

7 Participation of Children in Residential Care

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During the last three decades, a new, child-centred concept of child welfare discourse has not only gained ground, but has become the settled manner of thinking. Characteristic of this view is the child as an autonomous social actor, an agent and a subject of rights. This view has also gradually replaced the view of the child as a passive object, or even as the property of parents (Doek, 2019). The view of a child as a social actor (Corsaro, 1997) and autonomous reflective subject (Frønes, 2016), using their agency by making choices and experimenting in their life environments, acquiring and interpreting language and culture through interactions, cannot be separated from the status of children as rights-holders through the UN Convention on the Rights of the Child.

The concept of the child as a social and autonomous actor, familiar in literary classics such as Huckleberry Finn and Pippi Longstocking, appeared in child substitute care practice before it became established in modern childhood research or in children's rights discourse. Janusz Korczak (1878–1942), the Polish pediatrician, pedagogue, director of the Jewish orphanage in Warsaw, writer and inspiration for the children's rights movement, actively promoted the autonomous and active role of the children he cared for and supported a stronger position of children in social life. In 1920, in his first major pedagogical writing *How to Love a Child*, he proposed a *Magna Carta Libertatis* of children's three elementary rights: the 'child's right to his death', the 'child's right to the present day' and the 'the child's right to be themselves' (Korczak, 2018). The work culminates in the demand for the children's *right to respect* (Freeman, 2020). The 'child's right to death' sounds strange at first reading, but Korczak's explanation clarifies his meaning: it is the demand for children's agency and participation which is often restricted by many parents. With the other two rights, Korczak underlines his belief that children do not *become* persons but *already are* persons and have the right to their own lives. He clearly saw the child as an autonomous social actor, evidenced by his statement, 'children are not people

of tomorrow; they are people today'. Eichsteller (2009, p. 382) discusses how Korczak's children were 'right owners' who discussed, justified and argued about the protection and violation of their own and others' rights. In Korczak's children's home, children were seen and treated as separate beings with the inalienable right to grow into the person they were meant to be (cited by Freeman, 1996, p. 31).

Such developments, with a concept of the child that is based on the child's agency and autonomy, serve as a theoretical backdrop for how the participation of the child has found its representation in legal acts, particularly and most importantly in the CRC Article 12 (1989). Article 12 is especially important in the context of the empowerment of the child because it includes a definition and need for child participation and basic demands that should be followed when approaching the child as a holder of rights (Strömpl & Luhamaa, 2020). Article 12 is recognised as one of the most innovative and significant provisions of the CRC, not only for what it says but because it clearly recognises the child as a full human being with integrity and the right to autonomy (Freeman, 2011).

The realisation of the child's right to participate actively, and to express their views in all matters that concern them, and for those views to be given due consideration, is a clear and immediate legal obligation under the CRC (Doek, 2019; Kilkelly & Liefwaard, 2019), not just as an expression of the adult's goodwill (Freeman, 2020). It also aims to promote the child's agency and autonomy (Doek, 2019) and provides children the right to participation in matters that affect their lives, as children themselves are experts on their own needs and feelings (Dixon et al., 2019) and have their own perspectives on their well-being and interests (Jenks, 1996; Mayall, 1994). The right to participation is granted to children based on their status as autonomous individuals. Most of the other rights expressed in the CRC are based on children's vulnerability – the protection rights or children's dependency on adults, and the provision rights. Thus, the changing concept and status of the child also shift from protecting the child towards a focus on supporting the child as an autonomous individual and, most importantly, respecting the child's dignity (CRC, 1989).

Residential Care

Under Article 3 of the CRC, the child has the right to such protection and care as is necessary to ensure the best interests of the child are met. When applied to children placed in residential care, Article 3 is relevant to the need to find an appropriate care setting to better provide for the best interests of the child. As the child may be the victim of serious neglect or abuse in the family setting, and to the extent that it is necessary to remove the

child from their biological family, the child must receive alternative care. Article 20 of the CRC stipulates that:

A child temporarily or permanently deprived of his or her 'family environment', or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

One option here is the special protection and care provided in the context of residential care. I will not here delve into a deep or complex discussion of the meaning of residential care for children placed out-of-home, however, it should be noted that there are many ongoing debates about the difficulties and lack of universally accepted definitions of 'residential care' or 'institutional care' (Cantwell et al., 2012; Cantwell, 2015; Herczog, 2021), terms that have often been used interchangeably (Herczog, 2021). In line with the terminology of the UN Guidelines on alternative care, which was developed to understand how children's rights can be understood in these settings (henceforth 'Guidelines', 2010), residential care means formal care provision which replaces parental care in the context of an institutional group setting.

Residential care includes different forms of non-family-based alternative/substitute care settings, such as children's homes, substitute homes, or group homes, which can be different based on the size, length of stay and other characteristics. One of the main characteristics of residential care, as Cantwell et al. (2012) emphasise, is that all residential care should aim to provide family-like care. There also exists diversity in how residential child care is practiced internationally (Courtney & Iwaniec, 2009; Mollidor & Berridge, 2017; Šiška & Beadle-Brown, 2020). In some countries, even the distinction between foster and residential care is no longer so clearly marked, as residential care becomes more and more similar to foster care (Sindi, 2021). Although residential care is provided by the legal entity at the service provider's location and care is provided by paid staff, the care itself is more and more family-like – the facilities are smaller, siblings stay together and more or less stable staff take care of children (Francis et al., 2007; Sindi et al., 2018). Still, foster care placements are increasingly preferred, however small or family-like the residential institutions have become.

There is a general perception that foster care is superior in meeting the needs of children, especially their psychological needs and the need for an upbringing as normal as possible. We can also find discussions about the stigmatisation or negative reputation of residential care. However, residential care may be the best option for some children due to negative

experiences in a family setting, in order to keep siblings together or to provide specialised care and treatment (Kendrick, 2015). Residential care is often used for children who are considered unable to live in a family, meaning their health or behaviour have been important predictors of the likelihood of a family placement proving more complicated (Mollidor & Berridge, 2017, p. 284). Although the aim of residential care is to ensure the child's needs, rights and overall well-being, there is a general concern about poor outcomes, including a high risk of social exclusion (Biehal & Wade, 1996; Courtney & Iwaniec, 2009; Kutsar & Helve, 2012). The challenge for the child substitute care system, and for residential care specifically, is to provide high-quality care based on the needs and rights of children with skilled, child-centred professionals (Mollidor & Berridge, 2017).

Rights and Residential Care

Children's rights, as outlined by the CRC, also apply to all children living in residential care. Still, some rights are especially important to highlight, considering the child's position and status in a public care context. The CRC covers three well-known dimensions of rights: protection, provision and participation rights, including a child's right to their own identity, to be consulted and taken into account, to physical integrity, access to information, freedom of speech and opinion and to challenge decisions made on their behalf (Cantwell, 1993; Doek, 2019; Lansdown, 1994). As the scope of this book is children's participation, I will focus on this particular right in the context of residential care.

The right to participation is a right of importance for the interpretation and implementation of all other rights, and especially as the right to participation stresses that children must be afforded the opportunity to express themselves in all administrative and judicial proceedings. Residential care is a form of public care that necessitates various administrative proceedings and decisions. Article 12 states that children should be able to express themselves in such proceedings according to their age and level of maturity (CRC Committee General Comment (GC) no. 12, 2009). The presumption in the CRC, therefore, is that children are capable of being involved in matters of importance to them, as elaborated on in the GC no. 12.

Once the necessity of a residential care placement has been decided, further determination has to be made as to which care setting most suits the child's needs, situation and wishes. Acknowledging these key factors is a fundamental element in decision-making which has grown with the discourse on children's rights, but is still often ignored (Cantwell, 2015). Children *desire* to express their diverse expectations, wishes and feelings regarding their placement – if they are invited to do so.

There are two main professionals in the context of child residential care: the child protective worker and the direct caregiver(s). These professionals play a central role in children's lives. The responsibility of the local government is long-term, as the local government professional (child protective worker) must ensure the child's rights and well-being before and during residential care, with a view to the child's future. The direct caregiver(s) support the child's participation in daily life. The task both of these professionals have in common is the necessity to ensure that the child's right to be heard on important matters is consistently fulfilled – to listen to the child's voice on daily and long-term issues. Thus, it can be said that the role of Article 12 across residential care is to ensure that children are listened to and heard.

Participation is seen as one of the key protective factors for vulnerable children (Diaz et al., 2018). It is emphasised that the participation of children in care, who may have been victimised, is an important step in helping the child to regain a feeling of control in their life (Leeson, 2007) as well as a sense of agency (Brady et al., 2019; Cashmore, 2002). Participation supports children's sense of identity (Sindi & Strömpl, 2019) and prevents them from becoming outsiders in their own lives (Pölkki et al., 2012). Furthermore, participation is also closely related to developing children's ability to communicate their needs, wishes and feelings effectively (Brady et al., 2019; McCarthy, 2016). Research suggests that when children in care are not heard or given a chance to participate in decisions that affect them prior to and during the provision of care, it can negatively impact their emotional well-being and future outcomes (Leeson, 2007; Mitchell et al., 2010).

Despite the importance of children's participation, a number of challenges to participatory practice have been noted in international literature. While children in care are arguably asked more than any other child to voice their wishes, needs, feelings and stories to child protection professionals and caregivers (McCarthy, 2016), paradoxically children lack opportunities to reflect on their care or influence what happens to them (Jamieson, 2017). Strömpl and Luhamaa (2020) argue that children in care are generally denied participation when it comes to making decisions in child protection removals. In practice, children typically have a say in minor decisions about their lives, but have limited possibilities to participate in activities where they could make meanings of their own life events, important people in their lives and discussions or decisions that are important to them (Sindi, 2021; Sindi & Strömpl, 2019). It can be stated that ambiguities and tensions exist regarding children's participation in the context of residential care and that the potential scope of this topic is extensive.

The Example from an Ethnographic Study in Estonia: The Need to Feel Loved

In the course of conducting an ethnographic study, I observed and interviewed staff and children in one residential institution in Estonia (Sindi, 2021). This example aims to emphasise that despite the changing position and status of the child, there are areas of children's rights which are difficult to handle in the context of residential care, such as children's fundamental need to feel loved. For background, it should be emphasised that in Estonia, residential care is, together with foster care, the most intrusive intervention the State conducts in child welfare cases and involves the child being removed from their parents or guardians. Estonia has explicitly used the CRC as a template to shape legislation with respect to children's well-being and rights. The principal act is the Child Protection Act (2014), which in accordance with the CRC (Article 12), emphasise that every child has the right to express their views independently on all issues affecting them (§5,4).

During the fieldwork, the dominant discourse of the residential care provider emphasised the importance of love, conveying the message of *a loving home for every child* (Sindi et al., 2019). However, the word 'love' was not prevalent in everyday communication and was rarely used during the observations of everyday activities in the substitute home. Nevertheless, in staff members' stories, the importance of loving care and a loving family was central. The language of loving care seemed to be a critical narrative tool that carried an important ideological function, favouring certain ways of talking in practice. In this respect, arguably, staff members reflected an organisationally preferred narrative: love is all children need or children should be provided a loving home. In that regard, the rhetoric of loving care and a loving home established its own ways and practices of 'doing loving care'. This practice of 'doing loving care' appeared in daily activities, such as preparing good meals, doing homework in the family house, teaching children, bringing children to school or kindergarten by car, organising holiday activities and so on.

All of these care activities are undoubtedly important. However, the manners in which the staff felt they were showing love were not perceived as such by the children. Based on the children's narratives, love as a notion was never used. Children talked about good care and living conditions, and they appreciated the staff who took care of them in the residential institution. Nevertheless, they pointed to formalities and contradictions which were mostly related to artificial terms. Particularly, there is a strong need for honest communication with children, in which the necessary and appropriate terms are found (read more Sindi & Strömpl, 2019). Indeed,

the notion of love may have ambivalent meaning in the context of residential care or it may be difficult to understand what love means for these children.

In residential care, children's biological parents are gone, but the children's need for a loving relationship is still the same. Psychological attachment theory supports this view (Bowlby, 1953, 1969); a lack of love disturbs children's development, especially mental health. Indeed, although children are sometimes harmed by their parents, many may still feel a very close relationship or a strong sense of love for their parents, irrespective of their parent's actions. Also, children may wish regular contact with their birth family over time. Thus, the major risk here is not making the effort to deal with children's personal needs and feelings, resulting in active and agentic children becoming passive clients of public services and treated as human becomings, simply objects of socialisation. The view of the child as a social actor and children's fundamental need to feel loved leads us to the Preamble of the CRC.

The CRC's Preamble states that all children, 'for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding'. The CRC encourages questions on how the residential care and public care systems can approach these goals. In the final section, I consider how the child citizenship concept, as a defence of dignity and as a matter of citizen's rights, opens up the possibility of understanding how professionals can support children in living their lives to the fullest potential in the context of residential care. Thus, the issue of child citizenship is considered a complement to the discussion about children's need to feel loved and how these elements can be placed within the context of rights-based child residential care.

Child Citizenship in the Context of Residential Care

Citizenship is considered in this section for its usefulness in understanding the importance of rights-based residential care. A growing number of scholars have applied ideas of the child citizenship concept (Cockburn, 2013; Doek, 2008; Kilkelly & Liefwaard, 2019; Liebel, 2008; Lister, 2008) to stress the importance of the rights of children who suffer due to social structures and are not taken seriously (Liebel, 2012), as well as the need to recognise the embodied, relational and lived experiences of *being* a citizen in everyday life (Kallio et al., 2020).

One of the central concerns is whether children only passively possess their rights, or whether they actually contribute and make extensive

use of their rights (Liebel, 2008). In a broad sense, the starting point of child citizenship is the premise that all children have rights – children are subjects of rights as citizens. The child's citizenship starts from autonomy and dignity as characteristics of and conditions for citizenship. Habermas (2010) in this context refers to the concept of human dignity by arguing that human rights developed in response to specific violations of human dignity, emphasising the indivisibility of all categories of human rights and the belief these qualities are one and the same everywhere and for everyone. Sometimes there can be 'status-dependent dignities', where human dignity requires support for social status so that citizens can be included in a citizenship community (Habermas, 2010). From this perspective, the focus of the discussion on citizenship can be narrowed to questions of children's citizenship in the context of residential care.

The public's aim with residential care is to make sure that the child, as a citizen, receives support for harmonious development (Preamble, CRC) according to the rights that are constitutive of citizenship itself. This discussion involves turning social issues (such as residential care) into issues of respecting the autonomy and agency of the child. The only way to respect the autonomy and agency of the child is through participation. This leads us back to Article 12 of the CRC and children's rights to form and express their views and to be consulted 'in all matters that affect them', and for their views to be taken into account. Indeed, while being separated from their biological family, children may primarily need protection and good care, but only when communicating with them is it possible to understand what they might think, wish or feel about what constitutes protection or good care for them personally. Moreover, only when communicating with children it is possible to understand if and how the child feels loved. Here, it is essential to acknowledge that children's autonomy and agency is balanced by dependency, and that in most situations children are interdependent with adults or peers.

Kjørholt (2004, referring to Lee, 1998) explores how children's voices are not authentic voices spoken by independent subjects, but rather voices spoken from particular positions in the context of their relationships with others. From this point of view, children's spoken words are not the genuine expressions of autonomous subjects, but rather the child's words represent 'underlying dependencies'. A child lives their social life within relationships and fluctuates between positions of dependence and independence. While listening to the child's words, it is possible to understand who is important for a child and why, and what that child feels. Additionally, in trying to understand the 'underlying dependencies' it is hopefully possible for professionals to understand a child's needs and feelings, such as the need to

be loved as well as similar emotions like the need to belong and to receive emotional support. So, only through fulfilling Article 12 and communicating with children can professionals get to know them and ensure their dignity for harmonious development.

To elaborate the discussion of citizenship in the context of residential care, the possible impact of childhood trauma should be considered (Bargeman et al., 2021). If there is sometimes the criticism that professionals working in residential care try to protect children from potential re-traumatisation and try to relieve pain they have experienced, then it also seems to be relevant to address the fact that adults do have a responsibility to avoid causing negative consequences from children's participation. Scholars (for example Kjørholt, 2004) have discussed that there is sometimes no clear and accepted concept of what causes good or harm for children, or to which area the participation can extend in children's everyday lives. Giving children rights as citizens is not unproblematic and there are critics of children's participation, as there is a danger of placing 'a heavy burden on children' by giving them too much responsibility. However, if professionals fail to ensure children's participation based on the argument of fear of re-traumatisation, then this could easily cause or increase the social exclusion of children, which rights-based residential care is supposed to counteract.

Indeed, children in residential care may not always have the psychological willingness to participate in discussions or activities, and they may not wish to participate in decision-making. Also, children may not always be ready to deal with difficult or sensitive topics regarding their own lives. For example, early childhood memories related to home, abuse, separation from their family or the first day in a substitute home are often considered difficult or sensitive topics to the extent that adults may avoid conversations about them with a child. The findings from the ethnographic study suggest that children in residential care are willing and able to actively contribute to their own well-being and development if given the opportunity, including difficult and sensitive topics (Sindi, 2021). Children respond and have their own views, interests and insights into their lives; they are ready to negotiate important topics and deal with sensitive issues as well.

For a start, the professional should provide children with activities and allow them to choose whether or not to participate. For this, children need to understand their possible choices. If one were to ask under which conditions children really can take an active role in the realisation of their rights and in being active subjects of their own well-being and development, the answer must necessarily begin with the child having choices. The practice of choice relates to the important principles of 'information as prerequisite

for participation, voluntary, transparent and relevant for a child and child-friendly' as emphasised in GC 12. Communication should provide opportunities for children to think about and evaluate aspects of their life before separation, including family issues, and topics connected to love or loving relations.

All in all, the role of Article 12 in the context of residential care is to improve children's status in society and support the rights of children to develop their potential to the fullest. What is implied is the best interest principle and that children's right to express themselves feeds into decisions-making in the child's best interests. Understanding their interests by involving the child, and reaching decisions in the best interests of the child, can thus be a concept of love that is rights-based.

Conclusion

Children, while being separated from their family and placed to live in a residential substitute home, are in a vulnerable position. The first days, months or even years of living in residential homes are a time when children need attention and nurturing from adults and are dependent on adults' care. Thinking more long-term, the days, months, or years that follow this initial phase should not become a period where practices force dependency onto the children. This would result in children being treated as passive clients of public care in their childhood and their status would likely not be supported with dignity. Children's rights in this case would be limited only to the right to be protected by parents and/or by the state, who treat children paternalistically – i.e., protecting them in a manner that is intended to preserve their future well-being according to the parents or the state, but not the children.

Child citizenship starts from dignity and autonomy as necessary characteristics and preconditions. Citizenship may be actualised though ensuring Article 12 in the context of residential care through diverse activities and relationships. The empirical example presented in this chapter concluded that citizenship begins and can be developed through communication and through practice of choice. There is a particularly strong need for honest communication with children, in which the necessary and appropriate terms are found. Honest communication is a source of love or a way to perceive the child's perspective on love or loving relations. Love is in the preamble of the CRC, but today it is not natural for children to talk about love. It seems crucial that professionals (staff in residential institutions and child protection workers) invest themselves deeply in emotional involvement with children and communicate in order to truly get to know them and find out what each child feels or thinks about love.

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