Taking the child's perspective

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Chapter 2

Meaningful participation for children in the Dutch child protection system: A critical analysis of relevant provisions in policy documents

CHAPTER 2

Abstract

Policymakers are increasingly focusing on the participation of children in the child protection system (CPS). However, research shows that actual practice still needs to be improved. Embedding children’s participation in legislation and policy documents is one important prerequisite for achieving meaningful participation in child protection practice. In this study, the participation of children in the Dutch CPS under the new Youth Act 2015 is critically analysed. National legislation and policy documents were studied using a model of ‘meaningful participation’ based on article 12 of the UNCRC. Results show that the idea of children’s participation is deeply embedded in the current Dutch CPS. However, Dutch policy documents do not fully cover the three dimensions of what is considered to be meaningful participation for children: informing, hearing, and involving. Furthermore, children’s participation differs among the organizations included in the child protection chain. A clear overall policy concerning the participation of children in the Dutch CPS is lacking. The conclusions of this critical analysis of policy documents and the framework of meaningful participation presented may provide a basis for the embedding of meaningful participation for children in child protection systems of other countries.

Keywords: participation, child protection, social policy, policy documents, the Netherlands, children’s rights
2.1 Introduction

In this article, the key policy documents relevant for the current Dutch child protection system (CPS) will be analysed to explore the question of whether and how the participation of children is embedded in this. Worldwide, there is growing recognition of the importance of the participation of children in the CPS (Cossar, Brandon, & Jordan, 2014; Healy & Darlington, 2009; Van Bijleveld et al., 2014).

First and foremost, this attention is being driven by the increasing recognition of children’s rights: Article 12 of the United Nations Convention on the Rights of the Child (UNCRC) states that every child has the right to be heard and that opportunities should be provided for children to express their views. The right to participate as formulated in article 12 of the UNCRC is a right for all children (0–18 years old); in accordance to article 2 of the Convention, states should respect and ensure that each child has the right to participate in matters affecting children, irrespectively race, color, sex, language, religion, political or other opinion, national ethnic or social origin, property, disability, birth or other status. States are obliged to ensure the implementation of this right for children experiencing difficulties in making their views heard; the participatory right of children is not bounded by the age of the child and so children with disabilities, migrant children or other children who do not speak the majority language should be enabled to participate. Therefore, the General Comment discourages the use of age limits in legislation or practice and emphasizes the importance to respect non-verbal forms of communication and any modes of communication for children with disabilities. States should presume that children have the capacity to form their own views and have to enable them to express their views (CRC, 2009). In relation to this, Heimer and Palme (2016) underline the importance of seeing children as ‘beings’ and competent actors instead of ‘becomings’. Second, participation is seen as a prerequisite for fulfilling other children’s rights. According to the Committee on the Rights of the Child (CRC, 2009), for example, it is only possible to act in the best interests of the child and to protect children against violence when children are involved in the decisions that concern them. Finally, several studies have reported on the advantages of children’s participation. Vis and colleagues (2011) reviewed major health and social work data bases on publications in the period 1999–2009 aiming to get insight in the relationship between participation in child protection decision-making and children’s health. They found that when children
are able to participate, there are positive effects on their mental well-being and sense of safety, overall, which contribute to the success of the interventions. Cashmore (2002) reviewed the research literature of the United Kingdom, North America, Australia and New-Zealand to explore children’s perceptions on their participation in decision-making. She showed that participation of children during the decision-making process involving their out-of-home placement contributed to the acceptance of placement decisions and to the stability of placements. Furthermore, she maintained that participation of children in child protection was an important learning experience for them, since it prepared them for their transition to adulthood. Križ and Roundtree-Swain (2017) found similar results in their qualitative interview study with eight young adults who had been involved in the CPS. Besides this, the young adults in this study address that children are capable to make rational and informed decisions about their lives, that participation of children can lead to better and positive outcomes and that participation of children can ensure that the CPS becomes aware of and responds to the differences between children.

Participation of children in child protection practice, however, still needs improvement. A literature review by Van Bijleveld et al. (2015) on children’s and social workers’ perspectives regarding children’s participation within child protection shows that most children experience limited to no opportunity when it comes to participating in decision-making processes influencing their lives. Studies on participation of children who experienced violence describe that there are challenges on various levels. On the child level, factors such as prior negative experiences with participation as well as the self-esteem and self-confidence of the child affected by experiences of violence tend to influence any current participation (Horwath et al., 2012; Van Bijleveld et al., 2014). On the group level, children need a safe and supportive environment in order to participate (Horwath et al., 2012). Furthermore, professionals play a crucial role in promoting participation of vulnerable groups. On this level, relevant factors creating better or worse conditions for participation are knowledge, skills, values, and experiences, such as knowledge about how to provide opportunities to allow children to participate and skills to work with children (Horwath et al., 2012; Križ & Roundtree-Swain, 2017). On a macro level, laws, policy concerning children’s participation and rights, along with commitment by senior managers and policymakers to implement that policy, are needed in order to guarantee children’s participation (Horwath et al., 2012; Van Bijleveld et al.,
These should include guidelines that give professionals concrete tools to engage children and to avoid participation becoming dependent on personal choices (Morris et al., 2013). Research shows, however, that there is a lack of clear and concrete guidelines, and that the participation of children is rarely discussed in the workplace. As a result, professionals do not always include children; participation often does depend on the professional’s personal choice (Archard & Skivenes, 2009; Križ & Roundtree-Swain, 2017; Morris et al., 2013; Ten Brummelaar, Knorth, Post, Harder, & Kalverboer, 2018; Van Bijleveld et al., 2014). Furthermore, a lack of resources, such as lack of time, change of social workers, and lack of skills to work with children, is a factor that negatively influences the participation of children in child protection (Archard & Skivenes, 2009; Križ & Roundtree-Swain, 2017; Križ & Skivenes, 2017; Pöllki et al., 2012; Van Bijleveld et al., 2015).

With regard to the legislation and policy framework involving children’s participation in child protection, the Netherlands is an interesting case. In 2015, a major change was introduced in the Dutch youth care system with the implementation of the Youth Act, which promotes the use, restoration, and strengthening of the problem-solving skills and responsibilities of parents, children, and their social environment, with the aim of preventing care-dependency (‘from care to participation’). Professionals are expected to talk ‘with’ instead of ‘about’ parents and children, and to consider them as the agents of their own lives (Memorie van Toelichting Jeugdwet, 2013). Despite this shift in policy, the Dutch Child Ombudsman reported that children were not informed well enough and not heard in the decisions and legal procedures that concerned them (Kinderombudsman, 2016). In 2016, the Dutch government backed a motion that the consultation and participation of children in child protection investigations needed to be improved (Tweede Kamer der Staten-Generaal, 2016).

2.1.1 Aim of this study

The participation of children in child protection is considered to be important for them and can influence the outcomes of care. Embedding this in legislation and policy is the first building block for the meaningful participation of children in child protection practices. Therefore, this study aims to identify whether and how the different dimensions of meaningful participation are represented in the key policy documents
relevant for the current Dutch CPS under the Youth Act 2015. After providing insight in the concept ‘meaningful participation’ and the Dutch CPS, a critical analysis of the current Dutch policy framework will be made in order to answer the following research question: (How) are the dimensions of meaningful participation of children represented in the key policy documents relevant for the current Dutch CPS?

2.1.2 Meaningful participation

Meaningful participation is defined as the experience of children being listened to and taken seriously (Defence for Children, n.d.; Pöllki et al., 2012). The theoretical models of Hart (1992) and Shier (2001), which formed the basis for several empirical studies on children’s participation (e.g. Charles & Haines, 2014; Križ & Roundtree-Swain, 2017), present a hierarchical ladder of children’s participation, including two core dimensions: hearing the child and giving the child the opportunity to influence decision-making. The General Comment on Article 12 (CRC, 2009), which explains the participatory rights of children, adds a third dimension: informing children. The General Comment as well as scientific studies in which article 12 forms the basis for the explanation of ‘participation’ (e.g. Archard & Skivenes, 2009; Berrick et al., 2015) present the following three aspects: children should be adequately informed as a prerequisite for participation; children should have the option and be encouraged to express their views; and children’s views should be considered when making decisions. A further analysis of the General Comment and the scientific literature on the experiences of children participating in child protection helped us to operationalize the three main dimensions of meaningful participation (informing, hearing, involving; Bouma, Grietens, Knorth, & López López, 2017).

Informing. Informing children is seen as a prerequisite for participation (CRC, 2009; Križ & Roundtree-Swain, 2017). The General Comment firstly states that children should be informed about their right to participate and to grow up without any form of violence (article 19 UNCRC; CRC, 2009). Second, the General Comment as well as several studies emphasize the importance that the child knows about the reasons of a child protection investigation and the process of investigation (Cashmore, 2002; Cossar et al., 2014; CRC, 2009). Third, children need information about the possibilities to participate, the focus of participation and the potential impact and consequences; only
then, they can make a deliberate decision (Cashmore, 2002; CRC, 2009). Finally, information should be provided about the decision made, what this decision means for the child and how the child’s perspective is taken into consideration in the decision-making (Cossar et al., 2014; CRC, 2009; Pöllki et al., 2012; Van Bijleveld et al., 2014).

**Hearing.** Children should be enabled and encouraged to express their views (CRC, 2009). Children express that they can provide valuable information, relevant for the decisions to be made; for example, about whether possible solutions would be successful (Pöllki et al., 2012; Van Bijleveld et al., 2014). To ensure that children can really express their views freely, an individual meeting can be important, as well as an open, child-friendly dialogue in which willingness to listen to the child is shown. Children value genuine interest and flexibility of professionals communicating with them. This enables them to tell their story (Archard & Skivenes, 2009; Cossar et al., 2014; CRC, 2009; Dillon, Greenop, & Mills, 2016; Pöllki et al., 2012; Van Bijleveld et al., 2014).

**Involving.** To involve children in decision-making processes, their perspectives should be considered. Therefore, it is needed to hear their opinions and views beforehand and to discuss the decision and decision-making process with them (Cossar et al., 2014; CRC, 2009; Pöllki et al., 2012; Van Bijleveld et al., 2014).

Both the General Comment and the scientific literature emphasize the importance of participation as an ongoing process instead of a one-off event. In the context of child protection, this means that the child should be included in the overall process of identifying maltreatment, investigating maltreatment and the interventions needed, intervening, monitoring and evaluating interventions (Cossar et al., 2014; CRC, 2009). At every step, children should be informed, heard and involved.

Our analysis resulted in a model on participation of children in the CPS as an ongoing process. The model shows the topics children should be informed about, the conditions which make children feel they are really listened to and the conditions enabling them to influence the decision-making process. The following conceptualization brings together these three dimensions of participation and participation as an ongoing process (see Fig. 1; Bouma et al., 2017).
Figure 1. Dimensions of meaningful participation in the child protection process (Bouma et al., 2017)
Building a trust relationship with professionals is important according to children (Bell, 2002; Cossar et al., 2014; CRC, 2009). They are dependent on professionals for any opportunity to participate (Archard & Skivenes, 2009; Dillon et al., 2016; Pöllki et al., 2012), and they communicate most effectively when the relationship with the professional is based on trust, privacy, and honesty (Cossar et al., 2014; Dillon et al., 2016). Building a trust relationship is even more important for children entering the CPS, as they may have a history of being let down by unreliable adults (Dillon et al., 2016; Pöllki et al., 2012).

2.1.3 **Context: the Dutch CPS**

Starting in 2015, the Youth Act has been the basis for the legal and policy framework of the Dutch youth care system. This Act includes a decentralization of the youth care system, with the responsibility for youth care, including child protection, being shifted from the provinces to the municipalities in order to make services more accessible, and to improve prevention and early detection of child-rearing problems (NJi, n.d.).

The CPS is part of this broader Dutch youth care system. The agencies playing a key role in the continuum of child protection are: the Advice and Reporting Centre for Domestic Violence and Child Maltreatment (in Dutch: Advies- en Meldpunt Huiselijk Geweld en Kindermishandeling – AMHK), the Child Care and Protection Board (in Dutch: Raad voor de Kinderbescherming – RvdK), the Juvenile Court, and certified agencies. Although there is no mandatory reporting, anyone can call the AMHK to seek advice or to report concerns or suspicions about child maltreatment. The AMHK can provide the caller with advice, or investigate reports of child maltreatment and refer them to a range of organizations offering voluntary support. The RvdK becomes involved when a compulsory child protection measure seems to be necessary, investigates the case, decides upon a measure and requests the Juvenile Court to enforce this measure. The Juvenile Court is the only agency that can enforce child protection measures; this can be a supervision order, in which the parental rights are partially abrogated and the child can be placed out-of-home, or a measure ending parental authority. These child protection measures have to be performed by guardians within certified agencies (Memorie van Toelichting Jeugdwet, 2013).
CHAPTER 2

2.2 Methodology

This study is part of a larger research project, called HESTIA, which compared child protection systems in England, Germany, and the Netherlands (see: www.projecthestia.com). The project included a policy analysis, with a framework developed for it by the HESTIA team. The working paper by Wulczyn, Daro, Fluke, Feldman, Glodek, and Lifada (2010) on a systems approach in child and family welfare was used as the starting point. The framework agreed upon included, among other, the definition of child maltreatment, relevant legislation and policy documents concerning child protection, and values and principles in legislation and policy documents. Based on this framework, recent developments in Dutch child protection policy were examined by analysing national legislation and policy documents governing the current operation of the Dutch CPS.

This analysis resulted in an overview of the Dutch CPS and its key agencies operating on the levels of identification, investigation, and intervention in case of (suspected) child maltreatment. This overview provided a picture of the important legislation and policy documents determining child protection on each of these levels and helped us to develop a detailed plan for an in-depth investigation into the legal framework for participation of children in child protection. The conceptualization of meaningful participation, as presented in the background, was used as a coding scheme for the analysis of the key legislation and policy documents. Those documents were analysed on whether and how they described 1) the topics children should be informed about, 2) how children are heard, 3) the aspects of involving children in decision-making, and 4) participation as an ongoing process.

First, we started by scrutinizing the new Youth Act and its Explanatory Memorandum in order to examine the values and principles regarding children’s participation in the current Dutch legislation on youth care in general. Second, the ‘Basic Model for the Compulsory Reporting Code for Domestic Violence and Child Maltreatment’ was examined to investigate the legislation and guidelines on the level of identifying and reporting child maltreatment. This model presents five steps that should be followed by professionals in several organizations (for instance, schools, healthcare, and child day care) when child maltreatment is suspected (Ministerie van VWS, 2013).
Third, to understand the procedures of the AMHK when investigating reports of child maltreatment, the ‘National Protocol AMHK’ was analysed. The policy of the Child Care and Protection Board for child protection investigations is described in the following documents: the ‘Principles of the RvdK’ (RvdK, 2012), the ‘Child Protection Investigations Protocol’ (RvdK, 2016b), and the ‘Quality Framework of the RvdK’ (RvdK, 2016a). Fourth, to get insight in the regulations that the Juvenile Court must follow when making decisions to enforce child protection measures, ‘Civil Procedures Code’ and specific *Procesreglement Civiel Jeugdrecht* [Procedural Rules for Private Juvenile Law] (2017) and *Procesreglement Gezag & Omgang* [Procedural Rules for Custody and Parental Contact] (2017) were studied. The ‘Procedural Rules for Private Juvenile Law’ are applicable in cases involving a supervision order and out-of-home placement, whereas the ‘Procedural Rules for Custody and Parental Contact’ are valid in hearings regarding ending parental authority. For the intervening phase, there are no specific policy documents regarding voluntary support in child protection. For certified agencies that provide compulsory child protection measures, the ‘Framework of Standards’ is used to assess the quality (Ministerie van V&J, 2016).

2.3 Results

Drawing upon the model of meaningful participation, three areas of participation of children in the CPS are presented: informing, hearing, and involving. Before reporting on these three dimensions of participation, we present the general principles underlying the legislation and policy framework and the possible boundaries established for children’s participation in Dutch child protection policy. Per dimension, the analyses of the policy documents are presented, following the chain of child protection: identification, investigation and intervention. Table 1 (appendix of this chapter) provides more detailed information on each of the three dimensions.

2.3.1 General principles on children’s participation in legislation and policy

The Dutch child protection policy documents focus on parents’ and children’s own strengths and responsibility. Professionals need to cooperate with parents and children (Baeten, 2014; Memorie van Toelichting Jeugdwet, 2013; RvdK, 2012). The RvdK states
that a child protection investigation should be conducted in cooperation with parents and children, respecting their own responsibility (RvdK, 2012).

However, when cooperation and participation are described, the focus falls mainly on cooperation with the family in general or cooperation with parents and/or children. In addition to this, the policy documents of the AMHK and RvdK focus on participation of children specifically, linked to article 12 of the UNCRC. The protocol of the AMHK states that talking with children is needed to fulfil their right to participate and to be protected; to guarantee safety, involvement of children is deemed essential (Baeten, 2014). The principles of the RvdK relate participation of children directly to Article 12 of the UNCRC and cooperation with children (in addition to cooperation with parents) is described as an important tool for improving the child-rearing situation (RvdK, 2012).

The concept of participation occupies an important place in the policy documents of the RvdK, since the description of their principles starts with an explanation of participation. The attitude and way of communication of professionals are seen as at the heart of the working methodology of the RvdK; they are considered as determining the quality of the investigation. The following aspects are important: 1) being aware of the complexity of child-rearing and growing up; 2) showing compassion, that is, seeing people as people instead of as a problem; 3) pursuing parents’ and children’s needs, and pursuing their goals; 4) looking for exceptions, and concretising and weighing these; 5) being aware of one’s own frame of reference and values so that another reality can be better understood and interpreted; and 6) being transparent about judgments, societal norms, and decisions regarding the child protection investigation (RvdK, 2012).

Several policy documents elaborate on the importance of participation as a process instead of a one-off event. The RvdK states that children should be engaged during the overall process and the Youth Act emphasizes that, in terms of child protection measures, parents and children need to be involved from the very beginning. Furthermore, the Reporting Code stipulates that, while openness is seen as an important attitude, clients should be contacted as soon as possible (Ministerie van VWS, 2013).
2.3.2 Who is entitled to participate?

Whether children have an opportunity to participate depends on several factors. First, the terminology used in policy documents is important; different terms are used to refer to children, and Dutch child protection policy is not always clear about whether children or parents should participate, or whether children and parents should be able to participate. For example, the Youth Act mainly uses the term “family” and “parents and young people”; participation of family members is described more in general terms, and participation of children is not described separately from parents’ participation. Moreover, the Youth Act provides more specific guidelines for participation regarding child protection measures, this mainly focuses on involving parents (Memorie van Toelichting Jeugdwet, 2013). The Reporting Code is not very clear about the involvement of children either: often the term “client” is used, which could refer to a child and/or parent, and often participation of the client or their parents is mentioned (Ministerie van VWS, 2013).

The policy documents of the AMHK, RvdK, and the Juvenile Court are more specific about the participation of children. The protocol of the AMHK often refers to “people directly involved,” which is defined as family members, present or former, who are directly involved in domestic violence or child maltreatment. In addition to this, some parts of the AMHK protocol focus separately on the participation of children, and there the term “children” is used (Baeten, 2014). The policy documents of the RvdK focus on the participation of children as well. In the sections on participation of parents and children the RvdK (RvdK, 2016a, RvdK, 2016b) mentions children first (“the child and the parents”). Finally, the Juvenile Court pays specific attention to participation of children in court sessions involving them. In their stated policy, the term “people concerned” is the one mainly used, referring to, among others, minors of 12 years of age and older. Specific guidelines are provided for hearing minors of 12 years or older (Procesreglement Civiel Jeugdrecht, 2017; Procesreglement Gezag & Omgang, 2017).

Second, Dutch child protection policy describes exceptions for involving children. These are mainly related to (assessing the) safety risks of the people involved.

Third, some Dutch child protection agencies set age limits for participation. The Reporting Code states that when the client is under age 12, only the parents have to be
consulted, although the importance of talking to children is also emphasized. However, it is not clear in the Reporting Code whether the participation of children 12 years of age and older is really seen as an obligation (Ministerie van VWS, 2013). The AMHK sets an age limit of 12 years old for providing children with information. The minimum age for hearing children is six years old (Baeten, 2014). In contrast to this, the RvdK does not provide any age limits for hearing children; children should always be consulted, or, when this is not possible because of the age or developmental level of the child, the child should at least be seen by a professional of the RvdK. However, there are age limits for sending (parts of) the investigation report: children between 12 and 16 years old receive at least the report of their conversation with the professional of the RvdK and not the full investigation report, whereas children of 16 years and older receive the full report. Furthermore, children of 12 years of age and older should be informed when an agency decides to discuss a case for advice with the RvdK (RvdK, 2016a, RvdK, 2016b). Finally, the Juvenile Court is obliged to inform and hear children aged 12 years and older (Procesreglement Civiel Jeugdrecht, 2017; Procesreglement Gezag & Omgang, 2017). Only the Youth Act states no criteria related to the age of the child when it comes to participation of children.

2.3.3 Informing

Although informing children is seen as a prerequisite for meaningful participation, in Dutch child protection policy documentation this is only described by the RvdK as such. Only when children and parents know the ‘rules’ of the child protection investigation, they can play an active role in this, according to the RvdK. Referring to Article 12 of the UNCRC, the RvdK (2016a) states that children should be informed about their rights and the policies involved before talking with them.

Despite the fact that informing children is not described as a precondition in most of the policy documents, openness and transparency are important values underlying Dutch child protection policy. The Youth Act states that the rights of parents and children translate, among other things, into an obligation to provide them with information about the care offered (Memorie van Toelichting Jeugdwet, 2013). Being open and transparent is described as an important attitude in the Reporting Code and the protocol of the AMHK as well. The RvdK relates informing children directly to Article 12 of the UNCRC and
states that being transparent and verifiable is needed to ensure judicial fairness and certainty. Each citizen should receive the same treatment for the same type of problems, and each citizen has the right to know what to expect when involved in a child protection investigation (RvdK, 2012). However, how to inform children is not specified by most Dutch child protection agencies. Only the policy guidelines of the AMHK describe ways to inform parents and children: in person, by phone, or by letter (Baeten, 2014).

When providing information to children is discussed in Dutch child protection policy documents, this focuses mainly on content related information, for instance: what is happening, what can be expected, and which decisions have been made? The Reporting Code states that concerns and suspicions should be discussed with the client, as well as the decision to report (Ministerie van VWS, 2013). When the AMHK receives such a report, the principle is that the AMHK informs the people directly involved before the start of the investigation about the report, the reporter and the subsequent steps by the AMHK; the AMHK must always communicate openly about its methods, judgments, and decisions (Baeten, 2014). When the AMHK or another agency wants to discuss a case with the RvdK in order to obtain guidance as to whether it is necessary to begin investigating whether a compulsory child protection measure is needed, this agency must inform children of 12 years of age and older, and their parents, about this, prior to this guidance-seeking meeting (RvdK, 2016b). When opening an investigation, the RvdK must inform children and parents actively about their involvement and their methods; the aim is that children understand what the RvdK does and why. Once the decision is made, the judgements and decisions must be communicated to children. Furthermore, children of 12 years of age and older receive (a part of) the report of the investigation by the RvdK (RvdK, 2012, 2016a, 2016b). When the Juvenile Court is requested to enforce a child protection measure, minors of 12 years of age and older have to be informed about this request. This has to be discussed with them by the requester, and they must receive the request (Wetboek Burgerlijke Rechtsvordering, art. 799a; Procesreglement Civiel Jeugdrecht, 2017; Procesreglement Gezag & Omgang, 2017). After the court hearing, children of 12 years of age and older must be informed of the decision (Wetboek Burgerlijke Rechtsvordering, art. 805). When a compulsory child protection measure is enforced, the certified agencies have to communicate effectively with the child and family,
CHAPTER 2

and must inform them about the support agreed upon, the continuity of it, and the action plan (Ministerie van V&J, 2016).

Meaningful participation also entails providing information to children about their right to participate (UNCRC, art. 12) and to grow up without violence (UNCRC, art. 19). Only the RvdK states that children and parents should be informed about the societal norms regarding safety, but it is unclear whether this really encompasses providing information to children about their right to grow up without violence (RvdK, 2012, 2016a). Although informing about their rights is stated in other policy documents, this is not focusing on these specific rights. For example, the Youth Act states that parents and children have to be informed about their right to have information about (procedural) documents regarding child protection measures (Memorie van Toelichting Jeugdwet, 2013). Likewise, the AMHK states that parents and children should be informed about their right to have insight in the case file and the right to have their case file destroyed, when allegations of child maltreatment are proved false (Baeten, 2014). The Framework of Standards for certified agencies states, more or less in general terms, that children and families must be informed about their rights and obligations (Ministerie van V&J, 2016).

Finally, only the RvdK explicitly describes, in terms of article 12 of the UNCRC, that children have the right to be informed about how their opinion has been given weight in the decision-making process (RvdK, 2012), despite the fact that in the General Comment this is seen as an important factor; it could be a tool to ensure that the voice of the child is really considered in the decision-making process (CRC, 2009).

2.3.4 Hearing

Dutch child protection policy documents emphasize children’s right to express their views. The Youth Act describes the importance of talking with parents and children instead of about them (Memorie van Toelichting Jeugdwet, 2013). In the phase of identifying and reporting child maltreatment, the Reporting Code states that clients should have the opportunity to react to the concerns voiced (Ministerie van VWS, 2013). During the next step, children should be spoken with or at least be seen (Baeten, 2014; RvdK, 2016a). In addition to this, the RvdK states explicitly that children have the right to be heard in all decisions that concern them (RvdK, 2012). However, in contrast to the RvdK, the Youth
Act focuses only on the right of parents to express their opinions and interests to the authorities in its description of the procedure on child protection measures (Memorie van Toelichting Jeugdwet, 2013). The Juvenile Court, involved in enforcing child protection measures, has more concrete guidelines for hearing children: the Juvenile Court must invite children of 12 years of age and older at least twice to a hearing before a decision can be made without hearing the child (Wetboek Burgerlijke Rechtsvordering, art. 808).

In child protection investigations, the AMHK and RvdK consider gathering information from the child as an important part of the investigation. The protocol of the AMHK states that, in the first phase of the investigation, professionals have to talk at least once with the family members to understand what the violence entails, the family members’ perceptions of safety, the risk and protective factors, and the conditions for safety (Baeten, 2014). The RvdK adds that the wishes and goals of children should be noted, and that children should not only have the possibility to express their views about the problems but also their views regarding their strengths and ideas for solutions (RvdK, 2012). Furthermore, the Youth Act describes that in a meeting with child, parents, and social network the request for help, the personal situation, and ways of using own strengths should be discussed (Memorie van Toelichting Jeugdwet, 2013).

In some policy documents, the importance of an individual meeting with the child is described. The Reporting Code states that talking individually with children is important so that they can express themselves more freely. The AMHK describes that children have the right to have an individual meeting (Baeten, 2014). For the Juvenile Court, this is only stated for requests regarding ending parental authority (Procesreglement Gezag & Omgang, 2017).

There are no clear guidelines in child protection policy documents about how the child should be heard. The regulations for the Juvenile Court explain that the Juvenile Court should decide on an appropriate method for this (Wetboek Burgerlijke Rechtsvordering, art. 808). The AMHK only describes that conversations with children should preferably be undertaken by a behavioural scientist, when needed, but at least by a professional trained for this. Additionally, specialized diagnostic investigations can be conducted to substantiate child maltreatment allegations, and to assess the consequences for the child and the types of support needed (Baeten, 2014).
2.3.5 Involving

An important prerequisite for having influence over decision-making is that children are heard before the decision is made. Related to this, the Reporting Code states that the professional should only come to an interpretation after hearing the reaction of the client to the signals and concerns (Ministerie van VWS, 2013). The Juvenile Court is not allowed to make a decision when minors (of 12 years of age and older) have not had the opportunity to express their own views (Wetboek Burgerlijke Rechtsvordering, art. 808). The AMHK describes that it is not allowed to make judgments about people directly involved, who are not contacted by the AMHK (Baeten, 2014). At the RvdK, the information provided by children during the investigation should be given weight, and their views should be considered in decision-making. In addition to this, parents and children (12 years of age and older) have the opportunity to react to the draft version of the investigation report, or parts of it; their reactions must be attached to the report (RvdK, 2016a).

In general, the Youth Act states that children should have agency over their own lives. Different policy documents state that parents and children should play an active role in the child protection processes and that their views should be considered in decision-making. First, the Youth Act states that parents and children should be actively involved in assessing the support needed. The AMHK designates that the opinions of the people directly involved should be included in the report of the investigation. The RvdK emphasizes that children and parents should not only be involved in providing information to the RvdK but that they are also co-responsible for a solution; they should play an active role in a child protection investigation (RvdK, 2012). The views of children should therefore be considered in decision-making (RvdK, 2016a). Whereas ‘informing children about how their views were given weight in decision-making’ is formulated by the CRC (2009) as a guarantee that the views of the child are really heard and considered, this is only stated in the policy documents of the RvdK.
2.4 Discussion

To ensure meaningful participation of children in child protection, creating opportunities for this on the organizational and policy levels is important. Furthermore, participation only becomes meaningful when children are adequately informed and heard, and when their views are taken into account in decision-making during the whole child protection process (CRC, 2009). Therefore, this study critically analysed the key policy documents relevant for the Dutch CPS with the aim of identifying whether and how different aspects of children’s participation are embedded in the legislation and policy documents covering the different phases of child protection. An analysis of policy documents is an important first step to put meaningful participation for children into practice.

In general, our findings show that the participation of children is explicitly considered in Dutch child protection policy. However, certain policy documents are more specific than others vis-à-vis children’s participation. The Youth Act and Reporting Code are notable for only providing general descriptions of children’s participation. Moreover, these policy documents are not always specifically focused on children. Children and parents are often mentioned together when participation is discussed, and clear guidelines for children’s participation are lacking. Furthermore, different age limits for the participation of children are stated; there is no consistency in the age limits used. Moreover, the CRC (2009) discourages the use of age limits in law and practice, since this restricts children’s right to be heard. All children, regardless of age, are considered to be capable of forming and expressing their views. Article 12 of the UNCRC obliges states to implement this participatory right for all children and therefore requires non-verbal forms of communication, enabling young children to express their views (CRC, 2009). Only the RvdK describes the developmental level of the child as a consideration for hearing the child instead of an age limit. In this regard and by extension, Dutch child protection policy documents provide no information about the participation of children who experience difficulties in expressing their views, for instance children with disabilities or children who do not master the Dutch language. Križ and Roundtree-Swain (2017) report that older children have more possibilities to participate as well as children who have the skills to communicate their opinion clearly, strongly and persistently by acting out and in a verbal
way. Therefore, extra attention in policy documentation for enabling children who are in a disadvantaged position to form and express their views is needed (CRC, 2009).

By focusing on the three core dimensions of meaningful participation, this study shows that not all aspects of informing, hearing, and involving are included in the policy documents covering the Dutch child protection process. First, we found that the guidelines regarding informing children focus mainly on the content of the child protection process. The need to inform children about their right to participate and the participation process are not specifically described in policy guidelines. Regarding children’s rights, informing them about their right to grow up free from all forms of violence is not explicitly included in Dutch child protection policy. The CRC (2009), Gezondheidsraad (2011), as well as research (Pöllki et al., 2012) state that providing information to children about this right is needed, since many of them seem to consider maltreatment as ‘accepted practice’; psychoeducation is therefore seen as helping to place maltreatment in the right perspective and remove feelings of guilt and self-blame.

Second, regarding hearing children, the importance of gathering the perspective of the child is emphasized in Dutch child protection policy documentation. This is in line with research that shows the important information children can provide when they have the opportunity to express their views (Križ & Roundtree-Swain, 2017; Pöllki et al., 2012; Van Bijleveeld et al., 2014). However, there are no clear guidelines about how children should be heard, despite uncertainty professionals can experience regarding talking with children (Dillon et al., 2016).

Third, when it comes to the active involvement of children, article 12 of the UNCRC states that their views should be considered in decision-making. However, research shows that the experience of children is that their views are often not taken into account; they feel that they have only limited influence on important decisions (Bell, 2002; Cashmore, 2002; Leeson, 2007; Ten Brummelaar et al., 2018; Van Bijleveeld et al., 2015). Although hearing the child’s viewpoint before decisions are made is covered in Dutch child protection policy documentation, there are no clear guidelines as to how children’s views should be really included in the decision-making process. For instance, only the RvdK describes the need to inform children about how their perspectives are given weight in the decision-making process, which is described by the CRC (2009) as an important...
tool for ensuring that children’s views are really taken into account. Honesty and transparency about how their views are considered in decision-making is very important for children (Cossar et al., 2014; Pöllki et al., 2012; Van Bijleveld et al., 2014).

Fourth, according to children, building a trust relationship during the participation process is an essential element of good care (Bell, 2002; Cossar et al., 2014; Dillon et al., 2016; Pöllki et al., 2012). However, in none of the policy documents is the building of a trust relationship with children mentioned.

2.4.1 Strengths and limitations

This study provides in-depth information into how children’s participation is embedded in Dutch child protection policy in light of the changes recently enacted. By analysing policy documents using a framework based on children’s participatory rights, this paper improves the understanding of the strong elements as well as the shortcomings in Dutch child protection policy in terms of the embedding of the various dimensions of meaningful participation. The conclusions of this critical analysis of policy documents and the framework of meaningful participation presented may provide a basis for (analysing) the embedding of children’s participation in child protection systems of other countries.

A limitation of our study is that we did not analyse policy documents at the municipal level; it could be that child protection policy at a municipal level is more specific about involving children. However, clear guidelines on the national level are needed to ensure minimum standards at the national level, in order to assure children's participatory rights. Furthermore, the specific child protection agencies (such as the AMHK and RvdK) have a national, overall protocol applicable to all departments. Finally, the Dutch Guidelines ‘Child Maltreatment’ and ‘Shared decision-making with parents and children about care’, which provide more in-depth information about involving parents and children in child protection, are not included in this study, because these guidelines are not obligatory policy for agencies. It is unclear whether these guidelines are known and used by Dutch child protection agencies. Future research analysing these guidelines by using the model of meaningful participation, analysing the implementation of these guidelines in Dutch child protection policy, and investigating the use of these guidelines in child protection practice could be of added value for the Dutch CPS.
2.4.2 Recommendations

Research. Although we found that the policy documents do not pay specific attention to participation of groups of children who often experience more difficulties to participate, we did not focus on these groups of children specifically. Further research on participation of specific groups (such as young children, migrant children and children with disabilities) is needed to improve the possibilities for them to participate in the CPS. Furthermore, information about how children’s participation is embedded in Dutch child protection policy documentation does not mean that we know how children really participate in the practice of child protection. Research shows that, in addition to the importance of clear guidelines in policy documents, other issues are a challenge to the implementation of children’s participation in child protection, such as the concept of ‘childhood’ that professionals have, the lack of skills for communicating with (young) children, and conflicting interests experienced by professionals (Archard & Skivenes, 2009; Dillon et al., 2016; Heimer & Palme, 2016; Van Bijleveld et al., 2014, 2015). Therefore, information about how children are actually involved in child protection practice is needed, as well as knowledge about the experiences of professionals, professionals’ implicit concepts of childhood, and the challenges professionals face when involving children. Finally, collecting the experiences of children about their participation in child protection practice is essential to better understand their needs.

Practice. As stated before, embedding participation of children in policy is an important first building block for meaningful participation in child protection practice. This analysis of the key policy documents has provided insight into ways Dutch child protection policy could potentially be improved. First, policymakers could use our model based on an analysis of children’s participatory right and on scientific research as a basis for improving the embedding of children’s participation in the Dutch child protection system; it could serve as a tool to designate more concrete guidelines, in line with children’s rights and issues children consider important. Second, this article provides insight, based on this framework, into those aspects of meaningful participation that are missing in the Dutch policy framework and so require further attention. Third, there are many agencies involved in the various phases of child protection; while participation should be seen as an ongoing
process, more explicit and overall guidelines on involving children in the different phases of this overall process could prove of added value.

2.4.3 Conclusion

The importance of children’s participation in child protection is underlined by policy documents, children’s rights, as well as by scientific research. Participation of children should be seen as a prerequisite for the protection of children, according to the CRC (2009). The Dutch child protection policy framework allots an important place to the issue of children’s participation. However, not all dimensions of meaningful participation are included, and there are no clear guidelines given on how to engage children. In addition to this, many policy documents encompass the first phases of the chain of child protection: identifying, reporting, and investigating child maltreatment. A clear, inclusive, and uniform policy, however, seems to be lacking. Embedding meaningful participation in child protection policy documents is needed to do justice to children’s participatory right and to improve the responses to child abuse and neglect.
### 2.5 Appendix

Table 1.

*Overview of child protection policy concerning participation of children in the various phases of the chain of child protection*

<table>
<thead>
<tr>
<th>Identifying</th>
<th>Informing</th>
<th>Hearing</th>
<th>Influence</th>
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<tbody>
<tr>
<td><strong>Basic model</strong> Reporting Code</td>
<td>- “Contact the client as soon as possible (or the parents) to communicate the signals…”</td>
<td>- “…and invite the client to react on this…”</td>
<td>- “…and only after this reaction arriving at an interpretation.”</td>
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<tr>
<td>&quot;Client&quot;: could be the child, but often refers to the client and/or the parents.</td>
<td>- Openness is an important principle in contact with the client.</td>
<td>- Importance of speaking with children individually, so that children can express themselves freely.</td>
<td></td>
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<tr>
<td></td>
<td>- The professionals should explain the aim of discussing concerns and signals (facts and observations).</td>
<td></td>
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<tr>
<td></td>
<td>- Inform client (and/or parents) beforehand about the report, including what this report means for the client and the aim of the report.</td>
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<table>
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<tr>
<th>Investigating</th>
<th>AMHK Protocol</th>
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<tr>
<td>- Notify children and parents in a conversation, by phone, or by sending a letter.</td>
<td>- In the first phase of the investigation, the AMHK talks with the family members to gather information about: 1) the history, nature, extent, and seriousness of the violence; 2) the</td>
<td>- The opinion of people directly involved regarding the report and the violence should be included in the investigation (report).</td>
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<tr>
<td>- Always be open and transparent about methods, judgments, and decisions.</td>
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More in general, the terminology “people directly involved” is used. This seems to refer to all family members. Some parts of the protocol focus specifically on children and use the term “children.”

- The AMHK will inform the family about the identity of the reporter, unless anonymity is guaranteed to the reporter.
- Starting point is that people directly involved are informed, before the investigation starts, that a report has been made and about the content of that report, the role of the AMHK, its methods, the action plan, the next steps, and the execution of the investigation.
- Only in exceptional cases, when this is necessary for (assessing) the safety of one of the people involved, can an investigation be started without informing the family.
- When this is acceptable on safety grounds, the people directly involved will be informed beforehand about requesting information from and sharing information with other professionals and institutions, and they will be asked for their reaction.
- Notification about the right to have information on the case file.
- Inform about the right to have the case file destroyed, should the report of child maltreatment be refuted.
- When the AMHK immediately refers a case, the AMHK can contact the agency without informing the family and ask this agency to inform the people directly involved about the content of the report and the involvement of the AMHK.

perception of lack of safety; 3) risk and protective factors; and 4) conditions for recovery and safety.
- In principle, the AMHK talks with all children in the family.
- Children should at least be seen.
- Children have to be spoken with when they are six years or older.
- They have the right to have an individual meeting.
- Children of 12 years of age and older have the right to participate in meetings with their parents or caregivers and the social network of the family, in which plans and agreements are made regarding the safety and recovering of the developmental changes of the child.
- Conversations with children should be conducted by professionals educated or trained for this, and, if necessary, by a behavioural scientist.
- In addition, specialized diagnostic investigations can be conducted to assess whether child maltreatment is the case, the consequences for the child, and the type of support needed.
- In exceptional cases, the choice can be made not to talk with the child.

- No judgments or opinion about family members who have not been in contact with the AMHK.
- Making a safety plan should take place as much as possible together with the people directly involved.
**RvdK Policy**

Mainly mentioning "children and parents." In some parts, specific focus on only children.

- The RvdK should be transparent and verifiable to ensure judicial equality and certainty: Each citizen should receive the same treatment for the same type of problem and each citizen has the right to know what to expect from the involvement of the RvdK.

- Informing parents and children as a prerequisite for cooperation: Only when they know the rules, can they play an active role.

- Children should receive information before talking with them.

- When an agency wants to discuss a case with the RvdK to seek advice, this agency have to inform children of 12 years of age and older about this.

- Explanation about the involvement of the RvdK and the methods of the RvdK (what the RvdK will do, how, and what they expect from parents in this regard by discussing the investigation plan).

- Discussing the norms of the RvdK regarding societal norms and safety.

- The judgments should be concrete and insightful in order to reach a justified decision that can be communicated in a good way.

- Inform parents and children during the investigation about the progress of the investigation.

- Children have the right to be heard in all decisions concerning them.

- The RvdK should provide families with the opportunity to express their views.

- There should always be a meeting with children.

- If the child cannot be spoken to because of the age or the developmental level, the child should at least be seen.

- When it is not possible to see or speak to the child, this should be explained in the investigation report.

- In the contact with the parents and children, the RvdK should take their wishes and goals into account.

- Children should have the opportunity not only to express their views about the problems but also about their strengths and ideas for solutions.

- After talking to children, their information should be given weight and their views should be considered in the decision-making process.

- Children should not only be involved to provide information to the RvdK but are also co-responsible for the solution: They should play an active role in the child protection investigation.

- Children have (depending on their age) the opportunity to react to the concept of the investigation report.

- These children have the opportunity to react to this concept; based on their reactions, factual errors should be changed or deleted. The final report will describe how the reaction of the children has led to changes, and their reaction will be attached.

- It should be motivated if and how this reaction led to changes in the report.
- The RvdK aims that parents and children know what the RvdK does and why.
- Parents and children should always be informed about the decisions made: The investigation ends with a meeting, in which children and parents are informed about the decisions made (the child protection measure requested and its consequences), except when this is not in the best interests of the child or the investigation.
- Children should be informed about how their opinion is weighted in the decision-making process.
- Children of 16 years of age and older receive the concept of the investigation report.
- Children between 12 and 16 years of age receive their own part of this report.
- Children receive, depending on their age, the final version of this report.

### Investigating > intervening

**Juvenile Court Policy**

- The requester should specify if and how the content of the request was discussed with the minor (of 12 years of age and older) and what the minor’s reaction was.
- All people concerned receive the request.
- However, regarding the supervision order and out-of-home placements, children do not receive

- All people concerned can, together with a lawyer, submit a written defence prior to the court hearing.
- During the hearing, a verbal defence can be mounted.
- The minor (of 12 years of age and older) should be invited at least twice to appear before the Juvenile Court before
- Juvenile Court is not allowed to make a decision when the minors (of 12 years of age and older) have not had the opportunity to express their views.
- The Juvenile Court summarizes the statements of the minor during the court hearing.

"All people concerned" includes, among others, minors of 12 years of age and older.
the attachments (such as the investigation report of the RvdK).
- When the minor requests the attachments, the Juvenile Court can decide to send these, especially when the minor is 16 years of age or older.
- All people concerned will be invited to the court hearing.
- After the court hearing, all people concerned should be informed about the decision.

- It can decide that the minor will not be heard.
- Children younger than 12 years of age can be invited to a hearing; however, this is not obligatory.
- Regarding ending parental authority: minors (of 12 years of age and older) should have the opportunity to express their view, even when parties have already agreed.
- Regarding ending parental authority, minors are always heard individually.
- Only in exceptional, dangerous cases can the Juvenile Court make a decision without hearing the minor (of 12 years of age and older).
- The Juvenile Court should decide on an appropriate method for hearing the child.

**Intervening**

**Framework of Standards for Certified Agencies**

- The organization must communicate effectively with the child and the family.
- At least, the child and the family must be informed about: their rights and obligations, the support agreed upon and the continuity of this in the Action Plan, the status of the Action Plan, the ways the child and the family can provide feedback to the organization and how they can...
influence the policy of the organization, and problems that arise in their case.

### Policy applicable to all steps in the chain of child protection

**Youth Act 2015**

- Obligation to inform parents and children.
- The family has the right to obtain information about the in (procedural) documents regarding child protection measures; no relevant information can be withheld.
- *Parents* should be informed about the decision and the reasoning behind it regarding child protection measures. The initiative for providing information should come from the agency.

**Mainly focusing on “families” or “parents and children.”**

- Talk with parents and children.
- *In conversation with parents and children,* the needs, personal situation, and the best ways of using their own strengths will be assessed.
- “The procedure regarding child protection measures should provide the opportunity for *parents* to express their opinions and views…"

- Actively involve parents and children in gathering information on the choices for support, taking their questions and wishes into account.
- More influence over the quality of care that is offered them.
- ….and that authorities take these into account.”

- Parents and children should be sufficiently, and from the very beginning, involved in the decision-making process regarding child protection measures.

- A guardian should make a safety plan in cooperation with parents and children in order to link the plan to the needs and potential of the children and their context.
- Children should have influence and direction over their own lives.
Chapter 3
Participation of children in child protection investigations: Views and experiences of Dutch professionals