Children's rights and children's wellbeing

Children's Rights and Children's Wellbeing: Equivalent Policy Concepts?

E Kay M Tisdall, Social Policy and Centre for Research on Families and Relationships, University of Edinburgh Scotland. Email: k.tisdall@ed.ac.uk

Abstract

Children's rights and children's wellbeing are often casually paired together in both academic literature and policy discussions but they differ conceptually, methodologically and politically. This has become particularly evident in Scotland, where 'landmark' children's legislation in 2014 has set up a clash between statutory requirements for children's rights and children's wellbeing. This article utilises the Scottish example to wrestle with the advantages and disadvantages of each concept as a framework for policy and practice. The article concludes that children's wellbeing benefits from being aspirational and maximising, easily incorporating children's relationships and collective needs, and its advanced quantitative measurement. But children's wellbeing risks being apolitical, utilitarian and professionally-led in both measurement and practice. Children's rights, in contrast, emphasises minimum standards, does not easily include important matters for children such as love and friendship, and has limited quantitative investment to date. Yet it is politically powerful, backed by law, and holds duty bearers accountable. Decisions need to be made about the relationship between children's rights and children's wellbeing – and which is the primary framing for policy and practice – because they are not equivalent concepts.

Keywords: children's rights; children's wellbeing; childhood; children; outcomes

Introduction

Children's wellbeing is on the ascendance, both as an area of academic endeavour and as a driving concept for international and national policies. An ever-growing number of research studies situate

themselves as addressing, exploring or articulating children's wellbeing: from small-scale qualitative studies exploring a wide range of topics, to a host of large scale research, often administering quantitative surveys to measure children's wellbeing or combining existing data sources. Policy-wise, the concept has gained traction from at least two sources (Morrow and Mayall, 2009). First, the influential (re)definition of health by the World Health Organisation (1946) asserts that health is not solely the lack of disease or infirmity but also a 'state of complete physical mental and social well-being'. Second, children's wellbeing is used as an umbrella concept, to move beyond a narrow set of child poverty measures based on economics or infant mortality, to include a fuller range of domains and indicators (e.g. Bradshaw *et al.*, 2006; OECD, 2009). UNICEF Report Cards on children's wellbeing[1] have been extremely influential in establishing the concept of children's wellbeing in many countries' policies: perhaps particularly in the United Kingdom (UK), due to the political shock of being placed bottom of the richest countries' league table in 2007 (Ansell *et al.,* 2007; Morrow and Mayall, 2009). The UK Government is developing children's wellbeing statistics, through its national statistics organisation.[2] Children's wellbeing has thus become a popular research concept and an increasingly dominant one in policy.

UNICEF not only promotes children's wellbeing but also children's rights (UNICEF, 2014). Children's rights, and particularly the United Nations Convention on the Rights of the Child (UNCRC), emerged from human rights law and institutions. The UNCRC is an internationally agreed standard between State Parties to ensure minimal conditions for children. It is part of international law – and often incorporated into domestic law as well. While children's wellbeing and children's rights are often paired together, Lundy (2014) writes, rather than twins "… their relationship is probably more akin to that of cousins – definitely related but with a different genealogy" (2440).

This article seeks to explore this relationship in more depth. It is given an urgency, by the clash between statutory requirements for children's rights and children's wellbeing, in recent 'landmark' legislation passed by the Scottish Parliament in 2014 – the Children and Young People (Scotland) Act

2014 (CYP 2014 Act). With different duties on policy makers and service providers, different reporting requirements and different modes of accountability, the Act suggests that decisions need to be made about how children's wellbeing and children's rights relate to one another in policy and, ultimately, practice.

Below, the article provides some starting points to define and conceptualise children's wellbeing and children's rights, respectively. The article then sets up the example of the CYP 2014 Act, in more detail, that demonstrates the potential clash between the concepts as well as the Scottish Government's attempt to reconcile them in a commissioned report (2013). The article then wrestles with the advantages and disadvantages of each concept, for framing children's policy, before concluding.

Conceptualising children's wellbeing and children's rights

Wellbeing and children's wellbeing

The definition of wellbeing is not settled. McAllister (2005) sought to identify commonalities across the wellbeing literature, concluding:

> Wellbeing remains a contested concept, enjoying a wide variety of definitions. The paper draws on the common ground which indicates that: wellbeing is more than the absence of illness or pathology; it has subjective (self-assessed) and objective (ascribed) dimensions; it can be measured at the level of individuals or society; it accounts for elements of life satisfaction that cannot be defined, explained or primarily influenced by economic growth.
>
> (2)

This description (if not definition) captures some of the concept's history: its inheritance from the WHO's definition of health and subsequent 'quality of life' research; and the frequently cited and oft-debated dichotomy between 'objective' and 'subjective' wellbeing (see Ben-Arieh *et al.,* 2014;

Hall, 2013; Stiglitz *et al.*, 2009). Externally verifiable measures (e.g. material resources) constitute 'objective' wellbeing, while 'subjective' wellbeing recognises that it may be significant to know people's own views on their wellbeing (e.g. perceived quality of life).[3]

The children's field equally contests wellbeing's definition, measurement and application (Axford, 2009; Statham and Chase, 2010). In their much-cited paper, Camfield and colleagues suggest three contrasting research approaches:

1. Monitoring children's wellbeing using national and international surveys

2. Exploring children's understandings of wellbeing using participatory methods

3. Investigating factors influencing wellbeing using longitudinal approaches (2009: 77)

The first approach, according to Camfield and colleagues (2009), use a range of methods: from creating holistic indices from existing data sources, to modifying and applying adult measures to children, or creating child-specific measures, to administer through surveys. The UNICEF Report Cards fit into this type, as does the international survey of children's subjective wellbeing, Children's Worlds, and the Health Behaviour of School Aged Children.[4] The second approach typically involves smaller-scale research projects, at national or local levels, that emphasise children's own definitions and meanings of wellbeing. Third, many countries have invested in large-scale, longitudinal studies, to explore changes over time, potential causal relationships and holistic perspectives on people's lives with statistically representative samples. While not necessarily focused on children's wellbeing as their overriding framework, they can be used to explore it. Thus, wellbeing is a popular research concept but its definition, conceptualisation and research methodologies and methods are diverse and unsettled.

Children's rights

For those working in the field of children's rights, the UNCRC provides a legal touchstone as an internationally agreed set of rights for children. Adopted by the United Nations General Assembly in 1989, the UNCRC has been ratified by nearly all State Parties. According to the UNCRC and

international law, ratifying the Convention means that State Parties are obligated to implement the

UNCRC (see Article 4, UNCRC). Accountability to the UN is largely through regular reports to the

United Nations Committee on the Rights of the Child. Optional Protocol 3 to the UNCRC provides an

additional accountability mechanism, for children, groups or children or their representatives to

bring a communication (a complaint) to the UN Committee, under certain circumstances.

The UNCRC sits within the more general framework of human rights law (with other conventions and

convenants also applying to children). The UNCRC broadly addresses children under the age of 18

(unless majority is attained earlier, Article 1) and covers a wide range of issues, from justice to health,

within its 54 Articles. Key principles are recognised in the UNCRC: non-discrimination (Article 2); a

child's best interests must be a primary consideration in all actions concerning children (Article 3); a

child's rights to survival and development (Article 6); and a child's right to express views freely in all

matters affecting the child (Article 12). These are recognised as over-arching principles but there is

no hierarchy of rights: the rights are inalienable and indivisible (UN Committee on the Rights of the

Child, 2003).

Such claims fit with philosophical conceptualisations of rights, particularly as developed from the

Enlightenment and Liberal Theory. Locke (1982), for example, conceptualised rights as a particular

relationship between the individual citizen and the state. State intervention needed to be legitimised

and constrained, in order to protect individuals' autonomy and freedoms. Rights were God-given

and thus inalienable and universal (at least for adult men). Through the philosophical development

of Liberal Theory, rights became "political trumps" (Dworkin, 1997: xi) and thus claims that are non-

negotiable and have to be met. However, this philosophical heritage also brings with it potential

problems. For example, rights have been accused of incorrectly conceptualising society as formed

from contractual or associational relationships, and perceiving such relationships as formed by

individuals who are autonomous, rational and competent (e.g. Arneil (2002) and Sandel (1992) for

such criticisms). Instead, the critics suggest that people should be recognised as social beings, that

society is based on mutual self-interest, relationships and associations, and all people are inter-dependent and vulnerable, with rationality and competence irrelevant criteria (e.g. see Herring, 2012; Fineman, 2008, 2010/11).

Beyond such philosophical criticisms, the UNCRC itself has been subject to criticism. For example, the UNCRC has been accused of promoting a particular view of childhood – one from the Minority World/ Global North. This view of childhood emphasises children as vulnerable, dependent, belonging within their families and lacking capacity. But this has damaging consequences for children who do not fit that view, such as children with caring responsibilities, who are working outside the home or who are 'street children' (e.g. Ennew, 1995; Wells, 2015). The individuality of children's rights, and particularly their participation rights, are said to undermine more collective cultures (e.g. Valentin and Meinert, 2009). The UNCRC's stated provisions are accused of being overly vague – e.g. children's best interests (Kelly, 1997) – and thus subject to considerable (adult) discretion. The UNCRC's coverage is arguably inadequate (e.g. child marriage is not explicitly addressed) and it may not be capable of addressing emerging issues, such as digital media (Veerman, 2010). Amendments have been made to the UNCRC and additional, optional protocols potentially extend the coverage of children's rights. Nonetheless, the UNCRC does represent a political compromise and a particular articulation of rights.

Children's rights has been of interest to the 'new' sociology of childhood, because of the latter's interest in children as social actors in their families and communities (e.g. see Prout and James, 1990; Mayall, 2000). Focusing on children, as the unit of analysis, rather than families or households, respects and values children in their current lives – and not solely as human capital and societal assets for the future (Tisdall and Punch, 2012). The 'new' sociology of childhood has grown, attracting a wider group of disciplines and becoming more generally termed 'childhood studies'. The research base has similarly grown, encompassing more structural interests, such as the leading research by Qvortrup and colleagues (e.g. Qvortrup, 2011; Kjørholt and Qvortrup, 2011), to a

plethora of micro-studies seeking to engage directly with children and young people for their own experiences, views and meanings (see James, 2010). While there are more quantitative approaches, within a broad definition of childhood studies, qualitative methods have dominated.

Thus both the conceptual and academic genealogies of children's wellbeing and children's rights have some overlap – but also differ substantially. As Lundy (2014) and Camfield and colleagues (2009) characterise, children's wellbeing has a strong academic heritage with a predominance of quantitative methods, from a range of academic disciplines. This academic interest has come together with various policy interests to develop more expansive, comparable indicators between individuals, groups and nations. Children's rights does not have this quantitative measurement heritage. Instead, it has philosophical and legal histories, which were solidified in international law by the UNCRC in 1989, and have been taken up by a range of disciplines that can be grouped together as 'childhood studies' and the emerging 'children's rights studies' (Vandenhole *et al.*, 2015).

The Scottish example: the Children and Young People (Scotland) Act 2014

Children's rights and children's wellbeing, as organising frameworks for children's policy, have both gained prominence in Scotland. The Scottish Government (which at this time was formed by the Scottish Nationalist Party) made improving children's lives a major plank of its political programme. The Scottish Government put forward children's legislation in 2013, with these words:

> It is the aspiration of the Scottish Government for Scotland to be the best place to grow up in. The objective of the Children & Young People (Scotland) Bill is to make real this ambition by putting children and young people at the heart of planning and delivery of services and ensuring their rights are respected across the public sector. (Scottish Parliament, 2013: 1)

The quotation exemplifies the high profile of children's rights in Scottish Government rhetoric. Scotland is obligated to implement the UNCRC (Scotland Act 1998, Schedule 5, Section 7(2)(a)), as

the United Kingdom (UK) ratified the UNCRC in 1991. The Scottish Government thus has domestic as well as international legal responsibilities to implement the UNCRC. However, in the UK and Scottish legal systems, the UNCRC is not directly justiciable in domestic courts. Children's rights are gradually gaining a stronger legal basis in Scottish law and policies: directly, as they are written into legislation, or indirectly, as domestic and European courts refer to the UNCRC in their decisions.

When the Welsh Assembly put forward a children's rights scheme,[5] this inspired the Scottish Government to consider how it could demonstrate its commitment to children's rights. The Scottish Government (2012) decided to produce a large bill that would bring together children's rights with practical implementation. The result was the CYP 2014 Act, which begins with Part 1 on the 'Rights of Children'. Section 1 sets out the duties on Scottish Ministers to:

a) keep under consideration whether there are any steps which they could take which would or might secure better or further effect in Scotland of the UNCRC requirements; and

b) if they consider it appropriate to do so, take any of the steps identified by that consideration.

Scottish Ministers will report to the Scottish Parliament, publish their report and state future plans. The Act therefore requires Scottish Ministers to be transparent and accountable. But the duties have little substantive obligation. Public authorities – including those who provide services to children and their families, such as local authorities and health boards – have no similar duty applied. A public authority will have a duty to report on 'what steps it has taken in that [three year] period to secure better or further effect within its areas of responsibility of the UNCRC requirements' (S.2(1)).

Local authorities and health boards do have stronger duties, in relation to children's wellbeing. Part 3 of the Act requires a local authority and the relevant health board to prepare a children's services plan for every three year period (S.8). The plan will need to ensure children's services better safeguard, support and promote the wellbeing of children in the area, along with better integrating services, meeting needs and making the best use of resources (paraphrased from S.9(2)(a)). The plan

must be kept under review and must be implemented 'so far as reasonably practicable' (S.12(1)). Every year, a report must be published on what has been provided, how aims have been achieved, and wellbeing outcomes (S.13(1)).

Thus, under Part 1, a local authority or health board will have an obligation to publish a report. But they can report that they have done nothing, beyond what is already required under domestic legislation, and they will meet the 2014 Act's legal requirement. In contrast, a local authority or health board *must* seek to plan and deliver for children's wellbeing and report on children's wellbeing outcomes. There is a requirement, on local authorities and related service providers, to implement this obligation to safeguard, support and promote children's wellbeing.

The 2014 Act does not give a definition of children's wellbeing itself. The Government's Policy Memorandum for the Children and Young People (Scotland) Bill states: "It can mean different things, ranging from mental health to a wider vision of happiness" (Scottish Parliament, 2013: para 58). In the next paragraph, wellbeing is 'defined' by the eight SHANARRI indicators, which are said to "capture the full range of factors that affect a child's and young person's life and reflect the Scottish Government's view that it is essential for services to take a holistic approach" (para 59). SHANNARI is an acronym for 8 wellbeing indicators -- Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible and Included – developed through a Scottish Government advisory group and promoted since 2005 as part of the Ministerial Vision for children's services.

Wellbeing, and the SHANNARI indicators, are central to the most recent attempt in Scotland to improve inter-agency, inter-professional co-operation: Getting it Right for Every Child (GIRFEC). This initiative seeks to address criticisms regarding single service models, to ensure children and their families receive well-timed and appropriate services. GIRFEC has a strong emphasis on early stage/ age intervention and prevention, beginning with universal services. Services should be what children and their families really need, rather than merely what is available. It specifically promotes a shift

away from single professional, sequential and deferred referral approaches, towards local support

partnerships, integrated assessments and quicker solutions (Stradling and Alexander, 2012).

GIRFEC thus articulates with other policy trends in Scotland (see Tisdall and Hill, 2011; Tisdall and

Davis, 2015), in children's policy, that include investing in young children and their families and

focusing on outcomes rather than processes. Local authorities, for example, are now held

accountable to the Scottish Government through 'single outcome agreements' (Scottish

Government and CoSLA, 2007). High level outcomes are set out in these agreements, moving away

from focusing on processes to focusing on results. GIRFEC fits well with this outcome-focus.

How GIRFEC fits, however, with children's rights is more problematic. Partially in response to critique

and questions, the Scottish Government (2013) published a report addressing the relationship

between GIRFEC and the UNCRC. As analysed by Tisdall and Davis (2015), the report describes the

relationship in four ways:

1. children's rights *contribute to a broader framework* about improving children and young

    people's life chances;

2. the UNCRC is the *foundation* of GIRFEC;

3. the UNCRC and GIRFEC are *aligned and linked;* and

4. GIRFEC is the *practical implementation* of children's rights.

The report predominantly explores the third way (alignments and linkages), mapping thoroughly

how GIRFEC's principles and core components match particular UNCRC Articles. However, of the

four relationships, the third is the weakest. Further, the report does not explore either children's

wellbeing or children's rights conceptually or in depth: it repeats the description of children's

wellbeing using the SHANNARI indicators rather that defining the concept; the report refers to short

forms of the UNCRC Articles, without an underling discussion of children's rights. The mapping thus does not help explicate the conceptual relationships between children's rights and wellbeing.

Tisdall and Davis conclude: "The report provides an intriguing analytical contribution to the relationships between children's rights (via the UNCRC) and children's wellbeing but does not resolve them conclusively" (2015: 222). It leaves the strong potential for two parallel policy agendas for children's policy and practice in Scotland, with the children's rights framework articulated in Part 1 of the CYP Act 2014, with weak implementation duties, and children's wellbeing in a more dominant position with Part 3 of the Act and its close alignment with the overarching children's services agenda, GIRFEC.

Weighing up children's rights and children's wellbeing: which best frames policy?

While efforts are already being undertaken to resolve some of the apparent overlaps and contradictions created by the CYP 2014 Act (e.g. how to rationalise reporting requirements, how to include children's rights in children's wellbeing indicators), the Act forefronts the potential tensions between children's rights and children's wellbeing. Each concept has its advantages and disadvantages, and the two can have varied relationships with each other: but the concepts are not the same, nor the resulting policy frameworks and, ultimately, practice.

However it is defined, children's wellbeing benefits from its genealogy, in its emphasis on a preventive and asset-based approach. Rather than focusing solely on negative outcomes, like illness or child poverty, it also includes positive outcomes and can consider what assists as well as what hinders children's wellbeing. It is thus aspirational, not settling for minimum standards, with the potential to maximise children's wellbeing. The UNCRC, in contrast, sets minimum standards for children's rights across all ratifying countries. Article 41 of the UNCRC does allow for countries to have and maintain higher standards. There are also maximising aspects of the UNCRC, such as the

concept of 'progressive realisation' in health (Article 24(4)) and education (Article 28(1)) and goals that are ambitious and expansive (like education being directed to developing the child's personality, talents, and mental and physical abilities to *their fullest potential* (Article 29(1)(a)) (see Redmond, 2014 for discussion of such aspects). Nonetheless, children's wellbeing has in-built potential for maximisation while children's rights risks emphasising minimum standards.

Children's rights can be critiqued further, as not including all aspects that matter to children. As discussed above, the UNCRC itself leaves out certain children's rights issues like child marriage and the UNCRC's rights to political participation, and involvement more generally, are weak (see Tisdall, 2015). Children's rights do not include important matters like love, attachment and friendship (human rights law does not legislate for the right to be loved, for example). Children's wellbeing conceptually can and numerous studies that seek to assess such aspects (Statham and Chase, 2010). Children's wellbeing may thus be more able to address aspects of relationships than children's rights (see also Taylor, 2011). Camfield and colleagues (2009) suggest that children's wellbeing may be able to recognise groups, which is more of a struggle within an individualistic tradition of human rights.[6] Children's wellbeing may be better able to deal with conflicts, as children's wellbeing does not establish absolute and maximum standards: thus there are possibilities for negotiation. Children's wellbeing may thus be wider in its coverage, better able to recognise and deal with relationships, than children's rights. Children's rights, in contrast, are inalienable and thus should not be breached, potentially leading to confrontation rather than negotiation. But negotiation may result in standards that are highly unfavourable to children; the flexibility of how children's wellbeing is defined, measured and integrated into policy and practice is both a potential strength and weakness.

While much is being done to expand the domains covered by children's wellbeing (see Bradshaw *et al.*, 2007), it arguably still lacks due attention to the range of issues covered by the UNCRC (see Lundy, 2014) and particularly lacks sufficient, comparable data and measures (Hood 2007; Statham and Chase, 2010). However, the range of issues can and has be expanded.[7] It is possible for

children's own priorities for wellbeing to be measured, if the same investment were given to such matters as they have been to various child development measures. Strong advocates within the children's wellbeing field value children as research participants, rather than solely relying on parents and service providers, and include children in determining what should be measured and how (e.g. Ben-Arieh, 2005, Ben-Arieh *et al.,* 2014; Hood, 2007). Thus, UNCRC's key principle in Article 12, on children's participation, can become part of defining, measuring and researching children's wellbeing. The UNCRC itself can be criticised for having limited involvement of children, in the development of the UNCRC text itself (Van Bueren, 2011).

Children's wellbeing in its maximisation of wellbeing, risks taking the utilitarian approach, as developed by Bentham (1776): 'the greatest happiness of the greatest number'. As long as wellbeing is maximised overall, it does not matter if certain children have very poor outcomes. Such an approach emphasises outcomes – whether that be about children for their futures (e.g. school enrolment) or their quality of life now (e.g. appreciation of or learning in school) – but may ignore the importance of the processes to obtain them. Thus children can be treated as 'means not ends' and their rights can be abrogated for the greater good. Melton makes a related point, "The calculus changes dramatically when moral decision making changes from *cost-benefit analysis* to the question of *justification for a violation* of respect of persons" (2013: 2565, see also Lundy, 2014). This calculus has not only moral implications but also political ones. Children's wellbeing does not have the "moral coinage" (Freeman, 1983: 2) nor the "political trump" of rights (see Edwards and Imrie, 2008 for a similar conclusion for disabled people).

Further, international human rights law in general, and the UNCRC in particular, ensure state accountability (Lundy, 2014; Morrow and Mayall, 2009). It is State Parties that ratify the UNCRC and they become responsible for ensuring implementation. Within the State's resources, and with international co-operation (Article 4), the State is obligated to meet children's rights. Thus, measuring the realisation of children's rights requires measuring State Parties' activity, as well as

other duty-bearers', to support the achievement and recognition of children's rights. It would be *possible* to incorporate such considerations into children's wellbeing but it is not *foundational* to the concept; this contrasts with children's rights, where the accountability of duty-bearers is conceptually central.

If children's wellbeing and children's rights are not synonymous, but have some important differences, than what is and should be the relationship between them? Authors articulate various relationships in the children's wellbeing literature. Bradshaw and colleagues, for example, developed the UNICEF Report Cards; in 2007, Bradshaw and colleagues state that the UNCRC "offers a normative framework for the understanding of children's wellbeing" (134; see also Bradshaw *et al.*, 2006: 6). Bradshaw thus suggests UNCRC is a value system, which helps understand the predominant concept of children's wellbeing. But if the UNCRC were a strong normative framework, there would be a requirement for children's wellbeing to account back to children's rights. However, this is not done in Bradshaw's publications in 2006, 2007 nor 2014. Further, children's rights is only one perspective on wellbeing and only one component, in the 2007 publication. Bradshaw and colleagues write:

> From a child's rights perspective well-being can be defined as the realisation of children's rights and the fulfilment of the opportunity for every child to be all she or he can be. The degree to which this is achieved can be measured in terms of positive child outcomes, whereas negative outcomes and deprivation point to the denial of children's rights. (135)

The wording suggests that there is more than a children's rights perspective to wellbeing (so children's rights is one amongst many and not necessarily the determining one?). Wellbeing, according to the quotation, contains not only one component (the realisation of children's rights) but a second one (the fulfilment of opportunity). It is not clear how the UNCRC can function as a normative framework for children's wellbeing, while realising children's rights (and not the UNCRC)

is but one component of children's wellbeing. This may be explained by Bradshaw's reformulation in 2014:

> The well-being of children is mainly the responsibility of parents. However, in rich
> countries and increasingly in poor countries the governments help parents. The normative
> framework for that help is now the UN Charter [sic] on the Rights of the Child. (2921)

Thus the UNCRC is only the normative framework for government help, not wellbeing more generally.

Camfield and colleagues (2009) suggest a related, but different, relationship to Bradshaw, starting their article with the sentence, "Monitoring, protecting and promoting well-being is central to realisation of children's rights, as set out in the UN Convention on the Rights of the Child" (65). They go onto to write that understanding wellbeing assists in interpreting concepts like 'best interests' (Article 3) and relate wellbeing to other UNCRC articles. The suggestion, then, is children's wellbeing *contributes* to defining and realising children's rights.

Doek, who was a member of the UN Committee on the Rights of the Child and a leading academic on children's rights, wrote a chapter titled *Child Well-Being: Children's Rights Perspective* (2014). The chapter does not seek to resolve the conceptual relationships between children's rights and children's wellbeing. Instead, it provides a very well informed history and description of the UNCRC, and how elements of the UNCRC map onto children's wellbeing – or challenge some aspects of how wellbeing is operationalised. At least three different relationships between children's rights and wellbeing are within the chapter. First, Doek writes that the UNCRC incorporates children's wellbeing: "The CRC made well-being a right of the child and moved it from charity to entitlement" (188). Indeed, wellbeing is mentioned in the UNCRC's preamble and then in five different Articles. Second, Doek quotes Bradshaw and colleagues' wording above, so that the realisation of children's rights is one of two components to define children's wellbeing (205). Third, Doek asserts that the UNCRC "covers all aspects of the life of a child and is thus an important tool for the promotion of the

well-being of children" (213) (see Zermatten, 2010, for a similar assertion). These relationships seem to move from the UNCRC being the dominant framework, with children's wellbeing as part of it, to children's rights being half the definition of children's wellbeing, to children's rights being a tool to promote children's wellbeing – and thus wellbeing being the dominant objective.

The above is a very detailed look at articles and chapters, most of which sought to address the conceptual relationship between children's rights and children's wellbeing only briefly and indirectly. To be unduly critical is thus not the purpose, but more to point out that the relationship is under-considered and at times confusing and inconsistent.

Conclusion

Children's rights can include much of children's wellbeing; children's wellbeing can include much of children's rights. So does it matter working out their conceptual, methodological and practical similarities and differences, and the relationships between them, for policy and practice? After all, Axford (2009) suggests keeping multiple perspectives, as each "sheds a different light on children's predicament" (380).

It might not have mattered greatly in Scotland, if the initial Scottish Government consultation had resulted in strong legislation further incorporating children's rights into Scottish law, or even if overarching principles based on children's rights had framed the CYP 2014 Act. This would have set up the UNCRC as the normative framework, to which children's wellbeing contributed. But now working out the relationship between children's rights and children's wellbeing does matter in Scotland, as the current policy and the related 2014 legislation adds to a confusing complexity of policy priorities rather than resolving them. It could lead to children's rights diminishing as a policy framework in Scotland, and as a normative framework to ensure children's rights are realised in their lives, as children's wellbeing has stronger legal duties, a more elaborated policy and practice delivery mechanism, and an accountability structure through outcomes reporting. This goes against

the expressed aspirations of the Scottish Government, which had sought to give (re)newed

recognition of the UNCRC in particular and children's rights more generally.

This could matter in practice, for children and their families. Children's wellbeing risks being

apolitical and, by focusing on *individuals'* own subjective experiences, individualising rather than

collective (see Axford, 2009 and White, 2010 for discussion). It does not necessarily need to involve

children and their families, finding their own and community solutions (Tisdall and Davis, 2015), but

can privilege experts' definitions of what counts in indicators and outcomes and professionals'

solutions. Children's wellbeing can merely replace the past needs-based approaches, with some

improvements in being more asset-based, but with little challenge to local power relationships.

The Scottish example raises more conceptual issues. For those who advocate for children's rights

implementation, references to the UNCRC and children's rights within children's wellbeing

discussions risk being the very familiar rhetorical 'nod' to the UNCRC with very little impact on

subsequent research, policy or practice (Tisdall and Plows, 2007). Mapping descriptively how

children's rights match up with children's wellbeing merely shows where they align or they do not. It

does not present a critical reflection on the concepts they do, could and should relate. At least in

Scotland, there is a need to resolve competing frameworks.

As Lundy (2014) elaborates upon, taking a children's rights approach has implications for

measurement, ranging from measuring children's involvement, to state and other duty bearers'

contributions. As she and colleagues show, it is possible to put the effort and resources into

developing *children's rights* indicators just as effort and resources has been given to developing

children's wellbeing indicators. In a situation, in Scotland, where outcomes and their indicators have

become central to service (and State) accountability, then what is measured matters.

Camfield and colleagues (2009) suggest that the collective articulation of children's wellbeing,

developed in context, can provide a "discursive space for discussion of the goals in non-technical

terms and provides a language to make claims for resources and to acknowledge the experiences

and perspectives of stakeholders" (97). This could potentially be very successful in contexts that

consider the UNCRC as renewed colonial imperialism (Pupavac, 2001) and unsympathetic to cultural

norms and socio-economic constraints and needs (e.g. Khadka, 2013). But children's wellbeing lacks

the strength of entitlements, of inalienable rights that should not be breached, and to which duty-

bearers will be held accountable. Melton (2014) claims, "… the most fundamental need in child

policy is for due respect towards children as people" (2561). Children's rights does require and

underlines such respect towards children. Within children's wellbeing, it would seem possible to

include children's rights but this is not essential to its conceptualisation, measurement nor delivery.

With children's wellbeing on the ascendance, a decision needs to be made whether wellbeing or

rights best frames policy and practice.

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Notes

[1] See http://www.unicef-irc.org/publications/733 (accessed 28.11.14)

[2] See http://www.ons.gov.uk/ons/rel/wellbeing/measuring-national-well-being/exploring-the-well-being-of-children-in-the-uk--2014/rpt-measuring-national-wellbeing-children-uk-2014.html (accessed 17.4.15)

[3] See Camfield and colleagues (2009) for a critique of this dichotomy and White (2010) for an alternative distinction between material, subjective and relational dimensions of wellbeing.

[4] http://www.isciweb.org/?CategoryID=157 (accessed 28.11.14) and http://www.hbsc.org/ (accessed 17.4.15). As pointed out by a reviewer, such quantitative studies can be preceded by qualitative work, which has similarities to the second approach.

[5] The Rights of Children and Young Persons (Wales) Measure 2011 places a duty on Welsh Ministers to have due regard to the substantive rights and obligations within the UNCRC and its optional protocols. Welsh Ministers are required to publish a Children's Rights Scheme, setting out the arrangements Ministers will have in place, in order to have due regard to the UNCRC. For more information on this scheme and associated duties, see http://wales.gov.uk/about/cabinet/cabinetstatements/2013/childrensrightsscheme/?lang=en. (accessed 28.11.14)

[6] Although to recognise the extensive theoretical development of alternatives, such as ethics of care (e.g. Kymlicka, 1990) or group rights (e.g. Young, 1989).

[7] See UNICEF's activities to address issues of sufficient and comparable data across countries (http://www.unicef.org/statistics/index_24287.html), such as the Multiple Indicators Cluster Survey. (accessed 28.4.15)