



## Who Should the Child Should Live With? A Student Decision-Making Study Between Brazil and England

**Com Quem a Criança Deve Morar? Estudo de Tomada de Decisão Estudantil entre Brasil e Inglaterra**

**¿Con Quién Debe Vivir el Niño? Estudio de Toma de Decisiones Estudiantiles entre Brasil e Inglaterra**

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### Abstract

This study aimed to investigate the awareness of undergraduate students regarding the best interests principle of children and adolescents, and how they consider it in cases of custody disputes following conjugal separation. The research employed a quantitative approach with an experimental design based on vignettes. A total of 530 undergraduate students from Law, Psychology, and Social Work programs in Brazil and England were recruited. The results revealed that most students have little knowledge or have never heard of the best interests of the child/adolescent during their academic training. The students tended to maintain the current custody arrangement when dealing with the contextual needs of the child (e.g., mental health, emotional bonds). They changed their decision-making style when dealing with material-physiological needs (e.g., food, housing). This article discusses the implications of these decision-making patterns, as well as the lack of literacy on the best interests of the child/adolescent in the training of these undergraduate students.

**Keywords:** child custody, child custody decision-making, divorce, uncertainty.

### Resumo

Este estudo teve como objetivo investigar o quão conscientes estão os estudantes universitários em relação ao princípio dos melhores interesses da criança/adolescente e como eles o consideram em casos de disputa de guarda após a separação conjugal. Por meio de uma abordagem quantitativa com um desenho experimental baseado em vinhetas, recrutamos 530 estudantes dos cursos de Direito, Psicologia e Serviço Social no Brasil e na Inglaterra. Os resultados revelaram que a maioria dos estudantes tem pouco conhecimento ou nunca ouviu falar sobre os melhores interesses da criança/adolescente durante sua formação acadêmica. Os estudantes tenderam a manter o arranjo de guarda atual ao lidar com as necessidades contextuais da criança (e.g., saúde mental, laços afetivos). Eles alteraram seu estilo de tomada de decisão ao lidar com necessidades materiais-fisiológicas (e.g., alimentação, moradia). Este artigo discute as implicações desses padrões de tomada de decisão, bem como a falta de literacia sobre os melhores interesses da criança/adolescente na formação desses estudantes universitários.

**Palavras-chave:** custódia da criança, tomada de decisão sobre a custódia, divórcio, incerteza.

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## Resumen

Este estudio tuvo como objetivo investigar la conciencia de los estudiantes universitarios sobre el principio del interés superior del niño y del adolescente, y cómo lo consideran en casos de disputas de custodia después de una separación conyugal. La investigación empleó un enfoque cuantitativo con un diseño experimental basado en viñetas. Se reclutaron un total de 530 estudiantes de cursos de pregrado en derecho, psicología y trabajo social en Brasil e Inglaterra. Los resultados revelaron que la mayoría de los estudiantes tienen poco conocimiento o nunca han oído hablar del interés superior del niño/adolescente durante su formación académica. Los estudiantes tendieron a mantener el arreglo de custodia actual al tratar las necesidades contextuales del niño (por ejemplo, salud mental, vínculos emocionales). Cambiaron su estilo de toma de decisiones al tratar las necesidades materiales y fisiológicas (por ejemplo, comida, vivienda). Este artículo discute las implicaciones de estos patrones de toma de decisiones, así como la falta de alfabetización sobre el interés superior del niño/adolescente en la formación de estos estudiantes universitarios.

*Palabras clave:* custodia del niño, toma de decisiones sobre la custodia de los hijos, divorcio, incertidumbre.

A decision is a reaction to a situation and it is composed of three essential elements (Hastie & Dawes, 2001): 1) there will always be more than one option available to choose; 2) the person who is going to make a decision can have expectations about the future outcomes of each option available; and 3) there will be consequences for each choice related to the possible outcomes – this is related to the decision maker's values and their current goals.

Making a decision is a cognitive process within which one must decide the course of action from several options (Schneider & Parente, 2006). It tends to be a complex process, especially in real-life situations. Thus, ideally, one should be aware of the flexibility, characteristics, and consequences of the decision's present and future contexts (Palmini, 2004). This task seems even more challenging in child custody cases <sup>1</sup>, as multiple contexts and legal issues can constrain the decision-making process.

In a reflexive thematic analysis involving 73 legal actors (judges, prosecutors, lawyers, psychologists, social workers) from Brazil and England, Mendes and Ormerod (2023) identified three domains of contextual factors that can impact the decision-making process in child custody cases after parental separation: a) family (issues related to family developmental and affective-relational struggles after divorce); b) family court (encompassing organisational aspects of the judicial process such as staffing levels, workload, training, and legislation); and c) psycho-legal (entailing issues associated with the evaluation process conducted by psychosocial and legal personnel). The ways in which these factors can impact decision-making involve prompting uncertainty in the process. On top of that, decision-makers can face a lot of options concerning residence and contacts/access between children and their parents, for example. All options can lead to different outcomes and expectations, according to each family and child.

Another factor that plays an important role in child custody decision-making is addressing the ‘best interests of the child’ (BIC), which is considered an important legal principle to weigh situations concerning children’s welfare in private and public law cases as well as in medical environments (Mendes & Ormerod, 2019; 2021). Despite being considered a standard for decision-making involving children, some legal and psychosocial professionals perceive BIC as an ethereal, complex, and vague construct that is hard to put into practice (Sund & Vackermo, 2015). Some psychologists working in child custody cases even think that BIC does not relate to their work at all (Mendes & Ormerod, 2023).

In a narrative-systematic review addressing the best interests of the child, Mendes and Ormerod (2019) found that, in general, the literature tends to associate the best interests of the child with children’s developmental needs and rights; hence, it is a psychosocial construct. Mendes and Ormerod (2019) also identified two domains of needs/rights that encompass the child’s best interests: a) contextual (i.e., needs and rights related to the child’s emotional bonds, identity, self-esteem, mental health, sense of continuity and perception of safety); and b) material-physiological (i.e., needs and rights related to nourishment, housing, clothing, health care).

Legal professionals tend to lack proper training regarding issues related to child development, family dynamics, and other psychosocial factors that can impact their practice, hindering the decision-making process (Applegate et al., 2009; Burke, 2005; Mendes & Ormerod, 2023). Given that the child’s best interests are intrinsically related to their development, this lack of training is concerning, and these issues should be properly addressed during undergraduate training of psychosocial and legal professionals.

Assuming that undergraduate law, psychology and social work students will be professionals working in child custody and child protection decision-making, Carvalho et al. (2020), Delgado et al. (2016) and Martins et al. (2015) argue that it is important to research these students’ decision-making process regarding child custody, whether in public or private law cases. In addition, we believe that researching these students’ literacy and proficiency regarding the best interests of the child principle is also pivotal for an efficient decision-making process in child custody cases. Taking this into account, this paper presents results regarding a child custody decision-making task with psychology, law, and social work undergraduate students from Brazil and England. The study aimed to understand the kind and extent of knowledge students had regarding ‘the best interests of the child’ and how they considered material-physiological and contextual needs in their decision-making process.

## Method

This study presents results from a comprehensive mixed-methods research project derived from a PhD thesis, funded by the *Coordenação de Aperfeiçoamento de Pessoal de Nível Superior* (CAPES) in Brazil. The foundation for a transcultural approach between Brazil and England was grounded in both the expertise of the British university hosting this study and the strategic interests of the funder. We capitalized on this transcultural feature to explore potential cultural variances concerning child custody cases, legislations, and legal systems between Brazil and England, as previously documented by Mendes and Ormerod (2021).

The research project examined the child custody decision-making process in Brazil and England under a Naturalistic Decision-making Approach (NDM). NDM focuses on the steps and the processes through which experts make decisions in contexts surrounded by uncertainty (Lipshitz, 1993; Lipshitz & Strauss, 1997; Orasanu & Connolly, 1993). The project's rationale was that legal and cultural differences between Brazil and England would influence the child custody decision-making process, introducing elements of uncertainty.

This study adopted the conceptual framework proposed by Mendes and Ormerod (2019), which understands the 'best interests of the child' (BIC) as biopsychosocial developmental needs that can be divided into two domains: 'contextual' and 'material-physiological'. Considering this framework, the study formulated the following hypotheses: 1) the type of need (material-physiological, contextual) is associated with the decision-making outcome (i.e., who will be awarded the child custody); 2) interactions between types of need are associated with the decision outcome; 3) participants' field (law, psychology, social work) is associated with the decision outcome; and 4) participants' nationality (Brazilian and English) is associated with the decision outcome.

## Design

This study employed a quantitative approach with an experimental design. In alignment with the 'contextual' and 'material-physiological' needs framework proposed by Mendes and Ormerod (2019), this study's design incorporated 12 vignettes addressing children's needs. Among these, 4 vignettes focused on contextual factors, 4 vignettes on material-physiological factors, and 4 vignettes on a combination of contextual and material-physiological factors, as illustrated in Table 1:

**Table 1***Vignette Design Based on Mendes and Ormerod's (2019) Work*

Domain/Factors		
<i>Contextual</i>	<i>Material-physiological</i>	<i>Both</i>
C1(child's mental health)	MP1 (child's nourishment)	C1 + MP1
C2 (child's identity)	MP2 (housing issues)	C2 + MP2
C3 (child's affectional bonds)	MP3 (child's physical integrity)	C3 + MP3
C4 (child's cultural/religious beliefs)	MP4 (child's clothing)	C4 + MP4

Vignettes serve as a valuable research tool within legal contexts, mirroring the reality and judgments encountered by psychosocial and legal professionals in their practice (Ganong & Coleman, 2006; Taylor, 2005). Furthermore, in line with this study, vignette surveys favour “researcher control over the levels of the dimensions, it allows researchers to examine the contextual influences of several dimensions” (Ganong & Coleman, 2006, p. 456).

Drawing from the literature on decision-making processes in naturalistic settings (Beach & Lipshitz, 1993; Lipshitz, 1993a; 1993b; Lipshitz et al., 2001; Lipshitz & Strauss, 1997; Mendes & Ormerod, 2023), the design of the vignettes in this study considered uncertainty as a common feature in child custody decision-making. This uncertainty is depicted through incomplete, ill-structured, and conflicting information. The vignettes deliberately omitted detailed information about the case or the parents' gender, presenting the parents in an adversarial manner with allegations and counter-allegations. The content of each vignette is available in [Supplemental Material 01](#).

### **Participants, Procedures, and Instruments**

Five hundred and thirty undergraduate students from law, psychology, and social work programs in Brazil and England were recruited online through invitations posted on their universities' Facebook groups. Of the participants, 59% were from Brazil, 85.5% identified as female, 61% were from the field of psychology, 24% were from law, and 15% were from social work. The inclusion of students from these fields was strategic as they represent professions directly impacted by the survey's content and are potential professionals who will handle child custody cases in the future. The selection of universities had no specific criteria other than

offering undergraduate courses in law, psychology, and social work, and having a student group on Facebook. The average age of the participants was 19.4 years old ( $SD = 11.1$ ).

An online platform, Qualtrics, hosted the survey. After reading the information sheet, participants consented to participate in the study, which was approved by the University of Sussex under Certificate of Approval ER/JA454/2. Participants provided demographic information and then answered questions regarding their knowledge of BIC, before receiving study instructions – the survey’s content is available in [Supplemental Material 02](#). Each participant was randomly assigned three vignettes, one per each domain outlined in Table 1. Participants read the vignettes, and then made a decision regarding the custody: a) sole physical custody to Parent A (non-custodial parent); b) sole physical custody to Parent B (custodial parent); c) joint custody; d) custody to a relative (siblings, aunt/uncle, grandparents, etc.); or e) other (they had to justify this choice). Subsequently, participants selected factors they considered relevant to understand the case from a list provided in Table 2 (group information was not disclosed to participants).

**Table 2**  
*Decision-Making Factors by Group*

Group	Factors
<i>Psychosocio-emotional Needs</i>	Child’s wishes and feelings
	Child’s social network
	Child’s psycho-emotional bonds
	Preserving the child’s routine
<i>Basic Needs and Rights</i>	Financial issues
	Child’s nourishment
	Housing issues
	Child’s health
	Child’s clothing
<i>Family Reality</i>	Level of coparental conflict
	The mother’s “natural right” to have the custody
	Parents’ gender
	Signs of “parental alienation”
<i>Coparenting Issues</i>	Past events (e.g., marital disinterest, child neglect, leaving home, infidelity, etc.)
	Cooperation between parents

## Data Analysis

All responses were exported to an SPSS file. Incomplete or inconsistent cases were excluded from the database – e.g., some students just gave incomplete answers, such as marking ‘other’ for whom they would award the custody, and then typed ‘blah, blah, blah’ to justify their choice of ‘other’. All valid cases were then analysed via descriptive and inferential statistics (chi-square test of independence).

## Results

As Table 3 shows, 63% of participants had not heard about BIC before the survey. 81% had never had any academic experience (e.g., lecture, practical, seminar, workshop, symposia) that included a reference to BIC.

**Table 3**

*Participants’ Acknowledgement of the Best Interests of the Child (BIC)*

Country	Field	<i>Have you ever heard about BIC?</i>		TOTAL
		YES	NO	
Brazil	Law	28	28	56
	Psychology	67	142	209
	Social Work	11	35	46
England	Law	32	40	72
	Psychology	34	78	112
	Social Work	26	9	35
TOTAL		198	332	530
Country	Field	<i>Academic activity that referred to BIC?</i>		TOTAL
		YES	NO	
Brazil	Law	22	34	56
	Psychology	33	176	209
	Social Work	3	43	46
England	Law	15	57	72
	Psychology	8	104	112
	Social Work	18	17	35
TOTAL		99	431	530

Regarding factors that participants deemed as important for making their decisions, they tended to equally prioritise ‘psychosocio-emotional’ and ‘basic needs and rights’ factors in contextual vignettes. The option ‘Basic needs and rights’ was selected five times more often than ‘psychosocio-emotional’ factors for material-physiological vignettes, as well as combined contextual and material-physiological vignettes. Of all the vignettes, ‘Family Reality’ was chosen the least.

### **Contextual Needs and Decision-making**

For vignettes ‘C1(child’s mental health)’<sup>2</sup>, ‘C2 (child’s identity)’<sup>3</sup> and ‘C3 (child’s affectional bonds)’<sup>4</sup>, around 45% (English = EN) to 60% (Brazilian = BR) of participants awarded joint custody – the other custody options were evenly distributed in both countries. In the vignette ‘C4 (child’s cultural/religious beliefs)’, most participants also opted for joint custody. However, in England, this custody arrangement was awarded by 72% of them and by 53% in Brazil.<sup>5</sup> The chi-square of independence indicated a medium association between ‘country’ and ‘custody choice’ ( $\chi^2(4, N = 138) = 12.190, p < 0.016; V = 0.31$ ; Cohen, 1988) – please, check Table 5 in [Supplemental Material 03](#) for further exploration. For contextual vignettes, the child’s physical health and psychosocio-emotional bonds were dominant when weighing the decisions.

A significant and moderate association was found between all contextual vignettes and the decision made ( $\chi^2(12, N = 530) = 127.723, p < 0.001, V = 0.283$ ; Cohen, 1988). Awarding joint custody or sole physical custody to a relative was more associated with the child’s mental health needs (vignette C1), whereas choosing ‘other’ was more associated with the child’s identity (vignette C2).

### **Material-physiological Needs and Decision-making**

For the vignette ‘MP1 (child’s nourishment)’, most English students (37%) awarded custody to parent A (non-custodial) whereas most Brazilian students awarded joint custody (54%)<sup>6</sup>; there was a medium association between country and decision made ( $\chi^2(4, N = 127) = 15.061, p < 0.005; V = 0.34$ ; Cohen, 1988) – please, refer to Table 6 on [Supplemental Material 03](#) for further exploration. In the vignette ‘MP2 (housing issues)’, between 55% (BR) and 64% (EN) of participants from both countries awarded joint custody.<sup>7</sup> However, Brazilian students (35%) awarded custody to parent B (custodial) more than English students did (8.6%) –

indicating a medium association between country and decision made ( $\chi^2(4, N = 134) = 19.260$ ,  $p < 0.001$ ;  $V = 0.38$ ; Cohen, 1988). In the vignette ‘MP3 (child’s physical integrity)’, around 53% (EN) to 60% (BR) of participants from both countries awarded custody to a relative – the other custody options were evenly distributed in both countries.<sup>8</sup> For the vignette ‘MP4 (child’s clothing)’, around 58% of participants from both countries awarded joint custody – the other custody options were evenly distributed in both countries.<sup>9</sup> As observed, in general, participants either decided to change the current custodial arrangement (by swapping custody or awarding it to a relative) or to award joint custody. Important factors in this decision-making were the child’s health and nourishment.

There was a strong, significant association between all material-physiological vignettes and the decision made –  $\chi^2(12, N = 529) = 265.045$ ,  $p < 0.001$ ,  $V = 0.40$  (Cohen, 1988). Awarding custody to parent A (non-custodial parent) was more associated with the child’s nourishment (vignette MP1). In contrast, awarding custody to parent B (custodial parent) was more associated with housing issues (vignette MP2). Additionally, there was an association between awarding joint custody and the child’s clothing (vignette MP4) as well as housing issues (vignette MP2). Another association was between awarding custody to a relative or choosing ‘other’ and the child’s physical integrity (vignette MP3). A significant association was observed between the participants’ country and the decision made,  $\chi^2(4, N = 529) = 13.286$ ,  $p < 0.01$ , a weak relationship ( $V = 0.158$ ; Cohen, 1988). Both countries were associated with awarding custody to the current custodial parent.

### **Contextual + Material-physiological Needs and Decision-making**

For vignette ‘C1 + MP1’, around 33% (EN) to 53% (BR) of participants from both countries awarded custody to parent A (non-custodial) – the other custody options were evenly distributed in both countries.<sup>10</sup> In vignette ‘C2 + MP2’, around 64% (EN) to 71% (BR) of participants awarded joint custody – the other custody options were evenly distributed in both countries.<sup>11</sup> In vignette ‘C3 + MP3’, around 33% (EN) to 41% (BR) of participants awarded custody to a relative – the other custody options were evenly distributed in both countries.<sup>12</sup> For vignette ‘C4 + MP4’, around 45% (BR) to 52% (EN) of participants awarded joint custody – the other custody options were evenly distributed in both countries.<sup>13</sup> Among the factors considered, the child’s health and nourishment were predominant.

A strong and significant association was found between material-physiological + contextual vignettes and the decision made –  $\chi^2(12, N = 522) = 232.345$ ,  $p < 0,001$ ,  $V = 0.38$

(Cohen, 1988) – please, check Table 7 [on Supplemental Material 03](#) for further exploration. There was an association between awarding custody to parent A (non-custodial) and the combination of the child's mental health and nourishment (vignette C1 + MP1). Another association was between awarding custody to parent B, and the combination of the child's cultural/religious beliefs and their clothing (vignette C4 + MP4). There was also an association between awarding joint custody, and the child's identity and housing issues (vignette C2 + MP2). The last association was between awarding custody to a relative and the child's affectional bonds and physical integrity (vignette C3 + MP3). A significant association was found between the participant's field and the decision made as there was an association between psychology and social work students, and awarding custody to a relative –  $\chi^2(8, N = 522) = 17.639, p < 0.024$ , a weak relationship ( $V = 0.13$ ; Cohen, 1988).

## Discussion

The child's needs presented in the vignettes significantly influenced the participants' decision-making. For vignettes featuring contextual needs, the most common decision was to maintain the custody with the current custodial parent (parent B). When confronted with contextual needs, participants adopted a more conservative approach, opting to preserve the existing custodial arrangement unless they perceived signs of harm, risk, or vulnerability concerning the child. Participants showed a tendency to avoid courses of action that would leave them uncertain about positive or favourable outcomes. We understand this predisposition to maintain the *status quo* may be attributed to perceiving that potential disadvantages outweigh advantages – a bias reminiscent of loss aversion (Kahneman et al., 1991; Samuelson & Zeckhauser, 1988).

In a parallel study addressing public law cases and involving students from Social Work and Psychology, Carvalho et al. (2020) discovered that undergraduate students, when compared to professionals, tended to avoid making decisions leading to drastic changes, such as removing a child from their family. In a study conducted by Mendes and Ormerod (2021) on the child custody decision-making process, involving 45 legal actors (judges, prosecutors, lawyers, psychologists, and social workers) from Brazil and England using a decision-making experiment, it was found that, in private law cases, professionals also tended to refrain from making drastic changes in custodial arrangements. Similar to the students in this study, the majority (77%) opted to maintain the current situation and facilitate contacts between the child and the non-custodial/non-residential parent. These distinctions might indicate crucial

differences between private and public law custodial cases, warranting further exploration in future studies.

We posit that the inclination towards conservative decision-making may arise among both experts and non-specialists due to incomplete and contradictory information, reflecting the uncertainty inherent in real-life child custody cases (Mendes & Ormerod, 2023). Consequently, it could be argued that participants did not feel secure enough to alter the existing custodial arrangement. This perspective is reinforced by some written comments accompanying the ‘other’ choice: “the child [should] remain where they are and continue the routine while additional health checks and feelings and wishes of the child are ascertained” (English participant no. 18, vignette C1); “until we can listen to the child and also have further information regarding the depression symptoms and its causes, I cannot make a decision” (Brazilian participant no. 03, vignette C1).

Conversely, in vignettes addressing material-physiological needs, participants predominantly awarded custody to either the non-custodial parent (parent A) or to a relative. This observed pattern is likely attributable to the quality and quantity of information presented in these vignettes. Material-physiological concerns apparently were impactful enough to prompt participants to consider changing the existing custodial arrangements. For instance, one participant advocated for “remov[ing] the child from the situation, [as] neither parent is taking responsibility and it is an unsafe situation. Move [the child] to foster care/relatives until both parties improve” (English participant n° 19, vignette MP1); and another argued, “one should award a provisory custody to a child’s relative to safeguarding the child’s best interests” (Brazilian participant n° 24, vignette MP1).

These examples illustrate two distinct decision-making patterns: a conservative approach triggered by concerns about decisions that would lead to major changes that could affect the child’s welfare; and an active approach triggered by concerns about the child’s welfare. These patterns might reflect a ‘pseudocertainty effect’: avoiding risky choices when the outcome of inaction might be positive, but accepting risks when the outcome of inaction might be negative (Liu et al., 2014).

The combination of contextual and material-physiological needs also impacted decision-making. For instance, half of the decisions for these vignettes awarded joint custody. This suggests that the larger the number of needs involved, the higher the case’s uncertainty (and therefore, complexity). By awarding joint custody, participants seemed to reach a midpoint in which they were neither completely maintaining the custodial arrangement nor drastically changing it. For instance, some said they “would try joint custody. However, if

abuse allegations are proven, [the responsible parent] would lose custody” (Brazilian participant nº 111, vignette C3 + MP3); others said they would award “joint custody but I need to listen to the child first” (Brazilian participant nº 217, vignette C4 + MP4).

We understand these decision patterns are constrained by two typical factors: the level of uncertainty and decision makers’ high stakes. Uncertainty is a common trait in such decisions and it is prompted by context factors that can blur the perception of the problem or its possible solutions (Lipshitz, 1993; Lipshitz & Strauss, 1997; Mendes & Ormerod, 2023). High stakes refer to how important the decision and its consequences are to the decision-maker (Orasanu & Connolly, 1993). Legal cases that involve children are very important to decision-makers (either students or professionals), especially when cases involve possible risks, harm and/or vulnerability concerning the child. In child custody cases, one of the biggest stakes is BIC.

Concerning factors that participants deemed important for decision-making, the unexpected dominance of ‘basic needs and rights’ compared to ‘family reality’ was noted. The literature recommends a balance between the child’s basic needs/rights and psychosocio-emotional needs, and it suggests that family issues should be considered during a BIC decision-making process (Mendes & Ormerod, 2019). Perhaps undergraduate students are unaware of this due to a lack of knowledge regarding BIC. This suggests that the deficiency in proper literacy and awareness of BIC can significantly impact the training of these students, limiting their ability to make more effective decisions. This is concerning, as Frankel et al. (2015) argue that involving students (future professionals in child custody and child protection systems) in academic activities addressing BIC can enhance children’s participation at all societal levels, thereby upholding this paramountcy principle. This participation and safeguarding depend significantly on how these future professionals perceive and understand children, particularly whether they recognize children as subjects of rights (Mendes & Ormerod, 2019; 2021; 2023). Consequently, their engagement in academic activities addressing BIC can facilitate a pro-BIC approach. Based on this reasoning, both countries should affirm their legislations on BIC by making this principle central to the training of future professionals who may potentially work within these systems. Furthermore, such endorsement could solidify the status of children as subjects of rights by promoting awareness of BIC and its relevance to children’s protection and welfare within and beyond the Justice System.

## **The Main Difference Between Brazil and England**

Whenever dealing with vignettes addressing contextual and material-physiological, Brazilian participants tended to favour joint custody, regardless of the specific need or context. This was expected as the Brazilian law states that joint custody should be the prime custodial arrangement to be awarded in all cases but especially when parents cannot agree upon the child custody arrangements (Mendes & Ormerod, 2021). However, it is crucial to note that there is no robust evidence supporting joint custody as the default custodial arrangement for all cases, regardless of the child's or the family's idiosyncrasies and needs (Mendes & Ormerod, 2019; 2023). In fact, some authors argue that joint custody can pose risks for mothers and children in the context of domestic violence (Ribeiro, 2018; Thurler, 2019).

Setting a default decision regardless of the case and its context may hinder the decision-making process, serving as a means to suppress uncertainty instead of addressing it appropriately (Lipshitz and Strauss, 1997; Mendes & Ormerod, 2019). Moreover, as an ineffective strategy for coping with uncertainty, this approach could potentially harm the best interests of the child by leading to less complex analyses and subsequently less complex actions and decisions towards the child's best interests.

In the vignette 'C2 (child's identity)', some Brazilian participants chose 'other' and indicated that they would award custody to the mother, even though there was no clear information regarding which parent would be the mother. This cultural factor provides insight into how Brazilian undergraduate students comprehend and decide on matters related to the child's best interests. This choice may be linked to the 'tender years' doctrine, which historically favoured awarding custody to the mother, presuming that she would be a better fit for the child's needs, particularly for very young children (Mendes & Ormerod, 2021). Despite being an outdated doctrine, it continues to influence Family Courts, particularly in Brazil (Artis, 2004; Mendes & Ormerod, 2021).

English participants exhibited a more distinct preference for a particular custodial arrangement when faced with material-physiological vignettes. They were inclined to award custody to the non-custodial parent in scenarios involving material-physiological needs. This inclination might be attributed to the characteristics of the English child protection system, which, in comparison to other European countries, is more inclined to remove children from their homes when conditions harmful to the child's best interests are identified (Ainsworth & Thoburn, 2014; Eurochild, 2010). Consequently, it is argued that the 'English system' tends to adopt a more 'draconian approach' to child custody matters (Mendes & Ormerod, 2023).

## **Limitations and Future Directions**

The recruitment for this study successfully assembled a diverse sample of undergraduate students from various regions of Brazil and England. However, the predominant representation of female participants (85%) and those studying Psychology constrains the results and scope of this study. In future research, achieving a more balanced sample concerning gender and undergraduate courses, including a higher number of students from Law and Social Work, would enhance the analysis and allow for a more comprehensive representation of potential variations related to these factors. Additionally, comparing freshmen and final-year students could provide insights into potential differences in the decision-making process and decision styles.

The vignette design in this study, like any other method, has inherent limitations that may influence how participants and researchers comprehend and address the investigated phenomenon. Consequently, the findings presented here could be enriched and expanded through additional qualitative or mixed-methods studies that delve into the issues discussed in this paper.

## **Final Considerations**

Participants exhibited a more conservative approach when addressing contextual needs. However, when confronted with material-physiological needs or their interactions with contextual needs, student decision-makers demonstrated a tendency to alter the existing custodial arrangement. The impact of participants' academic field (Law, Psychology, Social Work) was notable, particularly in cases involving the interaction of contextual and material-physiological needs. Consequently, this study highlights the influence of the type of child's need (and the interplay between different domains of needs) on the decision-making process and its outcomes. Nationality also played a role, particularly among Brazilian participants, who displayed a greater inclination towards awarding joint custody irrespective of the specific case or context.

This study showed that the extent of knowledge students had regarding the best interests of the child was very concerning, as  $\frac{2}{3}$  of participants never heard about the best interests of the child, and  $\frac{3}{4}$  never had an academic experience that addressed it. These findings indicate a notable deficiency in the training provided to undergraduate students, who shall become future

professionals involved in child custody cases and the child protection system. The absence of knowledge regarding the best interests of the child is particularly concerning, given that these future professionals are expected to orient their practices and decisions based on this fundamental principle. Moreover, this absence underscores a clear indication that the paramount condition of the best interests of the child has not been adequately addressed by universities in both countries. Introducing modules, readings, seminars, and other academic activities that critically engage with the concept of the best interests of the child is imperative to rectify this situation, safeguard the principle, and underscore society's responsibility in protecting children's needs and rights.

Furthermore, undergraduate courses should incorporate training on effective strategies for handling uncertainty in professional practice environments. Future professionals need to be equipped with methods that go beyond ineffective strategies like suppression, as identified in the literature on decision-making in natural settings. Particularly, safeguarding the BIC requires a complex approach to uncertainty. Additionally, the training should foster awareness and critical thinking regarding the influence of legislation and cultural factors on the interpretation of BIC and the decision-making process. This comprehensive approach ensures that future professionals are well-prepared to navigate the complexities of their roles in child custody cases.

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## Notes

<sup>1</sup> In English Law, the term 'custody' has been replaced by 'child arrangements', since the Families Act 2014, which refers to issues related to the child after parental separation (Mendes & Ormerod, 2021). In Brazil, the legal term for matters concerning a child's residence and contacts is 'guarda', which is the equivalent to 'custody'. In this study, we use 'custody' as a general and uniform term for both countries, indicating where the children will live. Despite legal and definitional distinctions, the terms 'divorce' and 'parental separation' are used interchangeably to denote the breakdown of the relationship between two individuals who share a child.

<sup>2</sup> The second most frequent decision made for C1 was choosing 'other' (17%; n = 23). Participants' primary reason for choosing 'other' was the necessity for additional investigation or assessment of the child's mental health. Some participants also mentioned that, given that 'child' was a teenager, the decision should align with the adolescent's preferences.

<sup>3</sup> Fourteen percent of participants chose 'other' for C2. Amongst those who selected 'other', the majority of Brazilian participants indicated that they would grant custody to the mother (even in the absence of clear information about the parents' gender), while others suggested letting the child remain in the country where they were raised. English participants emphasised the importance of considering the child's wishes and feelings and allowing the child to stay in their current environment.

<sup>4</sup> The second most frequent decision for C3 was to award the custody to parent B (32%; n = 43), the custodial parent. Only three participants chose 'other', justifying their decision based on the child's age. They suggested that if the child were young, they should stay with the custodial parent (parent B), but if they were adolescents, they should stay with parent A. The other two participants cited the lack of information and the need for further investigation.

<sup>5</sup> 100% of English social work students opted to award the custody to parent B. Eight percent of all students (n = 11) chose 'other'. Their justification revolved around the need to assess more information, listen to the child's wishes and feelings, and some suggested encouraging parents to reach a settlement through mediation.

<sup>6</sup> About 12% of participants chose 'other' in vignette MP1. Some of them wanted to have an assessment carried by professionals (e.g., doctor) before making any decision. Similarly, others stated that they would not change the current custodial arrangement until further assessment. One Brazilian participant emphasised the importance of listening to the child.

<sup>7</sup> Only two English students opted to award the custody to a child's relative in vignette MP2. Additionally, three English students opted for 'other', with all of them suggesting that an intermediary decision should be taken until parent B improves housing issues.

<sup>8</sup> The second most frequent decision for MP3 was awarding joint custody (16%; n = 21). Seventeen percent of participants (n = 23) chose 'other'. The majority of participants chose 'other' because they wanted to have more information to probe abuse allegations. Some of them also pointed the need to listen to the child and to retrieve information from social services. Additionally, participants said that they would put the child in foster care.

<sup>9</sup> About 7% of participants chose 'other' in vignette MP4. Their justifications regarded the need to access more information about the case (e.g., assessing both parents) and the need to listen to the child.

<sup>10</sup> The second most frequent decision for C1 + MP1 was joint custody (27%; n = 35). Seven percent of participants (n = 9) chose 'other'. Their justification regarded the need to have further assessment. Meanwhile, some of them expressed the opinion that the child should stay where they were, while others suggested that the child should be placed in temporary shelter until the assessment is completed. They also highlighted the importance of involving social services and listening to the child.

<sup>11</sup> The second most frequent decision for C2 + MP2 was to choose 'other' (14%; n = 18). Twelve percent of participants (n = 18) chose 'other' and the main reason was due to the lack of information. Others stated that the child should stay where they have been raised. One participant said they would award the custody to the mother, regardless – even though no information regarding which parent would be the mother was given.

<sup>12</sup> The second most frequent decision for C3 + MP3 was awarding joint custody (25%; n = 33). Nine percent of participants (n = 12) decided to choose 'other'. Their justification regarded the need to assess more information/investigation. Others would either send the child to foster care until further assessment or listen to the child.

<sup>13</sup> The second most frequent decision made for C4 + MP4 was awarding the custody to parent B (34%; n = 44). Eight percent of participants (n = 10) decided to choose 'other'. Their justification regarded the need to listen to the child and have more information about the case. Others mentioned sending parents to mediation or not changing the current custodial arrangement.