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ORIGINAL ARTICLE

Children's Human Rights to 'Participation' and 'Protection': Rethinking the relationship using Barnahus as a case example

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Abstract

The relationship between children's human rights to protection and to what is commonly referred to as 'participation' has received significant attention, with many scholars critiquing the purported tension between the two approaches and demonstrating how child participation should be a core feature of child protection. Less attention has been paid to the converse and, we argue, essential precursor of participatory protection practice – the significance of the child's right to be protected from harm as a means to ensuring successful child participation. Drawing on the example of the multidisciplinary Barnahus model, this article explores the multifaceted relationship between participation and protection, suggesting that there needs to be greater acknowledgement of the role of collective child participation in delivering the conditions where individual children who have witnessed or experienced violence feel and are safe to express themselves.

KEYWORDS

Barnahus, child participation, child protection, children's human rights

Key Practitioner Messages

- Children's right to be heard in decision-making is a right of individual children and a right of groups of children.
- To ensure meaningful child participation in child protection processes, it is important to make sure that children feel and are safe to speak.
- Creating a safe environment for child participation should involve working with children who have experience of child protection as a group to design provision and services.

INTRODUCTION

The relationship between children's right to protection and participation is often presented as a source of tension or conflict in social work practice, with Bruce, for example, highlighting an ongoing difficulty of 'achieving a balance between the child's right to have a voice and a duty to protect children and young people' (Bruce, 2014, p. 515). Others have attempted to dispute or reconcile the purported tension and there is increasing recognition that children cannot be kept safe from harm unless they are listened to and taken seriously (McCafferty, 2017). Much less attention has been paid to the significance of the right to be protected from harm in supporting meaningful child participation and the enabling role of collective child participation. In this article, we begin by looking at the factors that influence child participation in child protection contexts before examining the relationship between child participation and child protection when viewed through the lens of children's human rights. This is followed by a discussion of how this operates in

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practice drawing on the example of an internationally established approach to child justice and protection ('the Barnahus model'). We conclude that consideration of the child's right to be protected from harm is equally crucial for implementing the child's right to participate in decision-making in child protection contexts, emphasising the essential role of collective participation in delivering the conditions where individual children can speak safely and freely in child protection and justice processes.

PARTICIPATION AND PROTECTION IN CHILD PROTECTION PRACTICE

There has been increasing attention to the role of participation in child protection practice, much of which acknowledges that the culture of the child protection system itself limits the time and capacity of professionals to engage with children and their families in a trusting and relational manner (Dillon, 2021; Featherstone et al., 2012; van Bijleveld et al., 2020; Warrington et al., 2019). The system is not considered child-friendly and as such limits the capacity of children, in particular, to participate effectively (Dillon, 2021; van Bijleveld et al., 2015). Moreover, Vis et al. (2012) suggest that participation is often considered an event rather than an integral part of the overall child protection process and, as such, it is not given adequate value (time, resources and space) within the process – it is not embedded in culture and practice despite the desire by many to involve children. Several scholars have demonstrated that social workers, for example, often feel insecure about communicating with children (Dillon, 2021; Ruch et al., 2017; Winter, 2009; Winter et al., 2017).

Alongside these workforce barriers, it has been found that the attitudes of workers vary regarding the value of participation (Morrison et al., 2018; Vis et al., 2012). Jensen et al. (2020) found that child protection staff often focus on parents' needs, problems and motivations rather than children. In short, they create views of children without 'ascribing children a role in defining their feelings, wishes and sense of self' (p. 87). Jensen and colleagues suggest that differing views of the meaning and value of children's participation in child protection means children are seen by adults as primarily in need of protection or being the problem that needs to be solved (Jensen et al., 2020). They concluded that there is a lack of clarity about what participation means in child protection and the opportunities to participate in child protection processes was generally poor (see e.g. Gallagher et al., 2012; Horwath et al., 2012; Larkins et al., 2014; Stabler, 2019; Warrington et al., 2019).

The invisibility of children and young people and their lack of individual participation in child protection processes has been the focus of several formal enquiries into children's deaths. For example, the Laming reports on the death of Victoria Climbié (2003), the Baby Peter Connolly (see *Haringey Local Safeguarding Children Board, Serious Case review Child 'A'* 2010), the Roscommon Inquiry (2010) and the OFSTED thematic review of 67 case reviews (2011) highlighted the importance of social workers engaging and listening with children in relation to their experiences. Eileen Munro (2011) highlighted in her review on the English child protection system, the importance of the voice of the child being a key source of information to help understand the culture and values of a family and any issues impacting a child. Decision-making regarding children and young people involved in child protection services is often tense and emotional and interactions between adult family members and professionals can be highly charged, which can diminish a child's opportunity to have their voice heard (Fitzmaurice, 2017). Van Bijleveld et al. (2015) undertook a review of literature on children's and social workers' perspectives regarding children's participation within child protection and highlighted that most children experienced limited to no opportunity when participating in decision-making processes which influenced their lives (see e.g. Gallagher et al., 2012). Mitchell (2022) explores the micro interactions of social work practice. She argues that, from a young person's perspective, social workers' perceptions of children and young people can affect their engagement in decision-making processes and their ability to speak about their issues and problems. 'Lack of participation by children in social work processes can influence safeguarding decisions being made about the protection of children and young people' (Mitchell, 2022, p. 3). The lack of children's participation on an individual and collective level has consequences for the individual child, their family/carers and more broadly, the quality of the service being provided to children.

Capacity-building and empowering approaches utilised in service user involvement have mainly focused on adult services. In the UK this modernising social policy for social services aims to improve the design and delivery of social care services, ensuring that services better meet the needs of those who use them. Interpretations, debate and research on collective or group participation of children within the context of child protection services in the global North is more limited and does not appear to be as embedded in practice as well as adult service user involvement (Stabler, 2021). Yet, the importance of children and young people's collective involvement in the care system is vital to 'improve lives of children and young people in care in the short and longer term' (Jackson et al., 2020; Larkins et al., 2014). The rationale is to improve the effectiveness of services by giving children a voice (in this case children and non-abusing family members), while simultaneously extending rights of citizenship (Kosher & Ben-Arieh, 2020; Henaghan, 2017). Despite the popular policy and practice concern relating to collective participation of young people

in child welfare processes, concerns persist regarding sustainability, impact, representation, inclusion and tokenism (Tisdall, 2016). Scholars point out the need to consider the complexity and dynamic processes required to fully embed collective participation, including the additional support required for those children involved in collective participation who have experienced abuse (Horwath et al., 2012 ; Lundy, 2007, 2018, Warrington et al., 2019). Research indicates that creating opportunities for involvement (even that which some might consider to be 'tokenistic') in collective participation may *not* result in children's disillusion and disaffection, and so this and other challenges should not be used as an excuse to evade collective participation in children's advocacy and direct services (Lundy, 2018). While limited, examples of building participation structures in child protection services do exist, where organisations facilitate intergenerational relationships and communication between decision makers and young people. Examples of independent advocacy organisations which support collective participation of children in service delivery include Who Cares? in Scotland, CREATE Foundation in Australia and VOYCE Whakarongo Mai in New Zealand (see also e.g. Jackson et al., 2020; Larkins et al., 2014).

PARTICIPATION AND PROTECTION: A CHILDREN'S HUMAN RIGHTS FRAMEWORK

The relationship between participation and protection in children's lives is sometimes presented as a source of tension or conflict ('participation v protection'; 'welfare v autonomy'; 'best interests v right to be heard') and has been the focus of ongoing philosophical discussion about when children should be protected from making decisions that may be harmful to them (Archard & Skivenes, 2009; Eekelaar, 1994). As discussed above, in social work practice, as elsewhere, the perceived tension has translated into a tendency to either exclude children or give less weight to their wishes on the basis that this might put them at risk. Stabler (2019, p. 4), for example, captures this in relation to the child's best interests as follows:

Where social workers are involved with families due to concerns about a risk of significant harm to a child, they may be hesitant to involve a child in meetings where sensitive topics such as addiction or domestic violence may be discussed. Moreover, the weight of the child's view regarding where they want to live may be minimised by the concerns for the child's safety.

This juxtaposition is, however, problematic in several aspects when examined through the lens of children's human rights.

The first area of concern is the terminology used in these categorisations. While the tripartite typology of 'participation, protection and provision' is widely used to capture and classify the panoply of children's human rights (see e.g. Heimer et al., 2018), the typology can mask what lies beneath and detract from the substantive rights that fall within these purported categorisations. Quennerstedt (2010) has queried why these terms (the so-called '3 Ps') are used for children rather than the more usual, and legally accurate, terminology of social, political and civil rights that is used to describe adult human rights. Taking the latter as an example, there is no right to 'participation' in the UN Convention on the Rights of the Child (CRC or Convention). Moreover, the category of participation rights covers not just the right to have views given due weight (in Article 12) but also the right to seek, receive and impart information (article 13); freedom of conscience (Article 14); privacy (article 16) and to associate and assemble (article 15). In a similar vein, the core right to be protected from harm is Article 19 of the CRC, a broad-ranging provision that defines harm as 'all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse'. Moreover, specific harms (such as sexual exploitation) are included in other provisions (Articles 32–36) as well as harms for specific groups, including children in armed conflict or in conflict with law (Articles 37–40).

Before we explore the links between participation and protection, and since it has been largely neglected, we would like to address what we perceive to be a further misrepresentation of the relationship between participation and protection within some of the existing discussion: the scope and meaning of one of the most fundamental principles for child protection practice, the principle that the child's best interests shall be a primary consideration in all actions affecting them (Article 3 of the CRC). This is significant because the participation/protection discourse is also sometimes presented as a tension between children's best interests versus their autonomy, with many questioning whether and/or how children's views should be determinative of an issue when that may not be in their best interests – often described as a 'balancing exercise' (see e.g. Archard & Skivenes, 2009). This is an important discussion but one that is often presented inaccurately from a legal human rights perspective. In particular, the best interests principle should not be equated with protection from harm, the right to development or education, etc.: it is in a child's best interest to enjoy *all* their human rights, including their participation rights (not only the right to be heard but, for example, their right to seek, receive and impart information) (UN, 2013). Moreover, a best interests decision should always ensure that children's views are sought and taken seriously. Presenting the right to be heard in opposition to the child's best interests is not just

inaccurate but will undermine the delivery not just of Article 3 but potentially a rights-based approach generally. There will be times, including for example in Barnahus, when a decision is made not to do what a child (or group of children) wishes on the basis that it is not in their best interests. In such cases, the process should consider all the child's human rights and not just their right to be protected from harm, taking into account her/his/their views and communicating the decision in an accessible way to all those involved.

A more general concern, and the one upon which we focus in this article, is that in the existing literature on participation/protection, there has been limited recognition of the fact that all human rights are 'indivisible inter-related, inter-dependent' (Lundy, 2007; UN, 1989): the children's human rights that are in play in every child protection decision (to have views given due weight and to be protected from harm) should be read, interpreted and applied together. The UN Committee on the Rights of the Child ('the Committee') has stressed that:

In weighing the various elements, one needs to bear in mind that the purpose of assessing and determining the best interests of the child is to ensure the full and effective enjoyment of the rights recognized in the Convention and its Optional Protocols, and the holistic development of the child. There might be situations where "protection" factors affecting a child (e.g. which may imply limitation or restriction of rights) need to be assessed in relation to measures of "empowerment" (which implies full exercise of rights without restriction). (UN Committee on the Rights of the Child, 2013, para. 82)

We suggest that, while there is increasing recognition and acceptance of the fact that participation (classified above by the Committee as 'empowerment') is fundamental to protection, there has been much less acknowledgement of the corollary – that the implementation of the right to be protected from harm is equally fundamental for delivering meaningful child participation. A knock-on effect of this is that there is a paucity of evidence about how the latter can be secured in practice, which in turn has implications for children's right to be heard in circumstances where they may be at risk of harm.

THE EXAMPLE OF BARNAHUS

Barnahus, first introduced in Iceland in 1998, draws knowledge from the Children's Advocacy Centres (CAC) in the USA. Barnahus, or 'a house for children' in Icelandic, is a child-friendly and multidisciplinary model responding to child victims and witnesses of violence. Often children who have experienced or witnessed violence and abuse are in need of support from multiple services and Barnahus attempts to meet children's needs by offering 'multiple services in child friendly premises under one roof' (Johansson et al., 2017, p. 2). Acknowledging that child abuse is a complex phenomenon, demanding highly specialised expertise and coordination Barnahus aims to improve multidisciplinary responses to child maltreatment through enhanced cross-agency communication and collaboration, reducing duplication of services and confusion where agencies work at cross purposes (Herbert & Bromfield, 2019). Thus, Barnahus aims to be a child-friendly service delivered where law enforcement, criminal justice, child protective services and mental health workers cooperate and assess together the situation of the child and decide upon the follow-up, under one roof. An intention of Barnahus is to reduce retraumatising (secondary victimisation) of the child, where the child avoids repeat contacts and interviews by multiple professionals in different settings that are not adjusted to the child's needs.

Further Barnahus aims to respect the participatory rights of the child by ensuring that she/he/they is heard and receives adequate information and support to exercise these rights. In short, the child is safe to disclose information about what they have witnessed or experienced (Johansson et al., 2017).

We acknowledge that safety is a complex concept to describe in relation to a child (and/or their family members) and that what makes a child both feel safe and be safe after experiencing or witnessing violence may be multifaceted. Our argument here is that children's views are critical to help us understand what safety means for them and in the case of Barnahus, children may have experienced not being safe directly due to violence and abuse. With careful planning and proactive engagement, we argue that Barnahus is an example of a service that recognises why it matters to deliberately create spaces of safety for children after abuse.

Drawing on a widely used conceptualisation of Article 12 (the Lundy model), the authors have analysed how meaningful child participation might be embedded in complex multiagency child protection contexts of Barnahus (Hill et al., 2021). The Lundy model encourages decision-makers to address the qualities of rights-based participation by actively considering four concepts of space, voice, audience and influence in the collective and individual participation of children. This requires adults to consider, for example, how welcoming, comfortable, inclusive, child-friendly, age-appropriate and accessible the space is for a child or group of children. The creation of positive relational space also requires consideration and skilled staff to build trust and respect between children, as well as with adults. Children will need to be supported and included in the process and feel prepared and informed to begin sharing their views; this is

particularly important given that children involved in Barnahus will be witness to or a victim of abuse and may take time to trust those around them. In relation to children's collective participation in Barnahus a key factor will be the time and resources provided in seeking the views of groups of children beyond their individual views in a manner that does not retraumatise the child. Clarity of purpose and careful planning is required to communicate ethically with children when inviting their participation.

Once a safe space is created for children to collectively express their views, children can provide an opinion on, for example, the design of services, the skills and approach of staff, the types of supports and interventions provided. Children and young people's collective opinions can be about local services or national strategy and may include specific issues and topics that they feel are important to them collectively, adding valuable perspectives on complex child protection procedures. A comprehensive exploration of how the Lundy model can be used to build a culture of participation in Barnahus can be found in the authors paper for the European Promise Network (Hill et al., 2021). Real examples (Hill et al., 2021, pp. 14–18) of how collective participation can be understood in practice within the Barnahus include 'Children's Forums' in England (p. 17) or 'Children's Boards' in Croatia (p.1) and Albania (p. 18) where children and young people are supported to collectively use their voice in Barnahus. Children, who have been involved in Barnahus, can be invited, and supported to participate as volunteers in collective participation activities that are supported by the Barnahus staff. In Croatia (p. 18) for example, children have advised on the design of the waiting area and co-designed information for children prior to them coming to the Centre has been included in staff policy and practice.

Further examples include: feedback on experiences in Ireland (p. 16) and in Spain (p. 16) advice on the provision of information and interactive websites in Poland (p. 16), and assessment and treatment processes in Croatia, (p. 18). In addition, collective participation can include children becoming involved in research where findings not only influence the design of services in a Barnahus but also become the basis for awareness and educational campaigns in Poland (p. 16). Children's involvement in creatively writing and performing theatre productions on violence against children have toured to raise awareness of the topic in schools and communities in Croatia (p. 16). By speaking to Ministers about their stories, children involved in Barnahus have also influenced national resourcing decisions. For example, these stories contributed to a report about the scale of child sexual abuse in Iceland, resulting in Barnahus provision expanding to include a new house and more staff in Iceland (p. 18).

An important aspect of the examples provided is that adults went beyond simply listening to children; children's views were taken seriously, and adults were open to being influenced by them. There was not always agreement about opinions between adults and children – and between children themselves. But with respect and recognition of the diversity of ideas, combined with good planning and the meaningful use of resources, children were able to see change occur. This in turn has provided motivation for children's continued involvement in collective participation.

CONCLUSION

There is a growing body of evidence that opportunities to take part in decision-making can enable children to make informed choices, giving them confidence to express their views/wishes and enjoy all their rights, including their right to be protected from harm. Moreover, from a children's human rights perspective, with its focus on enabling children to claim their rights, it is arguably even more important that children who have experienced violence are empowered to participate in decisions affecting them and that 'vulnerability should not eclipse agency' (Lundy, 2018). A reconsideration of the relationship, viewed through the lens of the Barnahus system, leads to the following conclusions. First, while the significance of participation for protection is now well established, if not always fully accepted or practised, there has been much less attention to the other side of this coin. If children are afraid to speak for fear of physical or emotional harm, then Article 12 cannot be realised (Hill et al., 2021). The question then becomes how to create a space where children are both heard and are safe – participation and protection.

Secondly, there is the often unrecognised correlation between individual participation and collective participation. While much of the existing research and practice literature focuses on ensuring that individual children are heard in social work practice, there has been less attention to the role of collective child participation in delivering the conditions where that is possible and meaningful – and indeed safe. The UN Committee on the Rights of the Child (2009, p. 122) notes that the voices of children have increasingly become a powerful force in the prevention of child rights violations and stresses that children should be consulted in the formulation of legislation and policy related to these and involved in the drafting, development and implementation of related plans. However, there has been limited attention on the role children are entitled to play in creating the conditions where individual children can feel and be safe speaking to their own experiences in child protection investigations. Barnahus, with its explicit commitment to both child participation and protection, offers an interesting example of a service that began by focusing on the individual child but has now recognised the need to involve children collectively, drawing on a comprehensive understanding of children's human rights and their indivisibility.

In conclusion, we suggest that, for the relationship between child participation and child protection to be understood accurately, from a human rights perspective, these must no longer be presented as rights that are inevitably in conflict or need to be ‘balanced’ but as indivisible, inter-related and interdependent. Children cannot be kept safe if they are not heard and cannot be heard where they are not safe. If we are to create the conditions where individual children who have experienced harm have a safe space to speak to their own experiences, then we must harness the collective expertise of children when planning and developing relevant systems and services.

Statement of ethics and integrity

The authors want to declare no conflict of interest in the writing of this paper.

This is an original article which is a ‘think piece’ and, as such, there is no need for an ethics statement in relation to the paper as it is conceptual in nature rather than research based.

We have written permission (from the members of the European Network) to use the examples of collective participation referenced from a practitioner’s survey conducted by the Network used in this paper which are drawn from our co-authored document: Hill L, Lundy L, Mitchell, M. 2021. *Participation in Barnahus: Implementing children’s rights to participate in decision making*. Stockholm: The European Promise Network. Stockholm <https://www.barnahus.eu/en/wp-content/uploads/2021/11/Participation-in-Barnahus-FINAL.pdf>

Data sharing statement

Data sharing not applicable – no new data generated for this commentary article – data sharing not applicable to this article as no datasets was created or analysed in this paper.

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