A desk review on

Children’s participation rights

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Abstract

This paper presents an overview of the concept of children’s participation from a rights perspective, using the United Nations Conventions on the Rights of the Child as framework, and emphasizes the importance of children’s active participation in decisions and actions that relate to their advancement and that of their community. Drawing on examples from a few countries, mainly Haiti, the paper proposes three basic rationales for children’s participation: 1) historically, they are key actors of social and political changes, 2) their participation enhances order and stability, and 3) their participation enhances provision and protection rights. As right-holders, children should not be treated as mere recipients of ideas, policies or interventions generated unilaterally by professionals, but be part of the reflections and decisions that will inform social policies aiming to improve their lives.

1. INTRODUCTION

The importance of participation in a democratic society cannot be overemphasized. In this paper, participation will refer to the empowerment of individuals to voice their concerns and express their views on matters related to their development and that of their community, to form interest groups or associations\(^1\), and to freely choose their representatives in government. Lack or absence of such participation tromps democracy as it strips people from the power to shape their future.

Democratic participation is a fundamental human right that is guaranteed by the Universal Declaration of Human Rights (UDHR), which stipulates in article 21-1 that “everyone has the right to take part in the government of his country, directly or through freely chosen representatives”\(^2\). Article 27-1 adds that “everyone has the right freely to

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\(^1\) An organization of people with shared ideas and attitudes who attempt to influence public policy. (retrieved from: http://www.twyman-whitney.com/americancitizen/links/lobbies.htm)

participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. C. A Wringe defines rights as entitlements and asserts that democratic participation is both a positive and moral right. A moral right is based on our “prior condition of Man”. Human rights are universal, indivisible, and inalienable.

Denying any group the right to involve directly or indirectly in processes or decisions that will impact their future is in itself a serious encroachment. It becomes an outrageous expression of social injustice when such a denial affects the majority of a society. According to United Nations, the world counts today about 1.8 billion young people between the ages of 10 and 24, and children or adolescents make up a majority of the population in the world’s 48 least developed countries. For example, more than half of the population in Mali is less than 17 years of age. Haiti also has ten million inhabitants with nearly half of them being less than 18 years old. Yet, children and youth, are the most marginalized in many communities, especially those in developing countries and those from minority groups in developed countries such as the United States, such as the poor, black, female, physically challenged, mentally and disabled.

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3 Ibid.
4 For more details on positive and moral rights, see C.A. Wringe, Children's Rights: a Philosophical Study (Boston: Routledge & Kegan Paul Books, 1981), pp. 41-45. According Wringe, positive rights are mainly “legal rights” (p.45). Moral rights “rest on the assumption that the prior condition of Man is … one of moral independence in which he has certain rights whether they are recognized by society and its structure of authority or not” (p.43). “though the notion of a right may have originated in the context of legal discussion, and although one normally has the moral right to have one’s legal rights respected, moral rights in general are not parasitic on the law and may be both characterized and justified independently” (p.45). Wringe discusses five categories of moral rights: (1) rights of freedom in the sense of liberties, (2) claim rights of freedom, (3) rights of democratic participation, (4) special rights, and (5) welfare rights (pp.46-83).
5 Article 1 the UN Convention on the Rights of the Child defines a child as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”.
6 http://www.un.org/youthenvoy/2015/04/10-things-didnt-know-worlds-population/
7 Nanette J. Davis, Youth Crisis: Growing up in the High-Risk Society (Westport, CT: Praeger Publishers, 1999), 229-231.
Since the adoption of the United Nations Convention on the Rights of the Child (UNCRC)\(^8\) in 1989 and its ratification by all except two countries (United States and Somalia), heavy emphasis has been put on and notable progress has been made in children’s rights to survival, development and protection. While there is quasi-unanimity among governments, non-governmental organizations (NGOs) and the international development community for discussing and advancing children’s health, education and protection, there is a basic ambiguity surrounding children’s participation rights.

What do children’s participation rights entail? This paper discusses the importance of children and youth’s participation rights, and current challenges and possibilities, focusing on Haiti as an example. The paper advocates a coherent, comprehensive, inclusive and research-based framework for children and youth participation in Haiti.

2. OVERVIEW OF CHILDREN’S PARTICIPATION RIGHTS

2.1 The Child’s Rights Movements

The United States has laid basic rights for American children in the Children’s Charter of the White House Conference of 1930. The Charter protects the right of all children to be educated and to have “meaningful choices in the process of maturation and

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\(^8\) The Convention on the Rights of the Child was adopted and opened for signature, ratification and accession by United Nations General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990, in accordance with article 49.
development"⁹. Mary C. Kholer (as cited in Vardin & Brody) argues that a quality education implies that “young person must be given the opportunity to learn through participating in decision making that affects their lives and through performing significant service that affects others”¹⁰.

C. A. Wringe traced the children’s rights movements back to 1968 – 1972. Pupil militancy sparked by university students would rapidly spread to secondary schools in various European countries, mainly the United Kingdom (UK). The movement was a fight for freedom of speech and association. Through various forms of unrest including protests, demonstrations, petitions and clashes with school authorities, several students’ organizations came into existence in the UK, the main ones being the Student Action Union (SAU) organized in 1969 and National Union of School Students (NUSS) in 1972. Among the rights claimed for children by these organizations are: (a) the right to educational democracy, which is a demand for effective participation and control – and not only consultation – in the management of schools; (b) the right to organise democratically, which is the right for students “to organize themselves democratically without interference from other organization to implement the rights attributed to adolescents”¹¹.

The “Children’s Rights Movements” has led to the adoption in many countries of policies aiming at improving the lives of children. Further, the proclamation of the International Year of the Child (1979) succeeded in bringing the question of children’s rights to the attention of the public and the media. Subsequently, both mainstream educational and philosophers started to show interest in the concept of children’s rights. In the United States, particularly, the passing of the 1975 Children’s Act makes mandatory in juvenile justice to take the child’s best interests and his or her expressed preferences into consideration.

However, the most significant gain of the children’s rights movements came in 1989, when the United Nations adopted the Conventions on the Rights of the Child (UNCRC), which is currently the principal international framework for children’s rights. The UNCRC can be divided into four broad categories of rights: the right to survival, the right to development, the right to protection and the right to participation. The right to survival is discussed in articles 6 and 27 of the UNCRC, recognizing the inherent right to life, health and well-being that every country must ensure according to its capacities. The same goes for the right to enjoy the best state of health possible, and the guarantee that children will have access to medical and education services. The right to development is addressed in articles 28 and 29, which recommends that primary education should be compulsory and free for all. Measures are to be taken to encourage regular attendance at school, and to reduce the dropout rate, especially among girls, and make sure education contributes to each child’s personality, talent and ability to the fullest.

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13 See Wringe, 16, 17.
protection is articulated in articles 19 through 23, 30, 38, 39, discussing the commitment of States to ensure protection for all children, especially the disadvantaged ones. Finally, the right to participation is discussed in articles 13 through 15, which encourage all states to guarantee the rights for children to express themselves, and freedom of thought. It also encourages freedom of conscience and religion, association, and peaceful assembly. In virtue of the principle of universality of human rights and the principle of non-discrimination of the UNCRC (Article 2), the above-mentioned rights should apply to all children regardless of their sex, age, race, religion or abilities.

2.2 Dominant concepts and ideas around children’s participation

The online Oxford Dictionary defines participation as the act of taking part in something. That “something” may refer to activity or decision making, according to Nigel Thomas. Participation is often equated to consultation. However, Sinclair (as cited in Thomas) has observed that in the practice of participation, being listened to or consulted is seen as in opposition to ‘active participation’ where children have a sense of fulfillment believing their involvement is meaningful.

The US African Development Foundation (USADF) views participation, in the context of community development, as “a process through which all members of a community or organization are involved in and have influence on decisions related to development activities that will affect them”. Applied to children and youth, the above

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15 Ibid.
definition implies that participation should go beyond the article 12 of the UNCRC, beyond being simply listened to or consulted. Young people need access to decision-making processes and given the opportunity to influence the outcome. Mary C. Kohler views youth participation as any challenging endeavor initiated and planned by the young people themselves to address concrete needs, implemented in cooperation with adults in their own interests and in the interest of others. Kohler warns against the tendency to confuse youth participation with vocational training, work-study programs or cooperative education, action learning or experimental education. She argues that even placing young people on policymaking boards, or organizing them in youth councils is not really participation because their actions in those contexts will often have little social consequences. She insists that genuine youth participation should imply action initiated by young people themselves out of a sense of responsibility, with meaningful contacts with adults, and involves decision-making dealing with real problems, aiming to make a difference and add value in the lives of young people and/or the community.

John Wall and Anandi Dar go even further to advocate the right to political representation for young people. They believe that it is not enough for young people to be recipients of rights when they are excluded from political processes where the nature and extents of those rights are determined. They plead that children be granted political rights to be “exercised not only indirectly through voice, organization, protest, and

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18 Ibid.
participation, but also directly through using power, influencing policies, and voting”\textsuperscript{19}. Rezene Tesfamariam holds the same position demanding political leverage for young people for their participation to be effective\textsuperscript{20}.

2.3 Importance of children’s participation

Amidst such a plethora of disparate views around children’s participation, this paper’s main claim is the provision for a conscious and deliberate involvement of children and youth in decision-making on matters that affect their development and that of their community. Young people need to be empowered to exercise their participation rights through formal and informal youth organizations and through their participation in the voting process, directly or indirectly. Why is such a participation important?

First, young people have been at the forefront of societal changes in many countries. Young people initiated the movement that took place in 2011 in many Muslim Middle-East countries, called Arab Spring, which shook off decades of dictatorship under the rules of despotic leaders. Haiti is another example of youth political activism. Organized students mainly unions and similar associations have always been at the forefront of almost all social and political changes in the country. Historically, university students have been the most politically prominent; nevertheless, students at secondary and elementary level have also been very active. Student militancy is always joined by other kinds of less visible youth organizations and movements. Concerning less formal organizations, one can observe a wide range of other associations, including music


\textsuperscript{20} Rezene Tesfamariam. Unpublished material, (Haiti, 2008), 3.
groups, and even gangs and social bandits of various kinds. Both Jean Claude Duvalier and Jean Bertrand Aristide’s dictatorial regimes21 fell when students groups joined by other informal youth associations decided to risk their lives and defy the oppressive authorities.

Second, marginalized children and youth represent a threat for order and stability of a country. Numerous studies show that when young people are denied the prospect of effective participation, they often turn to criminality or militarism. Davis Janette studied the “gang problem” in the United States and found that they represent a parallel ‘pseudo-community’, as they are they replica of the social, economic order of society22. Gangs are very attractive to alienated youth, giving them a sense of ‘belonging’, but at the same time, they have a “propensity to disruptive, antisocial or criminal behavior”23. In Haiti, as noted by Tesfamariam, “the excitement of armed confrontation and the possibility of looting and kidnapping may be sufficient to mobilize unruly mobs of youth”24. When young people’s energy is not mobilized for constructive actions and channeled into peace and development, it is easily exploited by unscrupulous adults for violence and destabilizing movements. Tangible examples are places like Cite Soleil, Martissant, and Bel-Air in the metropolitan area of Port-au-Prince/Haiti, which have become out-of-control zones. Cynical gang leaders in these places provide frustrated and uneducated youth with weapons and give them access to drugs, thus making of them a new class of

21 Jean-Claude Duvalier, nick-named “Baby Doc” reigned as president in Haiti from 1971 to 1986. His regime of terror was overthrown by a popular uprising. Jean Bertrand Aristide was President of Haiti of Haiti in 1991, 1994-96, 2001-04. During his last term, he was also overthrown by a popular uprising.

23 Ibid., 231.
24 Tesfamariam, 1.
malignant hordes of armed bandits with no agenda other than to steal, murder and destroy. Marisa Ensor and Amanda Reinke noted that “youth's marginalization from mainstream economic life, political acknowledgment, and civic responsibility represents a potential threat to peace and stability in South Sudan”25.

Third, participation enhances children’s provision and protection rights. Lansdown (as cited in Ensor & Reinke) acknowledges children’s participation not only “as a right in itself, as specifically expressed in Article 12 of the UNCRC but also as a means by which all other children’s rights may be realized”26. In South-Sudan, Ensor and Reinke observed that protectionist approaches applied by international organizations, in other terms, rigid and non-contextualized measures to protect children might keep them away from activities that would contribute to their survival, their development and their socialization. The same is true for young Haitians who have noble aspirations for their future and crave for education and useful jobs. They have demonstrated their creativity in finding means of articulating their aspiration and engaging in constructive actions. Even during longstanding hardships and adversities, youth clubs and associations throughout the country unwaveringly have succeeded in carrying out innovative educational, cultural and economic projects. Unfortunately the coping strategies by young informal Haitian social and economic entrepreneurs remain invisible to national policy-makers and international development organizations. Maintaining them in the current state of marginalization put in jeopardy all prospects for economic growth and development of the country.

26 Ibid., 74
2.4 Policy Issues

Human rights, including participation rights, need to be translated into policies; otherwise, they will be just wishing lists or mere slogans. Hence, the UNCRC calls state members to elaborate and adopt national children and youth policies that will embody the requirements of the Convention. However, for policy makers, participation rights pose some challenges because of the ambiguity surrounding the concept of participation as discussed in the preceding section. For Thomas, depending on the aim of participation, whether it is to “improve children and young people’s sense of personal efficacy or self-worth, to “improve decisions about the provision of public services”, or “to strengthen democratic citizenship”, policy and practice will be different, so will be the way they are evaluated. When the aim of participation is not explicit, policies may be irrelevant27.

Other challenges policy makers face stem from the difficulty to reconcile two cornerstone principles of the UNCRC - the principle of “the best interests of the child”, established by Article 3, and “the right to be heard and taken seriously”, primarily associated with Article 12. Promoting children’s participation, while establishing measures and policies to protect them from and ensure their safety and wellbeing is an intricate endeavor that should not be taken lightly28.

Furthermore, children’s participation in collective decision-making needs to be addressed separately and in priority from their participation in decisions about their lives.

This paper advocates for policies that make intentional provision for the effective participation of children in collective decision-making. Careful considerations are to ensure participation is inclusive. Critical questions related to the characteristics and specific conditions of marginalized groups such as children with disabilities, girls, street children, rural dwellers, and so on, need to be addressed.

2.5 Ethical or Philosophical Issues

There are ethical considerations to make when it comes to children’s participation rights. In most of African countries, as well as in Haiti, characterized by a salient form of gerontocracy, the society is reluctant to give children civil and political rights, fearing the possibility of adversarial relations with adults who are entitled with highest respect due their roles as guardians and providers. In those contexts, the concept of children’s personal autonomy may be seen as antagonistic to the fundamental values of family and community. In addition, adults tend to deny children the right to participation in decision-making assuming that children lack some of human capacities we take for granted, such as self-awareness, intelligence, capacity to reason and to make sound decisions, and so on. Such assumption is dangerous and unethical because it implies that “personhood” is defined according to certain qualities and abilities one may or may not possess. Gilbert Meilaender argues that we all qualify, including children and the disabled, for membership to the human community, not because of certain characteristics, qualities or abilities, but only because we are begotten of human parents. We are human as soon as we start to breathe after fertilization occurs. Participation in one’s decision that affects

one’s life is a human right. It is a fact that people are different, with unequal and disparate intellectual, physical, mental capacities, but as human beings, we, including children youths, are ‘entitled’ to all human rights. Therefore, it belongs to society and especially to politics to come up with innovative policies that ensure their participation while taking into account their stages of physical, mental and intellectual development.

Other ethical issues arise when, in many instances, the effort of participation is lapsed into symbolic sideshows, whereby adults co-opt children and give them a profile in the media. Thomas cites Tisdall and Davis to denounce some participatory work with children where children are used for ‘adult reasons’ and ‘adult agendas’. This poses a serious ethical problem, because human beings should never be treated as ‘means’ but as ‘end’. We have the obligation to respect and uphold human’s dignity. Sandel quotes Immanuel Kant: “If all human beings are worthy of respect, regardless of who they are or where they live, then it’s wrong to treat them as mere instruments of collective happiness”. Furthermore, denying young people, who represent over half of the world’s population, the right to effective participation, is a violation of basic democratic principles.

2.6 The role of development professionals and NGOs

Smith (as cited in Ensor & Reinke) has observed that most professionals working with children tend to make assumptions about their needs and think they know what is best for them. Professionals are expected to play a supportive role in the mobilization of the children and youths for development instead of seeking to impose their own agenda and place themselves in the driver’s seat as initiator and pacesetter\textsuperscript{32}. They should act as bridge to needed resources, skills and experiences to which they have access, according to Tesfamariam\textsuperscript{33}. They will avoid creating artificial organizations under their control and which they can manipulate using the financial power. In the aftermath of 2010 earthquake in Haiti, international NGOs of all kinds proliferated in the country. Sadly, their lavish interventions were not sustainable, to say the least, due to their top-down approaches, and the exclusion of local actors, mainly children and youth. In the worst cases, their actions have contributed to perpetuating division and inequalities in communities. They have exacerbated not only religious cleavages, but also in many instances those of gender and class. Professionals and foreign organizations, expected to help build stronger communities, should not disempower local youth institutions. Here, the words of Hanson and Nieuwenhuys (as cited in Ensor & Reinke, 2014) are pertinent: “if children's rights are to be entrenched, children should be party to the shaping and implementation of these rights”\textsuperscript{34}.

\textsuperscript{33} Tesfamariam. Unpublished material, 2008.
2.7 Opportunities for further research

Knowledge of the key features of youth organizations in Haiti, especially those that turn to criminality and militarism, is a prerequisite for any attempt to mobilize them for development and peace. An extensive study that will establish a typology of these youth groups, including the genealogy of gangs, their structural patterns, their conventional aspirations, their means of survival, and so on, will be of greatest importance. An intentional effort to enter into dialogue with young people in an open and constructive way, diligently seeking to learn from their strategies and future aspirations, will lead to the identification of the potential raisons of their existence and the factors that cause their emergence.

Tesfamariam argues that “real change will occur when political leaders have no option but to listen to young people’s concerns because they need their votes”\textsuperscript{35}. Therefore, he pleads for lowering the age of voting to sixteen or even lower, assuming this “would be a very powerful symbol of the emancipation of Haitian youth, and, more importantly, a means of channeling their political energies into strengthening democracy”\textsuperscript{36}. His claim seems legitimate. In fact, the same claimed is being made in many countries in the world, including United Kingdom\textsuperscript{37}. However, research is needed on the subject to assess the readiness of the Haitian society for such a decision, and were it to be adopted and implemented, what would be the implications, and what should be

\textsuperscript{35} Tesfamariam, 3.
\textsuperscript{36} Ibid.
the accompanying measures to make sure the “best interests of the child” are safeguarded.

Other areas for research could include: 1) understanding social and cultural barriers to youth’s participation in Haiti, 2) how poverty plays in limiting or enhancing young people’s involvement in “democratic participation” in Haiti, 2) gender issues related to youth participation, 3) the extent of the effect of youth militancy in political changes in Haiti.

3. CONCLUSION

Children and youth are right holders, and not mere passive recipients of rights. Historically, they have been the forerunners of social and political changes in many countries in the world, including Haiti. Their participation rights are of utmost importance to enhance the provision and protection rights, and need to be taken seriously by adults to allow them to adequately involve in decision-making related to their advancement and that of their communities. Addressing young people’s marginalization will be beneficial for society because marginalization is a cause for delinquency, gang formation, and disruptive, violent and antisocial behavior. It is important to engage with children and the youth’s organizations, and dialogue openly and constructively with them. This will be a crucial learning experience, which will inform social policies aiming at improving the provision of services for them and positively influencing the evolution of political culture over the long run.
REFERENCES


