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CHILD PARTICIPATION

1. The Convention on the Rights of the Child is a landmark in the history of the United Nations standard-setting. It entered into force in a very short period of time, just 9 months, and has reached an unprecedented number of ratifications – 191, that is all countries but two (US and Somalia).

The Convention also stands as a unique achievement – being the first legal instrument adopted after the cold war and bridging two political blocs, bridging North and South, bridging civil and political rights, as well as economic, social and cultural rights, associating State responsibility with the active involvement of civil society.

More important than that, the Convention has provided a new vision of children. While acknowledging that the child is a vulnerable human being that requires the protection and assistance from the family, the society and the State, the child is envisaged as a subject of rights, who is able to form and express opinions, to participate in decision-making processes and influence solutions, to intervene as a partner in the process of social change and in the building up of democracy.

With the Convention, *children can no longer be perceived as not-yet persons*, waiting in the lobby of life to become mature by the magic effect of reaching the age of maturity. *They are not simply the passive recipients of care or of adult's decisions.* If we address child's health, their ability to have access to information becomes essential; if we address education, their evolving capacity in gaining skills, experience and responsibility, becomes critical; if we consider the situation of the child within the family, their active contribution to decisions that may affect their lives is essential – be it the case of adoption, custody or place of residence when the parents are separated. With the Convention, *solutions need to be built with children*, considering their perspective on the realities we want to address and ensuring that they are empowered to make informed choices and enrich results.

With the Convention, the relationships between adults and children also change. Parents, teachers, care givers and others interacting with children evolve from mere providers, protectors or advocates to negotiators and facilitators. They are expected to create spaces and promote processes designed to enable and empower children to express views, to be consulted, to influence decisions.

Several provisions in the Convention reflect this innovative approach, but one in particular reveals this special dimension – *article 12. This article sets one of the fundamental values of the Convention*, as well as one of its basic challenges. In essence, it affirms that the child is a fully-fledged person having the right to express views in all matters affecting him or her, and requiring that those views are heard and given due weight. *It recognises the potential of the child* to enrich decision-making processes, to share perspectives and participate as a citizen and an actor of change.

In the light of this provision, the child has the right to participate in decision-making processes that may be relevant for their lives and to influence decisions taken in their regard – within the family, the school or the community. It is for this reason that article 12 is often identified as portraying the right of the child to participation.

Article 12 is a visionary provision, but it has also a very practical meaning which needs to be considered in each and every matter relevant to the child. It indicates *the way* the process of the realisation of the rights of the child needs to be promoted – *with children*. And it further shows that *as a fundamental right of the child, it stands on its own*, requiring a clear commitment and effective actions to become a living reality, and being much more than a simple strategy.

It was for this reason that the Committee on the Rights of the Child identified article 12 as one of the fundamental principles of the Convention, – *an underlying value* which needs to guide the way each individual right is ensured and respected; *a criteria* to assess progress in the implementation process of children’s rights; and *an additional dimension* to the universally recognised freedom of expression, implying the right of the child to be heard and to have his or her views taken into account.

2. *At a first sight, article 12 may be perceived as a simple reaffirmation of the right to freedom of expression.* And they are closely related. But article 12 stands for much more than just the recognition of the right to seek, impart and receive information and ideas of all kinds. In fact it highlights *the right of the child to express views freely, and further to have those views*

taken into consideration in all matters which may be of relevance to the child. It applies to the family setting, the school context or the community level and it includes the right to be heard in administrative and judicial proceedings affecting the child (for instance the place of resident in case of separation of parents or a decision on the adoption of the child).

But what does this mean? *Respecting the views of the child means that they should not be ignored; but it also means that child's opinions should not be simply endorsed.* Expressing an opinion is not taking a decision. But it implies the ability to influence decisions. Thus, a process of dialogue and exchange needs to be encouraged to prepare the child to assume increasing responsibilities and to become active, tolerant and democratic – combining adults direction and guidance to the child with the consideration of the child's views in a manner that is consistent with the age and maturity of the child; giving the child an opportunity and ability to understand why a particular option and not another is followed, why a particular decision is taken and not the one the child might have preferred.

3. *It is important to note that child's participation is a right, and should not be perceived as a duty.* It implies for the child the freedom of expressing views or preferring not to do so. It means the *opportunity to take a stand but not to be forced to do so.*

The child should therefore not suffer any pressure, constraint or influence that might prevent a free expression of opinions or lead to the manipulation of his or her feelings. This certainly applies to legal solutions according to which a child is forced to participate as a witness in a judicial proceeding, even if it is clear that such a solution is contrary to his or her best interests. In this regard, it is interest to note that in many countries while children are expected to join a judicial proceeding as witnesses, often without any minimum age limit, they are rarely entitled to directly launch a complaint as a victim – including in the case of ill-treatment or sexual abuse. The law often foresees the possibility for parents or care-givers to do it on behalf of the child – which of course does not address the situation of a child victim within his or her own family.

4. *The Convention does not set any lower age limit on children's right to express views freely, nor upon where those views may be expressed. The Convention acknowledges that children can and do form views from a very early age.* References in the Convention to the “evolving capacities” of the child emphasise the child's developing capacity for decision making. This means, for example, that parents and, where appropriate, members of the family

and wider community are expected to give appropriate direction, guidance or advice. But, as the child grows and evolves, gains maturity and experience, direction will lead to an increasing degree of autonomy and responsibility of the child, and guidance and advice gain greater value and meaning. In an *evolving way and in manner consistent with the age and maturity of the child*, there will be various ways of creating the right atmosphere to enable the free expression of the views by the child – even at a very young age, the child interacts with adults and cries or smiles to express feelings, wishes, fears and expectations.

For those close to children, particularly members of their family, it is *important to be available to listen and understand children, to give them the time and space for them to feel confident and encouraged to express their opinions*.

And there will be different ways of promoting and ensuring participation in view of the child's age and, within each age group, in the light of the individual child's ability, confidence and experience in assessing its own situation, considering possible options, expressing views thereon and influencing decision-making processes. Amongst children, it is important that the older and more advantaged foster the participation of the younger and most disadvantaged, including girls, the poorest, children belonging to minority groups and indigenous groups, or migrant children.

But, the child's evolving capacity represents just one side of the equation: the other has to do with adults' evolving capacity and willingness to listen to, understand, and weigh the views expressed by the child. The implementation of this right therefore calls for the training and mobilisation of those who live and work with children, preparing them to give children the chance of freely and increasingly participating in society and of gaining democratic skills. This includes, most obviously, parents and other family members, but also relates to society at large, to groups such as teachers, social workers, lawyers, psychologists, and the police.

5. *Article 12 is far from being the only provision addressing children's participatory rights.* As mentioned already, it is closely linked to freedom of expression. It is also related to the fulfilment of the right to information, which is a key prerequisite for the participation of the child to be relevant and meaningful. It is in fact essential that the child be provided with the necessary information about the possible existing options and the consequences arising therefrom, so that an informed decision, and a free decision, be made. Providing the child with information means enabling him or her to gain skills, confidence and maturity in expressing views and influencing decisions.

Moreover, article 15 guarantees the right to create or join associations, and to peaceful assembly. Both imply the opportunity to express political opinions or engage in political processes, to participate in decision-making processes and both are critical to the development of a democratic society, and to the realisation of children's rights ensured with the participation of children themselves.

But the right to participation is relevant to the exercise of all other rights, within the family, the school or the larger community context.

Thus, for example:

- *In the case of adoption*, the child, as one of “*the persons concerned*”, is to be heard in any judicial or administrative proceedings, and in fact Article 21 (a) refers to the informed consent of persons concerned, including the child;
- If a decision is to be taken on the need to *separate the child from his or her parents*, on the basis for instance, of abuse or neglect, the child, as one “*interested party*”, must be given an opportunity to participate and make his or her views known;
- If a decision is to be taken on the *change of the name* of the child, the views of the child should be taken into consideration;
- To ensure the enjoyment of the *right to health*, children are entitled to be informed, have access to information and be supported in the use of basic knowledge of child health and nutrition... (article 24 para. 2 e)).
- Similarly, in the area of *education*, the participation of the child gains a special dimension. In fact, it means a process of learning which provides an opportunity for the child to develop his or her talents and abilities to their full potential, to gain confidence and self-esteem, to promote initiative and creativity, to gain life-skills and make informed decisions, to understand and experience pluralism, tolerance and democratic coexistence. In brief, *the right to education means the right to experience citizenship*.

And all this can only happen if children are *perceived not as recipient of knowledge, but rather as active players in the learning process*. It is for this reason that the Convention puts so much emphasis on the aims of education and on a system that respects the human dignity of the child. And a few consequences arise therefrom:

- a) First, it implies the need to support learning by doing and experiencing, avoiding simple repetition and memorisation.

- b) Second, it reflects the recognition of the right of the child *to diverge in his or her views*; to test, error and retry, to know and not know without fearing penalisation or sense of failure.
- c) Third, it requires the need to *establish a violence free environment*, where the dignity of the child is respected, inhuman discipline or corporal punishment forbidden and where negotiation and dialogue prevail as a means of preventing and solving conflicts.
- d) Fourth, it indicates that children should be given *opportunities for active participation, decision making and responsibility within the school* in order to prepare them for life in a free democratic society. In this regard, it is important to note the trend to ensure students' representation in school councils and disciplinary boards, the consideration of their views when the curriculum is being revised, the schedule in school is being decided or recreation activities are being promoted. It is equally relevant to ensure students' participation in proceedings specifically relevant to them – in particular, when a decision on suspension or expulsion may be at stake.

The school plays a decisive role in this process when it provides the democratic setting for views to be expressed openly and discussed, for fairness and justice to be ensured, for participation to be encouraged and experienced.

We assist to a visible trend to ensure the participation of children in schools. *In France*, for instance, elected students sit at National Board of Education and take part in major discussions on the educational system. *In Chile*, students centres are being established as a channel through which the concerns and needs of young people can be expressed and shared, and as a forum to promote the development of members' ability of reflection and critical judgement and their willingness to take action and become prepared for a democratic life and for participation in cultural and social change. *In Namibia*, the Code of Conduct for Schools recognises the right of students to have their opinions taken into consideration in setting school policy regarding discipline, and provides grievance and appeal procedures. *In Bulgaria*, children over 14 are entitled to express their preference in the choice of school and type of education, as well as to put proposals forward regarding the organisation and conduct of its activities. *In Colombia*, children also participate in the planning of their school activities and children's councils are established as part of education for citizenship, and in fact as a means of reverse in the marginalisation of children living in rural areas or belonging to indigenous groups.

6. Participation is an entitlement, and cannot be genuine if it gives no opportunity for the child to *understand the consequences and the impact of his or her opinions*. ‘Participation’ should therefore not be used to disguise for any form of manipulation or tokenism. Again, the issue is, as the Convention as stressed, how to express respect for the views of the child.

It is for this reason that, in addition to facilitate and support activities where children can freely participate, it is becoming increasingly important to consider *whether and how we are prepared to ensure a follow-up to children’s recommendations or expression of concern*.

With the expression of the child’s views comes the responsibility for adults to listen and learn from them, to understand and consider the child’s point of view and re-examine adults’ own opinions and attitudes, be willing to change them and to envisage solutions which address children’s ideas. For adults, as well as for children, participation is a challenging learning process and cannot be reduced to a simple formality.

7. This also applies to UNICEF. Committed to support the implementation of the CRC and ensure the realisation of the right to participation, the Organisation is going through an important debate on the requirements for a genuine participation of children, its potential and impact, including on the way we work – not less in the assessment of the reality in countries, the development of programmes of cooperation, monitoring and evaluation.

One trend we note is the support to the realisation of children’s elections, which provide an important learning democratic experience. This was clearly the case when elections on children’s rights were organised in *Mozambique*, even before any political experience of that kind had ever occurred in the country. Through children, adults became familiar with the registration process, the awareness and information campaigns, the identification requirements and the prevention of fraud, the secret ballot, the public announcement of results and the welcoming of the most widely voted right of the child – the right to an identity. And the meaning of such a choice was certainly undeniable for a country devastated by war. It gave a strong sense of citizenship and hope in the consolidation of peace. This experience galvanised the country, and later led to a national campaign for birth registration. Children became visible and clearly associated with the democratic process in the country.

In Ecuador, the children’s election was organised at the same time as the national election for Congress. This constituted an important reason to mobilise attention and to lead to comparison between the adults’ and children’s process. But more interesting was even the result of the vote – in the view of children,

the most relevant right was the right to be protected against abuse and ill-treatment, a hidden phenomenon but certainly important enough to become critical in their eyes. Unfortunately no visible follow up was given to the message conveyed by the children and their expression of concern remained simply an expression of concern...

In Mexico, the election was organised with the Independent Federal Electoral Institute, which had for a few years organised programmes on civic education for school age children, to promote the values of pluralism, dialogue and tolerance. Similarly to what had happened in Ecuador, the elections were organised the same day of the Federal elections, although using child-friendly places, including schools and parks for children's ballots. The results indicated the need for a priority attention to the area of education. Differently from Ecuador, in Mexico there was an attempt to consider the message from the children and to envisage an effective follow-up. In a Pact around children, all the political parties agreed to envisage a plan to address the absenteeism of teachers, to promote the reform of the school curricula and to ensure relevance to the education system. It is still too soon to anticipate results, but hopefully the process will generate change and children will be involved in its development and implementation.

In Chile, Unicef promoted an interesting experience – an opinion poll for children to evaluate the relevance of the existing education system. Similarly to Mexico, their assessment indicated a clear need for change and reform.

These are but a few examples of a world-wide movement to increase the spaces and opportunities for child participation. And while each experience brings valuable lessons, we must build into our efforts strong monitoring and evaluation components where we constantly test our initiatives against the principles of the Convention – is what we are proposing, or doing, in the best interests of the child?; are we acting without discrimination of any form?; have we made spaces, given voice and listened to the most disadvantaged and marginalised?; how do we work genuinely with children and curb adult tendencies to control and manipulate outcomes or at least to pretend that children are able to make a difference in decision-making processes?

Conclusion:

In the vision that I have outlined today the participation of children is a right in itself and essential to consideration of what is in the best interests of the child.

This means that answers will have to be found to several questions: the question of why, even in countries where democratic institutions proclaimed to be based on participation and public scrutiny have been established, the voices of children continue to go unheard, with little consideration given or effort made to change the system to tap their special needs and unique potential. Why the voices of children are silent when public policy is being considered: why urban areas, particularly facilities for children, are planned without consulting the users – children... phones out of reach, play areas designed by adults, little thought to creating spaces where children can safely meet, and so on.

Many challenges but many reasons to continue our struggle to see the participation of children achieved in their very best interests. Thank you.

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