

There is probably good reason to look at how the world is changing every decade. The same could be said about children's rights, indeed the whole of human rights. However, this retrospective comes around quarter of a century after the first look at children's rights. Then, 1988, the idea was somehow 'fresher'. That is to say that it was still a year or so until the CRC was completed and presented to the world. The notion of children's rights and work in that field was in themselves not new, but the broader awareness was far less.

It is a very dangerous thing to do when somebody adopts a critical view of any single aspect of human rights. That seems to be especially the case when whoever does that appears to do so from within the field that is being questioned. It is a way of losing 'friends' and attracting criticism, which in both cases may be defensive or overtly embarrassed rebuffs. Nonetheless, it is a calculated risk that must be taken. If children's rights are to be realised, subsequently advanced and improved and to remain developing for all time, then what must be said simply should be said. The starting point here is that one of the issues that should be addressed is that child rights is part of the entire human rights agenda and not just a bolt-on to child welfare.

At present close scrutiny of children's rights would show that they represent an unfinished movement from the areas of needs, protection, welfare and services to an incontrovertible rights-based approach. Having looked at that question, it then looks at children's rights and cultural relativity and asks what relevance the CRC has. To do so demands examination of what cultural relativity is and where and how at all it fits into the human rights agenda and attempts to look at examples of its importance. This entails an examination of progress made in developing and implementing examples of regional or national instruments that may complement the CRC or provide an alternative in practice.

The first question that must be raised, therefore, is whether or not the CRC is seen as part of the human rights agenda and whether the notion of children's rights itself is recognised as part of human rights as distinct from it being an adjunct that

is age, 0–18 years, defined. It is by its nature a welfare instrument that mainly uses the word *rights* rhetorically, although some articles very clearly do set out some principles that are irrefutably intended to deliver rights. The CRC in fact cites the 1959 *Declaration of the Rights of the Child*, which it then makes part of the Preamble: ‘the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth’. The emphasis is on health and welfare.

One need only carefully examine Article 3 as a good example of the language of welfare rather than what we may consider to be human rights terminology.

### **Article 3**

1. 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.
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.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Currently, children’s rights represent an unfinished movement from needs, welfare, protection and services approaches to a rights-based approach. The best interests of the child are not necessarily the delivery of rights per se. Indeed, there is almost certainly justification in delivering child welfare rather than more ephemeral rights. It is, therefore, not so much a critical view here, as identification of the need to separate one from the other continues to deliver welfare but also to strengthen the rights. It is not enough to say that because children have a right to the things the CRC describes that whatever gives them other rights, for instance, political rights, can be excused for their absence. That makes the entire principle on which a framework of rights that should give children personhood is exposed as a fraud. In fact it objectifies them rather than giving them an identity comparable with but not identical to adults in the human rights environment.

Where this is different is where ‘participation’ is the object of Articles 12 to 15:

### **Article 12**

1. 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.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

### Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others; or
  - (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

### Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

### Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

A great deal of emphasis has been placed on Article 12, a lesser extent on Article 13 and even less on Articles 14 and 15. However, participation at one stage began to shape how some people understood children's rights. The twentieth century was almost certainly the cradle of the notion of children's rights as we now understand them. It is, critically appraised, still a young reality and thus far has moved forward with a great deal of uncertainty. However, the reality itself is often a largely adult-made illusion of how we see lives of children should be. As much as we use the language of rights, we also abuse and misuse it, often saying what shall be right before it is tested and proven and rarely with either the collaboration or approval of children. Very early in the latter phase of the development of formalised children's rights through the CRC, it was said that the parts of the convention describing the actual 'rights' were made up of *protection*, *provision* and *participation*. It is a fait accompli that was achieved without consultation with those to and for whom those rights are addressed despite the enthusiasm for participation.

A great deal of stress has been placed on the importance of children's *participation* for roughly two and a half decades, yet the underlying trend has been towards increased *protection* and a disproportionately large part of that done under the guise of *provision*. Part of this predicament has been the prevalent use of the word 'participation' by large UN agencies such as the *World Bank* and its frequent use by politicians worldwide who use it generously and apply it sparingly. It has also become part of the language of the development world; parallel to this one often notes the tendency of children's rights issues to be associated with developing countries rather than in our midst or simply everywhere including in advanced industrial societies. It may be that there is a notion of there being no need for 'that kind' of participation since our children are so well protected they have no real needs; thus, it is easy to be dismissive. Of course, in better-off countries we do have children's organisations, municipal councils and parliaments, school councils, occasional conferences on environmental protection for young people and so on. There is no apparent universal discourse on their lives or rights. When questions periodically arise they are viewed as dissent and are seldom taken seriously.

Children who live in markedly difficult circumstances, thus including abused and neglected children and those who are sexually exploited, work, live on streets, become soldiers or are affected by conflict, juvenile delinquents and so on who attract attention, are those who have least access to any means of participation in any kind of political dialogue. A great deal is said about either improving their lives and greater protection being given to them or controlling them, occasionally punishing them. Their participation is also held to be a very important part of getting them out of their current situation and back into mainstream society. Ironically there is little concern with this ideal 'mainstream' anywhere. Used in such circumstances it is usually in the North and then a particularly western concept that is meant. It is attractive to acquire knowledge of what does not conform to the norm but very few people study what is 'normal'. Yet the final irony is that the children who do become part of parliaments, councils and child and youth conferences are often the good, clean and wholesome young people we consider normal.

Bill Cooke and Uma Kothari edited a book under the title *Participation: The New Tyranny?* (2002), drawing together the work of contributors to a conference of the same name at the Institute for Development Policy and Management at the University of Manchester. It critically emphasises the weight that has been thrust on participation in their world. One of the editors, Kothari (op. cit.: 139–52), draws attention to the work of Erving Goffman who very succinctly described one of the key ingredients of participation, namely, 'social interaction', in his *The Presentation of Self in Everyday Life* (1959). His work also examines the psychology of the individual, in which, given the relative importance that has been attached to individuation, the rights of individuals as distinct from those of the collective and so on over recent years cannot go unmentioned when discussing things done 'together'.

His approach used the theatrical stage as a metaphor to explain how we ‘stage manage’ images we try to convey to those around us which aptly describes much of what happens in children’s participatory activities. The ‘dramaturgical’ approach is concerned with the mode of presentation used by the ‘actor’ and its meaning in a broader social context (1959: 240). Interaction is thus viewed as ‘performance’. It is shaped by audience and environment so that it is constructed so as to provide others with ‘impressions’. These are consistent with the desired aims of the actor (ibid.: 17). A performance exists regardless of the mental state of the individual, who as a character is often attributed to the individual in spite of his or her lack of faith in or perhaps unawareness of the performance. Thus, an individual develops a persona as a function of interaction with others through exchanges of information that allow for more specific definitions of identity and behaviour. Goffman also explores the nature of group dynamics through discussion of ‘teams’ and relationships between performance and audience.

The concept of the team demonstrates the work of a group of individuals who ‘cooperate’ in their performance, thereby attempting to achieve goals approved by the group (ibid.: 79). Cooperation might manifest itself as agreement on conduct and behaviour or taking on of various roles for each individual that are determined by the desired objective of the performance. The need of each individual to maintain his or her front in order to promote the team performance reduces the likelihood of dispute. However, Goffman does not provide a comprehensive description of interactive processes in this work. It is complemented by his work on the *Interaction Ritual* (Goffman 1967: 43–4) whereby he assumed a more abstract location in the communicative process that is a reconstruction of verbal prompts. The expression reflects a line suggested by others, regardless of awareness of its existence, to the actor that is based on the use of verbal and non-verbal symbols that either confirm or deny a social construct. By this means a process of locating the actor in the interactive process and broader society allowed Goffman to uphold George Herbert Mead’s argument that identity is constructed through an understanding of the projection of the self onto others (i.e. see Morris 1934, or Miller 1982).

A significant connection can accordingly be made between Goffman and Durkheim in an inquiry into the concept of ‘spontaneity’. The importance of spontaneity became an apparent aspect of performance in which an actor attempts to create a façade that does not appear to be affected. Spontaneity allows for the realisation of ‘true’ self which is an idealised type of interaction that allows an individual to accomplish a desired appearance. In *The Division of Labour in Society*, Durkheim described a macrosociological model of spontaneity that he said was a ‘finely articulated organisation in which each social value . . . . is appreciated at its true worth’ (1984: 313). Durkheim, though primarily examining labour, described a type of social interaction that reiterates the existing social environment through the notion of ‘truth’. Each individual is bound to contemporary social organisation whilst attempting to achieve a sense of freedom in expression of truth.

Due consideration of Goffman’s work shows just how authority provides a definition of ‘idealised’ performance and pressure to be consistent with the established definition. As a demonstration of what Marx termed ‘the ideas of the ruling class’

(i.e. Marx and Engels 1971: 106–118), a hegemony that ‘... creates a world after its own image’ (op. cit.: 84), thus an authority that provides the mores, norms and laws to which stigma, ideology, character and also Durkheimian anomie can be applied. In this sense the hegemony provides a crucial link between the macrostructure of social institutions and the microsociological phenomena of head-to-head interaction. Whichever way we look at what Goffman, Durkheim or Marx may have been describing, we only find a form of ‘participation’ in which the aims and intentions of those who are overseeing the social actors from a position of power, patronage or perhaps as protectors are achieved. The impression of ‘participants’ having achieved certain outcomes is marked by approval or disapproval; thus, whether what has been achieved may be further acted on.

Naturally, such an examination of sociological analysis of human behaviour is as vulnerable to critique or reappraisal as it is to uncompromising acceptance of its validity. Yet it does say a great deal about where *participation* appears to be at present. It has become idealised and almost a doctrinal issue that influences which side we take on any question. There is no evident safe ground upon which to find a consensus on contentious ideas. Thus, what little discourse there is manifests itself as mostly bitter confrontation between representatives of either side of the conundrum.

Working children’s movements have been almost inextricably drawn into this category of contention. Several points are overlooked in this argument. First of all, it is necessary to remember that those groups present different points of view. Some of them demand the right to work without compromise although they demand fair pay and conditions according to their own standards. Others have committed themselves to the elimination of what they consider exploitative whilst retaining the right to work. The variations go on in numerous permutations until we reach those organisations whose prime intent is to see the absolute elimination of child labour. The second point is that a few of those organisations precede the contemporary CRC lead version of what children’s rights are. They may or may not have modified themselves to incorporate a notion of themselves as bearers of rights as described by the CRC. Their starting point was always a rights issue in the first place, and new ideas may simply be a case of ‘moving goalposts’. The third and very important point is that there are degrees of how far children were ever initiators of those organisations and to what extent they are now ‘in control’ of them and also to what extent it is a shared task with adults. The fourth point raises a serious question about how genuine are some of those organisations as participatory bodies for children, or is it the case that some are political showcases for adult campaigners who occasionally appear to have recognised a wonderful opportunity for achieving their own ends?

The first point, where young workers are themselves calling for any kind of improvement of their working conditions, looks very much like demands early trade unions made and, in time, contributed to the creation of the ILO. It is now a specialised agency of the UN which seeks the promotion of social justice and internationally recognised human and labour rights and was founded in 1919 by the *Treaty of Versailles*. It became an agency of the UN in 1946. The ILO devises

international labour standards in the form of conventions and recommendations, which set minimum standards of basic labour rights such as freedom of association, the right to organise, collective bargaining, abolition of forced labour and equality of opportunity and treatment and other standards regulating conditions across a broad range of work-related issues. It also promotes the development of independent employers' and worker' organisations and provides training and advice to those organisations. Within the UN system, the ILO has a unique tripartite structure with workers, usually represented by trade unions, and employers participating as equal partners with governments.

Extraordinarily, given their history, the ILO is far closer to elimination action groups and lobby organisations than to the young workers. They have aligned themselves with child protection organisations especially and child participation groups only a little. In fact, they quite rightly do not present themselves as a children's rights organisation even though IPEC tries to project itself into that mould. It is an organisation that has little in common with the children it sets out to 'liberate' from their work, rarely communicates directly with the children and apparently cares little for child participation. That is, naturally, unless it is the very demonstrative action of children demanding the elimination of child labour. Then, because it is the UN agency that creates and oversees labour standards, it is able to put conventions in place that ban children's work without consulting with them. They have as an agency or through conventions and recommendations, in fact, little in common with the sentiments and assertions of the CRC.

Then we may move to the second point. Ennew et al. (2004: 25) describe the CRC and where participation belongs within it; thus:

The 1989 United Nations Convention on the Rights of the Child (CRC) is based on the recognition that children are human beings with the same rights as adults, rather than 'human becomings' who require socialisation before being regarded as full subjects of rights (see for example Qvortrup 1991; Van Bueren 1995). Sharing in the civil and political rights of all other human beings means that children have the right to participate in decisions made on their behalf, to freedom of expression and to peaceful assembly to represent their own interests (depending on their evolving capacities). The principles of participation were already in practice in some circles well before the drafting process for the CRC began in 1979; for example in organisations of working children, and even earlier in certain radical education and environmental planning activities as well as in the development of 'children's parliaments' in some European countries.

Yet, nowhere does the CRC advocate and demand a precisely spelled out collaboration between child and adult so that shared participation becomes an absolute. Instead it is a conditional participation for children but overseen and often manipulated by adults. The convention contains counterbalances in its Preamble and Articles 3 (best interests of the child) and 5 (direction and guidance in the exercise of their rights by adults) that are there to justify any or all of the superficially constructive participation rights being denied or withheld at any point in childhood and, indeed, with the possibility of entirely withholding them until majority is achieved. Despite what they say, 'the recognition that children are human beings with the same rights as adults', there is no benchmark against which to precisely measure adult rights. There is no equivalent convention. Thus, one may say that for

lack of practice we do not actually know how to translate the principles of the CRC into action. However, even though the intention remains good, the counterbalances above are in place. They are, in Goffman's terms, very good for 'stage management' of how children use their rights.

The third point is a far more sensitive topic. We largely know to what degree children were initiators of children's organisations and the extent to which they are now in control of them. We often also know to what extent that is a shared task with adults. In reality nearly all have been initiated by adults. There is no serious reason to question the validity of that since it is quite apparent that without the organisational, lobbying, financial and other important tools for the sustenance of those groups they would not exist. That adults have engaged themselves to draw children together for altruistic purposes is hardly a bad thing in itself. Where some of those people have done so for their own ends is another matter altogether. One may also consider the question of this kind of 'participation' being far more a lobbying or action-oriented initiative that is shared by adults and children, thus less simple to dismiss as a 'children thing'. Where children act alone it will usually be inevitable that their activities are either considered 'childish', thus not taken seriously, or do not have access to the adult institutions they wish their message to reach.

There was an anecdote circulating some years ago that told the story of a street children's organisation in Brazil. It appears that the children had heard about the activities of the *Movimento Nacional de Meninos e Meninas de Rua* (MNMMR or National Movement of Street Boys and Girls) but wished to start a local action rather than join the national movement. They went to a number of adults for advice and finally set up a small organisation. They were not able to find a base, for instance, an office, because they were too young, not able to carry out financial transactions for the same reason nor had permanent addresses, etc. Consequently they found an adult who became a kind of manager. Once they had an office and a bank account, they needed a bookkeeper-cum-accountant, to keep themselves viable, and they needed someone with business and fundraising skills. Eventually there was an office staffed by six adults, one of them even became director. Soon the entire management of the organisation was governed by a council, at first a partnership of adults and children but quickly entirely adult. Although the organisation continued (perhaps even today still does) to work with street children, within 2 years it had gone from a children's organisation to an adult organisation working with child clients. Whilst being initiated by children, ultimately it was only nominally a children's organisation that had made a transition without stopping at the probably most important stage at which its entire operation would have been shared by adults and children.

Then we have the fourth question. Since the names of adults who represent 'children's' organisations have often become well known, but very few young people ever receive similar acclaim, the questions have been raised to ask: How genuine are some of those organisations as participatory bodies for children? Is it the case that some of them are little more than political showcases for charismatic adult campaigners who now and again appear to have recognised a wonderful opportunity for achieving their own ends? It closely correlates with the previous question, since

adults tend to have access to important resources that children do not have. Child labour and the closely related street children area have seen affable figureheads whose very presence has occasionally overshadowed the children they were working for or with.

Nevertheless, as people working in the children's rights world are very aware, they are few in number. They have and do exist on both sides of the issue in the child labour world, those who would 'save' children from work and those who would fight to defend the rights of young workers. On the other hand, there are more than a few on both sides who become well known who are simply committed to what they are doing and we may consider real advocates for children. Reputations are as likely to be yet another 'stage-managed' construction of those who would like to see the suppression of those people's campaigns. In this situation it is the children who are the well-tutored actors in a 'play' that is shaped by its audience and environment in which it operates so that it is constructed in a manner that provides others with 'impressions'. That type of manipulation is especially favoured by powerful bodies such as the ILO or World Bank who can build up the persona of a well-known child campaigner who is in line with their policy and, by the same means, undermine the standing of somebody they do not favour. Again, we can do no better than turn again to Goffman to understand the dynamics of this dramaturgical construction of where children's rights may go.

Bill Cooke and Uma Kothari (op. cit.) include a paper by Harry Taylor (2002: 122–138) that challenges the optimistic slant of the 'rapid appraisal' school of thought's line on parallels between participatory development and management. His critique is that participation is part of an attempt to sway power relations between elites and less powerful recipients of programme work. This is an interesting point of view in terms of what has happened in the world of children's participation. Work with children that is very easily comparable to what Taylor refers to has frequently very deliberately chosen children in 'need' such as street and working children. This, needless to say, is the privilege of the participation programmes working in the south and appears seldom, if ever, to have been tried in the north. Poor, socially and politically weak people are accordingly visited by researchers and sometimes programme planners then later project workers. They appear to be offered something by the very presence of people from the rich north, at the very least the status of being chosen before people elsewhere. In effect they are told what to do and how to do it, and results and progress are duly measured before the project comes to an end. Children may well know how to conduct focus groups and role plays thereafter, but what is more certain is that they have the fact that they should not be working deeply ingrained into them. This, irrespective of whether work operates in line with local custom, economic survival strategy and so on, is the dogma that is almost certain to be left behind.

Of course, much of what is 'acted out' appears to collect data on what the needs of the programme beneficiaries are and examines what can be done to change conditions or one or more of several other possibilities. After the project goes usually no follow-up or support is left behind. People change or revert. Change can bring negative outcomes that are unpredictable and reversion can similarly

be 'out of the frying pan into the fire'. However, the northern elite has done its participatory development work by showing the people the options and how to do them; the management of the thereafter particularly is what nobody in the north sees as a rule. At the same time, in the north there is very little happening. Children's participation is the privilege of the few who join school councils, children's local councils and parliaments and a very few other marginal activities. Adults seldom make big reputations in the north. Thus, how ironic it seems when one considers that the 'experts' are mostly from the north and go to the south to tell people what to do and how to do it and are then able to go back where they came from and not engage themselves with participatory work there.

Children's participation in development work using rapid appraisal methods particularly but latterly also in examining the authenticity of young people's roles in organised activities has been 'measured' against one standard. That is a ladder scale or variations on the same model. It was first used by Hart (1992: 9) to '... serve as a beginning typology for thinking about children's participation in projects' (op. cit.: 8), yet very few of the 'experts' who so slavishly adhere to the Hart version or one that is very slightly modified have contributed to development towards other and more appropriate models. In general, the people are development experts from the north who have little truck with anything that is not made and managed by them.

Working children's movements, it should be noted, tend not to suffer the same fate in the hands of foreign experts. Most of their adult 'activists' whether local or foreign tend to remain with them, both those who are genuinely engaged in their work and those who are opportunists. Whilst some of them may often travel the world campaigning and appearing only ever to be giving conference papers, the fact remains that they nearly all go back to 'their' children. There is long-term commitment.

Behind this are the real 'stage managers' who permit or prohibit what is being done and who also frequently hold the purse strings that all too often decide whether organisations will survive or fade away. Goffman, in following Mead's view that identity is constructed through an understanding of the projection of the 'self' onto others, is missing one component that redresses his more general idea to that of the specificity of children. That is to say that what we see when the 'self' in question is a child who may be poor, uneducated and working. How we view that child is partly what we are expected to see and has been given to us to understand by those who wish us to see things in particular way. Thus, the child activist is a potential threat to our way of life because the reality he is acting out is unlike the one the stage managers would have him or her act out. It is not the performance or persona we should see when we see a child. Who then are the 'stage managers' in this case? Most certainly they are identifiable as UN agencies or NGOs who have a particular slant on participation or certain aspects of the children's rights environment wherein child activism can be found. They are also the development 'experts', especially those working with rapid appraisal methods that require structured, preordained participation. Adults who lead supposed children's movements and organisations most certainly stand accused although probably only a minority of them are as manipulative as we are sometimes led to believe. Above all else are those who make

and uphold laws and moral leadership, in simple terms governments, civil servants, legal and police services, clerics and so on. In many senses the odds are heavily stacked against children to begin with.

Yet there is a note of optimism. Children's movements are like fleas that sometimes irritate almost invisibly, more so where they have strong collaboration with adult activists and advocates. They are the exception to the rule that reminds us that children potentially have more rights than the 'diktat' of a single convention. They are also beyond the dramaturgical performance of what is expected by the wider audience because they are demanding rights that they do not have and that it is morally very hard to justify denying to them because the CRC and ILO conventions may be attempting to stage manage another scenario. By using their right to have opinions, assemble freely and so on, they may also be defying the will of adults who believe their capabilities are not yet evolved to the point where their initiatives should be taken seriously or indeed happen at all. Subjective and selective views on best interests that are adult formulated do not always correspond with children's real needs. Rather than rights given, there are too many caveats that make them rights that can be withheld. If, of course, the preamble of the CRC is carefully read then we are minded of the fact that it bears reference to the *Universal Declaration of Human Rights* (UDHR) wherein Article 1 says:

All human beings are born free and equal in dignity and rights.

and Article 2 reinforces that by saying:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind . . .

Thus, without further consideration of what written down rights are against the possibility of tacit, unwritten ones, we can simply ask, how stage-managed participation is the real McCoy? It seems inconceivable that in such an ostensibly egalitarian world, working children, as too all others who demand their rights, can be so blatantly told what they may and may not do and, indeed, whether or not grown-ups think they are capable. However, since the UDHR was presented to the world in 1948, there has been a proliferation of charters, declarations, conventions and treaties that are specifically made for classificatory minorities for reason of ethnicity, culture, belief, politics and so on and, almost demographically too absurdly, women, with the focus drawn back to children by the 1959 *Declaration of the Rights of the Child*, then the 1979 *International Year of the Child* and subsequent decade of drafting, the adopting of the CRC. It seems, although nowhere explicitly said so, that children have been rendered into a minority and thus, following the logic of all other minorities, require special forms of protection.

In real terms, since the CRC has achieved separation of children from the 'universal' standards of the UDHR, it no longer appears to need to include them under the collective terms 'all human beings' or 'everybody'. Instead they appear to need to be ranked under Jens Qvortrup's (1991; 1994: 18) suggested typology *human becoming* as Ennew, Hastadewi and Plateau suggest. It should be borne in mind that the focus of this essay is on child participation and that there is a clear

differentiation between 'northern' and 'southern' childhood. It may also be, in the view of 'experts' in the north, that in the south they need special protection because of economic and social deprivation, exploitation and countless other hardships. The identity of 'the child' they have constructed comes not through an understanding of the projection of the self on to others, as Goffman or Mead would have it, but as an accumulation of perceived needs of vulnerable individuals for whom they choose modes of protection and provision. The means by which this is justified is found in the injurious things happening to those children. Each negative value would appear to further dehumanise children into victims and thus reinforce their argument.

Of course, it would be cynical to forget northern hemisphere children. Since the 'discovery' of child abuse and neglect, many have been more than generously assigned extra protection. The risk of 'stranger danger' justifies keeping them almost cotton wool wrapped away from harm. With the decreased visibility of children, those who are still in the public eye without adult accompaniment are increasingly viewed with suspicion as too those who are classified as vulnerable, for instance, those known to have jobs other than from a small catalogue of approved 'menial' tasks. It is essentially made very easy to justify exclusion from the CRC participatory rights everywhere given the already precarious position children generally appear to be in. The fact that almost as much thought most certainly goes into defining precariousness as protection itself is rarely discussed.

Earlier in this chapter the tendency of children's rights issues to be associated with developing countries rather than a universal value was briefly mentioned. Of course, since all countries but one have signed and all but three ratified the CRC at the time of writing this, then the reality is that it is a universal issue. In theory at least but also in practice in principle, all children should be treated uniformly if not equally. Needless to say, because the convention includes it, some allowance must be made for 'direction and guidance in the exercise of their rights by adults' and where extraordinary circumstances arise such as where children are exempted because of permissible exceptions or are mentally or physically unable to have any control over their own lives. The implications of this would be universally comparable levels of provision in childcare, education, juvenile justice and so on. Those provisions could imaginably, if ever they were possible, be devised with the participation and contribution of children. Nonetheless, the outcome would require political support in bringing them into legislation, presumably putting them entirely back into the hands of governments unless a suddenly enlightened world gave children a share in government of all nations. Of course, if we look at children's rights using the CRC as the locus of supporting arguments, then it depends entirely on interpretation and implementation of law which is the work of lawyers and administrators who inform those elected to govern nations. Those people are, as a rule, highly trained and experienced in the formation of the tools of governance. This is where popular opinion guides but seldom shapes legislation. That depends on the compatibility of any single law to all others for the structure and maintenance of a civil society through its legislation. Thus, the examination of the participation of children in civil society and protection of their rights cannot be rightfully examined primarily through social science or moral philosophy; thus, Goffman, Mead, Marx, Qvortrup

and other authors cited in this essay could be considered to offer little more than tenuous notions that contribute to legal discourse in the formation and governance of a democratic state.

There is naturally every need for a big space for the disciplines that study and know the human condition. Whilst writing on the basis of work entirely carried out in the UK, Berry Mayall found that:

Sociology also throws light on issues to do with respecting children's participation rights. For if we understand children not just as individuals but as members of a social group, then we are forced to reflect on that group's rights to participate in constructing the social order, social policies and practices. But sociology also reveals in stark form, the subordination of children as a group to adults as a group – a subordination that children themselves accept. This leads to difficulties. As a subordinate and marginalised group, children find they have dubious moral status. Adult visions of adult-child relations are built from the long history of developmentalism, intersecting with ideologies and policies which stress adult socialisation duties and responsibility for protection and provision; adult input rather than child agency are at the forefront of these visions. All these combine to foster adult suspicion of children – to disbelieve them, to blame them, to suspect their moral competence, to assign moral responsibility to adults rather than to children. Under these circumstances, it is hard for children to take the initiative and participate in social affairs, and it is hard for adults to permit them to, and very hard for children and adults to work together on anything like equal terms. (Mayall 2000: 256–7)

Her argument very helpfully places sociology as one of the several social sciences and moral philosophies that does clearly see where rights belong. Despite her data being drawn from her work in one country, her implications are universal. Law in itself is obviously only part of the equation since it is ideology and policy that drive and bring legal changes, and those come from mass public opinion which is still probably 99.9 % adult led and carries shadows of the time before the process of giving women 'equal' rights with men began. In only a few cases are children's participatory rights used in a manner that gives them a sharing decision-making, competence and responsibility status. It is and remains most frequently that which Roger Hart (1992) called 'tokenism'.

Education is very frequently proclaimed to be the pre-eminent route to some kind of 'liberation through knowledge' for children. The basic premise is good, but since education is largely adult made and organised, it is not achieving that. In many countries education is tied to curricula that are themselves designed for uniformity of outcomes through qualifications. The standards set and the examinations that bring qualification are scarcely if at all negotiable for the children and youth who are subject of them. To that extent the input of children into education is quite marginal and does not need to reflect children's rights standards. Participatory rights may be referred to as an incentive for councils but do not ensure their members a collective voice that has an input into education overall. Again reflecting on her work in the UK, Mayall noted that:

As regards the education service, where children's participation rights are so woefully ignored, there is some pressure to take action, by, for instance, a statutory framework for school councils which give students a say (...) (ibid.: 257)

The question beyond whether or not a statutory framework is desirable for the adults who control education is what their function might be. Would it be possible for schoolchildren to contribute significantly to the content and structure of curricula or the aims, intentions and configuration of examinations and qualifications?

However, studentship does not end with school. Increasing numbers of young people are moving on from school to further and higher education where some are able to become active participant in processes immediately previously denied them. Student unions and representation on academic councils often consist of young people who have the recent experience of childhood behind them with its constraints and yet they are often very competent negotiators and spokespersons. In Europe particularly but probably in much of the world, these young activists become part of the political hegemony that ultimately restrains the movement of younger generations into sharing decision-making. In those same institutions it is highly probable that apart from the academic and intellectual minority who are engaged in issues pertinent to childhood in further and higher education, virtually nobody gives it much thought. Childhood is generally seen as a burden to be cast off as soon as one can, and after its end little consideration of the condition of having been a child is retained apart from a little bit of largely irrelevant nostalgia. Children's rights are thus something for children, and whilst they are children those rights are overseen and regulated by adults but do not unite all ages as a single society.

Indeed, it might possibly appear that 'participation' may be less viable as a way of bringing adults and children together than previously imagined. Children's participation has little to do with any level of governance of any nation, and even where well-established children's municipal councils exist, there is little evidence of significant input into any level of civil society between local and national. Extraordinarily enough it would appear to be children's movements such as working children's initiatives who appear to defy adult conventions that are making the most progress. They appear to be so effective because they are a 'thorn in the side' of the legal and political environments in which they are found. It is almost too ironic that they also often exist to represent children with less or little access (if any) to education than where there are large numbers of seemingly liberal education systems that advocate and maintain what appear to be active and successful school councils. To analyse that situation would be to more or less see the CRC as a *raison d'être* for tokenism that puts a perfect veneer on a less than shining reality in which children are no less subject to adult last words because 'they know best' than ever before.

Of course, we should not take such a cynical view and also one should not throw the baby out with the proverbial bathwater because at present the CRC is almost all we have. That is in part because, unlike the UDHR, it is a convention that does give us some kind of potentially enforceable standards. It lacks any kind of universal 'policeman' to oversee and enforce those standards or any real incentives to ardently assist ways of implementing them. It is perhaps at least a starting point and has all potential to progress so that the façade of participation we largely see today is as valid as the voice of any other lobby group or union of like people. As with them, given that there are least two sides but usually more to every issue we must resolve,

once consensus is reached and with a fair starting point, children may in time come to share their rights with adults and thus treat us all equally as human beings to begin with. If they are ever allowed to share conditions and standards adults should enjoy, then the resultant partnership would even end another tension. They would cease to need the 'patronage' of apparent advocates who opportunistically build their careers and reputations in children's name. Likewise, adults who work together with children would cease to be diabolised for their efforts. There would be no need for such distinctions to be made. At present that appears a little too Utopian to take seriously but should despite that never be cast aside.

As long as children's rights are treated as the rationale for adult-directed, increased protection, it will never be possible since not only are there two or more sides to every argument but there also needs to be give and take. Perhaps one may imagine a situation in which the push for ever more protection is matched by the participation of children who have a say on their needs. Since protection is subjective and reflects perceived needs, they tend to be based on adult assumptions about what they should be. One example is clearly the attempt to eliminate child labour that generally ignores the possibility of considering the contribution working children and their organisations have to make. Who knows better what exploitation, abuse and everything else than working children? Morally should we not ask them what protection they need and how to apply it? This goes for numerous other domains where protection assumes children's needs irrespective of the enormous resource children have to offer to guide lawmakers and law enforcers. Having apparently given children a broad sweep of human and civil rights that many adults would themselves benefit from, the opportunity is there to share the responsibility for the realisation of the ideals on which they are founded.

If the 'stage management' of how children use their rights is more than a dramaturgical construction that depicts a well-staged 'make-believe world' in which children are simply the actors directed by, following the script and stage directions of adults, then the CRC has failed. It has limitations built into it that restrict assignation of what it appears to offer. At first what appears to be a manifesto for children's rights is as geared to taking or withholding than giving, and what appears to be given with one hand is effectively taken away with the other. The caveats in the CRC are in the hands of the stage managers. It is hard to imagine that they will let them go so easily. Thus, rights will be apportioned to children as judged appropriate to their age and ability to make decisions by adults. In other words, the real meaning of rights for children cannot be understood without first considering how they should be protected and what their needs are (provision). Thus, when considering whether children's rights represent an unfinished movement from a needs, welfare and services approach to a rights-based approach, we can only assume that progress is extraordinarily slow and that what we see is a very short step beyond the starting point.

The CRC came exactly 30 years after the *Declaration* with a 10-year drafting and refining process. We are now about a quarter of a century into the life of the CRC, and there are three Optional Protocols but further developments have neither happened nor are forthcoming. The 'three Ps' language of the CRC remains as it

appeared very early, for the most part expressed in welfare terminology which is seldom questioned because the convention itself is still not understood other than as it was drafted as essentially a convention on the protection of children which allows it to remain untouched. As long, it would seem, as it offers children the right to be protected by adults and where adults identify the need for that, then its credentials as a human rights treaty will remain unquestioned.

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Rights of the Child

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Milne, B.

2015, IX, 225 p., Hardcover

ISBN: 978-3-319-18783-9