

The involvement of children and young people in education decision-making: a children's rights perspective?

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Research Forum
for the Child.

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Education as a site for the realisation of the human rights of children with disabilities

“Where after all do universal human rights begin? In small places, close to home – so close and so small that they cannot be seen on any map of the world. Yet they are the world of the individual person: the neighbourhood he lives in; **the school or college he attends** ...such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere.”

Eleanor Roosevelt, Speech to the United Nations
27 March 1953.

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What do the international human treaties require?

United Nations Convention on the Rights of the Child: Article 12:

*“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.”*

United Nations Convention on the Rights of Persons with Disabilities:
Article 7.3:

*States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, **on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.***

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Children’s right to have their views given due weight

- The most controversial and innovative provision of the UNCRC, now augmented for children with disabilities in the CRPD.
- Significance lies in the fact that it: “recognises the child as a full human being with integrity and personality and the ability to participate freely in society.” (Freeman, 2000).
- Children with disabilities considered to be **doubly disadvantaged** in this respect.

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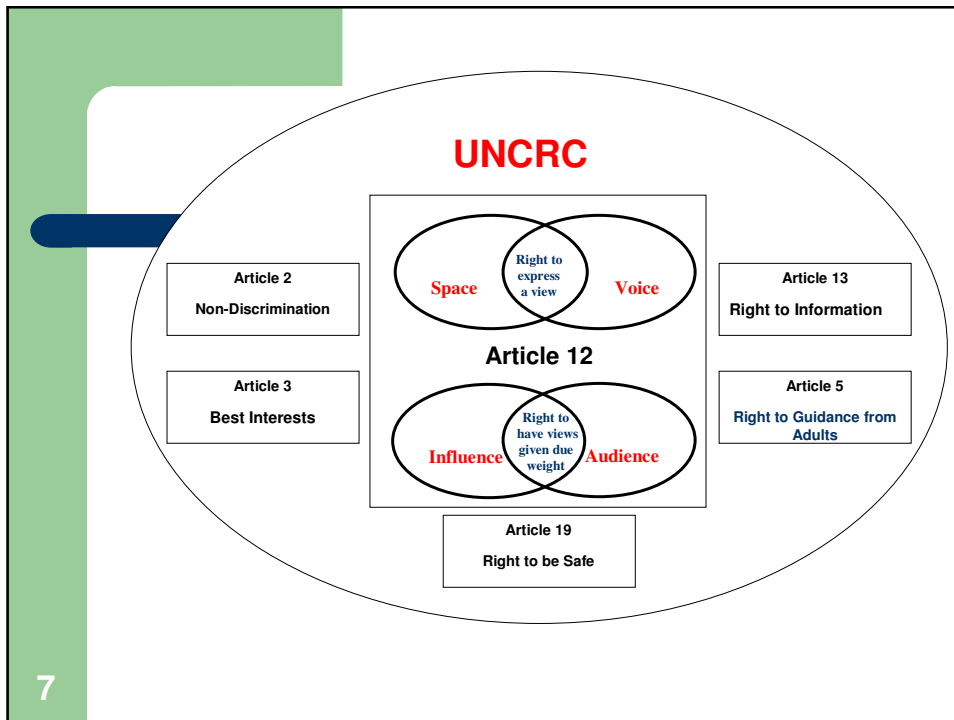
What is child rights-based participation in decision-making?

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Beyond “Voice”: a model of participation based on the UNCRC

- SPACE: Children must be given the opportunity to express a view
- VOICE: Children must be facilitated to express their views
- AUDIENCE: The view must be listened to.
- INFLUENCE: The view must be acted upon, as appropriate. (Lundy, 2007)

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SPACE: “assure to the child”

- Needs to be actively created – the obligation is on government to “assure” the right to the child....
- Needs to be a “safe” space (Art. 19)
- Needs to be inclusive and non-discriminatory (Art. 2)
- *“Children with disabilities should be provided with whatever mode of communication they need to facilitate expressing their views”*. Committee on the Rights of the Child: General Comment on Children with Disabilities

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VOICE

“the right to express a view freely”

- A right not a duty.
- Afforded to all children: not restricted by “age and maturity.”
- Children may need to be helped to both form and express their views (Articles 5 and 13).
- *the child be informed about the matters, options and possible decisions to be taken and their consequences by those who are responsible for hearing the child,...This right to information is essential, because it is the precondition of the child's clarified decisions.*
- At times, they will need to be independently represented.

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AUDIENCE

“the views of the child being given due weight”

- More than just the “right to be heard.”
- Need to be actively listened to.
- Sometimes “listening” will involve “looking”.
- The Committee on the Rights of the Child has observed that younger children, for example: ‘**make choices and communicate their feelings, ideas and wishes in numerous ways, long before they are able to communicate through the conventions of spoken or written language**’ (2005, para. 11).
- May necessitate the establishment of formal channels of communication - a designated listener/ right of audience.

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INFLUENCE

“due weight in accordance with the age and maturity of the child”

- A restrictive interpretation of this can shut down the application of Article 12.
- *“It should not be interpreted as an endorsement of authoritarian practices that restrict children’s autonomy and self-expression and which have traditionally been justified by appealing to children’s relative incompetence and their need for socialisation”* Committee on the Rights of the Child, 2005.
- Children should be given feedback about the extent of influence they have had.
- Ensure that there is a formal “response”: creates the conditions where it is uncomfortable for adults to solicit children’s views and then ignore them.

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What might be done to ensure implementation?

Coercion:

forced to through *legislation and litigation*

Persuasion:

convinced to through an emphasis in *training and education*

Acculturation:

Feel they ought to through peer pressure
(Goodman and Jinks, 2004)

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1. Legislation and litigation

- States are required to translate the obligations into legislation: domestic law should reflect the UNCRC.
- UNCPRD and now the UNCRC has an optional protocol allowing for a right of individual petition.
- European Convention on Human Rights allows a case to be taken to the European Court of Human Rights. See *DH v Czech Republic* and ECHR cases can be taken in the local courts.

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2. Education and training

“States Parties undertake to make the provisions of the Convention widely known, by appropriate and active means, to adults and children alike”

(Article 42)

- An effective way to ensure compliance with the UNCRC is to build children's capacity as rights-holders and teachers capacity as duty-bearers.
- *States parties should support the training for families and professionals on promoting and respecting the evolving capacities of children to take increasing responsibilities for decision-making in their own lives.*
(Committee on the Rights of the Child: General Comment on Children with Disabilities)
- *Law cannot be effective, and may be counterproductive, unless it enjoys support from those it addresses” Katarina Tomasevski*

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3. Acculturation

- Where the duty-bearer adopts the beliefs and behavioural patterns of the surrounding culture without necessarily having inculcated the values, through social or cognitive pressure i.e. a perception “that an important reference group harbours the belief or engages in the practice” and that they therefore should do so as well.
- *Inter- jurisdictional: the so-called mobilisation of shame in states party reporting.*
- *Inter-professional:*

The UNCRC has been absorbed into the core values that drive our work and lead our school ethos. ...staff feel better about themselves, feel more valued and better included within a rights-respecting ethos, bench-marking what we do and where we want to be as a school community. This is the most positive programme that I have been involved in as a school leader.”

Dr Michael Dobbins, Principal,
Foyle View Special School, Derry/Londonderry, Northern Ireland.
UNICEF UK Rights Respecting School

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The role of law and education in the implementation of rights

“I know there are those who say that this can't be done through the courts, it can't be done through laws, you can't legislate morals. They would say that integration must come by education not legislation. Well I choose to be dialectical on that point. It's not either legislation or education. It's both legislation and education.”

Martin Luther King,
1st January 1957,
NAACP Emancipation Day Rally.

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