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## Introduction: Implementing Child Rights

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**ABSTRACT** The UN Convention for the Rights of the Child (CRC) has emerged as a central yardstick in assessing policies and practices concerning children. Norway has incorporated the convention in domestic law and performs exceptionally well in global indexes on children's rights. However, the level of compliance and implementation by Norway with the CRC has attracted criticism and many questions can be raised about these global indexes. This chapter sets out this paradox and the background for the book's key questions: What is the extent of implementation? Can we improve measurement? And what might explain the paradox? The remainder of the chapter explains the book's mixed method approach and choice of themes; summarises the key findings concerning implementation (legal, qualitative and statistical); identifies cross-cutting concerns; and explores potential reasons for non-implementation in certain areas.

**KEYWORDS** children's rights | mixed methods | compliance | indexes | welfare states | decentralisation

## 1.1 BACKGROUND

Within a short span of twenty-nine years, the UN Convention for the Rights of the Child (CRC) has emerged as a central yardstick in assessing policies and practices concerning children, including in Norway (Ødegård 2010). While many of the key elements in the CRC were legally embedded in Norwegian law before ratification (Andersland 2011), the treaty has helped trigger a series of legal and institutional reforms (see, e.g., Stang and Hydle 2015; Lidén and Rusten 2007). Today, Norway performs exceptionally well on global children's indexes. At the top of the Child Development Index in 2017 and Kids Rights Index in 2017, it is claimed that Norway is the 'best' country in the world in which to be a child (Emmanuel 2017).

However, the level of compliance and implementation by Norway with the CRC has attracted criticism. The UN Committee on the Rights of the Child has reproached Norway in areas such as asylum, child protection, disability and poverty. These concerns and others are not only championed by non-governmental organisations and the Ombudsmen for Children but are also reflected in the scholarly literature (see, e.g., Sandbæk 2013; Bakken and Elstad 2012; Skivenes 2011; Fløtten 2013; Hegna and Wichstrøm 2007; Wendelborg and Tøssebro 2010; Fornes 2013; Løwe 2010). Moreover, questions can be raised about whether global indexes – which focus on certain socio-economic outcomes – capture all the dimensions of children's human rights.

This book sets out to assess this seeming implementation paradox. We ask what is the current state of implementation with a focus on selected children's rights and cross-cutting issues. While various reports have provided a comprehensive overview of Norway's general performance on children's rights (Søvig 2009), few offer a full-bodied quantitative and qualitative analysis. This book seeks to provide a complementary perspective with a focus on quantitative measurement (with in-country and comparative European-specific indicators) and a richer interpretive gloss through grounded qualitative research. The principal question in the book is whether and to what extent policies, laws and practice in Norway successfully incorporate and implement children's human rights in the public and private sphere. Drawing on multiple methods, we seek to provide more informed measurements and determination of level of compliance.

The book also has two additional objectives. The first is an attempt to develop an actual and proposed set of relevant and actionable indicators on children's rights that could be regularly measured and reported in Norway (and potentially extended to other countries). Indexes play a powerful role in contemporary debate and there is a risk that they are misleading or encourage problematic policy action. Improved measurement is discussed in a number of chapters and in chapter 2, in

which the authors present a dashboard of indicators together with recommendations for improving child rights-centric data.

The second additional objective is to identify reasons for the seemingly implementation paradox. Is the paradox illusory because the critiques are too harsh in comparative perspective? Is it real because existing measurements of implementation are flawed and fail to capture the complexity of implementation? In the conclusion of this chapter, we draw together the cross-cutting themes in the book and seek to shed some light on this explanatory question.

## 1.2 METHODOLOGY AND STRUCTURE

The book adopts a ‘transformative’ mixed-methods approach (Creswell et al. 2003). The performance of Norway is assessed against a normative (legal) standard, but the analysis is grounded within standard social science methodologies.

The *normative benchmark* is constituted by the CRC provisions and the relevant jurisprudence of its oversight Committee (see, for example, analysis of how these standards should apply to Norway in Høstmælingen, Kjørholt and Sandberg 2016). However, we seek to avoid a simple or binary answer as to whether Norway is in compliance with the CRC. Even though authors have concluded in certain instances that there is (or could be) a *violation* of the Convention, the book is more public policy-oriented in nature – seeking to identify areas where a children’s rights *approach* is missing. In this respect, we are particularly mindful of the CRC’s dynamic, interpretive and increasingly equity-focused nature, and the requirement that the best interests of the child permeate and form part of the primary considerations in all actions concerning children. It raises critical questions for states on implementation as much as it provides clear answers on what steps must be taken. Moreover, legal standards need to be interpreted in a domestic policy context with its own array of normative benchmarks (Fløtten 2013).

Thus, a more open-textured approach will be taken and authors seek to identify the level of implementation which is defined as the:

1. degree of legal/institutional *commitment* to child rights;
2. *realisation* of specific rights; and
3. *quality* of steps to address particular areas of concern.

As to *methods*, the chapters vary. Some chapters provide an even mix of quantitative and qualitative perspectives on implementation; while some are more oriented to quantitative or qualitative approaches. Quantitative measures are particu-

larly useful in helping provide an overall measure of commitment and realisation and identifying particular areas of concern.<sup>1</sup> However, such methods are not always possible due to the lack of data or the inappropriateness of statistical measurement for a particular obligation. Qualitative methods are used especially to confirm or challenge quantitative findings or move beyond more cursory assessments of compliance. These methods are particularly helpful in providing a more contextual and nuanced picture of implementation; analyse whether non-implementation is defensible; and identify the most serious areas of concerns.

The book begins in Chapter 2 with an analysis of current and potential indexes of children's rights in Norway. After finding that existing global indexes suffer in terms of their ability to provide accurate and/or relevant measures of children's rights, a dashboard approach is proposed. The authors set out 25 indicators that seek to capture different aspects of children's civil, political and socio-economic rights together with the availability of remedies and accountability mechanisms for those rights.

The remainder of the book is devoted to twelve studies of particular rights and issues by leading Norwegian authors on children's rights who possess specific thematic competence and expertise in either or both qualitative or quantitative methods. Obviously, any choice will be limited given the breadth of the Convention on the Rights of the Child. There are thirty-five concrete rights provisions in the Convention together with specific and general obligations and cross-cutting principles. Thus, we have sought first to cover in *Section II* of the book a selection of representative rights that are also particularly relevant in the Norwegian context: child protection, sexual violence, detention, policing, poverty and the linkages between childcare and education. To be sure, some important areas are not covered. This includes important rights such as health and primary/secondary education, although these are partly addressed in the subsequent section. *Section III* contains analysis of various cross-cutting issues, such as the incorporation of the CRC in Norwegian law and jurisprudence, participation of children in legal family proceedings, child asylum-seekers rights, children with disabilities, sexual orientation and gender identity, and human rights education. In each chapter, authors often address the four general principles of the CRC (non-discrimination; best interests of the child; the right to life, survival and development; and respect for the views of the child), together with the general implementation obligation (Article 4).

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1. For an overview of the rise of quantitative-based approaches to human rights measurement, see Langford and Fukuda-Parr (2012). For the relative virtues of quantitative and qualitative approaches, see Mahoney and Goertz (2006) and Creswell et. al. (2003).

In the remainder of this introduction, we describe the departure point for the study in terms of the formal incorporation of the Convention in the Norwegian legal system (section 3), analyse the key cross-cutting themes on compliance, including blindspots (section 4), and discuss the possible explanations for non-compliance and poor implementation (section 5).

## 1.3 INCORPORATION OF THE CRC

### 1.3.1 RATIFICATION AND PRESUMPTION OF LEGAL COMPLIANCE

Norway's legislation and institutional framework provides, with some notable exceptions, a reasonable reflection of the Convention's formal demands. Structurally, the level of implementation appears high. Such coherence was largely presumed when the Norwegian government signed the Convention on 26 January 1990 (one of the first to do so) and ratified it a year later on 8 January 1991.<sup>2</sup> However, according to the Constitution, treaties concerning matters of importance or requiring legislative amendments are not binding on Norway until the parliament has given its *consent*. Moreover, as the Norwegian legal system is based on a dualistic approach,<sup>3</sup> treaties must be transformed into the domestic legal system by various techniques, e.g. incorporation through the legislation, before they become part of the legal system. In the case of the CRC, and prior to ratification, the parliament gave its consent without requirements for additional legislation.<sup>4</sup> It determined that current legislation was in conformity with the obligations following from the Convention. The CRC was thus implemented by so-called passive transformation.

During this process, two possible reservations were discussed. The first concerned the right to appeal in criminal cases to a 'higher competent, independent and impartial authority or judicial body', cf. CRC Article 40(2)(b)(v). According to the legislation then in force, the most serious criminal cases were tried before a jury at High Court with only limited possibilities of appeal. The Government therefore made a reservation on criminal appeals when ratifying the CRC, but later withdrew it in 1995 following a major reform of the Criminal Procedure Act. The second possible reservation concerned the separation of children from adults in

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2. According to the Norwegian constitution, the Government is empowered to represent the country in foreign affairs, including entry into treaties.

3. This means that international law – including human rights instruments – are as such not an automatic source of domestic law.

4. St.prp. No. 104 (1989–90).

prison facilities, cf. CRC Article 37(c). In its formal proposal to the parliament, the Government recommended such a reservation be made, emphasizing the enormous distances between the prison facilities in a thinly-populated country. In this instance, the parliament refrained from making a reservation, with a similar decision by the Swedish parliament being a decisive factor. Although, in this light, it is striking that Norway did not remove its reservation to the International Covenant on Civil and Political Rights (ICCPR) concerning the separation of young and adult detainees and prisoners.<sup>5</sup>

### 1.3.2 POST-RATIFICATION INCORPORATION AND CONSTITUTIONAL REFORM

Shortly after ratification, the relevance and application of the CRC was discussed in the legal literature (Smith 1991, Bratholm 1992), but there were few cases before the Supreme Court in which the CRC was central. During the 1990s, the legal status of all human rights instruments was nonetheless debated, partly due to the increased influence of the European Convention on Human Rights (ECHR) and the growing jurisprudence of the European Courts of Human Rights. This triggered the inclusion of a new provision in the Constitution (section 92, former section 110c) requiring that the State shall 'respect and ensure human rights' as they are expressed in the Constitution and in the treaties concerning human rights that are binding for Norway. The provision presaged the introduction of the Human Rights Act in 1999, which incorporated the ECHR, ICCPR and the International Covenant on Economic Social and Cultural Rights (CESCR).

The CRC was not among the instruments incorporated. A majority of the parliamentary committee encouraged inclusion of the CRC at a later stage;<sup>6</sup> which was also recommended by the CRC Committee in its second concluding observations to Norway.<sup>7</sup> Initially, the Ministry of Justice suggested that the CRC should be made more visible through partial transformation, but subsequently submitted a proposal on the inclusion of CRC in HRA. It was passed by the parliament in 2003,<sup>8</sup> which simultaneously embarked on a number of transformatory steps. Sev-

5. CRC/C/NOR/CO/4, paras. 6 and 7.

6. Innst.O. No. 51 (1998–1999).

7. CRC/C/15/Add.126, para. 13. The incorporation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was at that time also on the political agenda. CEDAW was first incorporated in the Equal Treatment Act, but without supremacy over concurring statutory legislation. In 2009, CEDAW was included in HRA.

8. For contributions in English regarding the relevance of CRC in Norwegian law, see Sandberg (2014); Bårdsen (2015).

eral statutory amendments were passed, with most of them strengthening a children's legal right to be heard.<sup>9</sup> The Child Welfare Act and the Adoption Act were both amended with a provision stating that children who have reached the age of 7, and younger children who are capable of forming their own opinions, shall receive information and be given an opportunity to state their opinion before a decision is made in a case affecting them. The Children Act was revised in a similar manner.

The final major legal development was the full revision of the bill of rights in the Norwegian constitution.<sup>10</sup> In 2014, a new section 104 on children's rights was added and the wording has several similarities with the CRC, which was clearly a source of inspiration. Section 104(1) states that children have the right to be heard in questions that concern them, and due weight shall be attached to their views in accordance with their age and development. Section 104(2) states that the best interests of the child shall be a fundamental consideration in actions and decisions that affect children. Section 104(3) provides that children have the right to protection of their personal integrity and that the authorities of the state shall create conditions that facilitate the child's development.

As is apparent, since 2003, the CRC has been steadily integrated in the domestic legal system, which has been welcomed by the CRC committee.<sup>11</sup> Through legislative incorporation, all three branches of the state are legally bound by the CRC provisions, although to a different extent. The executive power is clearly bound by the legislation, making compliance with the CRC binding for all state organs. In dispute resolution, the judiciary is equally bound. Although constrained by the boundaries established by the legislature, and self-restraint in the form of justiciability doctrines and a tradition of deferentialism, courts can develop and clarify the CRC's legal meaning and apply the CRC in practice. The parliament has greater flexibility and can amend legislation, including repealing or altering the HRA. Yet, this has not transpired and nor is it likely.<sup>12</sup> Moreover, parliament's actions are now bound by Section 104 of the Constitution, which mirrors the thrust of the CRC.

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9. See discussion by Skjørten and Sandberg in chapter 10 on the impact of these changes in family law proceedings.

10. For two centuries, the human rights provisions in the Norwegian constitution remained virtually unchanged, although there were some notable revisions (e.g., freedom of speech) and amendments (e.g., right to work). As part of the bicentenary of the constitution in 2014, several new provisions regarding human rights were included, including for the first time express provisions on children's rights.

11. See Committee on the Rights of the Child, *Concluding Observations: Norway*, UN. Doc CRC/C/NOR/CO/4 (2010), para 8.

12. Although a government commission is currently discussing whether the government should be granted further full powers in certain situations.

In practice, relevant provisions of the CRC are often referenced in the preparatory work of new legislation. In the drafting of the new Children's Welfare Act, obligations deriving from CRC and other relevant human rights instruments were used as an overarching framework, and the background report includes an appendix analysing the relevant provisions.<sup>13</sup> In 2018, the government justified the inclusion of a provision entitling children to services in this law<sup>14</sup> on the grounds that it would implement the children's right to care contained in the CRC.<sup>15</sup> To be sure, a similar provision might have been adopted without the existence or incorporation of the CRC, but it seems fair to conclude that it played a role. This does not mean, however, that legislative concerns do not feature in evaluations of compliance with the CRC. As the next section and book shows, certain legislative provisions have attracted strong critique, which has sometimes been met with varying levels of responsiveness by the Norwegian state.

Turning to the jurisprudence of international supervision bodies for international human rights treaties, including the CRC Committee, it has been partially incorporated within the Norwegian legal system. While this aspect was not addressed in the preparatory work for the domestic incorporation of the CRC, general comments from the CRC committee are an increasingly important relevant legal source in applying the convention in practice (see Søvig in chapter 8). In several areas, it has had a sizeable influence, such as catalysing the reduced use of prison sentencing for offenders under the age of 18 (see Grønning and Sætre in chapter 5). However, in areas such as migration, the CRC has had less influence (see chapter 8).

### 1.3.3 INSTITUTIONAL ACCOUNTABILITY FRAMEWORK

Moving beyond legal standards, some bodies have a special role in the implementation of the CRC. In 1981, Norway was the first state to establish a children's ombudsman; which has inspired many other countries to follow suit.<sup>16</sup> This ombudsman is complemented by the civil ombudsman that oversees legal compliance by public authorities, who can state his/her concern on general themes and make recommendations (often followed) in individual cases; as does the Equality and Discrimination Ombud which has decided many cases concerning children. The revamped Norwegian National Human Rights Institution (NIM) was estab-

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13. NOU 2016: 16.

14. Child Welfare Act (as amended 20 April 2018 No. 5, not yet in force).

15. Prop. No. 169 L (2016–2017) p. 35.



lished under the parliament in 2015 with a mandate to promote human rights in Norway.

However, there is a certain asymmetry in this institutional architecture in the case of children's rights. Unlike the civil or equality ombudsmen, the Ombudsmen for Children is not vested with the competence to decide individual cases. In 1998, the children's ombudsman was empowered to supervise whether Norwegian legislation and administrative practice are in accordance with the obligations arising from the CRC. But this did not cover decision-making in individual cases. In 2010, the CRC committee recommended that Norway consider providing the children's ombudsman with the mandate to receive complaints from children and the resources to follow them up in a timely and effective manner.<sup>17</sup>

This asymmetry is enhanced by Norway's decision not to ratify the third optional protocol to the CRC on a communication procedure. After an independent consultant's report on the consequences, the Norwegian government recommended to the parliament that the state not ratify.<sup>18</sup> According to the Government, the protocol's consequences for parliamentary freedom and discretion were uncertain, and there was a fear that political issues would be judicialised. A parliamentary majority agreed. Clearly, this decision insulates Norway from international review in concrete cases although the CRC is, at least, generally well integrated within the domestic legal order. It can be invoked before the courts and administrative bodies and is superior to ordinary legislation.

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16. As of 2017, we have calculated that 24 countries have child ombudsmen, 28 countries have institutional protection either through the national human rights institutions or national ombudsmen, and 2 countries have ombudsmen for children but only in selected counties or municipalities. In the Nordic context, Denmark is the outlier, lacking an independent children's ombudsperson. However, 'Børnerådet' in Denmark holds many of the same powers as a children's ombud, complemented by the national ombudsman and the institution "Børns Vilkår". See UNICEF (2014) "Har Danmark brug for en børnetalsmand?" Available at: <https://www.information.dk/debat/2011/04/danmark-brug-boernetalsmand>; see also Kjeldahl, Rasmus, Per Larsen, and Jørgen Steen Sørensen (2015) "Den danske børnemodel er ikke så dum" available at <http://jyllands-posten.dk/debat/breve/ECE8316084/Den-danske-b%C3%B8rnemodel-er-ikke-s%C3%A5-dum/>, see also Børnerådet (2009) "Giv Danmark et børneombud" available at <http://www.boerneraadet.dk/nyheder/nyheder-2009/boerneraadet-giv-danmark-et-boerneombud>

17. Committee on the Rights of the Child, *Concluding Observations: Norway*, UN. Doc CRC/C/NOR/CO/4 (2010), para. 14.

18. The same viewpoint was taken regarding optional protocols to the ICESCR and the Convention on Rights of Persons with Disabilities.

## 1.4 IMPLEMENTATION IN PRACTICE: A MULTI-METHOD PERSPECTIVE

Overwhelmingly, the chapters report that the Norwegian state has a comparably strong commitment to children's rights and that levels of realisation in many areas are generally high. Specific laws and policies are mostly in accordance with the relevant provisions of the CRC and its four pillars of the rights to life, non-discrimination and participation and the principle of best interests of the child. Furthermore, some authors point to improvements. Skjørten and Sandberg find that participation of children in custody proceedings has improved over the past 15 years (chapter 10). Children's views are given more weight by courts, and children under seven are now being interviewed and observed in parental relations after the above-mentioned changes to Child Welfare Act. Likewise, Aasgaard and Langford report dramatic reductions in the number of children arrested (chapter 6), Drange shows improvement in access to childcare services (chapter 7), and Thorsnes tracks important reforms in the rights of transgender children (chapter 13).

Norway's strong position in global and international indexes might therefore be reasonably accurate. For the Child Development Index in 2017, Norway was the best average performer in indicators on infant mortality, malnutrition, school attendance, child labour, early marriage, adolescent births, displacement by conflict, and child homicide.<sup>19</sup> Norway also ranked first on the Kids Rights Index<sup>20</sup> and scores well on other relevant indexes to children's rights. In 2015, it was first in the UNDP human development and EIU democracy indexes, second in the GJP rule of law and CIRI human rights indexes, and third in the gender gap index (Langford and Karlsson Schaffer, 2015:26).

Nonetheless, the chapters also reveal blindspots, or areas where Norway's performance is not exceptional or, at worst, lags behind comparable states. In this respect, the high rankings may be counterproductive for children's rights. They may blind policymakers and the public to the many issues that have to be addressed in fully implementing children's rights and responding to ongoing and new challenges. Success may inculcate complacency. In this section, therefore, we overview the use of a broader range of indicators and blindspots identified by authors.

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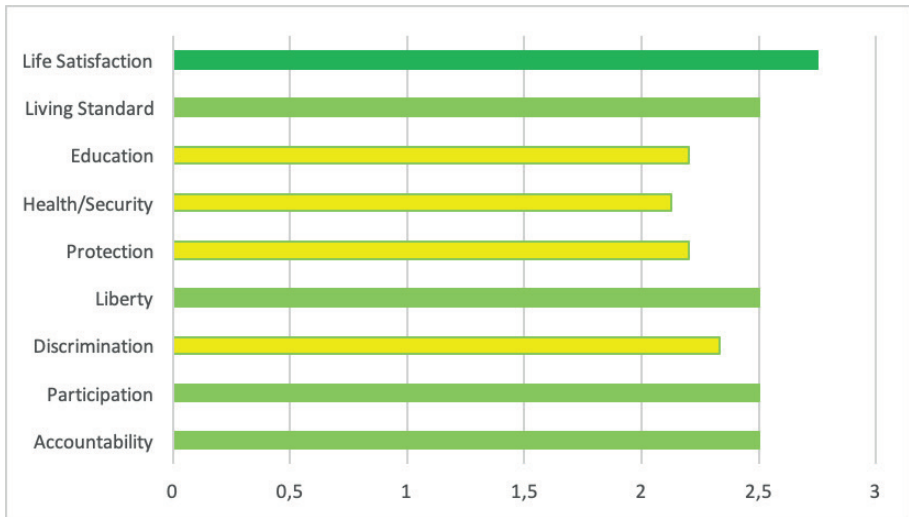
19. Daniella Emanuel, 'The best and worst countries to be a kid', *CNN*, 16 June 2017.

20. KidsRights and Erasmus University Rotterdam (2018).

### 1.4.1 REVISITING GLOBAL INDEXES

The use of the global indicators to measure compliance with the CRC is problematic in various respects, according to Langford and Kirkebø in chapter 2. After reviewing a wide range of existing measures, they level the following critiques. First, global children's rights indexes are weighted towards socio-economic rights while general global civil/political rights indexes don't address the specific situation of children, for example a child's right to protection or to be heard. Second, a rights content is often missing. For example, socio-economic rights indexes are focused on eventual and average outcomes but do not address other important elements, such as discrimination, physical accessibility, participation and affordability, or interference with these rights in practice. Third, global indexes include vastly different countries such that the best-performing countries are often 'crunched' together at the top of the index, making it difficult to separate meaningfully the differences between them. Comparisons between developed, Western or European countries are likely to be more meaningful. Fourthly, most measures do not indicate whether the right has actually been achieved; only which country has achieved the most. Normative thresholds are needed, where possible, together with an analysis of internal disparities and trends over time. Finally, many indexes measures do not indicate which policy actions might be the most appropriate.

In light of these challenges, Langford and Kirkebø propose a dashboard approach. The aim is to provide a more comprehensive set of indicators across different children's rights which provide a more reasonable 'snapshot' of realization over time. Twenty-five indicators were selected in an attempt to cover a representative set of rights and issues: see Figure 1.1 for a summary of the nine areas of measurement. In selecting the indicators, weight was also placed on various statistical criteria, such as the reliability and regularity of the data collection, the possibility of disaggregating to measure discrimination, and the possibility for external and internal comparison. Approximately a third of the indicators were drawn from the proposals in various chapters; and the remainder after a process of research and vetting. The authors advise though that the process proved deeply challenging as few existing indicators on children meet many or all of the above criteria. Considerable work needs to be done in the future to build up a functioning, relevant and comprehensive set of indicators.



**FIGURE 1.1** Dashboard summary of selected indicators.

Figure 1.1 shows Langford and Kirkebø's overall assessment within nine broad categories of Norway's performance on the different indicators. The evaluation is based on comparison of performance with other OECD states and adjusted for internal disparities, with a complementary analysis of trends. Each area is scored out of three. Eyeballing this table, we can identify a clear number of areas where Norway is performing well, particularly on social welfarist indicators (especially overall life satisfaction) and liberty indicators (such as use of prison for child offenders). However, the highest score of 3 is not given for a number of areas where Norway ranks highly internationally. This is because of significant variation in the implementation of these rights, as disaggregated by region or a ground of discrimination (e.g., disability, ethnicity). Moreover, some indicators are moving in a negative direction (e.g. income poverty), although others are moving in a positive direction (e.g. teenage suicides). Turning to the civil and political indicators, we find a more mixed picture. Areas such as protection (which also covers verbal, physical and digital bullying) are graded as poor or average while scores for political rights are rated as average.

To be sure, this assessment has a subjective dimension. However, the graduated results indicate that the key challenges most likely lie with the rights of disadvantaged children in welfare systems, state protection from third parties, and participation in civil, political and legal arenas. Many of these themes or blindspots arise also in the remaining chapters by various authors and we have categorised them as follows: right to be heard, liberty and autonomy of the child; pluralism and accountability.

### 1.4.2 RIGHT TO BE HEARD

While children's participation has improved in some areas, questions remain over the mainstreaming of a child's right to be heard. The lukewarm score on some children's right to be heard is partly reflected in the qualitative material. For instance, while a children's right to be heard has improved in custody proceedings, Lidén and Aasgaard/Langford do not find the same trend in asylum cases.

Protected by CRC Article 12<sup>21</sup> and prior to the incorporation of the covenant, the right to be heard was secured by the legislation in selected areas, e.g. child welfare and custody cases. After incorporation, CRC Article 12 was directly applicable and thus covered fields that were still not covered by legislation. Moreover, several legislative provisions were amended in order to strengthen the right to be heard (see examples above in section 3). Subsequently, section 104 of the constitution was amended to include protection of the right to be heard, with a direct relation to the determination of the child's best interest.

Still, some legislative aspects are nevertheless open for discussion. In legislation, the common phrase used is that the child must have reached the age of 7, or, if younger, be capable of forming his or her own opinions. The legislator has taken the position that 7 years should not be a lower limit, but be regarded as an indication of the age at which the child in any circumstances should be involved. In this matter, the government has not followed the CRC committee, which has discouraged states from introducing age limits either in law or in practice.<sup>22</sup> It could be claimed that a low age limit, combined with an obligation to consider to include younger children, provides a better legal position for children than an assessment based on maturity. It is also evident in research that the age of seven functions as a barrier for including younger children (e.g. Magnussen and Skivenes 2015). However, some provisions have been recently changed following the recommendation of the CRC Committee<sup>23</sup> to remove all references to age to determine children's right to participate, as the Patient's Rights Act section 3-1.<sup>24</sup> Furthermore, the Child Protection Act has a new section, 1–6, providing a general right for children to participate regardless of age.<sup>25</sup> However, the age limit is maintained in section 6–3, a procedural right for children.

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21. See generally Sandberg (2016).

22. CRC/C/GC/12, para. 20.

23. CRC/C/NOR/CO/4, para. 24. cf. CRC/C/NOR/5-6, paras 187.

24. <https://www.stortinget.no/no/Saker-og-publikasjoner/Vedtak/Beslutninger/Lovvedtak/2016-2017/vedtak-201617-109/>

25. <https://www.stortinget.no/no/Saker-og-publikasjoner/Vedtak/Beslutninger/Lovvedtak/2017-2018/vedtak-201718-032/>

As to political participation, Langford and Kirkebø find that there are thirteen countries that have expanded voting rights to children between the ages of fifteen and seventeen. An experiment on a lower voting age was conducted in Norway but there was no recommendation to adopt this approach despite the criticisms of the Ombudsmen for Children (Barneombudet, 2017: 19). There are other ways by which youth can engage with policy development such as broader civic engagement. Norwegian children do participate in different civic organizations and two major annual national fundraising actions but participation beyond collecting money is quite low (see chapter 2). Norway has a system of youth councils whereby children are meant to provide input to decision-making by local municipalities but most are not functional and there has been critique of their effectiveness and role (Barneombudet, 2017: 19; 2012: 24).

### 1.4.3 LIBERTY AND BODILY AUTONOMY

Protecting children from harm and ensuring their liberty remains an ongoing challenge for all states. It requires active measures to regulate third parties and in state interventions a difficult balancing of public interest concerns and a child's right to liberty. In their chapter on sexual abuse, Bakketeig and Skilbrei note that it is extremely difficult to measure the extent of the problem (chapter 4). It is not clear whether the increase in sexual offences as a percentage of all reported crimes represent an increase in crimes against children or greater public trust in public institutions and awareness of the importance of reporting.<sup>26</sup>

The same applies to interpreting a study from NOVA assessing the prevalence of sexual violations<sup>27</sup> amongst 18 year olds: 27 per cent reported that they had been exposed to a sexual violation at least once in 2007 but, in 2015, the number had decreased to 23 per cent.<sup>28</sup> In their chapter, Bakketeig and Skilbrei conclude

26. SSB (2018) «Statistikkbanken kildetabell 08484» accessed 06.02.2018, available at <https://www.ssb.no/sosiale-forhold-og-kriminalitet/statistikker/lovbrudda>

27. Sexual violations is not defined in the questionnaire handed out to students, as such one should note that there might be differences in interpretation and reporting.

28. Svein Mossige and Kari Stefansen (eds) (2016) «Vold og overgrep mot barn og unge. Omfang og utviklingstrekk 2007–2015» available at <http://www.hioa.no/Om-HiOA/Senter-for-velferds-og-arbeidslivsforskning/NOVA/Publikasjoner/Rapporter/2016/Vold-og-overgrep-mot-barn-og-unge> (accessed 06.02.2018) Similarly, a time studies on violence against children shows that there has been an overall decrease in the percentage of children exposed to sexual violence from those born in 1939–1989. However, for those born from 1990–1995 an increasing amount had experienced childhood violence. Siri Thorsen and Ole Kristian Hemdal (eds) (2014) «Vold og voldtekt i Norge. En nasjonal forekomststudie av vold i et livsløpsperspektiv» page 70. Available at: [https://www.nkvt.no/content/uploads/2015/11/vold\\_og\\_voldtekt\\_i\\_norge.pdf](https://www.nkvt.no/content/uploads/2015/11/vold_og_voldtekt_i_norge.pdf) (accessed 06.02.2018)

that existing research principally shows that sexual abuse is widely underreported despite the obligation of welfare state personnel to report suspicion of abuse to the child welfare services. Moreover, they note the evidence that victims of sexual abuse ‘find it difficult and/or are unwilling to report their abuse experiences to healthcare personnel, child welfare officers or the police’, which raises question marks over the degree of compliance in this field. This may be related to how victims are met by the welfare and criminal justice system, but may also be related to the stigma and experience of shame that is often experienced by victims of sexual abuse (McElvaney et al. 2014). These concerns are amplified with the growing number of children who report unwanted attention online (see chapter 2). The explanation for a disconcertingly low level of reporting is probably complex, and mechanisms that prevent child sexual abuse from being disclosed, and reported to responsible professionals and officials, should be better understood and addressed.

Another aspect of mistreatment is bullying. The Education Act establishes that all schools should ensure a safe learning environment; however, it does not specify the need for human rights education or combating prejudice. Studies from the Education Directorate reveal that a large proportion of students in Norway feel like an outsider at school, and that there has been an increase in bullying, both at school and online, during the least few years (see chapter 2). In chapter 14, Lile finds that some groups are more prone to bullying than others, highlighting the challenges for minority groups such as children with disabilities and LGBTQI children. While Norway has a number of policy initiatives in the field, questions can be raised over their effectiveness and whether progress is being made in this field (Ttofi and Farrington, 2010).

Turning to liberty concerns, Gröning and Sætre point to several challenges with regards to the detention of children (chapter 5). Although the overall number of children detained has been declining and is relatively low, the circumstances under which they are detained and the possibility of indefinite length of sentences pose a serious threat to children protection. The authors problematize the detrimental effects the Norwegian penal system could have on children, with an insufficient focus on rehabilitation. They argue – in line with the most recent recommendations from the CRC Committee – that there is a need for a further development of rules concerning *alternatives* to detention, both police detention and prisons. This is accentuated in the chapter on policing by Aasgaard and Langford in chapter 6 who note the continuing use of solitary confinement in police detention against children – even if new guidelines recommended measures to try to ameliorate the effects of its usage.

More generally, Grønning and Sætre observe that Norway is far from having a separate and specialized criminal justice system for children. Article 40(3) of the CRC provides that States shall seek to 'promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law'. Yet, Norway has no specific courts, or specialized judges, neither a specific criminal process for dealing with children nor many alternatives to the use of prison. Moreover, as discussed, Norway has yet to establish a separate detention system for children despite the very clear provision in article 37(c) of the CRC, and critique from the Committee.<sup>29</sup> The Government has defended itself by its noting earlier parliamentary deliberations, its reservation on the same issue under the ICCPR, and in 2009, a new prison unit for *minor* offenders was opened. The government has also emphasised the demographic challenge: an increase in child prisons could decrease proximity with family, which would also be in conflict with CRC Article 37(c).<sup>30</sup> While the clear and mandatory requirement might be moderated by this countervailing requirement, it would seem to only apply to truly remote and sparsely populated areas. It is highly questionable whether this logic applies in major urban centres.

#### 1.4.4 PLURALISM AND DIFFERENCE

One regular cross-cutting theme is the response of state institutions to differences between children, in both service provision, regulation and policing. In areas such as poverty reduction, difference based on minority background, parental status and region is particularly striking as Fløtten demonstrates in chapter 7. On one hand, the challenge with poverty rates is partly general and Fløtten points to cross-cutting factors such as the lack of indexation of benefits. On the other hand, the share of poor children is especially high in some immigrant groups and these children are more at risk of not taking part in social activities. Children in single-parent families and in certain districts are also at a higher risk of poverty.

As to disability, Tøssebro and Wendelborg identify several challenges with regards to compliance with the convention, from education to access to public services (see chapter 12). For participation in school, the major issue is segregation from peers in special schools or classes despite alterations for inclusiveness in the early 1990s to enhance compliance with the CRC. There are also concerns about the quality of education for children with disabilities, highlighted also by the

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29. CRC/C/NOR/CO/4, paras. 57 and 58(d), cf. paras. 6 and 7.

30. Cf. CRC/C/NOR/5-6, para. 337.



Ombudsmen for Children. On access to public services, barriers remain for families that need support (see chapter 12). Their success in application for services relies on ‘meeting the right person’ in the system, and endurance in resubmitting applications. Success in obtaining support from the system relies on understanding and mastering the bureaucratic system, heightening the risk of socio-economic differences in access to services. Furthermore, as mentioned above, children with disabilities are at greater risk of bullying (see chapter 2). Consequently, one may safely argue that major challenges remain with regards to CRC compliance when it concerns children with disability.

Aasgaard and Langford also discuss the concern of ethnic profiling by Norwegian police, which has been a regular concern of the Committee on the Rights of the Child and the European Commission against Racism and Intolerance. Research on the theme is sparse. According to Aasgaard and Langford, the existing literature suggests that there may be active ethnic profiling by *some* police while some aspects of ethnicity may be problematically indirectly integrated into general police patrolling. Yet, despite constant claims of profiling in media accounts, authorities deny its existence and have taken few steps to support research on the phenomenon or consider proposals that would lessen its likelihood.

The concern with discrimination is core to chapter 14 by Lile on human rights education, which is covered in Article 29 of the CRC. He finds that human rights are only included in a fragmented and haphazard manner in the country’s curriculum plans, raising questions as to compliance with the relevant – especially considering critique by the Committee on the Rights of the Child. Moreover, he raises questions over the effectiveness given the absence of evidence that the educational programmes actually lead to better ‘respect’ for human rights; and notes that some of the curriculum learning outcomes might very well instil negative attitudes.

Turning to asylum seekers, another critical point that is age related is how the Norwegian state protects unaccompanied minors age 15–18 years old, as discussed by Lidén in Chapter 10 (but also in Chapter 6 on policing). This group of children is treated differently than other children in a similar situation, raising clear question of discrimination if it cannot be justified as reasonable and objective. In Norway, children without a parent or a carer are the responsibility of child protection systems. Unaccompanied minors aged 15–18 are not. Rather, they are the responsibility of the immigration authorities and are placed in reception centres, with different quality standards and aims than those applying to the care of the child protection system.<sup>31</sup>

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31. See also CRC/C/NOR/CO/5-6, para. 31.

Lidén also discusses the heavily-criticized temporary residency regulation for unaccompanied minors. This regulation states that unaccompanied minors without grounds for residency receive a temporary permit to stay in Norway until they turn 18 years old. Thereafter, they will be deported. This represents a heavy burden for the concerned children, with many fleeing to another country, which can mean a life on the streets. The CRC committee has expressed particular concern about the ‘increase in the use of temporary residence permits’ and the high number of children disappearing and vulnerable to becoming ‘victims to human trafficking and prostitution’; plus concerns over those ‘sent back to countries where their rights are at high risk of being violated, which would contravene the principle of *non-refoulement*’.<sup>32</sup> The situation represents an international conundrum and calls for international collaboration and joint solutions. It appears that the Norwegian state has chosen the simplest solution: standards are lowered with regards to the rights of unaccompanied children through temporary residency.

A related concern is education for children not legally residing in Norway. Legally, they are entitled to primary education, cf. section 2(1), Education Act. This was one of the first examples in which critique from the CRC committee<sup>33</sup> influenced domestic legislation.<sup>34</sup> Yet, the wording of the Education Act only covers primary education. Recently, the exclusion of secondary education was made explicit. The 2015 amendment provides that legal stay is a condition for access to secondary education.<sup>35</sup> In the preparatory works for the legislation, it was stated that the CRC could not contain a clear legal obligation to provide secondary education to irregular children.<sup>36</sup> This setback is, as could be expected, not addressed in the recently submitted report to the CRC committee from the Norwegian government; and the issue is not addressed by the Committee. While there may be legal arguments around the existence of this right, it is difficult to conclude that the state is particularly proactive on these children’s education rights.

#### 1.4.5 ACCOUNTABILITY

As discussed in Chapter 2, children are highly limited in their ability to seek legal remedies. The Norwegian legal system does not permit children to bring legal

32. CRC/C/NOR/CO/5-6, para. 31.

33. See CRC/C/15/Add.23, § 12.

34. NOU 1995:18 p. 285 and Ot.prp. 46 (1997–98) p. 26.

35. Section 3(1) of the Education Act, amendment 20 June 2015 No 54.

36. Prop. 68 L (2013–2014) p. 15. See also the critique from the ECSR committee on this matter, cf. E/C.12/1/Add.109, para. 22 and 43.

action: children must rely on their guardians to take legal action or wait until they turn 18. In chapter 13 on sexual orientation and gender identity, Thorsnes shows that this gap is of significant concern: ‘children experiencing discrimination or harassment are dependent on the consent of their parents or legal guardians in order to file a complaint, and the existing procedures cannot be considered child-friendly’.

This lack of attention to children’s legal standing is one reason why Norway scores relatively poorly on CRIN’s legal access index covering 197 jurisdictions. Amongst the OECD states, Norway is ranked at number ten. The ranking is based on the legal status of the CRC in the jurisdiction, the legal status of the child, access to courts for children, and practical barriers for access to justice. As discussed, the Ombudsmen for Children, who receives many complaints from children, cannot make decisions or individual recommendations. Norway has refrained from ratifying the optional protocol to the CRC providing a right to individual complaint, and nor does it provide it legal aid in cases brought on behalf of children, except in limited cases such as child protection.

## 1.5 EXPLAINING THE BLINDSPOTS

A nuanced approach to quantitative measurement and the qualitative reflections on blindspots suggests a more complex picture of Norwegian implementation of the CRC. So, how can we ultimately understand this outcome? How do we marry these blindspots with Norway’s exceptional performance in aggregative global indexes and other evidence that children’s rights are strongly secured in Norway? Proceeding inductively, we suggest four possible perspectives that might help shed light on the Norwegian case: (1) complex and changing demands; (2) professional and institutional practices in a context of high discretion; (3) regional and governance asymmetries; and (4) poor data.<sup>37</sup>

### 1.5.1 COMPLEXITY AND CULTURAL CHANGE

An important point to recall is that implementation of the CRC is *complex*, even for an advanced welfare state like Norway. The Convention is comprehensive and

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37. Drawing on compliance theory in social science and international law, it would also possible to analyse implementation in terms of interests, incentives, collective action frames, institutional path dependency and/or culture. Nonetheless, our analysis draws implicitly on a number of these ideas, revealing in particular the role of institutional path dependencies in problematic areas but also underlying interests in their maintenance.

transformative – and in many areas, policymakers seem to have undervalued the need for significant reforms. The chapters in this volume indicate tensions that have arisen in multiple areas of practice and policy, from support for child victims of sexual abuse through to the provision of appropriate disability support services. As discussed, it is often these areas that are immune to quantitative measurement and are rarely reflected in global indexes. In some cases, authors report that laws and policy have been reformed, demonstrating that demands for transformation demands can be met. Yet, these reforms have come only *after* significant campaigning by interest groups and civil society organisations, suggesting that lethargic performance is not simply a matter of complexity (see further section 6.2 below).

Related to complexity is the pace of cultural change. Recent decades have brought children into the policy agenda in new ways, as children in many societies are increasingly regarded as individuals with separate interests and rights. The sociology of childhood shows clearly the changing views on children (James & Prout, 1997); yet societal treatment of children often diverges from this vision. In Norway, as well as other places, this conception of children creates tensions in the traditional relationship between the family and the state. Individuals in a society are imbedded in influential cultural and value systems (G. Hofstede, G.J. Hofstede, & Minkov, 2010), and changes in values and perceptions take time. Thus, pluralism and divergence in public opinion may complicate swift compliance. By design, legalised human rights are general in nature, creating space for different interpretations in order to ensure political acceptance and universal applicability. Thus, while the CRC Committee has sought to improve the public understanding of the convention rights, these rights provide space for different values, which are, by tradition and culture, embedded in the relationships with children, influencing both the material content of children's rights and how rights are decided upon and balanced against children's autonomy as well as parents' rights and the states' interests.

This tension may be also heightened by the *dynamic* interpretation of the CRC. Søvig's chapter reveals that various critiques of Norway's legal protection of children's rights arise from demands that were not necessarily contemplated at the time of ratification in the early 1990s. For instance, the Government and majority in the Supreme Court have resisted certain interpretations of the CRC committee in the field of immigration on the grounds that the Committee has gone beyond the CRC's text. While legal certainty is important, it should be recalled that states make wide-ranging commitments on ensuring the 'best interests of the child', meaning that dynamic or strong interpretation was certainly not unforeseeable.

## 1.5.2 PRACTICES AND PROFESSIONALISM

Advancing child rights is, however, not simply a societal question of values. In many cases, the book reveals that the primary obstacle is professional and institutional practices. One constant theme is the absence of organizational guidelines, sufficient professional focus and competency, and expert resistance to change. The literature on public administration and organizational behaviour is blunt on the challenges of policy implementation in daily practice. Education and training, competences and skills, working cultures and traditions, attitudes and emotions, come into play when political goals and ambitions are to be transferred throughout state and local authorities in Norway. These shape how public employees and staff work with children and determine to a certain degree whether children's rights are implemented.

The role of professional and institutional practices factor is particularly heightened by two aspects of the welfare state. The first is that professionals are given considerable autonomy in Norway. High levels of discretion are privileged in both bureaucratic culture and legislative design. This gives professionals space to innovate and adapt but also to resist change – whether it is access to services, quality of teaching, or police patrolling of minorities. The moderate score of Norway on accountability may be an indication of a lesser focus on rules as well as sanctions for under-performance. Second, a reliance on mutual trust between service providers and citizens (including children), and the allowance for board professional discretion, risks a problematic paternalism.<sup>38</sup> Service providers may secure welfare social rights to many children, but may be less attuned to attending to difference, ensuring genuine participation by children (and their families) individuals, or accepting complaints or challenges to expert wisdom (e.g., whether it is on the dangers of solitary confinement or effective bullying strategy).

In this context, a transverse challenge is to secure children's right to participate in matters concerning them. We see it in the chapters in child protection, children with disabilities, unaccompanied asylum-seeking minors, LGBTIQ children, just to highlight a few. Thorsnes notes in chapter 13 that while Norway generally has a well-functioning and patient-centric health care system, the 'health care service for trans children is not adequate, and knowledge among health care professionals needs to be strengthened in order to interact with children in a safe and respectful

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38. Some argue that such paternalism on rights may be a general feature of Nordic and Scandinavian welfare states (see discussion in Langford and Karlsson Schaffer, 2015). Scharff Smith (2011:42) argued that 'the fact that Scandinavian welfare states are large, powerful and arguably often trusted by the public, can lead both towards humane policies on the one hand and effective control on the other hand'.

manner'. The traditional view on children is that they lack the competency to make qualified and autonomous decisions (Archard & Skivenes 2009), or children should be protected against the responsibility of making decisions or being informed about troublesome matters. This view of children is not easily changed amongst people and professionals, and would probably require comprehensive effort in training and guidelines, as well as oversight mechanisms to change. Ensuring genuine participation would require a transformed mindset on what children are and can be; and for some groups of children, this professional mindset and knowledge is decisive for their life prospects. Chapter 12 on sexual orientation and gender identity so clearly make evident. Intersex children have possible harmful surgeries that are irreversible and, for some children, surgery is performed without their consent or without a proper informed consent. Similar challenges are identified in Chapter 4 on child sexual abuse. The likelihood of reporting to police or a child protection agency is hugely dependent on the professionals that are in contact with the child. While various factors influence reporting rates, staff with obligations to report suspicion of sexual abuse under-report; which raises questions about knowledge and awareness about sexual abuse of children.

The documented deficits and problems in implementing children's rights (and surely we have not uncovered all) show that there are blind spots that should be addressed both on a systemic level and through improvement of individual understanding and interpretation of legislation and regulations amongst professionals working with children. From a frontline position, professionals will usually experience resources as scarce and, surely, the allocation of increased and targeted resources on improving identified blind spots may help. The field of disability services for children appears particularly under-resourced and chapter authors and organisations have identified the need for increased budgets in areas like poverty reduction, prevention of abuse and care for asylum children.<sup>39</sup> However, resources do not seem to be a major challenge in many areas of Norwegian public administration. Furthermore, as argued in Chapter 7 on poverty, there are problems children encounter that are not likely to be improved by increased economic support to the family. Instead, a systemic change may be called for, which would include incorporating the CRC in action plans in all areas concerning children. Broader policy approaches, as discussed in Chapter 8 on equal opportunity and child care, show the importance of early education through kindergarten for children's childhood and future adulthood. More profound, is to ensure that public administration and courts are designed and built on the principles of child friendliness. Adapted

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39. See chapter by Fløtten and Redd Barna (2018).

from the guidelines for child-friendly justice, developed by the Council of Europe (2010), the systems that are working with and meeting children should be ‘accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child’ (p. 17).

Integrating a child perspective throughout the public sector and professional practice would thus be critical. Organizational planning, buildings and systems design, and the training of staff and decision makers, should to a much larger degree be made with children in mind. Internationally and in Norway, there is a growing movement of ‘experts by experience’, amongst them groups of children and young adults that have experience with public service providers (see chapter 3). These children work with professionals in local authorities to ensure that they become more child friendly and focused. Emerging evidence suggests that such user-based input is effective. Hearing from former service users, such as children that have been in the child protection system, about how they have experienced the lack of participation and respect, and not being heard or listened to by professionals and courts, seems to have a strong effect on staff and professionals. Children also bring examples of good interactions and practices they have encountered.

Professionals, at a minimum, but the general population as well, arguably need to be educated in children’s rights and the obligations that the Norwegian state has taken on. The CRC represents a new, although almost 30 years-old now, understanding of societies and the relation between individuals. The convention prescribes that children should be regarded as individuals with independent interests, and on equal footing as adults in a society. This is a radical shift of orientation, and if states are serious about their ratification of the CRC, the knowledge and thinking following children’s rights should also be reflected in the curriculum for education programs. Moreover, such education must be effective. Even if children in kindergarten and elementary school are already educated about their rights, the impacts of the education programs for the younger children maybe not particularly successful, as found generally by UNICEF (Jerome, Emerson, Lundy and Orr, 2015) and in the case of Norway in this book (see chapter 14).

### 1.5.3 GOVERNANCE AND GEOGRAPHY

Norway’s governance structure was regularly identified as a cause of non-compliance or poor implementation. Highly decentralized, much of the responsibility for children’s rights is delegated to municipalities, geographically spread and sparsely populated (a majority are small with 3 000–5 000 citizens). The difficulties of

assuring equal treatment and a sufficient range of services and competencies available for children's needs in general and as well as specifically for particular groups of children, arguably explains the wide variations in outcomes across the country (see particularly chapter 2).

One of the causes for this variation appears to be the internal allocation of resources by municipalities. The CRC has addressed this issue critically in *all* their concluding observations on Norway.<sup>40</sup> In their responses, the government's response has accepted that 'very large differences exist between municipalities vis-à-vis staffing and coverage',<sup>41</sup> and as mentioned above, the Child Welfare Act has been amended in order to entitle children to services within this field. Nonetheless, the government and parliament has been reluctant to introduce substantial measures to reduce the differences, partly due to the autonomous position of the municipalities.<sup>42</sup> However, the government could also consider whether sufficient resources are always allocated to municipalities. If small municipalities are to remain, they may require extra resources in order to fulfil their obligations. Without considerable bottom-up or top-down pressure, or a change in governance structure, it is difficult to see how under-performing Norwegian municipalities will improve in the future.

Questions can also be raised about the design of national and municipal programmes for specialised services, for example children with disabilities. Chapter 11 demonstrates blatantly how public agencies do not manage to offer services to disabled children that give them sufficient opportunities to interact with peers, to access education. The descriptions of the frustrations and fatigue that parents of disabled children experience when applying for services that their children have a right to receive, are schoolbook illustrations of dysfunctional bureaucracies.

However, the challenges of decentralisation are not simply a question of governance. It is also geography. Chapter 5 on children in detention pinpoints the dilemma of providing care and closeness to family for children, versus providing suitable detention facilities for children (e.g. separated from adults). Yet, it is arguably time that Norway invests in a higher level of specialization and education in the criminal justice system in order to meet the specific needs for the child in different parts of the country. This raises a question of resources in a sparsely populated country (with many small local communities separated by mountains and fjords). Although compared to many countries, also similarly small countries,

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40. CRC/C/15/Add.23, para. 24, CRC/C/15/Add.126, para. 15, CRC/C/15/Add.263, para. 15 and CRC/C/NOR/CO/4, para. 16.

41. CRC/C/NOR/5-6, para 146.

42. Cf. CRC/C/NOR/5-6, paras. 11–12.



Norway lies behind in this regard.<sup>43</sup> While the specific Norwegian pragmatic legal culture has also not favored specialization,<sup>44</sup> the express provisions of the Covenant raise the question as to whether geography and tradition can continue to forestall more child-centric systems in criminal justice, especially with rising urbanization.

#### 1.5.4 PATCHY DATA COLLECTION

An important aspect of a child-centric reorientation is to ensure sufficient research and collection of data for children's rights and not just improvement of the general welfare. Policy action is heavily guided or influenced by data. Although Norway possesses a comprehensive statistical information bank on its citizens, data on civil and political rights for children is especially lacking and is not collected and reported in any systematic manner by the state or SSB (see Chapter 6). In some cases, Norway has been critiqued for the lack of such data, e.g. racial profiling by police, but has taken no action to redress the information gap.

Thus, the likelihood that policy action to address or ensure children's rights is properly evidence-based is questionable. A new indicator initiative is needed on children's rights. In Chapter 2, the authors set out a range of areas in which new indicators are needed for children's rights in Norway. Moreover, in chapter 5, the authors use a UN OHCHR-based template for analysing necessary indicators in the criminal justice system and recommend a set of 13 indicators (at least half of which are not currently collected).

### 1.6 CONCLUSION

This book sets out to assess the seeming implementation paradox between Norway's high rankings on children's rights and the consistent critiques of its performance. The evidence assembled in this volume is both a testament to the remarkable progress in realising children's rights but also a set of remaining and emerging problems and blindspots. In some instances, a high ranking does not mean that the rights have been fully realised, while in other cases relevant issues of concern are not captured in their global indexes. Our analysis of this paradoxical outcome suggests it is partly caused by the complexity of the CRC and the

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43. See Pruin (2010), pp. 1513–1556 and Dünkel et. al. (2010), pp. 1623–1690.

44. See Jørn Øyrehagen Sunde, *Managing the unmanageable – An essay concerning legal culture as an analytical tool*, in Søren Koch, Knut Einar Skodvin & Jørn Øyrehagen Sunde (eds.), *Comparing Legal Cultures*, 2017, Bergen: Fagbokforlaget, s. 15–16.

challenge of ensuring any society can keep pace with the transformatory demands embodied in the convention. Yet, there are a number of cross-cutting concerns that appear in many of the chapters. High levels of professional discretion, expert resistance to some changes, and the decentralisation of core state functions, mean that the realisation of children's rights can be highly varied across time, place and group. There is a still way to go before matching the child-centric vision of the Norwegian state with action and improved data and measurement is but one of many ways to identifying concrete paths forward.

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