The Capability Approach and Children’s Rights: An outline to assess child participation

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'Drawing on insights gleaned from international contexts, the contributors to this volume offer new ways in which to promote greater social justice and participation for children that is a welcome addition to the childhood studies literature.'
Allison James, Professor of Sociology, University of Sheffield, UK

'Anyone with an interest in how children flourish and thrive through and in education will find the clarity with which the potential of the capability approach is described here to be both fascinating and challenging.'
Fergus Crow, Director of Partnerships, National Children's Bureau, UK

This comprehensive volume brings together leading international experts who adopt a pluralistic capability approach to research and theorize the nature of childhood and youth. Insights on the agency and participation of children and young people in formal education as well as in families, on the street and in wider community networks are widely presented, drawing on innovative studies from a wide range of countries spanning the global north and the global south.

The capability approach, initially conceived by Amartya Sen, and further differentiated by others, including Martha Nussbaum, offers a unique lens to understand the real opportunities individuals have to pursue ways of being and doing that they have reason to value. This perspective enables the authors to critically re-examine concepts of agency, well-being, inclusion and participation (educational, political, social and economic) in the dynamic physical, as well as socially constructed, spaces of childhood and youth. Approaches to ethical research with and by children and young people are also explored, informed by the capability paradigm. The unique multi-disciplinary theoretical and empirical developments presented in Agency and Participation in Childhood and Youth powerfully challenge dominant education policy discourses with substantial implications for holistic human development approaches that can empower young people, both inside and outside of schools.

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The Capability Approach and Children’s Rights

Daniel Stoecklin and Jean-Michel Bonvin

Introduction

This chapter explores issues central to the children's rights debate, in particular the right to be heard (Art. 12 CRC), from the perspective of the capability approach. Participation rights contained in the *United Nations Convention on the Rights of the Child* (CRC) challenge traditional conceptions of childhood. Their translation into enhanced capabilities depends on methodologies that are sensitive to cultural and personal diversity. The outline of our research problem is presented with an emphasis on outcomes of an already tested methodology which highlights the children's own constructions of reality. It is based on a systemic theory of the social actor, linking together an individual's activities, relationships, values, images of self and motivations. This new model, called 'the actor's system' tries to overcome the agent/structure dichotomy. Empirical tests done so far with children in Switzerland, Finland, Slovakia, Moldova and France confirm the heuristic value of the method that is used to understand the individual and social factors that convert the formal liberties contained in the CRC into real freedom and enhanced capabilities for children. Child participation and human development are thus assessed in new ways.

The subject of rights and the social actor

The rights contained in the UNCRC challenge traditional conceptions of childhood. Beside protection and provision rights, the UNCRC also includes 'participation rights': the right to be heard (Art. 12), the right to freedom of expression (Art. 13), the right to freedom of thought, conscience and religion
(Art. 14), the right to freedom of association and peaceful assembly (Art. 15), the right to privacy (Art. 16), the right to have access to information (Art. 17), and the right to participate freely in cultural life and the arts (Art. 31). This chapter concentrates on Article 12 CRC that reads as follows:

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.

This article can be qualified as ‘revolutionary’ (Zermatten, 2005) because its introduction in the CRC means that children are not just protected, they are not just guaranteed some provisions, but there is also an obligation made to States parties to guarantee that they are listened to.

The articles of the CRC are interdependent. For instance, the best interests of the child (Art. 3 CRC) must be defined by integrating the child’s point of view (Art. 12 CRC). This integration should be sensitive to forms of communication, written (including drawings) and oral, through which children express their opinions. The ‘due weight’ given to the views of the child according to age and maturity is a limitation. But it should also be understood as the consideration that is due to the child so that he/she can be effectively heard through appropriate procedures and hearing techniques. Therefore, the limited but evolving capacities of the child become a ‘de facto’ criterion (to be assessed on a case-by-case basis) linked to the ‘de jure’ subjective right attached to the child of seeing his/her best interests considered (Art. 3 CRC) in any decision affecting him/her. As procedural rights, Article 3 and Article 12 call for participative procedures: the child should be heard (Art. 12) in the definition of actions aimed at serving his/her best interests (Art. 3 CRC). Article 12 is also linked to Article 5 (evolving capacities) whereby parents or guardians have to provide guidance to the child on the exercise of the CRC rights until the child is able to exercise these rights directly. The CRC therefore constitutes a holistic system where all articles are interdependent, and it is within this interplay of rights that an implicit theory of the social actor can be identified whereby the child is considered as a subject of rights with evolving capacities.

Although the CRC does not contain the concept ‘social actor’, it has become common sense in the field of children’s rights, with the consequence that subject of rights and ‘social actor’ are sometimes used as equivalents, as if one could stand for the other or explain it. Yet, and paradoxically, the underlying theories of action are not discussed, and there is an increasing number of articles and books using the concept ‘social actor’ as taken-for-granted. Consequently, children’s agency remains a rather vague notion, sometimes even reduced to a slogan for militant movements. In reaction to overprotective or paternalistic conceptions of childhood, there is a tendency to consider children as competent agents regardless of their age. However, ‘children’ is probably one of the most confusing categories, as it applies to individuals whose experiences are so different. What does a one-week old baby have in common with a teenager? Mainly the fact that they are both considered as ‘children’, as defined by the CRC (0–18 years). The ways in which ‘children’ experience the world, and can act upon it, are certainly more diversified than the experiences of adults, even at ages as different as 20 and 80 years old. Hence, it is certainly relevant to consider that ‘children act as agents in various ways at any one time in the course of their development; and certainly the range of sophistication of their agency changes over time’ (Pufall and Unsworth, 2004: 9). Nevertheless, this range is not well documented, and still leaves too much room for speculation.

The capability approach offers an illuminating perspective to explore issues central to the children’s rights debate, in particular the right to be heard (Art. 12 CRC). This chapter begins with considerations on the capability approach applied to children’s rights, underlining the existing gap between a child’s rights and his/her actual capabilities. The distinction between the subject of rights and the social actor points to the importance of what we call the ‘participative capability’. It tackles the issue of agency and shows that children develop their own ways of making sense of reality. This is illustrated with a systemic theory of the social actor which has been empirically tested in a series of small-scale applications which will be described later in the chapter. This methodology brings in several considerations for further research on the ‘participative capability’ of children and young people. It has been used in the field of organized leisure activities in order to highlight the factors converting a child’s formal right (to be heard) into real and increased freedom in the field of leisure. Some concrete examples will be given in the following sections. As a matter of fact, such participative capabilities developed in the field of leisure impact on, and are impacted by, educational activities in schools or other informal educational settings.
Translations of children's rights into real freedom

The capability approach (Nussbaum, 1997, 2004; Sen, 1999; Alkire, 2002; Vizard, 2006; Bonvin and Farvaque, 2006; Duray-Soundron, 2008; Comim et al., 2008; Deneulin, 2009) is a rather new perspective in the field of children's rights. Applying the capability approach to children (Biggieri et al., 2011) is a promising path, because children's rights can be seen as formal resources or entitlements that need to be transformed into real rights or capabilities. Consequently, the gap between formal liberties (rights) and real freedom (capability) can be more precisely highlighted and explained by emphasizing the individual and social conversion factors that allow for transforming rights into capabilities. A person's capability depends on the interplay between his/her personal skills and the available social opportunities in a given context. Therefore, the capability set is the outcome of a person's rights (entitlements) and resources (commodities), and of his/her ability to convert them into what Sen calls 'valuable functionings' (Sen, 1999). In this perspective, what should be promoted via public policies is not outcomes but an appropriate environment for the development of capabilities, or, in other words, for the real freedom to choose the life one has reason to value (Bonvin and Farvaque, 2006).

Transposed to our field of study, the capability approach emphasizes the relevance of the child's 'participative capability', which can be described as the capacity of the child to effectively participate in the definition and fulfilment of choices that affect his/her own life. Children's participative capabilities result from the combination of individual skills and available opportunities in the environment. The observation reveals that there is a gap between the child's legal status (subject of rights) and his/her social status (social actor) regarding participation in decision-making. The question is: how can these rights, considered as formal freedoms, be translated into real freedoms? What individual and social factors favour or impede the conversion of these rights into capabilities?

A one-size-fits-all top-down implementation process of the CRC is irrelevant (Archard, 1993; Lücker-Babel, 1995; Verhellen, 1996; Freeman, 1997; Van Bueren, 1998), as the translation of 'participation rights' into enhanced capabilities for children depends on methodologies that are sensitive to cultural and personal diversity. The way people define situations is especially central to understanding the choices they make, as well as their motives. This applies to children too. As the capability approach places great emphasis on freedom of choice, the methodologies that are needed to understand these choices must highlight the children's own constructions of reality.

The different definitions of situations do not only depend on individual points of view but also on collective constructions of reality. The word 'participation' itself does not mean the same in countries with western-liberal value traditions as in countries with collectivist value systems: some see participation as an individual right, while others see it as a social obligation (Mason and Bolzan, 2010). These cultural differences are important to bear in mind when talking about children's agency defined as 'an individual's or a group's capacity to make decisions, act, and interact with other people in a socially competent way' (Nibell et al., 2009: 264).

This leads us to critically consider the confusion between 'social actor' and 'subject of rights', which actually may be linked to the history of western liberal traditions. Individualism was a nineteenth century 'novel idea', as Tocqueville stressed in Democracy in America (1835). Later on, Simmel (1950) distinguished the individualism of uniqueness ('Einzigkeit') of the nineteenth century as opposed to the individualism of singleness ('Einzelheit') (Lukes, 2006: 31). This new conception, arising with the Romantic Movement, sees individual interests from a qualitative angle. It detaches itself from the previously quantitative conception of the abstract singleness of individuals, seen primarily as members of a totality, be it the species or the community. The idea of children having individual rights could hardly develop if there had not been this 'qualitative individualism' that has been conducive to individual rights, hence human rights instruments.

Consequently, when we refer to the child as being a 'subject of rights', the uniqueness of the person predominates over the singleness of the member of a community. Nevertheless, individuals act as social actors in all cases, also when they are not perceived as unique persons. Therefore 'subject of rights' and 'social actor' cannot be equated: whereas the subject is entitled to individual rights, the actor acts through families and broader social groups. In other words, the child, as a subject of rights, has a right to participation, and as a social actor, this same child has a capability through participation. This important distinction gives us an insight in the discrepancy, and sometimes tension, between the 'subject of rights' and the 'social actor'. The CRC may give a formal right to any individual child to fully participate in society; nevertheless real children will always have real limitations as social actors. Acting socially is a learned process whereby the sociocultural representations of normative frameworks (including children's rights) are progressively internalized by the actor who then actively transforms them and expresses them in renewed ways (Berger and Luckmann, 1966). One is not born with the articles of the CRC in mind, one learns how to behave according to the place given by society to these normative standards.
Therefore, confusing the subjects of rights and the social actor leads to conclusions that are epistemologically and ethically problematic. The equation does not work. Being formally a subject of rights does not mean that one is automatically a social actor with fully-fledged agency. Conversely, one cannot say that because the actor has agency (the capacity to influence things), therefore he/she has a right (upon things). This is a mistaken view, as agency, or the sole capacity to do something, cannot be the principle underlying any right. However, a limitation to act in a given respect (limited ability) may be a reason to restrict a given right. This is the case of Article 12 CRC, as the right to be heard is assured 'to the child who is capable of forming his or her own views.'

While the CRC sets no age limit on participation rights, real participation of children depends on their abilities, which are in turn constitutive of their agency. Therefore, we have to consider the individual and social factors promoting (or obstructing) the conversion of the right to be heard (Art. 12 CRC) into capabilities or vectors of possible functionings. In our case, the individual entitlement is the right of the child to be heard (Art. 12 CRC) in decisions over leisure activities. This framework allows an emphasis to be given to the factors converting the child's right into increased freedom. To identify what personal and social factors help (or not) in converting the right to be heard into vectors of possible functionings in the realm of leisure activities, we interviewed children and young people aged 12–18 about the influence they think they have over issues that are supposed to be in their reach.

Among the social factors, we considered public policies regarding children and youth, institutions and procedures through which children can participate and be heard, and especially their accessibility and adaptability to different groups of children (according to age, gender, ethnicity, geography) possessing different kinds of capital: economic, social and cultural (Bourdieu, 1994). The unequal distribution of these forms of capital is however not the sole explanation to the variability of children's participative capability. One should also look more closely at how the child as a 'social actor' perceives reality and gives meaning to his/her actions in relation to others. Actually, the personal characteristics are crucial to see how the child converts the right to be heard into a functioning.

The child's ability to make sense of the right to be heard and to use and shape the existing means to achieve this right is the focus of our study. How and why the actor makes choices has to do with both objective sociocultural influences and subjective perceptions. To have a capability approach to children's rights is therefore a very good way to critically look at the so-called cultural bias of the CRC, whereby the western conception of childhood would pervade the developing world. The question is: what levels of autonomy, capability or agency is the CRC conveying to children? There will always be some gap between the status ascribed to a child – a subject of rights as soon as born, and the effective competence to ask and obtain respect for personal rights. The extent to which subjects of rights can be agentive and influence their environment, depends on their ability to transform their ascribed roles into achieved roles. An ascribed role is conferred to an actor whereas an achieved role is conquered by the actor. This distinction corresponds to role-taking and role-making (Mead, 1934). The social actor is anyone able to transform the roles ascribed to him/her by others into new ways of performing or achieving things (achieved role). This leads us to see that agency might be captured through the observation of achieved functionings. These aspects have been incorporated in the systemic theory of action and corresponding methodology which we present in the next section.

A systemic theory of action and methodology

According to Sen (1985), focusing on people's agency implies observing how committed they are in actions that are beneficial not only to their own well-being but also to others. In other words, agency is about bringing change that affects oneself and others. This applies to children too and can be observed in the achievements of specific actors. The concept of agency then becomes clearer: a child's agency depends on how he/she makes use (choices) of institutional structures (family, education, law, etc.) and personal skills (cognitive and social competences).

Applied to our topic, we may observe a child's achievements regarding organized action. These achievements (choices) depend on the child's participative capability. In other words, the child's freedom to achieve organized actions can be specified through the observation of real achievements. This is how we can approach the child's real freedom to participate (participative capability). This is an operational way to observe how concrete functionings can be explained by specific participative capabilities, and eventually how conversion factors (social opportunities and individual capacities) are constitutive of people's capabilities (Nussbaum, 1997; Sen, 1999). We can evaluate agency through the child's achieved functionings, as the result of the child's choices constrained by his/her own evolving capacities and the social context. Attention must be paid to both social and individual conversion factors. How children 'make sense' of what is happening to them is a crucial component that is often overlooked.
In order to get closer to the actor's reflexivity, a new model called the 'actor's system' has been developed and consolidated (Stoecklin, 2009a, 2009b). It stems from former research with children in street situations in several countries, showing that they develop pragmatically their own ways according merely to subjective assessments (Stoecklin, 2000, 2007; Lucchini, 2007). Stoecklin has used Lucchini's framework 'Child-Street System' to analyse the accounts of children living in the streets of Shanghai during a 14-month fieldwork (1993–1996). He then adapted it as a tool for intervention or consultation with various international non-governmental organizations (INGOs), local associations and networks from 1998 to 2005, with the support of its co-designer. This tool has been mainly used for bottom-up identification of needs and capacities of children living in the streets and/or victims of trafficking. The samples varied from around 10 to 50 children per city, according to the contacts made by the social educators of the respective NGOs, and the age of respondents ranged from 8 to 20, with techniques going from semi-structured interviews to focus group discussions and individual drawings.

The new model called 'actor's system', elaborated later on by Stoecklin, is a simplified and more general version of the 'Child-Street System' that allows reconstructing how the actor makes sense of whatever situation (and not only the 'street situation') by using common notions, linked together in a systemic way, namely: activities, relations, values, images of self and motivations (see Figure 3.1).

The model is called 'the actor's system' because it is assumed that one's own system of action is the constantly evolving outcome of the links among these components of personal experience. The concepts used in this model are what Blumer calls 'sensitizing concepts', which act as propositions with a content that is not given beforehand. These are concepts open to the definition of their content by the respondents, concepts which therefore only suggest directions to look at (Blumer, 1969: 148). This approach also corresponds to the claim for interdisciplinary active listening using 'interpenetrating language', which 'comes down to employing terms that an intelligent inquirer can understand without knowing the shorthand that every academic discipline develops for itself' (Putnam and Unsworth, 2004: 7). The 'actor's system' is not a deterministic theory tightening together abstract concepts. On the contrary, it is a heuristic tool with daily-used concepts in order to let individuals reflect how they are (re)structuring their own experience.

Following Berger and Luckmann's (1966) conception of reality as both objective and subjective, the five dimensions of experience in our model are not considered as things per se. This would be a reification of social forms as if they had an existence of their own. In a constructionist approach, these elements are rather seen as meanings attached to items of experience as they are conceptualized by the actor. The concepts are general sensitizing concepts through the lenses of which the actors may read and give meaning to reality. They can identify concrete elements in their own experience, see them through these lenses, and make comments about the links between them.

With its recursive chain of causality, this model corresponds to and reflects the cumulative nature of experience (Dewey, 1910; Mead, 1934), whereby the social actor can be defined as anyone able to transform assigned roles into new ways of performing or achieving things. It also integrates the double structuration theory (Giddens, 1984), as each dimension of experience (activities, relations, values, images of self and motivations) is at the same time structured and structuring. Through observations of subjective assessments of situations, one may reconstruct specific social configurations (Elias, 1991), and their influence on children's capabilities.
Assessing child participation

In all the applications of the 'actor's system', we have always respected the ethical requirements regarding consent and confidentiality when doing interviews with children and young people (Morrow, 2008). The tool was first used in an empirical testing in 2009 with 34 adolescents (17 boys and 17 girls), aged from 12 to 18, in the French-speaking part of Switzerland (Stoecklin, 2009b). The sample was randomly selected in four French-speaking counties, and included respondents from rural and urban settings and from different walks of life. As the rationale was to see how the tool would stimulate and give value to the child's reflexivity, the statistical representativeness of the sample was not requested. Nevertheless, the diversity of respondents gave an acceptable degree of validity to the results. The test first started with a very wide open question: 'What is important in life?' before moving on to semi-structured questions that invited respondents to locate their preferences within the concepts of activities, relations, values, images of self and motivations. It showed that respondents used different dimensions to describe similar experiences, which attracted our attention to the 'permeability' of these concepts. For instance, when speaking about their 'friends', some respondents would talk about activities, while others would insist on relations or values. The same was observed with 'travelling'. In other words, experience appears as highly permeable to conceptual choices made by respondents to reflect on it. Consequently, realities like 'child participation', 'children's rights' or 'the right to be heard' should also be kept open to children's definitions, stimulated by a tool that helps respondents to reflect more deeply about their own experiences. Following these observations, the tool was then used in focus-group discussions to assess child and youth participation in Finland (2010), Slovakia (2011) and Moldova (2011) for the Council of Europe project 'Building a Europe for and with Children' (Council of Europe, 2009, 2011). The sample in each country was selected by an in-country team responsible for conducting the focus-group discussions under the supervision of the international ad hoc group that was elected by the COE for an evaluation of the child participation policies of these three countries. Respondents were chosen among children and young people already active in children's parliaments or 'participatory projects'. In Finland, the discussions were held with a group of 9 girls and 8 boys from different parts of the country, aged between 10 and 21, including six children involved in children's parliaments or NGOs. In Slovakia, the group was composed of 8 girls and 7 boys, aged 9 to 18 but with the majority (8) aged 17 and above, and coming from different regions and backgrounds. In Moldova, 14 girls and 8 boys between the age of 11 and 17 took part. As a first task, the participants were asked to write down activities they usually do. Then they were asked to specify the persons (relations) with whom they connected during these activities. Next, the participants were asked to underline those people whom they considered did not take into account their opinions when making decisions concerning them. Eventually, they were asked to think of the reasons why these people did not listen to them (values), what feelings they had about it (image of self) and what could be done (motivation) to change the situation. The tool helped keep open considerations for a large range of relationships, values, images of self and motivations, before (or instead of) reducing participation only to 'activities'.

For instance, a whole range of activities were raised by the children in Finland:

- School: attending school, homework, studying.
- Home: gardening and work in the yard, walking the dog, home, resting, lounging, watching television.
- Friends and relatives: meeting friends, spending time with family, spending time at granny's, visiting relatives.
- Eating, food.
- Hobbies: reading, visiting the library, drawing, cooking, cleaning.
- Sports: jogging, swimming, stable, driving, downhill skiing, scouts, gym, ballroom dancing.
- Music: composing music, song writing.
- Travel: travelling, tourist activities, visiting the summer cottage, going abroad, travelling by train.
- Being alone, spending time alone, wondering about the world.
- Playing on the computer, internet, hobbies.
- Participation activities: youth council, organizations, meetings, wielding influence, the youth work facility, student council, participation, sharing information, town hall, the youth services office, having a say in municipal affairs, having a say through the Finnish Children's Parliament.
- Going out: partying, music, shopping, visiting cafés, nightclubs (Council of Europe, 2011: 32–33).

The tool therefore helped children to reflect on a wide range of activities that allowed them to not only focus on activities that are seen as 'participative', which would have prevented inclusion of situations that set the wider picture whereby the question of status proximity was a central feature. In other words, the 'actor's system' framework has made it possible to include a key concern for children,
that could otherwise have remained hidden, namely the distance they feel towards adults in charge of education and the corresponding necessity of linking teaching (and generally speaking, all professions linked to childhood) not solely to disciplinary expertise but also to skills in listening to all stakeholders, including children (Council of Europe, 2011: 38).

Using the tool in our research on the right to be heard in leisure activities suggests that child participation is mainly induced by professional adults working in youth associations and leisure centres, while knowledge of ‘participation rights’ is rather low. It confirmed the importance of relationships in the experience of young people. The tool made it possible for 14 respondents in Switzerland and 5 respondents in France to reflect on concrete aspects of their participation in a collective project (see Table 3.1).

The playful shape of the ‘actor’s system’ helped to integrate questions on their knowledge about their right to be heard in a rather discrete way. The method fostered open discussions about the respondents’ activities, relations, values,

<table>
<thead>
<tr>
<th>Participatory projects and locations</th>
<th>Number of young people interviewed</th>
<th>Ages of young people interviewed</th>
<th>Gender of young people interviewed</th>
</tr>
</thead>
<tbody>
<tr>
<td>A website for young people of the city of Sion, Switzerland</td>
<td>1</td>
<td>14</td>
<td>M</td>
</tr>
<tr>
<td>A hip-hop scene in the city of Sion, Switzerland</td>
<td>1</td>
<td>17</td>
<td>F</td>
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<tr>
<td>The organization of a students’ party, in the city of Sion, Switzerland</td>
<td>1</td>
<td>13</td>
<td>M</td>
</tr>
<tr>
<td>A music scene in the city of Romont, Switzerland</td>
<td>1</td>
<td>14</td>
<td>M</td>
</tr>
<tr>
<td>Animation of a cultural centre for young people in the village of Marly, Switzerland</td>
<td>1</td>
<td>18</td>
<td>F</td>
</tr>
<tr>
<td>A discothèque for young people aged 12–17 of the village of Marly, Switzerland</td>
<td>1</td>
<td>18</td>
<td>M</td>
</tr>
<tr>
<td>A children’s parliament in the village of Romanel, Switzerland</td>
<td>4</td>
<td>15</td>
<td>M</td>
</tr>
<tr>
<td>A video centre in the village of Romanel, Switzerland</td>
<td>4</td>
<td>15</td>
<td>M</td>
</tr>
<tr>
<td>A journey in Senegal for students from Montréal (Paris), France</td>
<td>5</td>
<td>13, 13, 12</td>
<td>F</td>
</tr>
</tbody>
</table>

images of self and motivations, allowing proxy questions that helped avoid the side-effect of social desirability, which is the tendency to answer in a way thought to be socially acceptable and desirable (McBurney, 1994). We observed that our respondents very seldom used the narrative of ‘children’s rights’ to reflect upon their praxis. This typical line of conduct, or ‘system of action,’ indicates that social relations play a greater role than children’s rights in their subjective evaluation of participatory projects. Conversely, experience shapes children’s knowledge of their rights which they roughly know, without needing to quote the articles contained in the UNCRC. In order to test their knowledge about children’s rights, a question directly addressed their knowledge about their right to be heard (Art. 12 CRC). No respondent was able to tell exactly what this right was about, while in their descriptions of their participatory experiences they referred to values such as respect for people’s (and their own) opinions. This shows that the actor does not need to be clearly informed about or aware of his/her rights before acting in a rightful way. This is due to the complex set of peer influences in the elaboration of one’s preferences. Hence, the child’s own views are pragmatically formed when the child is able to actively participate in social life. Participation rights become real only through the exercise of participation, which may eventually contribute to gradual capacities gained by children as social actors having voice and agency.

These pilot attempts to explore the usefulness of the tool in practice have led to some early findings. These include the hypothesis that agency is bound to a recursive system of action, reflecting subjective assessments of situations that help reconstruct specific social configurations (Elias, 1991) that are more or less conducive to children’s active participation. So far, the applications of the ‘actor’s system’ have helped identify a cross-cultural trend regarding agency, namely that the child does not conceive participative rights in a rational-choice oriented way but rather through the double mediation of group sociability and their own reflexivity about concrete experiences. The metaphor of stage and backstage (Goffman, 1959) indicates that there may be large discrepancies between the presentation of self in everyday life (rational and socially desirable discourses) and subjective understandings or feelings about such a socially constructed notion as ‘children’s rights’. It is assumed that the tool gives a possibility to overcome the bias, so often encountered, of linking competence with rational discourse. It is however too early to speak of a real theory of the ‘actor’s system’ and further research is needed to reconstruct how children, in different settings and with different capacities, develop their agency through participation.

These heuristic features and outcomes of the tool help in deconstructing taken-for-granted conceptions such as the equivalence between the child as a
subject of rights and the child as a social actor. They help us to understand how specific actors make sense of their own social environment and how this environment is in-built in their identity. This confirms that the individual/society dichotomy is a social construct and not a reality (Elias, 1991). Seeing society as 'surrounding' and the individual as 'inside' is linked to the historical movement analysed by Elias whereby external constraints are progressively replaced by self-constraints. The 'actor's system' helps conceive this in a more concrete way: what social actors identify as their 'real experience' is made up of activities, relations, values, images of self and motivations, all elements that are at the same time 'inside' and 'outside' the individual. Another outcome is that the common-language notions used in the model help understand the systemic nature of action by observing how the actor shapes diverse settings according to their command over symbols. Our observations reveal the centrality of the respondents' relations, and the emotional appeal of these interactions challenges the artificial separation between objective acting and subjective reflexivity:

Sociologists now generally recognize that emotional processes are crucial components of social experience. Although this turn toward including emotions within the domain of sociology has been a useful corrective to the dominance of rational-actor models of human nature, most of the work on emotions has been restricted to issues of conceptualization or debate over theoretical frameworks.

Ellis and Flaherty, 1992: 2

Therefore, the actor's system helps to overcome the bias whereby one considers child participation only through the lenses of so-called mature decision-making processes. We still need to get closer to subjective understanding or feelings, and not just to observe discourses expressed on the stage through presentation of self in everyday life (Goffman, 1959).

Our hypothesis is that child participation depends on their subjective assessments of situations and that these cannot entirely be grasped with the ladders of participation (Hart, 1992; Treseder, 1997). Children's agency starts with their own reflexivity about concrete experiences, and the decision not to participate in a given process is also an agency. Measuring 'child participation' therefore requires that processes and not just outcomes are considered. What is innovative in the model of the 'actor's system' is its potential to assess child participation not in terms of visible participation but in terms of subjective participation. Assessments of participation remain fragile and possibly ethnocentric as long as we do not have a clearer understanding of the participants' subjective sense of reality. Children develop their capacities to build and voice their own views through social networks. We could say that children actually participate through rather than in activities. But participation with the outside world, through the mediating effect of a group, first implies a subjective internalization of the outside world as it appears to oneself and also as others make it appear to be (Berger and Luckmann, 1966). Therefore, two central issues must be addressed: the mediating role of social groups through which one experiences the world, and the role of personal reflexivity through which one gives meaning to these social activities. In this way, this methodology allows one to come closer to the individual and social factors that help (or do not help) to convert the formal rights and liberties contained in the CRC into real freedom and enhanced capabilities for children.

Conclusion

The rights of the child need a good arsenal of procedures (Lücker-Babel, 1995), and improvements in hearing procedures (Art. 12 CRC) is definitely an area of concern. The procedures through which the right to be heard is to be implemented, in any setting (be it leisure or formal or informal educational settings), all too often neglect the question of their accessibility to the understanding and ways of expression of children at different ages. While the 'burden of proof' regarding the child's maturity is not with the child but with the decision-makers, the procedures and tools that are concretely used to 'prove' a child's maturity or immaturity remain too much bound to adult rationality.

Both a subjective right (right to be heard) and a procedural right, Article 12 CRC is open to interpretations and conflicting views, as is the case for other objects of discourse. Going back to Giddens' (1984) structuration theory, procedures to hear children can be seen as both structured and structuring. Hearing procedures are structured in a certain way because rights must be granted independently of the actual capacity of children to actively influence them. Such procedures are also structuring the way the child may express her/himself. The 'due weight clause' regarding 'age and maturity of the child' and the impossibility of objectively proving that one is 'mature enough' leave the door open to the arbitrariness of capacity evaluation. This is part of the collective power against which the international human rights treaties wanted to preserve the individual.

To be considered eligible (subject) to Article 12, the child must be recognized as competent ('the child who is capable of forming his or her own views'). What
is generally overlooked is that ‘to have one’s own views’ is also a socially defined
(structured) and therefore recognized (structuring) concept. Therefore, power
relationships are mostly overlooked by the ‘competent child’ discourse.
Paradoxically, the ‘competent child’ discourse falls into the trap it wanted to
escape, because ‘being competent’ equates to being competent in the ways that
are recognized as competency, maturity and rational thinking. All these notions
are social constructs, and the ‘competent child’ is another construction which is
both stemming from and strengthening the false equivalency between ‘subject of
rights’ and ‘social actor’.

This confusion between subject and actor leads to distorted debates that are
not conducive to child participation. The sociological perspectives in the field
of children’s rights may have played a significant role in this biased debate, probably
because the notion itself, the ‘social actor’, has not been all too clear. As a
consequence, there are too often arise some biased debates over competences
where arguing that the child is an actor at birth (ignoring the progressive
internalization and externalization of norms and values) turns out to be accepted
just in order to grant him/her participatory rights. If rights are attached to
competence, then the child, as a subject of rights, must be a ‘generally competent
child’. The other side-effect of this problematic stance is the opposite conclusion
that participation rights cannot be granted before the child demonstrates a
sufficient level of competence. How can we measure ‘a sufficient level of
competence’ or ‘maturity’?

As we have seen, the CRC does not make any explicit reference to the ‘social
actor’. But if participation rights are granted only to those who are able to actively
make use of these rights (those with a sufficient level of reflexivity to express
their own views), then the CRC implicitly holds that some children are not yet
social actors. It does not mean that these children are not holders of the right
contained in Article 12; on the contrary, Article 12 may be seen as based on the
expectation that all children will, at some stage in their development, be able to
express their own view freely. This possibility is not only bound to individual
competence but, again, to the combination of individual ability and social
opportunity (capabilities).

Therefore the CRC does not imply that one can just wait until the child is able
to form his/her own views, but must see to it that procedures and techniques are
developed to include children’s voices as much as possible. Declaring that the
child is ‘generally competent’ or a ‘social actor’ at birth is not a way to make any
progress in the design of these techniques and procedures. Rather, recognizing
the differentiated stages of capacity development is conducive to elaborate, more
accurate and appropriate tools to make Article 12 accessible to children placed
in different situations.

Considering the child as a ‘social actor’ is a way to say that he/she is ‘generally
competent’ but the problem is that it is impossible to be a ‘generally competent’
social actor at any age and in any setting. One should better acknowledge that
giving ‘due weight’ to the child’s opinion can also mean bringing the hearing
techniques and procedures closer to the child and not just the child closer to the
socially constructed sense of ‘maturity’ prevailing in a specific context and in a
specific period.

Non-distinction between ‘subject of rights’ and ‘social actor’ ignores the
problem of capability and the complex interaction between individual
competences and social opportunities. Whereas the subject has rights, the actor
is developing capabilities. These two aspects are interdependent: rights may
enhance capabilities, and conversely capabilities are needed to actively make use
of one’s rights. Recognition of this specific interplay between rights and
abilities makes participative rights granted to children a quite relevant
movement towards personal and social development. The child can therefore
participate in the objective definition of reality, which is not reducible to a single
point of view but rather the outcome of a social construction. The social actor is
participating in the daily construction of social reality; therefore the subject is
entitled to a right on the definition of social reality, including the definition of
rights themselves. Here, the subject is recognized as having the capacity to act as
a social actor, and therefore is entitled to develop this capacity to the fullest
extent. But the power conferred is not upon things but upon processes.

Any social actor, whether or not he/she is declared a subject of rights, acts
through relationships with others. What is different when one considers children
as rights-holders is the importance attached to their own views. The attention for
children in terms of their real freedom might change dominant conceptions of
power: from oppressive power over things and people to an enhanced and shared
capability to participate in the reshaping of social interactions. This indeed
makes a big difference.

Notes

1. Full details on the UNCRC can be found at www.unicef.org/crc.
2. Daniel Stoecklin (2000), Enfants des rues en Chine (Street Children in China), Paris:
   Karthala.
References


