Ethical Review in Sweden Concerning Children's Participation in Research about Child Abuse and Neglect

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Empowering Children and Youth through Law and Participation

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SOCIOLOGY OF LAW
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Acknowledgement

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Introduction

In 2023, between August the 30th and September the 1st, the **Child Rights Institute** at the Department of Sociology of Law, within Faculty of Social Sciences, Lund University, was arranging a three-day research conference on the theme *Empowering Children and Youth through Law and Participation.* The conference on Children´s Rights has received financial support from the Bank of Sweden Tercentenary Foundation. This Child Rights´ research conference was also a special session under the umbrella of the international conference, *Society and Digital Pasts, Presents and Futures*, arranged by the International Research Committee on Sociology of Law, RCSL. All these research sessions mentioned above were conducted on-site at Lund University in Lund, but also with digital opportunities to attend the Child Rights´ sessions at the conference simultaneously via zoom.

During the Winther 2022-2023 we asked our Child Rights´ partners active in organisations on different parts of the world to participate in writing papers for this session with a focus on *child and youth issues on law and participation* and also joining this conference. During the Spring we found that quite many paper proposals were sent to us following and inspired by this special Child Rights´ theme mentioned above.

In the end of the Summer, we had received 22 paper contributions by 41 participants from 13 different countries, where of 10 countries outside Europe: Colombia, Brazil, Mexico, Ethiopia, South Africa, India, Vietnam, China, Australia, and Russia. Looking at the Nordic countries we had participants from Norway, Denmark, and Sweden. We also had some 20 visiting participants following some of the sessions as guests coming from the main, parallel RCSL research conference in Lund.

We were happy to find that this international Child Rights´ conference was working very well with this simultaneously hybrid combination. We organised 22 sessions over three days – but the sessions took place only in the afternoons due to the wide range of time differences by the participants in 13 countries. Presenters started first to present their paper and then the Discussants with their reflections and questions on the current paper. All this different work on the session went very well, and we also had the excellent help of our department´s communications officer, Theo Hagman-Rogowski, who took care of all the technical and digital details with zoom, sound, and cameras.

Empowering Children and Youth through Law and Participation

The Convention on the Rights of the Child (CRC) decided by the UN General Assembly, 20 November 1989, has been ratified in 196 countries over the world (all eligible states except the United States), which means that the various authorities and representatives must take the convention into account when making decisions. However, the Convention has not had the fully desired impact in many countries. For many years, criticism has been voiced by many different local, national, and international actors that the underlying idea and concept of the CRC is not reflected in the way countries deal with issues that affect children in various ways.

One of these ideas is that *the best interests of the child* should be a central starting point in all decisions concerning children, another is that the child should be seen as an individual with rights of her or his own, entitled to participation. The notion of how this should be done; what is the best interests of the child, what the child's right to participation in all matters concerning the child itself. How empowerment and participation is understood and interpreted varies within and between countries, which is possible as the law itself does not specify what applies in different cases. This conference tried to explore how children's empowerment and participation is addressed, understood, and interpreted in different countries.

We also invited contributions that highlight the work of different countries/authorities/stakeholders on *Empowering Children and Youth through Law and Participation*. We wished to welcome contributions that seek to understand and explain the role of law and participation in empowering and supporting children.

Questions and themes that were addressed during the conference were like these:

- How can we understand the challenges, possibilities, and opportunities of the law to strengthen children's participation?

- How can we recognise and understand children's opportunities for participation?

- What role do individual professional actors have in the work to strengthen and support the realisation and enforcement of children's rights?

- How do children experience their opportunities for participation?

- How do professional actors experience their opportunities to work for strengthen children's rights and participation?

This book is now presenting the 22 different paper-contributions using creative ways and methods of telling their story or writing the scientific report, following the 13

different global countries of the participants in the conference report book: Colombia, Mexico, Brazil, Russia, China, Australia, Vietnam, India, Ethiopia, South Africa, Norway, Denmark, and Sweden.

In footnotes in the first page of each contribution or paper, you will find a short biograph of all the authors in that paper.

In the end of the book, we are presenting our conclusions, reflexions, similarities, and differences. We are also trying to find some common answers to the five questions raised above with the bullet-points, to find new ways to handle these themes on children´s rights, law, norms, empowerment, support, and real participation.

For the book cover to illustrate the theme *Empowering Children and Youth,* we have taken the help of THE MYSTERY OF BANKSY, "A GENIUS MIND", from "AN UNAUTHORIZED EXHIBITION" excellent presented in Malmö, Göteborg, and Stockholm in Sweden during 2023-2024. The unknown, anonymous street artist from Bristol, using art as a political weapon to offer support to people in hard times. This cover illustration made by BANKSY was done on the murals, some leftovers of a totally bombed house wall of concrete in Kyiv, Ukraine. www.mystery-banksy.se.

Colombian Professionals Supporting Children on the Autism Spectrum and a Teaching Program Taking Action Towards Strengthening Children's Participation

Judith Castellanos Jaimes [1] *& Diana Marcela Acosta* [2]

Abstract

This paper addresses the steps that a group of Colombian professionals from a foundation that supports children on the autism spectrum disorder (ASD), and a B.A. Bilingualism are taking towards strengthening children's participation. The Colombian regulations that have a high impact on this population: Decree 1421 of August 29 of 2017, regulates educational attention to the population with disabilities within the framework of inclusive education; Law 1098 of 2006, Childhood and Adolescence Code, Article 8, establishes the importance of the rights of children over the rights of others, and Article 36 establishes that every child with some type of disability shall have the right to free education; Law 1618 of 2013, establishes the provisions to guarantee the full exercise of the rights of people with disabilities; and Law 1620 of 2013 creates the National System for School Coexistence and training

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for the practice of Human Rights, Education for Sexuality and the Prevention and Mitigation of School Violence. What concerns us as regulators, professionals, educators, parents, and society is to provide them with opportunities for participation.

Thus, it is necessary that each of these actors know, practice, and empower themselves from psychoeducation in fundamental rights and the role they play in the life of a child. In this way, children will be able to understand their rights, which gives them the possibility of identifying their participation opportunities in familial, educational, vocational, psycho-affective, and social areas. Therefore, the foundation set out to provide autistic children between 13 to 15 years old with training to strengthen their social skills, learn strategies to face bullying and acquire skills for labor inclusion. A teacher educator and a group of student-teachers from the B.A. have been supporting the foundation's work with different tasks like translating instructional material from English to Spanish necessary for the children´s training. In turn, the foundation gives the student-teachers instruction on psychoeducation and training in digital competencies which will be useful in their future role as teachers in schools that may be inclusive of children with neurodevelopmental disorders that can generate some degree of disability.

Introduction

This chapter reports on a collaborative project between a foundation and a B.A. Bilingualism. This project is founded on two CRC ideas:

a. the best interests of the child should be a central starting point in all decisions concerning children; and

b. the child should be seen as an individual with rights of his or her own, entitled to participation; therefore, this chapter is linked to the conference theme and purpose.

In the chapter first, we discuss critically the Colombian regulations that have a high impact on this population. Next, we present the steps that a group of Colombian professionals from Alumbra Foundation, which supports ADS children and the B.A. Bilingualism at Universidad El Bosque in Bogotá, Colombia, are taking towards strengthening Colombian children on the autism spectrum's opportunities for participation in familial, educational, vocational, psycho-affective, and social areas. Finally, we present the findings and conclusions.

Frame of reference

When referring to children, challenges will always be part of the context. Thus, to talk about opportunity, we must look at the characterization that is carried out from the legislature to establish what the current needs are, and from there, the challenges that the government entities will assume in order to generate opportunities and spaces that allow the integral development of early childhood; particularly when they present some condition of disability that further hinders the effective enjoyment of their rights. Next, we list some regulations that have a high impact on this population; unfortunately, their applications are not fully fulfilled.

First, Decree 1421, August 29th, 2017, by which the educational attention to the population with disabilities is regulated within the framework of inclusive education. This decree defines inclusive education:

> It is a permanent process that recognizes, values, and responds in a pertinent manner to the diversity of characteristics, interests, possibilities, and expectations of girls, boys, adolescents, youth, and adults, whose objective is to promote their development, learning, and participation with peers their same age, in a common learning environment, without any discrimination or exclusion, and that guarantees, within the framework of human rights, the support and reasonable adjustments required in their educational process, through practices, policies and cultures that remove existing barriers in the educational environment (Own translation) (Decreto 1421. Sección 2. Artículo 2.3.3.5.1.4 Definiciones, Educación Inclusiva, 2017.)

However, is it unlikely to talk about strengthening the challenges to generate opportunities. According to the RREI [Regional Network for Inclusive Education], it is conclusively evidenced that educational institutions in our country, which in the first instance must open spaces for the reception and effective inclusion of people with disabilities, tend to become profilers of suitable and non-suitable candidates for their institutions (2019.) Therefore, the recognition, value, and validation of neurodiversity as a source of learning hardly appears to be a reality.

According to a report by DescLAB [Laboratory of Economic, Social and Cultural Rights] there is no such recognition, value, or validation. They assert that in Bogotá there are more than 26,800 boys and girls with disabilities excluded from regular education (Correa Montoya et al, 2019). This means that many children who should be in school are not part of either public or private schools, so they are not part of formal education. Moreover, private schools rarely take up the challenge of inclusive education (RREI, 2019).

Second, Law 1098 of 2006, Childhood and Adolescence Code, Article 8 establishes the primacy of the rights of boys and girls over the rights of others, and Article 36 establishes that every boy, girl, or adolescent who presents some type of disability shall have the right to free education. However, besides the free access to education, there must be a commitment from educational institutions and mainly from the Ministry of Education. As Gómez and Cardona (2010) assert, even though schooling and access to education for children and young people with intellectual disabilities has improved in recent years, their inclusion socially and academically are still pending subjects (as cited in Murillo, 2020).

Third, Law 1618, 2013 establishes the provisions to guarantee the full exercise of the rights of people with disabilities. It orders public entities of the national, departmental, district, and municipal order, within the framework of the National Disability System, the responsibility for the real and effective inclusion of people with disabilities, and must ensure that all policies, plans and programs, guarantee the full and effective exercise of their rights in an inclusive manner.

Nonetheless, the phrase, *"guaranteeing the full and effective exercise of rights in an inclusive manner"* can hardly be considered real. There is no guarantee nor effectiveness in the exercise and therefore inclusion as many families must file a constitutional protection proceeding to guarantee such rights. Even so, they do not even manage to reach a minimum of the coverage of all the requirements that a person with a disability demands.

Last, Law 1620, 2013 creates the National System of School Coexistence and training for the exercise of Human Rights, Education for Sexuality and the Prevention and Mitigation of School Violence. Nonetheless, it is inconsistent to talk about prevention and mitigation of school violence when Colombia is among the countries where bullying is most frequent. According to the NGO, International Bullying Sin Fronteras (2022/2023), Colombia ranks 10th with the most cases of bullying worldwide; they reported a total of 41,500 cases, with 8,981 serious cases, which indicates that 7 in 10 children are bullied. Given this reality, it is imperative to teach psychoeducational processes focused on the acceptance of difference, namely cognitive abilities, beliefs, the perception of oneself and the environment, and ways of being.

Beyond understanding children's opportunities for participation, the task of regulators, professionals, educators, parents, and society is to provide them. Therefore, it is necessary that each of these microsystems know, practice, and empower themselves from psychoeducation, the fundamental rights, and the role they play in the life of a child. In this way children will understand their rights and

will be able to identify their participation opportunities in psycho-affective and social domains, family, education, and vocation.

The development of professionals working with children must primarily involve training in both the rights of the child, and the neurodevelopmental disorders that generate some degree of disability. Undoubtedly, the absence of the latter in the education of professional actors working with children, for example teachers, limits the extent of the support that children require from them. The report by DescLAB describes 2 challenges that are directed to teachers and their knowledge base for inclusion, The challenge lies, more than in educational practice, in the perception of said practice, how to make inclusive practices visible, how to replicate them and improve them (own translation) (Correa Montoya et al, 2019, p.67.)

Besides, another challenge reads:

> The training and preparation of teachers constitutes a central challenge to guarantee the acceptability of inclusive education. Acceptability has been understood as the quality of programs, methods, and pedagogical practices; that is, with the fact that they must be pertinent, adequate, and good quality. This means that teachers and pedagogical staff must have sufficient skills and abilities to provide an education that meets the parameters of quality and inclusion; this ability must be achieved from initial processes of teacher training and, later, through continuous training and qualification processes that allow teachers to improve and update their practices and learn new ones that catalyze inclusion (own translation)(Correa Montoya et al, 2019, p.70).

On the other hand, there is a lack in the humanization of the task of providing care, which in fact negatively impacts the development of a child. According to DescLAB (2020), inclusive education is, for children and their families, an obstacle course that includes teachers who refuse to do their job, who deny support or adjustments, who want the student and their family to get fed up and leave. Therefore, it is necessary to sensitize both future professionals and society in general and each of its actors. What is not talked about is not known, and therefore, it is ignored, overlooked, and ultimately, left behind.

One way in which children can fully experience their participation opportunities is the identification by their parents, teachers, health professionals, etc. of their abilities: artistic, technological, mathematical, and so on. Besides, they must provide the child with all the means or tools necessary for the development of such abilities; seeking for their integral development, improving their quality of life, and beginning to build their sustainable life project.

A crucial aspect to be considered by the professional actors involved in the education of children based on their rights and their active participation in society, is having access to specialized and extensive training in the area of child development. Nowadays, there is a large percentage of professionals who do not have the necessary knowledge to identify problems such as neurodevelopmental disorders, bullying or parenting difficulties. The will to take the lead in the face of these realities is not enough, much more is required than that. That is, knowledge must be built through a teaching-learning process that addresses these issues so that future teachers (and other professionals who work with children) learn the necessary strategies to guide, accompany, defend and guarantee children the effective enjoyment of their rights.

The Collaborative Project

The B.A. Bilingualism is a 5-year teaching degree. Starting in seventh semester, the practicum component has three teaching practices (Practice I, Practice II, Practice III), where the main objective is to give student teachers the opportunity to teach English as a Foreign Language (EFL) or Spanish as First Language (SFL) with the support of in-service teachers at different schools who play the role of mentors. On the other hand, in Practice IV, student teachers do practicum with a social purpose in different foundations that assist children (and their families) who have a vulnerable condition (due to socioeconomic challenges, displacement, or undergo a critical illness or neurodevelopmental disorders); therefore, the student teachers have a social mission of giving back to society during this practice.

Alumbra Foundation is a non-profit entity that has been providing psychosocial support to the population with neurodevelopmental disorders, especially autism spectrum disorder (ASD) and their families in Colombia for 18 years. The foundation provides autistic children between 13 to 19 years old with training to strengthen their social skills, learn strategies to face bullying and acquire skills for labor inclusion. Their project is called *Project of Inclusive Social Innovation Ágatha-Training in Social Skills.* This project arises as a tribute to Juan Felipe Pinto Acosta, a 17-year-old adolescent, diagnosed with Autism Level 1 (High Functionality) who was a victim of bullying between 2015 and 2016, a situation that led him to a severe depression and later, in the year 2021 to suicide. Juan Felipe was the youngest son of the founder and director of the foundation.

Thus, in September 2021, the director of the foundation was certified in the PEERS© Program (Program for the Education and Enrichment of Social Relations) for ASD adolescents, from the University of California, Los Angeles (UCLA). This

program consists of 14 modules, which are developed over 4 months, in which adolescents learn skills such as entering and leaving a conversation, knowing how to choose positive friends, using humor appropriately, interacting appropriately with friends, identifying bullying, among others (Laugeson & Frankel, 2011). One of the most affected areas in children with High Functioning Autism is the area of socialization; therefore, it is of great importance to give adolescents the opportunity to be trained in this subject through the Ágatha-Training in Social Skills Project.

Therefore, to start this initiative, the foundation made alliances with different organizations; one of them is Universidad El Bosque. The purpose of this collaboration project is to join efforts to strengthen both the Colombian children on the autism spectrum's opportunities for participation in familial, educational, vocational, and psycho-affective and social areas and the student teachers' knowledge on the rights of the child and psychoeducation. The leaders of the collaborative project include the founder and director of Ágatha project (Alumbra Foundation), the social psychologist that works with Alumbra Foundation, and a teacher educator of the B.A. Bilingualism at El Bosque University in Bogotá, and member of the Global Network for CRC Change Agents, International Training Programme on Child Rights, Classroom and School Management, Lund University. The project has two-way dynamics (give and gain). These have been the main activities carried out in the collaboration project:

1. Translating instructional material from English to Spanish. Student teachers have translated material (books and videos) necessary to train ASD children with High Functioning Autism in social skills, learn strategies to face bullying and acquire skills for labor inclusion. The student teachers have translated two of the PEERS© manuals into Spanish with the formal authorization from the author at UCLA: Laugeson, E., A. & Frankel, F. (2011). *Social Skills for Teenagers with Developmental and Autism Spectrum Disorders*; Laugeson, E. (2014). *The PEERS Curriculum for School-Based Professionals: Social Skills Training for Adolescents with Autism Spectrum Disorder*, and they have begun the translation of a third one.

2. Specialized instruction. Student teachers received specialized instruction from the foundation on psychoeducation and training in digital competencies among other themes. This knowledge base will be useful for our student teachers' future as in-service teachers in schools with inclusion programs (Ministry of Education, Decree 1421, 2017). Moreover, in 2022 the foundation enrolled a group of 5 adolescents with high functioning autism and their mothers who received training in social skills. At the

moment, a second group of adolescents with high functioning autism has finished their training in social skills.

3. Reflection. The teacher educator held meetings with the student teachers to monitor their process and collected their reflections about their learning.

Results

The specialized instruction received by the Foundation had a positive impact on the student teachers. They received instruction on psychoeducation: 10 in the second academic period of 2022 and 12 in the first academic period of 2023. Also, 2 student teachers from the said group attended training on a set of digital and pedagogical skills and became instructors of digital skills provided by Eidos Global.

We monitored their experience by collecting their reflections in logs and videos. In relation to awareness, psychoeducation and multidimensional inclusion of the ASD population in Colombia, the student teachers' reflections can be summarized in the following theme: *Understanding the relevance of psychoeducation in their role as future teachers to guarantee the full enjoyment of their rights.* The specialized instruction on psychoeducation given by the Foundation has become an opportunity for student teachers to reflect on their role as teachers in situations in which students with autistic conditions are involved, how to face them, and how to identify alert signs that can indicate a possible autistic condition case to mention some, for example:

> "[...]we have learned about how the learning process should be in children according to their age, and the different alert signs that can indicate that something is happening. Therefore, now I know that if I perceive signs as for example: low and incomprehensible language, no autonomy, and no communicative intention, I need to let parents know about the situation and ask for neuropediatric, psychological and therapeutic support." (Reflective log, ST 1)

> "Thanks to these classes I feel a little more secure in the management that I should give to a case of autism or in general to a case of bullying, something as simple as these classes helped us grow even more as people and as teachers." (Reflective log, ST 2)

All in all, the teaching-learning process that has been carried out has had significant contributions for student teachers in the acquisition of knowledge related to Autism and other neurodevelopmental disorders within a child rights approach. The instruction included contents ranging from the early identification of alarm signals, going through implications for both the person and the family nucleus, to different

intervention methods and strategies; dismantling myths and collective imaginaries that are highly destructive for the integral development of this population. Consequently, it significant to share the testimony of some of these student teachers; the following excerpts are taken from a video:

> For us, it was very important to have trained us because we can have access to information that we didn't have and turns out to be very useful for our future as teachers. (ST 6, video transcript)

> …what we value the most was precisely not only learning about neurodevelopmental theory about autism but to have the opportunity to listen to the stories that [they] had to tell us about their experiences so that we can also open up a little bit more in the field of understanding that every experience and every situation is always different. (ST 7, video transcript).

The student teachers have translated two books (one in 2022 and another one in 2023) and started a third one. The translations of the first two books have been revised and proofread involving student teachers, one professor of the B.A. Bilingualism and one teacher of the language center of the University (both professionals are part of the School of Education at El Bosque University). In addition, the student teachers recorded videos that are based on the corresponding roleplays with each of the modules that make up the PEERS© Program. First, the students translated the contents of the conversations into Spanish. Each of the role plays explains both the right way to interact and the way in which it should not be done. In this order of ideas, with the direction and support of the social psychologist of Alumbra, two student teachers recorded the corresponding videos. For example: In module 2, which deals with Bilateral Conversations, different scenes include playing these roles: Use of voice tone (high and low), body limits (very close and very far), and eye contact (null or exaggerated). Finally, the way in which a good conversation between two people should be given is exemplified. This was done with each of the 14 modules based on the corresponding topic (Laugeson & Frankel, 2011; Laugeson, 2014). The recording of these role plays in Spanish is of great support for the work with adolescents with autism since, due to their condition, their learning styles are visual and auditory. Finally, the student teachers in the first academic period of 2023 proposed different strategies to manage the social networks of the Foundation. This is a key aspect for the foundation since it is a nonprofit organization and so it uses social media to raise awareness about its cause, raise funds, recruit donors and volunteers, build community around its mission, and communicate important information to many people quickly.

The PEERS© instruction for a group of children within the autism spectrum on social skills and their mothers had significant results. In September 2022, the first version of the Ágatha Project-Training in Social Skills began with a group of 5 adolescents between the ages of 13 and 19: 4 belonging to a type of single-parent family, with mothers head of the household and mostly in a condition of socioeconomic vulnerability, 4 were victims of bullying, of which 1 was going through this situation during the development of the training; which is why the foundation carried out accompaniment and orientation from the legal and psychotherapeutic aspects, both to the adolescent and to the mother.

Two instruments were used to monitor the Childrens' process and we report here the results of two of the children who participated in the training. First, the foundation used the Adolescent Social Skills Knowledge Test (Laugeson et al., 2009 as cited in Laugeson, 2014). This instrument is designed to assess adolescents' knowledge of social skills and is derived from each of the modules that are part of the program. The score ranges from 0 to 26, considering that the higher the score, the better the handling of social guidelines. Second, the foundation used the Adolescent Game Quality Questionnaire (QPQ-A)2 (Frankel & Mintz, 2009 as cited in Laugeson, 2014). This questionnaire provides information related to meetings with friends in which the adolescent has participated, both convened by him and to which he has been invited. And according to the scores of the Conflict Scale, results will be obtained that indicate the level of conflict within the meetings.

Table 1.
Child 1. Adolescent Social Skills Knowledge Test (Laugeson et al., 2009)
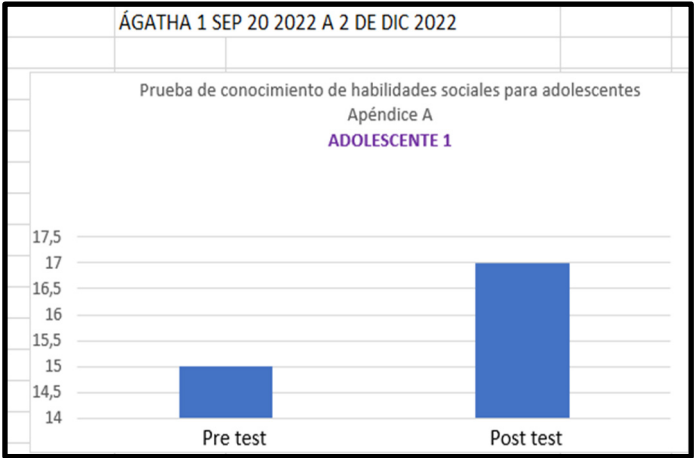
Child 1 obtained a total score of 15 in the pre-test; being below average. This indicates a deficit both in knowledge and in the implementation of social skills. In contrast, in the post-test he obtained a score of 17, which indicates an increase in his knowledge of social skills. In the questionnaire, child 1 did not have any type of meeting during the last month, in the pre-test. However, in the post-test it is possible to identify that he had a meeting and a low level of conflict. Thus, we can say that the adolescent had an increase in his social skills thanks to his participation in Agatha. Also, from the results in the tests, especially the quality of play, we can predict that the child will have a greater easiness to establish "satisfactory" interpersonal relationships; taking into account that he was a victim of bullying at his previous school; the program once again offered him interaction with peers, helping to generate bonds of friendship and common interests with his peers.

Table 2.
Child 2. Adolescent Social Skills Knowledge Test (Laugeson et al., 2009)
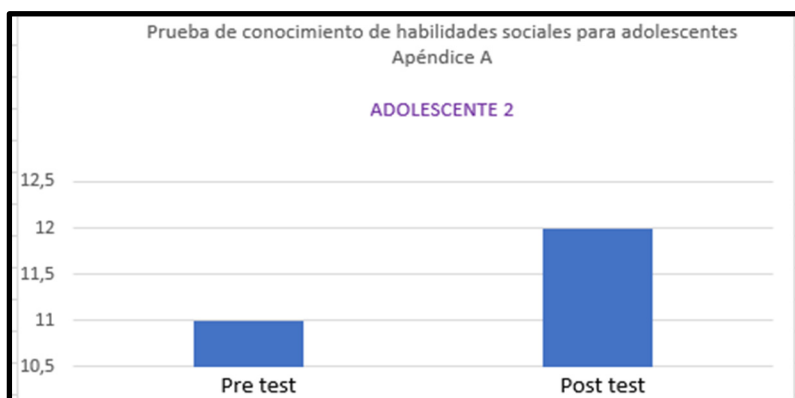
Child 2 gets a total score of 11 on the pre-test; being below average. Which indicates a deficit both in the knowledge and in the implementation of social skills, in contrast, in the post-test he obtained a score of 12, which indicates an increase in his knowledge of social skills. In the questionnaire, child 2 did not have any type of meeting during the last month, in the pre-test. However, in the post-test it is possible to identify that he had a meeting and a low level of conflict. Thus, we can say the adolescent managed to acquire greater knowledge and skill in social skills, evidencing progress in approaching peers and friendship ties.

Regarding the group of mothers, the results include various benefits for them. To start with, a safe space was created so that the participating mothers could express anxieties, fears, frustrations, concerns, and personal issues that each one of them was

going through. Likewise, a support network of the Ágatha group was created, where empathy and affective ties were strengthened among the participants, helping to consolidate a perspective of "*Not being alone*". The mothers became aware of issues such as self-care as the caregiver of an adolescent with ASD, emphasizing that even if they are mothers, they are also human beings who need space for themselves and for their other roles. Besides, it was possible to make visible the issue of social skills, embracing that these skills are fundamental in the psycho-affective development of human beings. As well, they strengthened their role as partners of their children when completing assignments that required their support and motivated their children when they did not want to attend or resisted the project activities. Meanwhile they became aware of the importance of mental health and the prevention of bullying in adolescence, they learned that each adolescent with ASD is completely different, that they may have things in common but that each case is incomparable and unique.

Concluding Discussion

Our collaborative project has had very positive outcomes and we have achieved what we planned. Most student teachers have been keen on learning about psychoeducation as this is key to their role as future teachers. Likewise, although translating skills is not a core area in the B.A., they have improved skills related to that as well. The student teachers who participated in the training on digital and pedagogical skills now have a new set of skills that will strengthen their professional careers and most importantly, will allow them to train ASD children who are assisted by the foundation.

The children that have completed the PEERS© training also have had important benefits. *Opportunity* is the word that best describes the contribution that training in social skills has given to ASD adolescents. These skills are not only required to make friends but are also vital for the performance of relationships in the family, in relationships, in school life, at work and in something as basic as shopping in a store. supermarket or order the dish of your choice in a restaurant. Therefore, allows for levels of independence, functionality, and autonomy that an adolescent with this condition can achieve. Well, all these skills have been acquired by the adolescents who were part of Ágatha in its first version.

The collaborative work between the two organizations will continue with the objective of formalizing the process of psychoeducation in Autism and other neurodevelopmental disorders so that student teachers have solid foundations in this

area and manage to provide their pupils with the necessary tools to enhance their skills and develop comprehensively. Likewise, The UCLA certified the Alumbra Foundation, in alliance with El Bosque University for the initiation of research work that may validate the application of the PEERS program. We look forward to continuing to do this.

The Ágatha Project has 3 lines of work, namely: 1) Training in Social Skills; 2) Training in Digital Skills; and 3) Labor Inclusion. Concerning the first line of work, currently, the second version of Ágatha has just finished, with a group of 5 teenagers. This time it is made up of two mothers who are heads of the family, one of them in a condition of socioeconomic vulnerability. The other 3 families are nuclear families, and it was identified through the initial evaluations that 3 of the adolescents have been victims of bullying, and 2 of them are already receiving psychotherapeutic support.

As of July, of the current year, the foundation opened a call for adolescents who have been trained in social skills to take part in the training in digital skills. For this, the Alumbra Foundation has 7 Mentors in Digital Skills, who have been trained and certified by EIDOS (Argentina) and Microsoft (Colombia). They are able to teach ASD adolescents and young people the following topics: Data management and Excel, presentations and PowerPoint, collaborative work and Teams, programming and design, and employability and Linkedin. Thus, indirect employment is generated for mentors which impacts the quality of life of both the mentors and the population with Autism.

Finally, in terms of vocational development, two of the adolescents are currently studying Theater; they are in the first and second semester respectively. In addition to acting, they receive training in body language, music, dance, and improvisation. This process opens space for future labor inclusion and the generation of a sustainable life project.

We have obtained great achievements by positively impacting the lives, not only of the population with Autism and their families, but also of student teachers. This is a milestone that is beginning to resonate with the different social actors, and this is the best way to contribute to the exercise of defense and effective enjoyment of the rights of this population. All in all, the steps we have been taking in this collaborative project have been addressing the best interest of the child as a central starting point in all decisions concerning children and the child as an individual with rights of his or her own, entitled to participation.

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Empowering Children and Youth through Law and Participation:
Insights from the Colombian Context

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I would like to think of teachers moving the young into their own interpretations of their lives and their lived worlds, opening wider and wider perspectives as they do so… I would like to see teachers tapping the spectrum of intelligences, encouraging multiple readings of written texts and readings of the world… such a project demands the capacity to unveil and disclose. It demands the exercise of imagination, enlivened by works of art, by situations of speaking and making. Perhaps we can invent ways of freeing people to feel and express indignation, to break through the opaqueness, to refuse the silences. We need to teach in such a way as to arouse passion now and then.

(Maxine Greene, 1986, p. 441 – Center for Social Imagination, the Arts and Education, Columbia University)

Introduction

In the educational sphere, and specifically relating to implementing pedagogies that promote democracy, peace and democratic citizens, Colombia is a unique and interesting example. It is a country with an over six decade-old armed conflict with countless types of victims resulting from multiple types of violence: assassinations; sexual violence; kidnappings; land mines; massacres; forced disappearances; terrorist attacks; civilian attacks, among other. While children have been victims of all of these, they have also been recruited and used by illegal armed groups. According to a research and advocacy organization advancing human rights in the Americas, as of

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April 1, 2020, 8,989,570 Colombians had registered as conflict victims with the government's Victims' Unit. According to the National Planning Department, this corresponds to roughly 2.7 million families. While 7,261,998 were subject to care and/or reparation, a significant number were deceased, disappeared, or unable to receive benefits. These multiple events and statistics make Colombia a unique context where "violences" with multiple origins and causes exist. I use the plural form "violences" to provide an understanding of the Colombian context highlighting its unique circumstances (this despite the fact that "violence" is an uncountable noun in British, American and other varieties of English).

Beyond numbers (which often lose meaning), I refer to "violences" in its plural form to note an existing imbalance that stems from a predominant Euro-American vision on issues relating to events outside of these continents. One way in which the Colombian education system decided to address a state of affairs where violences had been naturalised was by giving priority to civic competencies, resulting in 2003 in the implementation of the Basic Standards of Citizenship Competencies. Haste (2010) posits that it is not unreasonable to argue that research in the social sciences on civic education in the past two decades has rested on a U.S.-based model, to cultivate democratic competence among the young. Haste (ibid), in contending that the scope of the civic domain has expanded, points to nations in Latin America and Asia whose profiles were (and I contend *are*) different from those in western societies. She points to preoccupations of specific nations which have influenced the field of civic education, where for example long term civil war and its aftermath, or major political commotion and change, or severe inequality, have raised questions. These geopolitical events have challenged assumptions about the universality of any single form of democracy (ibid). This is a noteworthy claim given that democracy is closely tied to citizenship, and thus at the heart of how children and youth are empowered (or disempowered) through law and participation, and more generally through education and educational settings.

This said, there have been multiple country-wide efforts from a legal and public policy perspective to address the armed conflict at notable historical moments in recent years. One such moment was the 2016 peace agreement between the government under president Santos and the FARC (Revolutionary Armed Forces of Colombia) – the largest left-wing rebel guerrilla group which had waged the longest running armed insurgency in the western hemisphere. At the time of writing this, in early August 2023, the current government under President Petro (himself a former member of the M19 armed guerrilla movement) and the Ejército de Liberación Nacional (ELN or National Liberation Army for its acronym in Spanish, the largest remaining left-wing guerrilla group founded in 1964), after eight months of talks,

have agreed upon a cease fire until January 2024 (El País, 2nd August 2023). This cease fire is also the beginning of the *National Committee of Participation* which seeks to receive input from civil society on ways forward towards peace. The Committee will be in charge of designing instruments to ensure citizenship participation through regional and local meetings during a four to six-month period. This will be followed with discussions on the proposals put forward which will then be used as input to formulate policies and projects to attain peace. This is taking place amid growing levels of insecurity, particularly as regards kidnappings, massacres, human trafficking, extortions and thefts in the first four months of 2023 compared to the same period in 2022 (source: Agencia de Periodismo Investigativo, digital communication media agency).

This chapter seeks to advance the conversation on how, through the law and through participatory mechanisms, children are empowered (or disempowered) in the Colombian context. This conversation intends to broaden understandings of how children´s rights can be honoured from a legal perspective but also from an educational perspective, where the legal the educational, and social, dimensions need to be aligned In this sense, it makes a contribution from the global south, which is markedly different from the global north.

The chapter begins with a note on the methodology employed in writing it. It then presents some notable instruments of a legal and political nature that are in place in Colombian legislation. In an attempt to not separate legislation (which is often located in a conceptual sphere) and educational settings (i.e. classrooms, schools and other learning spaces conceived as social microcosms where adults, children and youth interact), the chapter points to two directions: first, how power and child participation in adult-child/youth interactions is conceived conceptually; second, excerpts of 5th grade teachers´ conceptions and practices on how they promote (or hinder) children´s empowerment. These excerpts stem from field work carried out in 2017 in Cali, Colombia, as part of a doctoral study, with teachers from public schools located in mostly marginalised neighbourhoods. These excerpts seeks to provide light into the following questions: what pedagogial practices do 5th grade teachers employ to promote power and participation of children? What pedagogical practices hinder children´s agency? In what ways are teachers´ conceptions aligned and/or misaligned to their practices, particularly as relates to elements inherent to developing democratic citizenship skills and dispositions? What forms and degrees of child participation do teachers promote? How do teachers conceive of power in the classroom, and how do they manage power dynamics in interactions with students? Finally, I make recommendations and suggest possible paths forward that may serve not only teachers and school leaders in Colombia but globally.

Methodology

The methods I have relied on for this chapter are a review of sources which include educational policy documents and policy guidelines; legislative instruments (laws and decrees) undertaken in the last three decades; excerpts from a qualitative, multi-case study conducted in marginalized school contexts with high levels of community violence and fragile social fabrics in Cali, Colombia, focused on 5th grade teachers' conceptions and practices at the classroom level to cultivate democratic skills and dispositions. These conceptions and practices included five dimensions: children´s voice (Bahou, 2011); decision-making capacity (Hart, 1992); equality of respect and recognition (Lynch & Baker, 2005); equality of power (Lynch & Baker, 2005); and critical thinking development (Ennis, 1985, Facione, 1990).

As regards the multi-case study, two main instruments were used to collect data: classroom observations and semi-structured interviews with teachers. Student questionnaires were also used at the onset, but exclusively as a tool to help select five teachers whose classroom climates were perceived to be (or not to be) democratic in different degrees by students. The self-designed questionnaire and the classroom observation matrix employed were inspired by DCCED (Democratic Climate of Civic Education Classroom Scale) designed by Mappiasse (2006); and CLASS (Classroom Assessment Scoring System, Upper Elementary) designed by Pianta et al. (2011). CLASS is a scoring system empirically tested across large samples of standardized observations in preschool and elementary classrooms. Both were used as guidelines to identify behavioural markers to make sense of teacher practices and classroom climate, and to select teachers with varying degrees and qualities associated with democratic practices in the classroom.

Classroom observations enabled observing teacher practices, taking note of what they did, and how they did what they did, in their interactions with learners. Semi-structured interviews with teachers enabled (a) in-depth exploration of their respective conceptions; (b) making sense of specific events that had previously emerged in classroom observations; and (c) understanding how teachers made sense of their own classroom practices, including why they acted the way they did in interactions with students. Thus, classroom observations and semi-structured interviews allowed for an exploration of how teachers managed power in their classrooms; why they managed power the way they did; and if, and how, they promoted children´s participation.

This chapter then combines both desk-based research and field research. These multiple sources seek to contribute in understanding how children are empowered

(or disempowered) through the law, and through teacher practices in the social microcosm that classrooms (and more broadly schools) represent.

Finally, I have drawn on my experience with the Swedish International Development Agency and with LUCE (Lund University Commissioned Education) working both as a participant (2009-2013) in an Advanced International Training on *Children´s Rights, School and Classroom Management* with educators and government officials from Asia and Africa primarily, and where my team represented Colombia; and as a tutor in a similar programme that was carried out in Spanish, with educators across Latin and Central America.

What juridico-political instruments are in place in Colombian legislation?

Beyond the above mentioned 2016 peace agreement signed between ex-president Santos´s government and the FARC (preceded by a referendum resulting in a majority of voters not supporting the agreement), and the present negotiated cease fire between president Petro´s government and the ELN, there have been other instruments of a juridico-legal nature seeking to empower children and youth. This is the case of the Colombian Constitution itself, promulgated in 1991 and replacing the Constitution of 1886. The 1991 Constitution provides a comprehensive political and legal framework to guarantee the rights of all. It declares Colombia as an 'Estado social de derecho' - a State guided by the rule of law. As regards children specifically, Article 44 of the Constitution outlines fundamental rights of children, stating that they "shall be protected against all forms of abandonment, physical or moral violence, kidnapping, sale, sexual abuse, economic exploitation, and risk-related work". It adds that children will also enjoy from the other rights enshrined in the Constitution, in laws, and in international treaties ratified by the State. Similarly, Article 45 outlines that adolescents have "rights to protection and integral development", outlining the responsibility of the State and society to guarantee the active participation of youth in public and private entities in charge of their protection, education and progress.

The nature and spirit of the Political Constitution of Colombia of 1991 is relevant to understand how the law has sought to empower children and guarantee their participation. The Constitution has influenced Colombian legislation and educational policy: the very idea of citizenship from a rights-based perspective springs from the political commitments articulated in the Constitution. So much so

that three years after the 1991 Constitution came into being, Law 115 of 1994 (Law of General Education) was passed with a decree that operationalized some of the elements within the Constitution. Law 115 underscored an education to respect life, human rights, peace, democracy, co-existence, pluralism, justice, solidarity, equity, tolerance, and freedom. Colombian educational policy emphasizes a framework that prioritizes the concepts of citizenship, human rights and a participatory democracy, all of which is based on a child-rights based perspective.

Furthermore, Law 1620 of 2013 aims to ensure safe and supportive school settings, which are at the heart of child and youth empowerment. Law 1620, through Decree 1965, led to the creation of a 'National System of School Co-Existence and Development for the Exercise of Human Rights, Education for Sexuality, and the Prevention and Mitigation of School Violence.' 'Co-existence' is a translation from the Spanish word 'convivencia', which is a concept that is referred to in Colombian (and Latin American) educational policy and connotes living together in peace. Article 39 of Decree 1965 introduces definitions of *'conflict'*; *'inadequately managed conflicts'*; and *'school aggression'*. **'Conflicts'** are understood as situations characterized by real or perceived incompatibility between persons in relation to their interests. **'Inadequately managed conflicts'** are understood as situations where conflicts are not resolved in a constructive manner, leading to events which affect school co-existence. These events may be altercations, confrontations, or quarrels between two or more members of the school community, of which at least one member is a student. Inadequately managed conflicts do not include bodily harm to - or harm to health of - any of the parties involved. **'School aggression'** is understood as action committed by one or more members of the school community which intends to negatively affect other members of the school community, of which at least one is a student. The Decree also outlines different forms of school aggression (i.e. physical, verbal, gestural, relational and electronic). It also includes bullying; cyber-bullying; sexual violence; violation of children's and adolescents' rights; and restitution of children's and adolescents' rights.

The above legal framework is complemented by Article 40 of Decree 1965 which classifies three types of situations which affect harmonious school co-existence. **Type 1 situations** refer to inadequately managed conflicts and sporadic situations which affect school climate, but which do not include bodily harm or harm to health. **Type 2 situations** refer to aggression, bullying and cyber-bullying, which do not possess the characteristics of a crime or criminal offence, but which (a) occur repetitively or systematically, or (b) inflict bodily harm or harm to health, not involving any form of inability or disability of any of the parties. **Type 3 situations** refer to school aggression which includes alleged crimes or offences against the freedom and/or

integrity of the victim, including sexual violence. This includes crimes listed in Colombian penal law.

The political and legal framework regarding children and adolescents' rights, with implications on child and youth *protection* (without which child and youth *empowerment* could not be meaningfully promoted), is complemented by Law 1098 of 2006. This law is known as the Code of Childhood and Adolescence (Código de la Infancia y la Adolescencia). It provides a comprehensive framework aimed at the integral protection of children and adolescents, which seeks to ensure that children and youth are 'subjects of rights' (and not objects of discrimination or 'property' of adults devoid of agency). Child mistreatment in Law 1098 is understood as all forms of harm, punishment, physical or psychological abuse, neglect, negligence, omission, ill-treatment, sexual exploitation, including abusive sexual acts, and rape. Article 2 of Law 1098 establishes substantive and procedural norms to protect children and adolescents; to guarantee their rights and liberties enshrined in international human rights treaties, both in the Political Constitution of Colombia as well as in Colombian legislation.

Moreover, in line with Article 3 of the CRC, which refers to the primacy of the best interests of the child to be considered "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies", article 8 of Law 1098 also refers to the best interests of the child: the imperative that obliges all people to guarantee the integral and simultaneous satisfaction of all their Human Rights, which are universal, prevalent and interdependent. (Congress of the Republic, 2006).

Other complementary legislative measures are the Prevention of Sexual Violence and Integral Care of Child Victims of Sexual Abuse, passed in 2007; the ratification of the Convention on the Rights of Persons with Disabilities (2011); the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (2012). As regards other institutional and policy measures, these include a Public Policy on Gender Equality (2012); a Strategic Plan to Eliminate HIV/AIDS Mother-to-child Transmission (2011); a Policy and Strategy on Early Childhood known as From Zero to Always ('De Cero a Siempre', 2010) aimed at ensuring adequate integral development of infants beginning before birth; a National Action Plan for Children and Adolescents (2009-2019). These are all part of a comprehensive policy focus with the goal of not only building a more inclusive nation, but also accounting for sectors of the population affected by violence direct or indirectly and recognizing communities which have been neglected. These are pre-conditions to ensure child and youth protection, a prerequisite to empower them.

While there is a comprehensive legislative and educational policy-related machinery, how this impacts practices and interactions between adults on one hand, and children and youth on the other, is of particular concern. It is not always clear how the law actually influences children and youth´s empowerment on the ground, and specifically in learning spaces like classrooms, schools and other. Particular challenges in Colombia have been limited resources allocated to education and prioritising defence spending. Beyond the economic sphere, other questions with no clear answers are as follows: how is the law conceived by adults (teachers, school leaders, parents, care-givers, among other), and to what degree is it appropriated and understood by them? How do deeply rooted mental structures, thought patterns and cultural behaviours play out in disempowering children and youth? If power inevitably intersects with 'empowering' children and youth, how is power conceived by adults? The following section seeks to provide light into these questions by focusing on theoretical underpinnings relating to the notion of power on one hand, and the notion of child and youth participation on the other.

Power: what is it and how does it operate in adult-child interactions?

Resulting from Foucault´s (1980) work, educationalists have focused greater attention on power as a research problematic. In particular, power has emerged from a purely static entity - possessed by some and exercised over others – to one that is dynamic. Referring to the Foucauldian notion of power, Bahou (2011) describes it as relational, situated, circulated, endlessly negotiated, and constructed. Foucault (1980) points to its dynamic and relational nature:

> "Power is employed and exercised through a net-like organization. And not only do individuals circulate between its threads: they are always in the position of simultaneously undergoing and exercising this power" (p. 98).

In the same line, Janeway (1980) underscores the dynamic nature of power, and how its balance is maintained:

> "[Power's] being is becoming. Its steady existence [is] derive[d] from ceaseless shifts and tensions, its balance is maintained by thrust and response, hope and frustration, and by the practical actions that grow out of compromises and confrontations among its myriad human components" (p.3)13.

Manke (2008), using architecture as a metaphor, draws attention on the expansive nature of power and how it can operate both centrally and peripherally, potentially leading to conflict:

> "I imagine students and teachers as building rooms or spaces in which they can interact independently or influence the actions of others, building areas off to the side of the main structure where they can live and work without conflict with others, and sometimes seeking to build in areas where their plans and actions conflict with those of other members" (p. 6)14.

Starhawk (1988) distinguishes between three types of power: (1) "power over", which refers to a hierarchical relation of domination and control; (2) "power-from-within", referring to one's sense of personal ability and deep connectedness with other human beings and the environment; and (3) "power with", which suggests influence in a group of equals. For De los Reyes and Gozemba (2002), the power to influence rests on having the skills, dispositions, and knowledge to cultivate the "power-from-within" and the "power with" through dialogue and alliances between teacher and students (and among students). Students´ lack of opportunity to experience their own power deters them from asserting their place as active social actors in their schools and wider communities.

In this line, teacher practices and their interactions with children and youth can be framed within a capacity-based perspective, a deficit-based perspective, or a combination of both. The capacity-based perspective denotes relations that emphasize 'working with' children and youth whereas the deficit-based perspective emphasizes 'doing to' or 'doing for' children and youth.

Participation: 'voice' does not equate to influence

Child and adolescent participation in educational settings has often been associated with 'giving' students voice. Article 12, paragraph 1, of the United Nations Convention on the Rights of the Child (CRC) refers to the right of children to express their views in matters affecting them, giving due weight to age and developmental stage; paragraph 2 refers to children being afforded the right to be heard in judicial proceedings relating to them, either directly or through a representative body.

In Hart's (1992) eight-tiered ladder of participation - cited in educational policy documents and guidelines - the first three levels of participation are based on

manipulating, tokenizing and using children as merely decoration. It is only on the fourth tier that children are informed of the nature of their participation and how their participation will come about. This points to the complexity of participation with levels of non-participation and levels of genuine participation, and levels in between. Hart (1992) refers to 'participation' as follows:

> "… the process of sharing decisions which affect one's life and the life of the community in which one lives. It is the means by which a democracy is built, and it is a standard against which democracies should be measured. Participation is the fundamental right of citizenship" (p. 5).

That participation involves exercising one's voice and one's capacity (and opportunity) for decision-making as regards children and youth is straightforward and understandable; how this process comes about, what school structures need to be in place, what classroom climates are required, and how teachers, educational leaders and school staff at large can ensure genuine student participation in educational settings, is less clear. Wolk (1998) argues that everyone has a voice and, as a result, is not something that can be 'given' (p. 186). Rather, voices can be shaped, projected and nurtured, or misshaped, repressed and silenced (Nanwani, 2023). Thus, how teachers and school leaders create classroom and school climates where student voice is promoted, and what form and expression student voice takes, are core issues to grapple with. For example, is children´s voice conceived only as sound produced in a person's larynx which then leads to actual utterances in the form of speech? Or is voice understood from a broader lens, where art and other forms of self- expression are also considered? This is especially relevant in contexts of extreme violence or with children who suffer trauma. Similarly, beyond the form, what degree of student participation is promoted, will likely depend on how learning situations and teacher-student interactions are shaped.

The question remains: what is 'voice' within a broader child participation framework? Bahou (2011), who specifically refers to student voice, claims that voice has emerged as the single term in educational research which encompasses a spectrum of initiatives advocating for the redefinition of the role of students in research and educational change. Bahou (2011) also points to the complexity of student voice, which in turn "is located within a complex web of school structures and cultures that are shaped by policymakers, school leaders, teachers, researchers and students themselves" (p. 2-3). In its most conservative form, Bahou (2011) notes that voice denotes having a say when asked, but with no guarantee of a necessary response; in its most radical form it calls for "a cultural shift that opens up spaces

and minds not only to the sound but also to the presence and power of students" (Cook-Sather, 2006, p 363, in Bahou, 2011, p. 3).

The complexity of limiting, or even conceiving, child participation based on their voices while excluding decision-making capacity has three drawbacks: first, it limits agency, promoting tokenistic forms of participation. Allen and Light (personal communication in 2017), for example, note that voice does not necessarily equate to influence. In practical terms, this means that children may have spaces to voice their views, but these views may not have any significant impact, or influence, in altering events and/or circumstances. Second, children may lack the actual language, or semantic base and word knowledge to express their views; third, children and youth, depending on their developmental stage and self-esteem, may not have the self-efficacy to express themselves.

How do teachers promote power and participation of children in 5th grade classrooms?

This section presents teachers´ conceptions and practices relating to power and participation. While five teachers (T1, T2, T3, T4, and T5) from four different schools participated, this chapter focuses on the first four teachers. All four schools were part of a multicomponent citizenship competencies programme called Classrooms in Peace (Aulas en Paz). Three of the four schools were located in particularly marginalised neighbourhoods with populations that included displaced communities as a result of the armed conflict, and Afro-descendants. Excerpts from classroom observations and from interviews with teachers on their reported and observed practices are shared and their implications to empower children are discussed.

T1, an experienced teacher with almost forty years of teaching experience, associated a democratic environment with the notion of freedom where the students are "free", and have "freedom of opinion" and "freedom of expression." His practices, however, were not always aligned to these conceptions. Referring to his students, he described his intentionality of "helping children", and positioned himself as their "pastor": "I am the pastor of these children". This positionality and self-proclamation framed teacher-student interactions in the classroom, establishing himself as a moral role model to follow. In one of the observed sessions, he said the following to one of the students in an attempt to manage the classroom and ensure that students were at task:

T1: Talk what is necessary… you don´t have to talk so much… this is what I say… why don´t you keep your (small) mouth shut? Learn to be quiet… do you love God? (session 3, translation mine)

At another point, when exploring T1´s views on sexual diversity relating to his pre-adolescent students, he says the following:

T1: Nooo. God made man… a man with a woman and a woman with a man… and if we are believers we can't think in man with man and woman with woman… no no no… we shouldn´t… we can't… while one can "form" man with woman, woman with man and insert this idea and insert the principles that God left in the ten commandments then for me that is the best… The other, the other, I, I do not agree.

While T1´s views are not the primary object of study, how his recurrent evangelical discourse on one hand and heteronormativity on the other, may influence his students´ views, are. These practices of denial and depreciation based on a particular religious faith and sexuality are opposed to T1´s notions of "freedom of opinion" and "freedom of expression."

In classrooms where teachers sought to promote greater participation of students with the intent of empowering them, T3´s practices sought an equilibrium in the classroom: he explained the implications of allowing "so much democracy" and trying to construct classroom climates that do not resemble "tyrannies" but "oriented democracies":

T3: … one of the problems of participation is that when one allows so much democracy we end up in an anarchy, in a situation where they end up not learning, so the school in some way is described as a prison, as a detention centre for children where they come and are under the tyranny of the teacher. One tries to not make it a tyranny but an oriented democracy.

Similarly, T2 describes her relations with her students as follows:

T2: They obey me. I can… I think there is control but there is also an affection. I try to offer them affection… I mean… from my point of view I try to be close to them insofar as I try to treat them well… to not lose my temper but at the same time I try to let them know also that I am the authority. **They should not forget that**. (Last sentence in bold indicating emphasis in T2´s intonation).

To the degree that an equilibrium (e.g., tyranny versus oriented democracy, control versus affection) is sought in their interactions with students, both T2 and T3 work towards a dynamic of power that does not intend to be overly authoritarian or even

less, tyrannical. These power dynamics have implications on children´s empowerment and the degree to which classrooms become participatory spaces. While classroom observations denoted a respectful, dialogue-based, and caring climate, T2 and T3 ´s classrooms resembled well-intentioned regimes where power largely rests with the teacher and is not shared in any substantive manner with students, limiting their agency.

If T1 positioned himself as the children´s pastor, and T2 and T3 sought classrooms that resembled balanced, 'oriented democracies', T4´s practices were based on a more radical form of democracy. This not only had implications on how children´s participation was promoted but how their self-regulatory skills were cultivated. In this line, in a class session, a 5th grader asks T4 for permission to go to the bathroom, to which she responds: "My love, I don't control your bladder." To make sense of her conception of power, and its implications on children´s empowerment, I asked her weeks later in the interview what "control" meant to her. Her response is as follows:

> T4: It's that I think that this is a part of democracy and I'm inclined to believe that it is part of critical thinking. I think that in a society, that in a school environment where I have to ask for permission to go to the loo and where I have to tell an adult who is there as an authority figure, having to ask for permission to urinate, for me to go to defecate, to expel what is inside my organism that at that point is asphyxiating me, when my bladder is full, the intestine; I find it humiliating. And so, how is it that I (the teacher) want to develop critical thinking, but I (the student) have to humiliate myself before an adult whom I have to ask for permission to go to the loo? For me it's humiliating, and so how to… how to have free thinking… that I am able to move towards freedom of thought when having to ask for permission even for the basic things like going to the toilet? I don't understand that. When a boy does this to me it takes me back to a film I saw called 'Maids and Ladies, at the time when in the United States the black ladies that worked in the houses of the white, so the lady would measure the toilet paper they gave to the maid and would even make them have an independent bathroom outside. So, I felt that was so humiliating and so I always take that with me to the classroom. That I should have to ask for permission so that you can go to the loo I feel is humiliating. And so, how do I develop people with free thinking that can take decisions, because critical thinking is related to the decisions that I take for my life… when I have been plunged as a result of power to the point where others take decisions for me. When they (students) ask me for permission I tell them: "my love, I can't control your bladder."

In the excerpt above, T4 is actually referring to a movie called 'The Help' in English - a film adaptation based on a novel of the same name by Kathryn Stockett about black maids working in white households in Jackson, Mississippi during the civil

rights movement. In her excerpt, four themes converge: (1) power used to nullify one's sense of self-respect and one's dignity as a human being; (2) power used in the absence of democracy insofar as one's own decision-making is overridden by others deciding for them; (3) power as absence of critical thinking; and (4) power as absence of free thinking and freedom of thought. All four themes indicate power *over* students, and act as the antithesis of developing participatory classroom spaces where children do not only have a voice and agency, but also opportunities to develop self-regulatory skills. T4´s comparatively radical form of democracy vis a vis other teachers´ practices cultivate self-respecting, free-thinking individuals with critical thinking and decision-making capacity – all elements that are inherent to empowering children.

Concluding remarks

By outlining the legal and political framework in place in Colombian educational policy, and by sharing a range of teacher practices that empower and disempower children´s participation, this chapter seeks to do the obvious: first, to note that empowering children is particularly complex in contexts with fragile social fabrics marked by decades of armed conflict; second, to address and act upon the gap that is often present between what the law and public educational policy dictates on one hand, and how these are (or are not) appropriated and practised on the ground by teachers and school leaders. Beyond this, the chapter makes a call for teacher development programmes to explicitly provide opportunities for (1) teachers and school leaders to explore and reflect on the discourses they employ in interactions with children, and the implications of these discourses; (2) teachers and school leaders to question how they position themselves in interactions with children, and whether this positionality empowers or disempowers children; and (3) teachers and school leaders to be reflective on their own, often implicit or unconscious, biases and how these empower or disempower children.

Moreover, perhaps the way forward points to teachers and school leaders being supported in their pedagogies to creatively experiment with democracy, bringing it alive in the classroom through their practices and interactions with children and youth. On one hand, professional development of teachers and school leaders ought to address the notion of power and consider moving from *'power over'* to *'power with'* in interactions with children. Ideally, in framing interactions and learning opportunities, teachers ought to inspire the *'power within'* students. On the other hand, this professional development ought to support teachers and school leaders to

align their 'project' to explicitly and deliberately empower children and youth as Greene (1986) suggests:

> "… tapping the spectrum of intelligences, encouraging multiple readings of written texts and readings of the world… such a project demands the capacity to unveil and disclose. It demands the exercise of imagination, enlivened by works of art, by situations of speaking and making. Perhaps we can invent ways of freeing people to feel and express indignation, to break through the opaqueness, to refuse the silences. We need to teach in such a way as to arouse passion now and then."

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Children's Rights in Brazilian Schools:

A Living Law Informed Ethnography

Alexandre Soares de Carvalho [1]

Introduction

Children's rights are a crucial area of research since children are among the most vulnerable groups in every society. The United Nations Convention on the Rights of the Child (CRC) is a legally binding international instrument that sets out the rights of children and prescribes the obligations of governments and adults to ensure their protection, provision for their needs and grant them the right to participate in the decisions which affect their lives (Verhellen, 1993, 2006).

The text of the convention came into force in Brazil through Decree 99710 of November 21, 1990.[2] Furthermore, two relevant legal texts on children and youth were approved and became the legal norm shortly before the convention produced legal effects in Brazil: the Federal Constitution of 1988 and the Statute of Children and Adolescents (ECA – the Portuguese acronym to be used hereinafter), through Law 8069, on July 13, 1990. These specific Brazilian laws need to be seen much more as a kind of complement to the general essence brought by the CRC than a

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[2] https://www.planalto.gov.br/ccivil_03/decreto/1990-1994/d99710.htm.

different proposal. In fact, texts tend to converge on their most important aspects (Woicolesco, 2014).

For this study, I investigated how children's rights are being implemented in the Brazilian education setting. By focusing on one country, I conduct an analysis of how the legal norms provided for in the CRC and in the Brazilian legislation are lived, enforced, and experienced within a specific context, namely in the school context. The justification for this approach is based on the recognition that local features, such as internal legislation and local practices and norms (both official and unofficial), play a significant role in shaping the observance of children's rights inside the school setting.

Thus, the central research question of this study was: How are children's rights interpreted, understood, and implemented in Brazilian schools? Furthermore, empowering children by raising awareness of their rights and providing them with opportunities in which they can participate effectively, is a task that everyone involved with children should undertake. This study also aimed to understand this point in real life.

To answer these questions, I used the ethnographic methodology in which I proposed to study the reality of two typical Brazilian public schools through the lens of Ehrlich's *living law* theory.

The 3 P's mode of interpretation

Regarding the CRC, there are three main types of rights that children can place themselves as claim-holders for: protection, provision and participation, as detailed by Wickenberg et al. (2019, 2021):

- Participation: The child's right to participate, e.g. in providing information and expressing his or her views, as well as participating in decisions in matters that affect the child. (Articles 12-17)

- Protection: The child's right to be protected from physical and mental violence, injury or abuse, neglect or negligent treatment, and all forms of exploitation. (Articles 19, 20, 32-36)

- Provision: The child's right to get their basic needs fulfilled, e.g. access to food, healthcare, education and social welfare. (Articles 6, 24, 26, 27:1, 28-29, 31) (Wickenberg, Rasmusson and Leo, 2019, p. 138; 2021, p.15)

To live in a society and *become* a full citizen, the child passes through educational process. Getting deeper in the academic debate, Eugeen Verhellen wrote a seminal

study about the implementation of Children's Rights in the educational setting (Verhellen, 1993). I used his insights as the basis of this study. For him, the CRC may be divided into three tracks in this theme: the rights **to** education, the rights **in** education and the rights **through** education.

It seems that there is not much to write about the rights of children to get an education. They are indisputable rights. Even around 30 years ago, these rights were well established, at least in the North-western countries. In the Brazilian context, it is not that different (Pellanda and Cara 2021). Since the Federal Constitution, the public sector has been working to guarantee a free spot for each child, and these efforts are being well accomplished.

On the other hand, rights **in** education and **through** education were not so consolidated worldwide until the approval of the CRC. Hence the choice to observe in loco these themes.

Review of the relevant literature

An interesting finding of this review was that I realized that the term CRC or UN Convention on the Rights of the Child was not relevant to find Brazilian studies. As aforementioned, the convention and the more general legislation in force in Brazil has no significative differences. Públio & Marson (2016) seem to consider that the texts complement each other. For the authors, the determinations of the convention were integrated into the Federal Constitution and the ECA (Públio & Marson, 2016). In fact, doing this literature review, I looked for studies that compared CRC with ECA and found none. Indeed, the similarity of the texts discourages this type of study, as it leads to quick and obvious conclusions.

Classroom context

As found in other international studies, as in Carter & Osler (2000) and Quennerstedt (2011), the authoritarian style of a pedagogy hinders the recognition, on the part of teachers, that children are also holders of rights.

Some studies that take into account the Brazilian context have focused on propositions to increase the role of the pupil's voice, as in Marchiori (2012), Machado & Leon (2019), Silva & dos Reis (2018), Pereira Oliveira et al. (2006), Pereira & Lorencin (2021). These authors recognized that the teacher needs to listen to the student and give him/her a voice to reach a child with a greater sense of

citizenship. However, some of my observations only confirm the authoritarian style in the Brazilian setting.

Children's participation in the management of schools

Brazilian studies highlight the constitutional clause of public and democratic management, at least in public schools. However, they are also unanimous in pointing out that the neoliberal reform initiated in the 1990s made this principle of democratic management produce a business logic in which the principal/headmaster is seen as a manager and the school community as a kind of administrative council. In this model, the distribution of the school's financial resources is more important than the effective participation of the community involved. Also, the discussion of topics of a pedagogical nature does not appear in these councils. It is noteworthy that none of the texts was exclusively concerned with the participation of children but with a more general criticism of the low level of participation of the school community as a whole, including teachers, other professionals, parents and students (Fernandes & Ramos, 2010; Neto & Castro, 2011; Conti et al., 2013; Batista, 2014, 2018).

Children's rights regarding school management also face resistance around the world. Wyse (2001), researching the UK, admits that even schools that allow the participation of children in management do so in a limited way, concluding that it is not possible to change this practice while the focus is on the product (academic results), more than in processes (construction of a democratic environment).

Children's rights through education

This subtheme is related to the practice of children's rights in educational institutions through education. Academic works identify this type of education in law as a way to promote a better learning environment as a whole and the formation of citizens better prepared to participate actively in democratic life. In this vein, a study highlighting that children should have democratic experiences in the school environment was carried out by Lopes et al. (2009) when discussing violence in schools. For the authors, part of the solution to the problem of violence would be solved with the incorporation of democratic notions and attitudes in which the pupil's voice should be truly considered.

This brief literature review demonstrated that children's rights provided for in the CRC and in Brazilian internal laws are far from being a reality in schools. It is also interesting to note that there was no problem of questioning the rules of the laws, in

the sense of proposing reforms or the inadequacy of one or more clauses. It seems that the problem would not be in creating new and different binding norms; rather, the issue lies in their practical application. In this way, what seems to be understudied is how the daily life of schools is perceived from the perspective of their internal rules.

Theoretical Framework

For this study, where I observe the lifeworld through an ethnographic approach, the concept of living law, a socio-legal framework developed by Eugen Ehrlich, is the one that best fits the bottom-up approach.

Ehrlich was a legal scholar born in 1862 in the Austro-Hungarian Empire. He was exposed to diverse cultures and languages throughout his life, owing to the various ethnic groups living in Czernowitz, the capital of Bukowina[3] (Banakar, 2012). All this exposure to different cultures inspired him to develop his theory of living law, which has since become a classic contribution to the field of sociology of law. Ehrlich concluded that even without strictly following the laws of the empire, those communities had their own means of resolving conflicts within and between them. He also noted that people lived under rules, written or otherwise, not necessarily coincident with state law. Thus, each group or association has a regulatory system that reveals how people actually organize their interpersonal relationships and activities over time (Banakar, 2015). By association Ehrlich means the state, the nation, the political parties, the family, a group of factory workers, the religious communions and so on (Ehrlich & Ziegert, 2001). Therefore, an elementary school must also be considered an association for this study. That is, each school creates, and lives (judges) also based on its internal hierarchies and forms of coexistence created and solidified over time.

Furthermore, the literature recognizes that Ehrlich was one of the first to develop a pluralistic theory of law (Hertogh, 2009; Treviño, 2013; Banakar, 2015). Legal pluralism occurs when multiple rules coexist. In other words, legal pluralism focuses on the presence and interaction of several different systems of regulations that shape individuals' social conduct (Urinboyev and Svensson 2013), (Urinboyev, Wickenberg, & Leo 2016). Thus, both the CRC and Brazilian laws should be

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[3] Bukowina refers to the geographical region of Bukowina, now divided between Romania and Ukraine. Czernowitz, also the name today of Chernivtsi, formerly the capital of Bukowina.

considered as one more normative code among others that influence conduct within the school environment.

Method: Ethnography

What I intended with this work is to describe what are, in fact, the different rules experienced by children in a school environment. To achieve this goal, I decided that ethnography would be the best fit for the journey. In an ethnographic work, the researcher tries to understand the social world of the people she/he is studying by watching, experiencing, absorbing, and inquiring. This is the best way to learn in detail about complex social phenomena (O'Reilly, 2012).

Carrying out ethnographic research includes multiple ways of generating data. During the fieldwork, I had to guarantee my access through presentations to the principals. Gaining access to schools was not a trivial task. First, I tried the official route, through the Educational Department itself. I received a formal response demanding several acts that would practically make the research unfeasible for the period they themselves give to grant access or not. Given this, I needed to activate my personal contacts network to get direct access to the boards of the observed schools. Even so, I had to schedule a meeting with each one of them to explain my project and how my presence would be in the school environment. After these meetings with the gatekeepers, I obtained their verbal consents and was able to start working.

The public school, despite being regulated by a democratic management law, still centralizes a lot of the decisions to the principals and their surrounding staff. So much so that, once authorized by management, none of the teachers refused to welcome me into their classrooms.

Go-along

During my process of research design, I spent around two months in two schools talking, observing, and interviewing the most diverse actors in their 'natural' environments. In this vein, I used the "go-along" method with the staff, described and defended by Kusenbach. (Kusenbach, 2003)

This method allowed me to capture the main impressions of the teachers in practically real-time. When classes were over, I had access to them and asked questions that were relevant to the topic. Another space that allowed me to "go-

along" was to share breaks from work in the teachers' lounge. There I was in an environment where I found the staff more relaxed and calmer to expose themselves freely. My meetings with the principals also followed this pattern. I only found them within the school facilities. They would talk to me as they worked on their daily routine, giving an order here, printing a document there, or answering a phone call.

Entering the fieldwork site

I note that as a lawyer, I'm a complete stranger to the school setting at all. Neither the staff nor the students recognize me as one of them. Thus, this provides me an outside perspective there. However, I need to add that this feature also places me as different in the theme. Most of the authors I read for the literature review have an education or sociology degree. Also more relevant is the fact that most have training and experience as teachers. For sure, some information will escape from my eyes, trained more to get rules than pedagogical strategies, behaviours, or management acts. On the other hand, I may grasp different aspects disregarded from the mainstream literature and that is a possible explanation to the highlights I will expose in the data analysis section.

I was in contact with two schools in Brasilia, the capital of Brazil. I decided to research public schools, since they represent just over 80% of national enrolments in elementary schools when compared to private schools.

Examples of observed living law rules

The purpose of this section is to analyse the empirical data through the lens of the concept of living law. For this, I decided to follow the analysis strategy developed by Urinboyev and Svensson (2014) used in the study on corruption in Post-Soviet Uzbekistan. According to them, it can be considered a "living law-informed ethnography", a study that seeks to understand the relationship between formal and informal systems of values and belief and regulatory structures (Urinboyev & Svensson, 2014). Thus, using the concept of living law, I intended to describe the relationship between children's rights lived in action (schools' living law) and children's rights in books. With this, I highlighted differences and similarities between the practice of social norms and moral codes experienced by children and what is provided for both in the CRC and Brazilian law. To achieve this goal, I present the interweaving of state law and schools' internal procedures using the generated ethnographic material as a basis.

Classroom context

I decided to do most of the data collection in the classroom. After all, the classroom context is the place where the children spend most of their time in schools. I recognize the importance of other moments, such as break periods and entering and leaving school. However, the greatest variety of situations occur inside rather than outside the classroom.

As seen previously, the idea that children need to learn their responsibilities and duties, before the idea of having specially protected rights is common among education professionals "because they think they have only rights, they don't know about the duties, and we've already shown them that they have rights, but they have a lot of duties" (Lopes et al., 2012, p. 225). In this case, it is not the rejection of one or another specific right, as we will see later, but the rejection of the very idea that children should have special rights due to their childhood condition.

The results I found are in line with the academic works findings. It is very common to find examples of situations in which children are "reminded" that they must follow the rules:

- Children, you need to know rules. Tomorrow we will talk about it. Today there were problems like kicking the friend during the break, sticking chewing gum on the bottom of the plates...

(Field notes from February 14th, 2023: Grade 4 classroom)

Following the go-along method, as exposed before, I was talking with a teacher while he was waiting for his next students come to the classroom. We talked a little about children's rights. He told me what he thinks:

- Children are born with all rights. As they grow up, they also receive duties.

(Field notes from March 9th, 2023: Grade 6 classroom)

This seems like an excellent summary of what most teachers think. In fact, through their attitudes towards the students, they seem to put themselves in a position where they need to teach all the responsibilities and duties to the children since the rights would already be obviously exercised and guaranteed. Thus, as an almost natural consequence, the authoritarian teacher-student relationship, as pointed out in Carter & Osler (2000) and in Quennerstedt (2011) prevails. Putting it in very simple terms: the teacher gives an order, and the students must obey. Those who do not obey as the teacher predicted suffer the consequences. Within the classroom, the teacher acts as a prosecutor (accuser) and judge. Children are defendants and, at best, witnesses.

Thus, this authoritarian style is in line with what is found in the literature review, but not so much with what the legal texts enact. Both in the CRC and in Brazilian legislation, the focus is on the recognition and exercise of children's rights. For example, in the text of the CRC, there are 39 mentions of the term right, the first of which is already in the preamble[4]. In the ECA, there is also a greater focus on rights than on duties[5].

When dealing with responsibilities, the state laws mainly emphasize the duty to care for the State and the family, as provided for in the CRC[6], and in the Federal Constitution[7]. The school, therefore, seems to be placing exaggerated emphasis on the responsibilities that children have in relation to the rights they should learn and exercise.

However, this study challenges the idea of the invisibility of the "different" found in the literature review. One of the trends was the fact that immigrants are virtually "invisible" to teachers and other colleagues. In the schools I went to, there were no foreigners, but I participated in classrooms that had people who could be considered "different" from the other students and, consequently, more vulnerable. Whether it was due to the nature of the differences or the time that had passed, what I could observe was practically the opposite of these findings. Two indigenous children, an orphaned child, a child with severe special needs, and another child in a terminal state of illness received a reception that positively surprised me due to the attention and affection they received from teachers and other professionals in the schools. Here is an example:

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[4] CRC – Preamble: Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

[5] ECA - Art. 3º Children and adolescents enjoy all the fundamental rights inherent to the human person, without prejudice to the full protection provided for in this Law, ensuring them, by law or by other means, all opportunities and facilities, in order to provide them with physical, mental, moral, spiritual and social development, in conditions of freedom and dignity.

[6] CRC - 2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

[7] FC - Art. 227. It is the duty of the family, society and the State to ensure the child, adolescent and young person, with absolute priority, the right to life, health, food, education, leisure, professionalization, culture, dignity, respect, freedom and family and community life, in addition to protecting them from all forms of negligence, discrimination, exploitation, violence, cruelty and oppression.

14:05 – Hugo arrives, a boy in a wheelchair.

What do you want to do, Hugo? A drawing?

Noah, Hugo's friend, will help him with the task.

Later, in the teachers' lounge, I discover Hugo's story. He is a boy who started at this very school early, at the age of 4. Last year he started feeling sick at school: walking sideways, with a half-mouthed smile and unexpected falls. Taken to the Health Center, the doctor said it was the effect of puberty coming on.

The teachers and the principal, unhappy with the diagnosis, collect money to pay for a consultation with a specialist, a private neurologist. The public only had a vacancy for February 2023. The first symptoms were noticed at the school in August 2022.

This neurologist orders tests and ends up discovering that Hugo is starting to develop brain cancer. The diagnosis is heartbreaking. There is no salvation, only palliative care. In a matter of months, the boy will die. The school suffers along with the family. In these final periods, they allow Hugo to attend school, see his friends and spend some quality time.

(Field notes from February 15th, 2023: Grade 5 classroom)

Based solely on this study, it is not possible to determine whether these children began receiving more attention and care due to the consolidation of protection and provision rights provided by the CRC. However, it is true to say that the conditions of the most vulnerable, within the school environment, are currently better. It does not mean to say that the school is fully prepared to deal with all the challenging situations that come from the outside in. Sometimes resources are lacking, as in the example. Sometimes there is a lack of specific training to deal with special situations, as I heard from several teachers during breaks at work. Thus, from what I could observe, vulnerability is not synonymous with neglect. Indeed, as a general rule, provision and protection were well distributed in these schools. From the point of view of the professionals who work there, they do their best to ensure the needs of their students.

Children's participation in the management of schools

The absence of children in decision-making that could be assumed as democratic management, as described in the literature, was the same reality found in the lifeworld. It was rare to find any examples of children's participation trying to influence their destinies inside or outside the classroom. In an example of how

student participation is irrelevant to school management, I observed a rare attempt by a student to influence the course of his studies:

- Teacher, last year there was geometry in the book, and we didn't see it!

- But in Grade 7 there isn't.

- But it will be subject to the ENEM (entrance exam that selects who enters public universities or not)! When I complained to the teacher last year, she taught (the content) quickly in the last week.

- This year we will not have it. Also, because there is nothing of geometry in the annual planning.

<div align="right">(Field notes from February 16th, 2023: Grade 8 classroom)</div>

This dialogue is particularly cruel because this teenager knows that the less than 20% of Brazilian students[8] who are able to pay for private schools come out ahead when competing for the highly coveted spots in public universities. He tries to get engaged to change his destiny, but it will be difficult for him and his cohorts to overcome the gap with teenagers who were born into more financially privileged families.

When it comes to management of schools more generally, and not just within the classroom, the reality seems even more distant. I didn't see it happen. My impression is that the students have no influence on the school's decisions. Generally, children are only informed about how and when the activities they participate in will happen. In this way, student participation is manipulated or, at other times, simply denied:

- People! We don't need class representative! It will be one every day!

- What is a *representative*? (several students ask)

- That's when you choose one to talk for you.

The teacher simply removes the right of students to organize. There is no discussion.

<div align="right">(Field notes from February 14th, 2023: Grade 4 classroom)</div>

Children's rights through education

As previous seen, academic works identify this type of education in law as a way to promote a better learning environment as a whole as well as the formation of citizens better prepared to participate actively in democratic life. This is in line with the

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[8] https://agenciabrasil.ebc.com.br/educacao/noticia/2022-01/censo-escolar-mais-de-650-mil-criancas-sairam-da-escola-em-tres-anos.

Brazilian internal legislations, which place the exercise of citizenship as an aim of the educational process[9]. Wider and deeper than Brazilian laws, the CRC is clearer in promoting the education in human rights in its text[10]. It is also permeated with commands that remind us that the child must be heard and have their opinions considered[11].

Although the literature found focuses on rights and responsibilities, I noticed that in the lifeworld, respect for human rights was emphasized much more than reacting in case of witnessing an injustice being committed or on exercising full citizenship. It was interesting to note that the focus of the classes on human and children's rights was essentially only on duties. In this sense, these classes became a moral and ethics lesson, where children and adolescents must learn to respect others and behave correctly. Not that there is any problem with this type of instruction. What drew my attention is using legal topics in the classroom with the intention of shaping attitudes, with minimal mention of how to exercise rights and have an active participation in decisions that affect the communities in which they live. From what I observed, students learn notions of tolerance and respect for differences, but they acquire very few tools on how to act or react when their rights are violated. The law taught in school is not very different from that experienced in school. It is one that leans much more towards duties, without the knowledge to face injustices or to exercise a fuller and more participatory citizenship.

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[9] Federal Constitution: Art. 205. Education, a right of all and a duty of the State and the family, will be promoted and encouraged with the collaboration of society, aiming at the full development of the person, his preparation for the exercise of citizenship and his qualification for work.

ECA:Art. 53. Children and adolescents have the right to education, aiming at the full development of their person, Different from Brazilian laws, the CRC is clearer in promoting the education in human rights in its text. If we only consider this part in isolation, it could be concluded that schools make an effort to address the issue of human rights and, more specifically, children's rights. However, it is worth remembering that the CRC is also permeated with commands that remind us that the child must be heard and have their opinions taken into account. This did not happen most of the times that the theme "human rights" was raised. Preparation for the exercise of citizenship and qualification for work, ensuring them.

[10] Art. 29 – 1. States Parties agree that the education of the child shall be directed to: … (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations.

[11] Articles 12-15.

Discussion and Conclusion

As seen throughout this study, children's rights are multiple and complex. It is not a simple task to capture and classify these rights to give coherence and meaning to the text. To better organize it, I adopted Verhellen's classification, which divided these rights provided for in the CRC into three P's: protection, provision, and participation. As the rights in the Brazilian internal legislation do not differ in essence from what is in the CRC, it was possible to use this classification without major problems both in the literature review and in the analysis of the results. In a summary of the findings I had, I can say that the school staff fulfilled and understood its role reasonably well regarding the rights of protection and provision, while in terms of rights related to participation, the living law of the schools is far from that idealized in state law.

This study found that children's right to participation, provided for in law and recognized as important for full development by professional educators, is practically a "non-right". I could observe how children are silenced in classrooms. In the light of state law, one could imagine that the school was in a stage of evolution to ensure that children were heard in decisions that concern them, since the participatory right of the child has less than forty years of history. However, comparing what the literature has been presenting on the subject with the reality that I observed, I can conclude that this right did not even scratch the structure of the internal norms of the schools. From the child's point of view, school is an authoritarian environment where one learns to obey and respect rules. The student is not heard, in fact, in whatever the subjects are.

From my findings, I conclude that the school is a place of affection with authoritarianism. In this place, education professionals provide love, but without considering the opinion of children. It is a place where adults try to treat children well and sometimes provide them with more than what is necessary for learning, but it is not a place where they learn to exercise and fight for their rights. The formation of the citizen, without a doubt, is harmed. This research brings reflections on possible future studies. One path is to understand the correlation between a society with low interest in politics and an authoritarian structure of education, in which children have no voice.

Another topic for future study that intrigued me while still in the literature review phase is the relationship between international treaty texts incorporated into the internal legislation of common law countries and their application. It does not seem to be feasible to study the implementation of an international text without

considering the domestic legislation of these countries. In this study, the text of the CRC has been ignored in terms of children's rights when studying the Brazilian reality. And this occurs not because the text of the CRC is different from the main Brazilian laws on the subject, but rather the opposite. The internal legislation incorporated both the principles contained in the CRC that "swallowed" it and made it "disappear" for this type of study. In other words, systematic literature reviews that take into account only texts of international treaties may be "blind" to the local reality that, through other laws, end up applying the same principles.

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Sámi Children's Right to Learn Their Language in School in Russia:
Lived Experience

Ekaterina Zmyvalova [1]

Introduction

Disclaimer: in this paper, I will present the current status of my PhD project. My study is about the right of Sámi children to learn their language in school in Russia (henceforth referred as the RtL). The limited scope of the present paper does not allow me to present all the results of my study. This limitation mainly concerns the discussion of the interview results. The results of my legal analysis are not published yet and are currently under the review for publication. Nevertheless, in this paper, I will present some of the results of the legal analysis. The intention with this paper is to demonstrate the *algorithm* of the study guided by the selected theories to approach the issue under discussion. I believe that this algorithm can apply for the analysis of functioning of the RtL in other indigenous contexts.

Topicality

The are 47 groups of Indigenous peoples officially recognized in the Russian Federation (Regulation, 2000). One of these peoples is Sámi. Traditionally, four Sámi languages used to be spoken in the Russian part of Sápmi (the Sámi land) (Scheller, 2011). According to Scheller, a number of historical events, such as repressions, World War II, collectivization, enforced resettlements and the boarding school system still impact destructively the Russian Sámi community and their

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language and cultural development. (Scheller, 2013: 392) The biggest part of the Russian Sámi children does not regard Sámi as their home language (Chestnov, 2021: 288, 298). Sámi children can learn their language primarily in school (Govmurman.ru, 2020). At present, there exists only one school in the Russian Sápmi where Sámi children learn their indigenous language. They can only learn one of the Sámi languages, which is the Kildin Sámi. The Kildin Sámi is taught as an extracurricular school activity.[2] One of the means to achieve the complex aim to enrich and support the Sámi languages in the educational sector[3] is to effectively implement the RtL. However, the daily life of the Sámi community impacts their understanding of the RtL. There is a difference between people's understanding of the right in everyday life and the way this right is provided for in the legislation. To this matter, in my study, *I aim to realize the essence of the RtL in international and regional law and in the Russian law. Furthermore, I aim to find out how the RtL is shaped in the school educational context in Russia.*

The study

Stages of the study

Firstly, I analyze the relevant international and regional instruments to deduce the elements of the RtL and identify to what extent these elements are present in the Russian legislation. Secondly, I analyze the views and experiences of social agents such as officials, practitioners, and receivers of the RtL in the school educational context in Russia. Their views and experiences help me to realize how

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[2] In the Murmansk Oblast, the Sámi language class is regarded as an additional education (dopolnitel'noie obrazovanie). The class takes place as an extracurricular activity (kruzhok) "Еннь килл / Родной язык" (Lovozero school, 2022). All extracurricular activities in the school are classified into different specializations. They are crafts, technical, social-pedagogical and sports. "Еннь килл / Родной язык" is classified as a social-pedagogical class. Among other extracurricular activities of this category is the traffic rules for pupils of the second to fourth grades, for example. Among crafts is, for example, wood carving. Among sports is, for example, mini football. According to Article 75 (4) of the FL 'On Education', both the contents and the length of extracurricular activities in school are dependent on a curriculum developed and approved by school. The curriculum for "Еннь килл / Родной язык" can be found at the school's home page (Lovozero school, 2023).

[3] According to Hornberger, enrichment bilingual educational model is characterized by language development, cultural pluralism, and social autonomy (Hornberger, 1991: 225–227).

social orders and linguistic and educational practices of the local Sámi contexts in Russia impact social agents' perception of the RtL.

Theoretical background and methodology

To reach the aim of the study, I employ two theoretical pillars. These are the *'Law in books'* and the *'Living law'*. The founder of the 'Law in books' is Roscoe Pound. The key idea of Pound's theory was first revealed in his article 'Law in books and law in action' (Pound, 1910: 12–36) published in 1910 in the Harvard Law Review. The idea which motivated him to write this article is that law does not consider the social conditions in which it functions. According to Deflem, Pound was against the rigidity of legislation (Deflem, 2008: 100).

Pound's theory has a focus on one of the main issues of the sociology of law - the 'gap problem'. According to Banakar, the gap problem consists in the discrepancy between the intentions of the legislature and the impact thereof on social behavior (Banakar, 2015: 12).

Pound subdivides the 'Law in books' and the 'Law in action'. The *'Law in books'* is written legal rules sanctioned by the State. They are "the rules that purport to govern the relations of man and man" (Pound, 1910: 15). The 'Law in books' is the product of the activity of lawmakers (legislators). The *'Law in action'* encompasses legal rules that "in fact govern the relations between man and man" (Pound, 1910: 15). This is the activity of the judiciary and the executive power. Thus, according to Nimaga, only the activity of judicial and executive bodies can put the law in action (Nimaga, 2009: 169).

In my study, I accordingly analyze the international and the Russian legal sources on the RtL ('Law in books') and how the RtL interacts with the social order and social context of the Sámi in Russia.

My study does not have an objective to analyze the 'Law in action', i.e. judicial and executive practice. Moreover, there is no court practice directly regarding the right of the Sámi children to learn their language in school in Russia. However, the 'Law in action' is not disregarded. I analyze the relevant court practice in some parts of my study to aid in the understand of the meaning of the RtL and its elements. I also analyze legal documents of executive bodies to understand the system of school education in Russia and the place of Indigenous languages in this system. Thus, although the 'Law in action' is not a theoretical pillar, judicial and executive practice is analyzed in the context of my study to a certain extent.

To realize how the RtL interacts with the social order and social context of the Sámi in Russia, I apply the theory of the 'Living law' by Eugen Ehrlich.

According to Ehrlich the *'Living law'* is the law that rules lives of people and is produced by these people. According to Nimaga, "[f]or Ehrlich, the normal condition of any social association is by definition one of order and peace. Legal norms or the living law reflect this condition and therefore adequately show what actually happens" (Nimaga, 2009: 174).

The following definition of the *'Living law'* is included into Ehrlich's book: "the law which dominates life itself even though it has not been posited in legal propositions" (Ehrlich, 2002: 493). Ehrlich claims that a legal document does not always embody all aspects of the living law of community. To approach that part of the living law that has not been embodied in the legal document, but which is still important part thereof, Ehrlich guides to "to open one's eyes, to inform oneself by observing life attentively, to ask people, and note down their replies" (Ehrlich, 2002: 498). Thus, the 'Living law' is often linked to social relations and, thus, it is the ground for the empirical research.

The part of Pound's theory on the 'Law in books' is one of the theoretical pillars in my study. Ehrlich does not provide us with a clear definition of law, while in Pound's theory such definition can be found. When it comes to a lacking definition of law in Ehrlich's theory, I mean that the margins of such terms as law, juristic law, state law, living law, and social law are fuzzy and are not clearly defined. Such an approach has been widely criticized by several scholars (Cotterrell, 2009: 75–94; Nelken, 1984: 157–174; Nimaga, 2009: 157–176; Van Klink, 2009: 127–156; Webber, 2009: 201–222). According to Banakar, one of the reasons of Kelsen's critique of Ehrlich's theory is that Ehrlich's theory contains contradictions in interpretation of the concept of law (Banakar, 2015: 139). Nelken observes that Kelsen criticized Ehrlich for confusing normative and descriptive analysis (Nelken, 1984: 161). He further explains that according to Kelsen "sociologist might want to distinguish several types of law, <…> legal theory was necessarily monist" (Nelken, 1984: 161). Nelken also observes that in Ehrlich's theory lacks a clear distinction between the norms of the 'living law' and other norms (Nelken, 1984: 163). Ehrlich's theoretical pillar of the 'Living law' is complementary to Pound's 'Law in books' because it helps me to analyze social experiences regarding the RtL. Thus, 'Law in books' is complementary to Ehrlich's theory.

The selected theories are laid to the ground for the design of the current study. Both the structure of the study and the stages of the study are impacted by the selected theoretical pillars. When applying the 'Law in books', I define the RtL employing *the legal method*. When applying the 'Living law', I explore the living practice of the

RtL, i.e. how the RtL interacts with the social order and social context of the Sámi in Russia. Here, I *analyze interviews* and employ *indigenous research principles*. Thus, first I define the meaning of the RtL. Second, I realize the RtL "as an integral part of the larger societal processes" (Banakar, 2019: 3). This study falls within the socio-legal studies.

Some findings

Eight binding sources and two non-binding sources were selected for the legal analysis to define the *RtL*. The binding sources are:

1. the UNESCO Convention Against Discrimination in Education,

2. the International Convention on the Elimination of All Forms of Racial Discrimination,

3. the International Covenant on Economic, Social and Cultural Rights,

4. the International Covenant on Civil and Political Rights,

5. the Convention on the Rights of the Child;

6. the *Indigenous and Tribal Peoples Convention*;

7. the European Charter for Regional or Minority Languages, and

8. the Framework Convention for the Protection of National Minorities.

The non-binding sources are:

1. the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and

2. the UN Declarations on the Rights of Indigenous Peoples.

The legal analysis shows that there are five elements of the RtL. These elements are legal recognition, non-discrimination, participation, appropriate education, and high-quality education (see table 1).

The table 1 below demonstrates how these elements form the structure of the RtL.

RtL			
Non-discrimination	Participation	Appropriate education	High quality education
Legal recognition			
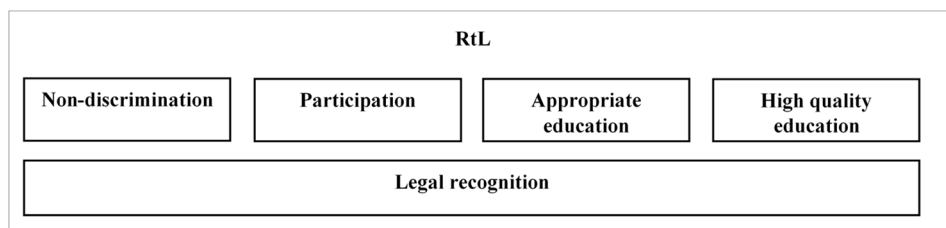
The analysis shows that the relevant Russian legal acts contain all the five elements of the RtL. However, the contents of these elements found in the Russian legislation differ from the contents of these same elements found in the international instruments. Furthermore, the analysis of the Russian legal acts demonstrates that certain obstacles for the RtL's realization are present in the analyzed Russian legal acts.

> The interview analysis shows that the five core elements of the RtL are recognized and stipulated to different extents by the social agents. The social order frames an important basis for the RtL when it is implemented in the Sámi context.

Proposals

My analysis demonstrates that the five deduced elements of the RtL are present in the Russian legislation. However, the contents of some of these elements in the Russian legislation vary from the contents of the corresponding elements found in the international and regional legal instruments. This can be explicitly demonstrated by a varying interpretation of the element of participation. The interpretation of the Russian legal provisions shows that Indigenous communities and, if possible, Indigenous children must not necessarily participate in education effectively, the way it is provided for in the international and regional law. The interpretation of the Russian legislation demonstrates that there are no provisions on consultations with indigenous communities and children which reflect histories and cultures in education as it is provided for in the international and regional law. There is no clear distinction between *de jure* and *de facto* non-discrimination in the Russian legislation, contrary to the international and regional law. I claim that the lacking single approach to the interpretation of the RtL creates obstacles for the maintenance and preservation of the Sámi languages. I argue that it is useful for Russia to adjust

its approach to the understanding of the content of the RtL in accordance with the understanding thereof in the international and regional law.

The legal analysis shows the need to address the following challenges of the Russian legal acts providing for the RtL:

- the declarative character of some legal provisions,

- the lack of legal implementation mechanisms,

- the prevalence of the Russian language in all spheres of life, as indicated, *inter alia*, in the Constitution, and

- the incoherence of and gaps in the legal regulation.

I also propose to consider the legislative practices on the protection of indigenous languages of the other federal subunits. The regional law of the Murmansk Oblast on the Sámi languages can be useful for revitalization and support of the Sámi languages in Russia.

Conclusions

This paper presents the summary of the work in progress where I examine the essence of the RtL and its living practice in the Sámi context in Russia. When applying the 'Law in books', I operationalize the legal method which helps me to define the RtL. When applying the 'Living law', I explore the living practice of the RtL, i.e., how the RtL interacts with the social order and social context of the Sámi in Russia. Here, I analyze interviews and employ indigenous research principles. To this matter, I first define the meaning of the RtL. Second, I realize the RtL as an indispensable part of societal processes at large (Banakar, 2019: 3).

The legal analysis results in defining the RtL. Moreover, I present legal challenges with implementation of the RtL and present my proposals to overcome these challenges. The interview analysis shows that the five core elements of the RtL are recognized and stipulated to different extents by the social agents. The social order frames an important basis for the RtL when it is implemented in the Sámi context.

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Rights to Participation as Child's Wellbeing:

A Case Study of Participation in Organised Child Activities in Inner Mongolia

Wuyungaowa [1] & Zhao Hua [2]

Introduction

In 1989, the United Nations Convention on the Rights of the Child (CRC) was ratified, marking a significant milestone in the history of childhood rights. The CRC, the most universally ratified human rights treaty, has played a vital role in driving positive transformations in the lives of children globally. It is a comprehensive framework that defines and safeguards children's rights, with an emphasis on provision, protection, and participation (the Three P's). Provision encompasses the fair sharing and distribution of resources and services. Protection refers to the right of children to be shielded from social and individual misuse. Participation allows children to do things, express themselves, and have an effective voice as individuals or as a larger group (Bardy, 2000). The Three P's are a significant step towards addressing the problems faced by children worldwide. The Convention aims to promote children's Three P's in multifaceted areas in their lives. It is necessary to explore ways to uphold and encourage the right to participation at different levels. CRC urges all state parties to make education, health and social services and protection for children, and guarantee that children can be heard "in all cases where they are capable of expressing their opinions or preferences" (Hodgkin & Newell, 2007, p. 37). However, the research and implementation of participation

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are not as prevalently and multidimensionally discussed as provision and protection (Heimer et al, 2018).

To explore the possibilities of promoting the rights to participation at the grassroots level, this chapter will examine a case study on the advocacy and action of a local organisation in Inner Mongolia, China, in promoting participation rights among local children in various activities. To improve children's physical and mental well-being, Hohhot Wellbeing Commune in Inner Mongolia provides regular themed-based activities for children to participate in. The Commune designs the activities with various themes, intentions, types, and locations. It considers improving children's social and communicative competence as a channel to improve their well-being. Since its founding in 2015, the Commune has organised hundreds of activities. It has enriched children's life and their intimacy with their parents and peers in Hohhot in the last few years. It also provides children with multiple skills to prepare for better well-being. However, most of these activities are controlled or semi-controlled to some extent. Children's voices have yet to be heard in designing, implementing, and evaluating activities. The (semi-) controlledness of activities has not optimised children's abilities and well-being. Sometimes, it has the risk of jeopardising children's creativity and confidence.

Therefore, a model is proposed in this chapter to improve such local advocacy and action for the rights to participation among children of different ages. It is necessary to take actions like stratifying different levels of participation and enhancing children's collective decision or their complaint mechanism. With the collaboration between the Commune organisers and the experts, a Participatory Model of Activity Organization (PMAO) will be designed to tailor to the needs of both grassroots advocators and the participant children. Through these measures, children can benefit the most from participating in local activities.

Right to Participation

Participation is one of the core principles of the CRC among provision, protection, and participation. The Convention on the Rights of the Child (CRC) outlines several rights for children, including participation (Article 12), freedom of expression (Article 13), freedom of thought (Article 14), right to education (Articles 28 and Article 29), and the right to leisure, play, and culture (Article 31). Article 12 states that (1) "States Parties shall assure to the child who is capable of forming his or her own vies that right 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" and (2) "[f]or 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 representative or an appropriate body, in a manner consistent with the procedural rules of national law". The Committee on the Rights of Child highlighted the significance of Article 12 as a fundamental principle applicable to all aspects of CRC, along with the interpretation of other articles. (Hodgkin & Newell, 2007). Participation shields children from harm, improves services, and enhances their well-being (Vis et al, 2011). Participation is a fundamental right that allows children to express their views and opinions and it encourages children to be subjects of rights, who are capable of forming views and active participants at all levels (Hodgkin & Newell, 2007).

The right to participation is not the same as decision-making rights but rather refers to the right to receive information and be heard (Heimer & Palme, 2016). This is consistent with the concept of children's right to a voice, which enables the strengthening of other rights (Lister, 2007; Secker, 2009). Kjorholt (2013) emphasises that participation is critical to promoting innovation, success, and a good life for future adults. Formal education, as well as family and community, are crucial for children's participation in educating the global child; simultaneously, informal education outside of the classroom, such as in nature and daily life, is equally important (Kjorholt, 2013). Herbots and Put (2015) suggest that children's participation is a complex notion that cannot be easily defined. Instead, they propose a framework for understanding participation, called the "participation disc". This disc places participation in sociological contexts, which will be discussed further in this paper.

There are some issues related to the implementation of the right to participation. Hodgkin and Newell (2007) highlight several issues regarding child rights of participation across different states. These issues include the hindrance of traditional and paternalistic attitudes towards children as holders of rights and the implementation of Article 12 in states across all regions, discouragement for children to express their views or their opinions or involvement in decision-making in various aspects of their lives, such as in their family, school, community, and social life. These challenges demand careful attention and action to ensure that children's voices are heard, and their rights are respected. Many children lack the necessary skills and competence to succeed in secondary and high school (Kjorholt, 2013), as well as skills needed outside the classroom. The increased emphasis on testing and assessment represents a high-pressure environment for young people, which can increase the risk of failure.

The current research on the rights to participation is implemented via different approaches. Kjorholt (2013) also argues that child-centred pedagogy, which emphasises children's interests, engagement, creativity, and learning by doing, should be implemented. Local knowledge through social practices in everyday life should also be valued as education (Abebe & Kjorholt, 2013; Akpan, 2011; Kjorholt, 2013). Both formal and informal education should be considered as the realm for participation. Global citizenship education has gained significant attention in recent years, focusing on promoting children's understanding of their place in the broader global community and highlighting the interconnectedness between local and global issues (Warming, 2018). Murray et al (2020) advocate for a multi-faceted approach to global citizenship education that draws on existing concepts and methodologies from various fields, such as human rights, sustainable development, and international understanding. Therefore, both formal and informal approaches are necessary to engage children in this lifelong learning process, which can begin in early childhood and continue through all levels of education and into adulthood (Swadener, 2020).

Children's Participation in the Wellbeing Commune

The Hohhot Wellbeing Commune, a local organisation founded in 2015, is dedicated to improving the physical and mental health of children in Hohhot, Inner Mongolia's capital city. The organisation's director, Zhao, recognises that children face numerous obstacles and constraints when it comes to playing or engaging in individual activities. He highlights the fact that many children lack the knowledge and communication skills required to interact with other children, as they spend most of their time either in the formal education system or with their parents. In many cases, parents lack the experience or time to play with their children, leading to adults dictating the play mode and hindering children's development in areas such as autonomous learning, independence, and confidence. This is particularly problematic as it hinders child development in areas such as social skills, education, and interpersonal communication.

After becoming a parent, Zhao recognised the value of accompanying his child's growth and decided to establish the Wellbeing Commune to provide a community where children can thrive, the organisation aims to foster a sense of well-being among its young members.

The Commune acknowledges that social and communicative competence is crucial for enhancing children's well-being. Therefore, the Commune provides theme-based

activities for children to develop social skills, education, and communication. The events include excursions, hands-on activities, role plays, seasonal camps, competitions, social work practices, etc. They are designed for different age groups, child-centred, culturally responsive, and socially responsible, which can promote participation rights among children in informal educational organisations at the grassroots level. Activities are typically held on weekends and holidays with various themes. Parents also join in some activities to bond with their kids. To ensure optimal results and positive feedback from both children and their parents, the Commune establishes a theme for each activity. Before designing these activities, feasibility studies are conducted, and potential challenges are anticipated. The selected theme is also compatible with the activity's procedures. These activities have enriched the lives of children, improved their relationships with their parents and peers, and equipped them with various skills to prepare them for better well-being.

For example, as entertaining, educational, and physical activity outside the classroom, a sports meeting was organised by the Commune with a theme of playing games from the 1970s and 1980s. The competitions included hoop rolling, beanbag playing, relay run, obstacle race, rope skipping, and relay jumping. Parents and children participated in the event, with more than 30 people taking it seriously as if it were an official sports meeting. The whole process was full of laughter and happiness, with competition and cooperation between parents and children, and competition and communication among children. At the opening, the intention of establishing the Commune was emphasised, which was to retrospect parents' childhood and share happiness with children for their healthy growth. At the closing ceremony, souvenirs and prizes were awarded to the children and parent athletes or participants. The sports meeting was organised with the purpose of letting children and their parents participate together, especially by playing some activities or games that the parents used to play.

Similar to the sports meeting, in order to achieve specific developmental goals for children, the Commune typically establishes a theme for each activity. Prior to designing these activities, the Commune conducts feasibility studies and anticipates potential challenges to ensure optimal results and positive feedback from both children and their parents. The selected theme is also compatible with the activity's procedures. For instance, an eye protection activity consists of an introduction to eye protection knowledge, theme-based games, and a donation to a local paediatric ophthalmic patient to promote children's responsiveness and responsibility to their community. Additionally, the Commune often reminds participants to be environmentally conscious by picking up litter around themselves at the end of each activity, which is often integrated into the activity's design.

However, it has been observed that a significant portion of the participation in these activities is either entirely instructed or semi-controlled. According to Roger Hart's Ladder of Children's Participation (1992), the activities of the Commune mainly fall in Category 4—assigned and informed, Category 5—consulted and informed, and Category 6—adult-initiated, shared decisions with children (Figure 1).
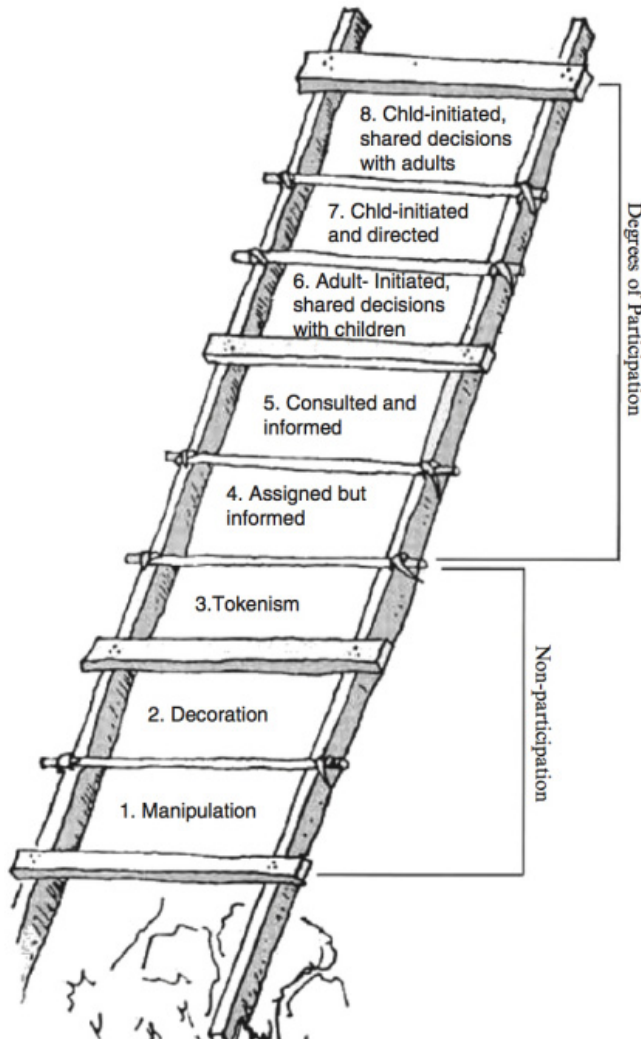
Figure 1
Roger Hart's illustration of the Ladder of Children's Participation from Children's Participation: From Tokenism to Citizenship (1992)

Hart's (1992) model comprises eight hierarchical levels, known as "rungs", that elucidate the attributes linked with varying degrees of decision-making capability, control, or power that can be delegated to children and young adults by adults. All of the activities are designed, organised, and implemented by adults. However, the implementation of the activities is sometimes integrated with children's own options of sub-activities under the umbrella of the whole design of the activities. For example, for the excursions, children are entitled to have some free time to choose the sub-activities like treasure hunt, fishing in the pond or other individual or group games. However, this part of the activities is also pre-designed and instructed. Despite comprehending the project's objectives, being informed about the decision-making process regarding their participation, volunteering for a specific role, and having a meaningful involvement (Hart, 1992), the children's participation remains semi-controlled. Their participation is not fully motivated and actively involved. Their voices about the design and implementation of the activities are not sufficiently and respectably heard by the activity designers, organisers, and executors. In other activities such as role-playing different occupations, children maintain a higher degree of participation. The activities are designed and operated by adults. Children understand the process and share their opinions on the roles that they play with their understanding. They have some discussions on their perceptions of certain occupations. Adults treat children's opinions seriously. For activities like pottery-making or simulated archaeological excavation, adults usually initiate the activity, but children can manage every aspect of the operation or create their own version of the products with minimal guidance from adults.

The activities organised by the Commune are aimed at achieving the goal of raising awareness about being a global citizen. It is admirable that the Commune activities can promote participation rights among children in informal educational organisations at the grassroots level. Although children and parents appreciate the activities and participate regularly and the organiser is responsible and open-minded, the degree of participation is not very low, and children's voices are not heard in the design, preparation, and feedback of the activities. Activities are largely designed and run by the adult organisers, limiting children's opportunity to share their views and feedback directly with the organisers. Feedback is usually communicated through parents rather than the children themselves. This lack of children's involvement has the potential to hinder children's creativity and confidence, ultimately failing to optimise their abilities and well-being. Therefore, it is necessary to empower children to participate more actively and meaningfully and make decisions from the very beginning of the activity design.

The Commune has lacked a good system to record all the archives since 2015. Although an online WeChat platform exists to provide information before and after the activities, detailed information about children's participation is often missing. Due to insufficient archives, it is challenging to trace the numbers, types, and detailed information of the activities. As such, this paper is based on observing the organisation of activities, information traced from the WeChat platform and interviews with Zhao.

Moreover, while the organisers know national and local children's laws and regulations, they lack professional training in these areas, particularly regarding children's participation rights. Therefore, there is a need to improve local advocacy and action to promote children's participation rights across different age groups.

Participatory Model of Activity Organization (PMAO)

It is imperative that we possess a comprehensive understanding of the children we are interacting with. Relying solely on our adult-oriented knowledge of childhood is insufficient in providing an accurate representation of their reality (Bardy, 2000). According to Hodgkin and Newell (2007), it is crucial to educate the organiser and all stakeholders about children's rights to participation. This involves implementing measures such as stratifying levels of participation and improving collective decision-making and complaint mechanisms. To cater to the needs of both grassroots advocates and participating children, the Participatory Model of Activity Organization (PMAO) was developed through collaboration between the Commune organisers and experts (Figure 2). The PMAO is a temporary proposal designed to increase awareness of children's participation rights during the entire activity process, from design to implementation and feedback. By doing so, the model aims to create a sustainable and child-centred ecosystem for grassroots advocates that is less controlling. The effectiveness of this model will be evaluated and subject to criticism.
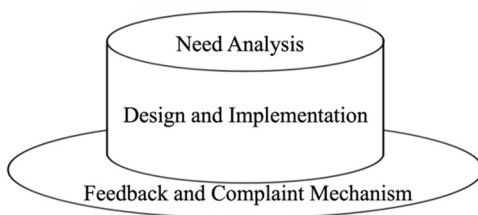
Figure 2
Participatory Model of Activity Organization (PMAO)

MAO has the same pronunciation as the hat (帽*mao*) in Chinese. P Hat here symbolises that the P-MAO model might also benefit provision and protection somehow. Measures for implementing children's participation rights include stratifying levels of participation, improving decision-making, and complaint mechanisms. PMAO was developed through collaboration between organisers and experts to create a sustainable and child-centred ecosystem for grassroots advocates. The model is a very initial proposal designed to increase awareness of children's participation rights from design to feedback and evaluation in organisations like the Commune.

PMAO prioritises children's involvement in the entire activity organisation process, with activity design as the starting point. Participation is viewed as a framework in a "participation disc" (Herbots & Put, 2015, p. 167) that considers children's participation from a sociological perspective. PMAO aims to integrate the child's voice into each of these categories, allowing grassroots organisations to implement or adapt activities based on their needs. There are three parts of the hat structure of PMAO—need analysis, design and implementation, and feedback and complaint mechanism.

Firstly, before designing any activities for children, it is essential to conduct a thorough needs analysis. This can take the form of a questionnaire or an informal interview with children to gain insight into their perceptions, opinions, interests, challenges, or original thoughts on the design. According to Massons-Ribas et al (2021), children should be informed as a condition for participation, be provided opportunities to share their views and have options to make decisions. The purpose of the needs analysis is to give children a voice and provide adult organisers with a better understanding of children's perspectives on the coming activity. Ideally, a children's committee can be established to make joint decisions with the adult organisers. Before proceeding with the design and implementation of any event, it is crucial to establish detailed rules and regulations that both children and adults can agree on. If necessary, these rules and regulations can be modified later in response to any issues that arise during the implementation of the activities. In general, the "need analysis" prior to the organisation of the activities is to involve children's voices and views as stakeholders to participate and as decision-makers but not merely as a participant.

Secondly, to ensure that children are fully engaged in activities, they should not only participate but also be involved in organising and decision-making. Children should be allowed to participate in the implementation and execution of activities based on their own needs, either with adult organisers or independently, depending on the nature of the activity and the children's age. Herbots and Put (2015) have identified

four aspects of children's participation that need to be considered: purpose, context, mode, and stakeholders. Participation can be seen as a means to achieve a specific goal or as an end in itself. Social and political outcomes can be defined as a result of participation. For the Commune, social and political outcomes are more relevant, such as improving social services, promoting children's protection, empowering children, enhancing self-protection, creating a sense of belonging, developing personal and social skills, and treating children as agents of meaning. All of these outcomes echo the goal of cultivating children as global citizens. The flexibility of the informal educational context makes it a valuable opportunity for children to participate in activities organised by the Commune. The scope of participation varies depending on multiple factors, such as the activities, purposes, environment, age, and stakeholders involved.

Thirdly, to ensure that children's voices are heard, and respected, organisations like the Commune should establish a feedback and complaint mechanism to ensure children's voices are heard and respected. While the Commune is receptive to expert recommendations and parental feedback, children are not currently involved in these processes. The mechanism should encompass various forms, including a scrutiny committee comprising children, parents, organisations, and professionals, official guidelines, questionnaires, feedback forms, interviews, official evaluations, and complaint forms, among others. The mechanism must remain open and reach a consensus to guarantee that children are not controlled but rather partly controlled or free of control from their adult counterparts before, during and after activities. Depending on the nature of the Commune's activities, interdisciplinary consultant groups should be available for professional advice. Furthermore, the feedback and complaint mechanism should be scrutinised and implemented to ensure that children's views are respected.

The Participatory Model of Organising Activities (PMAO) presents the potential to increase children's participation and motivation. Through the three integrated parts of the PMAO structure, the right to participation with more children's own control can be put into practice by exposure to and enjoyment of the right to information, to hearing and to be involved in making decisions.

Concluding Discussion

Using PMAO can lead to a higher degree of participation in the participation ladder (Hart, 1992) and reinforce awareness of children's participation. However, organisers like Zhao, who prioritise children's well-being and safety, may find it

challenging to have completely control-free activities. Sometimes, communicating with stakeholders can also be challenging. Nevertheless, achieving higher levels of participation will require overcoming challenges and a long-term commitment.

Accordingly, to ensure the quality implementation of PMAO, the informal educational environment must provide legitimate support and scaffolding for children's participation, especially at the grassroots level, and on a smaller scale of local organisations. Community-based skills-training programs should be developed for parents, activity organisers, and professionals working with and for children to encourage children to express their views and opinions. National and international awareness-raising campaigns should be strengthened to change traditional attitudes that limit children's right to participation (Hodgkin & Newell, 2007). Regular evaluations should be conducted to assess the extent to which children participate in the development and evaluation of laws and policies affecting them, both nationally and locally, and to determine the extent to which children's views are considered.

Young children should be recognised as active members of families, communities, and societies with their concerns, interests, and points of view (Hodgkin & Newell, 2007; Masson-Ribas et al, 2021; West et al, 2008). This recognition is frequently overlooked or rejected on the basis of age and immaturity. To make children active participants in family, community, and society, the degree of participation needs to be increased through collaboration between activity organisers and all stakeholders.

With more opportunities for global communication, local grassroots organisations should communicate more domestically and internationally to make children's right to participation a collective effort for the well-being of global citizens with a broadened vision. With the rise of Artificial Intelligence, it is crucial to consider what competencies should be fostered in children's early development. Therefore, organisations like the Commune can develop activities to empower children and young people as researchers (Kellett, 2011). With these efforts on children's rights to participation, it is hoped that the Three P:s — provision, protection, and participation can be comprehensively advanced by both formal and informal organisations.

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Empowering Children
- In Extra Curricular Activities

Bach Linh Trang [1]

Abstract

Since Vietnam - the first country in Asia and the second one in the world – ratified the UN Convention on the Rights of the Child in 1990, especially with the birth of Children´s Law in 2016, a number of decrees and decisions have been put forth and many programs and projects have been carried out to realize the children's rights for the best interests of children. In recent years, the Ministry of Education and Training (MOET), has organized training sessions, network meetings among schools and localities for the purpose of training and supporting teachers in teaching methodology and extracurricular activity organizing methods aiming at enhancing students' learning autonomy and confidence. In fact, achievements in applying the Rights to Survival, Rights to Protection and Rights to Development have been clearly realized. However, there remain difficulties in how to effectively implement the Rights to Participation. The paper provides the general context of teaching and learning at primary schools and lower secondary ones in remote areas in the South of Vietnam, with a focus on Children Rights to Participation, particularly the right to express their own opinions. Furthermore, we suggest ways to implement the Rights to Participation in extracurricular activities so as to help children promote learning autonomy and confidence in showing their ideas.

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Introduction

In the school context, children are encouraged to exercise their rights, especially rights to participation mainly in the process of learning and extra educational activities. According to Lunnenburg, "extracurricular activities serve the same goals and functions as the required and elective courses in the curriculum. However, they provide experiences that are not included in formal courses of study. They allow students to apply the knowledge that they have learned in other classes and acquire concepts of democratic life." (Lunnenburg, 2010). To put it another way, these activities are as equally beneficial for students as academic ones because they have been proved to "have positive effects on students' life by improving behavior, school performance, school completion, individual aspects (prepare successful adults) and social aspects" (Massoni, 2011). Unfortunately, while many schools in urban areas pay attention to maintain a good balance of these two, extra educational activities have been almost neglected in rural areas, resulting in children's low and inactive participation due to the lack of opportunities for them to realize their rights.

This paper provides the general context of teaching and learning at primary schools and lower secondary ones in remote areas in the South of Vietnam, with a focus on Children´s Rights to participation, particularly the right to express their own opinions and suggests ways to implement the Rights to Participation in extracurricular activities so as to help children promote learning autonomy and confidence in showing their ideas. Still, while many previous studies solely touched on child rights in general extracurricular activities, this paper focuses on the necessary organization of English-related extracurricular activities through which students are given more chances to both improve their language skills and freely and actively express their opinions.

The implementation of CRC in Vietnamese primary schools

Since Vietnam - the first country in Asia and the second one in the world – ratified The Convention on the Rights of the Child (CRC) in 1990, and especially with the birth of *Children´s Law* in 2016, a number of decrees and decisions have been put forth and many programs and projects have been organized to realize the children's rights for the best interests of children. To be more specific, Vietnam has signed World Declaration on the Survival, Protection and Development of Children

in the 1990s (1990), ratified four Conventions of the International Labour Organization (ILO) Concerning Child Labor (1994), given instructions on Enhancing the Protection, Care and Education of Children (1998), developed National Action Programme for Children 2001-2020 & National Action Programme for Children 2021-2030; gone through the Declaration of commitments for children in ASEAN countries (2001), etc.

Figure 1. Childrens Rights in Vietnam

In Vietnam, Child Rights are categorized into four groups:

Rights to Survival, Rights to Protection, Rights to Development, and Rights to Participation.

Children begin to access their rights both in theory and in real life practice since first grade (National Action Programme for Children 2001-2020 & 2021-2030).

In recent years, Ministry of Education and Training has organized training sessions, network meetings among schools and localities for the purpose of training and supporting teachers in teaching methodology and outdoor activity organizing methods aiming at enhancing students' learning autonomy and confidence. In fact, achievements in applying Rights to Survival, Rights to Protection and Rights to Development have been clearly realized. However, there remain difficulties in how to effectively implement the Rights to Participation. Those training sessions and network meetings have, in some respect, improved teaching methods and the organization of outdoor activities. The students' interests and concerns have been taken much more into consideration. In addition, Circular 27 on the *Assessment of Primary School Children* have given students the opportunity to express their opinions on their own learning process and academic results as well as their peers', helping them become more autonomous and active in their schoolwork and in social life. Also, Resolution on Fundamental and Comprehensive Innovation in Education has paid great attention to the formation of the Rights to Participation of students. In addition, article 76, 77, 78, in Chapter 5 in Children´s Law (2016) has placed an emphasis on the participation of children in issues involving children like family issues or school and educational establishments. However, students' proactive and confident participation is considerably low. Still, they do not actively seek for their own problems or suggest ways to solve the problems but rely on the teacher's guidance.

Rights to Participation and Rights to Express Opinions

The participation of a child can be understood as having rights to access information, to express opinions, to be heard, to be respected, to establish or join groups and associations, to discuss and decide all matters related to the child himself or herself.

Participation of the child is clearly mentioned and elaborated in Article 12, 13, 15 and 17 of the UN Convention on the Rights of the Child (CRC).

Every child is under the care and influence of their family and society. Children have their own thoughts and feelings, so they should not be regarded as those passively affected by other people but those taking the initiative in expressing their own ideas, doing things that may affect them and the community around them. Given this recognition, they also contribute to the society as this is not only the right but also the duty of every person in the society (Children´s Law 2016).

Theoretically, elementary school students gain access to rights to participation mainly through Theme 4: *School, where children learn and play*, and Theme 5: *My point of view is important, too* (Ministry of Education and Training, 2020). Not only does Theme 4 help students realize that they have the right to be nurtured and to develop but also make them aware of their rights and responsibilities in building up a friendly learning environment. To fulfill their rights and responsibilities, students are encouraged to show their thoughts, views, initiatives; and engage in activities to realize those thoughts, views, initiatives as well. Theme 5 focuses on Rights to participation, helping students become aware that they have the right to express their ideas on all issues in life and those ideas are respected, recognized, and carried out with careful consideration.

Practically, students are exercising their Rights to Participation in the process of learning and extra educational activities. To be precise; during school hours, students, with the guidance of teachers, are involved in the construction of the lesson and jointly create their own learning outcomes. Students are encouraged to show their opinions and debate in small groups, large groups and whole classes. The designed learning content is suited to students' life to help them become aware of and be able to think and give ideas about it. Besides, in the last two years, the Primary Education Sector has required teachers to shape and train students self-assessment skills on their learning outcomes as well as their peers'. Despite only being in the first step for students is yet fully proactive and confident; this is considered as an improving leap in the implementation of Children Rights to Participation. As a result, students will be more interested in their own opinions and those of peers. Before, students believed that their academic results must be rated by teachers.

In terms of extra educational activities, primary schools have organized outdoor activities to help students participate in various fields and realize the knowledge they have learnt in real life. During participation, students are instructed to express their views in different areas of social life such as volunteer activities, environmental protection activities, activities to learn about history, etc. Moreover, they are encouraged to express their thoughts and feelings and given the opportunity to communicate, to exchange, to share their concerns on every issue in life. Consequently, they learn to view life incisively and profoundly.

However, because English-related extra-curricular activities were encouraged but not compulsory, schools and English teachers had their own choice of organizing them depending on their conditions. This led to uneven implementation among schools in the regions, especially between schools in urban areas and remote ones. To be more specific, the majority of teachers in rural and remote areas rarely organized English-related extracurricular activities because of the difficulties and inadequate

conditions comprising in finance, facilities, lack of support from the School Board and other teachers, lack of understanding of parents, etc. The fact that English hasn't been regarded as important as other subjects by both School Board and parents led to the ignorance of whether or not these activities should be conducted. In reality, most schools in rural and remote areas only focused on small activities of the English clubs where a few gifted students participated. Moreover, most students having joined these activities have not been facilitated to maximize their active roles in the whole process due to the lack of organizing frequency. As a result, students in rural and remote areas haven't got equal opportunities to gain benefits from these extracurricular activities like those in urban and developed ones.

The Ladder of Participation

8. Child-initiated shared decisions with adults

7. Child-initiated and directed

6. Adult-initiated shared decisions with children

5. Consulted and informed

4. Assigned but informed

Degrees of participation

3. Tokenism

2. Decoration

1. Manipulation

Non-participation

Eight levels of young people's participation. The ladder metaphor is borrowed from Sherry Arnstein (1969); the categories are from Roger Hart.

Figure 2. The Ladder of Participation (Hart 1992)

As mentioned above, according to The Ladder of Participation, it can be seen that students' level of participation in rural and remote areas are mainly at *Assigned but informed* and *Consulted and informed*. This means that students have not yet taken the initiative in expressing their thoughts. Instead, they only do what teachers ask them to do or give opinions when being requested.

Solutions to enhance students' right to participation

Introducing Instruction Manuals (Handbooks) and conducting training courses for local teachers and managers on organizing extra-curricular activities.

In 2019, Ministry of Education and Training introduced a set of Instruction Manuals (Handbooks) aiming at providing guidance on how to establish and promote an English language learning environment through English-related extra-curricular activities at various levels from elementary to university. In terms of structure, each Handbook corresponding to each level focuses on introducing 10 specific activities to help learners practice and use English both inside and outside the classroom and thereby improve the effectiveness of learning English. In terms of content, 10 activities are designed to help managers and teachers easily implement and at the same time give learners more opportunities to use English in real-life situations and positive English learning environment, arouse their interest in English

learning, improve life skills but also to and promote autonomy. Regarding the practice, 10 activities are introduced as additional English lessons integrated with the schools' extra-curricular activities, so it is necessary to have the joint effort and active participation of many stakeholders including the School Board, English teachers and teachers of other subjects, parents and learners. Besides the introduction of the handbooks, there are mandatory training courses for local teachers on the synchronous implementation of these extracurricular activities. Accordingly, teachers participating in the one-week training course will be instructed on how to use the Handbook, share experiences with their peers about how to conduct these activities flexibly and creatively to best fit their own teaching contexts, have some demonstrations, then implement these activities at their own schools and be prepared for the field trips of supervision and evaluation which will be conducted in the next 2 months. As a matter of fact, most trainees joining the courses since 2019 have shown great enthusiasm during the courses and expressed absolute determination to conduct these activities in their reflections at the end of the courses. Some have shared their concerns on the lack of support of School Board and parents but have been convinced that these activities are mandatory by the Ministry of Education and Training. As for the evaluation of the quality of the courses and the outcomes, every trainee is required to hand in an action plan (based on the sample provided by the Handbook) clarifying how he/ she conducts these activities in his/ her teaching context after the course. After that, some of their schools will be chosen for field trips by the trainers and other trainees for giving and gaining. Those whose schools haven't been chosen have to hand in video clips of organizing these activities as evidence. The results pointed out that many teachers and managers have changed their view on the significance of establishing and promoting an English language learning environment through English-related extra-curricular activities and have applied what they have gained from the courses flexibly and creatively to best fit their particular contexts for the best interests of children.

Providing opportunities for students to actively join extra-curricular activities and express their opinions

Not only have these English-related extra-curricular activities made teachers and managers become well-aware of the necessity to have them organized but they have provided students more opportunities to be active, independent, confident participants who can express their opinions freely and be responsible for their own learning. The key point that all activities in the set of Instruction Manuals have in

common is the emphasis on the active role of children as both active organizers and beneficiaries of these activities. First, they have their own choice when joining these activities. For example, they can suggest which song they want to sing and dance in 'Dancing at break time' or select what they wish to produce in 'English display' or choose what they want to perform in 'Talent show in English'. Also, providing feedback as well as putting students' ideas into action is an indispensable stage in the whole process of participation. The feedback has an effect on students' cognitive process and motives, serving as a premise to promote students' interest in life and actively express their opinions. In addition, the responses make students feel that their contribution to the community has been realized and that their life becomes more meaningful. That is why their feedback is highly appreciated and taken into consideration when it comes to the evaluation of the activities. At the end of each activity, they will be asked to give constructive comments on how they like that activity in various ways like a checklist, interview, questionnaire, etc.; and the teacher will take that as crucial evidence for self-assessment and future improvement. What is more, as the students become more familiar with an activity, they can do it on their own without much guidance or assistance of the teacher. It is time for the teacher to support them when needed only. To put it another way, it is not the teachers assigning the work but students who initiate it. For instance, they can peer check the vocabulary in 'Mysterious box'; design their own questions for 'English race'; play the role of reporters to report on an environmental or social issue such as investigating the problem of water use in their neighborhood, studying about the sense of hygiene in the community, working on the issue of gender equality in life, then recommend solutions in 'Changes we can make'; decorate wallpapers with creative stories in 'Life stories'. Not only do these activities help students form and train their life skills but shape the habit of showing concerns about life matters and being responsible for the community. Thanks to these activities, the students feel the real need to express opinions and propose solutions. Hopefully, confidence and autonomy will be gradually strengthened as they are well aware of their Rights to Participation. In fact, most learners have shown their interests in these activities and expressed their readiness to join and their wish to have more in the future. According to the Ladder of Participation (Hart 1992), actively taking part in these activities has helped learners move up to another level – *Adult-initiated shared decisions with children* and *Child - Initiated and directed*, making them become thoroughly aware of their rights to express opinions.

Conclusion

The Rights to Participation begin with children confidently having a voice and gradually level up to children raising awareness of their rights and responsibilities at home, at school, and in the community. This is a long and difficult journey as the large number of people have not yet fully understood CRC, not to mention the implementation of CRC. In addition to innovative teaching methods, English-related extra-curricular activities are equally beneficial to children education as they helps build up a positive learning environment in which children can improve language skills, become more confident and interested in learning and using English, shape positive learning styles and strategies; and above all freely and actively express their own ideas, abilities, and passions, thereby raising their confidence and It is of great importance for teachers, schools, and parents to join hands to give chances for students to realize and implement Rights to Participation in early childhood, trust and empower them in extra educational activities, when necessary, assist the dissemination of CR in the community as they grow up because 'Children today are the world tomorrow'.

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Appendix

Activities for primary schools

1. Topic-based decoration
2. Dancing at break time
3. English clubs
4. English festival
5. Picnic
6. Open-air English library
7. English displays
8. Mysterious box
9. Talent show in English
10. Vocabulary of the week

Activities for lower secondary schools

1. English magazine
2. Weekly English day
3. English race
4. My answer matter

5. Food culture

6. I save you save

7. Gifts from teachers

8. Changes we can make

9. Life stories

10. Way to treasure

The Implementation of Children's Participation Rights

In Primary Schools in Vietnam

Khanh, Le Ngoc Tuong[1] & Anh, Pham Phuong[2]

Abstract

The right to participate emphasizes that children have the opportunity to express their thoughts and perspectives, and to engage in activities concerning various aspects of social life directly related to their concerns. Implementing the right to participation within the context of East Asian culture poses specific challenges: the awareness and willingness of adults to cooperate, as well as the awareness and readiness for implementation on the part of children. The purpose of this article is, first, to explore how the right to participation is manifested in "Vietnamese Children´s Law" and the roles of various "adult" entities in its implementation. Second, the right to participation is examined within elementary school curriculum programs. This issue is raised in the context of Vietnamese education undergoing the new General Education program, a renewal to suit societal circumstances. Third, the awareness of the right to participation among elementary school students and the implementation of this right are viewed from the perspective of these students.

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Introduction

In the context of social changes affecting all aspects of life due to the impact of technological development and the diversity of information channels, educating children faces the challenge of preparing future leaders who can meet the society's workforce demands. The main issue is: How can children understand society and contribute to shaping its future? This preparation is crucial for a rapidly developing world in terms of science and other societal changes such as disease outbreaks, climate, food security, etc. Therefore, children need to have a voice and opinions on social issues, especially those directly affecting them. This empowers children, making them aware of their contributions and responsibilities towards life. Children's participation rights offer a solution to this matter. However, understanding and implementing these rights require further discussion, hindered by traditional cultural beliefs deeply ingrained in the majority of adults: Children should be obedient and follow orders; they have no opinions. Such prejudices can lead children to be indifferent to their surroundings, lack confidence in expressing their opinions, and doubt themselves.

Research methods

This research using theoretical research methods, the article analyzes several documents to clarify the importance, the expression of right to participation in the UN Convention on the Rights of the Child (CRC) as well as in the curriculum of primary education in Vietnam. Thank to that, the paper points out the expression of participation rights in the curriculum of primary education in Vietnam, especially in several subject such as Vietnamese Language, Mathematics, Science, Ethics, Experiential activities, etc. Moreover, this research also conducts a survey to ask primary students about the right to participation. Thank to that, we can understand the implementation of the right to participation in primary schools in Ho Chi Minh City, Thu Duc City, and Binh Duong Province from the perspective of elementary school students.

Research problem

Participation rights in the Convention on the Rights of the Child (CRC)

The UN International Convention on the Rights of the Child, adopted in 1989 and ratified by 196 countries to date, marks a groundbreaking legal framework specifically dedicated to children. It recognizes children as individuals with their own rights. The Convention does not segregate rights into specific groups, nor does it explicitly outline the right to participation. However, certain provisions of the Convention are understood to be related to the right to participation, such as the Right to Freedom of Expression and the Right to be Heard (Article 12); the Right to Seek Information and Freedom of Expression (Article 13); the Right to Privacy (Article 16); the Right to Freedom of Association and Assembly (Article 15); and the Right to Freedom of Thought, Conscience, and Religion (Article 14). The concept of the right to participation is broad and can be interpreted and approached from various perspectives. Generally, the right to participation is understood as the process of an individual participating in the decision-making processes and policies that affect their own lives or the community in which they live. The Convention recognizes that children can exercise their right to participation from a very young age and engage in issues appropriate to their age. Interpreted from the Convention's provisions, the right to participation is specified as: The right to express opinions and present views on all issues related to oneself. The right to be consulted and contribute to the decision-making process on issues related to children. The right to establish and participate in groups and associations. The right to seek and access information. By stating the right to participation, the International Convention on the Rights of the Child affirms that children are citizens of a nation with the right to express their views on all matters affecting them. It demands that these views to be heard, respected, and influence decisions and policies related to children. The right to participation demonstrates that children are active, confident, and responsible individuals. The right to participation holds significant meaning for the formation and development of the personalities and capacities of children. To achieve this significance, an essential aspect that needs discussion is the role of individuals, communities, and, importantly, the State in enforcing the right to participation

The Role of the government

Countries participating in the UN convention are tasked with constructing a legal framework on children's rights, including the right to participation, in line with the content and spirit of the Convention. The government must implement measures to support the formation and maintenance of activities by associations/groups established and operated by children. This support aims to guide their development in the right direction, prevent deviations, and ensure necessary democratic participation. In this spirit, the Children´s Law enacted in 2016, under Law No. 102/2016/QH13, effective from June 1, 2017, comprises 7 chapters and 106 articles. Within it, the right to participation is explicitly outlined in several chapters and articles, covering topics such as the right to access information and participate in social activities, the right to express opinions and assemble, and ensuring the participation of children in family, school, and other educational institutions.

Furthermore, the National Children's Forum has been conducted. By 2023, this forum has been organized for the 7th time, focusing on the theme "Children participating in building a safe, friendly, and healthy living environment for children."

Roles of Relevant Parties (Family, School, Society)

Implementing the right to participation requires adults living with, caring for, and nurturing children to be informed, understanding, and guided in its execution. They must consistently create conditions and opportunities for children to express themselves, always be ready to listen, comprehend, and consider children's perspectives. Additionally, they also have the responsibility to explain to children why certain opinions cannot be implemented and encourage and support children to continue expressing their opinions for their own responsibility and benefit.

Furthermore, adults need to ensure the child's right to access information, especially information directly relevant to the child. It is the duty of adults to ensure that information provided to children is appropriate and necessary. Adults should be concerned and collaborate with children to guide them in recognizing reliable sources of information. This helps children develop the skills to choose information, fostering confidence and maturity in recognizing and expressing their own opinions.

Right to Participation in Elementary School Subject Programs

In elementary school subjects in Vietnam, the right to participation of children is not presented as a specific content area but is flexibly integrated into the learning content and clearly demonstrated in specific learning requirements.

(1) Right to express opinions and views on issues related to oneself

The curriculum of many subjects in Vietnamese primary schools emphasizes the right to express opinions and views on issues related to oneself. Students are encouraged to ask questions, provide feedback, and express their opinions. Each subject has its own characteristics in terms of teaching methods, and the manifestation of children's right to participation varies accordingly. In the Vietnamese language subject, the right to speak up and express viewpoints on issues related to oneself is cultivated in all language activities. Specifically, students are guided to recognize the emotions of the speaker and listener for appropriate feedback; elaborate on a favorite issue; discuss and present reasoning on a topic, etc. Regarding writing, the new program introduces innovations compared to before. Students are instructed to express their emotions and attitudes towards stories, poems, literary characters, social phenomena, familiar figures, and to articulate their opinions and reasoning on ongoing social issues. In reading instruction, learners are required to connect the content of the text with their own understanding and life. From there, they express their personal opinions on the content and meaning of the reading text.

The right to express opinions and views on relevant issues is also clearly manifested in the specific achievement requirements of subjects such as Natural and Social Sciences 1, 2, 3, and Science 4, 5. For instance, the curriculum demands that students "ask simple questions about some objects, phenomena, and relationships among us", "observe external characteristics, compare objects and phenomena around them, and note their changes over time." In the Science subject, students are required to "explain some objects, phenomena, and relationships between them," "make predictions about objects, phenomena, and their relationships".

The program of History and Geography also sets diverse ways for students to exercise their right to express opinions and views, focusing on issues related to historical events, historical figures, and geographical phenomena. From these observations, the curriculum guides students to achieve the requirement of "proposing ideas and

implementing some actions such as using resources efficiently, protecting the environment, preserving historical and cultural relics, etc."

In the subject of Ethics, students have the opportunity to assess the nature of right and wrong, and legal behaviors of oneself and friends in study and daily life. They are encouraged to "observe the attitudes of communication partners and some outstanding characteristics of group members to assign tasks and collaborate." And "begin to propose solutions and participate in solving simple and age-appropriate ethical, legal, and life skills issues in study and daily life."

In conclusion, based on the analysis the curriculum of some elementary school subjects in Vietnam, it can be seen that the right to express opinions and views on relevant issues is clearly demonstrated. Throughout the learning process of these subjects, this right is realized through various activities in which students actively engage. They have the opportunity to "ask questions," "make comments," and "propose solutions" for issues related to objects, events, and phenomena in their surroundings, from the past to the present.

(2) The right to consult and contribute to decisions related to children

Currently, Vietnam specifically show increasing concern for children and issues related to them. In Vietnam, initiatives such as the "Children's Forum," the "What I Want to Say" model, or conferences and dialogues between representatives of the National Assembly, People's Councils, government officials, and children are some of the essential occasions organized to promote the right of children to be consulted and contribute to decisions related to them.

In the elementary school curriculum, this right is also clearly demonstrated, particularly in subjects such as Natural and Social Sciences and Experiential Activities. For instance, in the Science subject, students are not only asked to "gather information and evidence showing the positive and negative impacts of humans on the environment and natural resources" but are also involved in local activities through which they "develop content and use suitable presentation methods to advocate for harmonious living with nature, environmental protection, and biodiversity conservation in their localities" (Science Grade 5). Furthermore, the Experiential Activities subject offers a variety of activities to provide students with opportunities to "develop and implement work plans within the school" based on their own observations and evaluations of these activities at their schools (Experiential Activities Grade 4).

In other subjects, due to the nature of their content, the manifestation of this right may not be as evident in the specific achievement requirements of the subject.

However, during the teaching process, teachers frequently engage in discussions with students, allowing them to be the decision-makers on how to operate, organize, and evaluate activities according to the guidelines of the national curriculum issued by the Ministry of Education and Training.

(3) The right to establish and participate in groups

In Vietnamese elementary schools, students generally have numerous opportunities to participate in diverse groups, particularly in the subject of Experiential Activities.

Throughout this subject, students have the chance to engage in various group activities. These activities become more complex as students' progress through the grades.

The Experiential Activities subject in elementary school provides a conducive environment for students to form and join various groups, fostering teamwork, leadership, and social skills. These group activities play a significant role in promoting students' sense of responsibility, community engagement, and ethical values. Furthermore, through these experiences, students learn the importance of collective efforts and how to contribute positively to the community and society as a whole.

(4) The right to seek and access information

In Vietnamese elementary schools, searching for information is one of the regular activities that students are required to perform throughout their learning journey. Among all the subjects, the Vietnamese language subject stands out as it serves as a platform for students to receive information effectively. Within language activities, reading comprehension plays a significant role in helping students receive and search for information the most. In Vietnamese elementary education, the curriculum provides opportunities for students to "comprehend the content of texts expressed through details, themes, ideas, messages, etc." and "comprehend the forms of expression through the characteristics of different types of texts and genres, their elements, and language usage..." with two main types of texts (literary texts and informational texts) of various genres, ranging from simple to complex, gradually advancing through different grades, taking into consideration the students' abilities.

Unlike the Vietnamese language subject, in the Science subjects, the majority of texts are informational texts containing content related to natural and social sciences. The process of seeking and accessing information in these subjects is primarily conducted through reading comprehension and searching for scientific information relevant to the subject's objects. Additionally, due to the specific nature of these subjects,

information is often presented in various formats such as tables, charts, diagrams, and maps. The process of searching for and accessing information from texts, tables, diagrams, and maps is also a major focus in the Math subject at the elementary level, with a requirement for students to "understand and take notes (summarize) the core mathematical information in texts or communicated by others (at a simple level) to recognize the problems that need to be solved."

In conclusion, the right to seek and access information is well supported and emphasized throughout the Vietnamese elementary education system. Through various activities and subjects, students are encouraged to develop their skills in searching for and utilizing information, helping them become well-informed and engaged learners.

The implementation the Right to Participation in Primary Schools in Vietnam – the perspective of elementary school students in Ho Chi Minh City, Thu Duc City, and Binh Duong Province

- Objectives:

The purpose of this research is to understand the implementation of the right to participate in primary schools in Ho Chi Minh City, Thu Duc City, and Binh Duong province from the perspective of elementary school students.

- Research method:

The research team conducted a survey to gather the opinions of students, utilizing a questionnaire to record their responses. Additionally, direct interviews were conducted with individual students to gain a clearer understanding of their perspectives.

- The content of survey

The survey focused on five main issues: (1) Understanding whether students are aware of children's rights. (2) Exploring the right to express themselves and the responses from parents/teachers when students share their thoughts. (3) Investigating whether students are consulted on activities related to them and how parents/teachers respond to their opinions. (4) Understanding whether students are encouraged to participate in school clubs and extracurricular activities. (5)

Investigating whether students are given opportunities to search for and access information relevant to themselves during the learning process.

The survey was conducted in May and September 2023. They had spent five years in primary school, allowing them sufficient experience to understand the research issues. The survey targeted 2718 Grade 5 students from various schools in Ho Chi Minh City (938 students), Thu Duc City (924 students), and Binh Duong Province (856 students).

- Survey result:

The result of the survey provides necessary information to find out the implementation the right to participation in Primary Schools in Ho Chi Minh City, Thu Duc City, and Binh Duong Province – the perspective of elementary school students

(1) Issue 1: Understanding whether students are aware of children's rights

When surveying the opinions of 2718 Grade 5 students in Ho Chi Minh City, Thu Duc City, and Binh Duong Province regarding whether they have heard about "children's rights," the results showed that 80.1% of the students have heard about this right. This indicates that a considerable number of elementary school students in Ho Chi Minh City, Thu Duc City, and Binh Duong province are aware of children's rights. However, the 19.9% of students who have not heard about this right is a noteworthy figure. It suggests that there is still a need to address the implementation of children's rights to ensure that all elementary school students in Ho Chi Minh City, Thu Duc City, and Binh Duong Province and Vietnam in general are informed about these rights and understand their benefits. This will help provide appropriate support and interventions for them in their lives.

Table 1. The result survey for students have/have not heard of Child Right

	Ho Chi Minh City		Binh Duong		Thu Duc City		Total	
	The quantity	%	The quantity	%	The quantity	%	The quantity	%
Ever heard of Child Rights	831	88.6	662	77.3	824	89.2	2317	80.1
Have not heard of Child Rights	107	11.4	194	22.7	100	10.8	401	19.9

Furthermore, when examining the specific statistical data for Ho Chi Minh City, Binh Duong, and Thu Duc, the research group observed that the percentage of students in Binh Duong who are unaware of children's rights is higher than in Thu Duc and Ho Chi Minh City (22.7% compared to 11.4% in Ho Chi Minh City and 10.8% in Thu Duc). Investigating the reasons with managers, the research team found that this is partly due to the fact that the population in Binh Duong is largely composed of migrants, with a significant proportion working as laborers in industrial zones. Consequently, due to the nature of their work and the relatively lower cultural awareness, some parents in Binh Duong are not familiar with children's rights, making it challenging for them to collaborate with schools to help students understand and appreciate these rights. Therefore, even though schools are implementing initiatives, the lack of coordination from families results in many students not having a clear understanding of children's rights. Thus, it is evident that the implementation of children's rights to all primary school students remains a challenge that Ho Chi Minh City, Binh Duong, Thu Duc, and Vietnam as a whole need to address. Ensuring that all children are aware of these rights and understand their benefits is essential for providing appropriate support and interventions in their lives.

(2) Issue 2: Understanding the right to express themselves and the responses from parents/teachers when students share their thoughts

In a deeper investigation of activities within and outside of school (besides regular class hours) that help students become aware of children's rights (such as class activities, flag ceremonies, school club activities, and other non-school-organized activities), the results showed that class activities and flag ceremonies play the most significant roles in conveying "children's rights" to students (class activities: 62.3%, flag ceremonies: 66.6%).

On the other hand, only 21.2% of students chose school club activities. This result accurately reflects the current reality of organizing activities in Vietnamese elementary schools. Due to objective and subjective factors such as budget, time constraints, support from parents, and other social forces, school club activities have not been universally implemented in all schools. Moreover, the scale, frequency, and effectiveness of activities organized by school clubs vary between schools and regions. This might be a reason why school club activities have not been an effective channel for introducing children's rights to elementary school students. Apart from activities within the school (class activities, flag ceremonies, school club activities), the research team also recorded that 32.3% of students became aware of children's rights through activities outside the school. By conducting interviews with the students to better

understand their choices, the research team found that these activities were diverse, including community activities in the students' neighborhoods and participation in skill training classes organized by extracurricular education centers. Notably, among those who chose this option, over 80% of the students became aware of children's rights through talking with their parents or reading books, newspapers, or social media platforms.

Chart 1.1. Extracurricular activities in/out of school help students know about children's rights

■ Extracurricular activities in/out of school help students know about children's rights

Class meeting	Flag salute session	Clubs	Others
62,3	66,6	21,2	29,9
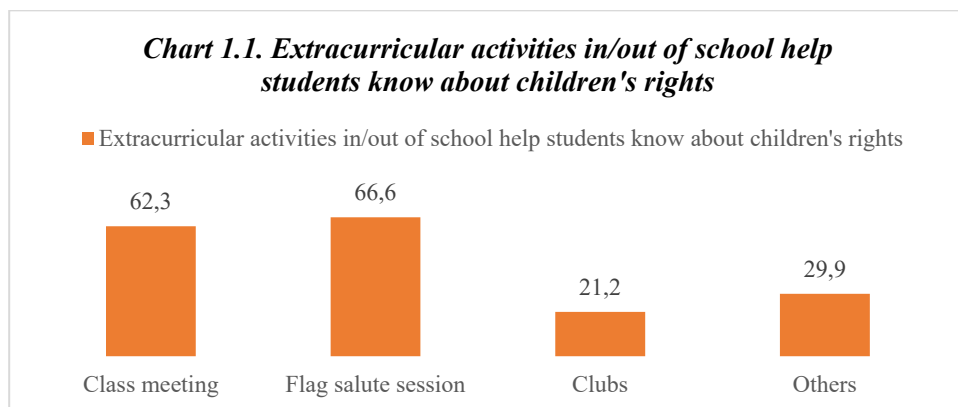
When asked about the opportunity to share their thoughts and opinions on matters related to themselves in family and school activities, 91.7% of the students confirmed that they have such opportunities (47.4% HS of them indicated that they have regular opportunities, and 44.3% indicated occasional opportunities to share their thoughts). However, there are still 8.4%of students who have not had the chance to do so. Significantly, the results from the statistical data table indicate that Binh Duong is a locality where the percentage of children not regularly provided with opportunities to share their personal thoughts is noteworthy. When deeply interviewing students about this, some of them mentioned that at school, they have opportunities to converse and share with teachers and friends. However, at home, due to their parents being quite busy, leaving early for work and returning late, there are instances when parents and children do not have time to meet and talk.

Digging deeper into other aspects related to sharing thoughts and opinions of primary school students, the survey results also show that 83.5%HS of students express that they share with their parents/teachers when they are satisfied or dissatisfied with any issue related to themselves. However, only 43.6% HS of students do this regularly, while 38.9% do it occasionally, 17.5% of students confirm that they have never shared with their parents/teachers about issues related to themselves.

Table 2. How often have students facilities to share thoughts on personal issues (%)

		Ho Chi Minh	Binh Duong	Thu Duc	Total
Frequently		59	29.3	52.4	47.4
Sometimes		34.3	58.2	41.5	44.3
Never		6.7	12.5	6.1	8.4

Chart 1.1. How often have students facilities to share thoughts on personal issues

■ Frequently ■ Sometimes ■ Never

Chart 1.2. How often students share with parents/teachers

■ Frequently ■ Sometimes ■ Never
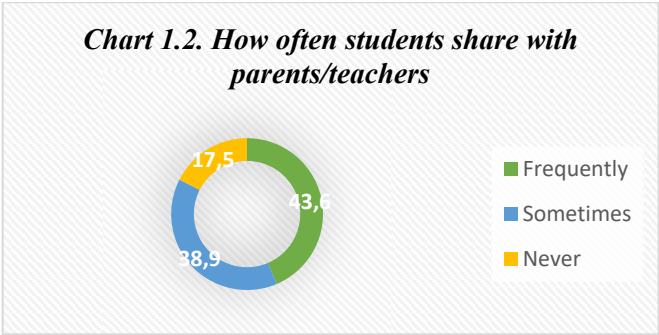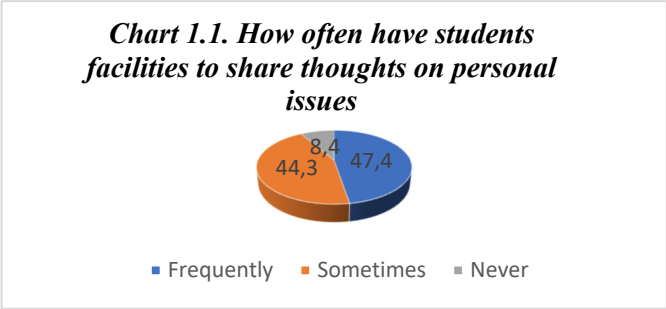
However, when asked about the reasons for infrequent or never sharing with their parents/teachers, most of the students responded that they have "grown up" and prefer sharing with their friends because they have more things in common, not because their parents/teachers do not listen to them (5.2%). Particularly, 81.4% of students shared that when they speak, their parents/teachers listen attentively, which makes them feel comfortable to exchange thoughts. This result aligns well with another survey question related to the students' satisfaction with the feedback from their parents/teachers when sharing an issue related to themselves. According to this question, 60.4% of students are very satisfied, 27.8% are moderately satisfied, and only 11.8% are dissatisfied. However, upon examining the data for each locality, it is evident that the satisfaction level of students in Binh Duong compared to Ho Chi Minh City and Thu Duc shows a significant difference. Specifically, up to 26.2% of

students in Binh Duong are dissatisfied with the feedback from their parents/teachers. This percentage is considerably higher when compared to the rates in Ho Chi Minh City (2%) and Thu Duc (11.8%). Consistent with these results, the proportion of students satisfied with the feedback from their parents/teachers in Binh Duong is also lower than in Ho Chi Minh City (97.2%) and Thu Duc (98.2%).

Table 3. Level of satisfaction of students when sharing with Parents/Teachers

	Ho Chi Minh City	Binh Duong Province	Thu Duc City	Total
Very satisfied	70.4	42.3	67.1	60.4
Satisfied	26.8	31.5	25.4	27.8
Not satisfied	2	26.2	7.5	11.8

Chart 1.3. Attitude of Parents/Teachers when listening to students thoughts

15,2 4,3
80,5

■ Listening but not concentrating
■ Not listening attentively
■ Listening carefully

Chart 1.4. Level of satisfaction of students when sharing with Parents/Teachers

11,8
27,8
60,4

■ Very satisfied
■ Satisfied
■ Unsatisfied
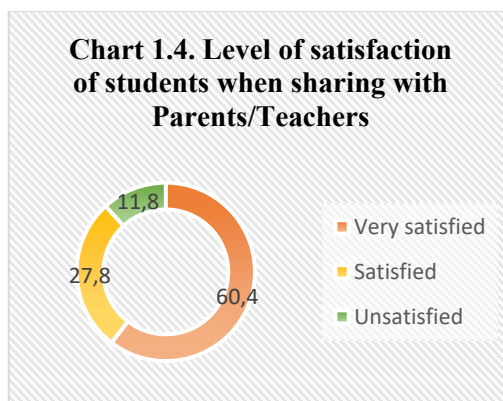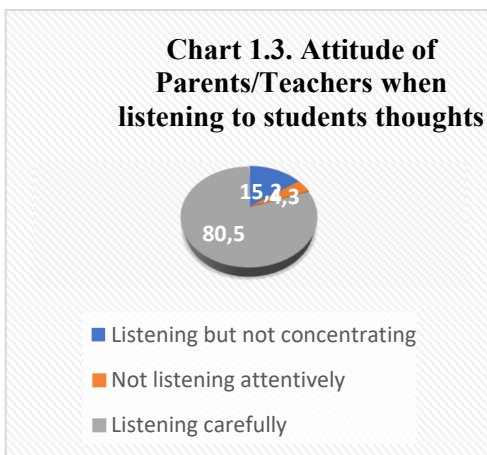
Therefore, when considering the aspect of "the right to express opinions on issues related to oneself," the survey results show that primary school students in Ho Chi Minh City, Thu Duc City, Binh Duong province have very positive responses, with the majority of them being given opportunities by their parents/teachers to share their thoughts and opinions, and they also receive care and attentive listening from their family/school regarding their issues.

(3) Issue 3: Understanding whether students are asked for their opinions on activities related to them and the response of teachers to their opinions

The results shown in chart 3.1 indicate that 37% of students reported being frequently asked for their opinions when the school organizes an activity or constructs/improves a facility. This indicates that (1) the school still does not pay much attention to educating students about the right to express their opinions. It is possible that the school asks, but students do not recognize that they are exercising their right to participation, or (2) the school has not fully focused on this matter. Next, the research team surveyed the ways in which students express their opinions, and the results are represented in chart 3.3. The majority of students chose the traditional method of "speaking directly," while 27.9% of students chose to share their opinions through Facebook, Zalo, indicating that students are aware of using social media to express their opinions. According to the research team's observations, many students from schools in the city center use social media under parental supervision and they also form groups to exchange information. The traditional method of "Sharing through the 'What I Want to Say' box" was least preferred by students. When asked, students said they did not choose this method because they feel that expressing opinions through the box receives less attention from teachers, and it takes a long time to receive feedback.

The synthesis of survey results from charts 3.2, 3.4, and 3.5 shows quite similar data: More than half of the students believe that their opinions are always heard. The school always listens, understands, and responds to their opinions. Although this may not always be the case, it is a positive sign for implementing students' right to participation. Additionally, more than half of the students' opinions and wishes are presented and explained if their opinions are not implemented.

Chart 3.1. Student survey results about being asked for opinions

- Never — 30,5
- Sometimes — 32,5
- Frequently — 37
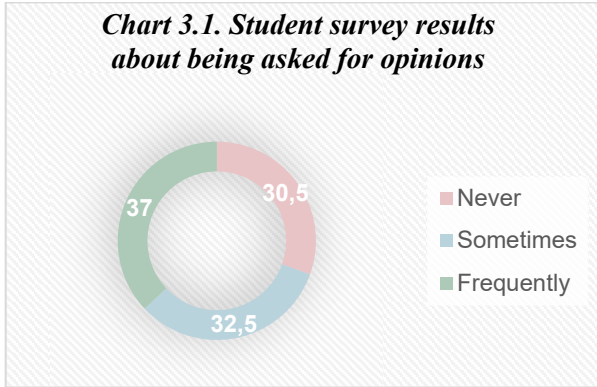
Chart 3.2. Survey results on responding to students' comments

- Frequently — 43%
- Sometimes — 30%
- Never — 27%
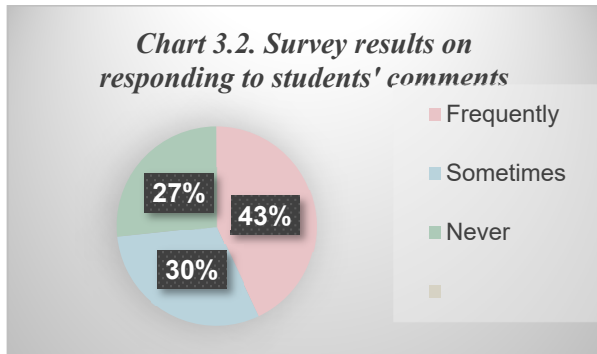
Chart 3.3. Forms of expressing opinions of students

- Share via mailbox "What I want to…"
- Write your opinion through the…
- Share via Fb, Zalo
- Directly speaking

(0, 500, 1000, 1500, 2000, 2500)

■ The number of students
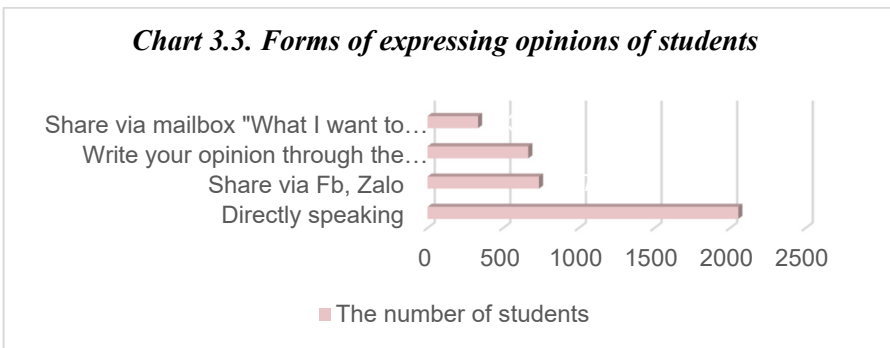
Chart 3.4. Number of opinions of students that are/have not been implemented

- Have not done — 47%
- Done — 32%
- Not sure — 21%
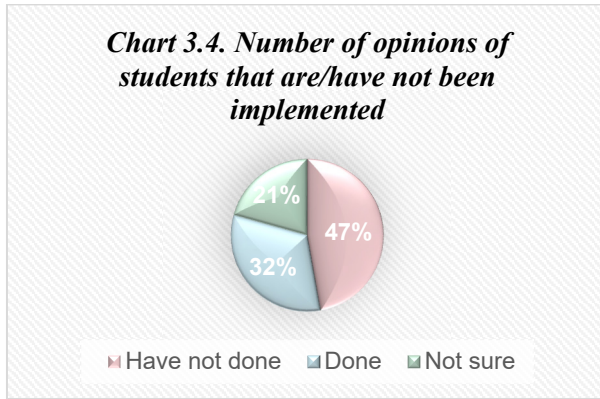
Chart 3.5. Survey results on whether students' opinions are explained if not implemented

- Yes — 67%
- No — 33%
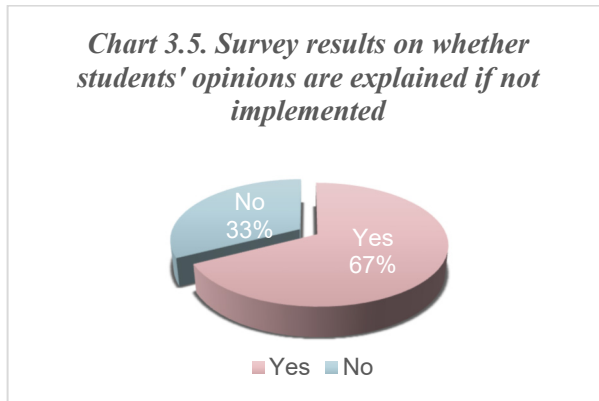
(4) Issue 4: Understanding whether students are encouraged to participate in school clubs

Regarding participation in school clubs, 60% of surveyed students identified that their school organizes clubs, which is approximately double than the number of students in schools without clubs. However, 32.1% of students confirmed that they do not participate in school-organized club activities. Related to the survey content, we also observed that in Thu Duc City, the percentage of students confirming that the school organizes clubs is higher compared to Ho Chi Minh City and Binh Duong (Thu Duc: 79%, Ho Chi Minh City: 75.5%).

When the research team asked for the opinions of students who do not participate in school-organized clubs, 37.2% of them shared that they do not join because the club activities do not match their interests and needs. Additionally, 29.1% of students shared that the reason stems from not being encouraged by their parents to participate. Notably, 33.7% HS of non-participating students cited other reasons

such as fear of wasting time or not having many friends who are members of the club.

Among the students who participate in clubs, 49.4% chose to do so because the club's content is suitable for them, and 19.3% indicated that they were encouraged by their parents. Importantly, 31.3% of participating students mentioned that they join clubs because the club's content is suitable and they are encouraged and supported by their parents.

Chart 4.1. Reasons why students don't join the club at school

25% 42% 33%

- The content of club activities is not suitable for students' needs
- Not encouraged by parents to participate

Chart 4.2. Reasons why students join the club at school

32% 50% 18%

- The content of club activities is suitable for students' needs
- Encouraged by parents
- Both reasons mentioned
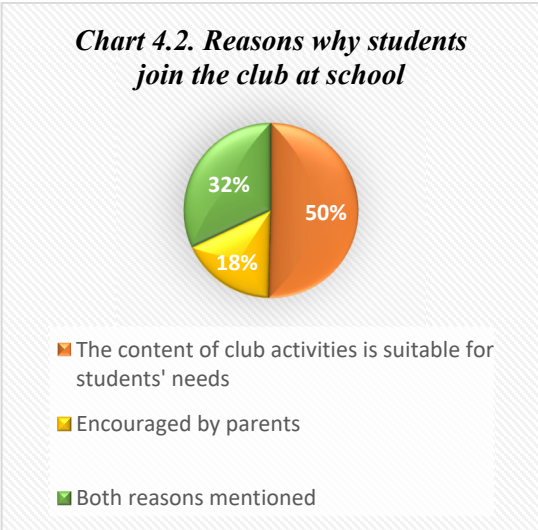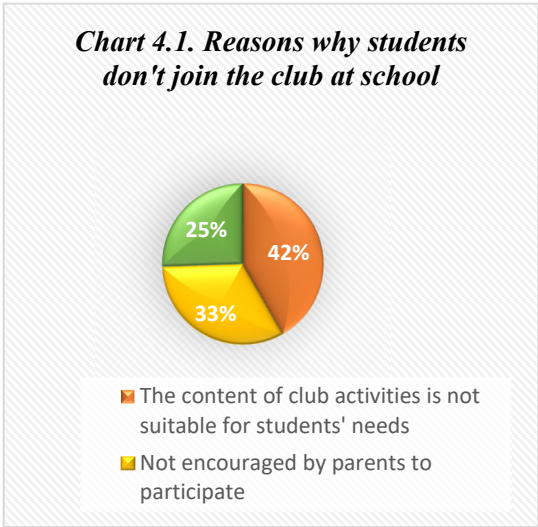
Thus, the majority of student participation in school clubs depends on two main factors: the relevance of the club's content and the support provided by parents. Survey data indicates that in the near future, if school clubs invest more in ensuring content relevance, attracting, and engaging students, and if parents provide more support and encouragement, the number of students participating in school clubs will increase. This will create more favorable conditions for students to exercise their right to participate, particularly in group and social activities. As a result, students will have more opportunities to share their thoughts and opinions, learn from others, and develop themselves both in terms of awareness and knowledge, as well as critical thinking and skills.

Issue 5: The findings regarding the issue of students' access to information and their ability to search for relevant information in the learning process are quite positive

Out of the 2718 students surveyed, 62.7% of them reported that they were guided and encouraged to search for information to support their studies. Additionally, students regularly receive updates on information related to their studies, activities, and news relevant to themselves. Students show enthusiasm when it comes to using information technology in both their learning and daily lives. This result indicates that innovative teaching methods and empowering students in the current social context have been effective.

Chart 5.1. The right to access information
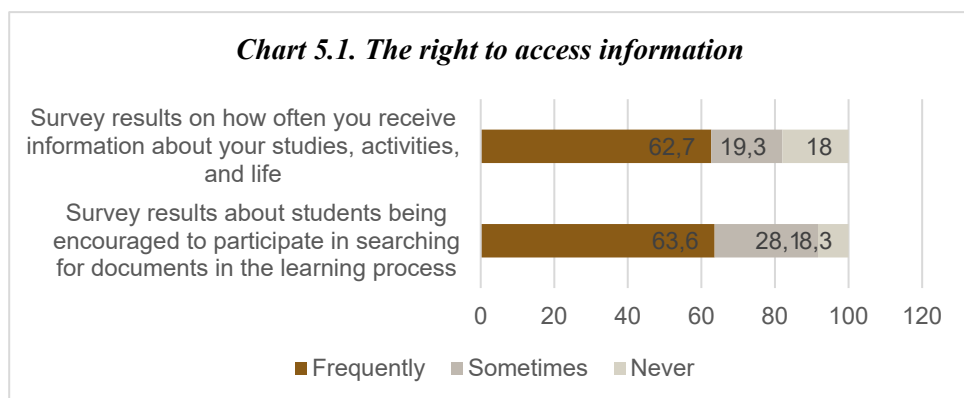
Concluding discussion

In conclusion, along with children's rights, the right to participation has been acknowledged and implemented by society and schools since Vietnam ratified the UN Convention. However, due to the long-standing cultural belief that "a well-behaved child is a child who obeys," the implementation of the right to participation is not as favorable as other rights within children's rights. The current context, with its developments in various aspects such as information technology, education level, and economy, has had an impact on the implementation of the right to participation for both adults and children. Furthermore, strong promotion and advocacy from the government are crucial agents in better implementing this right.

From the survey results, it is evident that the opinions of students are being listened to; they are courageous in expressing their thoughts and opinions, and importantly, they know how to communicate their ideas to adults. Although the traditional method of expressing opinions (direct speech) is still the most commonly chosen because of its practicality – meeting parents daily and interacting with teachers regularly – students have also started to use technology to convey their ideas. Moreover, teachers and parents have begun to pay more attention to students' opinions in organizing activities or matters concerning them. Students are encouraged to participate in groups and actively seek information during their studies, which is a positive aspect that helps students develop communication skills, increase self-confidence, and enhance their ability to work collaboratively and proactively in acquiring knowledge.

Although not all students have reached the ideal number of understanding and practicing the right to participation due to various reasons, the current progress indicates that expectations for the future are promising.

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Ensuring the Application of Children's Rights in Early Education Institutions in Ho Chi Minh City-Vietnam

Do Cong Nam[1], Le Tong Ngoc Anh[2], & Cao Thanh Tan[3]

Introduction

Vietnam is one of the first Asian countries to ratify the International Convention of the Children's Right. This is the most basic and important law for children's rights in the international human rights legal system - (The United Nations Committee on the Rights of the Child, 1989) such as: Children have the right to be listened and they are freely to express their opinions about all the matters affecting them (Article 12, 13); they have right to speak up assembly and access to information promoting the best interests of the child and promoting personal development (Article 17, 18); they have the right to participate equally without discrimination; they also have the right to be protected from manipulation, violence, abuse and exploitation (Article 19), Children are a weak and vulnerable group and need to be protected by the social community and the law. Among age groups, preschool children are a very special group because they are not only small and weak physically but also vulnerable to mental health. They are too young to understand themselves and their rights, their ability to confidently share their feelings and voice their opinions. They have not yet formed their personality, are easily manipulated, and abused, but do not know how

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to protect themselves or seek help from those around them to protect them. Because of these things, there have been a lot of cases involving preschool children taking place in recent times that lead the social community and educational institutions, legislators around the world in general and in Vietnam in particular, to know condemnation and build the new rules to ensure children's rights are exercised.

Therefore, ensuring children's rights in general and children's rights in preschool education institutions in particular is always a topic of concern to aim at the children's rights to be recognized, protected, guaranteed, maintained, and respected. The article discusses a number of theoretical issues on children's rights to ensure children's rights in preschool educational institutions in Ho Chi Minh City (HCM City). Based on that basis, assessing the current situation of ensuring children's rights in kindergarten institutions in HCM City in recent years can point out some causes to give recommendations to ensure children's rights in the coming time.

Solving the Issue

Some theoretical issues on protection of children's rights in preschool educational institutions

Definition of Vietnamese Children's Laws

○ *Children*: Child is a term that refers to a social group belonging to a certain age in the early stages of human development. In Article 1 of the 1989 International Convention of the Children's Right, it is defined a child means any person under the age of 18 years. According to Vietnam Children's Law (National Assembly of Vietnam, 2016), a child is a person under the age of 16 (Article 1).

○ *Protecting children:* According to Clause 1, Article 4 of The Vietnam Children's Law 2016 defines child protection as follows: "Child protection is the implementation of appropriate measures to ensure a safe and healthy life for children; prevention, prevention and handle acts of child abuse; assist children in special circumstances."

○ *Preschool educational institutions*: According to Clause 12, Article 5 of the 2019 Vietnam Education Law (Vietnam National Assembly, 2019), "Educational institution is an organization that conducts educational activities in the national education system, including schools and other

educational institutions." For preschool educational institutions, these include:

- o *Nursery schools*: is for groups of children from three months to three years old.

- o *Preschool and Kindergarten*: is for children from three to six years old. Sometime, that combines nursery schools and preschool (from 6 months old to six years old).

Situation of preschool educational institutions in Ho Chi Minh City

Preschool institutions in Ho Chi Minh City

According to statistics from the General Statistics Office of Vietnam, the number of preschools in Ho Chi Minh city is relatively large, ranging from 1100 to more than 1300 schools (General Statistics Office of Vietnam, 2022), leading to a steady increase in the number of teachers.
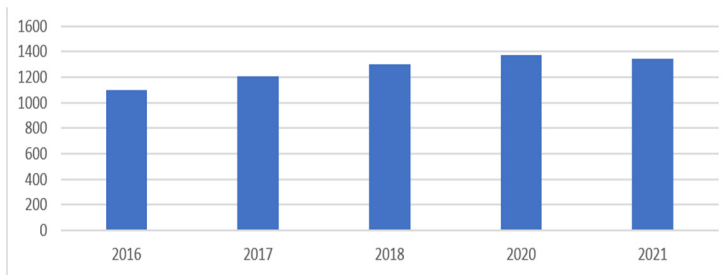
Picture 1. Number of preschools in HCM City
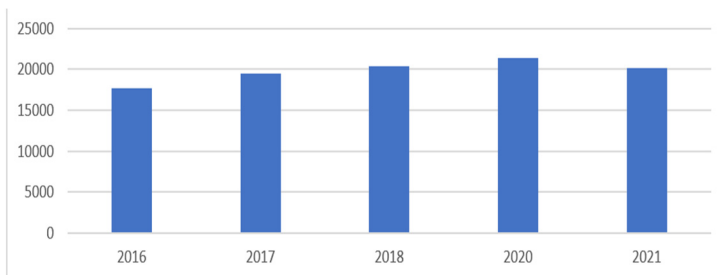
Picture 2. Number of preschool teachers in HCM City

In Vietnam, the form of preschool education institutions is divided into:

- *Public preschools*: only accept children over 6 months and most are 36 months. In terms of facilities, systems, and programs in accordance with basic national standards. These schools usually do not accept children under 1 years old (usually 3 – 6 years old) and quite a few schools accept students under 2 years old. Tuition fees are supported by the Government, parents only pay a small part (Vietnam Economy Magazine, 2023). Qualified teachers and staff are trained from college to university and often receive regular training on educational programs, policies on children's rights, and advanced educational methods. This type of school is the right choice of parents because it is suitable for the affordability of the majority of people.

- *Non-public preschool:* taking care of children over 3 months and most are 36 months.

In which, non-public preschool is divided into:

- *Private preschool*: child-care from over 6 months and most of them from 24 months or more. These schools are often established by large corporations (some industrial groups are also involved in education) so they have good financial resources and facilities. They have high facilities, systems and programs; there is more investment from the financial resources of the school and parents, but the tuition fee is often higher than that of public schools and depends on the level or program. Teachers and staff are trained from college to university, and further training varies from school to school. The higher the investment in facilities, the more expensive the tuition and the standard of care that is sometimes superior to public schools. Because the tuition fees are higher and vary widely, not all parents can afford to send their children to school, parents can send their children to non-regional schools if there is a suitable school.

- *Small private preschool:* accept children from over 6 months and most are from 24 months or more. Small private preschools have been established in many localities and industrial zones in the city to meet the needs of child-care. The facilities and programs of these units are of basic standard. In terms of tuition fees, these schools have moderate and varied tuition fees, suitable for many families. Usually, classes have a number of students ranging from 15 to 30 children, but with very young children, sometimes the class can be less than 10 children and the tuition fee will be higher. These schools have helped address a significant portion of the need for early childhood education.

- *Private babysitting and nursery group (PB group):* These are usually PB groups in local neighborhoods. These classes are mostly registered with local agencies so that the agencies can control and check regularly, but there are also spontaneous groups, not registered to avoid the management agency. Usually these groups have inadequate facilities, teachers are not properly trained but only take care of the children according to their personal experience. In some cases, some people use their home as a babysitting point for other families in the area. However, this is the type chosen by many families because of the diversity of ages and fees that suitable. According to the regulations for PB groups can only accept from 3 to 7 children (Ministry of Construction - Ministry of Science and Technology, 2011) and the youngest is 6 months old, however, many classes are willing to accept students from 6 months old and the price is negotiable in accordance with the population each locality with the number of more than 7 kids.

According to statistics from the Department of Early Childhood Education, HCM City Department of Education and Training, by the end of 2021-2022, the whole city has 3112 preschool education institutions, including 1351 schools (Ho Chi Minh Law Magazine, 2022) (including about 465 public preschools, 844 private schools) and 1761 small private preschools. In addition, there are 14 420 private babysitting groups. The number of preschool children is nearly 305 000 with more than 25 000 teachers. The above are official figures however for a group of private babysitting groups that may be spontaneous in local residential areas, the above number may be larger.

Because families need to send their children to quickly join the workforce and take care of the family economy, many children spend most of their time at PB groups or preschool. According to statistics, the facilities and quality of PB groups are quite low and not guaranteed, but parents have to let their children in there (Ho Chi Minh City People's Committee and UNICEF, 2017). On average, children at school are at least 8-10 hours a day (Premium Springs Preschool, 2023) (from 6:30 am to 16:30 pm). In poor working families, where parents have to work overtime, the children's time in these facilities can be increased to 11-13 hours/day (Huyen, P.T & Hanh, H.N.V, 2019) (from 6:30 am to 19:00 pm). That is why preschool institutions are not only a place of care, nurturing, and education for children, but sometimes also a second home for children. This makes the implementation of children's rights in these institutions play an extremely important role.

The issue of implementing children's rights and protecting children in preschool institutions in Ho Chi Minh City

Along with the task of socio-economic development, under the direction of General Assemblys and authorities, the coordination of all organizations, the protection and education of children at kindergarten institution has achieved encouraging results such as:

– The basic care and education have all been touched by the goals of the set plan;

– Knowledge of children's rights and child protection are integrated into the curriculum content to let children understand their rights;

– Effectively mobilizing and using investment resources to ensure the realization of children's rights and protection of children to create a safe and healthy learning environment;

– Determine the work and responsibilities of the preschool unit with agencies and sectors in the implementation of children's rights and child protection;

– Propose clear and reasonable solutions to perform assigned tasks to prevent and promptly handle cases of violence, harassment or abuse of children minimize harms and ensure rights, legitimate interests of children at preschool institutions;

– Popularize and raise awareness and responsibility about the position and role of children and coordinate with agencies and sectors to create a movement of the whole people to protect and take care of children.

The achievements show that children's rights are implemented at the most basic level in Ho Chi Minh City (according to the Vietnam Children's Law 2016, chapter II – chapter IV).

However, in fact, there are still a number of goals on the implementation of children's rights in early childhood education institutions in the area, such as: Negligence in care leads to child abuse. sexual abuse and violence in some preschools have not been effectively prevented.

"I emphasize that although some localities lack resources and Vietnam has other problems to solve, we have to devote sufficient resources to target programs and models to guarantee that children have a safe, healthy life." - Nam, Dang Hoa-Director of the Children's Department of the Ministry of Labor, Invalids, and Social Affairs said (The Voice of Vietnam - VOVWORLD, 2023).

The frequent cases of child abuse in recent years took place in preschool settings for a long time without being known, only when the serious consequences were concerned, it showed that the management was not deeply.

According to the results of a sociological survey with 198 students about punishments such as intimidation, head cupping, ear pinching or sun exposure, 26.3% of the respondents were subjected to these punishments (Luan, H.T & Que, M.T). These are common punishments, in addition, some other types of abuse from mild to severe such as punching and kicking, hurting children's bodies and private areas (Vnexpress online, 2017). These cases have a cause to punish when the children do not obey. For children who can talk, violent behavior is often detected more easily because they are able to react and share information. For children under the age of 1, abusive behavior is often difficult to detect, and the consequences are often very serious. As was the case recently, a 6-month-old baby in a daycare group was abused to the point of brain injury (VTC News, 2023).

The learning environment at public and private preschools is relatively good, but for groups, private classes, and family groups, there are still many potential risks that have not been eliminated. This is why the proportion of children in unsafe situations has not decreased or decreased slowly.

There are many causes leading to limitations in the implementation of children's rights and child protection in preschool institutions today in HCM City, mainly focusing on the following reasons:

Firstly, awareness of the importance and urgency of realizing children's rights and protecting children has not been received by the Party General Assemblys, authorities, specialized agencies and mass organizations at grassroots level. Especially in preschool, they do not understand and do it properly. Many cases of serious violations of children's rights, in which the majority of cases of violence in kindergartens are detected, reported and resolved.

Secondly, regulations and guidelines on coordination among agencies, organizations and service establishments when detecting cases of children suspected of having their rights violated are still not specific and clear. The regulations are very long, lack of specificity, sometimes only at the level of guidance or experiment.

Thirdly, the sense of observance and enforcement of the law on children's rights and child protection by some competent officials (including principals of preschools) is not strict.

Fourthly, the inspection and examination of the implementation of child protection responsibilities by state management agencies in preschool education institutions have not been paid attention to and implemented regularly. The handling of violations against individuals and preschool educational institutions is not convincing and deterrent enough.

Fifthly, the coordination between a number of local departments, agencies, socio-political organizations, and schools in the implementation of children's rights is not close and regular, so the effectiveness is not high, it is mainly brought about by children formality. When a case of child abuse or violence occurs, some localities and preschool educational institutions are afraid of responsibility, so they hide the case or push the responsibility.

Among the above reasons, the awareness of children's rights in preschool institutions is not correct and adequate. The lack of awareness from the management of educational institutions to teachers about children's rights stems from the following reasons:

The first is the qualifications of preschool teachers and leaders. As shared, preschool educational institutions have diverse forms, in which the form of small private schools and daycare groups account for 5-10 times the number of public schools and private schools. With the development of the city, the dense population leads to an increase in the number of preschool children, which also leads to an increase in the need for childcare, so private babysitting groups appear. However, the qualifications of teachers and nannies in these schools (or small class) are not high, many people still lack knowledge of child-care, so it is impossible to know and understand properly about children's rights. For other educational institutions, the Covid-19 epidemic has disrupted the professional training process, including content on children's rights, leading to a lack of knowledge and skills in implementation. According to a report by the Department of Early Childhood Education, Ministry of Education and Training, currently the percentage of preschool teachers with substandard qualifications is 23.3% and tends to increase in the past year (People's Newspaper, 2022).

Second, the access to information and knowledge about children's rights is sometimes not widely and often disseminated, sometimes it is only a formality. That leads to the wrong implementation. If child rights situations or issues are not shared widely, the situation will continue to drag on and have serious consequences.

Here, another problem is the lack of public preschools. Public preschools have the advantage of being invested and supported by the state from facilities to teachers, the attention of management levels, so the enforcement of children's rights is relatively good. Teachers regularly learn and improve their knowledge to better understand children's rights in addition to preschool pedagogical knowledge and skills. Since then, teachers with their pedagogical skills also teach students about children's rights; children have a more holistic development. However, in Ho Chi City with many industrial zones and high migration rates, the number of public preschools can only partially meet the needs. In many places, 30-40% of child-care needs depend on private schools or private babysitting groups. This entails many consequences, including ensuring the implementation of children's rights at preschool education institutions.

The need to ensure the implementation of children's rights and protect children in preschool institutions in Ho Chi Minh City

In preschool institutions, children are cared for and protected by adults and facilities. However, reality shows that, when working with children, adults are often faced with trying to determine what behavior is acceptable and what is not. Often, adults' behavioral choice decisions depend on their experiences or personal attitude. Providing knowledge about children's rights to people working in preschool institutions, adults in the family and the community is very important. This is to provide them with a system of relevant knowledge, attitudes, skills and behaviors or in other words to provide a clear framework for children's rights so that they can evaluate and choose the time to do so and appropriate ways of impacting on children - the object of their care and education.

The need to ensure the implementation of children's rights and protect children in preschool institutions in HCM City is:

- *Firstly*, this is mandatory to ensure the highest interests for children and the future of the country.

- *Secondly,* contributing to the prevention, stopping and handling of child abuse acts, strengthening the law, order and social safety.

- *Thirdly,* limit the losses not only for children but also for preschool institutions, families, furthermore, the education system and society.

Solutions to apply children's rights and protect children in preschool institutions in Ho Chi Minh City

To do this, Ho Chi Minh City has issued regulations and mechanisms to inspect and evaluate the implementation of children's rights. This creates a binding responsibility from all levels of government to each individual and basic unit in society. If any component does not enforce children's rights according to regulations, that unit must be reviewed and fined. In addition, basic and modern solutions are also implemented to overcome outstanding problems at child care facilities such as teacher training and application of Information and communication technologies (ICT) to disseminate children's rights.

Mechanism to ensure the implementation of children's rights

Mechanism to monitor the implementation of children's rights by central state agencies

○ According to article 7, 8 and 9 of chapter 1, (National Assembly of Vietnam, 2016) the Congress and Congressional agencies are in charge of closely coordinating in formulating goals, policies, programs, and plans for socio-economic development according to their competence to realize children's rights; supervise the implementation of children's rights in accordance with the law for provinces and cities, including HCM City. The Congress can carry out supervision through direct connection with local elected bodies: specifically, Congressional agencies has connected with the People's Council of HCM City to supervise the exercise of children's rights. The People's Council of HCM City is responsible for promulgating resolutions to implement and supervise the implementation of policies and laws on children in the locality according to their assigned tasks and powers. In particular, especially supervising the implementation of children's rights in preschool educational institutions in HCM City.

○ The Government performs the unified state management of children and promulgates according to its competence and organizes the implementation of policies, laws and programs on children; ensure mechanisms and measures for coordination among ministries, governmental agencies and localities in the exercise of children's rights and settlement of children's issues. The Government shall assume

the prime responsibility for directing agencies to coordinate in inspecting, examining, settling petitions, complaints and denunciations and handling violations of the law on children according to their competence.

Example: Following the direction from the Government, the City People's General Assembly issued "the Communication Plan on Children's Law and violence prevention and control child abuse" (Ho Chi Minh City People's General Assembly, Plan No. 2923/KH-UBND, 2017); at the same time, continue to advise on the effective implementation of 11 programs related to child protection and care in HCM City, activities are integrated into 02 key programs: (1) Program to promote children's right to participate in child issues for the period 2016 - 2020; (2) National action program "For city children in the period 2013-2020".

○ The Department of Education and Training is managing the implementation of children's rights in the field of education (from the city to the districts). The HCM City Department of Education ensures the application of children's rights in preschools by developing educational programs and contents suitable to each child's age and ensuring the quality meets requirements all-round development of children; ensure children complete the universal education program and create conditions to study at a higher level.

Beside that, in order to ensure the implementation of children's rights by preschool educational institutions, the monitoring mechanism is also implemented at the level of coordination between units of the Vietnam Fatherland Front, the Women's Union, and the Association for Protection of Children. protect children's rights ... in HCM City. In addition, the judicial system and the People's Court of HCM City also accompany the agencies to monitor and sanction violations.

Mechanism to ensure the implementation of children's rights in preschool educational institutions in Ho Chi Minh City

○ In Ho Chi Minh City

Over the years, the City has invested a huge budget to build facilities, schools, hospitals, and entertainment facilities for children. In addition, the city established and put into operation about 50 public and non-public social protection establishments, taking care and nurturing disadvantaged children in the city.

Regarding the work of ensuring the implementation of children's right to participation, in order to promote and create conditions for children to exercise their right to participate, the Dialogue Program between children and heads of departments, agencies and sectors, "The conversation of the City's leader and

children", is held annually in Spring; forums to listen to children's voices are organized from the city to the ward. In addition, children's rights are also realized through "the three-way dialogue model of student - parent – school (or city-level)", Children's Council established by the City Youth Union as the lead agency.

Picture 3. The conversation of the City's leader and children in Spring

Picture 4. The conversation of the City's leader and children in Spring

For the prevention and control of child abuse and violence, HCM City is the first locality in the country to issue a Decision on "Process for coordination in support, intervention, and handling of cases of children suffering from child abuse, violence, abuse and sexual abuse in the area of HCM City" (Ho Chi Minh City People's Committee, Decision No 2017/QĐ-UBND, 2020); Guidance letter on "Implementing internal control in preventing violence and child abuse at social protection establishments in Ho Chi Minh City" (Department of Labor, 2020); The official dispatch requested every districts to review, develop and implement solutions to "Prevent violence, abuse and sexual harassment against women and children in public places" (Ho Chi Minh City People's Committee, Documentary No14/BVSTBPNTP, 2020). The city is also the first locality in the country to establish and put into operation the Family and Juvenile Court, aiming to build a child-friendly justice system, both educating deterrence and protecting children.

Regarding the prevention and reduction of child labor, the "City forums" to listen to children's voices in 2019 with the theme "Prevention of child labor". In addition, in communication work, the City also promotes communication through activities held to residential areas, diverse media forms, a combination of tradition and modernity (songs, music, ...), bringing a positive change in awareness, behavior and expectations about the community's children's protection, care, and education.
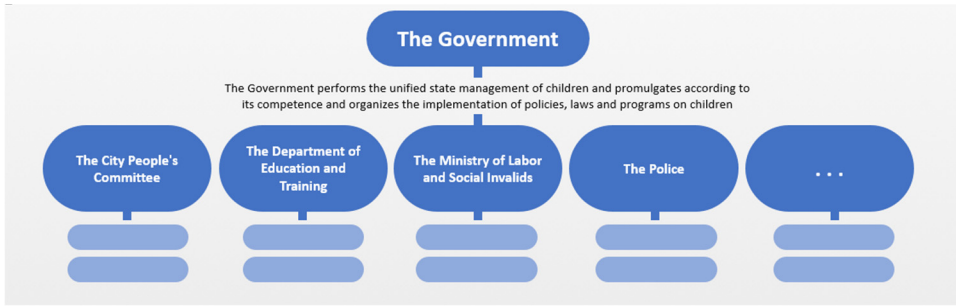
Picture 5. Diagram of management mechanism from parliamentary level to smaller levels

This helps to ensure the implementation of children's basic rights under Vietnamese and international child laws.

⃝ At preschool educational institutions:

Enhancing the dissemination and training of children's rights to preschools through centralized training, online training, and practical experience-sharing workshops. The school propagates to raise awareness of children's rights, specifying 4 basic specific groups of rights (as rights to life, rights to development, rights to be protected, rights to participate) based on chapter 2 (National Assembly of Vietnam, 2016). The regulations on responsibility for the implementation of children's rights for school members, all actions not to be done and the level of punishment violation situations; update information on good examples of effective models/activities in realizing children's rights. At the same time, train teachers with necessary pedagogical skills to always have a standard attitude and behavior, respect, protect and promote the all-round development of children in school.

Strengthening the content of children's rights education into the curriculum in preschool. For example: strengthening the content of physical development education, nutrition and health education in the preschool education curriculum (Ministry of Education and Training, 2009) based on Article 14, Chapter 1 of Law of Children (National Assembly of Vietnam, 2016). Currently, a lot of content about children's rights has been integrated into educational programs and activities of the day through appropriate situations and times. Encourage children to make real connections and guide them to demonstrate appropriate behavior. For example, teachers when allowing students to do outdoor activities can discuss dangerous places, risk factors/factors that cause unsafety for themselves that need to be avoided. The purpose is for students to access ways to protect themselves in their right to protection when encountering natural disasters, disasters, and environmental

pollution according to Article 31 of the Children's Law (National Assembly of Vietnam, 2016).

Enhancing the content of children's rights education in coordination activities between schools and parents. Teachers communicate directly with parents through pick-up and drop-off times: this time is usually very short, so teachers should select the most necessary information about the child to exchange with the child's parents. For example: How should parents behave so that children can accept their new brothers or sisters; How should parents spend time talking and playing with children... Teachers can let parents try some experiential situations with children for them to practice at home to reinforce positive behaviors of children. Organizing for parents to watch and participate in learning activities, through which, parents have specific understanding about how to care and nurture children, how to educate and stimulate children to express themselves in order to develop comprehensively, taking into account the individual characteristics of each child, respecting their differences. That help parents understand and exercise "the right to live" with their parents (Article 22) and "the right to reunite, contact and contact with parents" (Article 23). So, parents have understanding about the care and education of children and cooperate with the school in care and education to ensure the interests of the children.

Solutions to ensure the implementation of children's rights and some practical applications

Strengthen the propaganda, dissemination, and education of the law in various forms and means in order to raise awareness and change behavior on the implementation of children's rights. Along with various forms of propaganda, it is necessary to pay attention to the key contents that need to be propagated such as: provisions of laws and policies related to child protection and care; promptly update legal documents and policies related to child protection, education, knowledge, methods and skills to protect and care for children. The paper content is usually long and needs to be streamlined in the form of posters, flyers, infographics; digitize content and modernize propaganda to share information quickly and strongly.

Picture 6. Infographic about protecting from Covid – 19 for children
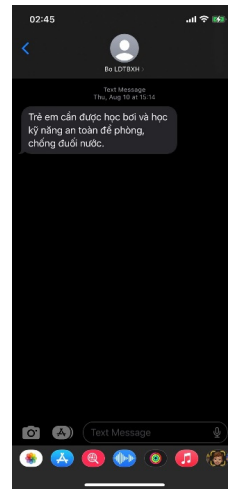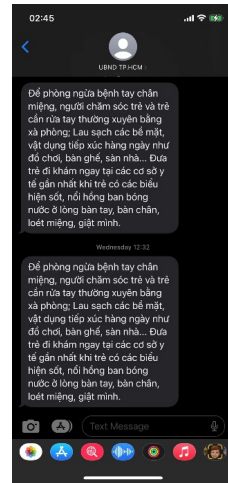
Picture 7. Applying ICT - Message from The Ministry of Labor and Social Invalids to citizen

Improve professional qualifications by studying and cultivating knowledge to confidently innovate methods and create content. This not only helps to convey lively learning content, but also helps ensure the right to learn and access to knowledge. In the process of organizing educational activities, the school, parents, and society always encourage teachers to be creative.

Participate in life skills training classes to practice negative emotion management skills to help teachers control their own emotions. Foster and develop love for young children, starting from regularly cultivating professional skills and professional skills,

especially researching and understanding the psycho-physiological characteristics of preschool children, accepting that children is a different individual, each child is a completely different personality and different from the teacher to sympathize with the child's hyperactivity, understanding with the fussy actions... of the child; thereby avoiding outbursts and acts of violence. These solutions aim to ensure the right to education, learning and talent development as article 16, Law of Children (National Assembly of Vietnam, 2016).

Fostering the teaching staff through organizing contests, competitions or seminars, training. The organization of contests or workshops for teachers is a form of great significance for improving professional capacity and pedagogy, creating opportunities for teachers to learn and exchange experiences.

To prepare for the future preschool teachers, colleges, and universities that train preschool teachers also need:

Effectively organize pedagogical internships for students at preschool to create more opportunities for students to interact with the reality of their careers and with children so that students can confidently be ready for a career.

Strengthen education of professional ethics and teacher ethics for pedagogical students. At the same time, integrate content and legal knowledge about children's rights into the content of the student's curriculum so that they can identify and distinguish behaviors (right/wrong), and know how to behave appropriately.

Organize students to participate in community volunteer activities to create opportunities for students to participate in practical experience activities, contribute to a healthy aesthetic orientation, educate life skills, form, and develop good character for students. Through these activities, students acquire the necessary life skills for professional activities; at the same time contribute to the formation of the correct worldview.

Now, in the preschool teacher training program of many colleges and universities, there are modules on "Children's Law and Human Rights theory" to help students equip and understand Children's Law and also raise awareness in public, working to protect and care for children. That will realize the goals of the Children's Law so that the Law can truly be an effective tool to protect children.

Conclusion

The practice of implementing children's rights and protecting children at preschool educational institutions in HCM City in recent years shows that, in addition to the achieved results, there are also limitations, inadequacies in which there are many causes both subjective and objective. From that situation, HCM City has recently developed mechanisms and mobilized with coordination from the central level to mass organizations to jointly solve difficult problems when implementing. From the perspective of education, the article proposes some solutions and some practical applications at preschools in HCM City to further promote the assurance of children's rights at these institutions.

Main points

Discussing a number of theoretical issues on children's rights and evaluating the status of ensuring children's rights in preschool educational institutions in Ho Chi Minh City (HCMC) in recent years.

Recommendation to guarantee the rights of children in preschool educational institutions in HCMC.

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Networking Towards Enhancing Justiciability of the Right to Education (RTE) in India

Pooja Pandey [1] & Nalini Juneja [2]

Abstract

Although the signing of the UN Convention on the Rights of the Child (CRC) obligated India towards developing legislation and interpreting the law in harmony with this International Convention, enthusiasm is wanting towards seeking judicial remedies for the best interests of the child. In the case of the right to education, the discourse on child participation in schools continues to be in its embryonic stages. Despite widespread non-compliance even with school infrastructural mandates, few care to challenge such disregard for the child's right to education. Although post-CRC changes in Indian law charge lawyers with a great responsibility, the law degree fails to equip them to even recognize violations, let alone protect the child's right to education. This paper describes the efforts being made by an online networked group of lawyers, educationists, policy professionals, researchers, and law students representing diverse perspectives and fonts of knowledge, who encourage, collaborate, and support each other's work in challenging the entrenched professional norm among lawyers of indifference towards the right to education.

Some enthusiastic members in the group are engaged in litigating the right to education in courts of law and thus enhancing its implementation through exercising the justiciability of this right. Others are working on creating greater awareness

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among law students, the future 'defenders of the right to education' about educational rights in schools, and some are initiating much-needed curricular and pedagogical reforms in legal education. Finding resonance in the theoretical frame and concepts of 'Change Agents' and 'Souls of Fire' engaged in challenging existing professional norms, this paper highlights some on-ground efforts and showcases the manner in which a new medium, an online WhatsApp group, can simulate a 'community' through providing a loosely networked field which provides succor, support, space for sharing news, exploring ideas, receiving feedback and recharging energies for advancing the discourse on child rights to and in education.

Background and Context

Education has historically been seen as an instrument of change and equity. In India, the commitment to ensuring the right of the child to education has been constitutionally guaranteed as a justiciable fundamental right, detailed in consequential federal legislation, the 'Right of Children to Free and Compulsory Education Act[3] 2009 (hereinafter RTE Act). Despite strong legal foundations, the justiciability of the RTE legislation is rarely exercised with violations of the Act. There continues to be a neglect of the child's right and access to meaningful education. This paper, while adopting a rights-based framework, delves further into these issues. This framework is important, especially in light of India's ratification of the United Nations Child's Rights Convention (UNCRC). The underlying principles of the implementation of UNCRC greatly emphasize the 3Ps - Protection, Provision, and Participation (UN, 1989) of the child. In the Indian context, the component of participation (especially by the child) remains in the nascent stages (Saeed, 2014). It is the other 2 Ps i.e., protection and provision that take precedence, reflected even within the RTE Act. Successful implementation of even the first two Ps depends on legal challenge in courts of law, by lawyers who can defend the right to education. It would require cadres of motivated *change agents,* and *souls of fire* among lawyers (Wickenberg & Leo, 2014) who are deeply passionate and adept with legal skills that can mount sustained and systematic challenges to the entrenched professional norm of indifference among lawyers towards the right to education.

In this paper, we describe the genesis, efforts, and synergies of a networked community and how a community of diverse professionals organically amalgamated

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[3] The Right to Education Act, 2009
   <https://www.education.gov.in/sites/upload_files/mhrd/files/upload_document/rte.pdf>

online and coalesced into a group of *change agents* who in turn served to encourage and nurture a few passionate *souls of fire* among them in order to enhance the justiciability of the right to education. The idea for this loose group found its genesis in the International Training Program (ITP) program[4] at Lund University, which provided a conceptual framework and direction. The paper highlights some ongoing initiatives undertaken by members of this networked group in order to point out the potential, even of loosely networked online '*communities of change agents and souls of fire*' for challenging entrenched professional norms and to thus serve towards reviving/strengthening the rights-based movement in education.

UN CRC in India: A Critical Assessment

While the legislative history of the enactment of the RTE Act is only over a decade old, the preceding movement in the actualization of this right runs much deeper. The aspiration of free and compulsory education for children finds its genesis in the Indian constitution through the *'Directive Principles of State Policy (DPSP)',* back in the 1950s. In between these two timelines, India was also privy to a global movement and ratified the 1989 Convention on the Rights of the Child (CRC) of the United Nations. The CRC[5] is notable for being the first and the most comprehensive statement on the rights of the child (NHRC, 2019), and as one of the most widely ratified treaties in the world on protecting the rights of children (UNICEF, n.d.). The UN CRC also recognizes the right to education (Article 28) and commits to a broad range of objectives[6]. Being a party to the convention, the Indian state is also responsible for supporting the principles of CRC, including the right to education.

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[4] Child Rights, Classroom and School Management, Advanced International Training Programme 2006, SIDA

[5] The UN CRC lays down a comprehensive set of 54 articles on different aspects relating to child rights and the responsibilities of respective governments to ensure the realization of those rights.

[6] Making primary education compulsory and freely available to all; b) Encouraging the development of different forms of secondary education, including general and vocational education, making them available and accessible to every child, and taking appropriate measures such as the introduction of free education and offering financial assistance in case of need; c) Making higher education accessible to all on the basis of capacity by every appropriate means; d) Making educational and vocational information and guidance available and accessible to all children; e) Taking measures to encourage regular attendance at schools and the reduction of drop-out rates.

Constitutionally, India has put in place several provisions (such as Articles 21[7], 21A[8], 28[9], 29[10], 30[11], and 45[12]) that enable the translation of the right to education. After the ratification of the UN CRC, India became obliged to develop legislation and administer judgements in line with the CRC. Notably, in the year 1993, a five-judge bench of the Supreme Court of India passed a monumental judgment[13] (popularly known as the Unnikrishnan Judgment) (Unni Krishnan J.P. v. State of Andhra Pradesh, 1993) declaring education to be a justiciable right in India. Subsequently, in the year 2002, an amendment was made to the Constitution of India to make education a fundamental right within the contours specified in consequential legislation. Eight years later, in the year 2009 the 'The RTE Act' was passed by the Indian Parliament. The UN CRC, has, therefore, played a critical role in nudging India to formulate this progressive legislation on protecting the right to education for the child.

However, the effective implementation of the RTE Act, along with the justiciability of the overall rights-based approaches to education in India still continues to be far from satisfactory. The overall awareness and 'buy-in' towards a *rights-based outlook* to education, continues to be at a nascent stage in India (Vishwanath, 2014). Consequently, stakeholders (especially children and parents) are unaware of their rights, entitlements, and modes of grievance redressal. Even lawyers fail to recognize any violations of the RTE Act, let alone exercise it. The UN CRC delineates the importance of children being aware of their own rights as it would equip them with greater self-esteem and active participation, thereby increasing their contribution to the communities, families, and schools. However, unlike developed nations, the

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[7] Protection of life and personal liberty- No person shall be deprived of his life or personal liberty except according to procedure established by law.

[8] Right to education- The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

[9] Freedom as to attendance at religious instruction or religious worship in certain educational institutions.

[10] Protection of interests of minorities.

[11] Right of minorities to establish and administer educational institutions.

[12] Provision for early childhood care and education to children below the age of six years- The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.

[13] At that time, the right to education was not enunciated in the Indian Constitution as a justiciable right in India. The Unnikrishnan judgment therefore paved the way for an increased push to make the right to education a fundamental right in India.

overall discourse of *child participation* and the *child as an active agent* for their own cause is still embryonic in India.

In that respect, while the UN CRC is laudable in its role for nudging legislative and policy changes in India, the changes toward meaningful participation of children in their education may be further down the road. This warrants a need to strengthen the '*rights'-based* discourse to education in India. Importantly, India's ratification of the UN CRC as well as the implementation of the RTE Act (and ensuing schemes like Sarva Siksha Abhiyaan) has had some positive impacts on school education in India, such as a considerable improvement in the overall enrolment percentages in elementary schools in India, as well as an increase in the literacy levels of students between the age groups of 6-14 years of age[14]. However, there remains much scope for improvement in school education delivery in India. Per the latest figures, India still hasn't reached full figures in possessing basic infrastructural facilities such as drinking water, toilet facilities, etc. (U-DISE+, 2021-21). The rates of students having dropped out of school continue to be an issue of concern[15]. Ground-level reports from NGOs recount multiple instances of non-admission, corporal punishments, and ineffective implementation of progressive sections like 12(1) (c) of the RTE Act - all of which testify to violations of the RTE Act (Juneja, 2012).

Legal Justice and Legal Education System as the Agents of Change

Historically, the Indian judiciary has played a critical role in protecting and promoting the rights of the child by providing access to justice through the court apparatus (Singh, 2015). Although under-studied, one may expect research findings to support the view that education-related jurisprudence in India, offers great promise for reforms and redress. In that respect, an important yet understated category that has been identified as a critical site of intervention/change includes the apparatus of legal justice and the legal education system in India. An impressive range of affirmative and enabling child-rights legislation exists in India to protect the rights of children, including their right to education.

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[14] According to Census 2011, literacy levels have increased to 74.04 percent. (Census, 2011).

[15] The drop-out rate stands at 3 percent at primary levels and gradually increase to 12.6 percent at senior secondary levels (Mehta, 2022)

Article 39 A[16] of the Constitution of India iterates the role of the justice system, in the form of legal aid, to be provided free, as a duty of the State. The Legal Services Authorities Act[17] 1987, in operationalizing the mandate of Article 39A, has set up Authorities and Committees at the National, State, District, and Taluka levels, and also at the Supreme Court and High Court levels for providing free legal aid to the vulnerable and destitute (NALSA, n.d.). While thorough in design, the effectiveness and performance of these committees have not had the desired impact (Mann, 2017). An important reason behind this has been the lack of awareness amongst the beneficiaries about the existence of such services (ibid). Even within this, the awareness and acquaintance with the issues related to the right to education continue to remain limited.

On the other end, it is the legions of litigators and litigants who are entrusted with the task of representing these violations (including education), demanding redress and remedies from the court. The justiciability of this Act in the court of law charges a lawyer with a responsibility to protect this right and bestows them power and credibility to represent this cause with proficiency. The professional norms of the actors within this system are often determined by the legal education imparted to them as well as the statutory regulations that govern them.

However, given that cases of *Public Interest Litigation* (PIL) related to the right to education, are few, and one may conjecture, minuscule in relation to the scale of RTE violations, one could infer that the justiciability of the RTE Act is neither fully understood nor paid adequate attention to. More often than not, it appears that lawyers and law students can't even recognize a violation of the RTE Act, let alone address it. However, given the vast reach of the legal education system and the prominence of the legal aid skills and tools that it offers, there could be great merit in capacitating, and familiarizing the legal education system with welfare-related issues. The Bar Council of India (BCI) (statutory body regulating legal education in India) has mandated that law colleges/universities teach clinical legal education (legal aid) as a compulsory course[18]. Legal aid education offers the possibility of providing practical exposure to on-ground realities and equipping law students with skills that

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[16] Article 39(A) states that "*The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.* "

[17] The National Legal Services Authority Act, 1987 <https://nalsa.gov.in/acts-rules/the-legal-services-authorities-act-1987>

[18] Bar Council of India, Rules of Legal Education < http://www.barcouncilofindia.org/wpcontent/uploads/2010/05/BCIRulesPartIV.pdf>

are necessary to provide legal support and redress, especially to vulnerable groups. Given the sheer size and presence of registered law schools in India[19], there could be great scope for positive intervention and awareness within these legal aid clinics- to contribute towards the right-to-education discourse. Unfortunately, in the case of such legal aid clinics of law schools, a study found that very few colleges and universities can conduct legal aid clinics lacking not only the financial resources necessary to carry out Legal Aid activities in an effective manner but also lacking *"consistency, direction and purpose"*(UNDP, 2011). In the subsequent section, we exhibit how some of these norms are being challenged and altered through interventions within legal education and the justice systems, by litigators themselves.

A Networked Group for Ability to Enforce the Right to Education

The *ability to enforce a right, if necessary,* is, according to (Verhellen, 2000) (p. 61), one of the five essential conditions for transforming rights into reality. This however requires *"sufficient and comprehensive legal aid"* (ibid). Even while converting education into a fundamental right policymaker had urged the Indian government to be prepared to face litigation if this right were neglected[20] (Juneja, 2003). However, as seen in the preceding paragraphs, the anticipated legal challenge is to materialize. Rather, except for notable exceptions such as lawyer Ashok Agarwal of Social Jurist, the 'professional norm' (Wickenberg & Leo, 2014) among practicing lawyers, appeared to be indifference towards this right

In this disappointing scenario, this paper conveys a sanguine narrative of the organic join-up of legal practitioners, law students, academics, and NGOs, scattered across India, but connected in a WhatsApp group by their shared belief in enforcing the right to education through challenging and capacitating the systems of legal justice, and education. While most in the group exchange knowledge, thoughts and give

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[19] Currently, the Indian state has more than 1700 universities and colleges of law (Bare Law, 2022),

[20] The Department Related Parliament Standing Committee on Human Resource Development of the upper House of the Parliament of India, Rajya Sabha, while examining the then-proposed amendment to the Constitution to convert education into a fundamental right had stated in Para 15.4, of its Sixty Third Report on the Constitution Amendment Bill (Eighty Third Amendment) Bill, 1997, that: "The committee understands it well that with elementary education becoming a justiciable fundamental right, the possibility of increased litigation cannot be denied. The citizens would have every right to go to the courts of law if their fundamental right is violated. The Committee, therefore, urges upon the government to find ways and means to face this challenge".

feedback, the focus in this account is on three young members situated in law colleges, two of whom, despite lack of professional experience are boldly challenging state inaction through PILs, and the other (a young law faculty member) is making a dent in the prevailing professional norm of apathy by mobilising law students for RTE. As such, group interactions find resonance with the concepts of '*change agents*' and '*souls of fire*' referred to by Wickenberg and Leo (Wickenberg & Leo, 2014). Wickenberg's 'change agents' while also engaged in resetting norms, '*are not necessarily heavily burning or dedicated in the same emotional way as the 'souls of fire*' (p. 111). However, narratives are best conveyed through a chronological recount of serendipitously unfolding events as they leave critical analyses and theoretical frames for later reflection.

Bilateral Connections

Anjali Thanvi – law teacher

In the prevailing context of legal apathy to RTE in 2017, a team of law students representing the National Law University of Jodhpur at a conference made a presentation depicting disparities between official reports and on-ground evidence in government primary schools. Later, at their college, they showed their report to a visiting High Court Judge as suggested by an author of this paper. The Judge demanded that the report be immediately filed in his court as a letter petition. Nervously, but, backed by their Law University, the students filed the petition and won their first case as litigants, even before graduation as lawyers.

The 'successes of their first foray into the implementation of the Right to Education Act, motivated the Legal Aid and Action Committee (LAAC) of the law school to work on more educational rights issues under their faculty supervisor, Dr. Anjali Thanvi. In order to stay in touch with ground realities, the LAAC has 'adopted' a rural school, for the mutual benefit of benefit both the school and the law students. Another project of the LAAC, came from the realisation that parents of weaker and disadvantaged sections of society could not apply for the free seats reserved for their wards in private schools vide section12.1.c[21]of the RTE Act, simply because of not being able to apply online. Inspired by Dr. Anjali, the Legal Aid Cell, therefore,

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[21]Section 12(1) (c) of the RTE Act says that: 'The schools specified in sub-clauses (iii) and (iv) of Clause (n) of Section 2 shall admit in class I, to the extent of at least twenty-five per cent of the strength of that class, children belonging to weaker section and disadvantaged group in the neighbourhood and provide free and compulsory elementary education till its completion.'

undertook an initiative called '*Mil Kar Karein RTE ko Sarthak*[22].' But there were too few law students compared to the numbers needed for reaching out to thousands of parents. Turning this problem into an opportunity for involving students at other local colleges, Dr. Anjali and her team announced a 'competition' to see which college could enable the largest number of section 12.1.c reserved seats to be filled. This also allowed them the opportunity to hold orientation sessions on RTE for the competing teams. The 'competition' met with an enthusiastic response, and together they were able to assist parents of 390 children in securing the seats legally due to them under the RTE Act. Dr. Anjali's students attribute much of the success of the LAAC to the many extra hours she spends working shoulder-to-shoulder with them in the field.

The efforts of Dr. Anjali's team at the law university felt rewarded when in 2022 the High Court of Jodhpur Suo Moto, made an unusual request to the law college, and asked them to revisit and report back on the same schools they had investigated earlier in 2016. When fieldwork was not possible during the COVID lockdown period, Dr. Anjali inspired the members of the LAAC to work online to compile rules and guidelines of different states concerning key provisions of the RTE Act – an effort they compiled and printed in the form of a report, which now provides a ready reference.

Hasan Al-Banna - law student

Hasan Al-Banna, a young law student from the state of Jharkhand, studying at the Department of Law of the Jamia University in Delhi, contacted the authors for an online lecture (in 2020 during the COVID years), to members of APNA[23] a small voluntary organisation founded by him. Banna's own childhood experiences of deprivation made him realize the importance of education and its impact on the rest of a person's life. He remembers the poor infrastructure at his 'madrasa' (an informal religious school), with more than 50 boys sleeping in a single room and sitting on carpets to study.

Committed to breaking down systemic barriers that hinder children from reaching their full potential, Banna, when in college, pulled together a group of like-minded law students, lawyers, student activists, researchers, and educators. Under the banner of APNA, these volunteers are committed to facilitating access to legal rights to

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[22] Translation: 'Let us join together to make RTE a success'

[23] APNA is an acronym for 'Association for the Parivartan (*meaning change/ transformation*) of Nations.

children from deprived vulnerable groups[24], students with disabilities, and economically weaker sections in Jharkhand and Bihar, India. In an effort to change, as law students, they file PILs in courts of law, mainly for education, but also for the realisation of various other rights of children[25].

Leveraging section 12.1.c of the RTE Act to provide children from disadvantaged homes the opportunity to study alongside privileged children in fee-charging private schools, APNA launched 'Project 21A[26]' which utilises the power of law and strategic litigation to help children secure free seats in private schools. After the first contact for the online lecture, Banna and the authors stayed in mutual touch through WhatsApp and email, discussing educational issues, and even his draft PILs.

Debargha Roy- law student

The COVID lockdowns were still in place in October 2020, when an email from a friend introduced Debargha, a young first-year student at the Gujarat National Law University, Ahmadabad, who intended to file a case against the state government of Assam for its failure to implement clause 12.1.c of the RTE Act. After hearing a child expressing the wish to attend the private, fee-charging school much closer to her home, instead of having to walk the long distance to her free public school, Debargha wondered what rights the child had to a nearby school, when he realised that, even being a law student, he had not yet read the RTE Act. When he did so, Debargha was shocked to learn about section 12.1.c of the RTE Act, which provided free seats to children from socioeconomically deprived backgrounds in fee-charging schools in the neighbourhood. The dissonance between the law and the on-ground reality became starkly obvious when he realised that there had been no disadvantaged children in his elite private school. An internship with a senior lawyer, who filed petitions, pro bono, for poor inmates housed in the local jail, further shaped his ability and his determination to use the law for securing social justice, leading him, even as a law student, to file a PIL against his home state for non-implementation of 12.1.c.

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[24] such as Adivasis, Pasmanda Muslims, Dalits, PVTGs, and Other Backward Classes

[25] such as the *Juvenile Justice Act*, the *Protection of Children from Sexual Offences Act,* and the *Child Labour (Prohibition and Regulation) Act.*

[26] '*21A*' refers to the Constitutional Clause on the justiciable right to education.

Networking begins

Up to now, the interactions of the authors with each other, and with the three '*Souls of fire'* from law colleges, had been along bilateral lines, and might have continued to be so, but for a disruptive, unfavourable policy decision[27] by one state government on RTE section 12.1.c, which, against all odds had been supported by its High Court. This development raised questions of law, its intent, and regarding centre-state relationships in the right to education. Fearing more such contentious interpretations of the intent of this clause by other high courts, a leading NGO named Indus Action, invited lawyers and others working on RTE, to an online meeting which included both the authors of this paper. Continued interactions soon led to the formation of a WhatsApp group named '*RTE CoP'*, a short form for the *Right to Education Community of Practice.*

Thus, a group came together comprising lawyers, law students, academicians, representatives of a legal think tank, and members of civil society organisations who shared a common interest in the implementation of the right to education. The members of the group correspond to a diversity of age groups, experiences, geographies, and perspectives, yet their communications tend to concentrate synergies as they encourage each other by offering strategic support and diverse skills. Members of the *RTE CoP* WhatsApp group act as sounding boards for each other, promoting a strong culture of collective deliberation and action. Growing slowly and selectively by word of mouth, this WhatsApp group shares information, judgments of courts on RTE, and networking opportunities. Through its discussions, which often lead to the development of new insights, the group at large appears to function as '*Change Agents'* within the theoretical frame of understanding offered by Wickenberg and Leo (2014), to the *'Souls of Fire'* who are engaging in RTE related work in law colleges, and courts of law.

The three law-college-based *'Souls of Fire'* discussed above, after connecting with like-minded others within WhatsApp, discuss issues within the group, and continue to file PILs, drawing motivation from a larger networked *RTE CoP* community. The *'Souls of Fire'* also use the support afforded them by their colleges to organize programs and seminars aimed at generating awareness about the RTE legislation and its implementation. RTE CoP members from civil society, think tanks, academicians, and professional lawyers have supported the *'Souls of Fire'* financially, academically, and even managerially in the planning and conduction of these events. With the infrastructural support of their law colleges, the *'Souls of Fire'* were in turn

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[27] https://indiankanoon.org/doc/143950994/

able to bring together at one location many of the members of the online networked group to their college-based events, thus fostering greater engagement between them.

National events were organised at the law colleges of Ahmadabad, and Jodhpur. As evidenced by the number of students who presented papers on RTE, the *Conclave* at Ahmadabad generated greater awareness about the RTE Act. On the side-lines, it also greatly helped to bring together in informal discussions, senior practicing lawyers, faculty, and students of the Law College. At the RTE Event at the National Law School, Jodhpur, teams participated from 24 law colleges across India. Using a format for an empirical exercise supplied by Dr. Anjali's team, each team investigated the availability of RTE-mandated facilities in primary schools in their neighbourhood, and then presented a paper on what they could do as future lawyers for the better implementation of this right.

In the course of a smaller informal discussion among some RTE CoP members, the realization dawned that the apathy among lawyers to the RTE Act and their failure to challenge RTE violations could be simply because the compulsory curriculum for legal education does not include any child laws. It could be argued that a legal education system that does not consider child laws to be important enough to be an integral part of a law degree sets the stage for a sense of indifference to child rights amongst law students. Thereupon, a senior lawyer member of the networked group filed a case against the Bar Council of India, which assured the High Court that they would give this due consideration[28]. Efforts continue to be made by other members of the networked group to work out the details of the curriculum and its application to all colleges of law.

The Networked Group as a Challenger of the Professional Norm

As seen in this paper, the experience of this networked group spells promises for such loose online collaborations to come together incidentally, but yet function as a supportive institutional field in challenging professional norms. Such an amorphous group demands little but enables '*Change Agents*' and '*Souls of Fire*' to connect with each other, explore ideas from time to time, report victories and recharge batteries in their fight for the right to education. The organizing of events on RTE in law

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[28]https://www.aninews.in/news/national/general-news/delhi-hc-asks-bar-council-to-decide-upon-representation-seeking-inclusion-of-rte-act-as-compulsory-subject-in-law-colleges20230314115440/

schools serves to create an informal curriculum on RTE even as members made efforts to get the Bar Council of India to include child rights on the formal curriculum. Such inspired activities bode well for addressing observed professional norms of awareness among lawyers toward the right to education. The continued filing of PILs by interconnected members challenges the professional norm of apathy of lawyers towards the RTE.

Way Forward

In the absence of avenues and platforms in India for children to represent their own cause, there is undeniably a need to create an institutional support system that not only prevents the violations of children's rights but also enables them to be adequately represented in courts of law. This would require reform in not just the justice delivery system but also the legal education system. This paper presents the promising potential of a new medium – a WhatsApp group to enable organic coalitions to support each other towards enhancing their prospects for success in their chosen strategies towards a common vision. Law students in the group will inevitably move on; more young blood may join, and perhaps more law colleges will become represented in the group, but this experience and its outcomes so far show promise for such loose networking to succor and support each other in enhancing justiciability of the right to education.

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A Pilot Study on How Much Participation Children have Experienced at Home and During the Different Stages of their School Education

George Joseph [1] & Pushpa Mathew [2]

The Research Problem

Introduction: The purpose of the chapter is to present the research problem and the procedure used in the study. The purpose of the study is to assess the extent of participation children get in a traditional society like that in Kerala, India.

The Purpose of the Study

The UN Convention of the Rights of the Child (UNCRC) was enacted by the General Assembly of the United Nations in 1989.The Indian Parliament ratified the Convention in 1992. Article 12 of the Convention deals with participation. It means that the child should get involved in taking any decision pertaining to him/her. It also means that the child has opinions of his /her own on all aspects of life. These opinions deserve recognition and respect from the adults and other children the child comes in contact with.

But how much opportunities do children get to participate in the decision-making process?

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Do parents, teachers and other adults take the opinions of children seriously? Are they respected as individuals? How satisfied are young adults with their childhoods when they look back? This research study tries to find answers these questions.

Traditional societies consider children to be incapable of making decisions on their own as they are immature. The common view held is that it is the prerogative of parents, teachers and other adults to take decisions for children as the adults are more experienced. Kerala is a traditional society where old values are still in vogue. At the same time, Kerala is a nearly 100% literate society. Awareness on child rights is fairly wide-spread among the people. But, does this awareness reflect in the child rearing practices at home and educational practices at school? How do young adults who have just passed the stage of childhood look back on their childhood experiences? How do they assess the level of participation they got when they were children?

This study tries to assess the opinions of 25 Second Semester Graduate Students of St. Xavier's College of Arts and Science, Kozhikode, Kerala, India about the participation they got at home and during the three stages of their schooling namely the Primary School (Standards 1 to 4), High School (Standards 5 to 7), and Higher Secondary School (Standards 11 and 12). A rating scale with 15 questions was administered to 25 students. 13 of them were girls and 12 boys. Responses to the questions were analysed and the conclusions arrived at the end.

Research Questions

1. How much participation did the respondents get at home when they were children?

2. Are they happy with their childhood experiences at home?

3. What type of participation did the respondents receive in their primary school and how happy are they with it?

4. Did the respondents get sufficient participation during their high school years and how satisfied are they with it?

5. What level of participation did the respondents receive during the higher secondary stage of their schooling?

6. Was there any gender difference in the degree of participation experienced by the respondents?

Concluding Discussion: This chapter has tried to state the purpose of the study. It raises the question: How much of the spirit of the UN Convention on Child Rights

with regard to participation has been imbibed by the different stake holders in a traditional society like that in Kerala, India?

Theoretical Framework

Introduction: This chapter tries to state the theoretical framework of the research study. It tries to trace the development of Child Rights through the different international instruments. It focusses on article 12 of the UN Convention on the Rights of the Child which deals with the child's right to participate in the process of decision making.

The world recognized child rights as different from human rights only in the 20th Century. Before that, children had no preferential treatment or the 'first call' on resources. In the early decades of the last century, there was increased awareness of the developmental needs of children.

The Geneva Declaration on the Rights of the Child (1924) enacted by the League of Nations was a landmark in the history of Child Rights. The Declaration proclaims that children are entitled to the means of development. Children deserve special help in times of need and priority for relief. Children have the right to economic freedom and protection from exploitation. They should get an upbringing that instils social consciousness and duty.

The establishment of the International children's emergency fund, UNICEF (1946) by the United Nations was the next major step in ensuring the rights of children.

The UN General Assembly passed the Universal Declaration of Human Rights in 1948. Article 25 of this important international instrument states that mothers and children are entitled to special care and assistance and social protection.

The UN General Assembly adopted the Declaration of the Rights of the Child in 1959. It recognizes many rights including children's right to education, play, health care and a conducive environment for development.

In 1966, the United Nations promulgated the International Covenents on Civil and political Rights and on Economic, Social and Cultural Rights. The member states promised to uphold equal rights, including education and protection for all children.

The International Labour Organisation adopted Convention 138 in 1973 which sets 18 as the minimum age for employment in hazardous work.

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice enacted in 1985 listed the principles of a justice system for the promotion of the best interests of the child including education and social services.

The UN Convention on the Rights of the Child was adopted by the UN General Assembly in 1989. The Convention has been ratified by 196 States and is the most widely ratified international instrument. The 54 articles of the Convention guarantees and sets minimum standards for protecting the rights of the child. The spirit of the Convention can be expressed in three words – Provision, Protection, and Participation.

Article 12 of the Convention deals with the right of the child to participate in the process of decision making. It states:

> "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."

The spirit of the article is that the child has the right to be listened to and taken seriously. Article 12 also states that children are entitled to get the information they need to make good decisions. Children are not the citizens of tomorrow. The are the citizens of today and therefore, have the right to express their opinions in relation with any matter pertaining to them. Many adults have the notion that children are not capable of taking decisions as they are immature and that it is their duty to take decisions for children. But the fact is that children have clear ideas about what they want and the opinions they express often show deep wisdom which we do not expect from them at so tender an age. Children view the world very differently from adults and we have to respect their view. Children who get opportunities to participate in the process of decision making are most likely to develop into responsible adults who are capable of leading others and to make the world a better place.

Concluding Discussion: The gist of Article 12 of the UNCRC is that children should have a role in taking decisions in any matter concerning them. The question that arises is – how much of this right is realized in real life?

Methods

Introduction: This chapter tries to state the method of study used and gives the details of the tool used for data collection. The purpose of the tool was to assess the extent of participation the participants received in their childhood.

This research was designed as a survey study. Data collection was done through administering a five-point rating scale which had 15 questions. The population of the study was selected through random sampling. The respondents were asked to select one of the five responses from 1 to 5. '1' was the lowest response and '5' the highest. The rating scale was administered to 25 second semester degree students of St. Xavier's Arts and Science College, Kozhikode. 13 of the respondents were girls and 12 were boys. Their average age is 18. The responses were tabulated and analysed using Microsoft Excel.

Concluding Discussion: The research was designed as a survey study. The question is – Is it possible to conduct a larger study with a larger population including different categories of participants?

Results

Introduction: This chapter analyses the respondents' answers to each question and to arrive at conclusions. It gives us an idea of the amount of participation the respondents received in their childhood.

Question 1.

	Choice 1	Choice 2	Choice 3	Choice 4	Choice 5
Girls				4	9
Boys			1	4	7
Total			1	8	16

The first question was whether the respondents had the freedom in the family to choose their toys when they were five years old. 16 (64%) of the respondents answered that they had full freedom to choose their toys when they were five years old. 8 (32%) of the respondents replied that they had much freedom in the choice of toys at the age of five. 1 participant (4%) said that there was reasonable freedom in the choice of toys. None of the respondents selected '2' or '1' as answers which means all the respondents had some freedom to select their toys.

Question 2.

	Choice 1	Choice 2	Choice 3	Choice 4	Choice 5
Girls	2	5	5	1	
Boys		6	4	2	
Total	2	11	9	3	

The second question was whether the respondents' parents paid attention to their views regarding decision making when the respondents were ten years old. Nobody chose '5' as an answer to this question. There were three '4's, nine '3's, eleven '2's and two '1's. The responses show that parents paid attention to their views about half the time. Not much gender difference is seen in the responses.

Question 3.

	Choice 1	Choice 2	Choice 3	Choice 4	Choice 5
Girls	5	2	6		
Boys	5	1	1	4	1
Total	10	3	7	4	1

The third question was about their participation in decision making in the day- to-day affairs in their primary school (Standards 1 to 7). Ten of the respondents answered that they had very little participation. The responses also show that boys had more participation than girls. Four boys have selected '4' as a choice whereas no girl has given that answer.

Question 4.

	Choice 1	Choice 2	Choice 3	Choice 4	Choice 5
Girls	6	6	1		
Boys	8	2	2		
Total	14	8	3		

The fourth question was about the participation they got in school activities during their primary school years. The responses were emphatic in that 14 (56%) of the respondents selected the lowest choice, '1'. Nobody chose '4' or '5' as an answer. Boys are more dissatisfied than girls. Eight of them selected '1' as an answer whereas only six girls chose that answer. It is interesting that nobody chose '4' or '5' as an answer.

Question 5.

	Choice 1	Choice 2	Choice 3	Choice 4	Choice 5
Girls	11	1	1		
Boys	9	3			
Total	20	4	1		

Question 5 was about the level of participation the respondents had in deciding the items in the mid-day- meal during their primary school years. 20 (80%) of the respondents answered that they had little participation in it. Girls have shown more dissatisfaction than boys here. 11 out 13 (85%) of them have selected '1' as an answer but only 9 out of 12 (75%) of the boys have selected '1' as an answer. No respondent has selected '4' or '5' as an answer. This shows that children were seldom consulted about the items in the mid-day-meal.

Question 6.

	Choice 1	Choice 2	Choice 3	Choice 4	Choice 5
Girls	7	2	2	1	1
Boys	2	5	4		1
Total	9	7	6	1	2

The sixth question was if the respondents' teachers at the high school level (Standards 8 to 10) paid attention to their views related to school affairs. Only 2 (8%) of the respondents answered that their views were fully respected. 1 respondent (4%) chose '4' as an answer. 6 (24%) chose '3' as an answer. 7 (28%) selected '2' and 9 (36%) chose '1' as an answer. The scores show that the respondents had very little participation in the process of decision making during their high school education.

Question 7.

	Choice 1	Choice 2	Choice 3	Choice 4	Choice 5
Girls	2	2		4	5
Boys				1	11
Total	2	2		5	16

The seventh question was related to the opportunities the respondents got to play the games they liked during their high school years. The answers they gave were very positive. 16 (64%) of the respondents answered that they had full freedom to play the games of their choice during their high school years. 5 (20%) answered '4' which

means that they had sufficient freedom in choosing their games. 2 (8%) selected '2' and another 2 (8%) selected '1' as the answer.

Question 8.

	Choice 1	Choice 2	Choice 3	Choice 4	Choice 5
Girls	8		3	1	1
Boys	4	1	3	2	2
Total	12	1	6	3	3

The eighth question was whether teachers allowed the respondents to disagree with them in any matter during their high school years. 3 (12%) replied that they had complete freedom to disagree with their high school teachers. Another 3 (12%) selected '4' as the answer. 6 (24%) chose '3' and 1 (4%) selected '2'. 12 (48%) responded that they were never allowed to disagree with their teachers. The responses show that our school system does not tolerate dissent from the part of pupils.

Question 9.

	Choice 1	Choice 2	Choice 3	Choice 4	Choice 5
Girls	5	2	4	2	
Boys	6	2	2		2
Total	11	4	6	2	2

The ninth question was about the participation of the respondents in the day-to-day affairs of the school during their higher secondary education (Standards 11 and 12). Only 2 out of the 25 participants thought that their views were respected by their higher secondary teachers. Another 2 chose '4' as an answer. 6/25 selected '3' and 4/25 selected '2'. 11/25 selected '1' as an answer. This shows that the level of participation the respondents had during their higher secondary years was low.

Question 10.

	Choice 1	Choice 2	Choice 3	Choice 4	Choice 5
Girls		1	1	1	10
Boys				1	11
Total		1	1	2	21

The tenth question was whether the respondents' parents allowed them to select the subject combination of their choice for the higher secondary course (Standards 11 and 12).

Being allowed to make choices about one's own education is part of child rights. 21/25 of the respondents answered that they had full freedom to select their courses of study. There was no one who answered that they had no freedom to choose their course of study.

Question 11.

	Choice 1	Choice 2	Choice 3	Choice 4	Choice 5
Girls	9		1		3
Boys	8		3		1
Total	17		4		4

The 11th question was whether the respondents were consulted when the destination of the higher secondary study tour was decided. 17 (68%) of the respondents answered that they had no role in the choice of the destination of the higher secondary study tour. But 4/25 of the respondents answered that they had full involvement in the process of decision making.

Question 12.

Girls	5	2	3	1	2
Boys	6	2			4
Total	11	4	3	1	6

The twelfth question was whether the school authorities gave the respondents opportunities to show their talent during their higher secondary education. 6/25 of the respondents answered that the school authorities gave them full opportunities to show their talent. 1 selected '4' as an answer. 3/25 selected '3' as the answer. selected '2' and 11/25 selected '1' as the answer which means that they got little opportunity in the school to exhibit their talent.

Question 13.

	Choice 1	Choice 2	Choice 3	Choice 4	Choice 5
Girls	2	2	4	2	3
Boys	1	1	4	4	2
Total	3	3	8	6	5

The 13th question was about the level of satisfaction the respondents had in relation with their overall experience in their primary school. 5/25 of the respondents answered that their overall experience was totally satisfying. 6/25 responded that they

were very satisfied. 8/25 were reasonably satisfied with their overall experience and gave '3' as an answer. 3/25 gave '2' as an answer and another 3/25 gave '1' as an answer.

Question 14.

	Choice 1	Choice 2	Choice 3	Choice 4	Choice 5
Girls	1	3	2	4	3
Boys			4	4	4
Total	1	3	6	8	7

The 14th question was regarding the overall satisfaction the respondents had about their high school education. 7/25 responded that they were completely satisfied with their experience. 8/25 said they were very satisfied. 6/25 responded that their overall experience was reasonably satisfactory. 3/25 answered that the experience was unsatisfactory and 1/25 answered that the experience was highly unsatisfactory.

Question 15.

	Choice 1	Choice 2	Choice 3	Choice 4	Choice 5
Girls		1	3	4	5
Boys			6	1	5
Total		1	9	5	10

The 15th question was about the level of satisfaction the respondents had regarding their overall experience at their higher secondary stage of education. 10/25 of the respondents answered that they were completely satisfied with the experience. 5/25 answered that they were very satisfied. 9/25 responded that they were reasonably satisfied with their experience. 1/25 answered that the experience was unsatisfactory. No one considered the experience highly unsatisfactory.

Concluding Discussion: The overall picture we get on the level of participation is positive. But there remains much to be desired in this field. The question is – How can we improve children's participation in areas where there is a lacuna?

Conclusions

Introduction: This chapter lists the findings of the study. It gives us a picture of the extent of participation the respondents had when they were children.

Findings of the study

1. 16 (64%) of the respondents had full freedom to choose their toys when they were 5 years old. Nobody responded that they had no freedom in the selection of toys. 9 (69%) of the girls responded that they had full freedom to choose their toys but only 7 (58%) of the boys said that they had full freedom to choose their toys. This means that there is no gender discrimination against girls in the freedom to choose toys.

2. No respondents replied that their parents involved them completely in decision making when they were ten years old. No one chose '5' as an answer. Only 3 (12%) selected '4' as an answer. 9 (36%) of the respondents are reasonably satisfied with the level of participation they got at home in decision making. No marked gender difference is seen in this regard.

3. Only 1/25 of the respondents replied that teachers accepted his/her opinions related to the day-to-day affairs of the primary school (standards 1 to 4) completely. 4/25 replied that there had good involvement in the day-to-day affairs of the school. 7/25 replied that they had a reasonable level of involvement. No significant gender difference is found in this area.

4. 14/25 of the respondents replied that they had no involvement in school level decision making in their primary education. No one replied that they had complete or very good involvement in the school level decision making during their primary school years. No major gender difference is noted in this area.

5. 20/25 of the respondents replied that they had no say in deciding the items in the noon-meal. This indicates that the respondents were compelled to eat what they were given in their primary school.

6. A majority of the respondents said that their views were not taken seriously at the high school level. 9/25 responded that their views were completely ignored by their high school teachers. 7/25 replied that their views got only very little attention. Boys got comparatively more participation than girls.

When 7/13 of the girls responded that their views got no attention at all, only 2/12 of the boys said that their views were completely ignored.

7. 16/25 of the respondents said that they were allowed to play games they liked at the high school level. But gender difference is very marked here. When only 5/13 of the girls gave the highest score as response to this question, 11/12 of the boys said that they were given full freedom to play the games they liked.

8. 12/25 of the respondents said that they were not allowed to disagree with their teachers. Gender difference is evident here too. When 8/13 of the girls said that they were never allowed to disagree with their high school teachers, only 4/12 of the boys said so.

9. 11/25 of the respondents said that their higher secondary teachers never paid attention to their views. When 5/13 of the girls said that they were never consulted, 6/12 of the boys said so. So, the feeling of being neglected was more among the boys.

10. 21/25 of the respondents said that their parents allowed them to select the subject combination they liked at the higher secondary level. Both boys and girls responded alike to this question.

11. 17/25 of the respondents said that they were not consulted when the destination of the higher secondary study tour was decided. Boys and girls responded in the same pattern.

12. 11/25 of the respondents replied that their higher secondary teachers never gave them opportunities to express their talent. More boys than girls said that their higher secondary teachers did not allow them to express their talents.

13. Only 5/25 of the respondents are completely satisfied with their overall experience in their primary school. No gender difference is seen in this.

14. 7/25 of the respondents are completely satisfied with their overall experience at the high school stage. More boys than girls are fully satisfied with their high school experience.

15. 10/25 of the respondents are completely satisfied with their overall experience at their higher secondary schools. The responses from the boys and the girls are in the same pattern.

Major Findings of the Study

1. High school girls experience gender discrimination related to consideration from teachers, the freedom to play the games they like and the freedom to disagree with their teachers.

2. Children are not given enough participation in the process of decision making in the schools.

3. Children have no say in deciding the items included in the noon-meal at school.

4. But for the instances noted in (1) above, girls enjoy gender equality at school. At the higher secondary stage, girls are more satisfied than boys.

5. The overall satisfaction children have related to school experience improves as they go up through the different stages of their school education.

Summary of Conclusions

Much remains to be improved in the area of participation in our schools. At home, parents do not involve children enough in decision making. Parental education will help improve this. Parents should be educated that involving children in decision making will make them more confident and help them to make the right decisions when they grow up. Of the three stages of education considered, the primary stage ranks low in children's estimation. Educational administrators and teacher trainers will do well to pay attention to this in future. Teacher training and school monitoring must be strengthened in primary schools. Children resent the fact that they have no role in deciding the items in the noon-meal at school. School councils can be used to collect children's opinions regarding the items included in the school noon-meal programme. The higher secondary stage is highest in the estimation of the respondents when compared to the other two stages. Girls are more satisfied than boys at the higher secondary stage. The factors that make higher secondary schools dear to students must be studied and such measures must be implemented at the primary and high school levels too.

Concluding Discussion: Of the three stages of education studied, the third stage, that is, the Higher Secondary, is the one the majority of the respondents liked most as they were given considerable opportunity to participate in decision making. As there are different types of schools in the State, samples from the different streams can be

analysed to understand if there is a difference in the amount of participation allowed to children.

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Annexure I

Rating Scale to Assess the Degree of Participation the Respondents had During Their Different Stages of Development

Name of the respondent:

Select one of the choices given for each question by putting a tick mark on the number you choose. 5 is the highest (best) score and 1 the lowest (least).

Did you have the freedom in the family to choose your toys when you were five years old?

5/4/3/2/1

Did your parents pay attention to your views **related to decision making** when you were ten years old?

5/4/3/2/1

Did your teachers take your opinions related to the day-to-day affairs of the school seriously during your Primary School Education (Standard 1 to Standard 7)?

5/4/3/2/1

Were pupils consulted by teachers in deciding school activities during your Primary School years (Standard 1 to Standard 7)?

5/4/3/2/1

Did pupils have any role in deciding the items in the mid-day meal during your Primary School years (Standard 1 to Standard 7)?

5/4/3/2/1

Did your teachers at the High School level (Standard 8 to Standard 10) pay attention to your views related to school affairs?

5/4/3/2/1

Were you allowed to play the games of your choice (like cricket, football) at school during your High School years (Standard 8 to Standard 10)?

5/4/3/2/1

Did your teachers allow you to disagree with them on any matter during your High School years (Standard 8 to Standard 10)?

5/4/3/2/1

Did your Higher Secondary teachers (Standard 11 and Standard 12) seek your opinion related to the day-to-day affairs of the school?

5/4/3/2/1

Did your parents allow you to select the subject combination of your choice for your Higher Secondary Course (Standard 11 and Standard 12)?

5/4/3/2/1

Were students consulted when the destination of the Higher Secondary Study Tour was decided?

5/4/3/2/1

Did the school authorities give you opportunities **to show your talents** during your Higher Secondary education (Standard 11 and Standard 12)?

5/4/3/2/1

How satisfied are you with **your overall experience** including the classes and the degree of participation in decision making you received in your Primary School education (Standard 1 to Standard 7)?

5/4/3/2/1

How satisfied are you with **your overall experience** including the classes and the degree of participation in decision making you received in your High School classes (Standard 8 to Standard 10)?

5/4/3/2/1

How satisfied are you with your **overall experience** including the classes and the degree of participation in decision making you received in your Higher Secondary School (Standard 11 and Standard 12)?

5/4/3/2/1

Date:

Annexure II

Consolidation of results of the rating scale to assess the degree of participation the respondents had during their different stages of development.

CODE NO	Q 1	Q 2	Q 3	Q 4	Q 5	Q 6	Q 7	Q 8	Q 9	Q 10	Q 11	Q 12	Q 13	Q 14	Q 15
R1	4	2	3	1	1	1	4	3	3	5	1	2	2	3	3
R2	4	3	1	1	1	1	4	1	3	3	1	3	5	5	5
R3	5	2	2	2	1	1	2	1	1	2	1	3	3	2	2
R4	4	2	1	1	1	1	1	1	2	5	1	3	1	2	5
R5	5	2	3	2	1	1	5	1	1	5	1	5	5	5	5
R6	5	2	3	2	1	1	1	1	1	5	1	5	5	5	5
R7	5	3	3	2	1	1	2	1	1	5	1	2	4	3	4
R8	5	4	2	3	1	3	4	1	4	5	5	1	2	4	3
R9	5	3	1	1	1	2	5	3	4	5	5	1	3	2	5
R10	5	3	1	1	1	2	4	3	2	4	1	4	3	4	4
R11	5	1	3	2	3	4	5	5	3	5	3	1	4	1	4
R12	4	3	3	1	1	5	5	4	3	5	5	1	3	4	4
R13	5	1	1	2	2	3	5	1	1	5	1	1	1	4	3
R14	4	3	1	1	1	1	5	4	1	5	1	5	3	3	5
R15	5	3	2	1	1	1	5	4	1	5	1	5	4	4	5
R16	4	4	1	1	1	2	4	3	1	5	1	1	4	5	4
R17	4	2	1	1	1	2	5	1	3	5	5	5	3	5	5
R18	5	2	4	1	1	2	5	1	1	4	1	5	5	3	3
R19	5	2	1	1	1	2	5	3	1	5	3	2	2	3	3
R20	5	2	1	2	2	2	5	1	1	5	1	1	3	4	3
R21	5	3	4	3	2	3	5	1	2	5	1	1	1	4	5
R22	3	2	5	1	2	5	5	5	5	5	1	1	5	5	3
R23	5	3	3	1	1	3	5	3	5	5	1	1	3	5	5
R24	5	2	4	2	1	3	5	5	3	5	3	1	4	3	3
R25	4	4	4	3	1	3	5	2	2	5	3	2	4	4	3

Addressing Children's Right to Education:

Policies, Programmes and Practices

Madhumita Bandyopadhyay [1]

Introduction

It is widely acknowledged that education is important for nation building and strengthening national integration and development. Education is closely associated with different parameters of development ranging from income and economic progress to social development and political empowerment. While education has an important bearing on poverty elimination andeconomic development, it is vital for social change. Equitable access to quality education is important for human development because of its contribution to improving quality of life of each individual in modern societies. The Indian Constitution guarantees equality and social justice for its citizens ensuring them all opportunities to education. Elementary education plays a very important role in shaping lives of millions as it helps adolescents and youth take vital decisions regarding their lives and engaging themselves meaningfully in gainful employment and other creative activities (Bandyopadhyay, 2019a). It is because of this, nowadays, more emphasis is being given on lifelong learning for which efforts are being made for provisioning of quality education beginning from formative stage of life consequent upon holistic development of children.

Since 2010, the Right to Education (RTE) Act 2009, has made education up to the grade VIII as fundamental right for children between the age group of 6-14 years by

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enforcing the 86th Amendment. In addition, the recent policy pronouncement of the New Educational Policy 2020, has viewed the provision for free and compulsory elementary education for all as a critical prerequisite for achieving the Sustainable Development Goal 4 as well as the national agenda of education for all. The promotion of gender and social equity has also been the guiding principle for policy planning and implementation, which has also been part of the RTE Act. Further commitments to the Universalization of Elementary Education as well as the legal, administrative and financial frameworks for the government-funded education system have also impacted on changing educational scenario. Following RTE Act and different policy documents, the Government of India has been implementing *Samagra Siksha* - a countrywide programme - since 2018 as the vehicle of implementing the RTE Act 2009 and the new policy 2020. As a result of many such initiatives, it is heartening to see that India has already witnessed an unprecedented expansion of schooling facilities along with increase in the enrolment of children, raising the hope that the universal basic education would be a reality soon for which both legal actions as well as initiatives of leadership seem to be important. In this backdrop, this paper will examine the present status of schooling of children specially after enforcement of the RTE Act 2009 could facilitate children's access to participation in educational institutions thereby ensuring their best interest and promising future.

Elementary education in India has expanded rapidly enrolling a large segment of students including many first-generation learners mostly from socioeconomically deprived groups living in fur flung rural areas. These children are mostly enrolled in the government schools as most of these schools are located in rural areas. These government Schools also play a significant role in ensuring equity and inclusion in education. Although, 60.64 lakh children were found out of school (2.96% within this age-group) in 2014, over the years, there has been considerable increase in schooling space resulting in improvement in other parameters, such as enrolment, retention, availability of teachers and so on (Table 1).

Table 1: Progress in School Education in India

Enrolment at School Level (in million)	2016-17	2019-20	2020-21
Elementary Schools	1.48	1.44	1.44
Primary Enrolment	123.8	121.6	122.2
Upper Primary Enrolment	66	64.8	65.8
Elementary Enrolment	189.8	186.5	188
Elementary Enrolment inGovt. Schools + Govt. Aided Schools	126 (66.4%)	115 (61.7%)	117(62.2 %)
Elementary Enrolment in Private Schools	58.3 (30.7%)	64.9 (34.8%)	64.09(33.9%)

Source: UDISE+ data, different years, MoE, GoI and IMRB Survey of OOSC, 2014
https://dashboard.udiseplus.gov.in/#/reportDashboard/sReport

According to 2011 Census India is home to 47.3 Crore children of 0-18 years age group comprising 39% of the total population of India (note: 1 Crore is ten million). The Development and wellbeing of these children contribute to the National development and help the country to reap the benefit of demographic dividend of having this huge section of young population. It is also understandable, that the holistic development of this age group would not only determine the present situation of country, it would also determine the future of the country. It is to be noted (Table 2) that different ministries have responsibilities of children's welfare and wellbeing.

Table 2: Ministerial Charge in the Delivery of ECCE Services

Area of Responsibility	Age Children	Ministry
Nutritional supplementation, nutrition, and health education (NHED), referral	0–6 years	Department of Women and Child Development (DWCD), Ministry of Human Resource Development (MHRD)
Immunisation	0–6 years	Department of Family Welfare, Ministry of Health and Family Welfare (MOHFW)
Pre-school education	3–6 years	DWCD and Department of Elementary Education Ministry of Education (MOE) which
		was earlier the Department of Education and Literacy (EE & L), MHRD
Childcare	0–5/6 years	DWCD, Ministry of Labour
Prevention and early detection of disabilities	Prenatal onward	Ministry of Social Justice and Empowerment

Source: Position Paper National Focus Group on Early Childhood Care and Education, NCERT, 2006, New Delhi

During the last many years, improvement in participation of children in school has been one of the focus areas of the policies and programmes that are being implemented across the country. Though India has given utmost priority to achieving universal access to education in its policies since independence and despite

implementation of many centrally sponsored schemes and state specific programmes, a large section of children still remains deprived of quality education. As per the constitution, "The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years (Directive Principles of State Policy)." Thus, even as it is not a fully acknowledged right of the citizen, it is quoted as a directive principle and thereby recognized as a constitutional commitment of the state. Within this, it also has to be noted that the Right to Education Act 2009 (RTE Act), the eighty-sixth amendment act in 2002 inserted Article 21-A in the Constitution, commits "to provide free and compulsory education of all children in the age group of six to fourteen years as a Fundamental Right". In order to achieve universal elementary education, like all other countries India also is increasingly paying attention to improvise the access situation, increase retention, raising standard and achievement level of learners. Considerable emphasis is being given on the disadvantaged, deprived, unserved and disabled members of society. This appears to be more challenging in case of India where educational disparity in terms of rural, urban, gender, caste, race and economic background prevails. The majority of out of school children are girls and the children from disadvantaged groups like Scheduled caste, Scheduled tribes, minority and other backward castes. Some children living in adverse situation are also found deprived of education. These are children of sex workers, migrated labourers, nomadic groups, street children, orphans, beggars, slum dwellers and so forth. The out of school children also are found in the isolated and remote areas, amongst the low-income groups like agricultural labourers, landless and destitute. Despite having an Act for prevention of child labour which was modified in 2006, many of these Children are working to earn their livelihood and living under a situation of abject poverty (Govinda & Bandyopadhyay, 2011a). Some children particularly girls also remain deprived of education due to existing social stigma like child marriage, *pardah* systems etc. There are many children who remain excluded due to intersectionality (Bandyopadhyay, 2019) of multiple disadvantages including physical and mental disabilities, gender, poverty, location, social characteristics and so on.

The internationally agreed goals, like the ones set by EFA, MDGs and now SDGs read along with the National Policy on Education, 1986 and its Plan of Action, 1992, have been the guiding principles for various policy initiatives. The National Policy of Education 1986 identified Foundational Literacy and Numeracy as one of the thrust areas. Free and compulsory education has become a fundamental right for children in the 6-14 years' age-group through the 86th Educational Act, known as RTE Act, 2009. It has made certain important provisions to ensure universal and equitable access to quality formal education within a stipulated time frame, while simultaneously

strengthening the efforts to achieve UEE. The *Sarva Siksha Abhiyan* (Education for All), used to be considered as a vehicle for ensuring the implementation of RTE Act, Programme on Early Childhood Care, and Education and Rashtriya Madhyamik Siksha Abhiyan (RMSA) also were being implemented. Now Samagra Siksha is being implemented merging SSA and RMSA and Teacher Education Programmes in order to cost effective implementation of educational programmes using available financial resources for all these programmes. Samagra Siksha Programme has included ECCE as well. Since, education is the joint responsibility of State and Union Governments in India, each state has the power to create, accredit and fund educational institutions. In addition, a number of schools are run directly by private and Civil Society organisations. The recently introduced (in 2020) National Education Policy of 2020 devised a new frame to the educational system in India with a 5+3+3+4 structure. The NEP 2020 sets forth three years of preschool (for three to six years age) before the kid enters Class I (NISHTHA, NCERT). According to the National Council for Educational Research and Training (NCERT, 2006), the early years (0 to 8 years) are the most significant period of growth and development, in the life of a child. This is because it is during this period that the foundation for the holistic development of the child is laid. It is also the period when the foundations of the child's future learning in set up. In other words, children who are provided with quality early childhood education, and participate in it, are bound to demonstrate significant gains in all spheres of life as opposed to children who has no access to these. "Strong foundations in the early years has lasting impact on children's development and are considered to be critical inputs in improving the enrolment and participation of children in formal schooling" (GoI). In view of this, many researchers have mentioned that, the provisioning of ECCE has to be brought within the purview of the RTE Act and quality formal education needs to be provided at the pre-school stage to ensure better footing in school education (Bandyopadhyay & Khandari, 2022). It is also imperative to recommit towards ensuring universal access to education for students from various socio-economic backgrounds and special educational needs.

As mentioned earlier, the recent development in this regard, is the release of National Education Policy 2020, to improve school participation of children. The policy has come up with many structural changes in the school structure. However, the more prominent and crucial one is the inclusion of Early Childhood Education. This major change would ensure greater participation of girls in terms of their attendance and learning, as studies show that girls are largely engaged in sibling care resulting in relatively less educational opportunities for them. This is a welcome step, as it ensures pre-school education for all and will better prepare them for formal school. Studies (Bandyopadhyay, 2019; Bandyopadhyay & Khandari, 2022; Bandyopadhyay &

Behera, 2011) suggest that absence or inadequate school readiness leads to poor learning level in later schooling years. Another associated structural change is the adoption of new structure of school education which defines education of the age group of 3-8 years as the foundational learning stage, according to which universal foundational literacy and numeracy in primary school is to be achieved by 2025. The existing model 10+2 will now be replaced by 5+3+3+4 format, which in turn corresponds to the age groups 3-8 years (foundational stage), 8-11 (preparatory), 11-14 (middle), and 14-18 (secondary). The policy document reinstates the need of making efforts to educate diverse population of socially marginalized children by categorizing them under Socially Development Groups (SDGs) and making Special Education Zones (SEZs) across the country. Considering the range of recommended structural reforms, the time period for the implementation of the entire policy is planned till 2040. The policy makers are thus hopeful of achieving the set specific targets and goals within the stipulated time period, amongst which the universalization of quality school education is the ultimate goal.

Unfortunately, despite this heightened optimism, almost all Global Monitoring Reports (GMR) on 'Education for All' presents mixed picture of the progress in education in South Asian countries. However, one of these GMRs (UNESCO, 2016) appreciates the rapid advances made by India in expanding its educational facilities and reducing the number of out-of-school children. In recent years, 'the meaningful access (Lewin, 2011) and participation' of children in school is gaining importance in educational discourse. Mere physical access of children to school and their enrolment are no more seen as sufficient condition to fulfil the objectives of Universalization of Elementary Education (UEE) and goals of Education for All (EFA). However, meanwhile, before the government could implement NEP 2020, the Covid19 pandemic and the resultant school closure have added another dimension to these concerns as far as educational system in concerned – both globally as well as in the Indian scenario. Although prior to pandemic, as evident in recent data of Gross (GER) and Net Enrolment Ratio (NER) (Figure 1), the country witnessed considerable improvement in school enrolment and participation of children from all sections of society, the covid-19 drastically impacted it and many children have faced the problem in attending online classroom transaction. The school closure along with online transactions impacted drastically the learning outcomes of these children as well. In order to improve the situation, during post pandemic period, almost all states have started many initiatives but in reality, the socio economically disadvantaged children living in the remote rural areas, are still facing more challenges in accessing quality education even after reopening of the schools.
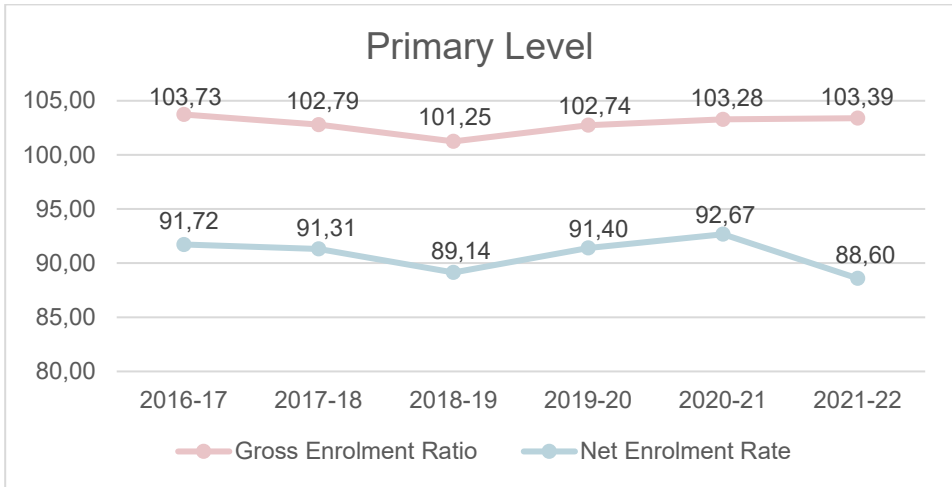
Primary Level

Figure 1: GER and NER at Primary and Upper Primary Levels

Upper Primary Level
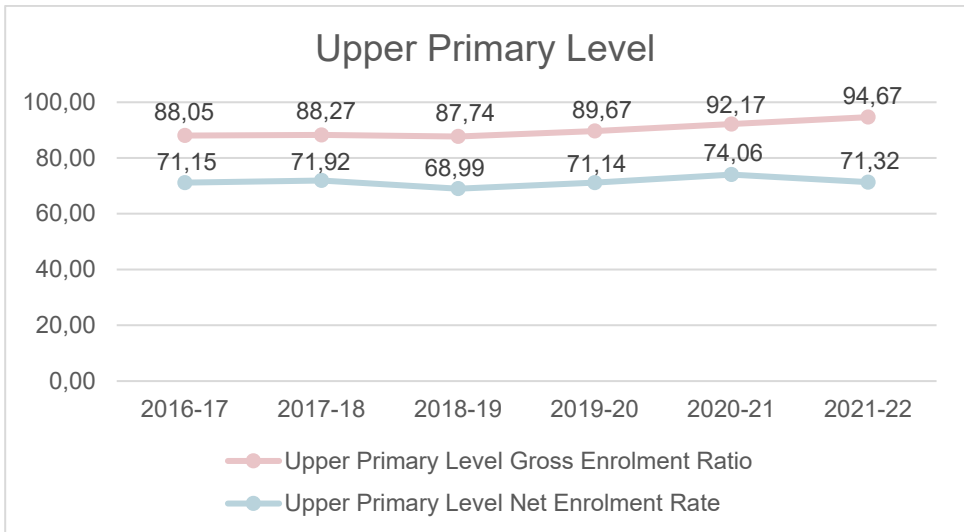
So, even as schools have reopened, there is major concern regarding the readiness of schools to smoothen the transition back to offline learning. Towards this direction there have been someefforts to ensure this smooth transition. However, these efforts need to be further strengthened. One of the major concerns that have been raised by many researches that children's regular participation is closely associated with their

schooling access leading to their learning outcome. The children who attend a school endowed with better facilities, they tend to stay in school longer and learn adequately. In India, many children are deprived of such schools and are forced to drop out without completing their education. These children are deprived of such meaningful access leading to their low participation in school and their silent exclusion (Lewin, 2017; Govinda & Bandyopadhyay, 2011).

According to the national level data like DISE, 2015-16 (which are collected from governmentand private schools), the proportion of girls and boys who could pass their examinations at bothprimary and upper primary level were found to be almost the same. Although, the proportion for both boys and girls who could pass their examinations with 60 percent and above at the primary level was found to be around 63 per cent, their proportion was found to be 59 per centat the upper primary level for both boys and girls. It is understandable that children with low achievement level are at the risk of exclusion from the education system. Some researchers have indicated this close association between learning and attendance (Bandyopadhyay, Das & Zetlyn, 2011; Govinda & Bandyopadhyay,2011, Bandyopadhyay, 2019a). In addition to learning achievement, data on transition (Figure2) and dropout also reflect on school participation of children.
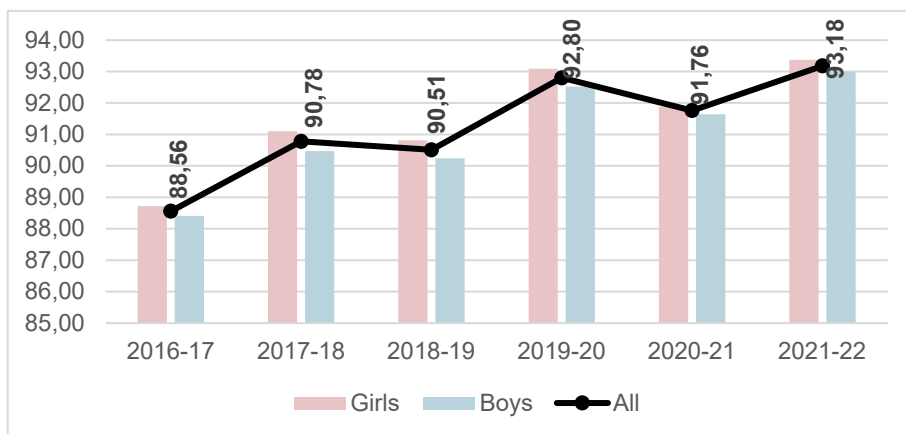
Figure 2: Transition Rate from Primary to Upper Primary Level. Source: UDISE+ Provisional Data, Different Years, MoE

The data on transition indicate that although there have been several ups and down in transitionrate of both boys and girls but there has been considerable increase in their transition rate just before Covid 2019 drastically impacted entire school education in 2020 and again the transition rate declined in the year of 2020-21. Although annual average dropout rate has shown a declining trend over last three

years, it has remained higher in case of upper primary levels indicating considerable exclusion of children from schools even at this level.

Table 3: Annual Average Dropout Rate at Primary and Upper Primary Levels

Social Category	Primary			Upper Primary		
	Boys	Girls	Overall	Boys	Girls	Overall
2018-19	4.3	4.59	4.45	5.14	4.26	4.68
2019-20	1.22	1.67	1.45	2.96	2.22	2.58
2020-21	0.69	0.83	0.76	2.61	1.95	2.27

Source: UDISE+ Provisional Data, 2019-20 MoE

There are several factors that determine effective participation of children. Drawing reference from different sources, Govinda & Bandyopadhyay (20011) has argued that interaction of the number of factors result in exclusion of some specific groups or individual students and they continue to lag behind others in terms of educational progress, income generating activities, health and nutrition and other socio-economic aspects. It is also applicable to life of children and their wellbeing as "there are children who face multiple disadvantages based on poverty, economic deprivation, and caste and gender discrimination and are living in extremelydifficult circumstances (Govinda & Bandyopadhyay, 2008, 70)."

"For example, girls continue to be more likely to be excluded than boys in schooling, but this disadvantage increases as girls increases in rural areas, and the more remote the location, the more probable it is that girls will be excluded from school. Overall, poverty seems to force families into making choices that directly affect the educational access of girls (Govinda & Bandyopadhyay, 2008, 73)."

There are several other reasons of dropout of children (Bandyopadhyay & Gupta, 2022) living in remote rural areas and urban slums. Promotion of equity and equality in and through education is one of the essential means to improve quality of education which in turn positively impacts on school participation of children.

Availability of schooling facilities within the reach of learners is another factor for meaningful schooling. It is known to all that it becomes easier for children to access and attend school regularly if a barrier free school is provided in nearby area. There is a national norm according to which a formal school can be opened in a village or habitation with more than 300 population and if there is no school within 1.5 km of distance. This norm varies from one state to other and in some states separate

norm is existing for providing formal school in Tribal/Hilly areas. The location of school is equally important and the schools located on highway or isolated place are not considered safe for children particularly those who are very young, physically challenged or girls. The school closure and merging with another school also have affected children's access to school.

Ensuring basic minimum physical and academic facilities in the school is also very important issue concerning access. Even though a school exists in the village but if it is devoid of adequate physical and academic facilities (i.e., very high PTR or with dilapidated school building, lack of infrastructure like blackboard, drinking water etc.) and if the available facilities are in very poor condition, then the children may not be able to attend such school. The children may stop going to school if the teacher's attitude towards the children of deprived groups is not congenial or if their purpose of education is not served due to teachers' absenteeism and ineffective teaching learning process. Minimum quality in terms of facilities, teaching and learning environment etc. needs to be ensured in the schools.
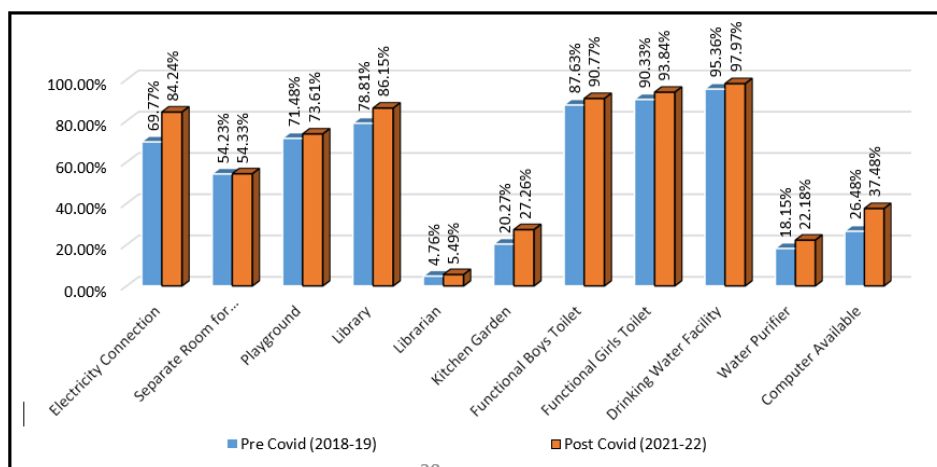
Figure 4: Status of Infrastructure: Elementary Schools**.** Source: UDISE+ data, different years, MoE. https://dashboard.udiseplus.gov.in/#/reportDashboard/sReport

As mentioned by many researchers that, teachers have pivotal role (Bandyopadhyay, Umabati, & Zeitlyn, 2011; Tilak & Bandyopadhyay, 2023) to play in providing quality and inclusive education in school. It is important to have trained and qualified subject teachers, special education teachers, female teachers and so on to make the schools more inclusive and effective. It has been found that distribution of teachers among schools is quite unequal with a considerable impact on quality of education. The RTE Act, 2009 has recommended for 1: 30 Pupil Teacher Ratio for primary and

1:35 for upper primary schools. Although PTR seems to be quite manageable and within the norm at the national level but there are many schools are found functioning with adverse PTR due to inadequacy in teachers' distribution and deployment. Although majority of teachers are adequately qualified with graduation and post-graduation around 25 percent teachers in primary and 12 percent at the upper primary level are reportedly could complete only higher secondary education. In addition, it is to be noted that, around nine percent teachers at the elementary level are not trained while majority of primary teachers (42 percent) had basic training diploma, around 55 percent upper primary teachers are B. Ed. qualified. It is also important to acknowledge the fact along with smooth functioning of schools, the leadership quality of school heads and other functionaries is also a Critical factor for Schooling of children. The participation of children in school is closely associated with the quality of functioning of school. Decentralization of planning and management emphasizes on governance at the school level. Major objective of school governance is to enhance school effectiveness by addressing varied needs of individual school. Linkage between the system and school level governances needs to be established and strengthened to ensure effective local service delivery (LSD). The capacity building of local functionaries closer to school is an important aspect for quality of service available at the local level. Several initiatives have already been taken for improving leadership quality of functionaries working at different levels of administrators like state, district and block. According to Bandyopadhyay (2019), "…major efforts have been made to improve the enrolment of schools by community mobilization, organising awareness campaigns for parents, regular monitoring by teachers and SMC towards preventing any drop out or bringing out-of-school children to school in nearby locality, etc."

In addition to leadership quality of local administrators and school heads, leadership quality ofother stakeholders like district level administrators who are responsible for implementing policies of other development sectors and its governance is also important. Such convergenceof initiatives is also needed at the higher level even at the state and central levels of administration.

It is needless to say that since education of children is joint responsibility of schools, parents, families and communities, the subsequent policies of 1986 and the most recent NEP 2020 (MHRD, 2020) also have put enormous emphasis on effective community participation in school management and its day-to-day functioning. The quality of education cannot improve without involving community, as mentioned by many researchers (Bandyopadhyay & Dey, 2011; Govinda & Bandyopadhyay, 2009). It is understandable that, only effective community engagement and participation can make it possible to address the needs of schoolsat local level by

pooling human, capital and technical resources in an organised and participatory manner. Such community engagement also can be linked with framework of administrative as well as financial decentralization which can promote participatory planning and implementation of different policies and programmes at the local level. It can facilitate efficient use of resources and involve the local governments actively in decision making

process as well as for translating decisions into actions. Since decentralisation of elementary education has already been envisaged by the existing education policy NPE, 1986 and NEP 2020, for achieving Universalisation of Elementary Education, the approach of participatory and need based planning and implementation seem to be applicable in this sector of educationas well since it warrants for context specific and need based solutions for which pulling of human, capital and technical resources is required at large extent.

Concluding Discussion

From above discussion it is understandable that educational development cannot be achieved in isolation or seen in isolation of other development activities and therefore education needs to be part of multipronged developmental strategies by addressing the needs of different diverse groups and communities of this country. Since education, particularly elementary education is a social good, it needs to be made universal and adequate attention needs to be paid for making children's right to education in reality (Lewin, 2011). In order to achieve this goal, special focus should be given on functioning of individual schools and individual child who is vulnerable to exclusion due to various factors as mentioned above. Since, each school is functioning in a particular context and catering to unique social group, school specific planning and interventions need to be made to meet specific challenges i.e., low enrolment, high absenteeism, poor learning level and so on. Similarly, children who are facing challenges of educational deprivation also need to be identified and categorized as per the major reasons of deprivation. Discriminating and stereotyping attitude towards girls and socially disadvantaged groups need to be tackled in order to make the school child friendly and gender friendly. Special efforts to be made to identify children who experience serious learning deficitand threat of dropout. They can be engaged in skill development programme in gender neutral manner and also as per their need and interest. After pandemic it has become imperative to look at the safety of children on regular basis and it is important to prevent child marriage and child labour, trafficking etc. as incidences of such violence against children increased

during pandemic. It is also important to take care of physical and mental health, nutrition and overall development of children otherwise it will not be possible to improve their school participation. The recent education policy of 2020 also envisages the full participation of children and their holistic development and this policy has to be translated into action. The school leadership and the initiatives taken at different levels need to pave the path towards achieving the objectives of this new policy for promoting school participation of the children irrespective of their socio economic and diversebackground.

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Nature Culture Stewardship by Children in Urban Marginalized Settlements Beyond Built Trust

Sub-theme: What role do individual professional actors have in working to strengthen children's rights? How do professional actors experience their opportunities to work to strengthen children's rights and participation?

Nupur Prothi[1], Malvika Bajaj Saini[2],& Apoorva Pant[3]

Abstract

The paper explores the potential of empowering youth and children to reimagine public spaces in urban marginalized settlements. Characterized by their incremental, unauthorized growth and perceived as temporary squatting, these settlements are left out of formal urban planning processes. They undergo expansion and densification to accommodate migrants and the marginalized who don't find a place in the planned city. The public spaces in the settlements may be smaller, at times incidental between houses or around trees and have a rich social fabric. As dwellers of these settlements, we believe the youth and children bring a critical perspective to their design and use. This paper explores the collaboration between urban space

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[2] *Malvika Bajaj Saini* (Co-author), as a conservation architect, her primary interests lie in research and raising awareness about heritage. Other than conservation implementation, consultation, and research endeavours, she actively engages in dissemination activities. Her recent conservation projects have included the preservation of vernacular weaver homes, *baolis* (stepwells), and temples.

[3] *Apoorva Pant* (Co-author), an urban and heritage researcher with 8+ years of experience in architecture, academics, heritage, and conservation, currently contributes to a publication focusing on Youth-led Nature Culture Living Labs in India, aimed at instilling environmental consciousness in children. She has also led a nationwide project at INTACH, categorizing traditional buildings.

professionals[4] and resident children in reimagining and co-creating open public spaces within these marginalized settlements. The paper explores the role and relevance of these professionals in collaborating with children to ensure community well-being in marginalized settlements through the leverage of healthy public open spaces[5].

The paper explores the potential of children living in urban marginalized settlements to become the catalyst for improving their living environments. It explores the role children and youth can play in contributing to more inclusive urban planning and design processes[6]. The concept of cultural resilience is also introduced, emphasizing the need to preserve cultural values within urban slums and to integrate traditional wisdom into contemporary urban planning. The co-design process is presented as a vital strategy for strengthening children's rights and fostering inclusive urban development. Urban space professionals are positioned as instrumental agents in this process, engaging children in decision-making and advocating for child-friendly infrastructure. This paper further explores capacity sharing, co-creation and placemaking principles as integral components of a participatory approach aimed at promoting children's rights in urban marginalized settlements. It draws from a diverse range of real-world examples from India to inspire and showcase initiatives that genuinely engage children in the design and transformation of urban public spaces.

This paper does not intend to undermine the difficulties that marginalized communities face, but it does focus on the efforts by professionals to empower youngsters to find solutions for improvement - from within rather than waiting for external agents of change. The aim is to make a difference in the quality of life of the residents of the neighbourhoods - by facilitating and giving ground to their seeds of wisdom.

Keywords: Marginalized communities, urban marginalized settlements, children's rights, stewardship, urban space professionals, collaborating with children.

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[4] In this paper, architects, heritage and conservation architects, landscape planners, and urban planners are collectively referred to as urban space professionals or urban professionals if otherwise specified.

[5] Article 31 (Nations, 1990).

[6] Article 12 (Nations, 1990).

Introduction

The informal settlements are described as the incremental, unauthorized, and self-organized creation of new urban neighbourhoods (Kim Dovey, 2020). The existence and persistence of informal settlements result from a complex interplay of multiple factors (Kim Dovey, 2020). These are characterized by makeshift or unauthorized housing, often lacking basic infrastructure like clean water, sanitation, and electricity. These settlements tend to grow organically, with little or no government planning or regulation. As a consequence, these settlements can become overcrowded, unsanitary, and unsafe, leading to various social and health challenges for their residents (Reinhard Skinner, 2014).

Though these marginalized settlements are an observatory of the relations between institutional policies and social dynamics, many studies and initiatives concerning children primarily emphasize on their rights to play and recreation. However, this paper takes a distinct approach by concentrating on the collaborative process of reimagining and co-creating open public spaces within marginalized settlements, with children as the primary driving force. Urban space professionals play a critical role in assessing how the physical environment influences urban life. Their work involves data collection, applying human-centred design principles, and evaluating factors like health, accessibility, and community spaces to develop comprehensive and sustainable urban development plans. These experts serve as essential bridges between urban development and community well-being, including that of children. Drawing from their knowledge of local contexts, urban space professionals actively engage with communities to understand their unique needs and aspirations. This attentiveness is particularly evident when designing with children in mind (Maria Nordström, 2019).

By prioritizing child-centric design, these experts create inclusive and child-friendly environments. Through a participatory approach, they empower children to directly shape their urban surroundings, fostering a sense of ownership and belonging (Amanda O'Rourke, 2018). Children's engagement to harness their distinct perspectives, creativity, and problem-solving skills can ignite transformative changes in the future of the environments they call home (Nations, 1990).

Challenges - perspectives of various stakeholders

The majority of residents in marginalized settlements primarily identify with the urban environment rather than their rural origins and aim to create a longing presence in the city (Dr Md. Julfikar Ali, 2015). These residents rely heavily on public and communal spaces as these spaces act as hubs for people to exercise their right to the city, form social bonds and enjoy leisure activities.

Interestingly, the limited availability of public and communal spaces in these settlements fosters a distinct vibrancy and dynamism. These areas host various economic, social, household, and cultural activities, creating a dynamic mixed-use environment. The outcome of this dynamic atmosphere results in bustling street life, livelihood opportunities, informal market areas, access to essential goods, and a rich tapestry of social and cultural activities. The formal urban areas lack such high activity levels that are prevalent in marginalized settlements (Sommer). However, within these often crowded and under-resourced urban settings, activities coexist and sometimes compete, leading to disproportionate impacts on health, safety, and economic well-being for both the population and the environment - which has a definite effect on children. The severe lack of basic infrastructure and services, narrow streets without sidewalks, inadequate waste management, and complex issues related to land ownership and tenure security[7] sometimes hinder the effective utilization of the vibrancy and dynamism of these mixed-use spaces.

It is interesting to note that the intersection of law and urban planning plays a critical role in making decisions that significantly impact the lives of citizens. In various city areas, urban development proceeds without accounting for the provision of public spaces. Governments and private sector developers sometimes view public and community spaces as dispensable luxuries in urban planning, slum upgrading, or redevelopment. Unfortunately, these spaces are not always recognized as critical elements for sustainable development and, in some instances, are considered detrimental to profit margins (Sommer). In slum and informal settlements, the availability of public space often becomes a highly politicized matter, subject to fluctuations in local politics rather than being acknowledged as an essential right for all urban residents, regardless of their socioeconomic status (Sommer). In order to

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[7] Urban tenure in India varies based on settlement type, location, and state regulations. It encompasses ownership, leasing, rentals, and temporary arrangements. The majority of housing in informal settlements is, however, characterized by the absence of the legal security of tenure, which results in a large percentage of the population living in extremely insecure conditions (Shivani Chaundry, March 2014).

ensure that these decisions are equitable and inclusive, it is essential to involve the community, especially those most vulnerable, in this case, children.

Unfortunately, children have experienced increased segregation and exclusion from the broader urban community. They are often confined to their homes unless accompanied by adults, perpetuating the belief that they are not active participants in shaping their urban environment (Simpson, 1997). Empowering children and considering their needs and perspectives is crucial to promoting more inclusive urban planning and design processes (Simpson, 1997). As other earning members of the household are caught up in the rigour and routine following their objective to fend for their families, the children have more time, inclination and candid feedback to engage in a collaborative process to improve their surroundings - the immediate and beyond. To achieve this, children require support to participate in shaping urban public spaces. Urban space professionals play a vital role in this effort as they have the expertise to assess how the physical environment affects the lives of children. Working with children/youth, they offer the possibility to develop strategies to address liveability challenges in marginalized neighbourhoods.

Cultivating generational wisdom

In the process of urban development, children gain invaluable insights from their elders, absorbing practical wisdom and traditional problem-solving methods rooted in their cultural heritage. Urban planners and architects have a unique opportunity to incorporate this rich reservoir of traditional knowledge into their designs, seamlessly blending these insights with contemporary aspirations and the local environment. Engaging children in the design process empowers them with a profound sense of responsibility for their surroundings, and this empowerment is further enhanced when traditional wisdom is thoughtfully woven into the designs. The synergy of traditional knowledge and modern innovation results in urban spaces that are equitable and child-friendly, creating a harmonious ecosystem that nourishes both the cultural roots of the community and the aspirations of its younger generation.

In marginalized settlements around urban centres, it is important to explore the concept of cultural resilience, especially in areas where cultural facilities are scarce. These communities hold and protect significant values that may change or even vanish as they adapt to new urban surroundings. Cultural associations rooted in their places of origin can serve as powerful tools for promoting cultural diversity. Urban space professionals can play a pivotal role in ensuring the integration of cultural

values into urban planning and development. As part of the Swedbio project, our team from Beyond Built is developing modules to tap into the traditional knowledge system that the older generations living in marginalized settlements carry through various activities designed for children. The objective is to collect data concerning the indigenous knowledge children have acquired either through their personal experiences or the wisdom imparted to them by their elders, as well as spark its connection with the current scenario for problem-solving.

Co-design process

As discussed earlier, urban space professionals[8] are instrumental in fostering an inclusive and participatory process, acknowledging marginalized migrant children's distinct needs, perspectives, and rights. They create environments supporting growth, learning, and well-being by addressing safe play areas and social spaces (Maria Nordström, 2019). Through workshops, interactive activities, and diverse methods like design sessions, storytelling, and role-playing, these professionals engage children in decision-making, gathering insights and advocating for child-friendly infrastructure. They consider cultural diversity, ensuring spaces honour identities and fostering belonging and cohesion. Effective communication methods like visual aids enhance understanding and participation, prioritizing children's development and ownership. Urban professionals strengthen children's rights through design by integrating child-centric principles. Urban planners enhance safety and accessibility with pedestrian pathways and secure spaces. Essential services like water and sanitation uphold health rights. Landscape architects create play areas promoting holistic development, while heritage planners integrate cultural identity to foster pride. Collaborating with authorities and stakeholders, urban space professionals advocate for rights and resources, considering cultural diversity. Their inclusive approach, bolstered by effective communication, prioritizes children's well-being, fostering belonging and ownership in the community.

It is heartening to see that among the plethora of urban space professionals pursuing commercial ventures, there are still some practitioners whose work prioritises the community-centred approach. Some inspiring efforts from such works include the

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[8] When working with a community in need, architects take on the responsibility of identifying social, cultural, or environmental issues. These issues can potentially be resolved through the creation of built structures or spaces. By pinpointing the gaps and deficiencies that contribute to challenges within a society, community, or family, architects can enact changes in the physical environment. These alterations have the potential to enhance the daily lives of clients and the community as a whole (Nord, n.d.).

simple yet effective methodology of actively listening to community voices and concerns, respecting the wisdom of lived experiences and prioritising the residents' vision for reimagining their environments. Among these is the Community Design Agency, an architecture and design firm dedicated to collaborating with various communities in need, working together to foster sustainable transformation. Their approach revolves around active listening, valuing the insights gained from real-life experiences, and prioritizing the residents' vision for the revitalization of their surroundings.

For this paper, we explore three aspects of the participatory approach to strengthening children's rights – capacity sharing, co-creating and placemaking.

Capacity sharing

Capacity sharing, along with related terms such as capacity exchange, capacity strengthening, capacity building, and capacity development, are often used interchangeably. Regardless of the specific terminology, the primary goal should be to foster locally-led humanitarian action (International-agency Network for Education in Emergencies, n.d.). A capacity-sharing approach encompasses the following principles:

- It challenges established ways of working that assume local capacities are deficient or need extensive development.

- It centres on the diverse strengths and knowledge of local actors and the affected people.

- It acknowledges and addresses power imbalances between international, national, and local actors, striving to empower local actors and communities.

- It upholds principles of respect, mutual learning, and equitable partnerships.

To achieve these objectives, it is essential to first define how capacity is understood within a specific context, and the actions taken to address capacity gaps must be a collaborative process led by local actors and the affected individuals. Our team from Beyond Built, in a collaborative effort with Ankur Society for Alternatives in Education, funded by Swedbio, Sweden, worked with children and youth to capture

the nuances of everyday life within the Khichripur[9] settlement (The Khichripur Project, n.d.). The project takes the form of a multimedia compilation featuring written pieces, photographs, and videos created by the children and youth from Khichripur themselves. Through their written expressions, the children identify pressing issues within their neighbourhoods. In one instance, a group of children recognizes the absence of a playground in their area, and they resourcefully repurpose the space along the drain, even organizing a clean-up effort after one of their friends sustains an injury. In another account, a child expresses concern about the improper disposal of contaminated water into the drains, particularly during the rainy season, leading to overflow onto the streets and posing health challenges for individuals at the dhobi-ghat. This young observer questions how a source meant to clean clothes can inadvertently contribute to environmental pollution. Through the narrations of the children, a series of rational observations emerged with respect to various planning aspects like drainage and water runoff. The outcome also included heart-warming stories from children's perspective, for example, with water as a narrator trapped in a drain with garbage.

The Khichripur Project sheds light on the aspects of life in a marginalized urban settlement, elevating the voices of the children and youth directly experiencing these circumstances. The data collection approach focuses on capturing children's life experiences and insights growing up in marginalized environments, offering valuable perspectives. Recognizing the challenges at hand, the project's main objective was to empower the younger generation to lead positive transformations. This was accomplished by honing children's observation skills and creating a platform for them to express themselves impartially.

Co-creating

Incorporating children into the design and planning process is a purposeful and participatory approach that underscores the significance of their perspectives in shaping urban environments. It acknowledges that children are not merely passive recipients of spaces but active stakeholders capable of offering valuable insights, innovative ideas, and unique needs that might otherwise go unnoticed.

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[9] Khichripur, located in north-eastern Delhi, is infamous for its pollution levels, earning the reputation as the city's most polluted neighbourhood. Positioned alongside a landfill and chemical factory, it grapples with severe environmental challenges (The Khichripur Project, n.d.).

One example of this youth-led initiative is the Natwar Parekh Colony, a Public Housing neighbourhood in Mumbai, which has long grappled with a shortage of open spaces, particularly affecting girls due to safety concerns. In collaboration with the Community Design Agency, the Young Sangathan embarked on a mural project that went beyond aesthetics, breathing new life into the area with the addition of benches and greenery. This mural became a catalyst, inspiring various activities and establishing a secure zone that empowered girls and women to engage more freely (Community Design Agency, n.d.).

Another organization, Humara Bachpan Trust (HBT), advocates for inclusive, child-friendly smart cities that prioritize safe conditions for impoverished, urban children. Through collaboration with children, youth, and women, HBT strives to create a more liveable environment, engage stakeholders in urban governance, and involve children in identifying issues, setting priorities, and proposing solutions. By raising community awareness, nurturing leaders among children, youth, and women, and forging connections with social security schemes, HBT enhances access to resources and services for the urban poor (Humara Bachpan, n.d.).

Placemaking

Placemaking serves as both a comprehensive concept and a practical approach to enhancing neighbourhoods, cities, or regions, igniting a collective reimagining and transformation of public spaces into the vibrant hearts of every community. This approach seeks to strengthen the bond between individuals and the spaces they cohabit, emphasizing a collaborative endeavour to shape the public domain for the benefit of all. At its core, placemaking revolves around community-based engagement, leveraging the assets, creativity, and potential of local communities. The outcome is the development of high-quality public spaces that significantly contribute to the overall health, happiness, and well-being of the people they serve (What is Placemaking?, n.d.).

When design interventions in urban marginalized settlements take a collaborative approach, they place children at the forefront, actively involving them in shaping these spaces. Beyond physical transformations, these interventions foster a profound sense of ownership, empower the voices of the younger generation, and strengthen the bonds within the community. This inclusive approach ensures that marginalized urban settlements become more functional and livable and authentically reflect the diverse needs and aspirations of their youngest inhabitants.

One noteworthy initiative, Anthill Creations, led by a team of architects, strives to reintroduce play into the lives of children by addressing the deficiency of safe play spaces in marginalized urban settlements. They repurpose discarded materials like tyres, cable drums, and oil drums to construct sustainable, cost-effective playgrounds. Over the span of six years, the team has successfully built 375 playgrounds across 22 Indian states, offering children a space for free play that nurtures creativity, innovation, and holistic development (Anthill Creations, n.d.).

In the design of Badshahpur Forest Corridor (in Gurugram) by Beyond Built, spaces are envisioned as interactive platforms for children to share knowledge while indulging in play. The thrust was on the resourceful utilization of recycled materials from construction debris on-site. The intriguing blend of play, learning and innovation within these spaces presents opportunities for engaging children on topics such as recycling, creative thinking and place-making.

The Urban Renewal project in Hazrat Nizamuddin, New Delhi, has effectively integrated distinct zones into a culturally significant urban historic district. This endeavour harmoniously combines heritage conservation, socio-economic development, and environmental objectives. A settlement known as Kachrapur (literally meaning an area of waste) has been transformed into a park, thanks to the collaborative efforts of local children and residents, symbolized by the *safai (*literally meaning sanitisation*) express* game that kids play (Barapullah Nallah: De-silting and Landscape Development, n.d.).

Conclusion

In conclusion, the dynamic relationship between urban space professionals and children in marginalized urban settlements is instrumental in reshaping the future of these communities. This partnership holds the potential to create more inclusive and child-friendly environments, addressing the complex challenges faced by those living in informal settlements.

Recognizing and respecting children's rights and duties and actively involving them in decision-making processes is a crucial step towards empowering them to contribute to the design of child-friendly neighbourhoods. Urban space professionals serve as facilitators of this process, bridging the gap between institutional policies and social dynamics and ensuring that children's voices are not only heard but also valued and acted upon.

The collaboration with children and youth enables urban professionals to develop strategies that cater to the specific needs and aspirations of marginalized children and their families. Through a participatory approach, these experts can create environments that prioritize safe play areas, accessible education, and social spaces while also considering cultural diversity, fostering belonging, and promoting cohesion within the community.

Efforts from practitioners and organizations like the Community Design Agency, Humara Bachpan Trust, and Anthill Creations exemplify the transformative potential of co-design and placemaking. We at Beyond Built are taking conscious steps to incorporate child-friendly spaces in the design of public areas and, moreover, utilising these spaces as platforms for collaborative exchange between children and professionals/ artisans. These initiatives not only enhance the physical aspects of marginalized urban settlements but also empower the voices of the younger generation, strengthening the bonds within the community and fostering a sense of ownership.

Summing up, the role of urban space professionals is pivotal in addressing the multifaceted challenges in informal settlements. By collaborating with children, they bring about positive change to improve the physical environment and empower the community's youths to actively shape their immediate surroundings. This approach is beyond creating child-friendly spaces to nurture the next generation of active citizens and fosters a sense of belonging and pride in their reimagination of urban neighbourhoods.

Way forward

The way forward in fostering inclusive and child-friendly urban environments within marginalized settlements involves a multifaceted approach. Here are key points to consider:

1. Policy Change for the engagement of children and youth in co-creating neighbourhoods: Advocate for policy changes at the local and national levels that recognize the active participation of children and youth in the urban planning process in decision-making, design, and development of public spaces.

2. Connecting traditional environmental knowledge in formal education and planning systems: Engage youth and children in activity-based learnings to reconnect with their cultural heritage and traditional knowledge systems for stewardship of their current living environment within marginalized

communities. Motivating urban space professionals to expand their scope: Promote the engagement of urban space professionals, including architects, landscape designers, and urban planners, in co-creating livable, healthy public spaces within marginalized settlements by co-creating inclusive spaces with communities, especially children.

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Moving from Issues Based to A System Approach in Empowering Children and Youth through Law and Participation:

Lessons for Policy and Programming

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Abstract

Children and youth in Ethiopia have faced challenges and bottlenecks. This paper aims to explore the recent initiatives from the perspective of the system approach to empower children and youth in Ethiopia, as it recognizes that children and youth empowerment is complex and requires a multifaceted approach involving multiple stakeholders and systems. A systematic literature review (SLR) was conducted for this paper to understand the existing knowledge concerning system approach in Empowering Children and Youth through Law and Participation, highlighting the current knowledge's limitations, and a total of 45 studies were assessed for methodological quality. The study aimed to look at the opportunities for participation, the roles of multifaceted actors in strengthening youth and children's rights and participation, and the existing mechanism, challenges, and opportunities of the law to enhance participation from the lens of the knowledge system approach. Furthermore, non-governmental reports on the System Approach to Empowering Children and Youth through law and participation in Ethiopia were examined to identify key themes. The system-strengthening efforts are more cost-effective and benefit more significantly in tackling the diverse range of child and youth protection concerns that affect girls and boys of different ages and backgrounds. The system

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approach is crucial to more effectively build upon the strengths and resilience of children, families, communities, and governments to protect and care for children and youth.

Keywords: children and youth, empowerment, Ethiopia, participation, system approach

Introduction

Ethiopia is home to about 13 million children under five years of age - approximately 16% and a large youth population, about 70% under 30, of the total population of 96 million (Adimasu et al., 2022). By 2050, Ethiopia will have 58 million children under 18 years of age (6% of Africa), one of the fastest-growing economies in the world (MoWSA, 2022).

Ethiopia has demonstrated its commitment to improving the lives of its citizens through policies and programs, including health and gender, that have reduced child mortality, improved education, and increased access to family planning (Megquier & Belohlav, 2014). However, work still needs to be done in the country to achieve the required milestones and ensure equality. While life is improving for many, nearly 30% of Ethiopia's population still lives in extreme poverty, and the youth unemployment rate is around 7%, a number that refers to the share of the workforce aged 15 to 24 that is currently not working but is actively searching for work (PISA and UNICEF, 2021). In addition, various work issues have affected children in the country. About 40% of young women are married before their 18th birthday, and Ethiopia is home to 15 million child brides, of whom 6 million are below the age of 15 (UNICEF, 2018). UNICEF also estimates that if recent progress in employment is achieved, the prevalence of child marriage will drop to 20% by 2030 and to below 10% by 2050. About 65% of girls and women (15-49 years old) have undergone female genital mutilation or cutting FGM/C (47.1% at 15-19 years old).

The estimated 3 million children are out of school, mainly from pastoralist and semi-pastoralist communities; only 3% of children under five years old have their births registered. Progress in malnutrition between 2000 and 2016 is still more significant among children in rural areas (40%) than in urban areas, 25% (UNICEF, 2018). Coupled with the above facts, the absolute number of poor has not changed between 2005 and 2013 (25 million people); multi-dimensional poverty and deprivation for children are very high: 90% of children (43 million) are deprived at least in 2 to 5 of the dimensions (PISA and UNICEF, 2021).

The Government of Ethiopia (GoE) has taken steps to fulfill the UN Convention of the Rights of the Child, UNCRC, and the four broad sets of child's rights, apart from the Sustainable Development G3oals, the SDGs, having ratified the UNCRC in December 1991. These rights include the four broad sets: survival, protection, participation, and development. Despite ratification of the UN Convention on the Rights of the Child (UNCRC) in 1991, it was only in 2017 that the country drafted its first comprehensive national children's policy (Kebede & Collins, 2023).

The government demonstrated its commitment to designing the National Children's Policy to generate ethical, responsible, and productive citizens by creating and sustaining a setting where children's rights and welfare are protected and ensuring service provisions (ibid.). Furthermore, beyond the endorsement of this policy, the Ethiopian government has made progress in different sectors, including reducing infant mortality and promoting primary school enrollment (Pankhurst et al., 2018).

Some significant policies have been established and made milestones in nurturing its young people by officially launching a youth policy nearly decades ago. The country developed and launched its youth policy in 2004, intending to bring about the active participation of youth in the building of a democratic system and good governance, as well as in economic, social, and cultural activities and to allow them to somewhat benefit from the results (MoWSA, 2022).

Challenges for Children and Young Population

In Ethiopia, children and youth populations have faced challenges and bottlenecks. By their nature, these bottlenecks are interconnected to each other and multi-dimensional. Some of these challenges have been summarized as follows.

Non-recognition: Different studies and works of literature stipulated that youth have been making enormous contributions to improving life; however, the acknowledgment of their contributions to human and social development has not been proper (Shimeles, 2006). Their contributions were not also proportionate to their demographic weight as youth have remained mostly excluded from society's essential and critical socioeconomic decisions (ibid). Furthermore, there are also instances where youth are exploited through their labor and courage in militant and insurgent groups and as instruments of a political struggle. However, they end up being the least benefited (Shimeles, 2006).

Lower participation: In rural and urban settings of the country, youth have lower participation and employment rates and are characterized by higher unemployment

in different sectors than the country's average (Guarcello & Rosati, 2007a). In terms of gender, for example, in 2005, male youth had an employment-to-population ratio of 83% and an unemployment rate of 4%, compared to the employment-to-population ratio for female youth of 71% and an unemployment rate of 11 percent (ibid.).

Health and HIV/AIDS: Different reports stipulated that young people, particularly young women, were also among the most vulnerable to HIV infection, and 20% of young women and 33% of young men aged 15-24 years had a comprehensive knowledge of HIV and its transmission (Pathfinder, 2012).

Institutional barriers: The government committed to creating a public institution to oversee and lead youth issues in the country (MoWSA, 2022). In 2001, the Ministry of Youth, Sports, and Culture (MYSC) was established to create mentally and physically developed youth who know and respect their people's cultural values and are proud of their country. Furthermore, it aimed to encourage children to be creative, diligent, internationally competent, and empowered to participate in the development and democratization of Ethiopia. Along with establishing the public sector at different levels, from Federal to Kebele, the government allocates and approves the budget for the ministry. However, it is unknown what proportion of this spending was allocated to youth affairs (YPF, 2014).

Most governments, including Ethiopia, have failed to provide constructive outlets such as recreational facilities for youth and have proclaimed laws that keep youth from the streets as a significant sphere of social participation and integration. They have even taken repressive measures to detain youth in their homes. These problems have also left them mistrusting the mostly androcentric and patriarchal world order (Shimeles, 2006)

Budget constrained: There has been a recommendation from WHO on budget issues to the national government. There is a solid need to advocate for a robust government commitment led by the country's top leadership to provide strategic guidance, allocate federal funding, and improve coordination mechanisms following suitable lessons from the coordination of HIV/AIDS response, making a well-coordinated multi-sectoral response possible (Adimasu, 2022). Furthermore, youth face serious challenges, especially in urban areas and among youth. Creating employment and income-earning opportunities in the modern sector, the informal sector, and farms are central to accelerating growth (MoFED, 2006).

The African Committee of Experts on the Rights and Welfare of the Child (the Committee) is the only regional human rights treaty body with the mandate to promote and protect the rights and welfare of children in Africa. The efforts of the

Committee to effectively discharge its mandate have been hampered by a severe lack of human, financial, material resources (Mezmur, 2006).

Induced Youth Movements and Organizations Stated: In many African countries, including Ethiopia, youth organizations take different forms and shapes, ranging from exclusively youth-led organizations to youth-related or youth-serving organizations.

In Ethiopia, after the 1974 revolution, a significant pro-EPRP (Ethiopian People's Revolutionary Party) movement emerged from the high school students in the student movement, out of which EPRP created EPRYL (Ethiopia People's Revolutionary Youth League (EPRYL) (Tadesse, K., 1998). The country's former ruling party in 2009, the Ethiopian People's Revolutionary Democratic Front (EPRDF), was established as the Ethiopian People's Revolutionary Democratic Front Youth League -the Ethiopia Youth League (Zewde, 2014). The league is the youth wing of the ruling four-party coalition government, with more than 1.25 million members committed and ready to implement the programs and objectives of the EPRDF. However, the representative nature and the extent to which young people play an active leadership role within the Youth League remains unclear (YP, 2014).

In sum, many movements and initiatives have addressed children and youth issues in the country to address the above-highlighted multi-faced problems. State and non-state actors have initiated, designed, and implemented the children and youth-centered programs, interventions covering protection, prevention and provision, and participation. However, the execution of programs and initiatives have been fragmented, issue-based, and neglected the participation wings of children and youth on issues affecting them, designing appropriate programming, decision-making, advocacy, and representation. Furthermore, there is a disconnect among the key components and functions of the system to ensure the use of holistic provisions, protection, and participation of the youth and children population in the country. In addition to the above facts, the interventions focused on children and Youth in Ethiopia tend more towards providing services, and the issues of participation have not received due attention.

Purpose

This paper aims to explore the recent initiatives from the perspective of the system approach to empower children in Ethiopia, as it recognizes that children's empowerment is complex and requires a multifaceted approach involving multiple stakeholders and systems. The study strived to look at the opportunities for

participation, the roles of multifaceted actors in strengthening children's rights and participation, and the existing mechanism, challenges, and opportunities of the law to enhance children's participation from the lens of the system approach.

Methodology

The researcher conducted a systematic literature review (SLR) for this paper to understand the system approach to Empowering Children and Youth through law and participation. The search strategy targeted the findings of published and unpublished studies; as a result, this review used a step-by-step search strategy. The study used the **P**referred **R**eporting **I**tems for **S**ystematic **R**eviews and **Meta-Analyzes** (PRISMA), an evidence-based minimum set for reporting in systematic reviews and meta-analyses (Moher et al., 2009). The researchers developed a search strategy to identify the relevant literature to achieve this goal. The search focused on the electronic databases Google Scholar and Scopus, accessed through the virtual library link to trace the appropriate resources. During the search, an inverted comma was applied to the search options for these databases using both "Child and Youth Empowerment" and "System Approach" as one word. The searches encompassed article titles, abstracts, and keywords. The investigations spanned databases during and after the pandemic and were limited to published journals and articles. Geographically, the search strategy included all continents globally, including Africa, Asia, North America, Australia, Europe, and South America.

Duplications were removed from the extracted original articles to maintain the quality of the review. Each abstract was checked for quality and relevance. A careful evaluation of the individual articles was carried out later. The review retrieved 165 potentially relevant studies identified in Scopus and Google Scholar electronic database searches. A total of 55 articles were eligible for preliminary examination after removing duplication. Five studies were excluded when reviewing titles and abstracts against review objectives and inclusion criteria. The full text of the remaining 50 studies was recovered for detailed examination, and five were excluded. Subsequently, 45 studies were assessed for methodological quality. Finally, after a rigorous review considering the scope, applicability, and context of the study evaluation, three studies that did not meet the minimum requirements of methodological evaluation tools were excluded, and 42 were finally reviewed.

The paper summarized the evidence to explore the existing knowledge system approach to Empowering Children and Youth through Law and Participation, highlighting the current knowledge's limitations. Data sources included relevant

policies, programs, and reputable articles about children and youth, constitutional proclamations, system approach to Empowering Children and Youth through law and participation, government statements, UN, government, and Ministry of Health (MoH) reports, Ministry of Women, Social Affairs, UN reports, and other relevant documents from different sources. The analysis included a six-step process: familiarization, coding, generating themes, reviewing themes, defining, naming articles, and writing up. Furthermore, nongovernment reports on the System Approach to Empowering Children and Youth through Law and Participation in Ethiopia were examined to identify key themes. The large data set was sorted into broad themes to understand the existing programs Empowering Children and Youth through Law and Participation in Ethiopia.
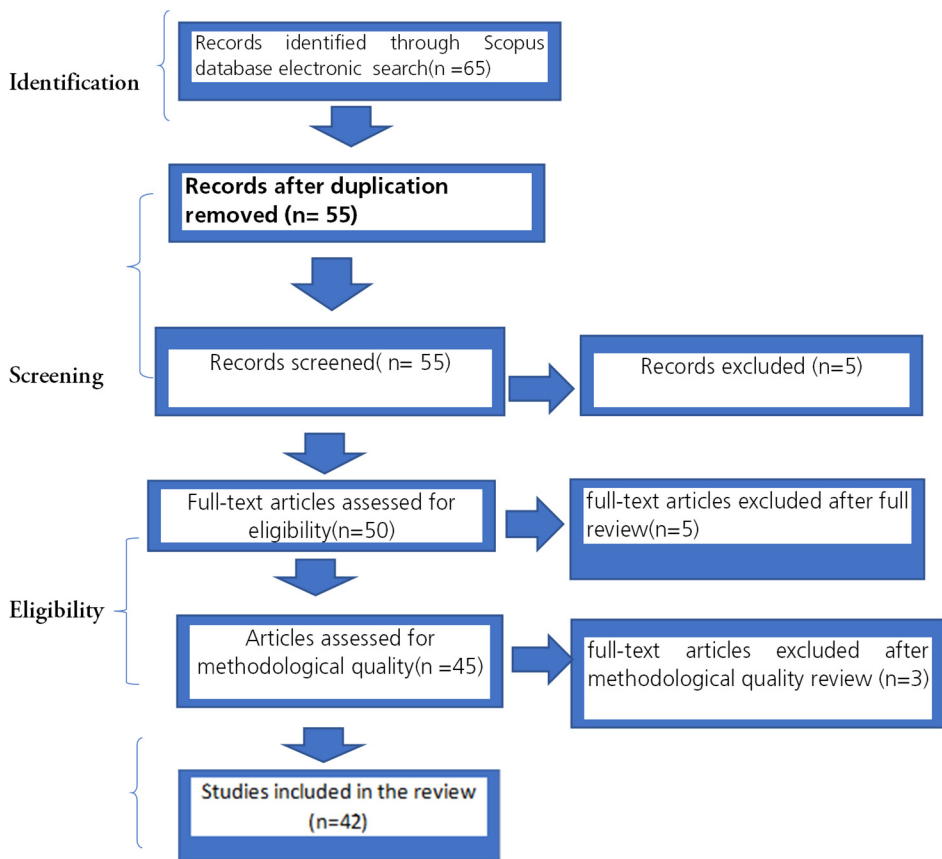

Figure 1: Illustration of the preferred reporting items for the systematic reviews & meta-analysis (PRISMA) process

Existing Frameworks and Theory

Several international, regional, and national frameworks have focused on the child and young population's prevention, protection, and participation in social, economic, political, and other issues. Some of these include:

The Ethiopian Constitution includes provisions protecting children's and youth's rights. It recognizes the right to participate in decisions affecting them and protects them from exploitation and abuse.

The Children's Rights Charter (CRC): Ethiopia ratified the United Nations Convention on the Rights of the Child (UNCRC), which provides a comprehensive framework for safeguarding children's rights. The CRC emphasizes the importance of child participation in matters that concern them.

National Policy on Children (NPC): The National Policy on Children outlines Ethiopia's commitment to safeguarding children's rights and promoting their development. It includes provisions for child participation and empowerment (Kebede & Collins, 2023).

Youth Policy: Ethiopia also has a National Youth Policy that addresses specific needs and rights. The policy aims to create an enabling environment for youth empowerment and active social participation. Youth policy is a set of measures to support young people's development in achieving their full potential. Ethiopia developed and launched its youth policy in 2004 with the aim "to bring about the active participation of youth in the building of a democratic system and good governance, as well as in the economic, social, and cultural activities and to enable them to benefit from the results somewhat."

The National Youth Policy (2004) aims to enable youth to participate, in an organized manner, in the process of building a democratic system, good governance, and development efforts. The policy seeks to ensure that young people become citizens with a democratic outlook, professional competence, skills, and ethics so that they can actively, efficiently, and widely participate in and benefit from the country's ongoing activities to achieve a democratic system and accelerated development.

Education Policy: Education policies are crucial to empower children, and youth education policies focus on improving access to quality education and providing opportunities for youth to develop their skills and talents. Ethiopian schools offer all the necessary services to all school-age children irrespective of age, sex, race, and other factors. As service providers, schools must implement a right-based teaching-learning approach, ensuring children's rights in all processes, including protection,

provision, and participation. However, most schools and school community members (children, principals, teachers, and other stakeholders) have less understanding of the principles and applications of CRC and poor coordination and networking among the local stakeholders in implementing CRC.

Civil Society and Non-Governmental Organizations (NGOs): Various civil society organizations and NGOs in Ethiopia work to empower children and youth, implementing programs and initiatives to promote participation and advocate for their rights.

System Theory

In centering on the esteemed goal, this paper applied systems theory. Different works of literature considered system theory as a cohesive group of interrelated, interdependent components that can be natural or human-made. Causal boundaries characterize it, are influenced by its context, are defined by its structure, function, and role, and are expressed through its relations with other systems (Von Bertalanffy, 1975).

As changing one system component may affect other components or the whole system, some support others, maintaining the other system to prevent failure (Beven, 2006). System theory aims to model a system's dynamics, constraints, conditions, and relations and elucidate principles that can be discerned and applied to other systems (ibid.). The system components interact with each other and other systems, which make up the environment or context of a given system. Interacting between system parts requires coordination and additional organized or formed actions about the system's goals. For example, in social systems, the purpose of the system services is to legitimate the system within a particular normative framework of laws, policies, and commitments (UNICEF, 2021; Wulczyn et al., 2010).

Concerning child and youth-related programs, various literature cited that a system is a collection of organized components or parts (i.e., connected) around a common purpose or goal. When we say organized, it means not just 'structure' but also communication activities. The systems operate at different levels, and each group comprises specific components of the group in question. However, the common purpose is critical to how one defines the system. The goal is to identify the structures, functions, and capacities needed to meet the target. This strategy, in turn, would help someone assess how well a system is doing and is derived from its purpose.

Different elements make the traditional approach unique from the system approach. First, the conventional approach focuses on a single issue characterized by a diffused approach, results in a fragmented response, and has numerous inefficiencies that leave many unmet needs (Wulczyn et al., 2010). Contrary to this, the system approach seeks to move away from issues; it supports a more holistic view of women, girls, children, and the community, who likely face or experience multiple experiences. Moreover, nature focuses on long-term capacity-building initiatives so that countries or communities can increasingly 'stand on their own feet' regarding developing the organization, management administration, information, and services needed to protect girls, women, and children (UNICEF, 2021).

In conscious of the systems approach to a considerable conceptual shift from the traditional stand-alone programming focus on groups of youth and children or communities, this study used the following diagram of child protection adopted from Chapin Hall's normative framework (Chapin Hall, at the University of Chicago: Chapin Hall is dedicated to the idea that evidence should drive decisions. Child welfare systems serve millions of children and families around the world. For decades, Chapin Hall has researched how these systems work and their impact on those they serve. Website: https://www.chapinhall.org/impact_area/child-welfare/)
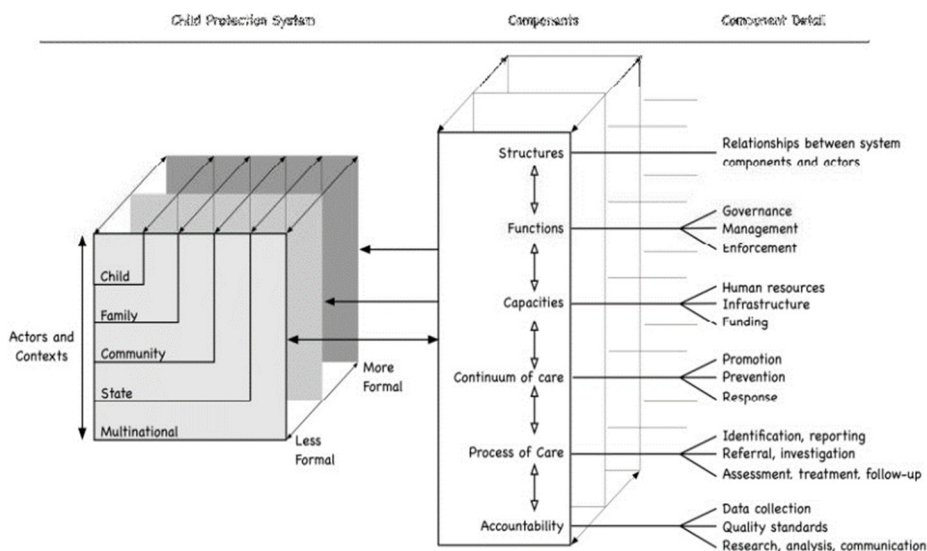

Figure 2: System approach to children and youth (adopted from Chapin Hall's normative framework).

The approach and shift would fulfill the need for protection and holistic responses to the achievement of more sustainable, comprehensive, and long-term mechanisms to empower children and the youth population to respond to protection needs and provision all the needed services in a holistic manner - including "Empowering Children and Youth through Law and Participation".

The Essence of the Shift from the Traditional to the System Approach

There are many reasons and justifications for the need to focus on the system approach against the traditional approach on children in Ethiopia.

Some scholars argue that the National Children's Policy is not the ultimate solution to Ethiopia's children's problems, including the right to participation, but it is nonetheless a critical step. Such documents are essential to establish a roadmap for developing policy support for children. They can be utilized by child advocates to continue the path of child-focused policy development and to create the physical, social, and cultural context to support child development (Kebede and Collins, 2023).

Many policies and strategies across sectors have been established in Ethiopia to help tackle various development challenges, including those concerning children (Adem, 2009; MoFED, 2006). However, the extent to which policies are child-sensitive and consider, reflect, and comprehensively address the needs of children varies between sectors. However, there is little evidence on the extent to which policies believe, reflect, and fully address the needs of children - ensuring that child-sensitive policies will support the enhancement of equality and equity across Ethiopia (PISA and UNICEF, 2021).

For over a decade, many international organizations and agencies have prioritized strengthening systems as a critical approach to programming (UNICEF, 2021). As a result, there is increasing attention to the system approach by various international organizations such as UNICEF Save the Children. The United Nations High Commissioner for Refugees (UNHCR) is turning to what is referred to as a systems approach to establish and otherwise strengthen comprehensive efforts to address the needs (Wulczyn et al., 2010). Furthermore, efforts have been made to strengthen national child protection systems that have frequently taken a top-down approach to impose formal government-managed services (Wessells, 2015).

The existing frameworks, such as the MDGs, PRSPs, and NEPAD, often cannot be used effectively by youth organizations, as they are managed within government offices, which rarely try to distribute information to youth. Collaboration between youth organizations and decision-makers at the UN, the African Union (AU), or any national state remains relatively underdeveloped (UNHCR, 2006).

Actual participation of young people involves recognizing and nurturing their strengths, interests, and abilities by providing real opportunities for young people to become involved in decisions that affect them both at the individual level and within the systems they are part of. Such participation moves beyond tokenism towards a process where youth are meaningfully involved in decisions affecting their welfare (Shimeles, 2006).

Despite these positive trends, youth organizations still face many challenges and problems that prevent them from showing their full potential (Ute, 2006). These challenges arise both internally and externally. In many African countries, the absence of appropriate legal frameworks that allow African youth to take responsibility for their development presents a significant challenge. Not all African countries have successfully provided truly democratic national constitutions.

Ethiopia's adolescent and youth-related interventions are fragmented under various ministries, uncoordinated, underfunded, project-oriented, lack effective policy implementation, and lack meaningful participation of young people (Adimasu et al., 2022). Addressing adolescents and youth health and development issues requires evidence-based, well-tailored, on-scale, intensified, coordinated, and holistic national responses.

There is a need to reconsider the system approach to meet the holistic needs of Ethiopia's children and youth population considering the fragmented nature of programs and interventions at different levels.

Conclusions

Empowering children and youth through their participation in law is paramount. This strategic importance is because the system approach helps overcome the limitations of a fragmented approach to children and youth, which traditionally focuses on specific child and youth issues in both development and humanitarian contexts. Furthermore, the approach is crucial to more effectively build upon the strengths and resilience of children, families, communities, and governments to protect and care for children and youth. System strengthening efforts are more cost-

effective and benefit more significantly in tackling the diverse range of child protection concerns that affect girls and boys of different ages and backgrounds.

Specifically, there are many reasons why the systematic approach is vital to ensure the holistic participation of children and youth.

Firstly, the system approach is fundamental to addressing the holistic needs of children and youth. It identifies the main risks with the rights framework. Examine different scopes and capacities of the existing system, including formal and informal, in children and youth rights, particularly the rights to participation. Furthermore, the approach examines accountability mechanisms and findings from mobilizing resources. Identify and prioritize actions to help build an integrated, strengthened system and a foundation to design comprehensive, appropriately structured, and resourced programs.

Secondly, national policies for children and youth strive to meet their sought-after objectives, including social mobilization, harmonizing policy and legal frameworks and effective law enforcement, and institutionalizing evidence-based monitoring and evaluation systems. This could be achieved when a proper system approach occurs at different levels.

Thirdly, the systems approach is highly imperative in designing and ensuring the existence of a well-functioning system that pays particular attention to nurturing and sustaining acts of cooperation, coordination, and collaboration among all levels of stakeholders (micro-, meso-, and macro-level), including those managing vital activities as well as those performing essential functions.

Fourth, the system approach will achieve the desired results when designing, implementing, and maintaining an effective and efficient care process. Finally, stakeholders are held accountable for their and the system's performance.

Fifth, the Growth and Transformation Plan (GTP), as an effective national programmatic plan, has reflected the priorities of the Ethiopian government on the issue of children and youth. The systems approach is highly desirable to meet the plan's strategies, including social mobilization to address the underlying root causes of the problems of violence and discrimination, enabling children and youth to demand their rights while supporting the establishment or further development of mechanisms. This approach will protect children and youth from abuse, violence, exploitation, and discrimination and will focus on building the institutional capacity of law enforcement and other relevant bodies (duty bearers).

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Understanding Variations in Children's Participation Opportunities:
Different Perspectives and Adaption to Practice?

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Introduction

The theme explored here is whether participation practices can be explained as an adaptation to practice, or because of different perspectives of the concept of participating. Based on data from my PhD study with the title "*Children's real participation in child welfare work processes*", this paper will report from the focus group interviews. The child welfare (CW) workers exhibit different perspectives of what participation entails, while they at the same time express that it is challenging to adapt children's participation to structural factors and the established practice of helping children. For the children, the consequence may be that various participation approaches are not tailored to individual children, leading to a range of different experiences with participation practices.

The Norwegian child welfare services

Each Norwegian municipality is obliged to have a child welfare service. Some are organised as a generalised model, where employees are responsible for a case through all phases of a case, while others have separate, specialised departments, responsible for the separate phases of a case. Child welfare services, regardless of organisational model, divide the work process into different chronological phases; investigation, supportive measures in home, and out of home placements (Christiansen, 2019). The Norwegian child welfare services emphasised focus on prevention and the principle of *the least intrusive measures*' form of intervention (Falch-Eriksen et al.,

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2019). Therefore, supportive measures, especially parental guidance, are most frequently preferred (Ljones et al., 2019). The aim of parental guidance is to build parents' potential to deal with their children's well-being and development by supporting relationships and interactions between parents and children (Ljones et al., 2019).

Children's participation in child welfare processes

Although there is a growing global emphasis on including children in both CW practice and research, numerous studies indicate that child welfare services face challenges in effectively integrating child participation into their practices. Consequently, children often have limited or no chances to voice their perspectives (Biljeveld et al., 2015; Kennan et al., 2019; Skauge et al., under review; Toros, 2020). Insufficient expertise in effectively communicating with children, institutional obstacles hindering participation facilitation, and varying interpretations of the concept of participation, are claimed to be possible explanations (Vis, et al., 2012). The concept of participation is criticised for being unclear and imprecise, frequently used without sufficient theoretical and contextual delineation (Kriz & Skivenes, 2017; Landsdown, 2010; Skauge et al., 2021; Tingstad, 2019).

Perspectives on participation influence our attitudes to what children can participate in. Brecher (2012) is concerned with the reciprocity between attitudes and our practices. Actions and practices influence attitudes, both when this is intended and when it is not. The consequences, whether planned or unplanned, can influence attitudes that were previously unrelated. These altered attitudes can then enable new actions and practices to become possible, ultimately shaping the presence of specific actions and practices within society (Brecher, 2012).

There are different perspectives on human rights in literature, where the most common, according to Ife (2019), is the legal perspective. Based on this way of understanding human rights, one will be concerned with looking at how rights are safeguarded through conventions and laws, and the question becomes whether participation is practiced or not. Children's right to participate is the most central justification in studies on children's participation in CW (Skauge et al., 2021). Studies refer to the Convention of children's rights where the focus is on whether the law has been complied with or not, often in the form of whether the child has been talked with. A few studies, such as Ulvik (2009) and Gulbrandsen et al. (2012), also incorporate a more procedural perspective on participation alongside the rights-

based approach. They see the process as the main purpose of the conversation, where the child possibly may develop a view. Sociocultural theory can complement the justificatory aspects of participation offered by the discourse of rights, implying a more process-oriented, interactional, and contextual understanding of children's participation (Ulvik, 2009b).

This view aligns with what Ife (2019) describes as the perspective of human rights as constructed rights, offering alternative approaches to comprehending participation. Within this perspective, participation is something that does not exist objectively, but something that is done in interaction with others.

Professionals may include activities that do not imply direct contact with the child in the concept of participation, for example, that other professionals are talking with the child or by observing the child (Eronen et al., 2020; Matscheck & Berg Eklundh, 2015; Skauge et al., under review a &b). In cases with direct contact, communicating with children can involve a wide range of forms and topics. The most usual form of conversation is exploratory conversations about general conditions in everyday life, such as how the child is doing at school (Vis et al., 2022). Analyses conducted in this project's document study (Skauge et al., under review, a) suggest that there are associations between the form and content of conversations and the degree of participation. 61% of the children have been engaged in discussions on CW-related topics (Skauge et al., under review). Topics unrelated to the case, like school, friends, and pets, were the theme in 39% of the conversations (Skauge et al., under review). The form and content of the conversations with children in CW have a significant impact on the degree of documented participation. Private conversations with the CW worker about CW-related topics are to a greater extent documented as the child's expressions, through quoting the child, than general topics or when other adults present, like parents or a teacher.

The most frequent form of participation across the different CW work phases is to include information *about* the child in the records (Skauge et al., a, under review). That means records describing the child and their situation without directly referring to or quoting the child. Differences between phases was nevertheless a finding. Children who are in a foster home or institution, experience conversation with the child and others most often (Skauge et al., a, under review). Records indicate that almost twice as many children in care (69%) have had one-on-one conversations with CW workers compared to children in the investigation phase (36%) and those with supportive measures (32%). While some children find talking to the CW worker alone as crucial to experience safe conversations and talk about the things that matter (Changefactory, 2020; Dillon, 2019; Seim & Slettebø, 2017), others prefer a desire to be present during meetings but not take an active role (Pölkki et

al., 2012; Seim & Slettebø, 2017). In some cases, children do not necessarily want to participate actively but prefer to be kept informed about their CW-case (Pölkki et al., 2012; Strandbu & Thørnblad, 2015).

Method

The study was approved by the Norwegian center for research data (NSD/SIKT), approval number (272849). Access to the child welfare services records was obtained through a decision made by The Norwegian Directorate for Children and Family Affairs (Bufdir), and from the Council for Confidentiality and Research. The study is based on a mixed methods approach, literature study, document analysis of CW records and focus group interviews. The findings have been derived from the comprehensive examination of distinct methodologies, as well as the integrated impact that arises from their collective synergy. The study is based on a mixed method approach, literature study, document analysis of CW records and focus group interviews. This paper will mainly report from the interviews. 9 focus group interviews were conducted with 24 CW-workers, in groups of two to four, from four different CWSs. All participants were from services organised as specialised departments representing distinct phases of the CW-case; assessment teams (n=12), in-home support teams (n=8) and teams responsible for the follow-up of children in care (n=4). The groups were composed of participants from the same type of department but from different CW services.

Results

Different participation practices

Talking directly with the child was highlighted as the informant's preferred form of participation. Nevertheless, talking about children seems the most common way of participation, what the informant named as *indirect participation;* observation or talking to others who have a close relationship to the child, like; parents, school nurse or teacher. Sometimes indirect participation was an active choice to protect the child from being exposed talking to several professionals. Other explanations considered what the child welfare worker perceived as the most effective way to resolve the case: adults who provided effective responses and the best knowledge of what the case is

about. Information about the child, both challenges and needs, then was gathered from parents and professionals familiar with the child.

Indirect participation was also described to occur as an unintended result of working with children and families. Existing approaches to assess the needs of children and design appropriate assistance lacked adequate organisation to involve the children in the processes. Measures aimed at parents excluding direct contact with the children were the most common justification. Inadequate adaptation to the children's need to participate, like rigid routines within the organisation when children disclosed something serious and lack of appropriate facilities to make children feel safe talking, were structural conditions explained to cause various forms of indirect participation. Another factor contributing to unintentional indirect participation was the absence of consistent relationships, due to shifts of CW workers through the process from investigation to intervention. This lack of continuity hindered the ability to facilitate participation beyond merely inviting conversations at the office.

Different perspectives of participation

The informants from the focus group interviews provided justification for children's participation based on their right to participate.

> " The child has the right to have their voice heard. If participation is to be real, it must carry influence and significance regarding the outcome. This could mean a change in the measures, or that the measure concludes because the child expresses this desire."

The informants clearly expressed that children's participation was a statutory right and a requirement from the management; "We *are required to talk with the children, and their perspectives must be heard."* The informants seem to have knowledge of the child's right to participate and the organisation's management seems to have given clear signals that participation must be carried out, as several said, for all children in all phases of the child protection process. Nevertheless, the informants expressed that practice was not entirely in line with legal requirements and requirements from law and management, as one informant said; *We are required to do it. It's very like that, but it's not that simple, well, it's not.*

The requirement applied to all children in all phases; "But I do know, at least, that at our office, it's emphasised and underlined that the child should be spoken to in all phases: investigation, intervention, and evaluation."

The child's point of view on what the case was about should be documented; "the child's perspective, their expressed thoughts about their circumstances, and their opinion regarding the proposed course of action. If not, the manager has made it clear that she will not sign the document."

Children`s rights were not the only perspective. Some informants expressed a perspective on participation as an activity that is done together with children;

> "If we want to know what it's like for children, we should be where the children are, not bring the children in here, because then we use our language, and they don't want to talk. There are many such things. We must be with them at school and kindergarten, at home and like that, to feel and see, does it have any effect, has there been any changes, how do we see how the children are doing, play together, do things together, so that we can talk while engaging in activities."

These informants were concerned that real participation requires finding ways to connect with children on their premises, ensuring that participation occurred within the children's environments and seamlessly integrated into their everyday lives. These statements express a perspective on the concept of participation, as an activity being done and connected to the child's experience. At the same time participation seems to be challenged to adapt due to structural factors and the established practice of helping children.

Even though descriptions of various practices reveal different perspectives on participation, there is also a question of whether what happens to the practice of participation when participation is transferred to actual implementation. To what degree is it possible for CW workers to adapt children's participation to what they usually do, what engages in adapting their participation within their leeway of both the norms and structural conditions, and what is about different perspectives of the concept of participation.

Discussion

How can different perspectives explain different participation practices and what can be related to CW workers adaptation to context and existing measures and procedures in Child welfare services?

The rights perspective of children`s participation

The rights discourse was found to be a dominant perspective in international studies on children's participation in CW (Skauge et al., 2021). In a rights-oriented discourse, children's participation is often understood as their right to express their views and for their voice to be heard. When children's right to be involved in their case, to have their say and to know what is happening, is the rationale for participation, CW workers want to talk with the child directly. If the right to participate is construed as the only rationale, emphasizing the need for conversations, the participation may devolve into a purely instrumental implementation of a single conversation. The rights perspective can lead to practice being concerned with whether the legal requirements have been met. If the child's point of view is understood as something that the professional can extract from the child as a finished product, it becomes a static and contextless concept.

Engaging in Interaction with Children

When pointing to the process as the main purpose in direct conversations with the child, the perspective expands from a legal to a more procedural perspective on participation, what Ife (2019) names as constructed rights, moving towards what Ulvik (2009) and Hasle et al. (2021) describe as a socio-cultural participation term. Meaning making as a reason for children to participate provides another starting point for professional practices (Ulvik, 2009). The perspective encompasses more than asking questions about whether the child participates or not. Participation as something that takes place in interaction with the children offers a perspective that includes a process and a participation practice as an activity in interaction with the child. In a procedural perspective on participation, the important questions are how this specific child participates, what opportunities for participation exist for this child, and how the child's opportunities for participation can be strengthened (Gulbrandsen and Ulvik, 2008). When the informants discussed the idea of genuine or *real* participation, they conveyed that it would involve actively engaging with children in their daily lives, and not just invite to conversations. This suggests that such involvement is currently not a part of the existing practice.

Even the right perspective emerges as the dominant perspective, at the same time, the desire to be involved in the process is prominent and for several CW workers. The child's point of view on their case is not the main purpose, but participation is difficult to implement in the way the services are organised and the available measures. The descriptions of various direct and indirect participation practices signal that the child's right to participation faces challenges in the translation from

law to practice. Various practices may stem from differing perspectives on participation. At the same time, it is also a question if participation loses clarity when applied in real-world scenarios?

Lost in translation?

All informants related participation to the requirement from law and management. The legal perspective only provides an overall guideline for children's participation and cannot be guaranteed simply by referring to human rights (Aamodt, 2021). As guidance for the field of practice, it is not sufficient to simply refer to the Convention on the Rights of the Child and the child's right to participate. The law does not exclude a constructed perspective, but when the legal perspective is left without being interpreted in relation to local norms and morals, the result can be a limited perspective that the law has been fulfilled when the child has had a say on the matter, talked with or not. The exercise of children's right to participate is shaped by how their rights are understood and translated into actions in the practice of child welfare. Thus, the right to participate cannot be understood as a universal activity, it can be understood differently, and it is shaped in the practical implementation, in the activities in interaction with the children. Even if the CW workers' perspective on participation are aimed at the interaction, structural conditions can reduce the leeway to facilitate interaction with the children, thereby adapting participation to existing ways of helping children.

When the statutory participation is to be translated into practice, it is essential for the implementation what explanations we give, what the purpose of the participation is, and what reasons we have for children to participate (King, 1997). Is the purpose to obtain effective information about the child or is it to help the child through everyday activities to understand their situation and perhaps provide support to form their own opinions?

Navigating the Practice Landscape: Approaches to Adaptation?

CW's contexts differ in terms of work phases with different tasks and the purpose of CW's involvement with the child. Uncertainty about how participation should be practiced in the various contexts could both be related to unclear routines and difficulties in how to translate the concept of participation to different situations and children. The participation practice is influenced by the activities that occur, and it is within these activities that the expectations of children's participation align with the established interventions that the child welfare services provide to assist the

children. Participation as a process in the form of several conversations represents a perception focusing process, continuity and trusting relation. At the same time the structural condition was described proceeding a shift of CW workers between different departments and teams in the child welfare services. When the services do not have routines safeguarding for the same CW worker to follow the child and family through the work processes, the children's opportunities to develop a relationship are limited. The chance that the child will have to start over with their story when they move between teams or the case starts again, increases. Indirect participation, having others talk to the child became one of the solutions to shield the child from having to talk to several professionals. Professionals consider it a burden for the child, but structural conditions do not make it possible for children to experience continuity in relationships and the opportunity to build trust.

Different children and diverse Child Welfare contexts

CW workers' justification for participation might align with a procedural perspective but may have limited opportunity to conduct the participation in line with their conditions. Structural conditions challenge the implementation of processes, continuity, and space for dialogues with the children, regardless of the perspectives of each CW worker. How we understand participation affects participation practices. At the same time, the child welfare services' participation practices will also be affected by the organisation's practice of how to best give help to children. Who the measures are aimed at and how the help is arranged will largely influence which participation practices are made available to the children. Lack of arrangements to include children in existing measures and one-sided approach towards parents was the explanation most informants pointed to as a challenge for children's participation. Measures aimed at parents at group level, mainly in the form of various time-limited, manual-based program, is a deliberate change from state child welfare authorities (Bufdir, 2023) which is based on an understanding of how we best help children. The compensatory measures of which there were more in the past, such as support contact and visiting homes, were aimed directly at the children. Prevention of risk and the belief in changing parents' skills have been a central focus in recent years (Morris and Featherstone, 2010), and may explain why the measures are aimed at parents.

Talking about what is good for chi3ldren with parents and other partners has always been a procedure in CW, because that is how we do when helping children. Institutions carry with them a history where knowledge is developed in a specific

way, where the group exercises social control to establish agreed forms of behavior and knowledge.

Consequences for children

The rights belong to the general child, and thus the individual child is not visible from the legal perspective (Aamodt, 2021). The legal perspective cannot say anything about how the child should be spoken to (Aamodt, 2021). General rules for how children should participate, such as that there should be conversations with all children in all phases of the child protection case, can become instrumental practices. Participation thus becomes a question of which perspective has led to the concrete form of participation. It involves examining the perspective, which can provide different answers and solutions to the question of how the child's right to participation should be safeguarded (Aamodt, 2021). Indirect and direct participation practices were described to a limited extent as tailored to each individual child. They were primarily explained as adjustments made to safeguard children in a general sense, achieved through observations or discussions with others about the child. The various participation practices therefore explain more about adapting participation to existing forms of work, which means that children encounter different practices and have different opportunities to participate. Children should be encouraged to articulate themselves in situations conducive to their comfort, thus necessitating judgments of appropriateness as to which places, timing and subject matter are consistent with each child's individual disposition.

Participation must be interpreted from law, where the understanding of what it entails needs to be clarified. In addition, the theoretical concept of participation must be discussed in the context of how it should be practiced in relation to the individual child and the various contexts in which children encounter Child welfare services.

Child welfare procedures and the implemented measures are intended to lead to better care and upbringing conditions for children. Differences in descriptions of the content and form of participation seem to be an expression of the participants' various perspectives of participation, and how they adapt the participation to already existing structures and perceptions of how to help the children. The lack of children's involvement is an unintended consequence of how the law is translated into the child welfare work processes, the perspective of the organisation and structural factors. Talking directly to all children throughout the CW case was expressed as a goal that was difficult to achieve. For several reasons, indirect participation became a way to bring about decisions in the best interests of the children.

The practice needs to be evaluated as a practice, considering its impact more generally. Its morality-affecting consequences need to be considered: for a society in which commercial practices come increasingly to constitute the norm across the whole spectrum of life is one in which the values and attitudes underpinning just such a development will themselves be strengthened (Brecher, 1998).

How we traditionally engage in participation and help children shapes the evolution of practice. Our actions influence the established norms and can resist innovative approaches to collaboration with children. Consequently, alterations in legislation and efforts to enhance children's rights can lead to unintended consequences, such as limited opportunities for children to participate. The need to assess this practice is crucial, considering its broader impact. Specifically, we should consider its moral implications. If a society adopts commercial practices as the norm in various aspects of life, it can further reinforce the values and attitudes supporting such a trend (Brecher, 1998).

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Empowering Youth Voices on Decisions that Impact Them

Mathea Bjørndal, Leon Bell & Marit Sanner[1]

Introduction

> Do decision-makers and practitioners understand well enough what children as a group think is important, before making decisions concerning children?

When making and voting on laws, do policymakers know enough about children before deciding? In individual lives, in child protection systems, schools, and youth mental health services, do practitioners have enough information from the child in front of them before assessing what is in the best interest of that specific child? Maybe they have asked the child for their opinion, but did the child feel safe enough, to tell the truth or elaborate on their answer?

Do adults think they have a responsibility to be informed with enough knowledge from children before making decisions concerning them? What might we miss out on, and what could be the consequences, for both children as a collective and for each individual child, if we lack sufficient understanding from children? And what do we as a society miss out on?

These different issues concerning child and youth participation will be discussed in this chapter, but first some information about Changefactory.

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[1] This article is written by Mathea and Leon (pros), in equal cooperation with the founder and international director of Changefactory Knowledge Centre, Marit Sanner. Pros are children and youth in Changefactory (CF). The article is based on knowledge from children that CF has collected through the last 15 years and dialogues pros have had with students, professionals, researchers and decision-makers.

About changefactory

Changefactory (CF) was founded in 2004, with the belief that all countries, and both national and local authorities, need the experiences and advice from children and young people when new laws, initiatives, and efforts are made about them. Children have often complained about adults not understanding enough from the children's perspective, before making decisions on their behalf.

In the first years, children and professionals cooperated in developing a method to gather these experiences and advice in surveys. Researchers in CF have since 2009 systematically travelled around Norway to gather knowledge and advice from children and young people aged 2-25 about their experiences with the systems designed for them. In close cooperation with children and young people, CF developed ways for them to independently present their experiences and advice to professionals, students, and authorities.

After conducting dozens of surveys and several hundreds of scene presentations by young "pros", the CF knowledge centre was opened. This centre systematically collects experiences and advice from children about schools, help services, police, and the legal system. The responses from many children living in various places around the country, are summarised into main answers, as "knowledge from children". The knowledge is presented in reports, books, films and podcasts. It is also presented "live" on stage, by young people 13-22 years.

The goal is to build a society that includes knowledge from children as part of the knowledge base when decisions are made on their behalf. When both practice and policy are based on knowledge from children, there's a greater potential for children to experience better quality in schools, help systems - and more effective use of a country's resources.

Since 2009, Changefactory has completed around 50 studies collecting knowledge directly from children using focus group discussions and individual interviews. More than 14,000 children have participated in Changefactory's surveys.[2] Topics have ranged from school systems, child welfare, youth mental health services, the legal system, the Norwegian labour and welfare administration and kindergartens.

From the studies that Changefactory has carried out, two things have become very clear. Firstly, children across all public systems – be it mental health, criminal justice,

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2 Examples of publications: Sanner, 2020; Changefactory, 2021d; Changefactory, 2019; Changefactory, 2020b; and Changefactory, 2020c. Complete publication list is available on Changefactory's Norwegian website here https://forandringsfabrikken.no/kunnskapssenter/.

preschool, child protection, or other services – have substantial and useful, and in-depth knowledge to share. Secondly, decision-makers and professionals are missing out on potentially serious and damaging ways by not having sufficient access to the knowledge from children about services designed for them.

The best interest of children as a group

Public systems such as schools, kindergartens, child welfare, and mental health services all have one main goal in common - benefitting the children the systems are made for. But what knowledge should a country use to assess whether this is achieved? And what knowledge should be used to further develop practice and policy in order to ensure better systems?

The UN Convention on the Rights of the Child (UNCRC) makes it clear that each country must hear the views of a representative sample of children:

- When the interests of a large number of children are at stake, Government institutions must find ways to hear the views of a representative sample of children and give due consideration to their opinions when planning measures or making legislative decisions which directly or indirectly concern the group, in order to ensure that all categories of children are covered.[3]

- The views expressed by children may add relevant perspectives and experience and should be considered in decision-making, policymaking, and preparation of laws and/or measures as well as their evaluation.[4]

One might claim the country shouldn't seek children's opinions "because the UNCRC says so", but because it is thought of as valuable and necessary to create the most safe and useful systems as possible. Children have a lot of experiences that can be turned into advice on what works well and what is most important to change. For example, children know very well how they want professionals to meet them, to make it easier to tell the most crucial things, which a social worker needs to know in order to provide the most accurate help.[5] Children also have very clear advice on

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[3] Committee on the rights of the child, General comment No. 14, paragraph 91.

[4] Committee on the rights of the child, General comment No. 12, paragraph 12.

[5] See for example: Changefactory, 2021c, pp 26-76.

what practitioners can do to cooperate well and create trust that makes it easier to find the best solutions together.[6]

If topic-relevant advice was consistently used in various decision-making and evaluation processes affecting children as a group, one might assume the systems would become a lot more efficient. Possibly, less money would be spent on less useful, and even potentially harmful, efforts. But more valuable than money, would be the potential saving of time in children's lives, whenever they were able to receive the proper help or education much sooner.

When can we say we have heard a "representative sample of children" as the Child Committee puts it? Systems must be created specifically to allow meaningful participation from children. When adults have created and facilitated spaces for child and youth participation, these spaces are often based on the established participation systems for adults. In society, there are not many systems for adults to engage in shaping the society either, apart from elections. Adults can of course vote and are represented by elected officials, whereas children are not even represented seeing as they cannot vote.

The most common methods for youth participation in Norway are school councils and municipal youth councils, where children often take part in and "learn" the adult way of decision-making. Whether these councils are truly representative of all kinds of children at each school or in each municipality, is worth questioning. The same goes for youth organisations and youth political parties. These forums for participation often mean that a certain selection of children or youth get to, want to or feel safe enough to participate. Oftentimes most of them are children and youth who trust adults, who do well or okay in school and who are easy to handle for adults, or who find these forums for participation safe.

In order to solve problems and not end up with more people excluded from society, the country also, more specifically, needs knowledge from children who do not trust adults, who are restless, do criminal things, feel like nothing is worth the effort or are deemed "too vulnerable". Removing children who are deemed vulnerable from opportunities to participate, even in the name of good and "protection", may instead possibly do harm. Adele Matheson Mestad, director of the Norwegian National Human Rights Institution, once said: "*Children's views must be invited and given due weight as a mandatory step at every point in a child protection process. (...) What is actually being said here is that children's right to participation is not just a goal. It is not only a means to achieve the goal of protecting the child. But the process itself should*

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[6] See for example: Changefactory, 2023, pp 8-21.

contribute to what the committee calls "recovery and reintegration". In other words, children have had their autonomy strongly challenged through violence and abuse, and the process must contribute to preventing them from further losing that autonomy".[7]

Although this statement was related to the participation of children on an individual level, one can say the principle behind it goes for children as a group as well. Ideas about what is the "protection of vulnerable groups" must not hinder those groups from being able to share valuable knowledge. Perhaps their knowledge can be used to better protect them by letting decision-makers create systems that feel safer and more useful. Society has a responsibility to find ways to facilitate safe participation for all children.

However, what systems for participation do we have that ensure all children can voice their experiences and opinions about what works and what should be done differently in schools, kindergartens, help services, or legal systems?

What CF has done is ask children how it must be done if adults are to listen to all different kinds of children. Children have all kinds of personalities and experiences with adults, experiences with being taken seriously or not, and more life experiences. Children said, in order to give honest and in-depth answers, it has to feel safe enough, meaningful enough, and fun. Based on this, children and youth helped create a way to ensure that all children could be heard. This way, no children had to be kept from getting the chance to voice their opinions. Perhaps something like this should have been done with adults as well?

Children who were otherwise seen as "troublemakers", also became helpful and valuable advisors. It became possible for researchers to go into classrooms they had never visited before and collect answers from everyone there. Sometimes teachers would give the researchers warnings about certain pupils or try to take certain pupils out of the classroom to make the knowledge gathering "easier". The researchers would advocate for the inclusion of everyone and meet all pupils the same, trying to make every single one of them feel that they were an important advisor to the country's decision-makers. It wasn't surprising that it was exactly the "troublemakers" who ended up being the most passionate to give advice to make schools better for those coming after them.

Children and young people in child welfare and mental health services, who were sometimes deemed by some as "too vulnerable" to participate, became empowered advisors as the researcher created spaces where they could feel safe and important enough to voice their opinions. The young people who wanted to explain the main

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[7] Mestad, 2021. Translation from Norwegian to English created with ChatGPT.

answers from the surveys to students, practitioners, and authorities, also explained how being empowered to participate has changed how they viewed themselves and helped in changing their lives. By using empowering and safe ways for participation, the country also gained more valuable knowledge on how professionals can cooperate wisely with children and youth who have experienced violence and sexual abuse, to provide the most helpful support. Going forward, perhaps participation where children get to define what feels safe, can be a significant part of protecting them?

When making decisions concerning children, children must be key informants. Young adults and adults, even those with experiences from being in a certain system, cannot be the only informants when developing practices and policies concerning children. Children themselves have an independent right to be heard. But it is also important for other reasons. One of them can be that although adults can think back in time and reflect, common practices might have changed since then. While that might be useful, it is not current knowledge. Another reason is that the adults reflecting back are not the ones whom practitioners meet out in the field every day. Each country needs knowledge from children who are currently or have recently been in kindergartens, schools, legal systems, child welfare and help services.

Another side of having children as key informants is to transparently separate what adults think and what children think is the best solution or what is safe and useful for children. This applies, for example, when making concluding statements or recommendations in any type of research or official reports. Sometimes children and adults might agree, and sometimes they might not. However, when it comes to making decisions concerning children, they have an independent right to be heard. Caregivers or professionals cannot speak on behalf of children. Adults who were in the systems many years ago, cannot replace speaking to the children in the systems today. They can all certainly share what they themselves perceive and feel. They can provide important perspectives, but they cannot provide or represent the perspective of the children. In order to truly consider children's opinions when making decisions that impact them, their unique perspectives cannot be mixed or swapped out for adults' perspectives.

A third thing to consider is the quantity of children who get to participate. Whether it is through workshops, a study or other means, it is crucial to have a representative selection and a significant number of children with relevant experiences involved. If not, if only a small number, like 5, 10 or 15 children have been informants, can we genuinely say "children as a group" have truly had their right to voice their thoughts ensured? Would we be okay with it if only a few adults had voted in an election or shared their opinions on another matter? Legislation and other measures affecting

groups of children cannot be based on the experiences and advice of a limited number of children and young people.

One final point we want to mention here is to consider the importance of researchers discussing children's answers in relation to different theories, instead of solely relying on the children's answers to stand on their own. This brings us to how decision-makers and researchers need to make a choice in terms of how children are to be involved in creating the solutions.

Protection through participation when finding tomorrow's solutions. When creating laws, initiatives, and other efforts affecting various groups of children, decisions should be guided by children's advice on how to proceed, to ensure the systems feel safe and useful. We are not questioning the importance of gathering data on children's experiences. However, if experiences alone are to inform the development of policy and practice, adults can end up interpreting children's experiences to find the solutions themselves. Consequently, adults can overlook potential solutions and make choices that might not truly benefit children. And can we really say that children have participated if they haven't contributed directly to the final solutions or recommendations?

Those in charge of policy-making and the designing of research projects have the ability to ensure that children take the role as advisors to the country. In that way, children can be part of making a policy and practice that protects them. And considering children have lived their own lives, they know a lot about how they best can be protected.[8] If children got to have a greater say in what they need to feel safe and equal in cooperation with adults, and children's systems were built based on knowledge from children, perhaps it would become easier and more fun for adults to work in these systems as well?

Risk assessment of not taking children's views seriously when developing policy.

The way policies and practices are informed, as well as the role children play in this process, reflects society's perception of children. It is luckily not as prevalent, at least in the Western World, to believe that women do not understand their own needs nowadays. However, it was not too long ago that it was common notion that men knew what is best for the woman. In terms of children, however, they can often feel

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[8] See for example: Sanner, 2020.

that adults think they know what is best for them.[9] Children do not say they should decide everything themselves, but that adults need to listen to them and be very careful if deciding anything other than what children advise.

Not giving enough consideration or enough importance to the main answers given by children about what is fundamental for school systems to feel safe, helpful, and effective, can have serious consequences. Why? Because the quality, as seen from the perspective of children, can become inadequate when they are not involved enough. That's why going against the main answers from children could become very risky.

On an individual level, more children report that the assistance they receive in their own lives is more effective when they have been asked for their opinion, or what they think is a good solution and it has been taken seriously. This is compared to situations where adults make decisions on their own without considering what the child suggested as helpful.[10]

In all this, researchers hold a lot of power in shaping the design of research projects. As a result, they determine the type of knowledge that countries rely on to make informed decisions. As well as what kind of knowledge is taught to future professionals who are studying to work with children. What they learn about how to meet and cooperate with children, can have immense effects on how they make decisions in children's individual lives.

What can researchers do to help secure that decisions are made in the best interest of children as a group?

Based on answers from children about how adults can cooperate well with them, here are some things researchers can do in order to give society knowledge that tackles the key issues that need to be faced in order to create better public help systems.

Researchers can make sure to involve children in deciding research topics and questions. When conducting research on topics that children have identified as crucial for improving children's service systems, that feel safe and useful, there is a greater chance that the country might gain information on the most pressing issues and areas for improvement according to the very people the systems are designed for. While this can be done in cooperation between researchers and children, researchers must also be open to include children's ideas about what is important to research.

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[9] See for example: Changefactory, 2021d, p 44-59.

[10] See for example: Changefactory, 2021a, p 28-37.

One example of this: When studying the effectiveness of various programs, treatments and models, children have ideas for important topics that adults must include and give due weight.

For researchers to gain knowledge about the effectiveness of any measures children are subjected to, it would be wise to focus on whether children feel better and if their life has improved after receiving a certain type of help or living in a particular type of home or institution. According to children, it is not sufficient to measure whether the child harms themselves less, comes to school more often, is less violent, or eats more, these are just a few examples. For children, this can feel superficial, and more importantly, researchers could be misled about the actual condition or true emotions that the child is feeling. Children have explained that such symptoms are expressions of something that hurts inside them. With certain types of help – especially those focused on symptom treatment, such as through rewards and punishment – those expressions can be suppressed. Children can also, more or less consciously, switch to a new type of expression. This does not automatically mean that the child's life or home situation has improved.[11]

Research that measures effect based on children's symptoms and actions, instead of children's direct explanations, may therefore provide "evidence" for methods that do not necessarily help children. Sometimes children even report that they struggle more as they lose trust in adults, keep suppressing feelings, or change expressions to something more dangerous. Which in return can make adults more worried and then start using more restrictions or force on the child, which then might create new traumas.[12] Basing laws, national standards or other measures on such research, might cause harm to children.

Ensuring children's right to express themselves, also when they are struggling, and to build help services on children's words instead of actions, is crucial in letting adults secure children's right to be heard and participate in decision making processes that deeply concern them.

Researchers can involve children in ways that make it safe for all kinds of children to voice their opinions. If adults genuinely want to use children's experiences and solutions to improve systems for children, they can practise showing warmth, through kind eyes, warm voices, and engaging body language. They can make it feel important to give advice, by explaining what the answers will be used for and

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[11] See for example: Changefactory, 2021b, p 10-47.

[12] See for example: Changefactory, 2021d, p 28-95.

whether they will be sent to policymakers to make a change for children coming after them.

Researchers could refrain from or limit their use of observations or reviewing children's documents and case notes. This is because children explain that findings become extremely dependent on whether the adults who wrote those documents have truly earned the child's trust to hear their complete truth and understood them accurately. Although observations and reviewing documents can be said to provide a different view on the situation, it must be done with the utmost care, as children themselves do not get to explain the whys and hows that only they can explain. Researchers can also, as little as possible, have children fill in questionnaires, and instead find creative ways of gathering qualitative data. They can use methods that make it more fun, engaging, and safe for children to participate actively and explain their thoughts.

When children begin explaining something, researchers can ask numerous in-depth questions to understand the whys and hows of why children believe something should be done or changed. This can help the children to understand that the researcher truly believes what they have to say is important. When children share something sad or hurtful, researchers can show emotions and convey their feelings on behalf of the child, such as saying, "I feel sad/angry hearing that; you should never have had to experience that."

Some might assume that simply placing an adult in front of a child to ask questions is enough. However, it can feel like an intimidating, boring, and meaningless situation to them. Many children inherently have little trust in adults, and it is the responsibility of the adults to establish that trust. Most children will say something to some extent, but if they feel unsafe or bored, they might not share anything significant to them.

Therefore, the advice provided by the children above becomes a significant factor in encouraging meaningful disclosures[13]. It is important to remember that children may respond differently to the same question, based on how secure they feel in the situation. The advice from children can be a deciding factor in determining whether the environment feels safe, engaging, and important enough.

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[13] Changefactory, 2020c, p 38, p44.

The best interest of each child

We have now explained some thoughts on how to ensure better protection for children as a group, and how their participation can become more meaningful. In children's individual lives, many of the same principles apply.

What is safe and helpful in these systems, according to each child?

What can be improved? How should professionals act, so that children can tell them what is important? Some answers are clear: The child must know enough about what is going to be decided and who might get to know what the child has shared. The child must be able to speak to an adult they trust and in a place that feels safe. The decision must be similar to what the child wants, and if not, adults must explain and have a good reason for it.

Many children have explained that if this is not ensured, it can lead to serious consequences in decision-making. These decisions may involve what type of help the child will receive in school, from special education services, mental health services or from child welfare. When children do not feel safe, they often find ways to protect themselves. As a result, adults rarely hear the complete picture or the most important information needed to understand each child before making decisions concerning them. If adults choose another approach different from what the child has said is useful or safe, the outcome becomes unpredictable in terms of its helpfulness. Sometimes, this can even worsen the child's life, or children might give up on voicing their opinions as they feel adults decide based on their own perception anyways.

Daly (2018) raises the challenge of not giving significant weight to and following children's opinions in decisions concerning them:

> (...) Article 12 should not focus on 'hearing' children, but instead should aim to facilitate children to exercise autonomy to the highest degree possible, through a children's autonomy principle. It is argued that such a principle should give children a right in legal decisions in which the best interest of the child is the primary consideration to choose – if they wish – how they are involved (process autonomy) and the outcome (outcome autonomy) unless it is likely that significant harm would arise from their involvement or preferences.
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> (...) 'Autonomy' is far more simple to understand than the right to be heard, and is in line with the principle of non-discrimination, which is that individuals should not be treated differently unless there is a good reason. Decision-makers would be

compelled where they are overriding children's preferences to at least explain why it is justifiable to treat the child differently to someone over the age of 18 years. (...)

Young people themselves have presented these main answers to students, practitioners and authorities. In some of these presentations and meetings young people have also explained how they have documentation from child welfare services and mental health services, where adults have documented decisions they made as being in the best interest of the child. The youth, on the other hand, did not feel those decisions as being in their best interest at all. These decisions might have even worsened their life situation. How does this align?

How can then children's perspectives and procedural rights be better aligned?

In dialogues with professionals and lawyers, we discovered similarities between children's answers and their procedural rights under the Convention on the Rights of the Child. Neither professionals nor children are well aware of these rights and do not know when they are violated. The UN Committee on the Rights of the Child has written important comments explaining how these rights should be used in practice. The necessity for children to express themselves safely, together with their procedural rights, is a treasure trove - that needs to be much better ensured.

The procedural rights involve the child's right to receive information, to speak freely, the right to and respect for privacy and that the assurance that these rights are ensured, before the best interests of the child are assessed. This goes for all actions and decisions concerning children. These rights are now explicitly reflected in the new Norwegian Child Welfare Act of 2021 (effective January 1, 2023) sections 1-3 and 1-4.[14]

Section 1-3. Best interests of the child

> The best interests of the child must be a fundamental consideration in connection with all actions and decisions that affect and concern children. Measures imposed by the Child Welfare Service must be in the best interests of the child. What is in the best interests of the child must be decided on the basis of a specific assessment of the individual case. The child's opinion is a key factor in the assessment of the child's best interests.

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[14] The Child Welfare Act (2021)

Section 1-4. The child's right to participation

> A child who is capable of forming their own opinions has the right to participate in all matters concerning the child pursuant to this Act. Children have the right to speak to the Child Welfare Service regardless of the parents' consent and without the parents being informed about the conversation in advance. The child must receive sufficient and suitable information and has the right to express their opinions freely. The child must be listened to, and due weight must be given to the child's opinions in line with the child's age and maturity. Children must be informed about what information provided by the child can be used for and who can access this information. The child has the right to express their opinion before it is decided that the information is to be shared, and due weight must be given to the child's views in line with their age and maturity. In meetings with the Child Welfare Service, a child may be given the opportunity to be accompanied by a person in whom the child has particular trust. This person of trust may be subject to a duty of confidentiality. The Ministry may issue regulations concerning the child's right to participation and on the duties and functions of the person of trust

Going forward, our hope is to witness further legislative efforts that contributes to ensuring these procedural rights for every child, as they resonate so well with children's own answers about what is safe and useful systems for children. However, are legislative changes alone enough? In many surveys Changefactory has carried out, children have explained that the view adults have of children goes hand in hand with how children are met and treated.[15]

Some closing questions

Here are some questions that students, professionals, researchers, policy-makers and other decision-makers in universities and the authorities can consider. These questions aim to initiate more discussions about how they can bring about change for children as both individuals and as a group.

– What would it take for cooperation between children and adults to become equal in such a way children describe, where adults become collaborators for finding the best possible solutions together with each child who sits on incredible knowledge about their own life?

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[15] Changefactory, 2020a, p 34-35

- Can we think of what makes services good for children as something that must be defined by how children themselves see it? Since these services are created for them, their opinion should matter a lot.

- How can adults become more conscious about not letting their experiences, emotions and opinions interfere with children's opportunities and rights to participate in their own lives?

- Would it be beneficial if more adults were trained to listen carefully to children, truly hearing what they are saying, without interpreting them through their own personal or professional perspectives?

- How scary or difficult is it to collaborate with children who are angry, or whom adults find difficult to understand, who are struggling or who challenge adults in other ways? How can we ensure such collaboration still takes place?

- Why is it often more comfortable or easier to go with our own or traditional solutions, rather than exploring how we can implement changes based on what children indicate is essential for improving their lives?

- Moving forward, it would be interesting if professionals, researchers and various decision-makers engaged in more conversations on what might be keeping adults from embracing children's participation?

- And what does it take for some adults to be courageous enough to want to establish a system where children are included in the decision-making processes? A system that is built on the responses from children on how it should be done.

- And would it then be necessary for adults to unlearn certain perceptions of what they believe ensures children's safety and protection?

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Empowering Voices: Children's participation -Transformative Paths in Child protection and research- Creative Approaches Worldwide

Exploring Participation, Recognition, and Intersectionality in Global Perspectives

Mimi Petersen [16]

Abstract

This paper is based on the findings of a co-edited volume published in May 2023.

INTERNATIONAL POLICY EXCHANGE SERIES in collaboration with the Center for International Policy Exchanges University of Maryland entitled *"Children and Young People's Participation in Child Protection: International Research and Practical Applications"*, published by Oxford University Press. The overarching

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question that drives the book is what conditions are conducive to children's and young people's participation occurs in international contexts. The volume analyzes how children and young people, professionals in public child protection systems, and other organizations involved in protecting children from violence all over the globe promote children and young people's participation in child protection practice and research. The book weaves together the work of over twenty contributors who work as practitioners or researchers in child protection. The main objective of this paper is to present the main takeaways from the book that are grounded in the book's nine empirical chapters. I will draw on the chapter findings to show how children's participation occurs at the institutional levels through child-centric practices by children and youth and professionals working in public child protection systems and other organizations; at the cultural level through child-centric values, and at the individual level through children's actions and interactions with their communities. At the individual level, children and young people have different experiences with participation in child protection depending on their social position, such as age, gender, ability, social class, sexuality, and ethnic, migrant, and national backgrounds.

Introduction

This Paper weaves together the findings of an edited book, *Children and Young People's Participation in Child Protection: International Research and Practical Applications*, published by Oxford University Press in 2023. The book's objective is to inspire children, children's rights activists, child protection students, scholars, practitioners, and public policymakers by showcasing a variety of concrete examples of participation that can be transformative for children and youth[17].

The book employs a comprehensive approach to examine children's and young people's participation in child protection. The empirical chapters draw on various research methodologies, including interviews, surveys, case studies, and participatory action research. By incorporating diverse voices and perspectives, the research provides a rich and nuanced understanding of the challenges, opportunities, and strategies associated with children's participation. The research uncovers a multitude of participatory practices and research initiatives that successfully promote children's and young people's participation in child protection. These practices range from child-led organizations and councils to participatory research projects, where

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[17] The term "children" refers to individuals between 0 and 18 years. "Young people" and "youth" refer to older adolescents and young adults into their mid-twenties.

children actively contribute to shaping policies, services, and interventions. The advantages and benefits of such initiatives include empowering children, enhancing their well-being, fostering a sense of ownership and agency, and improving the relevance and effectiveness of child protection interventions.

Children's participation in the realm of child protection presents a complex landscape marked by inherent tensions and contradictions. This dichotomy is vividly evident in the international compilation presented in this volume, encompassing diverse perspectives from nine different countries. Central to these complexities is the perceived conflict between a child's right to express their views and the adult obligation to shield them from harm.

This is an international book, with contributions from very different contexts. The social and economic contexts are very different, as are the policy contexts and even the terminology. And yet, by bringing these contributions together in one volume, we can see that there is a great deal we have in common in terms of what we are trying to achieve, what is being achieved and how, and what obstacles lie in the way.

Examining the state of practice, the book illuminates' pockets of progress, particularly in enabling children's collective engagement in policy formulation and service shaping. Initiatives described, spanning from Norway's professional training by young advocates to Nicaragua's child-led campaigns against violence, are commendable. However, the pressing question remains: how can these initiatives be universalized to benefit the vast number of children under public care or in need of protection worldwide?

Regarding children's involvement in decisions concerning their personal lives, genuine progress appears elusive. Despite innovative programs, the struggle for authentic participation persists. Testimonies reveal that many children feel marginalized or only minimally engaged in decisions made by child welfare authorities. Even though creative approaches, reminiscent of past endeavors, are visible, the core challenges endure. Concepts like trust, safety, and clarity are identified as essential prerequisites for meaningful participation, echoing familiar sentiments from earlier initiatives.

In essence, this volume underscores the ongoing complexities within children's participation in the sphere of child protection. While strides have been made in certain areas, the persistent challenges demand sustained efforts and innovative strategies to bridge the gap between children's rights and the imperative to safeguard their well-being.

The work of authors included here or cited here, such as Harry Shier or Laura Lundy, has provided tools for thinking more clearly about what participation is and how to promote it, as well as tools for practice. Engagement with social theorists such as Axel Honneth has also enabled a firmer theoretical foundation than a simple reliance on the UN Convention, with all its limitations.

In terms of what the book can tell us about the state of practice, the opportunities for children's *collective* involvement in shaping policies and services appear to be flourishing, here and there. The initiatives described in the first part of the book are all exciting and encouraging in their different ways, whether that be young people helping to train professionals in Norway (Chapter 2), contributing to the development of local services in Denmark (Chapter 3), engaging in dialogue with policymakers at national level in Israel (Chapter 5), or as activists taking the initiative themselves in tackling violence against children in Nicaragua (Chapter 6). The question remains how pervasive these are and how they can be extended and built on to benefit the many thousands of children in public care, or in need of protection, in our different countries.

Creating opportunities for Agency and Power

Children's participation, conceptualized by Hart (1992), Shier (2001), Thomas (2002), Archard and Skivenes (2009), and Lansdown (2010), emphasis on creating opportunities for children's agency and power in decision-making. Children and young people receive information about what is going on so they can reflect and develop their views. They are supported in developing a sense of agency. Their voice is heard, and their opinion is taken seriously in decision-making. They work with adults as partners to initiate decisions and develop actions that lead to social change based on their views and interests. Children's participation in decision-making processes related to their well-being and protection is not only a fundamental human right but also a catalyst for positive change. This paper delves into the evolving landscape of children's participation in child protection, focusing on a variety of change projects initiated by children and youth. Additionally, it explores recent innovative approaches employed by child protection practitioners, highlighting their contributions to enhancing the efficacy and inclusivity of child protection efforts.

Children's active involvement in child protection initiatives empowers them to become agents of change. By examining case studies from 9 different countries, this bog illuminates the diverse ways in which children and youth are contributing to the development and implementation of child protection policies and programs.

Through active engagement, young individuals are not only safeguarding their rights but also inspiring others to act, fostering a sense of community and solidarity.

Method

The empirical evidence for the book consists of recent research on children's participation in child protection by over twenty scholars and practitioners in the field of child protection that spans four continents: Asia, Europe, North America, and South America. We employed purposeful sampling and convenience sampling when choosing the case studies included here. We took two steps when selecting the cases. First, we chose case studies from presentations given at the 2018 European Scientific Association on Residential and Family Care for Children and Adolescents (EUSARF) meetings. We used these selection criteria: we chose presentations that focused on children and young people's voices and actions to change public child protection systems. Given our theoretical interest in intersectionality, we aimed for diversity in the social positions of children and young people because we wanted to highlight possible differences in experiences. We also chose presentations about current participatory practices initiated by practitioners in public child protection agencies and non-governmental organizations. We primarily selected studies of child protection systems that had not been widely discussed in scholarly journals in English. We then contacted the authors of the presentations that fit these criteria and invited them to participate in this book project. Most of the authors we asked were enthusiastic. (Four did not respond to our invitation or declined it.)

Second, we invited scholars with a long track record of studying children's participation in child protection to contribute a foreword that synthesized their empirical and theoretical contributions in the field. The contributions of two of them—Marit Skivenes and Nigel Patrick Thomas— can be found in this volume. The third, Harry Shier, graciously offered to extend his foreword into an entire chapter.

Discussion of Outcomes and Lessons

The case studies from Brazil, Denmark, Israel, Norway, Nicaragua, Netherland, United state, Germany, and Spain demonstrate the empowering roles children's participation can play. They show that children and the professionals can co-produce

democracy and child welfare by promoting children's participation. The presentation shows that children who are "experts of experience" in the child welfare system developed a new social work practice approach in Denmark. Care leavers have shaped child protection law and policy in Israel. As Shier's case study of children's collective action to protect children from violence in Nicaragua has shown, children as civil society actors, equipped with support from a non-governmental organization, can effectively mobilize for social change. The case study of Brazil illustrated that non-governmental organizations may play a crucial role in building children's capacities to express their experiences, develop their voices and participate in decision-making. And the case study of Norway shows co-production whit children, which goes beyond participation, by allowing children and child welfare workers to engage in meaningful interactions that lead to mutual learning.

According to Article 12 of the United Nations Convention on the Rights of the Child (CRC), "States parties shall ensure that a child able to formulate his or her own views is free to express those views in all matters relating to the child; the child's views shall be given appropriate weight in accordance with its age and maturity" (United Nations, 1989, n. p.). As Article 12 establishes, children are entitled to participate in decisions that affect their lives.

Social work research and development has a direct impact on the lives of children and young people. Therefore, they must be involved in research and development processes in this field. Working with children and young people in various research and development social work processes requires professional knowledge in several areas. The considerations in each area are the basis for the participatory methods we must develop. In the following, I will discuss some of the lessons we learned about children's and young people's participation in research and development processes based on our work with the book.

I will address these questions: what were the outcomes of involving children and youth as co-researchers in child protection (or welfare) practice, research, and development?

How did the children's and young people's participation contribute to empowering them and improving their well-being?

Recognition of Children and Young People as Competent Actors

Recognition is a precondition for positive interactions between young people and adults. Honneth's (2003) concept of social recognition refers to the need for human beings to contribute to and be recognized by social communities. Recognition is the

prerequisite for people experiencing themselves as socially successful, which is the overarching goal of social life. It is salient for people's identity and development to be listened to and given the opportunity to influence their everyday lives (Honneth 2003, 2006; Kornerup & Petersen, 2014). Honneth's concept of recognition can be combined with the idea of participation and Antonovsky's (2000) understanding of the experience of coherence in life when it comes to the willingness of young people to be agents in their lives.

Antonovsky (2000) describes recognition as a sense of coherence. Individuals need to experience comprehensibility, manageability, and meaningfulness to achieve coherence in life. To achieve a sense of coherence, they need to participate as active agents in their lives. According to Boyden & Ennew (in Powell & Smith, 2009, p. 124), "participation is defined as taking part and the 'sense of knowing that one's actions are taken note of and may be acted upon.'" Boyden and Ennew conceptualize participation as aiding individuals in collaborating and experiencing that their actions matter because others consider them. This is central to a relationship characterized as a mutually respectful partnership (Boyden & Ennew in Powell & Smith, 2009). Individuals' participation in the decisions that affect their lives and impact their society is the foundation of a democratic society.

Increased opportunities for participation will reduce the risk of future divisions between young people and the community in which they live and contribute to them developing resilience. A lack of participatory opportunities can lead to children's negative self-understanding and lack of motivation and the risk that young people carry a negative social heritage into adulthood (Jenkins, 2006; Yuval-Davis, 2010). Young people must be actively involved in the decision-making processes around them to experience meaning and coherence, according to Antonovsky. At the same time, they must understand what is at play and how and why marginalization processes affect them to cope with and transcend these processes. In this way, young people's resilience is linked to the concept of recognition and participation. Children's and young people's aim, knowledge, and understanding of their society ensure that they experience coherence in the decisions they make.

Social work practice must ensure that they achieve participation and understand the decision-making process and motivation for social change. Social work professionals can mobilize their abilities to transcend marginalization processes and create change by encouraging children's experiences of comprehensibility, manageability, and meaningfulness. Comprehensibility means that individuals are reality-oriented and understand their situations. Manageability implies that individuals can manage to act and try to do something. Meaningfulness is about finding it meaningful to try and solve problems and understand the crisis you are experiencing and see it in

context. These three characteristics help individuals develop a sense of coherence, which allows them to manage difficult life circumstances (Antonovsky, 2000). The development of educational and social interventions, as in some projects describe in the book, involves, and motivates young people to undertake significant changes. The children's and adolescents' participation in those projects showed that one of the prerequisites for success is the consistency of people and trusting relationships. It also showed that the success of the projects could be measured in many ways.

The children in those Projects exhibited a great deal of commitment and interest in participation. As they understood it, they had been "chosen" to help some researchers, students, professionals, etc. to solve some problems and help the professionals become better at building relationships and communicating with children. The following quotes from children in one of the projects in Denmark, illustrate how they thought about their participation in the project. One participant told us: *"We think it was very odd in a way... something new... not really, anything we tried before, but it was a lot of fun, I think. So strange, in a good way."'* Another participant said*, "It is different from what we tried when we talked to adults in the municipality and people like that."* A 12-year-old boy who participated in a project said*, "Just call me anytime you need help."*

The child-directed participation in the social work approach that focused on problems and solutions was a profound inspiration for the professionals and researchers in the field. The projects created a better understanding and dialogue between young people and professionals (teachers, social workers, community workers, etc.). Young people gained great motivation for change from the projects. The following quotes from participants in project Bella in Denmark, illuminate the importance that recognition and successful experiences can have when we involve children and adolescents in research and development processes. The young participants said, "*We have become brave. We stood up in front of many people and did something we never knew we could do. We had a great experience. We traveled to another country to get the chance to talk about our project. […] It was cool to come as young people and teach the adults something. We were very proud. […] We were happy to be heard.*" One of the social workers stated: "*This project has had a huge impact [...]. It has been extremely important that you [the researchers] have not seen the young people as cases but as equal co-researchers.*" It requires a different approach and a profound understanding of empowerment to share and, in some cases, completely relinquish power to young people.

This lesson brings me to my next point:

Empowerment

Empowerment should not be understood as someone with power going out into the world and empowering others (the powerless). The projects described in the book demonstrated the need for a different understanding and approach to empowerment in educational and social work settings with children and adolescents starting, in our cases, with a child-directed approach. The starting point must be that we, the child welfare practitioners, cannot empower anyone, but we can help create empowerment processes.

According to Kabeer, (2005) and Shier (2010), the following criteria must be present for individuals to experience empowerment: (1) capability: individuals must be able to do things, possess knowledge, competence, skills, and information, to think and act as an individual and in cooperation with others and quickly learn from others and their own experiences. (2) Conditions and opportunities: individuals must be in an environment that provokes and recognizes their abilities, competencies, and skills, such as in an organization or a group together with other children and adolescents. (3) Attitude: individuals must recognize their skills and knowledge and feel that they can act and that their actions have influence. They must know their rights, be able to defend them, prepared to engage with others in groups to achieve goals they have set. They must possess high self-esteem and be prepared to face challenges. Young people and professionals must know this approach in decision-making processes and activities. Shier (2019) uses the concept of "protagonismo infantil," which means that the child or young person should be the main actor in their life. Through the participatory processes that the child participates in together with adults, the child can achieve respect, equal value, and development. Learning processes are required in which children and adults gain awareness of their rights, increase their self-esteem and consciousness as competent members of a society to achieve their life goals, express their opinions, and organize their lives.

The question remains whether adults (researchers, practitioners, etc.) are ready to consider sharing their decision-making power with children and young people. This approach requires a change in professionals' mindset: from a perspective where the professional considers children and young people as competent actors and the professionals as facilitators. Children's participation means more than interviewing children. Involving children in vulnerable positions in research and development requires a paradigm shift on many levels: first, professionally, concerning professional competencies. Second, organizationally, we must reimagine children's participation and the participation of practitioners. Third, at the political level, children's influence must be clarified and strengthened. Children and adolescents have different opportunities and limitations in terms of participation. In this regard,

the lessons I drew concern the need for practitioners and policymakers to transcend the dichotomy of children as either vulnerable or resourceful, or resilient. The literature points to a recurring discussion about professionals perceiving children and adolescents as vulnerable (exposed to social pressures and disadvantages) or resourceful. Children should be seen as competent or as individuals who are entitled to protection (Brembeck et al., 2004). The CRC contains the same duality by highlighting children's right to protection (vulnerability) and being heard (resourcefulness). However, this dichotomy is oversimplified because children can be both vulnerable and resourceful: symptoms of stress can coexist with coping strategies (Raghaillgah & Gilligan, 2010). Many children who live through challenging experiences can develop in a very positive direction. Research has shown that children can get through traumatic life experiences and come out more robust on the other side and better cope with challenges (Garbarino et al., 1992; Jadidoleslami 1998, 1999; Petersen, 2011; Raundalen & Dyregrov 1993). Children can use their life experiences to create positive psychosocial development through building a kind of "resistant capital," as Yosso (2006) calls it. Many children and adolescents in the projects described in the book have experienced harsh living conditions and many strains in their lives. Despite (or because of) them, they were enormously competent at engaging with the projects, making it their own, producing results and initiating change in their community.

Another lesson is the need to approach children's participation in social work research and development from intersectionality.

Intersectionality

How can we understand the intersections that arise in this work? How many social categories, such as gender, ethnicity, religion, culture, age, class, etc., intersect? As practitioners and researchers, we must address how we should consider multiple social inequalities and identities in children's participation. We must consider the intersections between overlapping forms of social distinction, such as gender, race, ethnicity, age, sexuality, national origin, social class, and disability. As Crenshaw (1991) argued in her famous essay on intersectionality, we need "to account for multiple grounds of identity when considering how the social world is constructed" (p. 1245). The advantages or disadvantages that characterize particular social characteristics may be compounded as they intersect. This point is important to consider for the participation of children and young people. The term intersectionality comes from the English word intersection, which refers to a quantity through cutting or crossing. U. S. English uses the word for road junctions.

Different dimensions or categories meet each other at the crossroads, creating intersectionality (Christensen & Jensen, 2011). The concept of intersectionality is used to describe and analyze the interplay between different power inequalities. The idea is that researchers (and practitioners) keep their eyes on various forms of oppression and look at how they play out together and help create one another. Scholars who apply intersectionality seek an explanation of how and why power and inequality are woven into perceptions of class, ethnicity, nationality, gender, generation, etc., and create boundaries between them and us (de los Reyes & Mulinari, 2005). Social work professionals must identify and address the subjective understanding and experiences of the children and young people they work with when they decide about their participation. These experiences can vary widely depending on children's age, gender, socio-economic and migrant background, housing situation, ability, the conditions in which they grew up, etc. The crossroads of various social categories can be crucial to children's experiences, understanding themselves and the world and its opportunities. Researchers and practitioners must take an intersectionality perspective because it helps focus their attention on several factors that may influence a specific child's or young person's opportunities and limitations with participation. This approach would be more holistic and would result in more ways of incorporating children and young people in social work research and development relevant to their lives.

Conclusion

Children and youth are not just beneficiaries of child protection; they are powerful agents of change. By acknowledging their capabilities, providing enabling environments, and utilizing creative methodologies, society can harness their potential to transform child protection initiatives. The outcomes, as demonstrated in this study, ripple across individual lives, social work education, policy arenas, and collective societal actions, creating a more inclusive, responsive, and effective child protection landscape. Empowering young voices is not just a goal; it is a necessity for building a safer and more equitable future for all.

Participatory research, practice tools, and programs utilized by professionals and scholars facilitate collaboration between children and adults, bridging the gap between research and practice. By incorporating children's perspectives and experiences, these approaches enhance the relevance and effectiveness of child protection interventions. They also promote a shift in power dynamics, enabling children to have a genuine voice and influence in shaping child protection system.

Child protection encompasses laws, policies, and practices aimed at safeguarding children from violence, maltreatment, and harm, primarily within the family.

The research highlights the transformative potential of participatory child protection practices and their alignment with laws, policies, and broader child protection concepts. Participatory practices initiated by children and young people themselves, such as child-led organizations and councils, empower children, enhance their agency, and contribute to the development of child-centric policies and interventions. These practices challenge traditional power dynamics between children and adults, enabling children to actively participate in decisions that affect their lives.

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Implementation of the UN Convention of the Rights of the Child at National, Regional, and Local Level

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Introduction

Ever since the Convention on the Rights of the Child (CRC) was ratified by the Swedish Government in 1990, several measures have been taken for its implementation in policies, law and practice. The national strategy for *Strengthening of the Rights of the Child* (Prop. 2009/2010:232) addresses the parliament, government, state authorities, county councils and municipalities. It states that the judiciary has an important role in ensuring the rights of the child based on current legislation. It consists of nine goals, including ensuring that the best interests of the child are considered in all matters concerning children; protecting children; promoting their participation and influence; ensuring knowledge of children's rights among parents and public actors; promoting collaboration among public actors; understanding children's living conditions, monitoring and evaluating child rights work.

Step by step main principles of the CRC have been transformed into a number of Swedish laws for example the School Act, the Social Services Act, the Parental Code, the Health and Medical Care Act. In 2020 the CRC finally entered into force as Swedish Law (Prop. 2017/18:186).

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The purpose of this paper is to describe and discuss implementation of the CRC as Swedish law at national, regional, and local level, predominately applied by the Swedish Association of Local Authorities and Regions (SALAR). SALAR is an employer's and interest organization, advocating for local self-governance. Its members consist of all municipalities and regions in Sweden. SALAR disseminates information and best practice regarding implementation of the CRC. SALAR offers training, methods and support to civil servants at local and regional levels, predominantly on strategic levels.

This paper takes its starting point in issues concerning the CRC as Swedish Law. It presents how SALAR, in cooperation with different actors, is working with creating sustainable structures and structured working methods.

It ends with a discussion on experiences and challenges on implementation of the CRC as Swedish law in courts, policies, and practice.

Swedish Law and the CRC

An important aspect of the evaluation of the national strategy concerns practical implementation in various fields. The national Child Rights Investigation (SOU 2016:19) reported a number of shortcomings when it came to the principles of the best interest of the child and children's right to participation and influence. This report provided an important foundation for corporation of the CRC into Swedish law.

The courts were, as a consequence, assigned an important task in interpreting and applying the law in different contexts and cases. The development of legal practice is crucial for the implementation and future use of the CRC in decisions and judgements, which, in turn, affects how public actors work with the CRC in investigations and in practice. Without this legal practice, it is likely that the CRC not be fully taken seriously. When the CRC was proposed as Swedish law, the Council of Legislation (2017) assumed that following other Swedish legislation would suffice, since important articles of the CRC had already been transformed into many significant laws. However, through numerous appellate court judgments, legal practice has clarified that the CRC (article 1- 42) is now part of Swedish law (Högsta Domstolen/the Supreme Court 2020, 2021, Justitieombudsmannen/the Judicial Ombudsman, 2019, 2020, 2022, Migrationsöverdomstolen/ The Migration Court of Appeal 2020).

Article 2, 3, 6 and 12 constitutes the four basic principles of the CRC. According to Swedish legal practice, article 3.1 applies directly, which means that the best interests of the child must be assessed in all matters concerning children. Other articles must be seen in the light of this principle, which means that it must be shown in each specific issue that the relevant articles are ensured as far as possible. However, the other basic principles are also particularly important to consider. Article 12, which deals with the child having the right to give their views directly or through a representative, and have them taken into account in the decision, must always be complied.

It has been established through legal practice that an assessment of the child's best interests must include sufficient and relevant decision-making material for decision-makers to determine what is in the best interest of the child. The exact definition of "sufficient" has not been fully clarified. However, it has been demonstrated that article 3.1 applies to all decisions directly or indirectly affecting children, and the term "measures concerning children" should be given a broad interpretation. The effects of a decision must be investigated and assessed, and the decision-making process must include an evaluation of the positive and negative consequences the decision may have for the child or children involved (Kammarrätten/ the Court of Appeal in Stockholm, 2022)

Case law has shown that a legality review is possible only if political decisions are based on a child impact assessment. A legality review may entail administrative courts overturning the political decision if there is not a sufficient assessment of the best interests of the child (Kommunallagen/ the Municipality Law 2017:725, 13 chapter 8 §). As a result, the municipality/region must redo the investigation and make a new decision.

The new law has led to intensified efforts for implementation at all societal levels, and thereby created significant needs for training on understanding, interpretation and application of the CRC in practice.

Strategies and methods for implementation

SALAR is working with various strategies for implementation on different arenas, in cooperation with national level actors such as: The Children's Ombudsman, The Family Law and Parental Support Authority, The Swedish Agency for Youth and Civil Society, National Board for Health and Welfare, The Health and Social Care Inspectorate, The Swedish National Board of Housing, Building and Planning,

governmental departments and representatives for the civil society as UNICEF, BRIS and Stiftelsen Allmänna Barnhuset.

SALAR gives support to municipalities and county administrations through training, conferences, counseling, support material, and networking. Basic training, with different lengths (from half a day to four days), is offered for civil servants, for elected representatives, and child rights strategists. Training could also be arranged by SALAR on assignment. It can be basic training but also in-depth training according to agreement with various actors.

In addition, SALAR offers continuous digital seminars in various subject areas: Children's rights perspective within preschools/schools, social services, health care and dental care, community planning, cultural activities, on children and young people's participation, on overall structures and guidelines on implementation of child impact assessments.

The trainings apply different pedagogical methods depending on the length of the training: lectures on theory, workshops, seminars, homework, webinars and counselling. The starting point is found in some key concepts: collaborative learning, learning examples, networking and team work.

Support and training material are freely accessible for all participants - on child impact assessments, training programs, action plans and guidelines from SALAR (2023) the Government and the Children's Ombudsman (2023).

Collaborative learning

Collaborative learning is an accepted, well proven, and important success factor for pedagogical development (Laal & Ghodi Sayed 2012) used by SALAR mainly in training for child rights strategists and in webinars on different subject areas. Participants listen to and learn from each other through interaction in lectures and workshops. They exchange experiences and knowledge about their organizations and about how to cooperate cross-professional in the best interest of the child.

The training for child rights strategists takes place in meetings spread during half a year. It gives space and opportunities for homework, teamwork in small groups and finally presentation of action plans and child impact assessments for all fellow participants. After the training ends SALAR provides support through free counselling in digital group meetings, once a month. Recurrent meetings give opportunities for continuous collaborative learning.

Webinars in various subject areas are interspersed with knowledge of the CRC, presentation of SALAR´s and other authorities' support material, as well as learning examples from practice presented by child rights strategists. The events usually end with all lecturers discussing the day and highlighting what is working in practice and what needs to be further developed.

Learning examples

SALAR collects, publish, and spread experiences from practice on e.g., child impact analysis and implementation of a child rights perspective in social services.

One example is an assessment template with guidelines on how to include a child rights perspective in assessments on custody, accommodation and children's contact with caregivers after divorce. The template is developed in cooperation between SALAR and Östermalm district administration in Stockholm, and is now spread nationally as a learning example.

Another example is SALAR`s cooperation with a group of experts within child welfare on how to implement a child rights perspective in child welfare assessments.

Networking

SALAR is responsible for two different networks, for municipalities and regions respectively. They meet twice a year during two days for exchange of experiences and input within various areas. Cooperation with the county administrative boards, working on assignment by the Government, plays a particularly important role for continued dissemination and anchoring at regional level. Another network for collaborative learning, initiated by SALAR, includes child rights experts from authorities, the civil society and private consultants.

Training for child rights strategists – a description

 So far about 2500 child rights strategists have been trained. They represent various actors and activities, such as preschools, schools, social services, municipal management offices, community planning, environmental administrations, but also different authorities and civil society. Participants who complete the four-day training have been tasked by their employers in order to be able to support others trough further training. The overall aim of the training is that the participants will

have general knowledge about the CRC and its implementation and application in practice.

Day One

Goal: Gain knowledge about the content of the CRC and its view upon the child, and how the CRC can be used as an educational tool to strengthen children's rights in practice. The purpose of the homework is to identify how the CRC is already implemented in their own practice. It is a preparation for the action plan that the participants are given as homework to present during day four.

Content

- Background and position of the CRC as Swedish Law. What will be the difference?

- Articles of the CRC. Exercise.

- The basic principles of the CRC, children's views and how the CRC should be applied in practice.

- The CRC in relation to Swedish legislation.

- The concepts of a child, view upon the child, child perspective, child rights perspective and the child's perspective.

- The principle of the best interests of the child.

- The implementation of articles in the CRC and the *Strategy for Strengthening the Rights of the Child*. How should the CRC be implemented in practice?

- Information about the homework and the participants report during day 2.

Homework: How is the CRC already implemented in your municipality and in practice?

Day two

Goal: Gain in-depth knowledge of what it means to work with a child rights perspective in participants´ own practice and to gain basic knowledge of how to formulate an action plan. Furthermore, the goal is to gain knowledge of the meaning of children's participation.

Content

- The CRC and Swedish law

- Theory and workshops on formulation of action plans based in the Strategy for Strengthening the Rights of the Child.

- Children's rights to participation in theory and practice.

Homework: Formulation of an action plan for implementation in the participants' own practice.

Day three

Goal: Gain knowledge of the meaning of article 3 and planning and implementation of child impact assessments.

Content

- Implementation of a child impact analysis/examination of the best interests of the child in theory and practice.

- Application and interpretation of the CRC.

- Preparation for homework to be reported day four.

Homework: Conduct a child impact assessment.

Day four

Goal: Strengthen motivation and give additional knowledge for implementation in practice.

Content

- Guest lecture

- Workshops on homework with action plans and child impact assessments

- Deepened knowledge in accordance with participants' wishes.

- Theory and discussions on how to spread basic education to colleagues.

- Workshop on how to continue implementation in participants' own practice.

Child impact assessments

Training on application of a child impact assessment is an important part of the training. There is no ready-made conclusion that can be used to determine what is always in the best interest of the child. It is a matter of making an assessment in each individual case, based on the child or children affected. However, decision-makers need to have sufficient information to be able to make judgements and decisions. Information and facts relevant to the specific case need to be collected, verified and analyzed. The child's opinions, opinions of people who are close to the child/children or have daily contact with the child, as well as contributions from civil society, experts, relevant authorities, academic research and documented experience, is information that may be important to consider. A clear basis ensures a transparent approach and a legally secure procedure. SALAR (2023) has formulated guidelines as follows.

- The justification of the decision must show how the best interests of the child has been taken into account and based on which factors the assessment was made. It must also be stated how the best interests of the child is weighed against/balanced with other interests. Case law (Migrationsöverdomstolen/ The Migration Court of Appeal 2020, Högsta Dom-stolen/the Supreme Court 2020, 2021) show that when the chosen solution does not comply with the best interests of the child, the reasons for this must also be clarified to show that the principle has been assessed and considered despite the Result.

- The reasoning must demonstrate in a credible way why the best interests of the child was not more important than other considerations. If the decision does not agree with the child's views, the reason for this should also be clearly stated.

- The scope of the assessment of the child's best interests depends on how much the action or decision affects the child/children and what the issue is about. In some situations, the question is obvious, while in other situations, such as larger investigations, it may be necessary to first spend time defining the question in order to then delimit the scope of the assessment of the child's best interests.

- The scope of the assessment is mainly determined by what constitutes a sufficiently relevant basis for decision-making. From a legal security perspective, it is important that it is clear what basis the assessment is based on and what considerations have led to a specific decision. For legal security, it is important that the decision is based on a reliable investigation, which is

given the scope required for it to result in a legally sustainable conclusion. There is no definite answer on how extensive an assessment of the child's best interests should be. Instead, it is each individual case/measure/decision that determines what is sufficient information for an assessment of the child's best interests to be possible.

An in-depth assessment consists of four different stages:

1. A preliminary position is taken where the question and the scope of the matter is defined.

2. Relevant information and facts are collected to obtain a basis for the assessment of the child's best interests.

3. An analysis and an assessment are carried out based on the obtained information.

4. Suggestions are given on how the child's best interests can be achieved and catered for in the decision. (SALAR 2023)

Children's participation

Case law has made clear the close connection between article 12 to article 3.1 (SOU 2020:63, Kammarrätten in Stockholm/ the Court of Appeal 2022).

Groups of children have also the right to give their opinions on issues that affect them directly or indirectly. However, according to Article 12.2, it is sufficient to listen to children through representatives or appropriate bodies. Representatives can e.g., be guardians, school staff, social workers or other adults who know the child. Suitable bodies can be student councils, youth councils, interest groups or user organizations (SALAR 2023, UNICEF 2021).

One of the most central issues is which children are affected and in which way.

Which children are affected?

Every child, groups of children or children in general have the right to their best interest being assessed and considered. It is important to identify the target group early in the process. SALAR (2023) provides the following guidelines;

Does the question concern an individual child? This may apply, for example, to questions in social services, preschool, school or in health and healthcare, where the

child may be affected directly or indirectly. The child can also be affected as a relative or a sibling.

Does the question concern a group or groups of children? This may apply, for example a certain group of children in a preschool, for example children born one certain year, children who belong to a certain care center, children in a certain housing area, children practicing a certain sport, children with a certain disease or socioeconomically vulnerable children.

Does the question concern children in general? This may apply to for example children living in a certain geographical area or within a municipality or region. The question can, for example, affect children in the entire municipality, in the county, in the region, in the country or within an administration or department. Children are not a homogenous group and the children affected should reflect the diversity of the group of the population in question, for example regarding gender, age, ethnicity, disability, vulnerable children etc. It is important to identify groups of children who are at risk of not have their rights satisfied. Should such groups have been identified we may need to specifically assess the rights of these children in relation to the current issue. The child can also be affected indirectly, for example in social assistance or as a relative within social services and health care. The National Board of Health and Welfare has expressed in its handbook on social assistance that, if children are involved in conversations about a family's financial situation the purpose of the conversation has to be clear. The main rule in these contexts is that the child's perspective instead should be brought in through other adults who know the child. (Socialstyrelsen, 2021)

Methods for children's participation

There are many ways in which to involve children and young people. Depending on where we are in the process, as well as what we want from the children's participation, we can choose the dialogue method that fits best in the context.

SALAR (2023) provides the following guidelines;

Usual forms of participation include:

Surveys: There are many different survey tools to use and children can answer paper surveys, online surveys or shorter surveys via apps. There are different options for questions, for example fixed response options to choose from, rating responses on a scale, as well as open answers where children write freely without guidance.

Interviews/conversations: Many make use of individual interviews/conversations and group interviews/ focus group discussions with children. These interviews may contain closed (quantitative) questions or open (qualitative) questions, and are usually a mixture of both closed and open questions.

Child and youth council/student council: Many schools and associations have some form of children and youth councils/student councils that can be used as a referral body to get opinions on, for example, the indoor and outdoor environment. Some councils consist of children with personal experiences of the specific problem/issue, others of children and young people as relatives, while still others are attached to student councils in schools or patient associations.

Children's patrols and safety walks: These are based on children walking around and experiencing the physical environment, looking at signage and information and navigating the premises. Their views are noted and used as input.

Consultation meetings: There are different kinds of consultative meetings with children and young people. What they have in common is that there are one or more questions where children's and young people's opinions are sought.

Consultative meetings are often one-off meetings and are not based on children and young people having an interest in more continuous participation, which is the case for the Children and Youth Councils.

Consultation with associations: Some take the help of for example patient associations, user associations, sports associations or cultural associations. The associations can distribute questionnaires and meeting invitations where children can contribute with their own opinions directly.

Digital tools: Another way is to use digital tools to obtain children's opinions. For example, digital surveys or the digital the game Minecraft (which is an app in spatial planning) as well as VR presentations of future scenarios where children's spontaneous opinions can contribute to continued development.

Concluding discussion

In 2020 the CRC entered into force as Swedish Law. This paper exemplifies the development on how courts consider and formulate prejudicial judgments with reference to the new law. It describes different measures taken by SALAR to intensify implementation through training, networking and support to different target groups

at various levels. Consequences of the new law and the intensified training and networking can be discussed from different perspectives.

Firstly, it has been found that jurisprudence has developed and shown how the CRC should be used legally. The legislature has continued to amend laws to clarify the child rights perspective and more laws are likely to be amended. The current government has stated that further changes in legislation will take place to ensure that the rights of the child are met. Much work remains and a particular challenge, despite judgments in the higher courts, is to assert the CRC as Swedish law in relation to the legal space available in other laws.

The UN Committee on the rights of the child (OHCHR) welcomes incorporation of the CRC in Swedish Law but is at the same time criticizing the courts for inadequate knowledge about the CRC (OHCHR 2023).

Secondly, the CRC as law has meant that the rights of the child have received a different focus at different levels and in the public debate. Authorities at the national level give support and develop policies and guidelines in various subject areas. There is a continued high request for training and supervision. Experiences from the activities conducted through SALAR are overall very positive. Participants express their appreciation on possibilities for collaborative learning and practical exercises. Various municipalities and regions are currently working to establish structures to adhere to the CRC, such as action plans and guidelines for child impact analysis. Trainings and new structures are being implemented in municipalities and regions to guide how children are treated, how they can participate in practice, and how ongoing assessments of the child's best interests can be conducted, both orally and in written investigations when necessary. It can thus be stated that the CRC as a law with symbolic value has influenced legislation, policies and practice.

Implementation of the CRC is about long-term work that requires reasonable conditions. A study on conditions for considering the CRC in practice in the City of Malmö (Palmstierna & Sonander 2022), focuses on three different concepts in the analysis of obstacles and opportunities for implementation: *will, knowledge* and *conditions*, based in a model for norm analysis. Results show that it is not enough with theoretical knowledge. Respondents asked for more knowledge about interpretation and understanding of the CRC as law as well as training and counselling on application in practice. They asked for clear guidance, leadership and mandate from supervisors and managers. Issues on the CRC were not given enough priority and lack of time was a constant shortcoming. It could be assumed that similar conditions are the same in many municipalities with limited resources.

The ultimate aim is to create the best possible conditions for children. Legislation, policies, guidelines and supporting structures are necessary and important preconditions for implementation, but they do not guarantee that children's rights to provision, protection and participation are fully met (Verhellen 2000) Even though most children in Sweden grow up with good standard of living many children don't have their basic needs met. Children whose parents do not give them the care they do need, and children who are exposed to violence. The OHCHR comments on a wide range of shortcomings and gives several recommendations in various areas. It points out the following main areas for concern and recommendations, in respect of which urgent measures must be taken (2023, p.1):

- independent monitoring (para. 12);

- non-discrimination (para. 17);

- violence against children, including sexual exploitation and abuse (para. 26); education (para. 38);

- asylum-seeking, refugee and migrant children (para.43);

- administration of child justice (para. 45).

This monitoring is an important mechanism that guarantees long-term follow-up of countries' compliance with the CRC. But, as the Committee points out, each country must make its own evaluations and closely monitor developments through statistics, children's involvement and other available sources.

The CRC is of interest for many Swedish researchers from different disciplines as law (Mattsson 2019, Gustafsson 2019), public health science (Berggren 2019), psychology (Psouni 2019) pedagogics (Andersson 2019; Lenninger 2019), medicine (Köhler 2019), political science (von Bahr 2019), sociology of law (Olsson & Sonander 2019) and social work (Ponnert 2019). However, research and systematic evaluations are lacking in many areas. Some of those concerns the effects of implementation of the Swedish national strategy and implementation of the new law in practice through different educational measures. Multidisciplinary research and evaluations in a long-term perspective are needed if long-term effects for the best interests of the children are to be measurable.

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Voice of the Child:

Using Technology to Amplify Children's Participation in Decisions about their Social Care

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Abstract: Article 12 of the UN Convention on the Rights of the Child (UNCRC) specifies that the views of the child must be considered in decision-making processes in matters that concern the child across all sectors. This requirement implies obligations for local government activities regarding children in social care. A means to support enactment of and demonstrate compliance with the UNCRC is needed as the UNCRC was incorporated as law in Sweden in 2020. The smartphone application (OmMej) is here examined whether it is fulfilling this obligation by enabling children in social care to provide information about their situation, needs, and preferences. All done in an engaging, age-appropriate manner. This paper describes preliminary results from a project to evaluate the introduction and use of OmMej in municipalities in Sweden.

Keywords: social care informatics; ICT implementation in social care; child welfare technology, digitalisation

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Introduction

The rights of the child have over the years been associated with the views on children and childhood relevant at that moment. Specific rights dedicated to children exclusively is a relatively new phenomenon. It is not until late 1950s that such rights became more recognized in western Europe and Sweden mainly as a consistency of the developments in child psychology (Lindholm, 2014). Governments of today have recognized the importance of providing children with safe and healthy environments. The UN Convention on the Rights of the Child (UNCRC) is one of the core conventions in international human rights law. The four core principles of the Convention (UN, 1989) include the right not to be discriminated against, making the best interests of the child a primary consideration, the right to life, survival, and development, and being the focus of this paper: *the right to participate in decisions about their care and have their views respected*. This right implies that children should be involved in and able to influence issues such as legal decisions made about their lives.

Research has indicated that there have been problems with implementing children's right to participate in relevant decisions across various sectors in Sweden (Heimer, et al., 2017; Hultman & Cederborg, 2014; Lansdown, 1995). The Swedish government concluded that until then (2018) such rights have not been sufficiently enacted regarding decision-making processes concerning children in central and local authorities (Ministry of Health and Social Affairs, 2018). In response to these findings the UNCRC was enacted into law January 1st, 2020 (gov. bill 2018/19:186). This specifically impacts social service agencies which conduct investigations into problematic living conditions of children and determine courses of action such as removing a child from the home or other interventions. With the UNCRC incorporated as law, it is essential that social service agencies can both ensure that children's participation is supported in order to provide the best possible care for children and also to demonstrate compliance with the UNCRC's article specifying the child's right to participation. Previous studies (Hultman & Cederborg, 2014; Tobin, 2013) have shown that information about children and their life situation is often obtained from parents and professionals where the children's own stories are regularly not included and instead decisions are made based on the adults' perception of what is best. Related issues have been reported in studies of the impact of the UNCRC, which have found that in some cases social workers report that they do not have the ability to ascertain children's views and feelings (Littlechild, 2000), particularly in terms of children from ethnic minority groups and children with disabilities (Lansdown, 1995; Morris, 2003). One

potential solution to this dilemma might be to provide an ICT-based tool to facilitate children's participation in social care investigations by allowing children to give information directly, from their own perspective in an age-appropriate manner.

This paper provides an evaluation study where the impact of one such digital tool (named OmMej) is examined to determine whether it has made an impact on the professionals´ activities making children´s voices better heard in diverse municipalities in Sweden. Specifically, the study addresses two broad research questions:

RQ1: What impact does a digital tool have on social workers' professional activities regarding children's social care?

RQ2: Does the social worker believe that use of the tool will increase children's participation in decisions about their social care?

Theoretical starting points – the digitalization of the social services

Digital tools have been used in the social services for a rather long time if one includes the shift to computers and digital journal systems. This kind of change from analogue to digital forms is usually called *digitisation*, whereas the development of brand-new forms of techniques is what this article considers *digitalisation* (Gobble, 2018). A rather extensive part of the digitalisation of the social services is concerned with the use of robots in automatic handling, but it also includes the development of welfare technology for mostly the elderly or disabled (Scaramuzzino & Meeuwisse, A., 2019).

OmMej on the other hand, is as mentioned, a tool to assist the childcare investigators at the social services when collecting information from the child being under investigation. Representatives from the profession has in previous Swedish study expressed an anxiety and concern for this development and more experienced social workers have shown a more negative opinion of "new technologies" (Svensson & Larsson, 2018). There has also been reported a general concern and stress over robots taking over and that new technologies are difficult to comprehend and handle making the social workers feel insecure as well as insufficient (Curry et. Al., 2017). An up-to-date digital help desk or fast IT-Support are mentioned as means to reduce such stress and emotions (Scaramuzzino & Martinell, 2021).

There is also a fear that the indirect interaction, looking into a screen, would create a distance in relation to the clients, affecting the outcome of the meeting negatively, but a study by Svensson & Larsson (2018) show that children and adolescents are not as affected as the social workers believe they are by computer screens. They are in fact equally affected by taking notes on a note pad the way social workers often are doing during regular meetings. They argue that children of today already use a significant amount of time communicating socially via their mobiles and computers and are used of this way of communicating (ibid., 2018).

On a more aggravated level there are also some professionals worried about the underlying algorithms of the technological devices. Are they constructed in a fair, equal, predictable, and objective manner or biased to some extent, and in that case, how? Could some respondents benefit from the very construction of the digital code while others might be discriminated or met with arbitrarily? (Brauneis & Goodman, 2018)

Digital techniques, such as OmMej, also changes the working conditions of the social workers. Suddenly work is also possible to handle from home (Reamer, 2013). In our study some municipalities have struggled with how to deal with sensitive information coming to the responsible social worker from a child in need via OmMej during off office hours. Such more serious and acute information from children is required to be delt with immediately according to the Social Services Act (2001:453), erasing the boundaries between work and leisure. This could become an increasing work environment issue for the employing authority to deal with. On the other hand, digital tools like OmMej offers a platform easily and rapidly accessible for children used to social media communication. If something acute and seriously hazardous happens in the child´s life, they will be able to get attention from the social services very fast by such tools.

In studies conducted by Rönköö et al. (2017) as well as Scaramuzzino & Hjärpe (2021) it was shown that social workers belonging to the executive part of the authority was able to reach out to children that was difficult, or sometimes impossible to reach in other ways, like stay-at-home children (in Swedish hemma-sittare) and other with anxiety, concentration- and social phobia-related issues. Applications like OmMej seems to create an increase of participation and accessibility, at least to some extent. This result is supported by our study as well.

The possibilities as well as challenges with digitalisation lies to a large extent in a successful implementation of new technology and the ability to develop new or dramatically changed ways of methodology. One evident strength is the possibility to gather digital information in databases and evaluate social work treatment to able

development of more evidence-based methods in systematic ways. This also being a requirement for the new legislation proposal in Sweden to the Social Services Act where it is stated that social work in the future is required to be conducted in accordance with science and proven experience (SOU 2020:47 p.531 *ff*). Such writing is a strong reinforcement when compared to the current legislation. One of the major challenges considering successful digitalisation in the social services is to implement knowledge and increase the digital competence among staff members to ensure correct and efficient use of digital tools (Collins, 2019). Digital skills' development is a question of access to practice on the tools, time to master new technologies and to integrate these skills in their daily practice. If such change is made too rapidly there is a risk that social workers will not be able to follow the development, leaving them insecure, full of technostress and with negative attitudes towards new technologies, all which will obstruct a day-to-day use of new digital technologies. At the end of the day, this will also limit the children´s access and participation in decisions and actions that affects them (ibid.).

Another challenge discussed in previous studies (Ranerup & Svensson, 2022; 2023) is the need to translate complex and delicate parts of social work in a more simplifying and reduced manner is computer code where software developers and coders of digital systems receives an accurate guide or translation assistance from the social work profession in a collaborative way.

Implementation of digitalisation and the rights of the child

When discussing the organizational implementation in this article we needed to focus as well on the implementation processes of the UNCRC in the social services, as the implementation of digital devices to enhance the implementation. The two are intertwined and cannot really be separated from one another in terms of this process. We will start with discussing significant factors for an effective implementation of the UNCRC in general directly followed by challenges and recommendations concerning the device OmMej specifically.

One key factor affecting the implementation process of the UNCRC is (of course) *resources* (Byrne & Lundy, 2019; Collins, 2019). The need of funding, translated into terms of time for staff to actually work with implementation strategies, is crucial in any implementation process, and particularly when it comes to rights of vulnerable groups´ in society (Rafique, 2019). To master and administer digital devices to enhance children´s participation follow the same patterns as for implementation of the UNCRC in general. It is crucial to receive time for staff to

understand and manage the new technology (Carlsson & Svensson, 2021). A theme that returns within the next important factor of implementation.

Another important factor for a successful implementation of the UNCRC is *education and actual knowledge* of the UNCRC and children´s rights (Chen & Tang, 2020; Byrne & Lundy, 2019; Collins, 2019), as well as new digital technologies (Ranerup & Svensson, 2023). This does not only concern the organizational level but is equally important at the legislative and state financing levels and in handling of individual cases (Byrne & Lundy, 2015; Collins, 2019;). Systematic training and education in conversations with children in various ages are most important for the realization of children´s right to participate according to Chen & Tang (2020) but is rarely exercised in human services´ organizations. The same result is found for Swedish social work educations and the use of technology to improve such skills (Egonsdotter, 2022). One must not forget that the children themselves also need knowledge of their rights according to the UNCRC to address authorities and claim such rights (Byrne & Lundy, 2019). On the other hand, children need less education to master digital devices than the social workers, being used to such technology already (Council of Europe and European Commission, 2021).

The next important key for a successful implementation of the UNCRC is to *alter the discourses of children and their capacities*. There still exists notions of children as above all dependent, helpless, and passive objects, incapable of expressing their views or giving relevant information, even in authorities working with children and their living conditions. This act as obstacles for an effective implementation of the UNCRC and of tools providing children´s participation and possibilities in expressing their views on matters of concern (Chen & Tang, 2020; McCafferty, 2017). Heimer & Palme (2016) found in a Swedish study concerning participation and encouragement to express the child´s view a deficiency where parental rights often did block the rights of the child complicating the implementation process in Sweden of the UNCRC. Today children live a parallel life on social media and are comfortably communicating through digital devices which might give them better opportunity to express their views (Council of Europe and European Commission, 2021).

Good internal organizational collaboration as well as a mutual management and views on strategies and how to execute the implementation is the next thing said to be important success factors for the UNCRC. The lack of cooperation between and within public authorities is a hindering factor (Rafique, 2019; Chaney, 2017). There are few guidelines or routines on an organizational level for such collaboration in a systematic way. Instead, it is often based on private good relations in different organizations between public servants which tends to result in inconsequent

practices due to constant reorganizations and the frequent turnover of public personnel (Rafique, 2019; Byrne & Lundy, 2015).

The individuals working with the implementation process are also important factors for success. The presence of enthusiasts (cheerleaders) in the organization can and will often push the implementation in the right direction and increase its speed (Byrne & Lundy, 2015). The support of such a person with personal engagement and authority will increase the chances of the realization of the rights in the UNCRC (Byrne & Lundy, 2015; Lundy et al., 2012) as well as in digital implementation promoting children´s right to participate in social work. If such an enthusiast quits his or her employment the risks are extensive that such children rights´ based approach ceases in the organization (ibid.).

Finally, the last key success factor are *aspects of evaluation*, where systematic follow-ups and continuous assessments are essential, particularly for the credibility of the human service organization and its reputation. Several studies found that such monitoring contributes to a more positive development (Byrne & Lundy, 2019; Collins, 2019; Vaghri et al., 2019). For monitoring there is a need of proper and reliable statistics, as well as other sorts of digital information (Collins, 2019; Vaghri et al., 2019; Byrne & Lundy, 2015; Carvalho 2008). The absence of mapping children´s rights on different levels in society limits possibilities to find and alter faulty implementation efforts of the UNCRC (Carvalho, 2008).

The development of OmMej

The tool, OmMej, is a web-based system with an app-like front end for children to provide detailed information that can be used by social support staff to determine appropriate care plans. It is developed to support children in their right to participate in decisions about their care. The tool was designed in collaboration with children said to ensure that both the means of providing self-reported data by the children and that the information provided by the service are done in an age-appropriate manner. The application aims at involving children in decisions and give them active influence over help, support and targeted actions towards them. The service has a salutogenic basic structure and is based on internationally established research on risk and protective factors (Antonovsky, 2005; SoS, 2018). A number of short informative videos, for example about children's rights, are shown to all children using the OmMej app. In the app children create avatars representing themselves, their significant family members, and other important persons. They respond to questions regarding their life situations and can indicate which issues are important

to them and in which areas of life they would like assistance in. The social worker uses the responses to determine which areas to follow-up on when meeting with the child and to track changes over time, individually or over an area of responsibility.

Research Method

This paper reports the results of a one-year pilot study as the foundation for a planned broader evaluation study of OmMej. The pilot study was conducted between 2020 and 2021 in three municipalities in Sweden (A1, B2 and C3) of different size, geographical location, and demographic composition. These were selected based on that they were in the process of implementing OmMej in 2020, coinciding with the enactment of the incorporation of the UNCRC in Sweden.

Research Approach

Our design of the pilot study was influenced by Guba and Lincoln's (1989) "Fourth Generation Evaluation". The study attempted to understand the human, social, political, contextual, and value-oriented aspects from the perspective of multiple stakeholders (Guba & Lincoln, 1989; Lagsten & Andersson, 2013). More specifically, it seeks to uncover the motivations behind the adoption of a tool such as OmMej and the barriers or obstacles faced by social service agencies and social workers when deploying such a tool.

Different perspectives of the research group

To make different aspects of child participation in child investigation and care within the social services visible our research team have had an interdisciplinary composition. It consisted of competencies regarding social law and social work, child psychology and finally technological skills such as digitalisation and user friendliness of the social services. The mentioned disciplines are not typically seen as having a great deal of overlap. However, in this situation, the red thread of children's participation runs through the discourse of all the areas, and all researchers have a focused interest in this subject. With a research team like this we meant to cover many different, yet significant aspects of how this digital tool worked in real life and that will perhaps contribute to better social work investigations and interventions such as better overall compliance with the UNCRC.

Data collection

The pilot study was qualitative, using in-depth interviews with social workers as the main data collection method. In addition, municipal reports, decision documents, meeting notes, etc. relevant to the implementation of the UNCRC and adoption of OmMej were investigated. As the planned broader evaluation study will address sensitive issues regarding vulnerable children, an application for ethical approval was submitted to the Swedish Ethics Review Authority. Further consideration was ruled to be unnecessary for the pilot study, though, as it did not include collection of sensitive personal data.

Potential interview informants were identified and approached with the help of key officer representatives, i.e., managers and project leaders in charge of implementing OmMej. We aimed at including civil servants with different roles in different parts of social services, like social secretaries investigating children´s needs, family therapists, project leaders and managers. The informants got written and oral information about the study and gave their written consent to participate. If possible, the informants were interviewed twice, first at the very beginning of the implementation process and then again around six months later. In total, 28 interviews with informants were conducted, in A1 town interviews with nine persons, of which four were interviewed twice, so in total 13 interviews. In B2 five interviews were conducted the initial round and fourth in the second (one drop out due to sickness leave). In C3 town six interviews were conducted initially and only one the second due to extreme workload and rotation of staff.

The first round of interviews focused on the expectations before using OmMej, for example its potential for improving communication with children and concerns obstacles for its implementation or about the usefulness of the app in one´s daily work. Informants were also asked to provide their views about the way the tool was introduced to them and the training they received.

In the follow-up interviews, questions revolved around experiences of using the tool and initial reactions when introducing it to children. The interviews were semi-structured, with a script to ensure that the main issues were covered, but with open-ended questions and the flexibility to allow unexpected issues to come into the conversations. Each interview lasted approximately one hour and was done via telephone or zoom. All interviews were audio-taped with the consent of the participants and subsequently transcribed.

Interview transcripts were analysed using thematic content analysis (Bryman 2011). Throughout the coding process, relevant themes related to the successful deployment and use of the tool, as well as barriers that delayed and prevented it were identified.

Researchers from the different perspectives (psychology, law, technology, and social work practice) collaboratively performed the coding, analysis and interpretation of the results. Quotes were given pseudonyms to protect data confidentiality and the municipalities is named A1, B2 and C3.

Results

Introduction

The three municipalities that have been investigated had different approaches towards implementing the application., In A1 the first initiative to implement OmMej was" bottom-up". A couple of social secretaries, who attended an information meeting organized on the regional level, convinced their managers to consider introducing the app. Between the first contact with OmMej and the beginning of its implementation, a large re-organization took place in A1. Several managers were new on their positions when the first compulsory education day about OmMej took place.

In the second municipality, B2, the implementation was initiated from the top but was at the same time given space in an all-day municipality workshop for the social services where the child investigators themselves chose the OmMej application and asked if the device could be introduced to them. B2 had used another technical device earlier and found that one all too time-consuming to be effective and where eager to find something more easily manageable. When OmMej was considered being easier to handle by the staff the implementation was faster and supported by most organisational levels.

The third municipality, C3, the implementation was initiated by the management who had heard about the device and gave the task of implementation to specific developers that were very positive towards OmMej since having an educational meeting with the software developers. The use of OmMej was later spread to the neighbouring municipality because the two had mutual collaboration in child investigating reports and other activities.

A general overview of results

Results from the first round of interviews in municipality A1 (Spring/Autumn 2020) showed that the expectations regarding OmMej were mostly positive. This was not

just the case for the early enthusiasts – also their colleagues, after attending the education day, had high expectations regarding the app´s potential to increase children´s participation. The managers, including those who were new on their positions, were also positive towards the app as such. However, they did not prioritize to plan, organize, and finance an overall implementation strategy. For example, there was no dedicated process leader.

Results from the second round of interviews (Spring 2021) showed that the app had only been used in a few cases in A1. Several reasons for the slow adoption were mentioned, for example: the absence of a general implementation plan for the use of OmMej – who, when, how, as well as the overall difficulty to change daily routines and perhaps a resistance towards new technology? There was also a resistance and fear among staff to miss important information when letting a technical device" steering" the collection of information from the child children denied trying the app, or interrupted their attempts.

In B2 the first round of interviews the respondents expressed very positive remarks, especially after the education received by the OmMej company. The difference between A1 and B2 is believed to exist between how the implementation was carried out. In A1 it was a total bottom-up initiative while in B2 it was an initiative from the top (the head of administration), but it was also actively chosen among other possibilities by the child investigators themselves (bottom) during the earlier mentioned workshop. This made the social workers involved in the choice and responsible for it and of its usage. To have another digital tool to compare OmMej with was also mentioned as a reason to be positive of the merits of OmMej.

The results from the second round of interviews showed that OmMej had been used very differently within the organisation, sometimes frequently and sometimes not at all (in departments not actively working with children). One interesting result was that social workers involved in more practical social work, such as actual care and treatment had used the application intensively and had received lots of relevant information from children, particularly children in foster care or treatment centres, that they never had come across before. The child had not previously mentioned these relevant and sometimes severe events under the investigations of placement. The amount of information was sometimes an issue, presenting the social workers with too much information, some of it currently of less relevance.

In C3 the focus became on the first round of interviews because a follow up was not possible due to the workload of the municipality. The initiative came from the top of the organization but was strongly driven forward by the municipality´s developer of activities who led the process. This municipality was also positive towards the

device and stated that they had expectations that the children would have better opportunities to influence provided care plans when using the application. From the only follow-up interview we received it seems that OmMej was used to some extent and that the experience was that children was able to participate more actively that earlier through OmMej. The impact was considered impressive from an:" *OK, another tool that we have to do something with*, to a surprised: "*This is really helping me in interaction with children.*" (C3, 1 follow -up interview).

To be noted is that during this period the pandemic covid 19 struck the world, creating many organisational restrictions and difficulties, for example distance work making it more difficult to ask colleagues or internal support to guide and assist.

A sample of answers

One of our questions to all municipalities concerned the expected impact the tool might have on social workers' professional activities regarding children's social care. Undesirable impact such as "depersonalization", creating distance and hindering a trustful relationship to the child due to the use of a technical device was not at all prominent among our results. Rather, OmMej is said to and expected to enable a "deeper" communication. However, some informants expressed concerns about issues of integrity and confidentiality regarding the child´s answers to OmMej:

> " I don´t know what the parents have access to. If the child´s answers disappear or if there is a web-history or something they can find out retroactively. In a conversation what is said does disappear if not recorded. But here, I don´t know, I do not have the knowledge." (A1,4)

We also included questions concerning the fear of new technology as such or so-called technostress within the organization between staff. This was something several research studies had mentioned before being an obstacle for implementation, (Curry et. Al., 2017; Brauneis & Goodman, 2018), and we received some, but few indications on such fears. An example of such insecurity of digitalisation was:

> " We have done this in one way during all these years and now all of a sudden, we are to trust a computer system to receive and react on the child´s answer the same way I do sitting together with the child. I am afraid that something gets lost in this. Maybe younger and more recently employed staff are more to accept the concept and technology" (A1,5, follow up interview).

A rather positive initial approach was the general answer from all three municipalities even though some were a bit more hesitant on whether they would actually use the device.

When discussing the expected and sometimes experienced impact of using a digital device such as OmMej and if would increase the children´s participation it was argued that:

> " I believe that it will be easier to answer questions in an application rather than to sit in a conversation with a person you don´t really know. And discuss sensitive topics as well as sometimes even disclose your family secrets" (B2, 3). " It is easier to express emotions and experiences for them through the app rather face to face with us, social workers because it is the home-arena for these children." (B1, 2).

Informants from B2 also described how they otherwise often have to "*shoot from the hip*" with questions, hoping to find important and relevant themes for the on-going investigation.

> " It is actually providing me with a tool that we are frequently using because it has become much easier to talk in-depth to juveniles in person after receiving the initial answers given in OmMej." (C3, 1)

There were not many concerns about how to learn to handle OmMej technically - described as a tool easy to use for staff as well as children. However, some missed manuals which would make it easier to help staff and children get started. This was a result from all the three municipalities. One difficulty was mentioned at one follow-up interview: Due to incompatibility with one of the computer browsers a social secretary had (unknowingly) only seen parts of the answers by a child in OmMej, and thus missed important information about problems in the child´s life situation. All municipalities did express concerns regarding GDPR and act of secrecy questions feeling that information received and gathered in a digital device such as OmMej was different that other handling of information in the "ordinary" digital journal systems. Fast IT-Support, good and easily comprehendible manuals and instruction films was mentioned as well as the need of a superuser within the organization to address such issues faster.

Conclusions

At a workshop organised by the research group in November 2021 for the three pilot municipalities, a manager representing A1 told that the app still had hardly been used. One cited reason (not mentioned during the interviews) was that the staff did not see its usefulness, saying that they can collect similar information from the child when having traditional physical meetings.

The representing party of B2 was on the other hand still very positive of OmMej and wanted to expand its area of use to pupils at schools and to authorities working with disabled children. Such expansion would give the different authorities a possibility to share relevant information from the child without having him or her to repeat it several times. In our interviews that was one of the advantages with OmMej being noted by several of the staff.

The municipality C3 was also positive, but maybe not as positive as B2. Both these municipalities used the device to some extent and some departments used it regularly. Due to extreme workload and new employees that had not received the education how to use OmMej the follow-up interviews had not been able to carry out except for one, that being with the responsible developer. The overall claim from all municipalities was that implementation takes time and for that purpose it does not really make any significant difference on how you implementation strategies are carried out.

The results from A1 give us that the lack of an overall implementation plan (including financing, process leading and follow-up) hinders the adoption of the tool is expected. However, what needs further investigation is the resistance ("being passive"?) from staff. Is it just a question of lack of time and difficulty to change daily routines, or is it about fear – of what? Of losing control over the collection of information?

More knowledge has also to be gained about the extent to which the information collected from the app corresponds to the initial expectations. In the first round of interviews, informants expected the child´s information to become richer, more nuanced, and more truthful with the help of OmMej. After giving the app a try, some of the informants saw no additional value from using the app, compared to a traditional physical dialogue with the child. It would be interesting to study what made these respondents give up trying, is the information collected from OmMej considered too much, too shallow, too fragmented and/or too specific?

In municipality B2 and C3 the results were more positive, perhaps due to that it was implemented on all organisational levels and actively supported by the management,

who also appointed specific staff being responsible of the development, evaluation and follow- ups of the application into the organisation. The problem with C3 was instead the high frequency of employees' turnover, where the new recruits did not receive education about OmMej and therefore was not able to either use it themselves or assist children with the device.

The overall result from all municipalities goes well in hand with the stated key success factors of implementation; it takes time, you need *education* continuously (need of *resources*), there must be *internal collaboration* within the organisation. In our case A1 seemed to lack such internal organisation with the result that the application was not used. *The individuals working with the implementation* process was also stated being a crucial factor of success and in B2 and C3 there where dedicated process leaders also following up the use of the device making it more frequently operated. This parts also coincides with the last success factor, *aspects of evaluation.*

Here some more extended research is needed since from A1 and B2 one result was that the social workers thought that they received too much information from the children when using OmMej. Things they had to, were obligated to act on, that sometimes was serious concerns in the child´s life situation and that they were not aware of since the child had not mentioned that before. It seems that children will more easily share problematic issues and sensitive information through OmMej than with a social worker, at least in the first or initial round of such sharing.

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Child Participation:

From Radical Principle to Routine Activity in India's Largest Child Rights Scheme

Therese Boje Mortensen [1]

Abstract

Child participation, mandating that children should be able to impact the laws, policies, and programmes that affect them, is a core child rights principle. However, if children's ideas should be taken seriously, it requires a radically open-minded and adaptable attitude of the adults whose responsibility it is to implement these laws, policies, and programmes. Such an attitude is difficult to "mainstream" throughout large bureaucracies, and child participation, as a result, often ends up being a box to tick for busy case workers. This clash between the intention and practice of child participation was evident in my ethnographic study of CHILDLINE India Foundation, India's national child helpline that began as an NGO initiative and now is a national government programme. I illustrate how the child helpline was developed in close collaboration with Mumbai's Street children in the 1990s, incubating a credo of "listening to children," but as it was spread to hundreds of NGOs and government offices throughout India as a national programme, "child participation," for some NGOs, became one of many values that were ordered from the top, and not always internalised on the ground. I discuss this inherent difficulty of "mainstreaming" child participation in large-scale child rights programmes through the theoretical lens of "critical child rights studies" which focuses on the contextual, interdisciplinary, and critical study of children's rights. Looking critically and contextually at the implementation of child participation of CHILDLINE and the Indian bureaucracy, I show that this was a space where "NGO values" of rights

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and participation clashed with the paper-thick Indian bureaucracy demanding documentation and paper. The result was that on-the-ground case workers were stuck between demands of "participation" from their NGO leaders, demands of documentation by the local state bureaucracy and donor NGOs alike, and their actual work of manning the helpline and dealing with children in need of care and protection – leaving little time for child participation, and little power to incorporate children's views into their practice.

Introduction

When a group of social workers developed India's child helpline in the late 1980s and early 1990s, they were adamant that children and young people should have ownership of the project. Child participation became a core ideal, as here expressed in the helpline's Anniversary booklet in 2006:

> Children would decide how to solve their problems, without any force or overbearing guidance by the adult world. In the late 1980s, child participation hadn't quite gained currency among organizations working with children in India. But it would drive this helpline at all times, to every milestone. The adults in this universe would act as facilitators. They would need orientation and training to perform this new role (Gupta & Menezes, 2006, p. 10).

Today, child participation in child rights practice has become rather mainstream, which in many senses of course should be regarded as a success. However, there is a fundamental paradox in "mainstreaming" the idea of child participation, and India's child helpline – which started as an NGO project but today[2] is a civil-society partnership – embodies this paradox well: how to systematically teach an agreed upon standard of child participation to hundreds of NGOs – and at the same time allow children's input from everywhere to actually shape the helpline's practice? And even if an open-minded attitude is taught to the adults who will implement the helpline, how can they work with children's input within the paper-thick bureaucracy they – by virtue of being semi-governmental workers representing both an NGO and the state – are embedded in?

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[2] At the time of writing (July 2023), CHILDLINE still functions as a government-civil society partnership. However, the government has issues new guidelines for CHILDLINE in 2022, which mandates that it will be completely run by the state in the near future.

The purpose of this chapter is to explore what happens to the practice of "child participation" when it is "mainstreamed" throughout a large NGO network that cooperates closely with the state. It is important to examine what happens *after* the first proclamation and practice of "child participation" in an NGO or activist environment. Once children have become "empowered," once it is written into the law, the crucial task for NGOs and bureaucrats is to *implement* child participation. And this deserves ethnographic study. The paper proceeds as follows: First, I present what theoretically informs the study, namely a critical approach to child participation, and the idea of "implementation" as lived practice rather than a technical application of law. Then I introduce the context, India's child helpline, and my own ethnographic methods. In the third section, I present my empirical findings about the difficulties of "mainstreaming" and "implementing" child participation. Finally, I conclude by way of arguing that child participation requires not only morally invested adults, but adults with the power to change a practice according to children's input – not only adults as "implementers."

A critical view on "implementing" child participation

Child rights scholarship has regarded participation as being a central child rights value for decades (Hart, 1992; Stern, 2017; Tisdall, 2015), and the United Nations Convention on the Rights of the Child (UNCRC) recognises both "the right to be heard" as Article 12, and as one of the Convention's three underlying principles (the others being protection and provision). The ideal that children have a right to participate in matters that affect them, is hardly questionable anymore.

However, participation has perhaps too often been treated uncritically, that is, assuming that children should be "able to realise their rights autonomously, possibly without intervention of their parents or other adults" (Reynaert et al., 2012, p. 159). Such a view of child participation overlooks the interdependency between children and adults (Reynaert & Roose, 2015), as if children exist in a vacuum where they do not interact with adults (Desmet et al., 2015, p. 416) – or for that sake, do not grow older themselves and gradually become young people and eventually adults. For these reasons, I support the evolving agenda of "critical children's rights studies" that applies a critical, interdisciplinary and contextual approach to studying children's rights (Reynaert et al., 2012; Vandenhole et al., 2015). This emerging school of thought argues that when we study the norms underlying children's rights, we need to dig deeper than endorsing what is propagated in the UNCRC, and question the assumptions and complexities behind these norms (Reynaert et al., 2012). It does

not mean that we should ultimately argue against child rights norms, but rather, that we should be their "critical proponent" (Reynaert et al., 2012, pp. 156-157). There are indeed numerous complexities we need to consider when it comes to children's participation. One of these, which often is overlooked, is the implicit ask for a radically open-minded and adaptable attitude of the adults whose responsibility it is to implement child participation through policies and programmes. In order for children to be actually "listened to," there needs to be adults who listen. This paper is a study of those adults.

That leads me to the second part of what theoretically informs this paper, namely the ethnographic study of "implementation." Once agreed upon as a guiding principle in a policy or programme, can child participation be bureaucratically "implemented"? Several scholars have, through ethnographic studies of government offices, argued that many laws are only implemented through "paper" – through practices of documentation, letters and office work, leaving the intended consequences of a policy "unimplemented" (Hull, 2012; Mathur, 2016). This study thus uses a conceptualisation of "child rights implementation" not as a technical application of law, but rather, in line with Mathur, as a lived practice, often thick with paper. Importantly, I do not consider bureaucracy to only consist of the state, but of all state-like governance institutions, including service-implementing NGOs themselves (Ferguson & Gupta, 2002). It is thus not simply a perceived distinction between "NGO" and the "state" that causes a clash when implementing child participation, but rather the distinction between bureaucratic documentation, and open-mindedness to children's ideas.

Setting the scene: an ethnography of CHILDLINE India Foundation

The paper draws on a mix of traditional and multi-sited ethnographic fieldwork[3] conducted over four months in 2019 and 2020. At the centre of the fieldwork was India's national helpline for children, CHILDLINE. CHILDLINE is a complex service defined as a "partnership" between sectors. It was developed as a "field action

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[3] With "traditional fieldwork," I refer to an immersion into a physical place and practice (see e.g. Madden, R. (2017). *Being Ethnographic: A Guide to the Theory and Practice of Ethnography* (4th ed.). SAGE.). With multi-sited fieldwork, I refer to a mobile ethnography that chases and tracks ideas and practices in several sites (Goodale, M. (2006). Ethical Theory as Social Practice. *American Anthropologist*, *108*(1), 25-37.).

project" at the university Tata Institute of Social Sciences; it is funded by a central Ministry; small NGOs do most of the service implementation, and the scheme has gradually been integrated into the central government's child protection policies and laws. It has become part of the Integrated Child Protection Scheme (Government of India, 2009) and is written into the Juvenile Justice Act as a government service (Government of India, 2000). CHILDLINE India Foundation (CIF), a large NGO with headquarters in Mumbai, manages the helpline.[4]

Below is a simplified organogram that indicates where I conducted fieldwork (at the managing CHILDLINE India Foundation, at a "Collaborative organisation" (an NGO in Madhya Pradesh, central India) at the district level, and at a sub-centre (an NGO in Tamil Nadu, south India) at the sub-district level. In this paper, I primarily use material from CIF and the district level, but I am informed by the ethnography in its entirety.

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[4] This was at least how CHILDLINE functioned during my fieldwork in 2019-2021. Since then, a drastic change has fallen upon CHILDLINE, when the Indian government issued Mission Vatsalya in 2022, an overarching child protection policy that mandates CHILDLINE to be merged with the government-run emergency number 112 (Government of India. (2022). *Mission Vatsalya. Savdhanta Sanrakshnam: Implementation Guidelines* Retrieved from https://wcd.nic.in/sites/default/files/GUIDELINES%20OF%20MISSION%20VATSALYA%20DATED%2005%20JULY%202022.pdf). This development is highly critiqued by NGOs, but at the time of writing (July 2023), the implications are still unclear.
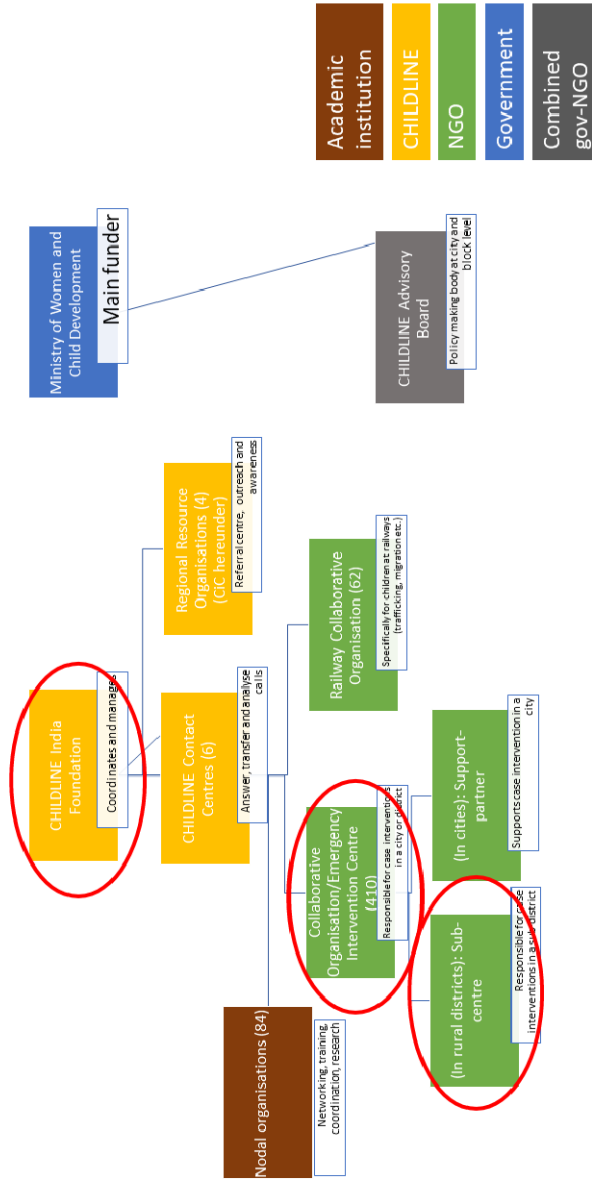
Figure 1: Simplified CHILDLINE organogram[5]

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[5] This is drawn by the author and is not an official organogram. In publications about the Integrated Child Protection Scheme (ICPS) which CHILDLINE is a part of, a full organogram of the

Children and concerned adults can call CHILDLINE about anything from an upcoming child marriage, to sexual abuse, child labour, cyber-bullying, or ask for emotional advice. As I experienced during my fieldwork, a child's journey after calling the helpline was usually as follow:

A child's journey in the child protection system

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┌─────────────────────────┐
│     Child in trouble    │
└─────────────────────────┘
            │
            ▼
┌─────────────────────────┐
│    CHILDLINE (case      │
│ coordination + counselling) │
└─────────────────────────┘
            │
            ▼
┌─────────────────────────┐
│   Authorities (official │
│        decision)        │
└─────────────────────────┘
            │
            ▼
┌─────────────────────────┐
│  Restoration (family or │
│       institution)      │
└─────────────────────────┘
            │
            ▼
┌─────────────────────────┐
│  Follow-up by CHILDLINE │
│       case worker       │
└─────────────────────────┘
```

Figure 2: A child's journey in the child protection system

My research data includes semi-structured individual and group interviews with the organisations' employees and former employees; participatory observation, as I during the stay worked as a volunteer for the NGO in Madhya Pradesh. Furthermore, my research data includes observation of routine job activities such as staff meetings, individual and group tasks in the office, and field trips but also collection of documents such as the NGOs' promotional materials and internal management documents. In addition to my physical presence at the NGOs, I also studied CHILDLINE India Foundation through interviews with its founders and other key persons, observations and visits to a number of different CHILDLINE

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scheme can be found (Government of India. (2014). *The Integrated Child Protection Scheme (ICPS) - A Centrally Sponsored Scheme of Government - Civil Society Partnership*. New Delhi Retrieved from: https://wcd.nic.in/sites/default/files/revised%20ICPS%20scheme.pdf).

offices and intervention sites in different parts of India, and collected documents such as CHILDLINE reports, promotional material, and government policies and laws where CHILDLINE was written in as a service provider.

What is interesting about CHILDLINE for my purposes is that it is simultaneously an NGO and the state. The frontline workers of the helpline wore the "government hat" and the "NGO hat" according to their needs. For instance, if they needed to convince a family to stop a child marriage, they wore the government hat to invoke authority and law. And if they needed to instil credibility in young people to call the helpline, they drew on "NGO values" of voluntary and selfless service. This is resonant with other studies of "semi-governmental" work in India where workers have been proved to strategically shift their identities between a governmental and a nongovernmental label (e.g. (Rai & Madhok, 2012; Rajaram & Zararia, 2009; Sharma, 2006)). What is important for my case is to note that because CHILDLINE at the time of study was a semi-governmental organisation, it was intrinsically tied up with the local Indian bureaucracy, and in many ways part of the state, the documentary practices of which are not easy to merge with child participation, as we will see in the empirical analysis below.

From inventing a radical principle to implementing a routine activity

In this section, I will show how child participation went from being a radical principle to a routine activity through the example of "Open House," a forum for child participation developed for CHILDLINE Mumbai in the early 1990s, and today "implemented" throughout India. My point with this example is not to show a failure of implementation – Open House is successfully implemented in many parts of India – but rather to show the paradoxes inherent in "mainstreaming" a practice that is intended to be bottom-up, and the difficulties of getting it to work within a large bureaucracy.

Child participation as a radical principle

According to Jeroo Billimoria, the Mumbai-based social work scholar and social entrepreneur who founded CHILDLINE, participatory and client-centred development was "not heard of" in the early 1990s. In an interview, she told me about the radical act it then was to include street children in programme

development (Jeroo Billimoria (Founder of CHILDLINE India), 2020). As a CHILDLINE Anniversary booklet commemorates ten years later about the inception of the programme,

> The children designed and conducted a needs assessment study with 500 peers. A pictographic questionnaire was developed. They went around asking their friends if they would use a phone service run by street youth: Why? When? Where? What would be their expectations? The research study revealed overwhelming support for the phone service. Here was advocacy backed by street-level data—a strategy that continues in CHILDLINE (Gupta & Menezes, 2006).

This description assigns agency to children with words such as children who "designed and conducted" research, and the authors of the report subsequently taking seriously the results of the research. Jeroo told me that the strength of CHILDLINE was "that it was *really* a client-centred, client-driven model with rights-bases" (Jeroo Billimoria (Founder of CHILDLINE India), 2020). Since its inception, CHILDLINE has had a motto of "listening to children" (Billimoria et al., 2001) and to this day, children's participation is claimed to be "an integral component in [the calling] process from response to rehabilitation" (Data Analysis Cell, 2017).

One of the core aspects of CHILDLINE's participatory approach is known as "Open House." In 1997, when CHILDLINE was still only active in Mumbai, the helpline received a call from a train station. It was from a child with advanced tuberculosis. Although a CHILDLINE team member arrived at the station, they could not find the child, who died shortly after. This led a group of young people to complain about the CHILDLINE service, demanding that it was shut down if it was not improved. CHILDLINE met with the youth group, and the meeting resulted in the creation of a new forum: Open House, or "meetings at regular intervals to assess the CHILDLINE service and to address problems arising with the service" (Billimoria & Menezes, 2001, p. 26). Open House was a forum that embodied child participation: the idea had come from a youth group itself, and its intention was to hold the NGO and the helpline service accountable to children. Today, Open House remains a lauded event where children get to formulate their own problems. For instance, in a recent annual report from CIF, Open House is described as such:

> CHILDLINE provides a platform for children to express their opinions, give feedback on its services, and also identify solutions to the problems through monthly Open Houses. As the name suggests, the Open House is an open forum for children associated with CHILDLINE to address conflicts, assess, review, and evaluate the service. It provides children an opportunity to be heard, seek support from the allied

systems, and also identify solutions to problems in tandem with the CHILDLINE team (CHILDLINE India Foundation, 2019, p. 44).

As we can see from the above, children's participation was and is taken very seriously by CHILDLINE India Foundation. But the values that built this organisation in Mumbai were – naturally – not the same values as those of the hundreds of local NGOs who were to operate the child helpline across India. As the service grew bigger, became more professionalised and bureaucratised and managed what few NGOs do, namely, to grow beyond its founder, it became necessary to standardise the programme. Booklets for trainings on how to "listen to children" were developed (Billimoria et al., 2001). According to a former senior employee, it was a fine balancing act between teaching "standards and protocols and structures" on the one hand, and letting "the energy and the passion that drove it" reign by also listening to the NGO partners and their input, on the other (Former CHILDLINE India Foundation employee, 2020). How to spread a bottom-up and participatory approach without it resulting in a top-down imposition of that very approach? When I asked CHILDLINE's founder whether this was a difficult process, she said:

> Yeah, initially it was very difficult. But I think over a period of time, also because initially participatory development was a new concept. We're talking about, what, 1996. (…) Client-centered development was, "huh? What?" You know? So, it was definitely difficult, because it was new, it wasn't heard of, it was what it was, but it moves. It goes in phases up and down (Jeroo Billimoria (Founder of CHILDLINE India), 2020).

Today, participatory development has moved from "huh? What?" to buzzword. However, implementing this buzzword remains difficult, as we shall see below.

Child participation as routine activity

When participating in an Open House in a district capital in Madhya Pradesh in central India in 2019, I noted:

> It took place at an Anganwadi[6] in the middle of town. I went with my colleagues from CHILDLINE, Basanti and Radha. The Anganwadi walls were decorated with English and Hindi posters of fruits and toys, and when we arrived, Basanti and Radha hung the big "CHILDLINE welcomes you" sign up next to them. It took a while before

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[6] Anganwadis are health centres for mothers, infants, toddlers, and adolescent girls. They are set up in villages and wards (small administrative units in a city) by the state-sponsored Integrated Child Development Services (ICDS).

the four Anganwadi workers who were present, through several phone calls, had rounded up an acceptable amount of 14-19-years old girls, so the session could begin. The girls were shown a box of sanitary pads and advised on where to get them cheaply. Radha was then given the word, and she gave her usual five-minute speech about how CHILDLINE was a free phone service for any child in trouble, but she catered it to young girls by focusing on issues they might face. Hereafter, the Anganwadi session continued with more information about menstruation, anemia, iron pills, malnourishment, and undernourishment. The Anganwadi workers began weighing and measuring the girls, who seemed comfortable being objects of welfare programmes. They posed for photos where they were handed sanitary pads and iron pills. Finally, the social workers asked the girls about their education, and encouraged them to either stay in school or go into a trade like sowing.

Despite the fact that the CHILDLINE staff had led the session for less than 10 minutes, the documentation of it was much longer. Basanti wrote a whole report about it, with the names of all the children and staff who had attended, and added many pictures (Field notes, 26 February 2019).

Figure 3: Open House in an Anganwadi

Although called "Open House", this informative youth session primarily about menstrual hygiene was clearly very different from the participatory forum intended by CIF. And the discrepancy was not unnoticed by Harsh, a representative of CIF, who came to monitor the NGO during my fieldwork. In a meeting, he asked Basanti to explain what Open House meant. She answered: "going to villages and explaining to people what CHILDLINE is." Harsh added that it also was a forum for listening to children, so the staff could identify which issues they needed to advocate with the authorities. He went on asking what issues usually came up at Open Houses. As no one answered, he ordered Bhavesh, CHILDLINE's volunteer, to open the latest Monthly Progress Report (MPR) on the computer and read out loud from it. Bhavesh read that children were reluctant to talk, so the CHILDLINE staff had identified a number of issues (a formulation I had observed being copied from each MPR to the next). This was a problem, Harsh said, if CHILDLINE and not the children themselves were the ones identifying the issues.

In its journey from Mumbai to a district in Madhya Pradesh, "Open House" had gone from being a place to listen to children, to a place to bring awareness to children. Open House was monitored by CIF in a top-down manner that checked whether NGO were actually "listening to children." I argue that such a shift away from the intended forum has nothing to do with how receptive a particular NGO is to a rights-based approach. On the contrary, in interviews, everyone at this local NGO strongly expressed the importance of child participation. Rather, it has to do with the routine and bureaucratic nature of "implementation": the NGO was charged from above with "implementation" of a number of tasks, none of which were defined by themselves: case work (taking children's calls and visiting families), "school awareness," "call testing," "Open House," and so on. I experienced these daily routines at the office over three months, and the NGO workers were often stuck in expectations from three directions: their NGO head office asked them to incubate new social work ideas, CIF asked them for more child participation, and the local authorities asked them for letters, visits, and meetings – and all three actors asked them for documentation. Ironically, it was not only the state asking for documentation, but also CIF, which in many ways mimicked the bureaucracy by checking documentation (such as the MPR) rather than embodying participatory values.
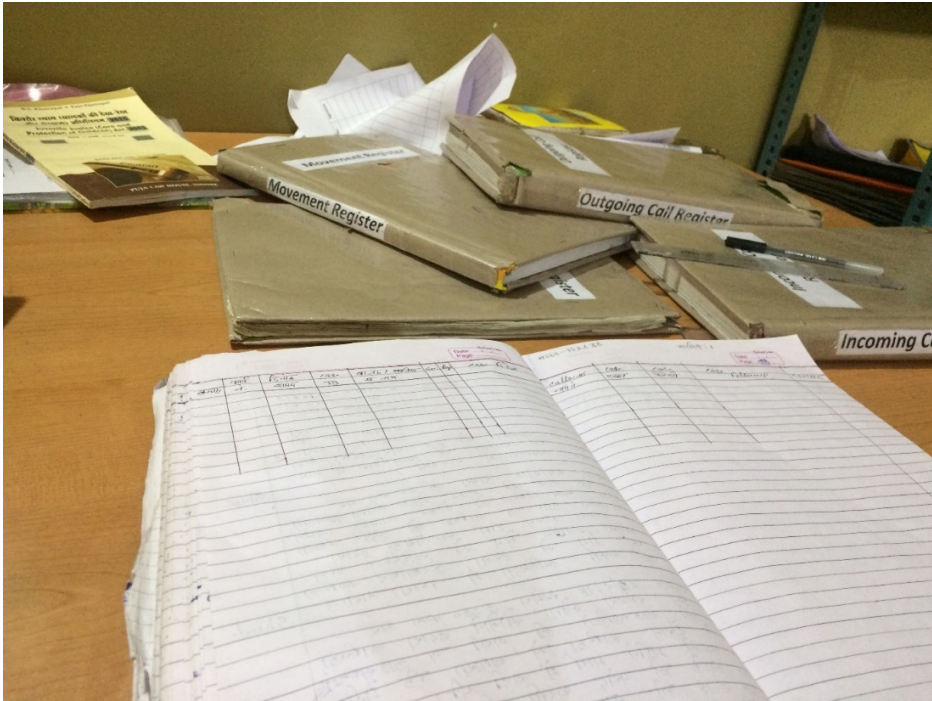
Figure 4: Documenting work

If it seemed unrealistic that the NGO workers would have the time to develop creative Open Houses where children were listened to, it was nothing compared to imagining that they would have any maneuvering room to implement the ideas given by children. They had very little decision-making power in defining their own jobs – so how could they let children define it?

This analysis is of course limited to the NGO I was present in. There may be other CHILDLINE-implementing NGOs that find it easy to incorporate Open House and participatory practices into their work. But this particular NGO indeed demonstrated how certain programmes can be "unimplementable" (Mathur, 2016) in a paper-thick state of semi-governmental service provision.

Concluding discussion

In this paper, I have shown how on-the-ground semi-governmental case workers were stuck between their busy everyday work of manning the helpline and dealing with children in need of care and protection, demands of documenting the work to

their own NGO headquarters and local state authorities, and demands of documenting child participation from CIF. While they were not against the idea of child participation, the intended forum for it – Open House – had been reduced to an awareness session that fit with the monthly planning and reporting formats that were imposed on them. In CHILDLINE's incubation period in the 1990's, in contrast, the managers, founders and decision makers were the ones conducting the Open House, and thus practically capable of changing the helpline's operations – even drastically – according to the children's demands. That power and flexibility did not lie with the district level NGO workers. In other words, if the adults who should "implement" child participation, do not have participatory power over their own work routines, it is questionable that they can facilitate child participation.

It is my hope that these findings can strengthen the developing agenda of critical children's rights studies, the quest of which is to further contextualise and question assumptions in dominating child rights norms. Specifically, I have complicated the feasibility of the laudable idea of child participation by showing that it requires not only morally invested adults, but adults with the power to change a practice according to children's input – not only adults as "implementers," but as "facilitators" from beginning to end, as intended by CHILDLINE in its early days.

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Ethical Review in Sweden Concerning Children's Participation in Research about Child Abuse and Neglect

Linnea Wegerstad [1]

Introduction

This chapter deals with children's participation in research concerning children's experience of exposure to violence, abuse or neglect and how ethical aspects of such research are regulated in Sweden. The Act (2003:460) on ethical review of research involving humans (etikprövningslagen, EPL), introduced in 2003, states that certain types of research require permission to be carried out. Since then, the scope of the law has been expanded to include more types of research, and, in 2019, the structure of the ethical review process changed with the introduction of the Ethical Review Authority and the Ethical Review Board of Appeal (Överklagandenämnden för etikprövning, ÖNEP). In parallel with children being seen as important participants in research, the Convention on the Rights of the Child (CRC) became law in Sweden in 2020. This means that when children participate in research, it must be taken into account that children are both competent, autonomous individuals with the right to self-determination, and vulnerable in the sense that they need to be protected from exploitation and abuse. In this chapter, I describe how these two interests are balanced in ethical review regulation and highlights some concerns with this regulation when it comes to research with children about their exposure to violence, abuse, or neglect.[2]

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[2] This chapter is part of a research project entitled "Researchers´ arguments and ethical boards' decisions concerning children's participation in research about child abuse and neglect - right to

Some specific ethical issues arise when children participate in research about exposure to violence, abuse, or neglect (Cater & Överlien, 2014; Eldén, 2013; Finkelhor, Hamby, Turner & Walsh, 2016; Överlien, 2015). One issue is to what extent children may be harmed or distressed by being asked about traumatic experiences or sensitive topics (Powell, Graham, McArthur, Moore, Chalmers & Taplin, 2020). Other questions relate to how children perceive the benefits of participating in such research, the researcher's responsibility to provide help for children who disclose victimisation and whether the researcher has an obligation to report to social services in such cases. It is also about how the researcher ensures that confidentiality and the child's integrity are maintained in relation to, for example, parents. Research from other countries indicate that ethical review committees are more cautious in their assessment of such research with children than in other research topics (Taplin, Chalmers, Brown, Moore, Graham & McArthur, 2022b).

A tension: the child as competent and the child as vulnerable

In literature on ethical issues regarding children's participation in research, a central tension emerges: the child as both competent and vulnerable. A shift is described, from research *about* children to researching *with* children, which means that children are seen as competent actors with important voices that need to be listened to (Cater & Överlien, 2014; Eldén, 2013). This also applies to children's experience of living with violence and abuse (Mattsson, 2015; Överlien, 2015). The view of the child as a subject in its own right can be linked to the UN Convention on the Rights of the Child (CRC), incorporated into statutory law in Sweden 2020. The fact that the child is seen as a competent actor and bearer of rights in society interacts with society's interest in ensuring that there is knowledge about child abuse and neglect and that children's experiences are brought to light in research. Children's right to be heard can also be understood in a narrower sense as a matter of individual children's participation in research. According to Article 12 of the CRC, 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. This article implies a participatory requirement, i.e., when children are involved in research, it is a decision about their personal affairs in which they should have the opportunity to express their views (Mattsson, 2015). At the same time, children are described as vulnerable and in need of protection (Cater & Överlien, 2014; Elden,

2013; Mattsson, 2015). This view of the child is also reflected in the CRC: Article 19 states that States Parties shall take appropriate measures to protect the child from, inter alia, physical or mental violence, injury or abuse or exploitation, and Article 36 states that children shall be protected from all other forms of exploitation.

These interests are balanced within the principle of the best interests of the child, expressed in Article 3: In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. How is the tension between children's right to participation on the one hand and children's right to protection on the other balanced in the ethical review process? Research outside Sweden indicates that ethics review committees and other stakeholders focus too narrowly on the risks of research and the vulnerability of children (Angell, Biggs, Gahleitner & Dixon-Woods, 2010; Powell et al., 2020; Taplin et al. 2022a). Previous research in Sweden provides some support for a focus on children's vulnerability and need for protection rather than their right to participate in research (Quennerstedt, Harcourt & Sargeant, 2014). The statutory regulation of informed consent has been criticised regarding children's participation in research (Mattsson, 2014; Schiratzki, 2011). Critique based on researchers' own experiences has been directed at the ethical review system for not being adapted to ethical issues that arise when children participate in sociological research (Edlund, Eldén, Wästerfors & Sohl, 2021; Eldén, 2013).

Approach and material for studying the Ethical Review Act

The aim with this chapter is to analyse the regulatory framework that governs ethical review, which in Sweden consists of the Ethical Review Act (etikprövningslagen, EPL) and associated regulations, asking what are the tensions and problems that arise when assessing research about child abuse and neglect. The question is posed primarily from a child rights perspective, which means that children's interests, living conditions and rights are in the foreground (Leviner, 2019).

The law governing ethical review does not provide detailed guidance on, for example, which circumstances should be included in the risk-benefit assessment. Decisions in ethical review cases from the Ethical Review Board (ÖNEP, which replaced the former Central Ethical Review Board (CEPN) in 2019) may not be appealed to a judicial court (Section 37 EPL). This means that ÖNEP is the final authority on whether research should be authorised or not, and that decisions from ÖNEP/CEPN can be expected to provide principled guidance on how the law should be

interpreted. Therefore, I have included ÖNEP/CEPN decisions from 2004 to July 2023 in my analysis, which were found through a search on ÖNEP's website.[3]

My analysis shows that there are four areas of the legal regulation of ethical review in Sweden that need particular attention: 1) the scope of the EPL, i.e., the conditions under which research should be ethically reviewed, 2) the requirement for informed consent, 3) the risk-benefit assessment, and 4) researcher's competence and the requirement for child competence within the EPM.

Scope of application of the Ethical Review Act

Not all research is subject to ethical review. Research investigating children's exposure to violence, abuse, or neglect, may be subject to ethical review on mainly two grounds. Firstly, because the research processes sensitive personal data or personal data on crimes, criminal convictions, coercive measures in criminal proceedings or administrative detention (Section 3). Secondly, because the research affects the subject physically or psychologically (Section 4, point 2). The distinction is important because it is only research falling under Section 4 that is subject to the statutory requirement for informed consent (Sections 13-14). Collecting sensitive personal data, such as obtaining registry data or studying existing medical records, can thus be done without the research subject being informed about the study and consent to participate. However, in such cases the EPM have discretion to decide whether informed consent should be obtained or not (CEPN case number Ö 32-2016; Mattsson, 2014). Research with children as participants can also be subject to ethical review due to the second part of Section 4(2), if the research "involves an obvious risk of harming the research subject physically or psychologically". It is thus crucial how these conditions are interpreted, both for the question of whether the EPL is applicable at all, and for whether there is a requirement for informed consent.

In the preparatory works, "harm" is defined as "a tangible negative effect that affects the research subject and that causes the person to be in a worse position compared to what was the case before he or she participated in the research project" (Governmental Bill 2007/08:44, 51). Experiences that are normally part of everyday life or that are of a rapidly transient nature are not perceived as "harm", neither are rapidly transient effects of routine psychological examinations or tests. Examples of psychological harm includes include insomnia, nervous disorders, psychological shock, or depression. As regards the criterion of 'obvious risk', it is stated that the

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[3] https://www.onep.se/soek-bland-oeverklagade-beslut/, visited 29 Oct. 2023.

risk must be foreseeable and assessed in advance by the researcher. An overall assessment must be made of all the circumstances surrounding the method used (Governmental Bill 2007/08:44, 52).

One example of when EPL was not considered applicable is a project that was to study whether children's responses are affected by the use of smiley faces instead of written answers (ÖNEP Ö 19-2019). EPM stated that the study poses a significant risk to the research subjects in that children who do not understand the questions may become anxious and have a sense of failure. ÖNEP annulled the decision and stated that EPL was not applicable. More recently, ÖNEP has considered whether EPL is applicable when there is the possibility of research persons revealing sensitive personal data during interviews, without the interviewer asking for that kind of information (Ö 18-2023/3.1 and Ö 67-2022/3.1). ÖNEP stated that, since this kind of information can be excluded from the research data, the research does not fall within the scope of EPL.

To summarise, it is difficult to draw conclusions from this data alone about which studies are considered to involve "an obvious risk of physical or psychological harm to the research subject" so that they are covered by the scope of the EPL. The interpretation of the criterion is related to an issue that has been raised in the literature, namely whether and to what extent children are harmed or experience discomfort when answering questions about their experience of violence, abuse, or neglect (Finkelhor et al., 2016). The perception of this in the research community may have an impact on the scope of the EPL.

Consent and information

If the research is covered by Section 4 EPL, a condition for the research to be approved is informed consent from the research subject (Sections 13-22). The EPL contains only one provision that specifically concerns children, and that is about consent (Section 18). Children who have reached the age of 15 (but not 18) and realise what the research entails for them, must be informed of and consent to the research; they then have positive consent competence. If the research subject is under 15 years of age (or 15-18 years of age and does not realise what the research entails), it is instead the child's guardians (usually the child's parents) who must be informed of and consent to the research. However, the child must be informed of the research "as far as possible". The child also has a certain right of veto, or negative consent competence; even if the guardian consents, the research may not be carried out if the

child realises what the research entails and objects to it being carried out.[4] Hence, the legal capacity to give positive consent occurs at a certain age, i.e. 15 years, while the negative consent competence is determined by actual capacity (Schiratzki, 2011).

Usually, both parents are the child's legal guardians. Mattsson (2014) notes that the main rule is that if the child has two guardians, both must give consent, but that there is support in the CEPN's decisions for the veto right being sufficient in some instances. CEPN rejected an application where parents must log on to a website to tick a box if they do not want their children to participate in the study (CEPN Ö 15-2009). In two recent cases, one concerning interviews with children, the other involving DNA-samples, the researchers argue with reference to the Child convention that informed consent from one of the guardians should be enough (Ö 52-2022/3.1 and Ö 6-2023/3.1). In both cases ÖNEP upheld the principle – with reference to the Parental Code Chapter 6 Section 13 – that consent is required from both guardians. One of these cases also included a study of court judgments and preliminary investigation material from the police authority (Ö 6-2023/3.1). Regarding this kind of data, that contains sensitive information about the children, ÖNEP found that since there was a concrete risk for the children to be exposed to further abuse if guardians were asked for consent, and that lack of knowledge regarding child abuse involves a risk for future victims, consent from guardians was not required. ÖNEP reached an opposite conclusion regarding a research project that entailed a survey to school children about children's experience of parents' alcohol consumption (Ö 1-2023/3.1). The application was rejected because informed consent from guardians would not be obtained.

Another question concerns who are considered to be legal guardians and thus authorised to consent when a child is subject to community care, whether voluntary or compulsory (Mattsson, 2014; Schiratzki, 2011). In a research project decided by ÖNEP, informed consent should be obtained from the young people themselves and from those whom the researchers define as proxy guardians, i.e., care home staff (Ö 81-2021/3.1). ÖNEP approved the research, with the condition that legal guardians should be informed of and consent to the research. The decision may be understood as meaning that researchers cannot generally assume that care home staff are authorised to give consent as guardians, but that an assessment of who is to be considered a legal guardian must be made by the researcher in each individual case.

The question of whether consent must always be obtained from guardians is particularly relevant in research with children exposed to abuse or neglect. It can be

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[4] Section 18, third paragraph, states that if a research subject is married, what is prescribed for those who have reached the age of 18 applies.

difficult to obtain consent from a parent with substance addiction, a parent who suffers from mental illness or is hospitalised, or a parent with whom the child does not live. It may also be difficult to obtain consent in situations where the guardian is the perpetrator of violence or abuse. Researchers have expressed concern that that guardians may restrict children's participation in research for other reasons than concerns for the child (Eldén, 2013; Mattsson, 2014) or that some groups of children might be excluded from research because of the guardian consent requirement (Överlien, 2015). Another question is who should be consulted first, the child or the guardian (Eldén, 2013).

Consent must be informed, which includes information about the overall research plan, the purpose of the research, the methods that will be used, the consequences and risks that the research may entail, who is responsible for the research project, that participation in the research is voluntary and that the research subject has the right to cancel his or her participation at any time (Section 16 EPL). As stated above, research subjects who are under 15 years of age, or who are 15-18 years of age and do not realise what the research entails for them, shall "as far as possible be informed about the research" (Section 18, second paragraph EPL). The regulation thus assumes that the information is adapted so that children and young people understand what the research entails and can exercise their right of veto or consent. One example of how conditions can be imposed in this regard is a decision in which ÖNEP approved the research with the condition "that age-appropriate information for research subjects under the age of 15 is designed" (Ö 81-2021/3.1).

To summarise, the age at which children are considered to be able to give positive consent independently of a guardian, and how the guardian's consent is regulated (who is to be considered the guardian, whether the consent is to be active or passive) is of decisive importance for the extent to which children can participate in research.

The risk-benefit assessment

The basis for ethical review is set out in Sections 7-11 EPL. Central to whether research should be approved is the risk-benefit assessment (Section 9): Research may only be approved if the risks it may entail for the health, safety and personal integrity of research subjects are outweighed by its scientific value. The preparatory works states that it is the applicant who must show that the value of the research is so high that it outweighs the risks (Governmental Bill 2002/03:50, 196). Mattsson (2015) has identified three themes in the CEPN's decision-making regarding research involving children. Firstly, applications are rejected on the grounds that there are

significant risks to research subjects due to an unclear or inappropriate research design. The second theme is stigmatising results, i.e., the risk-benefit assessment related to the value of knowledge, the research results and how they will be used. The third theme is overly intrusive methods, which means that children should not be researched unless there is a justified reason to use this group as research subjects. Mattsson (2015) concludes that the decisions do not show any clear direction regarding the conditions on which the risk-benefit assessment is based but emphasises two aspects: that increased sensitivity in materials and results increases the requirement for precision in the description of the research, and that the methodological approaches can be decisive for minimising the invasion of the child's integrity and outweighing the benefits. In the following, I give a brief account of how the risk-benefit assessment has been made in decisions from ÖNEP/CEPN.

Risk-benefit assessment ÖNEP/CEPN decisions

I begin with decisions where the appellate body rejected the research applied for. In some decisions, the problem is that the research includes *very sensitive information and integrity-harming issues*, while the research design entails shortcomings (CEPN Ö 15-2009; CEPN Ö 9-2012; ÖNEP Ö 11-2022/3.1) Two of these decisions also emphasise that the research subjects belong to a *vulnerable group*: newly arrived refugees and children who are or have been placed in foster care (CEPN Ö 16-2009; CEPN Ö 9-2012). Other decisions mention that *children may be adversely affected* and shortcomings in the research design. One decision state that "individual children may react strongly in the research situation without direct contact with an adult" and calls for "more active participation and readiness to deal with children who want contact" (CEPN Ö 15-2009). Another decision states that there is no description of how "young people who write their stories in an acute, e.g., depressive situation can get (...) help" (CEPN Ö 9-2012). A third decision states in more general terms that there is no explanation of the risks that sensitive issues may entail for the research subjects and how the project should be designed to minimise the risks (ÖNEP Ö 11-2022/3.1).

Two decisions indicate that the *voluntariness* of research subjects can be questioned. In one decision, the risk is stated as "that the newly arrived refugees and their children may feel compelled to answer the extremely sensitive questions in a large number of forms" (CEPN Ö 16-2009). In the second decision, it is considered problematic from the point of view of voluntariness, that social service staff should help to reach out to young people (CEPN Ö 9-2012). *Deficiencies in research design* are also mentioned in the rejected applications. One decision points out, among

other things, that child psychiatric/psychological expertise would have been essential for the interpretation of data (CEPN Ö 15-2009). Another decision states, among other things, that the questionnaire is too extensive in relation to the purpose, that the part of the study concerning children is weakly motivated, and that it is not possible to reliably assess the scientific value of the study (CEPN Ö 16-2009). A third decision emphasises that when children send stories by email, text message or via a website, the protection of the stories before they reach the research team is weak (CEPN Ö 9-2012). One decision states that the relationship between the purpose of the study and the questions in the questionnaire is unclear, and that the content of the questionnaire is not clear from the information to children and guardians (ÖNEP Ö 11-2022/3.1). Two of the decisions state that scientific *knowledge already exists* (CEPN Ö 16-2009; ÖNEP Ö 11-2022/3.1). In one decision, the application is rejected solely on the grounds that it is considered a problem to conduct a questionnaire study with children at their first visit to the child psychiatric clinic (CEPN Ö 7-2013). In a decision mentioned above, ÖNEP found that because researches did not ask guardians for informed consent, the research was not ethically justifiable, which is an example of how the issue of consent becomes part of the risk-benefit assessment (Ö 1-2023/3.1).

There are also examples of research that was rejected in first instance, but later approved by the appellate body. In one such decision, concerning a study with children aged 12-16 in care homes, the voluntary nature of consent was questioned (ÖNEP Ö 10-2020/3.1). The application was rejected by EPM on the grounds that it can be questioned whether the participants under compulsory care feel that participation in the research is voluntary. ÖNEP approved the research, stating that young people "who are able to understand the meaning of the research, realise what it means for him or her and consent to the research" can be included in the study. Another decision is about whether researchers should report concerns to the social services if children in care homes during interviews reveal information indicating that the child is suspected of being at risk for child abuse or neglect (ÖNEP Ö 81-2021/3.1). ÖNEP approved the research and stated that it is unreasonable that a report of concern should be made by the researchers against the will of the research subjects, because children in compulsory care in care homes already have contact with social workers and that the care at the institution is regularly reassessed. Here it can be reminded that the research subject must be informed of the consequences and risks that the research may entail (Section 16 EPL). If the researcher will report

concerns regardless of whether the young person wants them to do so, this should be a consequence that is covered by this information requirement.[5]

More knowledge on risk-benefit assessment is needed

To summarise, it is difficult to draw more detailed conclusions from the decision of the appeals body about how the risk-benefit assessment is carried out when it comes to children's participation in research about child abuse and neglect, apart from the fact that highly sensitive subjects place high demands on the research design. The risk-benefit assessment seems to offer a rather large room for discretion and for consider a variety of aspects. Studies on ethical review in other countries might provide useful input on how to make the Swedish review system more foreseeable. For example, it might be important to identify what kind of topics that are considered high risk for the children involved and how this affects the ethical review. In an Australian survey of members of ethics review committees, there were differences in members' views on whether there are research topics that would never be authorised for children to participate in (Taplin et al., 2022a). While almost half of the respondents felt that there were no such topics, many respondents were hesitant about topics such as crime, child abuse and sexuality. The authors suggest that better guidelines and training could provide greater consistency in assessing which topics can be researched with children as participants.

Another question is whether and how the risk-benefit assessment should be affected by the design of the study. In an experimental vignette study, members of Australian ethics review committees were asked how they would assess studies involving children as research subjects (Taplin et al., 2022b). Members were more likely to approve a study with lower risk or sensitivity than a study with higher risk, regardless of method and payment. Compared to children's responses to the same vignettes, a greater proportion of children were willing to participate in both high- and low-risk studies than Members approved. Members were more likely to approve high-risk studies if they were conducted as an interview in the child's home (as opposed to using a digital questionnaire). The authors point out that interviews may offer greater opportunity to manage and interrupt if the child becomes upset, but on the other hand, children may prefer to answer a questionnaire when dealing with sensitive topics, rather than talking to a researcher in their home where parents may overhear the interview.

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[5] The Social Services Act does not stipulate any formal duty of reporting for the researcher, unless the researcher work in an authority that is subject to a duty of reporting, see Chapter 14, Section 1 of the Social Services Act (2001:453).

Competence of the researcher and the Ethical Review Authority

As stated above, researcher's preparedness and the research team's competence to deal with children's concerns or need for support has been given importance in the risk-benefit assessment in decisions from the appeal body. According to Section 11 EPL, research may only be approved if it is to be carried out by or under the supervision of a researcher who has the necessary scientific competence.

Several researchers stress that research including children places high demands on the researcher (Cater & Överlien, 2014; Eldén, 2013; Finkelhor et al., 2016). Eldén (2013) describes that there are many ethical aspects that must be handled in research that includes children, both in the matter of having continuous consent from both children and parents, but also in protecting the integrity of the child. This may include parents wanting to know what the child has said in the interview, the difficulty of finding a place where the interview can be conducted without the parent listening, or managing the fact that the parent knows that the child has participated in the interview, which places special demands on how the child's data is handled. Schiratzki (2011) describes that the requirement to assess whether a child has the actual ability to consent places demands on researchers' child competence and sensitivity, for example by continuously giving children alternatives to continuing an interview. Cater & Överlien (2014) highlights that the researcher must take active responsibility and not just apply rules routinely and have an empathic understanding of each child's changing situation during the research process. The competence of the researcher to manage risks is required not only by ethics review committees, but also by other people affected by the research, such as guardians, representatives of organisations and decision-makers in government agencies. For these people, Powell et al., show (2020), it is not enough for the researcher to have ethics review committee approval, but the researcher needs to demonstrate how the risks to children are managed in practice. Hence, the researcher's competence and ability to manage risks throughout the process is important.

Against this background, a tension can be discerned. The regulation of ethical review in Sweden requires clear project descriptions that anticipate risks in advance and are prepared to deal with them. At the same time, children's participation in research on exposure to violence, abuse or neglect requires researchers to be highly prepared for the unexpected and to have the competence to make ethical judgements in the moment and in response to changing circumstances.

Another issue concerns the decision-maker's competence about the special conditions that characterise research with children. The Ordinance (2018:1879) with instructions for the Ethical Review Authority, Section 17, states that in cases of ethical review of research involving minors, special competence within the department or a specially obtained opinion from an expert in the matter shall be available for the review. A question here is how to interpret the provision on special competence for children. The word "shall" is used which indicates that it is a condition for decision-making that the department cannot refrain from making. At the same time, it is stated that the expertise, in cases other than medical cases, must "relate to such research as is relevant to the case". Here there is room to assess how the research is categorised. For example, if it is a sociological study that includes children that is to be assessed, is it sufficient that a sociologist is included in the department, or is it required that the sociologist has special knowledge of research with children?

The issue of the expertise of ethics review committees in child research was studied through a survey of members and directors of research ethics committees in Australia (Taplin et al., 2022a). Over half of the directors reported that they had members with expertise in conducting research involving children as participants. However, 73 per cent of members reported that they had not received any training in research ethics specific to children's participation in research and almost half felt that more guidance or training was needed to assess such applications. There is thus a knowledge gap: although most of these research ethics committees review applications concerning children's participation in research, not all members have received specific training in the ethical assessment of such research. Taplin et al (2022a) conclude that members' concerns about children being adversely affected in research could be mitigated by more training on the possible impact, or lack of impact, of participating in different types of research. As mentioned, this is a study from Australia, and the questions raised would need to be investigated in a Swedish context.

Concluding discussion

It is difficult to derive from the statutory and appeal decisions alone more detailed guidelines for how the risks of children's participation in research on child abuse and neglect should be balanced against the benefits of the research, and which circumstances are important for a study to meet the requirements for approval to conduct research. There is a central tension in the field of ethical review between, on

the one hand, the importance of predictable decision-making and, on the other hand, the need for discretion in individual cases. As Schiratzki (2011, s. 13) points out, "basic concepts of legal certainty, such as predictability and equal treatment of equal cases, should be applicable also to a field as dynamic and multifaceted as ethics review." Predictability can be linked to the principle of legality, i.e., that the authorities' exercise of power must be supported by law.[6] Predictability is about how the balancing of interests is done, what circumstances are relevant in the balancing, and that researchers should understand the grounds on which the EPM relies in decision-making. Predictability is also important for individual researchers to be able to consider which research design is compatible with the EPL when designing research projects. In other countries, there has been some criticism that the procedures and decision-making of research ethics committees are not transparent, which may lead researchers to design research projects more conservatively in order to ensure a smooth ethical review process (Taplin et al., 2022a). Lack of predictability can also have an impact on the type of research actually conducted (Taplin et al., 2022b). Increased transparency and knowledge of the EPM's decision-making can help researchers to better understand which risks and circumstances are particularly emphasised in the assessment, and avoid that researchers refraining from certain types of research due to fears that the study will not receive ethical approval.

The interest in predictability must be set against the need for room for discretionary judgement. The preparatory works state that the assessment of what research should be allowed should not be controlled in detail, as research is conducted in many ways, and that research methods and other significant conditions are constantly developing and changing (Governmental Bill 2002/03:50, 101). As research projects can be designed very differently, it means that potentially a great variety of ethical issues can arise. When children participate in research concerning child abuse and neglect, there may be a need for *both* greater predictability and more discretionary assessment, adapted to the research field and considering the Convention on the Rights of the Child.

Finally. Knowledge about children exposed to violence, abuse or neglect requires the involvement of children in research. While research should not expose children to unnecessary risks, the risks should also not be overestimated or unfounded, as this might lead to research involving children not being carried out. When participating in research, children need to be understood both as competent individuals with the right to self-determination and as vulnerable and in need of protection from

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[6] See Chapter 1, Section 1 of the Instrument of Government, Section 5 of the Administrative Procedure Act, also Governmental Bill 2016/17:180, page 58.

exploitation. At the same time, the increasingly formalised regulation of research ethics poses challenges for researchers and decision-makers. Decision-making on whether to approve research, and whether and what conditions should be imposed, must be both predictable and allow for discretion. A final question for future research is how these interests are balanced in practice within the framework of the current ethical review process in Sweden.

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A Child Rights-Based Approach to Research with Children in Vulnerable Conditions:

Basic Principles for Meaningful and Ethical Child Participation

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Abstract

The project *"Evidence over Conviction: effects of trauma informed psychoeducation aimed at caregivers"* comprises co-creative, participatory research with children with adverse experiences, and their caregivers. When conducting research with children, and particularly in vulnerable conditions such as living in foster care due to past experiences of abuse or neglect, careful ethical consideration and guidance is crucial. While the UN Convention on the Rights of the Child (UN, 1989) does not explicitly address research, it has instigated a recognition not only that decisions that concern children must be based on knowledge of what is best for the individual child, thereby highlighting the importance of relevant research, but also that research processes involving children must respect children's rights. Participatory research argues for the engagement of stakeholders, including research participants, at all steps of the research process, from study design to dissemination. If children are to be included as co-researchers, the process must be safe, empowering, and relevant to the interests of the individual child. While UNCRC Article 12 has been conceptualized to inspire researchers to include children as co-researchers, it is still unclear which child rights-based guidelines and actual practices that should be applied in

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participatory research with children. Our project includes a participatory framework based on UNCRC principles for child participation (UN, 2009). Our practices comprise co-constructive exercises with children/youth in a reference group, to allow their experiences and reflections to input on methods, validate findings, and inform dissemination forms. Children/youth in foster care are also involved in studies as participants, with interviews exploring experiences with their caregivers, their thoughts about relations in their foster family, their capacity for adaptive coping and wellbeing. Together, our practices aim at giving the voices and reflections of children a central place in our research product.

Introduction

All research with children requires careful consideration regarding ethical conduct, but also a continuous reflexive approach including recognition of, and respect for, children as individuals with their own rights (Graham et al., 2013). When conducting research with children in vulnerable conditions, such as living in foster care as a result of adverse past experiences, the requirements on careful ethical consideration are sharpened (Powell et al., 2016).

Adversities during childhood have profound and far-reaching consequences for child development and well-being, and constitute a significant risk of mental illness, unemployment, poverty, and criminality in adulthood (Bellis et al., 2019; Davidson et al., 2010). It is not unusual that childhood adversities cause traumatic distress with lasting negative effects on child development and functioning (Felitti et al., 1998; Oral et al., 2015), but we also know that caring, attentive parental caregivers and other important adults can play a crucial role in protecting children from these effects (Van der Kolk, 2005; Verschueren & Koomen, 2012). Trauma-informed care (TIC) interventions aim at strengthening caregivers to this end. In the research project *Evidence over Conviction: Short- and long-term effects of psychoeducational interventions for trauma informed care to promote child health and resilience (https://www.psy.lu.se/tmo),* we study the effects of TIC-training aimed at important caregivers of children who have experienced adversities or trauma, such as foster parents and preschool/school teachers.

Importantly, the children's own experiences and perspectives are completely missing in previous research, and potential effects of caregivers' training in TIC on children

and youth have only been investigated through adults' estimates (Angelöw et al., 2023). Aiming to bring forward the children's perspectives, we conduct, as part of our project, a series of participatory studies focusing on the experiences of children and youth living in foster care. Participatory research means an involvement in all steps of the research process, from study design to dissemination (Preston et al., 2019). However, if children are to be included as co-researchers, the process must be safe, empowering, and relevant to their interests (Conolly, 2008; Cullen & Walsh, 2020). It is therefore necessary to build a sustainable research structure (The Swedish National Board of Health and Welfare, 2013) based on an ethical and child-rights based framework.

In this chapter, we describe our participatory research approach with children and youth in foster care, and discuss how we conceptualize the principles of ethical and meaningful child participation proposed by the UN Committee on the Rights of the Child (UN, 2009), for application in and guidance of participatory research with children.

The UNCRC and research with children

The Convention on the Rights of the Child (UNCRC: UN, 1989) does not explicitly address research but has inspired increased attention to the need for a more respectful research process when children are involved (Cole-Albäck, 2019). Particularly Article 12 ('the right of the child to be heard') has been conceptualized to inspire researchers to include children as both research participants and co-researchers (Lundy et al., 2011; Lundy, 2007), promoting the idea of participatory research. In fact, it has been suggested that children's rights can only be respected if the children are involved in the research with their own perspectives, implying that they must be regarded by the adult researchers as individuals with their own rights (Lundy et al., 2011). However, the convention must be implemented as a whole, and Article 12 must be balanced against other considerations, particularly Article 3 ('the best interest of the child shall be a primary consideration') (Lundy et al., 2011; UN, 2003).

Based on the work of civil society (Save the Children, 2021), the UN Committee on the Rights of the Child stated nine basic requirements for implementing the right of the child to be heard. According to this statement (UN, 2009), all processes that include child participation must be:

1. *transparent and informative;* children must be given age-appropriate, accessible information about the process purpose and potential impact, and their right to express their view freely;

2. *voluntary;* children should not be influenced to participate against their will and should know about their right to end their participation at any time;

3. *respectful*; children must be able to initiate activities and ideas, and adults must acknowledge children's socio-economical, environmental, and cultural contexts;

4. *relevant;* children must be encouraged to identify important issues and express opinions on issues of real relevance in their daily lives;

5. *child-friendly*; working methods must be age-adapted and suitable for children's knowledge and abilities;

6. *inclusive*; children must be recognized as a heterogeneous group and existing patterns of discrimination must be counteracted;

7. *supported by training*; adults must have relevant and adequate training, knowledge, and preparation to support child participation;

8. *safe and sensitive to risk;* children must be protected from harm and risks from participation must be minimized, and

9. *accountable*; children should receive information about how their thoughts and opinions have been used and interpreted (UN, 2009).

In line with these recommendations, we understand child participation in research not as an on-off event but as a process that must both principally and practically respect the rights of the child. To our knowledge, however, the nine requirements for implementation of article 12 have not been conceptualized from a research perspective. Thus, we operationalize them here for application in a research context, and as guidelines for ethical research conduct when children are involved and discuss how we implement them into our participatory research project.

Participatory research involving children

There is indeed a knowledge gap for how the UNCRC and other treaties can inform ethical considerations in research with children (Powell et al., 2012). The Helsinki Declaration (WMA, 1964), which forms the basis for ethical clinical research, adopts a broader perspective of 'vulnerable groups' and does not address children explicitly.

In the absence of international legal guidance, Ethical Research Involving Children (ERIC) aims to provide researchers with support on how to respect the well-being and rights of children in research (Graham et al., 2013). This guidance is particularly structured around 'the Three R's' of *Reflexivity, Rights,* and *Relationships*, aiming to inspire researchers to strengthen children's agency while acknowledging their vulnerability (Powell et al., 2016).

Historically, research with children has transformed from viewing children as research objects, to addressing them as individual subjects, to inviting them as active participants (Cullen & Walsh, 2020; Powell et al., 2016). To participate as co-researcher in research can be empowering for the child (Powell et al., 2012; Törrönen & Petersen, 2021) while adding strength and quality to the research (Lundy et al., 2011), as also highlighted by experiences from research in child and adolescent health (Beckman et al., 2019). We propose that the benefits will be further strengthened if the research is conducted in accordance with the UN principles of child participation (UN, 2009).

A focus on strengthening children in out-of-home care

Children in out-of-home care grow up in particularly vulnerable conditions. More than three quarters (75.5%) have at least one adverse childhood experience (Turney & Wildeman, 2017) and 30% have been diagnosed with post-traumatic stress disorder (Pecora et al., 2009). As a group, these children are at higher risk of developing mental illness (Baldwin et al., 2019; Tordön, 2020; Vinnerljung et al., 2006; Vinnerljung & Hjern, 2014), and many describe how their previous traumatic experiences lead to challenges with social relationships and anger management (Steenbakkers et al., 2019). Foster care placements often include separations and relationship breaks that the children experience as traumatic (Steenbakkers et al., 2019). In addition, every fourth child experiences at least one placement breakdown, i.e., the placement in foster care ends suddenly and prematurely (Helton, 2011; Olsson et al., 2012; Vanderfaeillie et al., 2018; Van Rooij et al., 2019; Vinnerljung et al., 2014). Many children who have experienced repeated placement breakdowns describe living in a state of permanent insecurity (Skoog et al., 2015).

To have the opportunity to recover and heal, children who have experienced severe stress and trauma must be met with sensitive everyday care in a safe environment. Children in foster care often describe a desire for belonging and close relationships (Skoog et al., 2015). Studies based on parental reports show that foster parent training increases parenting skills, reduces the child's behavioral and emotional

difficulties (Solomon et al., 2016), increases the chances of placement stability (Price et al., 2008) and strengthens child resilience (Leve et al., 2012). Trauma-Informed Care (TIC) training is a psychoeducational intervention aimed at creating safety and resilience in children with difficult experiences by increasing the caregivers' knowledge of trauma and strengthening their caregiving abilities (Middleton et al., 2019). TIC interventions are increasingly used internationally in out-of-home care (Bailey et al., 2018; Fondren et al., 2020). The Resource Parent Curriculum (RPC: Grillo et al., 2010) is one such TIC intervention, directed to foster parents, and conducted in Sweden by Save the Children (Sweden). Our pilot study in Sweden (Angelöw et al., 2023) and previous international studies (Gigengack et al., 2017; Konijn et al., 2020; Lotty et al., 2020; Murray et al., 2019; Strolin-Goltzman et al., 2018; Sullivan et al., 2016) indicate that training in RPC leads to perceived increased parenting efficacy, understanding and tolerance for the child's behavior. However, the evidence base of TIC interventions is still weak, as most studies are based solely on parental reports, lack control groups or suffer from other methodological shortcomings (Angelöw et al., 2023; Bunting et al., 2019; Hanson & Lang, 2016).

Lacking children's perspective

A most important limitation in the current knowledge is that effects of TIC training on children and youth have only been evaluated through the trained caregivers' estimations and experiences (Angelöw et al., 2023). Children and young people's own voices and perspectives are generally missing in research, while studies that have had a focus on children and youth often have overlooked their own wishes and desires (Facca et al., 2020; Papadopoulou & Sidorenko, 2022). Very few studies have invited the perspective of children and young people unconditionally or considered how the power asymmetry between children and researchers affects the children's accounts (Lane et al., 2019).

Clearly, children's opportunities to make their voices heard are dependent on the adults around them. Their narratives are created in interaction with an adult in a specific context. This is particularly true for children in foster care, who have a wider and more complex dependence on adults, including not only their biological parents but also their foster parents and social workers (Swedish National Board of Health and Welfare, 2015). Challenges in conducting research with these children may partly be due to so-called gatekeeping, where adults' ambition and motivation to protect children in vulnerable conditions can counteract the children's own narrative and freely expressed opinions. At the same time, children in out-of-home care may

need protection more than other children (Powell et al., 2020; Sallnäs et al., 2010). Stakeholder concerns regarding potential risks for the child, and lack of resources, are commonly stated obstacles to including the voices of vulnerable children and youth in research (Powell et al., 2020).

In the purpose of addressing this gap in research, we conduct as part of our project a series of participatory studies that include the voices and perspectives of children and youth in foster care. Our studies evaluate effects of the TIC intervention RPC for foster parents on children's well-being, coping strategies, relationships, and self-concept. We aim at identifying important factors for promoting resilience and mental health for children in foster care, integrating the perspective of how these children reflect on the creation of safety or vulnerability in their daily environment. We do this through attaching a child co-researcher group to our project, and subsequently carrying out a focus group study and a larger scale study with children and youth in foster care.

How do children in foster care describe an inclusive and relevant research process? A child-rights based participatory framework

Our participatory framework builds on close collaboration with a youth co-researcher group that includes teenagers (15-18 years' old) placed in foster care. The youth co-researchers are involved at each important step of the research, including study design and research questions, dissemination, and other aspects of the research process. We work closely together to create a child-friendly and relevant research process.

We also cooperate with an adult reference group consisting of foster parents, social workers and adults who grew up in foster care, who advise us on how to create a safe and ethical process for the youth. Including a youth co-researcher group and an adult reference group in the framework for our project is one way of making sure that we are well prepared, with field-knowledge, information, and training, to conduct the studies (*Supported by training*). Combined with our expertise in developmental psychology and research, it further secures that our studies are using age-appropriate research approaches and methods (*Child-friendly*) throughout the project.

Youth co-researchers' can contribute in different ways, depending on the nature of the research and on the youth's own interest to be involved (Cullen & Walsh, 2020),

in precious studies ranging from influencing research planning to interviewing peers (Powell et al., 2012; Törrönen & Petersen, 2021). To determine an appropriate level of participation, we decide together with our youth co-researchers on issues of relevance in their lives (*Relevant*). Notably, it is the responsibility of the researcher to explain the significance of this participation to the youth (*Transparent and informative*) and how the co-creative processes can secure that the research process is informed by their perspective (*Accountable*). For instance, we use pictures and other visual material to briefly convey the main research questions of the project and engage the youth to complement this framework with their own pictures and suggestions. We also guide the group to create and illustrate a common narrative in the form of graphic visualization.

Cullen and Walsh (2020) point out that researchers working alongside with youth co-researchers must pay special attention on how to equalize power asymmetries. This is particularly true considering the requirements of *respect* and *inclusion.* After all, research is usually conducted on the terms of adult academics, and the risk of reproducing patterns of power asymmetries and discrimination that are common within academia is high. To avoid diminishing youth researchers to decoration or symbols (Hart, 1992), we acknowledge and try to work actively to avoid these asymmetries. For instance, as preparation for each meeting with our youth co-researchers, we scrutinize language and other communicative features, working to eliminate status cues. The colleagues who meet and work with the group have long experience of field work with vulnerable children and youth. By listening openly, we try to give the youth researchers' opinions 'due weight' (UN, 2009), allowing for a real impact on our studies.

What do children and youth in foster care consider to be important research areas?

One research study is based on focus group interviews with youth between 15 and 18 years old. In collaboration with NGOs for children in foster care, we recruit among youth who live in foster care and youth who recently were relocated. We start the focus group by giving participants age-appropriate and accessible information about the purpose of the discussion and on how their opinions will be given due weight *(Transparent and informative).* We have also developed the interview guide to encourage participants to consider the framework for communication (*Respectful):*

We must work together to make sure that it feels good to talk during this group conversation. Before we start, is there anything you think we should agree on regarding how to behave and talk with each other?

We have deliberately chosen questions about well-being and security rather than previous adverse experiences, making sure the group discussions do not become too emotionally demanding for participants (*Safe and sensitive to risk*):

What is important for feeling good and safe in everyday life - at school, in the family home, with friends? What is a safe and reliable adult like - foster parent, social worker, teacher etc.?

A main aim of the focus group study is to let children and youth in foster care identify research issues of relevance to them (*Relevant*), to incorporate in our other studies, and also inform future research:

What should we, researchers, focus on and find out, in order to help improve the situation of children and youth in foster care? Who should we talk to and what questions should we ask?

Child perspective of TIC/RPC foster parent training on children's well-being and resilience

More traditional research forms are combined with a child rights' perspective in a large scale study with youth 11-to-17 years old. Participants are recruited from two different groups: one group have foster parents who have undergone trauma-informed training, and the other group have foster parents who have not had such training. Our starting point in this study is that all children and youth, independently of age and group, are vulnerable. Thus, following recommendations of the Swedish National Board of Health and Welfare (2015), we recruit participants in collaboration with the social services in different Swedish municipalities, in discussion with the social secretaries responsible for the placed children. Out of concern that research may not be justified at times when vulnerability is maximal (*Safe and sensitive to risk*), we exclude children placed in emergency homes, residential care homes or in institutional care. Children are also excluded from participating if they are in an acute phase of mental illness.

During the research process, we actively seek to minimize risks of bending the principle of voluntariness (*Voluntary*), such that are specifically related to the foster

care context. Children may experience conflicts of loyalty to different important adults in their lives: foster parents, social workers, NGO staff, or biological parents. We try to limit this risk by informing children that the research participation does not influence placement or other decisions that concern them, and that only the researchers will hear their testimonies. However, for *transparency*, we must also inform the children of our obligation to contact the social services if we have reason to believe that a child participant is experiencing violence or other adversities. We also try to reduce the risk of children feeling pressurized to talk about too demanding topics by agreeing on specific "stop" or "pause" signs in the beginning of the interviews (*Safe and sensitive to risk*). This has been successfully used in a previous study with similar groups of children (Törrönen & Petersen, 2021).

The principle of safety and sensitivity to risks must be extra acknowledged in relation to this study, as participants will talk to researchers about sensitive topics such as relationships and how they view themselves, which is potentially emotionally demanding. We further strive to minimize the risk of distress by using the well-tested semi-structured *Friends and Family Interview* (FFI: Steele & Steele, 2005), that does not specifically focus on the child's difficult experiences. Instead, we initiate the interview by discussing preferred activities and hobbies, discussing about friends, and about school and teachers. Questions related to the foster family, foster parents, or biological parents are placed later in the interview, when the child has had the time to get to know the interviewer and, hopefully, feel more comfortable. Importantly, we conclude the interview by positive, hopeful questions.

We conduct the interviews in environments that are familiar and where the child feels safe. In line with ERIC guidelines (Graham et al., 2013; Graham et al., 2015), we do a post-test check-in with the child a few days after the interview. In addition to making sure that the researchers who meet the children are thoroughly trained and have continuous supervision, we have made provisions that participating children and youth can contact a psychologist outside of the project for support. We also work closely with the children's social workers to ensure that children are supported after the interview, especially if we discover that the child has recent experiences of adversities.

Based on our previous discussions with foster parents, we know that children and youth in foster care may experience the attention from being asked to participate in research as negative, if it reinforces a feeling of being 'vulnerable' and different from children who grow up with their biological or adoptive parents. A transparent communication of the co-creative framework of the project *(Transparent and informative)* may be particularly helpful to promote the feeling of being an active participant and counteract an initial worry of the risk of being a 'research object'

(*Respectful),* but also to convey that refusal to participate is also totally understandable *(Voluntary).*

Concluding discussion

Rights-based research with children, especially those in vulnerable conditions such as living in foster care, must carefully consider the balance between protection and participation (Powell et al., 2016; Sallnäs et al., 2010). In Sweden, the Swedish Ethical Review Act (SFS 2003:46) requires far-reaching protection of children regarding informed consent and risk-minimization. The UNCRC principles of *transparency, voluntariness, safety and sensitivity to risk,* as well as *supported by training,* all addressing child protection, are in that sense already integrated in the process of ethical review of research with children, and common practice in the Swedish research context. We suggest that, moreover, the UNCRC requirements for implementation of the child's right to be heard can provide researchers with further specific child-focused guidance, particularly concerning the child's active participation.

The requirements of *child-friendly* working methods and feedback of results (*Accountable*) raise a new awareness that the dissemination of research results that concern children and youth, their development, health, and well-being, ought to reach out to children and youth, in ways that are accessible and meaningful. Thus, dissemination of results must be adjusted and summarized in child-friendly reports (Save the Children, 2021). In our project, we adapt both methods and feedback to be age-appropriate and accessible to all children participating in the studies. At the same time, communication to children about important, complicated issues that concern them can also be potentially confusing or upsetting. Developmental psychological expertise and experience of working with the specific groups of children in each case is important in order to minimize the risks and maximize the benefits for children.

There is a risk that child-friendly and accessible research processes increase the threats to voluntary participation. When put in the center of attention with accessible information and explanation, children may feel obliged to consent to participation in the research because of appreciation of the efforts made by the researchers. This potential pressure to participation is in addition to the potential of perceived expectations on the part of important adults. On the other hand, knowledge about children and youth in foster care that includes the voices and perspectives of these children and youth requires participation. Importantly, for children below the age

of 15, whose access is by law through the caregivers who have legal custody of the child (SFS, 2003:46; WMA, 1964), both participation and being restrained from participating is dependent on the decisions of their caregivers. This highlights the need to combine and balance, in all communication about the research, the emancipation of children and youth as perspective and rights' holders, with the acknowledgement of caregiver (and other stakeholder's) concern. For the children's voices and perspectives to be reached, the researchers must be respectful to both the children and their caregivers.

Furthermore, the researcher efforts must be conscious and targeted if information about ongoing research, or about its findings, should reach children and youth independently of their individual characteristics. Children and youth may come from different cultural and linguistic backgrounds and represent different socioeconomic sections of society. The principle of *inclusivity* poses therefore additional demands on the research process, and additional resources must be made available. Unfortunately, we do not experience a change in the research finances or evaluation of research to this end. Neither the cost of reaching out to access and represent the different groups of children and youth, nor the added value to the research outcome are currently acknowledged.

Finally, some considerations arise in the process of balancing participatory research that encourage and integrate the voices of children and youth, against the responsibility of the researchers to secure rigorous and feasible research procedures. Participatory co-creative processes must occur within given time and resource frames. Methods and analyses must be scientifically sound and, if possible, well-established. Scientific reports must be succinct and accurate. Not least, the process of participatory research is at present not optimally aligned with the Swedish Ethical Review process, leading to a catch-22. Participatory co-creative research processes implies that the youth co-researcher group is given space to express perspectives and thoughts to be considered and potentially integrated such that even research methods or questions are co-informed, by the youth and the researchers' perspectives together. At the same time, by current praxis, research projects are not eligible for financing or research ethics approval if their aims, research questions, methods and research procedures are not described in detail.

If we are to treat children as right-holders and avoid tokenism (Hart, 1992), children and youth must be given real impact in the research process. However, while the voices and perspectives of children must be listened to, we also must be mindful of the fact that adults bear the responsibility for child protection. The UNCRC principles are a useful starting framework, yet ensuring child protection while securing participation is as challenging as it is important for child-rights based

researchers. In negotiating this balance, it may be useful to acknowledge that child participation may be a powerful tool for promoting a sense of empowerment in vulnerable child/youth participants. In this sense, child participation can itself comprise a protective factor, both with respect to potential risks from participation and with regard to their a-priori vulnerability. This, however, is a balance that requires analysis and evaluation in each individual case. We hope that continuous reflexivity, discussion, and collaboration will help put in place a sharp toolkit for child-rights based research.

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The Convention on the Rights of the Child as a theoretical construction
Factors that Favor or Disfavor the Use of the CRC as Law

Anna Sonander [1] & Charlotte Palmstierna [2]

Introduction

The purpose of this article is to draw attention to various factors that favor or disfavor the use of the United Nations Convention on the Rights of the Child (hereafter the CRC) in practice, with a particular focus on how this affects children's opportunities to express their views and practice their right to participation. The opportunities for children's participation can be expressed in different ways, such as the opportunities professional actors have to allow children to express their opinions freely in all matters affecting the child in accordance with article 12 of the CRC, but also whether routines for the actors to follow regarding children's opportunities to express their opinions exist. Furthermore, it can also involve whether the professional actors have received sufficient and adequate education on and training in how to allow children express their views, and education about the responsibilities of the actors and the reasons behind these responsibilities.

The article focuses on professionals who are required to use the CRC and, in this work, should use the CRC as a legal framework. It also addresses the actors' prerequisites for taking the CRC into account in their work as well as the factors that favor or disfavor the work with the CRC. The article is based on a survey conducted in the city of Malmö in 2021 with the aim of identifying factors that favor or disfavor

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the work with the Convention on the Rights of the Child. (Palmstierna & Sonander 2021)

Children's rights are human rights[3]

Children's rights should not be seen separately from other human rights. Instead, a basic assumption is that children's rights are part of human rights and that children are the target group of the various international conventions that form the basic human rights framework.[4] Human rights thus apply to everyone, and the promotion of human rights is one of the main tasks of the United Nations, as stated in the United Nations Charter. One of the fundamental principles of human rights is participation (see article 25 of the International Covenant on Civil and Political Rights).

Although the human rights framework applies to everyone, including children, human rights have been established for children through the UN Convention on the Rights of the Child, adopted by the UN General Assembly in 1989. The unique features of the Convention on the Rights of the Child is a changed view of the role and part played by children in the family; the convention highlights the child as a unique actor in the family and Swedish law now codifies the status of children as a rightsholder. This means a changed view of children's place in society; from only being part of a family to individuals with their own rights within the family and the society. The Convention on the Rights of the Child thus meant that the view of children as individual rightsholder became an international legal norm.

The way society views children (and the family) is a norm that has varied over time. This norm has influenced how legislation is formulated and also how authorities and individual actors treat and respond to children. According to Mattson (2019), "both knowledge of past approaches to children and prognosis of future opportunities to strengthen children's rights" are important for strengthening children's rights in practice.[5] According to Lorraine Fox Harding (in Mattsson 2019), four different perspectives on how national regulations are influenced by values within childcare

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[3] For a more developed discussion on this issue, see for example Lindkvist 2022.

[4] The UN Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights of 1966 form what is commonly referred to as the basic framework of human rights (the International Bill of Human Rights).

[5] Original text: "såväl kunskap om tidigare synsätt på barn som prognoser rörande framtida möjligheter att stärka barns rätt".

policy can be identified. These perspectives can be used to discuss different views to children: *the governing role of the family, the governing role of society, the rights of parents and the rights of the child.* Mattsson (2019) means that prevailing perspective (norms) is reflected in both legislation and practice, and that these perspectives in different ways affect the work of professionals. This is important to highlight in order to understand the challenges of the CRC in practice because it means that old values can persist and compete with newer ones, which could mean that inadequate ways of looking at children, for example as a helpless individual with little or no rights, compete with the view of children as rightsholders. Which perspective, which norm, that will be dominant in practice depends on various factors (see more below). Based on Human Rights conventions but also other Swedish legislation such as Instrument of Government (Regeringsformen), we could say that today's legal norm is that children are actors with their own rights who have the right to participate in various ways in decisions and matters that concern them.

Seeing children as actors with their own rights has meant a paradigm shift and thus a change in legal norms. The CRC has played a major role in shaping the contemporary view of children and also in changing legislation relating to children in various areas where the convention has been transformed. This applies, for example, to Article 12 on giving children opportunities to express their opinion on all matters that concern them. Since Sweden's ratification of the convention in 1990, a children's rights perspective and subsequently a child rights-based approach have been developed to achieve a desired change with the convention as a starting point, in other words to create the conditions for a paradigm shift in practice. A child rights-based approach means that the convention in a methodical way is reflected in the work of organizations, and in our example, in the work of actors.

In order to create the conditions for taking human rights into account in different organizations and situations, a rights-based approach has been developed that is largely based on the same principles as a child rights-based approach. The rights-based approach is about seeing the human being but also being able to link one's own work and responsibilities to the Sweden human rights obligations. (See for example Prop 2009/10:232; Prop. 2017/18:186)

Understanding the challenges and opportunities of the CRC in practice

The Convention on the Rights of the Child as a theoretical construction

Using the term "construction" is in itself a challenge as it recalls social constructivism (Berger and Luckmann 1966, 1979; Hacking, 1999; Sahlin 2002; Wenneberg, 2001) or its close relatives. We do not intend to engage in a deeper discussion of the concept itself here but want to clarify what we mean by theoretical construction. The Convention on the Rights of the Child is a universal document that contains the same text wherever you are in the world.[6] The convention can therefore be said to set out normative goals and ambitions as an expression of a universal view of children's rights. However, the normative side, the words and expressions that the convention specifies, are of no significance for children's rights or opportunities for participation until they are used and applied in practice. This means that the goals and ambitions expressed in the legal text do not say anything about the practice, about how the CRC is used, so to speak, and how it is applied in each individual case. As an example, we can mention both Article 3 and Article 12 of the convention, which could be defined as a form of code of conduct, a certain way of working or an approach to ensure the child's human rights. However, it is not clear exactly how this should be done in different situations and the convention leaves it to each individual state to decide on this.

A search for the term 'theoretical construction' on google brings up synonyms such as 'empty concept', 'creation of thought' and 'abstraction'. We believe that "empty concept" is useful because since our starting point is that it is not enough to put a law in place to achieve its goals. (Baier, Svensson & Nafstad 2018; Hydén 1978; Lindgren, Magnusson & Stjernquist 1971; Olsson 2003; Olsson & Sonander 2019; Wickenberg 1999; Widerberg 1985) Laws must be applied in practice, in the decisions and activities that are carried out by different authorities in society. In Sociology of Law, the concepts of *Law in books* and *Law in action* are often used to describe that what is written in the law (books) is not always the same as how the law actually is applied (action). (Banakar 2012, 2019; Pound 1910) Law in books can be described as part of the formal law and deals with the normative nature of legal rules. It is here that the objectives of the law and procedural rules etc. are described. However, this part of the law doesn't indicate the meaning or outcome of

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[6] And where the UN CRC is incorporated/ratified.

the formal rules in practice. This is instead found in what is called Law in action, which is an expression of those parts of the legal system that do not constitute sources of law (e.g., prosecutors, police officers and various representatives of public authorities such as teachers, principals, etc.) In this article, we assume that law (CRC) consists of a normative and an empirical dimension and that it is mainly the translation of the law, from law in books to law in action, that is relevant in understanding the challenges and conditions of the law and a change in the norm.

In this context, the *effects of law* can also be highlighted as a relevant concept, although it is slightly problematic to use in this context. We know that the ratification of the CRC in 1990 and various measures of implementation (e.g. national strategies for the implementation on the CRC, models for child impact assessments and training in the CRC) did influence both different laws and the perspective on the child as a rightsholder. (Prop. 2017/18:186; SOU 2016:19) However, the different measures did not have the full normative effect that the Government wanted and in order to "clarification that legal practitioners in legal cases must interpret Swedish regulations in relation to CRC" the government chose to incorporate the convention as Swedish law. (Prop. 2017/18:186; SOU 2016:19;) The norm is the same but the incorporation of the CRC as national law clarified and enhanced it. We assume that the law can have effects and change the behavior of those who use the law, and that the purpose and objectives of the law can thus be fulfilled (to a greater or lesser extent).

In order to understand what makes a law work (or not), we assume that the law is dependent on external factors in society and that the law in itself does not necessarily have any effect.[7] External factors can be resources (see for example Palmstierna & Sonander 2021; Sonander 2008), parallel norm systems, organizational culture, colleagues, attitudes and professional knowledge. (See for example Ekman 1999; Holgersson 2006; Holgersson & Knutsson 2008; Petersson 2008; Westin & Nilsson 2009; Wimelius et al. 2016; Zetterqvist Nelson & Hagström 2016; Åström 1988.) Other external factors that may have an impact on the effects of the law may be insufficient coordination between different institutions and actors. (Wimelius et al. 2016; Zetterqvist Nelson & Hagström 2016) In order for legal norms to have (intended) effect, it is also an advantage if the legal norms are coherent with existing social norms. (Baier & Svensson 2018; Baier, Svensson & Nafstad 2018; Ellickson 1991) There are thus a number of external factors that affect whether the law can have any effect and whether a change in norms can take place. In our example, the

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[7] In contrast to an instrumental view of the law. See for example Lindgren, Magnusson & Stjernquist 1971; Hydén 1978; Widerberg 1985; Olsson 2003; Svensson 2017; Baier, Svensson & Nafstad 2018.

focus is on the actors who have to "use" the law and the factors that affect them in their professional practice. In this way, challenges and opportunities that the actors meet in their (child rights-based) work can be made more visible.

The professional actors are central for the CRC in practice

Taking an actor perspective means that the focus is on the people who use the law as a legal framework. In the study, we have not talked to the children, instead the aim has been to understand the conditions, challenges and opportunities that exist when the actors translate the convention into practice. The people who were the subject of the study in Malmö can be categorized as what Lipsky refers to as street-level bureaucrats. (Lipsky 2010) Why then are the actors so important to highlight - after all, it is about children's rights, their participation and their opportunities to have their rights recognized. Putting the responsibility for the impact of the convention or as in this case - participation - on the child alone is not reasonable; Firstly, children in need of social support and assistance may lack the tools needed to draw attention to their rights (language, knowledge, courage, etc.). Secondly, children need to be given the opportunity to participate, and this is where the professional actors become central. We mean therefore that it is the professional actors who have the power and responsibility to let children in, to change the view of children, to work on a rights-based basis, to change and support the norms and local structures, that needs to be highlighted.[8]

Discretion

Following Lipsky (2010), the actor's decision-making takes place in a discretionary space in which various factors influence the actors and thus the result that is achieved in practice.

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[8] In this context, one cannot ignore the responsibility of the government itself - a convention is an agreement between states in which a state takes on a responsibility to ensure
the human rights of individuals - therefore the rights cannot be ensured by the rights holders themselves. The state must be seen as a duty bearer here.

In this case discretion[9] means that laws specify one or more goals for children's rights, but do not have guidelines, description or template for how the actor should act in each situation when they are to fill the law with a content. It's therefore up to the actor to decide within this discretion and add substance to the CRC and its articles. Lipsky (2010) argues that what distinguishes street-level bureaucrats from other lower-level officials in organizations is that they have considerable discretion in determining the type, quantity and quality of the benefits and sanctions provided by their workplace. Professional actors can thereby be said to have some interpretational autonomy on how different situations should be understood.

Having discretion does not mean that there are no rules and guidelines, such exist but they are more standardized and general. On the other hand, it is not possible to have detailed guidelines for how decisions should take place in each individual case or what a particular concept - such as child participation - means. In this discretion it is therefore (to a greater or lesser extent) the individual actors who determine the content of the law. (Lipsky 2010).

Although discretion[10] brings some challenges, it is a prerequisite; in the case of the CRC, each child must be treated according to its unique circumstances, and the actors need to be able to make considerations based on the individual circumstances of the case. (Barnrättskommittén 2009 & 2013) It is complex tasks that cannot be reduced to a set of predetermined guidelines and it would furthermore be counterproductive and not consistent with the CRC. The actors need to be able to adapt their work to the specific characteristics of each situation, to the human dimension of a situation, but at the same time, as we will see later, some form of norm support and guidance is also required.

The CRC is a legal area with considerable discretion that gives actors room for interpretation. How (in this case) children's participation is interpreted and understood, and how the discretion is used by the actors, can be significant for the concept's transformation and meaning in practice. Consequently, it is simply not possible to say from reading the CRC what impact it has or will have in practice.

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[9] Dworkin (1963) describes discretion as the hole in a doughnut, surrounded by a ring of restrictions.

[10] In this context, it can be mentioned that two different types of discretionary space can be distinguished: "discretionary space" and "discretionary reasoning" (Wallander & Molander 2014). While the first refers to the structural discretionary space that exists in a specific context, discretionary reasoning instead concerns the actors' reasoning about their discretionary space and professional judgment (Molander 2016).

The Norm Model

We have been moving from the international document that the CRC represents to a focus on the actors who will use the convention in practice. We have also described the CRC as a piece of paper that needs to be translated in practice in order to have meaning for the target group, the children. Furthermore, we have also highlighted some of the specific conditions under which the professional actors are working and that the regulations and laws on which they are supposed to base their work are without real content until they are used.

In the Study we have used the Norm Model, developed by Hydén and Wickenberg (Hydén 2002; Wickenberg 1999) to help us understand which factors influencing actors' decision-making, but also to explain the preconditions for legislative compliance, i.e. factors that favor or disfavor compliance with the aims and objectives of the CRC.[11] Based on this Norm model (Hydén 2002; Wickenberg 1999) we assume that it is *willingness, knowledge* and *system opportunities* that in various ways, to a greater or lesser extent, influence decisions and actions and the extent to which the CRC is used in practice. *Willingness* expresses an individual's underlying motivation and "driving force", (Hydén 2002; Wickenberg 1999) which we in the Study have used as an expressed willingness to work with the convention, to gain knowledge that is relevant to the case, and to express a positive image of the convention as a law, but also the expectations the respondents experience from various actors. *Knowledge* expresses both a person's knowledge of what has to be done, which activities that should be done, but also communicative and social skills. The concept of knowledge can also be linked to cognition, as knowledge can vary depending on how one "see and perceive the world" [12]. (Hydén 2002; Wickenberg 1999) The focus of the study was on the respondents' own perception of their knowledge in order to perform their work in a satisfying way. Finally, the Norm Model consists of *system opportunities*, referring to various conditions and limitations resulting from, in this case, systems such as economic, political and/or administrative systems. In the study, this includes, for example, possibilities for relevant education, management and guidelines, but also economy, time and legislation.[13]

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[11] The norm model has similarities with Lundquist's reasoning on the effect of political governance and its dependence on the characteristics of the governor (understands, can and wants to act). Se Lundquist 1992 & 1987, Wickenberg 1999.

[12] Original text: ser och uppfattar världen.

[13] See more in Hydén, 2002, Palmstierna & Sonander, 2021; Wickenberg 1999.

The Norm Model is an analytical framework through which we viewed the study's empirical material in order to study the possibilities of the CRC to have effect, and at the same time identify factors that favor or disfavor the conditions for compliance with the convention (Law in action).
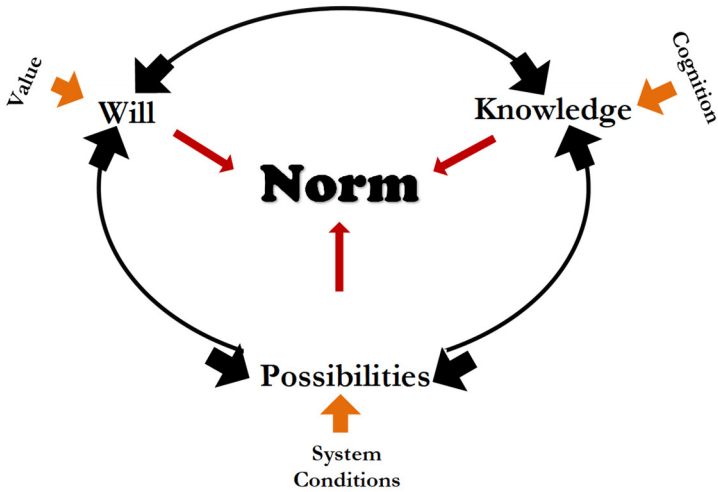

Figure 1: The circle of motives. (Hydén, 2022, p. 10; Hyden 2002, p. 284; Wickenberg 1999, p. 270)

Translating the CRC into practice – A study in the City of Malmö

On January 1, 2020, the United Nations Convention on the Rights of the Child (CRC) Act (2018:1197) became Swedish law. The reasons given by the Swedish government for the incorporation included the fact that the CRC has not had the desired effect in practice. In particular, the shortcomings concerned assessing the best interests of the child and giving children the opportunity to express their opinions and participate in decisions that affect them in various ways. Another reason for incorporating the CRC was that the convention was not to an adequate extent linked to the legislation that applies to the municipality's or authority's practices. (Prop. 2017/18:186.)

Incorporation means that a law is established which stipulates that the convention in question, or certain parts of it, shall apply as national law. Nevertheless, Sweden has been bound by the CRC under international law since its ratification in 1990. The

same text (CRC) applies to Sweden now as before the convention became law (ratification - incorporation), but despite a number of different actions taken since 1990, in order to facilitate the actual implementation, shortcomings in the actual use of the CRC have been identified. (SOU 2016:19)

In the study, we assume that the professional actors hold a key position for the child rights-based approach and that it is *willingness, knowledge and (system) opportunities*, the relationship between these elements as well as their mutual strength that are crucial to achieve norm change; to make a child rights-based approach a reality in practice.[14] The following text summarizes first the challenges and opportunities expressed by the professional actors in the study, and then the factors that the professional actors themselves identified as important in order to be able to include CRC in their work.

Based on the norm model, the challenges of the CRC in practice can be described as follows: There is generally a good willingness among actors to use the CRC in their profession. Taking the CRC into account in your work means, among other things, giving children the opportunity to express their opinions on matters concerning them in accordance with Article 12 of the convention. Based on the concept of knowledge, the study showed that the conditions are not fully favorable in terms of knowledge for providing children with the opportunity to express their opinions in matters concerning them. There is knowledge that the CRC is law, that it should be part of the work, and the sense of responsibility is high when it comes to taking the CRC into account. However, when it comes to professional actors' knowledge for the interpretation and application of the CRC in practice, the conditions are not so positive. Here we can say that there is a theoretical prerequisite, but the practical possibilities are absent. Knowledge of the convention in itself is thus not a major challenge. However, the actual use of the convention is a greater challenge; something that the actors in the study clearly expressed:

> "Had many general education sessions, they were appreciated, but need more discussion on how it is used in practice."[15]

> "To receive training for just a couple of hours and then goodbye! Go and do. Doesn't work. Rather, it needs to be close to business continuous support. There may be a

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[14] See more in Palmstierna & Sonander 2021.

[15] Original text. "Haft många allmänna utbildningar, varit uppskattade, men behöver komma till mer diskussioner kring hur det används i praktiken.".

continued need for training but not training in the traditional sense but more practical regular support."*16*

There is thus a need for knowledge of how to apply the convention in the daily work, based on the conditions of their own practice. So, even if the actors have received (a lot of) education about the convention, there is a lack of practice-oriented education and training that deals with how the convention should be used in one's own organization and practice. There is also a demand for recurring practical support. We interpret this as indicating a need for support on how the convention can be linked to the legislation that applies to the work of the municipality or organization, and that sectoral authorities have a major responsibility here (more on this later).

The CRC in practice - Reflecting on the past and looking forward to the future

The aim of this paper has been to highlight the ability of professionals to use the United Nations Convention on the Rights of the Child (CRC). We have explained that the legal conditions (law in books) regarding children's rights in themselves offer good conditions for working in a rights-based manner and that children's participation can be promoted in various ways. We have also described the CRC and other human rights umbrellas as fundamental universal values and standards for work with children, but that the challenge lies in its daily use in practice (law in action).

We therefore believe that different legal documents (texts) must be put into practice and reach the professional actor, and that it is in this transformation of different legal norms that the challenge lies. The discretion provided by the convention also means that interpretation and understanding of the convention can vary and that practice, partly depending on the willingness, knowledge and opportunities of the actors, does not live up to the prevailing norm of a child rights-based approach. For a child rights-based approach to become a reality, tailored education and support is required for those who work with the convention in practice, both with regard to the convention and other legislation, as detailed legislation must be interpreted in the light of the convention. This also requires knowledge of how laws should be used and

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[16] Original text: Att bara få en utbildning ett par timmar och sedan hejdå! Gå och gör. Funkar inte. Det behöver snarare var verksamhetsnära kontinuerligt stöd. Det kan finnas ett fortsatt behov av utbildning men inte utbildning i den traditionella meningen utan mer praktiskt återkommande stöd.

transformed into the organizations in which the actors find themselves, a work in which sectoral authorities are central.

This is hardly new findings! We identified several factors which the professional actors felt were important in order to be able to fully consider the convention in their professional role which largely correspond to the key success factors highlighted by ESV (Ekonomistyrningsverket 1999) back in 1999:

a. The support from the management (Willingness and possibilities)

b. Time (Opportunities)

c. Routines and guidelines (Knowledge and Opportunities)

d. Integrated part of the organization (Knowledge and Opportunities)

e. Dialogue and common understanding (Knowledge and opportunities)

f. Collaboration (Opportunities)

g. Education and trining (Willingness, knowledge and opportunities)

h. Concrete examples (Knowledge)

i. Guidance in the practical daily application (Willingness, knowledge and opportunities)

Since different situations have their own specific conditions that require specific solutions, the sectoral authorities are also important in creating support designed to the requirements of the organization. We believe that the sectoral authorities are central to an effective daily support and that they are an important part of the transmission of the purpose and objectives of the law to the actors, to the local organization where the actors are located and so the children's rights are to be fulfilled for example when it comes to children´s opportunities to express their views and practice their right to participation.

This isn´t new knowledge either; the bill on the incorporation of the CRC states that authorities may need to update guidelines and handbooks on how the CRC can be interpreted within an authority's own specific activities. The bill also states that authorities should take into account that the interpretation of the CRC develops over time, which requires that the guidelines continuously are updated in line with future national and international legal developments. Also, guidance and coaching provided by the treaty bodies can be taken into account in this context. (Prop. 2017/18:186) This requires that the respective sectoral authorities keep manuals, general advice and other guidelines up to date on the basis that the CRC now is national law, but also that municipalities, regions and national authorities update their internal

guidelines. In such work towards change, which is partly about developing new procedures, guidelines and working methods and partly about implementing these, there is, according to the open responses, a need for regular support or guidance for the employee. The focus here should be on the law in practice and the norm changes that have to be made. How such guidance and support should be designed is also a development work that will be needed in order to create opportunities for professional actors in the various organizations to be able to use the CRC and thus ensure the rights of the child in their daily work. We believe that it is also important that different management actors gain knowledge of what is required to be able to consider the CRC in their daily work and to adequately take into account children's opportunities to express their views and their right to participation and thus follow the CRC as law.

In the process of using the CRC, some help can be provided by other legislation - but the legislation then also needs to be explicitly grounded in the convention. We believe that it is important to work for a continued transformation of the CRC into national law and a stronger link to the preparatory work in Sweden. The legislator is therefore also important and central in being able to provide answers to the questions from practitioners and it will then also be easier for the sectoral authorities to provide support to practitioners in their daily norm training. Furthermore, we believe that this transformation must be clearly based on both the CRC but also other human right treaties so that society's/actors' interpretations and decisions, and ultimately the treatment of children, do not risk drifting from the international commitments to which Sweden has committed itself.

Concluding discussion

A new norm?

Given that the CRC, other human rights documents and legislation are expressions of general social norms for children's rights, it is of interest to see how these norms effect practice. As we have previously mentioned, norms are not static but change over time. Here we want to raise the idea that we currently are in the middle of a change in which we are moving towards a more child rights-based approach, but where a certain delay in practice is a fact. The legal norm (law in books) says one thing, but practice (law in action) has not really been keeping up with the change.

We believe that it is important not to lose the momentum of the change process and that it is important to keep on going even after the impact of the news itself. The study in the city of Malmö was conducted just after the CRC became law in Sweden,

and the convention was therefore in the spotlight, both in the media and in academia. Municipalities and others were constantly made aware that the convention had become law, and many also implemented various forms of knowledge initiatives for their staff. We therefore also believe that it is important not to lose momentum just because the spotlight is fading, but instead to continue to invest in support to the actors in various ways and to make it possible for them to be updated on the changes that taking place. We know that the law and the norms is constantly changing, often when events are highlighted in the media.

In this norm changing process, the sectoral authorities are also important as they have the actual possibilities to support the actors. They have also possibilities to change structures in the discretion in which the actors operate so the use and interpret of the convention and other laws is from a child rights-based approach. The sectoral authorities are therefore important when it comes to support the work in practice with the the new norm "the child as a rights-bearer".

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Summing up

In 2023, the *Child Rights Institute* at the Department of Sociology of Law, within Faculty of Social Sciences, at Lund University, as mentioned above in the Introduction, arranged a three-day research conference on the theme *Empowering Children and Youth through Law and Participation*. It is very interesting that we for this report book have 22 contributions by 41 participants from 13 different countries, where of 10 countries outside Europe: Colombia, Brazil, Mexico, Ethiopia, South Africa, India, Vietnam, China, Australia, and Russia. Looking at the Nordic countries we had participants and papers from Norway, Denmark, and Sweden.

Here in the end of this book, we will now present our conclusions, reflexions, similarities, and differences. We will also try to find some common answers to the five questions raised below with the bullet-points, to find new ways to handle these themes on children´s rights, law, norms, empowerment, support, and real participation.

We also now have contributions that highlight the work in different countries, authorities, and stakeholders on *Empowering Children and Youth through Law and Participation*. We have contributions that seek to understand and explain the role of law and participation in and when empowering and supporting children.

Questions and themes that were addressed during the conference:

- How can we understand the challenges, possibilities, and opportunities of the law to strengthen children's participation?

- How can we recognise and understand children's opportunities for participation?

- What role do individual professional actors have in the work to strengthen and support the realisation and enforcement of children's rights?

- How do children experience their opportunities for participation?

- How do professional actors experience their opportunities to work for strengthen children's rights and participation?

In the various contributions, we have seen that these questions and the challenges they entail can be addressed from *three perspectives*: the child's perspective; the perspective of the professional actor; and a more comprehensive societal perspective. These perspectives and points of departure are of course more or less connected, but it can be of value to try to separate them in order to clarify the challenges we face in order to strengthen the child's opportunities for participation in various ways and for the best interests of the child, the portal paragraph of the Convention on the Rights of the Child, to become real and not only be a type of symbolic policy that can be "checked off" in various evaluations.

Regarding the child's perspective, several authors have highlighted that there is a lack of a child's perspective in the research that is conducted, both before and during the research process, meaning that it is adults who stand for the child's perspective and interpret, define, and decide which areas are important enough to be researched and what kind of knowledge is needed. Other questions that are asked from a child's perspective are whether actors (adults) understand at all what children think, is important before they make decisions concerning children, but also whether decision-makers at different levels have enough information from children to be able to make decisions based on *the best interests of the child*.

Questions are also asked about what type of knowledge is needed, which children are allowed to participate when children's participation is practiced in different ways. In this perspective, the difference between direct and indirect participation is also highlighted, that is, how do actors find out what the child's opinion is; by communicating directly with children or by communicating with those who think they know what is best for children. This is important to highlight as adults are given interpretative priority over children and can decide actions, etc. based on the adult's conviction about what is in the best interest of the child. Of course, this does not have to be wrong, there is always a trade-off between protection of children and participation, and here adults always bear the responsibility to protect children.

This puts the finger on the complexity and inherent tensions of a rights perspective, something that emerges in several of the contributions where there is a conflict between a child's right to express their views, and adults' obligation to protect them from harm; children as competent actors at the same time as they are persons with special protection needs. However, this can be seen as an oversimplified picture as children can be both vulnerable and resourceful at the same time. As it is adults who are ultimately responsible for ensuring that children are not harmed, it puts the finger on the great responsibility of *professional actors* to manage this complexity.

From an actor's perspective, it is often highlighted that there are theoretical prerequisites for the actors' work, that there is legislation that can be said to support children's rights-based work in various ways, where children's participation is the obvious starting point. However, there are several challenges when it comes to implementing the law. In addition to the already mentioned complexity in the view of children as either vulnerable actors or competent actors, there is a lack of actual opportunities in practice such as resources in the form of time. Even knowledge of how the actual work should be carried out in practice may be absent, which makes implementation difficult. One way to work on making children's voices heard is to use digital tools, but even here the classic success factors for implementation are important (that is, among other things, education, knowledge, resources).

These challenges affect the decisions that are made, and here it is the discretionary power that the Convention on the Rights of the Child, but also other laws, means centrally, something that is highlighted in several of the papers. Using, transposing, and implementing the law in practice is thus rather frequently described here as a challenge, and where others are legal factors become important for the practice of the Convention on the Rights of the Child.

Another challenge is that all children have the right to be handled individually; the Convention on the Rights of the Child applies to the individual child, while actors need to create routines to be able to handle the caseload. These routines are based on existing norms and perceptions and tend to align and systematize work with children. The implementation can thus lead to inequality between children.

Within the sociology of law, these various challenges are often discussed based on the concepts of *law in books* and *law in action*, which means that the written law does not tell us anything about its meaning until it is, so to speak, implemented in social practice. What happens when the concept of "child participation" trickles down into practice around the world? Who decides the content of the law and on what grounds? In one of the papers, for example, children's right to participation is raised as a "non-right" in practice, that is, when the law is used, the right disappears as it was intended to be used, and it can instead become a form of symbolic participation. Symbol politics!

In the discretionary power that is highlighted in several of the papers, social norms also become important; social norms affect the actors and become important for how we implement the law, whether we see children as either vulnerable or as competent actors, or both.

The book gives examples of how states work to help with the implementation of the Convention on the Rights of the Child, how the actors should work, think, and

value the various articles of the Convention on the Rights of the Child. This is positive, but at the same time it is highlighted that there is a lack of evaluations of the ongoing work, which makes it difficult to assess whether the implementation is working as intended or not.

What is common when it comes to actor´s perspectives are that these are highlighted as important for strengthening children's rights, in many cases they can be said to be "the gatekeepers" for children's opportunities to make their voice heard and to actively participate in the processes that concern the child.

From a societal perspective, the challenges with children's participation may affect the future through a continued interpretation of children as only worthy of protection, which can lead to (social) practice increasingly not actively taking in and working with children's participation and children's voice. This not only leads to less well-founded decisions and activities, but also that children do not feel a sense of participation in society, they may feel powerless and outside, and thus do not become the active citizens needed to create a strong society. Active children and young people (and citizens of society) can protect their rights in different ways but also inspire others to act. Here a question of *power* comes up and in the book the need for an intersectional perspective is highlighted.

Participating actively in society can form a sense of community and solidarity, which is important for a functioning society. Ultimately, it is the adults' responsibility to protect children, but in this context, it is also important to highlight HOW this responsibility is taken, how the responsibility and work with children is designed, supported, and understood and put into practice. For this, a society is needed where adults take responsibility but also let in and work with and for children and young people.

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Empowering Children and Youth through Law and Participation

In 2023, between August the 30th and September the 1st, the Child Rights Institute at the Department of Sociology of Law, within Faculty of Social Sciences, Lund University, was arranging a three-day research conference on the theme Empowering Children and Youth through Law and Participation. 41 participants from 13 different countries participated during the tree days. 22 papers were presented.

Questions and themes that were addressed during the conference were like these:

• How can we understand the challenges, possibilities, and opportunities of the law to strengthen children's participation?

• How can we recognise and understand children's opportunities for participation?

• What role do individual professional actors have in the work to strengthen and support the realisation and enforcement of children's rights?

• How do children experience their opportunities for participation?

• How do professional actors experience their opportunities to work for strengthen children's rights and participation?

This book is now presenting the 22 different papers and contributions using creative ways and methods of telling their story or writing the scientific report, following the 13 different global countries of the participants in the conference report book: Colombia, Mexico, Brazil, Russia, China, Australia, Vietnam, India, Ethiopia, South Africa, Norway, Denmark, and Sweden.

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