness or seasonal low paid informal sector work (Economist, 2017). In these conditions, child abuse and exploitation are frequent, especially among street children (Human Rights Watch, 2016).

In the face of these structural problems and the government's inability to address them, assistance for children and adolescents has been provided principally by an array of international aid agencies and NGOs. Two such NGOs are Plan International (Plan)<sup>1</sup> and Enda Jeunesse Action (EJA), both of which have embraced the discourse of child protagonism, a development approach that acknowledges the inherent capacity of young people to analyze their conditions of life and to contribute to strategies for improvement (Lavan & Maclure, 2011; Liebel, 2007). Since the late 1990s both organizations have undertaken field studies designed to attain information on the livelihoods and preoccupations of children

and adolescents living in diverse community contexts. While much of this work has consisted of qualitative inquiries led by agency staff, in the early 2000s both organizations began to facilitate collaborative youth input into their research programs. These studies involved youth in processes of reflexivity, i.e., reflections enabling them to critically assess the social forces affecting their lives and to consider possibilities of change (Dénomée, 2008; Schutt, 2006). Methodologically the research entailed peer dialogue among youth and the subsequent creative articulation of their reflections through narrative forms such as music, dance, and theatrical story-telling. These studies were then summarized in a series of written and video-taped reports that highlighted young people's interests and concerns, and revealed the extent to which they were becoming a major socio-cultural force in Senegal and in other West African countries (Dénomée, 2008; EJA, 2005). Little in these reports, however, gave an indication of the nature of researcher–youth relationships during the course of these field studies, nor of the transformative import of the research, either at local levels or in relation to NGO programming. Accordingly, in 2007 the author and a Plan researcher, Moussa Diagne, conducted a field study adopting the same concept of reflexivity as a basis of participatory inquiry with several diverse groups of Senegalese youth.<sup>2</sup> A key objective of the study was similar to that of earlier Plan studies—to encourage youth to collectively reflect on their lives and the events and issues surrounding them, and to disseminate the main points arising from their reflections in formats of their own choosing. A further objective, however, was to monitor the nature of youth participation in the field study and to gauge the possible effects of this activity on their immediate social environments and on the development programs of Plan and EJA.

Designed to be open-ended in view of its participatory intent, the study underwent a fundamental shift in the researcher–youth relationship over the course of three stages of fieldwork. The first stage consisted of a period of familiarization and trust-building between our two-person research team and the youth participants. Under the auspices of Plan and EJA, we were introduced to eight cohorts of youth living in eight different sites in western Senegal. Beyond extended family ties and indirect connections with Plan or EJA, few of the young people in all eight cohorts had been affiliated with other formally recognized or constituted groups outside of school or with some form of vocational training activity. Instead, through friendships or mutual acquaintances, they were drawn together essentially because of their initial interest in the project. The cohorts were not large; they ranged from twelve participants to just over twenty, aged between ten years old and early twenties. Four of these groups were rural, consisting of relatively

<sup>1</sup> In Senegal, Plan International has two distinctive offices: Plan Senegal, the national office which administers all programs in the country, and the West African Regional Office (WARO) which houses Plan's research unit and is responsible for overseeing all national offices in the region. Both these offices assisted this research project.

<sup>2</sup> Funded by the Social Sciences and Humanities Research Council of Canada, the project was a collaborative venture between myself, PLAN Senegal and the research unit of PLAN WARO, and EJA.

equal numbers of boys and girls living in villages that had received assistance from Plan. Most of them were attending either the last two years of primary school or were enrolled in nearby secondary schools. In line with village protocol, we met with community leaders and received their approbation to work with the young people. The other four cohorts consisted uniquely of girls and young women who were living and working in four distinctive neighbourhoods in Thiès, Senegal's third largest city. Most of them had been associated with various short-term EJA-sponsored training activities, and while almost all had completed a few years of primary school education, none was attending any type of formal education at the time of the study. More than half of these young women had migrated from their home villages and were working as domestic servants in affluent households. Of the remainder, the majority lived with family members and were engaged in unpaid domestic work or in low-paid informal sector jobs.

During the first three months of the project, Diagne and I traveled several times from Dakar, the capital city where we resided, to the different localities in order to meet informally with the young people in settings that they selected—usually community centres or after-hours school classrooms. We arranged these meetings to achieve two basic purposes: to develop a friendly rapport with each group of youth, and to encourage them to talk informally about their daily activities, their communities and school experiences, and their concerns and aspirations. During this first stage, by initiating meetings and prompting discussions, Diagne and I were very much in the position of conventional qualitative researchers conducting focus group sessions. Through the formal consent process, it was understood that youth participation would be voluntary and non-remunerative, and that we could offer no guaranteed compensation such as access to further education or paid employment. Likewise, although we occasionally bought soft drinks and snacks for cohort participants on an impromptu basis, we avoided doing this systematically so as to be sure that youth were participating out of a genuine desire to speak with us and with each other rather than for other ulterior ends. In this early stage of the project, inhibited by their lack of familiarity with us and perhaps by initial uncertainty regarding the project agenda, many of the youth in all eight groups exhibited an aura of reticence that was exemplified by their tendency to speak mainly in response to questions we posed. Gradually, however, as friendliness and a sense of mutual informality developed, by the third or fourth meeting with each cohort, most of the participants had gained sufficient confidence to speak independently and—to us it seemed—candidly. Much of this shift in the relationship was due to the affinity they developed for Diagne, a native Wolof speaker and an amateur musician who, during the time of fieldwork, was also actively involved in the popular music scene in Senegal. Although in his mid-thirties, in interacting with the youth he often came across more as a peer than as a professional researcher.

Early into the fourth month, having established good rapport with the participants, we invited each youth cohort to delve independently into one or more issues that were of concern to them, largely through sharing their first- and second-hand experiences and their own acquired knowledge, and to subsequently convey their interpretive conclusions to a wider public through forms of creative narrative expression that they themselves could choose. This signaled the start of the second stage of the field study which, for the participants of each youth cohort, involved a process of critical reflection grounded in their own realities and creative abilities. For purposes of public dissemination, all groups identified three narrative forms that interested them: the compilation of photos of their local environments to be taken by individual youth; popular theatre (essentially dramatized stories that would highlight specific social issues); and mock radio phone-in shows, commonly referred to as *journaux futurs*, that would also entail role-playing a mock “radio host”, one or more “guest interviewees” having ostensible expertise on specific topics, and an audience of radio “listeners” who would “phone in” queries and commentaries concerning the topics of discussion. Except for the loan of several digital cameras that we provided, the youth were left to their own devices. Over the course of this second stage, which lasted approximately two months, the impetus for ensuring the continuation of the project shifted towards the young people themselves. Although Diagne communicated with individual group members through frequent cellphone exchanges and occasional visits, often it was these individuals who initiated contact with him, requesting his advice concerning their emerging narrative presentations and sometimes asking when he planned to visit. Frequently, too, youth participants expressed interest in what other groups were doing. Having a proprietary sense of the narratives they were formulating, various group representatives began to exhibit signs of subtle competition as if aspiring to emulate and even outshine the planned presentations of their peers in other groups.

The third and last phase of the project led to another shift in the relationship between the youth and ourselves, one that required collaboration in organizing the presentations of youth narratives in the communities where they lived. We two researchers provided some technical assistance (e.g., temporary provision of photo projectors and megaphones) and, because of the community publicity that was generated prior to the presentations, funds for celebratory food and drink. Presentations were undertaken in a variety of venues—in two community halls, outdoors under a broad canvas cover in one village (due to the threat of rain), an open-air courtyard, and—in the case of the four urban cohorts who presented their narrations at one scheduled event—in a neighbourhood street blocked off for the occasion. Taken together the narrative presentations centered on a host of serious social issues: family violence, corruption, illicit drug trafficking, forced marriage, sexual harassment



of female workers, truncated educational and employment opportunities, and maltreatment of the poor. Underlying all of these issues were the themes of power, specifically the ways in which it is customarily abused, and the corresponding struggle for the rights of children, women, and other vulnerable groups. Several of the narratives included music, song, and dance, and all the dramatized stories and simulated radio interviews were video-taped as had been agreed by the participants. Indeed, the youth were uniformly keen to be video-taped so that there would not only be a record of their collective presentations, but there would be opportunities for dissemination of their perspectives on key social problems among a broader public audience, especially among governmental and nongovernmental officials having an interest in youth issues. In two villages, photos taken by several youth depicting daily village life were also presented with the use of a digital projector.

At the end of each presentation, Diagne and one youth presenter moderated a discussion among youth presenters and community spectators who were numerous in every locale. In Thiès especially, following the presentations of the four female cohorts, exchanges centering on the vulnerability and exploitative treatment of young girls became quite animated. References to late-night working hours, to sexual harassment and physical abuse (being “slapped in front of everyone”),<sup>3</sup> and to unpaid wages and unwarranted dismissal reflected the tenor of exchanges concerning the lack of labour protection for female domestic servants. Each event concluded with speeches of congratulation and a celebration. A fortnight or so after the completion of all the presentations, Plan Senegal and EJA jointly hosted a day-long seminar for public officials and the personnel of several national and international NGOs in Thiès. The seminar focused specifically on the conditions of youth and their ostensible rights as participants in development policies and programs. A presentation of selected photos and film footage served as a basis for much of the day’s discussion. This effectively concluded the project.

### 3. The Underlying Dynamics of Shifting Project Ownership and Leadership

As recounted in this brief overview of our field study with eight cohorts of youth in Senegal, the transition from tentative youth engagement in the first stage to full-fledged ownership of their respective activities of dialogue and creative narrative development in the second stage occurred seamlessly and fairly swiftly. Yet the nature of their participatory involvement in this field study was almost certainly a novel experience for most of them. In their own cultural milieu, the youth participants likely had had little or no experience in fundamentally altering the nature of their status vis à vis their elders, and none in relation to outside aid agency personnel. Initially they responded guardedly to the lead of two *étrangers* (one

of them an expatriate) whom they only knew as being connected to two prominent NGOs. Yet once a relationship of cordiality and trust had been established, whatever culturally induced reservations they may have originally sensed quickly dissipated when they were invited to become *bona fide* project collaborators. Upon embarking on their respective activities of reflexive dialogue and narrative creativity, a sense of shared project ownership took hold. In addition, while no clear leadership qualities were evident in the first stage of the field study, when groups assumed direction of their own project engagement, specific individuals within each cohort began to take the lead in coordinating their peers and, on occasion, in communicating with Diagne. Through their own interactions, each cohort developed a collective sense of purpose that ensured continuity and cohesion through to the final public dissemination stage of the project.

What this rapid shift from subordinate status vis à vis outside researchers to fully engaged participants revealed was that, despite the abiding conventions of social hierarchy in Senegalese communities, given the opportunity to participate in this field study, the youth were clearly primed to do so. In part, this can be attributed to the effects of the changing socio-economic landscape on Senegalese youth. All the young people who participated in the project had been exposed either directly or indirectly to the norms and possibilities of a world beyond the traditional cultural framework of their household and community roots. All had attended school, and although the quality of their formal education was undoubtedly less than optimal (as much of it is throughout Senegal), it helped to instill among them, as many explained in informal exchanges and in their narrative presentations, aspirations for further education or steady remunerative work, and for independence from the domineering sway of family elders. Notwithstanding the vulnerability associated with young age and (for girls) gendered differentiation, many of them had had opportunities to experience some degree of autonomy and to develop peer relations—through school, work, or shared interests such as popular music and dance—that could be as significant as their immediate family ties. Many of those who had been in the last year or two of primary school or who were enrolled in secondary school had traveled to other parts of the country during school holiday periods. Others—notably the domestic workers in Thiès—had lived away from their immediate family relatives for months and sometimes years. Many of them were also very much aware of the materialist trappings of globalization that are evident in towns and cities, and even in villages where cell phones are ubiquitous. The cumulative effects of these shared experiences among youth had undoubtedly fostered the emergence of identities that were gradually becoming less bound to the age-based authority structures of traditional household contexts (Fredericks, 2014). As one young domestic worker stated, mirroring the sentiments of many youth

<sup>3</sup> Quotations in English are close approximations of verbatim statements made in Wolof that were translated into French.

contemplating approaching adulthood, “I don’t count on my parents to support me because they don’t have the means....I have no desire to cross my arms and watch others work. I have to assist my mother and take charge of things.” As we also discerned, several community leaders and parents we spoke with also tacitly accepted the burgeoning independence of young people, and the likelihood that many of them would migrate to larger urban centres in search of opportunities that natal family households could not provide.

Yet these structural forces and shifting social attitudes cannot alone explain the relative ease by which the youth cohorts attained a sense of project ownership that marked the second stage of the field study. From the start, we researchers—especially Moussa Diagne—assumed a mentorship role which in many respects superseded our own self-identification as researchers. Because the main aim of the project was to foster reflexivity as research, enabling youth to collectively analyze their lives and social influences, and to express their own views on issues and changes that they deemed significant, it was essential for us to begin by initiating and guiding the engagement of youth as project participants. This involved communication that put a premium on listening to the youth, on offering them the time and space to formulate and discuss their ideas, and on affording them opportunities for graduated decision-making. Our interactions with the youth thus took the form of scaffolding, with our direct encouragement diminishing as the young people assumed control over the fieldwork in their respective rural and urban localities. Patience and self-effacement were necessary in the scaffolding process. The first round of project meetings often necessitated accommodation of youth availability and obligations. We shuttled from site to site, stayed overnight in three out of the four villages, and on occasion withstood lengthy delays before youth arrived for designated meetings. Yet once the young people became immersed in collective reflexivity, they assumed a more dynamic collaborative role in the project and we deliberately allowed ourselves to shift from the position of focus group leaders to a more supportive status as monitors and observers. The fluidity of the relationship, with more autonomy and decision-making power transferred to the youth, helped substantially to stimulate their agency and to foster a sense of shared project ownership.

#### 4. Project Aftermath: “Transformations” versus Social Transformation

The activities of the youth in this field study clearly demonstrated their inclination and capacity to collectively examine critical social issues and to formulate modes of dissemination designed to spur public reflection. As discussed above, the impetus underlying youth readiness and ability to participate lay in a combination of structural forces and mentorship. As many adolescents in Senegal feel less committed to tenacious norms

of adult-dominated power arrangements, those who participated in this project took advantage of the opportunity to channel their personal reflections into forms of collective consciousness-raising. Yet the question remains as to whether consciousness-raising through reflexive dialogue among small groups of youth, and between youth and others in their communities as exemplified by the exchanges that followed the presentations of our young participants, can generate social transformation. The field study described here was a stand-alone project that lasted for approximately eight months only. For the youth, it ended immediately following the public dissemination of their narratives. For the researchers and for the two organizations that facilitated initial connections with the youth, project activity continued for another two weeks until the closing day-long seminar in Thiès. Viewed in hindsight, one might conclude that the project was anything but a catalyst of social transformation. Without continuing mentorship, none of the youth cohorts remained as a distinctive group aiming to address any of the concerns they had raised in their reflexive analyses and presentations. Nor did Plan and EJA initiate specific actions that followed upon either the youth presentations or the closing seminar that featured the youth-produced photographs and video-taped excerpts of their dramatized narratives and *journaux futurs*. Now, a decade on, the social problems highlighted by our young participants persist, and the prospects facing youth in Senegal and elsewhere in Africa are, if anything, even more challenging. It would be easy to surmise, therefore, that the field study with this small group of young people fell short of having any transformative effect.

On the other hand, if considered in terms of *incremental transformations* as opposed to the radical notion of social transformation as the singular goal of comprehensive structural change, a case can be made that this participatory study did convey some transformative import. In reference to the four transformations noted above (Shier, 2015), the project stimulated at least two dimensions of change, or at least developmental progress. First, through the combination of learning and agency prompted by collaborative reflexivity, most of the youth participants experienced a degree of collective empowerment, at least for much of the project’s duration. Empowerment in this sense was synonymous with a learning-by-doing process that enabled youth to transform reflexivity into knowledge production. This was most evident in the formulation of their narrative presentations, all of which necessitated a cooperative process of thoughtful creativity. In contrast to authoritarian top-down approaches to teaching and learning in schools and to traditional forms of socialization governed by their elders (Massart, 2006), creativity was an integral feature of the collaborative learning-by-doing process. This was especially visible in the role-playing that was central to the dissemination phase of dramatized storytelling and *journaux futurs*. Through role-playing the youth actors

were able to subsume themselves safely in alternative personas (e.g., the corrupt official, the drug dealer, the beaten child, the domestic worker sexually assaulted by her employer), and thus demonstrate their reflections, both affective and cognitive, on the underpinnings of social injustice more effectively than if they had participated in more conventional forms of inquiry.

Equally significant, they did this entirely on their own. Drawing upon lived experience, reflection, and dialogue, they confronted the themes of poverty, insecurity, inequity, and discrimination, and through the vehicles of their narrative presentations they became knowledge producers. In their dramatized narratives and the more spontaneous *journaux futurs* that involved both role-playing and audience participation, they openly addressed the problems that ensue when power is unwisely or unfairly exercised in a diverse range of circumstances—family, school, employment, and gender relations. For each of the youth participants, participation in the field study epitomized process as progress (Samoff, 2001). By focusing on issues that necessitate fundamental social change, this fusion of their own learning with knowledge dissemination and advocacy was a transformative undertaking for the youth participants, and possibly for some of the observers in their own communities. Commenting on this process, two young lads briefly articulated what many others shared: “In talking together about problems that worry us, we gained more understanding, and it was good to show this to the community.” “I didn’t think that I could speak publicly about problems; but now I’m less intimidated and I feel motivated.”

A second incremental transformation, that of reflexive learning that transforms adult facilitators, was experienced by Diagne and myself. Throughout the duration of the project we spent hours talking about the youth with whom we were connected, musing on both the research and the mentorship process that we were engaged in. The relation that we developed with young people whose formative development had occurred in social milieux different than our own (particularly myself, being unfamiliar with Wolof language and culture)<sup>4</sup> entailed a marked learning curve. In addition, closely related to mentoring was the educational aspect of the researcher–youth relationship. Learning in this field study was not a unidirectional process emanating solely from adult instruction and guidance, but rather was a shared educational endeavour necessitating adult accommodation of gradual youth control of their own learning and knowledge production. Just as participation and learning were mutually reinforcing, so too were youth and researchers engaged in a reciprocal learning-by-doing process. Through dialogue in naturalistic settings that were familiar to the youth participants, and through the gradual creation of an atmosphere of informal collegiality, youth and adults learned from and about each other (Gutiérrez & Rogoff, 2003). This, in fact, is the essence of participatory research, similar to Freire’s (1976) description of education

as the practice of freedom—when the teacher becomes learner and the learner becomes teacher.

For Diagne and myself, transformation lay in our deepening understanding of youth participation in research, with its emphasis on critical inquiry, collective deliberation, and narrative dissemination as a shared learning process for youth and adults alike (Maclure, 2011). Participation and education, in other words, were two sides of the same coin. In the current era of globalization, with its cavalcade of rapid social and technological changes that occur alongside persistent and often deepening societal problems, we were able to fully appreciate why education should no longer adhere to the erstwhile view of young learners as passive repositories of information delivered to them. Instead, good quality education should be conducted in ways that enable learners to be *participant* discoverers and practitioners of knowledge (Paradise & Rogoff, 2009). In many circumstances, however, for this to occur often requires cultural and institutional adjustments that in turn facilitate shifts in power differentials between adults and children—between those who are deemed to be knowledgeable and those who depend on the adult world for the content and direction of their learning (Percy-Smith, 2006). This is a theme that applies to research as well. For research to be truly participatory, methodologically adult researchers must cede substantive control of key aspects of inquiry to young participants so as to ensure that it yields reciprocal pedagogical benefits.

Concerning the third and fourth transformations, however, there was no evidence that this field study provoked any change in general adult attitudes, either in the communities where the participant youth disseminated their concluding narratives or beyond, nor that it led to any transformative community actions. Several reasons account for this. Most obvious was the small scale and particularistic focus of the project which was not designed to encompass the scale of most of the problems addressed by the youth. Quite simply, the limitations of the project were determined by its primary objective: to focus almost entirely on the youth participants themselves—their issues of concern and the nature of their participation as the field study progressed. In part as well, the project was not conducted as an integrated component of the youth assistance programs of either Plan or EJA. This was largely due to the role of Plan’s research unit within the organization’s West African regional office. With its mandate to conduct research projects in all West African countries where Plan’s development programs were located, the research unit functioned separately from the specific program activities administered by Plan Senegal. Consequently, apart from assisting in some of the logistics of the project, e.g., providing transport, facilitating connections with youth in the four villages, and hosting the closing seminar in Thiès, the personnel of Plan Senegal’s community development programs were not involved in research

<sup>4</sup> As most of the youth could speak some French, this was the language of communication between myself and the youth participants.

planning and oversight. Periodically a Plan program staff member was in a village when we were meeting with youth, but when our paths crossed, which was seldom, our communication was limited to brief social greetings. The connection with EJA was even more distant as the project had no formal financial or administrative attachment to this organization. For similar reasons, the concluding seminar of the project held under Plan Senegal's auspices had no goal other than to serve as a briefing for interested professionals working in the domain of child and youth development programs.

Seen in hindsight, however, rather than being miscast as a potential catalyst for social transformation that did not succeed in a broad sense, this field study can be regarded as a small part of a transformative process that was already ongoing within the two sponsoring NGOs and among youth themselves. As noted at the outset, both Plan and EJA had adopted the discourse of child rights and children as protagonists of development since the 1990s, and hence this field study was aligned with the ongoing development assistance approach of the two organizations. Likewise, as also observed, Senegalese society—from rural communities to large urban centres—is undergoing a socio-cultural transformation that has multiple manifestations, not least of which has been the growing restiveness of many of its youth and their propensity to openly criticize and demonstrate against the injustices of an entrenched socio-economic and political status quo. Consequently, although I have characterized this field study conducted with young people as a stand-alone project, in another sense it can also be regarded as a small collective activity in tangent with many similar youth-oriented actions aiming to enhance children's rights and to foster inclusive democratic discourse. While these are goals that in many respects are still unfulfilled in Senegal, we can nonetheless entertain the hope that multiple activities for and with youth such as the participatory research described here will contribute incrementally to these transformative ends.

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### Conflict of Interests

The author declares no conflict of interests.

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