

IS CHILDREN'S PARTICIPATION A RIGHT OR A FAVOUR?

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Apart from suffering from a list of problems such as poverty, shortage of financial support, of basic services and facilities and of understanding, children suffer also from lack of participation. Historically, social policy did not consider children as persons with a voice but rather as objects of concern. Young people were marginalized from participation processes and limited in their ability to affect decision-making. This article addresses the theory of children's right of participation. The purpose is to argue whether children's participation is a right or a favour. The first part focuses on the different theories and approaches dealing with the concept participation. The next section explores the right to participation in the United Nations Convention on the Rights of the Child (UNCRC) and especially Article 12. Then, there is an emphasis on the crucial role that Non-Governmental Organisations (NGOs) have in promoting children's participation. Finally, there is a focus on children's mechanisms such as ombudsmen, juvenile courts and youth parliaments.

"Your children are not your children ... and though they are with you yet they belong not to you. You may give them your love but not your thoughts, for they have their own thoughts".¹

Khalil Gibran

¹ Gibran, KH. (1926) *The Prophet*. London: Heinemann, p 13.

Introduction

Despite a changing approach to the status of childhood, there are still people who believe that children are miniature adults whose position depends on adults' decisions. There are also a lot of children discriminated against in society and within their families. Indeed, in the past, society did not recognize children as full individuals for cultural, social or historical reasons, that is why there is a need to "free" the child. For many children of all cultures and classes, childhood is a period in which they lack control over their lives. Some adults perceive them as essentially irrational, irresponsible and incapable of making informed choices on matters concerning them. Moreover, young people have little real opportunities to express their views in the family, at school, in their local community and in politics. Youngsters should no longer be considered as the property of adults but as autonomous members of society. They deserve to be considered as full members in society.

Although children's experience of being seriously heard proved to be poor, this did not affect the belief in the importance of enabling youngsters to express themselves. In fact, it could be argued that children's experience of being ignored or undermined has to make us more determined to have their views respected and to spread the principle of choices in childhood. There are certain necessary actions to take to improve children's rights. We have to treat children fairly, make sure they are loved and listened to and consider young people as young adults. Children should have a voice in all issues that have a direct impact on their lives; they should also be treated as citizens. This could be achieved if governments establish mechanisms that promote children's right to participation.

Participation has long been considered a desirable goal. The fact of promoting such a concept introduces a radical and profound challenge to traditional attitudes, which assume "that children should be seen but not heard"². If there is some truth in this general adage, it certainly describes many of our attitudes towards children. Youngsters must be seen, they must be visible as public beings, as political actors. In observing and listening to them, it is important to respect and value the cultural heritages of youth and the communities to which they belong.

² Source: www.savethechildren.org.uk Website.

The special nature of childhood should no longer be ignored and as Jane Fortin states "Children should be allowed to be children"³. In fact, it is high time that a real children's rights culture emerged, a culture where the child is a full individual and a potential participant. In addition, programmes that are for children also need to involve and include them in the planning and execution of activities according to their age and maturity.

This article addresses the theory of child participation, suggests different levels of participation and presents examples of how children can contribute to their own protection and development. It also shows how important the right of the child to participate is and focuses on the crucial role of states' mechanisms. In fact, mechanisms are needed to follow up on the views expressed and proposals made by children, and adults need to learn to give them due weight, including in the context of legal and administrative proceedings. Children are to be offered protection when needed but are also to be given greater opportunities for participation and in exercising responsibility over decisions affecting their lives. In fact, there should be a balance between concern for their growth to independence and respect for their rights as individuals.

As indicated in the United Nations Convention on the Rights of the Child, it is necessary to foster children's active participation at all levels. Moreover, non-Governmental Organisations (NGOs) explore both the rationale for this claim and describe a range of different ways in which children's voices might become more influential in shaping policy.

However, there are some questions put to children and young people: How much do children and young people know about their rights? What is it like being young today? How well do states understand and respect children's rights? What would young people do if they had the power to improve their own status?

This article is an attempt to enquire whether we have a culture of children's right to participation that enables people to listen to young children and take their voice seriously. This can be possible if we look at some examples and opportunities that have been created for children to participate which are a proof that children's participation is a right and not a favour.

³ Fortin, J. (2003) *Children's Rights and the Developing Law*. London: Hubbs Ltd, p 5.

1. What Kind of Right is Participation?

The first question to ask when tackling the issue of participation is what kind of right is participation? The expression 'child participation' has been utilized in numerous senses in different bodies of literature. In fact, it can be argued that, rather than having well defined boundaries, this phrase has been used as an umbrella term to designate a vast array of attitudes and behaviours.

The multiplicity of approaches proposed as manifestations of child participation reflects the richness of the concept and its potential for a large scope of applications. Participation rights include the freedom to express opinions, to have a say in matters concerning the child's life and to increase the opportunity to contribute in the activities of society⁴.

Roger Hart defines participation as "the process of sharing decisions which affect one's life and the life of the community in which one lives"⁵. Participation refers to young people taking an active part in a project or process, not just as consumers but also as key contributors. Adapted from Sherry Arnstein's "participation ladder", Hart's model identifies degrees of children's participation by recognizing their developing capacity to participate. This children's model is subsequently adapted for the youth context. The ladder specifies degrees ranging from non-participation to participation. Indeed, Arnstein outlines the difference between participation and non-participation through the image of a ladder. There are eight rungs on the ladder and each rung represents a greater degree of citizen involvement in decision-making. For example, the lowest rungs of manipulation and therapy represent non-participation, whereas the highest rung of citizen control turns over ultimate decision-making ability to the participants. The powerless citizens typified by the non-participation levels are contrasted with the powerful.

Participation is fundamentally about the capacity of individuals to feel themselves as citizens engaged in the tasks that influence the development of a culture and a society. It is about being counted as a

⁴ CRC: Articles 12 and 13.

⁵ Hart, R. (1998) *Children's Participation: The Theory and Practice of Involving Young Citizens in Community Development and Environmental Care*. London: Earthscan Publications, p 11.

member of the community; it encourages children's agency, the expression of their self-defined needs and interests. The other reason for involving children is that they need to be aware of their own rights, to know what their rights are, what they mean and how they can be attained.

Gerison Lansdown gives five reasons showing why participation is important. He believes that respecting children's voices is a vital element in protecting human rights as a whole and that engaging children and young people leads to better-informed decision-making. Furthermore and as already indicated in the CRC, children have the right to be listened to and their involvement makes them acquire skills and competencies. The last reason recommends that commitment to participation relies on a belief that democracy works⁶.

Participation is beneficial for the child. These benefits can be classified into two major groups; those referring to cognitive abilities and those linked with social skills and personal enhancement. The main goal to be attained in the domain of child participation is that children themselves actually exercise this right in their everyday lives. The child is no longer a spectator just waiting for adults to settle everything for him/her. S/he needs to truly exercise participation and has to play an active role and to foster his/her rank in society which is why we should give children the opportunity to communicate with society. Young people are the experts on their lives and so hearing their voices should be central to procedures that affect them.

Participation is central to children's development whether it is within the family, school and the wider community. It is only through participation that children acquire skills, build competencies and gain confidence. That is why there is a need to listen to children and recognize them as agents of their own development. Every child, regardless of age, has views. Even infants express their feelings through body language and verbal cues. Obviously it is important to listen to them to understand what might best contribute to their development. As children grow older, they learn to express themselves verbally or in writing or in art. Even though the Convention defines the child as every person under eighteen years, it sets no minimum age at which children can begin expressing their views freely,

⁶ Lansdown, G. (2001) *Promoting Children's Participation in Democratic Decision-Making*. New York: UNICEF Innocent Research Centre, p 214.

nor does it limit the contexts in which children can express their views. However, children's participation depends on the age and maturity of the child.

The age group we are concerned with in this article is adolescence. It is sure that children of all ages have the same rights, including the right to participation, but babies for instance can express their feelings of happiness or anger and cannot participate in expressing their opinion about their right to vote. In a manner consistent with the child's age and maturity, there are various ways of creating the right atmosphere to enable the child to freely express his or her views.

Indeed, we should strengthen strategies and mechanisms to ensure children's contribution in the decisions affecting their lives within the family, the school or the community, and to ensure they are heard in legal and administrative proceedings concerning them. Empowering children and young people today will encourage them to stay active in the future and to voice their opinions in later life. Moreover, we are trying to build an inclusive society and young people's participation is central to this as clearly expressed in the Convention on the Rights of the Child.

2. The Convention on the Rights of the Child

The United Nations Convention on the Rights of the Child, which was established in 1989, holds profound significance within the international community because of its unique construction of children's rights. Though rooted in earlier Declarations⁷, the Convention breaks new ground in the international movement for children's rights in at least three significant respects. First, it goes beyond previous recognition of children as direct holders of rights by acknowledging new prerogatives specific to them. Accordingly, children are viewed as individuals who are entitled to equal status with adults as members of their societies and the global community, not as possessions of parents, or states. Second, it unites civil, political, economic, social, and cultural rights within a holistic framework. A third way that makes the CRC advance children's rights is that it attempts to

⁷ The Geneva Declaration of 1924, the UN Declaration of the Rights of the Child in 1959, and the UN Universal Declaration of Human Rights in 1948.

bring into balance the crucial importance of safeguards for children's unique vulnerabilities and recognition of their personhood and self-determination rights. Beyond protection from abuse and exploitation and rights to survival and proper development, it puts forth the vision of children as empowered individuals with voices and the right to participate in society.

The Convention covers four broad areas of rights. The survival rights that contain adequate nutrition, housing and access to medical services. The second kind which is the development rights comprises education, access to information, play and cultural activities and the right to freedom of thought, conscience and religion. The third category includes protection rights that cover exploitation, arbitrary separation from the family and abuse in the criminal justice system. Finally participation rights incorporate the freedom to express opinions and have a say in matters concerning the child's life.

The CRC establishes participation as a statutory right for children. It places in law the right of young people to have their opinions on matters that affect them, taken into account in accordance with their maturity. The philosophy behind the Convention is that children, too, are equals; as human beings they have the same value as grown-ups. It provides a framework for addressing rights relating not only to children's needs for care and for an adequate standard of living, but also for contribution to social life⁸. Moreover, this instrument enshrines the innovative axis of participation, which demonstrates a shift in the traditional image provided of children. In that way, children become the subjects rather than the objects of their rights.

According to Mickael Freeman, broadly speaking what the CRC does is not simply setting up a list of rights for children and imposing a correlate set of duties on others such as parents and the state. It goes further than that in presenting a framework whereby the very social and political status of children, their relationship to their parents and adults in general may be viewed very differently. It imposes duties on states to provide the necessary resources with which children can grow to realize their potential and can themselves contribute to social and political change throughout the world. In fact, by ratifying the CRC, States Parties commit themselves to

⁸ The CRC: Articles 3, 12 and 27.

respect the rights set forth in the document and so to listen to children and involve them in decision-making as stipulated in Article 12.

The CRC asserts the improvement of the status of the child in society. It pledges the child's freedom of expression, of association and peaceful assembly and of thought, conscience and religion. According to Article 12 of the Convention, children have the right to express their opinion; it recognizes the child as an active subject of rights.

Article 12 declares that

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly or through a representative⁹.

It is true that this article promotes exclusively children's right to participation, however, its respect depends on states. For instance, when the British Government ratified the Convention on the Rights of the Child in 1999, it committed itself to ensuring the rights of the under 18 years-olds. Several Non-Governmental Organisations have committed themselves to the same mission and have been encouraged by the government. For example, Save the Children Fund is viewed as the United Kingdom's biggest international children's charity and a rights-based organisation. It raises awareness that children's rights need special recognition and believes that children need concrete recognition of their rights as members of their families and citizens of their states.

That is why it designs programmes and allocates resources to provide children with opportunities to participate in decision-making and to develop their skills¹⁰.

According to Article 12, the principle of participation should be promoted in all levels of government, centrally and locally. Cooperation

⁹ The CRC: Article 12.

¹⁰ Source: www.savethechildren.org.uk Website.

with governmental and Non-Governmental Organisations in the area of participation is another point to be covered in the following section of this article.

3. Non-Governmental Organisations

Childhood requires a massive and coordinated effort by professional researchers, practitioners, and political allies. All professionals working with children, including the members of Non-Governmental Organisations, need to work together as advocates for and with children to highlight their environmental needs.

Since the adoption of the Convention on the Rights of the Child, many NGOs have emerged as advocates for children or for particular groups of children. In a growing number of countries, coalitions of NGOs have been formed to promote full carrying out of the principles of the CRC. In fact, Article 45 of this instrument recognizes the monitoring role of NGOs.

In most countries, NGOs play a key role as defenders and promoters of human rights. NGOs have a special role to play in the development of a universal culture of human rights. By their very nature, they have a freedom of expression and a flexibility of action that, in certain circumstances, allow them to perform tasks that governments and intergovernmental organisations are unable or even unwilling to perform. They even complement the development efforts of states and civil society.

These organisations believe that young people have the right to participate positively by submitting programmes and developing activities in schools and youth centres and cultural places. In this way, they contribute to the interaction between children and society and, above all, create the conditions that will enable such interaction to emerge.

Children's participation is an essential component of exploring new alternatives. We argue in this article that youth are meaningfully redefining practices of participation through these organisations that are developing critical strategies for community development work. These institutions commit themselves to young people to operationalize key elements of deliberative participatory planning such as respectful dialogue, advocacy, critical education and cooperative organizing.

NGOs play a vital role in providing space for young people; they have a strong influence and stimulate individuals to contribute to discussions and encourage full and active participation and exchange of ideas. They organize awareness workshops. These meetings play a major role in providing information and promoting ideas.

For sure, no one ignores that today's main pillar of international assistance to children is the United Nations International Children's Emergency Fund (UNICEF), which was created in December 1946 by the United Nations¹¹. to help the children of World War II. In 1953, the organisation became a permanent part of the UN after it became evident that children all around the world suffered.

The UNICEF is the world's largest children's rights organisation working globally to help every child reach their full potential. It is one of the specialized United Nations bodies and agencies and the most influential Non-Governmental Organisation which is making young people one of its main priorities and will continue to do so in the years to come. It has become an essential actor in the field of human rights in general and children's rights in particular. It incorporates the principles of the United Nations Convention on the Rights of the Child and continues to work to strengthen and promote adherence to international standards for the protection of children's rights.

This organisation believes that children have the right to be masters of their own decisions¹². Consequently, more efforts should absolutely be done to make them develop their abilities and capabilities. Actions should also be taken by states and each government has to develop a culture respectful of children's rights. Every country should develop an infrastructure for participation and consider it as a granted right and not a favour.

Mechanisms should also exist on the national and local level to coordinate policies and to monitor the implementation of the Convention. While others have set up Committees to monitor progress towards realization of children's rights, new spokesman for children were appointed to accommodate the child's interests. In fact, children can have the right to be appointed an Ombudsman¹³.

¹¹ Source: www.unicef.org.uk Website.

¹² Source: www.unicef.org.uk Website.

¹³ The term Ombudsman can be used interchangeably with "Commissioner", "Rapporteur", "Watchdog", "Officer" and "Delegate".

4. Children's Mechanisms

The first mechanism to focus on in this section is the appointment of children's delegates. In fact, there is nowadays an Ombudsman or a similar institution for ombudswork for the rights of the child; the intention in most such cases is to ensure a system of independent monitoring¹⁴. This special rapporteur is appointed to investigate individual complaints against public authorities. Ombudswork for children is a broad term that has been adopted by some commentators to cover all aspects of child advocacy and watchdog functions, both governmental and non-governmental.

Norway was the first country to appoint an Ombudsman for children in 1981. The belief was that a national Commissioner could prove vital for the promotion of children's rights and child participation and protection indicators were being developed. Consequently, the world's first legislation establishing an office of children's Ombudsman was passed by the Norwegian parliament in 1981. According to Eugene Verhelen, the Norwegian Ombudsman for children is a strategy "within the context of the children's rights movement, aimed at changing social systems, institutions and structures in order to maximize the children's possibilities of self-determination"¹⁵.

Why do we need an Ombudsman, this special spokesman for children? Ombudsmen act as mechanisms whose specific task is to operate as watchdogs that monitor the conditions of children and better their situation. Their fundamental task is to represent children and young people, to be their voice, to assert their point of view and insist on respect for their human rights.

According to Malfrid. Grude, Flekkoy, an Ombudsman is a kind of Commissioner for children who "aims at changing social systems, institutions and structures in order to maximize the children's possibilities of self-determination"¹⁶. His/Her mission is to promote the

¹⁴ Flekkoy, M. G. (1991) *A Voice for Children: Speaking out as their Ombudsman*. London: Jessica Kingsley Publishers, p 15.

¹⁵ Verhelen, E. (1997) *Monitoring Children's Rights*. Dordrecht, Boston, London: Martinus Nijhoff Publishers, p 19.

¹⁶ Flekkoy, M. G. (1991) *A Voice for Children: Speaking out as their Ombudsman*. London: Jessica Kingsley Publishers, p 15.

rights of children. This would primarily be done in three ways, namely by influencing policy-makers and practitioners to take greater account of children's rights and interests. Then, by promoting compliance with the minimum standards set out by the CRC and other relevant international treaties or arrangements and finally by seeking to ensure that children have effective means of redress when their rights are ignored.

Independent from the government, their aim is to focus on the problems regarding children living under complex conditions and needing special help and care. The purpose is to find new ways to work for the interests of children by protecting and improving them. One of the biggest initiatives is to encourage children to complain and so to ensure that their voices are heard and taken into consideration. The office of children's ombudsperson is a social-policy innovation established to advocate and implement children's rights and interests. S/he can be seen as a social right whose ultimate goal is to promote a child's well-being and security through enforcement of rights and protection of interests.

The fact of appointing an ombudsman to promote the rights and interests of children was an action from the part of some governments to raise awareness of the need for such an independent body among politicians. A Children's Rights Commissioner for a state signifies a serious commitment on the part of the government to protecting the rights and best interests of ALL children and young people.

These Officers have powers as well as a number of duties under the law. Since they are champions of children's rights, they must implement and have regard to the principles of the Convention on the Rights of the Child. They also have the duty to conduct investigations, produce information about the rights and best interests of children, provide advice or information on any matter concerning the child and make recommendations about young people to authorities. They can even criticize and publicize, but not reverse administrative action or revoke administrative decisions.

Their responsibility is to create and promote new innovative opportunities for young people to make their views heard. They should work to improve the means of communication with children and young people. This could be achieved by supporting the establishment of children's forums. They cooperate with a number and variety of authorities, organisations and individual persons and coordinate safety promotion activities for children and young persons so

that their views can be heard more clearly and acted on.

The Ombudsman experience demonstrates how a monitoring mechanism can work without any relation to an international instrument. Further efforts are needed to ensure that all children in all countries have a powerful independent institution with legal powers and duties. The UN system has acknowledged that everyone needs such an institution¹⁷. Each government should establish special machinery devoted to the promotion and protection of human rights and particularly children's rights and to enhance the establishment of independent monitoring mechanisms to endorse, defend and implement the rights of the UN Convention.

The appointment of a Commissioner is one specific mechanism that was instituted to monitor and address the difficulties that children face and to promote children's participation. In some countries, Non-Governmental Organisations have also styled their advocacy for children as Ombudsman activities. Indeed, both mechanisms proved to be beneficial in involving children and bettering their status in society. Their mission is not only to aware children of their rights but also to foster children's status in society by implementing the principles of the Convention on the rights of the Child.

There is another way of involving children introduced by Scottish that is a radical and unique system of juvenile justice in which children have the greatest opportunity to participate in decision-making. This initiative is called the Children's Hearing System¹⁸ and is based on the philosophy of justice for children; it is the greatest opportunity for children to be listened to.

As far as the Hearing is concerned, it is directed to try to obtain the views of the child, the parents and any safeguarder on what arrangements would be best for the child. This system not only demonstrates that it is possible to involve children as participants in the decision-making process, but that participation is an essential element in the system. It is a combined system of juvenile justice and child welfare in which reporters receive over 60.000¹⁸ referrals annually about children who have either committed an offence or have been ill-treated. According to the Scots law compulsory measures of

¹⁷ Freeman, M. D. A, & P. Veerman (1996) *The Ideologies of Children's Rights: How Preserving Families Can Cost Children's Lives*. New York: Basic Books, p168.

¹⁸ Source: www.un.org.uk Website.

supervision are necessary in respect to the child. It is a unified system responsible for meeting the needs of children; it offers them the opportunity to participate in deciding for themselves. Established in Scotland in 1971, it states that it shall "discuss the case of the child and afford to the said child, parent and representative, if attending the hearing, an opportunity of participating in the discussions"¹⁹. It deals with children who are both in need of care and protection and children who have committed offences.

The Children's Hearing System promotes a conception of children's rights which includes giving children the right to be treated with decency and respect in a system that is ultimately concerned with their well-being. The system not only demonstrates that it is possible to involve children as participants in the decision-making process, but that participation is an essential element. This system is based on the philosophy of justice for children. It is not simply a justice system designed to deal with children who commit offences. Rather it is a system of justice for children in which the welfare of the child is the key concern.

In certain states, there is a lot of progress concerning children who are now asked about their needs and preferences and about the meaning of human rights to them. They can be represented in court by having a lawyer in case they make an offence or need help. They have the right to witness, to choose their adoptive parents and to have their views taken into account.

As already indicated, in order to achieve their full potential, adolescents should be able to benefit from a range of policies and programmes that support them in several areas, such as ensuring their participation in decisions that affect their rights, providing them with safe and supportive environments, developing their capacities and values and ensuring that they have access to basic services and opportunities. For instance several states have promoted another way that enhances children's right to participation which is the creation of a Parliament for children. This Parliament enables youngsters to be listened to and heard by adults, to have their questions answered and their needs provided. Young people come together to talk about what matters to them and to have a good time doing play-

¹⁹ Freeman, M. D. A., & P. Veerman. (1996) *The Ideologies of Children's Rights: How Preserving Families Can Cost Children's Lives*. New York: Basic Books, p168.

ful and creative projects. It also attracts adults to learn more about children's rights and citizenship. The child Parliament is a forum for dialogue. Children can organize themselves within a space for dialogue in order to express their opinions on rights issues and to practise the exercise of responsibility. They even cultivate their sense of civics and promote their child rights culture. Children's Parliament demonstrates how youngsters, when given the opportunity and an informed choice, can make a valuable contribution to society.

The creation of the children's parliament as a place for dialogue enables children to be responsible and allows them to express their views over their rights. Its purpose is to spread the culture of participation and to educate and train youngsters to make them citizens capable to fully assume their responsibilities in all duties and at all levels.

Conclusion

After exploring the issue of participation and its role in instituting children's position in society, we notice an increased growth in respect of the fully-fledged legal position of the child. Nothing is nobler than providing a better future for all children in this world, but this cannot be achieved if children are not involved. The emphasis should shift from protection to autonomy and from nurturance to self-determination.

This changing culture of childhood should continue to change and change rapidly. Hopefully, the climate nowadays, is right for reforms and thus more efforts should be done on the part of everyone. The growing recognition of children's right to participate in local or national decision-making processes and to contribute to the development of their own societies has been among the most significant advances of the last decades.

Moreover, no one ignores the worldwide effort to promote children's right to participation made during the World Summit for Children in 1990 and the Global Movement for Children in 2002. In fact, both events have given children the opportunity to participate and have established children's right to participation as a goal that enables every society to build a World Fit for Children.

However, we cannot rely only on the advancement of the legislation concerning children; there should also be a more focus on the

promotion of children's participation. This means that there should be a symbiosis between what the legislation does and the degree of involvement of the child. Such participation needs to be further developed in the coming decades so as to be more fruitful and successful and as Hart says "Children's Participation isn't just a strategy, it's a mindset, an ideology, a value, a life philosophy that applies to everything you do"²⁰.

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²⁰ Hart, J. J. Newman, L. Ackermann, & TH. Feeny. (2003) *Children Changing their World: Understanding and Evaluating Children's Participation in Development*. London: Save the Children Fund, p 59.

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