

A brief history of children's rights

by Dr Aline Cole-Albäck

Children's rights as we know them is a relatively new concept, although the idea that children needed special protection, especially in the workplace, started to emerge in the middle of the 19th century. However, the history of children being accorded their own set of international human rights dates back to the 1920s when Eglantyne Jebb founded *Save the Children* at the end of the First World War (Verheellen, 2006). Jebb drafted what was to become the *1924 Declaration of the Rights of the Child*, also known as the *Geneva Declaration*, that contained 5 rights (OHCHR, 2007).

Office of the High Commissioner of human Rights (OHCHR) (2007) *Legislative history of the Convention on the Rights of the Child*. Available at:

<https://www.ohchr.org/Documents/Publications/LegislativeHistorycrc1en.pdf>

After the horrors of World War II, the newly established United Nations (UN) concerned itself with the rights of children from an early stage and on 20 November 1959 the *Declaration of the Rights of the Child* was adopted, expanding on the *Geneva Declaration*. The 1959 Declaration accorded children 10 rights. The 1959 Declaration was to become the foundation for the *Convention on the Rights of the Child* (UNCRC) adopted by the UN General Assembly 30 years later. The significance of this is that a *declaration* is a document stating agreed upon standards but it is not legally binding, whereas a *convention* is a document stating formally agreed upon standards that governments that have signed them are obliged to uphold (EHRC, 2016).

Equality and Human Rights Commission (EHRC) (2016) *Glossary of terms*. Available at:

<https://www.equalityhumanrights.com/en/secondary-education-resources/useful-information/glossary-terms>

The controversy with the 1989 *Convention of the Rights of the Child* was that it added participation rights to the existing provision and protection rights (Wall, 2008; Humanium, 2015). Children have as such since 1989 not only all of the rights enshrined in other international human rights treaties, because they are human beings, but they also have the additional rights in the UNCRC, which are particular to children (CRAE, 2015), because children due to their biological (im)maturity are a vulnerable group and require special consideration.

Children's Rights Alliance for England (CRAE) (2021)

<http://www.crae.org.uk/childrens-rights-the-law/laws-protecting-childrens-rights/un-convention-on-the-rights-of-the-child/>

Over the 20th century there has as such been a gradual shift in the West from seeing children as passive objects of concern to subjects with their own interests, priorities and rights. The full version of the *Convention on the Rights of the Child* (UNCRC) (UN, 1989) is available to download at:

<https://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>

An easy to read version created by UNICEF and Child Rights Connect (2019) is available at: <https://www.childrightsconnect.org/publications-for-children/>



The Committee on the Rights of the Child

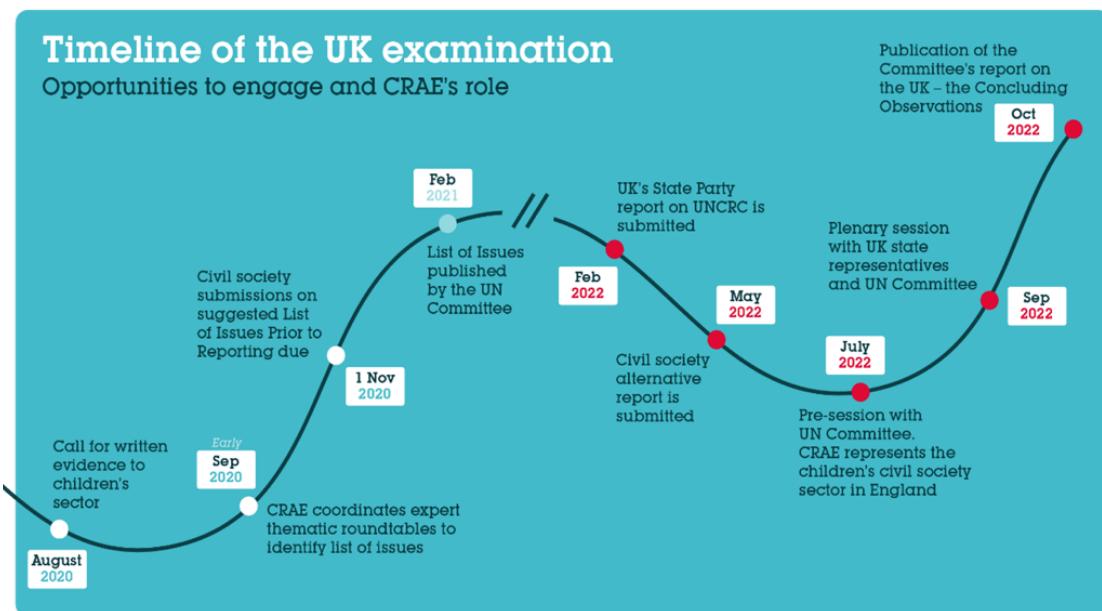
The *Committee on the Rights of the Child* is made up of eighteen international independent experts that support and monitors the implementation of the UNCRC. They meet in Geneva three times a year and respond to periodic reports sent to them by State parties. All States parties that have ratified the UNCRC are obliged to submit regular reports to the Committee on how children's rights are being implemented in their country.

The *Committee on the Rights of the Child* (OHCHR, 2021) reviews these reports and they assess progress made in implementing children's rights. They then provide country-specific recommendations in what is called *Concluding Observations*. The *Concluding Observations* provide recommendations on how to further improve the condition of children

and childhood in a particular country (OHCHR, 2021). England has in 2021 been through five reporting cycles. The fifth report by the Committee on the Rights of the Child (2016) on the state of children's rights in the UK is available to download here:

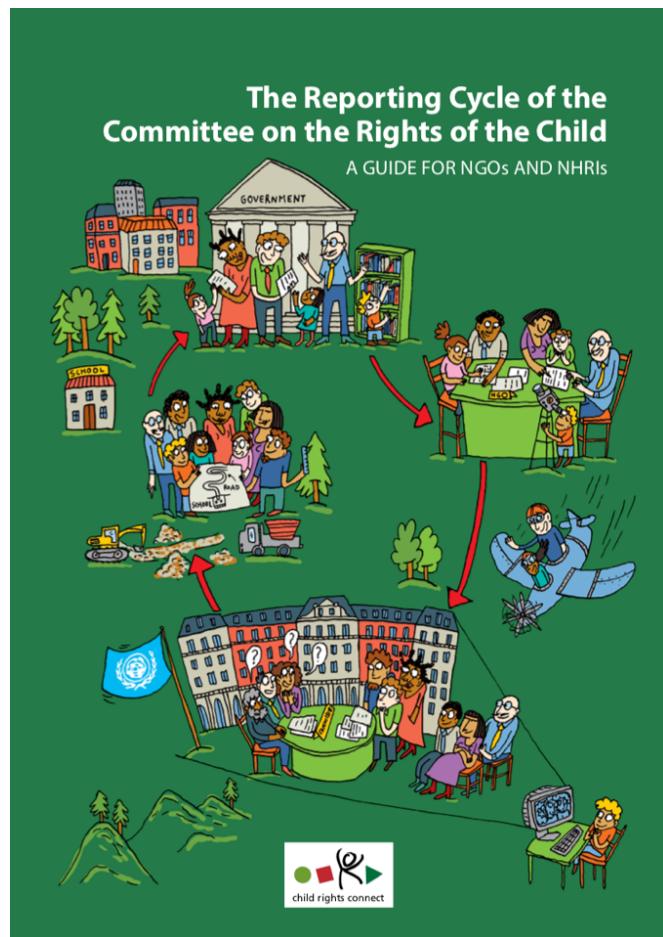
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CR_C/C/GBR/CO/5&Lang=En.

The Children's rights Alliance for England (CREA) is a membership body of organisations and individuals campaigning for "a society where the human rights of all children are recognised and realised" (CRAE, 2021a). They have created an infographic on how an NGO like CRAE together with civil society can be involved in the reporting process:



Children's Rights Alliance for England (CRAE, 2021b) Timeline of the UK examination, available at: <http://www.crae.org.uk/publications-resources/briefing-on-the-new-simplified-reporting-procedure/>

An important network, working for the realization of children's rights, is Child rights Connect. It is an independent, non-profit network made up of more than 90 national, regional, and international organisations, based in Geneva, Switzerland. They have produced a guide for understanding the reporting cycle for NGOs and NHRIs:



Child Rights Connect (2015) *The Reporting Cycle of the Committee on the Rights of the Child: A guide for NGOs Anand NHRIs*. Available at :

https://www.ohchr.org/Documents/HRBodies/CRC/GuideNgoSubmission_en.pdf

The *Committee on the Rights of the Child* also publishes what is called *General Comments*, which are analyses and interpretations of themes or Articles of the UNCRC, giving guidance on how to understand them. Twenty-four *General Comments* have been issued to date, (see below) building up a picture of what individual Articles can mean to children in their everyday lives. The *Committee on the Rights of the Child* is as such a very important structure in society not only advising States parties but also as a source of information for professionals working with and for children, see for instance *General Comment No 7: Implementing child rights in early childhood*, available at Refworld:

<https://www.refworld.org/docid/460bc5a62.html>.

Refworld publish core international treaties and agreements (such as those adopted by the United Nations and in the European Union), national legislation relating to UNHCR's mandate, and case law from international, regional and national courts. Documents relating to children's rights and the UK can be found through their website <https://www.refworld.org>.

General comment No. 24 (2019) on children's rights in the child justice system	CRC/C/GC/24
Joint General Comment No. 3 of the CMW and No. 22 of the CRC in the context of International Migration: General principles	CRC/C/GC/22
Joint General Comment No. 4 of the CMW and No. 23 of the CRC in the context of International Migration: States parties' obligations in particular with respect to countries of transit and destination	CRC/C/GC/23
General comment No. 21 (2017) on children in street situations	CRC/C/GC/21
General comment No. 20 (2016) on the implementation of the rights of the child during adolescence	CRC/C/GC/20
General comment No. 19 (2016) on public budgeting for the realization of children's rights (art. 4)	CRC/C/GC/19
General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1)	CRC/C/GC/14
General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24)	CRC/C/GC/15
General comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights	CRC/C/GC/16
General comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art. 31)	CRC/C/GC/17
General comment No. 13 (2011) - The right of the child to freedom from all forms of violence	CRC/C/GC/13
[Observation générale no 12 (2009): Le droit de l'enfant d'être entendu]	CRC/C/GC/12
General Comments No. 11 (2009) Indigenous children and their rights under the Convention	CRC/C/GC/11
General Comment No. 9 (2006) : The rights of children with disabilities	CRC/C/GC/9/Corr.1
General Comment No. 10 (2007): Children's rights in juvenile justice	CRC/C/GC/10
General Comment N° 9 (2006): The rights of children with disabilities	CRC/C/GC/9
General comment No. 7 (2005): Implementing child rights in early childhood	CRC/C/GC/7/Rev.1
General Comment N° 8 (2006): The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, inter alia)	CRC/C/GC/8
General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside Their Country of Origin	CRC/GC/2005/6
General Comment No. 5 (2003): General Measures of Implementation of the Convention on the Rights of the Child	CRC/GC/2003/5
General comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child	CRC/GC/2003/4
General comment No. 3 (2003): HIV/AIDS and the rights of the children	CRC/GC/2003/3
General comment No. 2: The Role of Independent National Human Rights Institutions in the Protection and Promotion of the Rights of the Child	CRC/GC/2002/2
General comment No. 1: The Aims of Education	CRC/GC/2001/1
Joint general comment No. 18 of the Committee on the Rights of the Child and joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women on harmful practices	CEDAW/C/GC/31/CRC/C/GC/18
Revision of Joint General comment No. 18 of the Committee on the Rights of the Child on harmful practices and General recommendation No. 31 of the Committee on the Elimination of Discrimination against Women	CEDAW/C/GC/31/REV.1

Office of the High Commissioner of Human Rights (OHCHR) (2019) *General Comments*. Available at:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11

Legislation underpinning children's rights in England

It is up to each country that has ratified the UNCRC how to best implement their obligations. This can be done through what is called (Lundy et al., 2013):

- direct incorporation (where the UNCRC forms part of domestic law)

- indirect incorporation (where there are legal obligations which encourage its incorporation)
- full incorporation (where the UNCRC has been wholly incorporated in law)
- partial incorporation (where elements of the UNCRC have been incorporated).

Although the UK has not incorporated the UNCRC into domestic law, which means adopted it exactly as it is written, the government does refer to it, to make sure new laws have regard, and comply with the UNCRC. The *Every Child Matters* initiative that led to the *Children Act 2004* is an example, as illustrated in the next table.

Legislation Protecting Children's Rights		
Year	Legislation	
1989	Children Act	
1991	The Convention on the Rights of the Child (UK Ratification)	
1998	Human Rights Act	
2004	Children Act	UNCRC Articles
	Physical, mental health and emotional well-being	23, 24, 27, 31, 36, 39
	Protection from harm and neglect	9, 10, 13, 18-21, 25, 32-37, 39, 40
	Education, training and recreation	5, 7, 13-15, 17, 20, 23, 28-31
	The contribution made by them to society	5, 10, 13-15, 29-31, 42
	Social and economic well-being	8, 10, 18, 19, 24, 26, 27
2010	Equality Act (Previously the Disability Discrimination Act 1995 and 2005)	
2014	Children and Families Act	

(Cole-Albäck, 2020a)

Common classifications

Since the adoption of the UNCRC there are various ways the rights in the UNCRC have been classified. A common classification is to group the Articles into 3 groups, described as the 3 P's: Provision, Protection and Participation. The Provision articles are rights to goods and services. The Protection articles are rights to be protected from certain activities such as maltreatment, neglect and exploitation, and the Participation articles are about the right to act and be involved in decision-making (Verhellen, 2006).

Two reputable scholars have grouped them as follows and as you can see, there is no agreed way, but is open to interpretation:

Alderson (2008)		
Provision	Protection	Participation
24, 27-29	1-3, 5-11, 18, 19, 22,23, 30, 32,-40	12-17

Osler (2016)		
Provision	Protection	Participation
2, 7, 13, 14, 28-31	2, 5, 15-19, 28.2, 29, 40	5, 12-15, 17-19, 29.1c

Another way of classifying the UNCRC is using the human rights terminology of civil, political, economic, social and cultural rights [CPESC-model]:

Verhellen (2006)				
Civil	Political	Economic	Social	Cultural
2, 4, 6-8, 19, 34, 37, 40	4, 12-15, 17	4, 32, 36	4, 24, 28, 29	4, 31

A third way of classifying the UNCRC can be by using the UNICEF clusters as follows:

UNICEF (n.d.)	
General measures of implementation	4, 41, 42, 44(6)
Definition of child	1
General principles	2, 3(1), 3(2), 3(3), 6, 12
Civil rights and freedoms	7, 7, 13-17, 37(a)
Family environment and alternative care	5, 9-11, 18(1), 18(2), 19, 27(4), 20, 21, 25, , 39
Basic health and welfare	6, 18(3), 23, 24, 26, 27(1-3)
Education, leisure and cultural activities	28, 29, 31
Special protection measures	22, 30, 32-40

Why children's rights are important (Cole-Albäck, 2020b)

Children's rights are important because children as a social group have different needs, interests, priorities and concerns than adults and other vulnerable groups. Baroness and philosopher Onora O'Neill suggested in her well known paper from 1988, just before the UNCRC was adopted, that because children are only temporarily vulnerable, less permanently powerless than other historically oppressed social groups such as colonial peoples, religious and racial minorities or women, children should only have limited rights because "their main remedy is to grow up" (O'Neill, 1988: 463). In other words, because childhood is a limited period of time, children should not qualify for the same regard as other vulnerable groups.

However, because there is now much evidence from for instance the *Centre on the Developing Child* at Harvard University (<https://developingchild.harvard.edu>), that adverse experiences in childhood can have lifelong consequences, the UNCRC can be seen as a "geopolitical social contract" (Verhellen, 2006: 147) to stimulate deeper, fundamental and lasting changes to how we view children and childhood and in the process improve outcomes for children.

Children's rights are important because of children's biological (im)maturity and dependency on adults so that children do not only have to rely on the benevolence of adults, as not all adults have the child's best interest at heart. Without rights, children as a social group are vulnerable to adult agendas or a professional's personal morality, which lack accountability to the wider society (Freeman, 2007; Moss and Petrie, 2002). The UNCRC sets a minimum standard by which adults are held accountable.

Children's rights are important in early childhood because it has long been recognised that early childhood is a critical time for establishing values and attitudes (Pascal and Bertram, 1999). "Values, attitudes, behaviours and skills acquired in this period may have long-lasting impact in later life" (Pramling Samuelsson and Kaga, 2008: 9). An experimental study in England with children aged between 3 and 5 showed how they were already aware of gender, racial equality and social class (Siraj-Blatchford, 2008). Researchers in Australia have reported that children as young as 9-14 months can for instance distinguish racial cues in adult faces, and by the age of three, display positive and negative attitudes towards racial diversity (Mac Naughton, 2006). In other words, values, attitudes and behaviours begin forming at a very early age. Early childhood settings therefore play an important role in laying the foundation for understanding and experiencing rights and democratic values in society (Lindahl, 2005).

Children's rights are important because it changes the power balance between children and adults. Children (and women) used to be considered the father's (or husband's) property. Even if this is no longer the case in law in Western societies, children are often seen as on a socialisation or developmental journey led by adults. On this journey adults often focus on protecting and providing for children, at the expense of participation rights. Because of this, some scholars such as professor Berry Mayall (2015) think the UNCRC is an important document as it changes how we think about children. Mayall asserts the UNCRC needed in order to change adult-child relations, to encourage adults to listen to and respect children more

Children's rights are important because it challenges the notion of adulthood as the 'gold standard'. Children and childhood are still often seen as inferior to adults and adulthood. The UNCRC challenges this inferior status of children and childhood, by prompting a view of children as in the process of both being and becoming.

I believe this can be done if adulthood is not seen as the 'gold standard', a goal to reach, but adults are also seen as in a process of *becoming*.

Mayall (2015: 79) urges us to think of children as more than in a stage of becoming, that they are also beings in the here and now. Uprichard (2008: 303) suggests we should consider that "children and childhood are in effect always and necessarily in a process of both 'being and becoming'", the being child centring on the present and the becoming child centring on the future, both interacting in the course of everyday life". Lee suggests that where we previously saw there were two types of humans, the 'superior' adult and the 'inferior' child, we should now see children alongside adults, and recognise all human beings simply as social agents. Archard (2004: 45) clarifies that, "when adulthood is viewed as a becoming there can be no obvious line of division between it and childhood" and that "if adulthood is a never-realised goal towards which one is forever maturing, childhood is not obviously an inferior stage which is left behind".

Myths and misconceptions

It is not surprising, that when working with children's rights and the UNCRC, a legal treaty, that many misconceptions may occur, because early childhood professionals lack the knowledge of lawyers.

Adults often use the word 'right' quite casually to mean what they think children need. This is however incorrect. A right is a *legal entitlement*, as noted in the UNCRC and other UN treaties. UNICEF (2017) has produced a useful booklet addressing some of the most common misconceptions.



UNICEF UK (2017) *Myths and misconceptions: about the Convention on the Rights of the Child*. Available at: <https://www.unicef.org/rights-respecting-schools/resources/teaching-resources/guidance-assemblies-lessons/myths-and-misconceptions-booklet-unicef-uk/>

Understanding the place of the UNCRC from a systems perspective

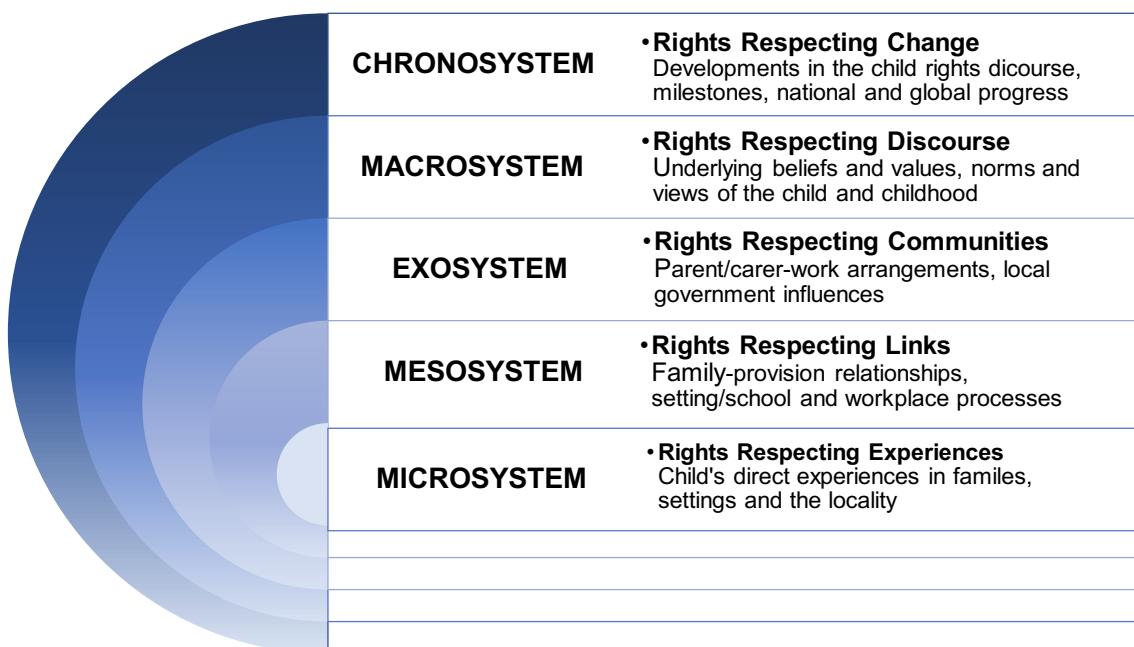
To systematically explore children's rights in early childhood, Bronfenbrenner's (1979; 1994) nested systems theory can be a useful framework. Children's experiences of rights do not happen in a vacuum but are part of complex interconnected structures, within and between systems, that either support or challenge a rights-based worldview to education and care, as illustrated below.

Lee Jerome explores in a paper from 2016 three worldviews on children's rights education: the legalistic, the reformist and the radical worldview.

1. From the legalistic perspective, children's rights educators see it as quite straight forward to implement rights. Because a country has ratified the UNCRC the idea is that there does not need to be a conversation about why but simply how to implement children's rights. All that is needed is more knowledge and education of adults.

- From a reformist worldview, children's rights educators actually recognise it is not that simple, and that to be relevant, educators may need to be a bit creative in the way they implement rights. But they still do not challenge the system. The UNICEF Rights Respecting Schools programme is an example of how an approach works within the English system, and causes few ripples.
- When children's rights educators adopt a radical world view they recognise the political nature of education and that there may be different forms of children's rights education that work better in different contexts, rather than one size fits all.

Understanding these worldviews and choices of engagement with children's rights is important in order to develop a more comprehensive and meaningful engagement with children's rights and the UNCRC.



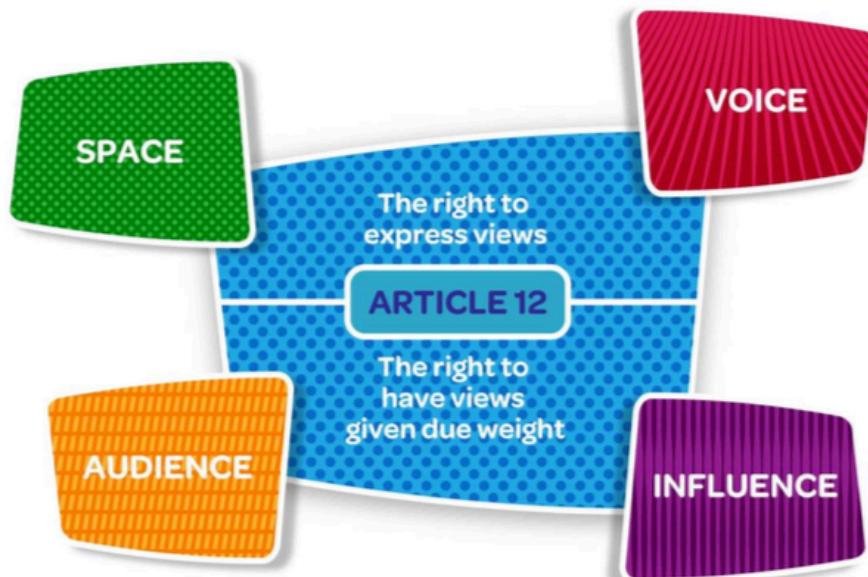
(Inspired by Cole-Albaeck, 2012; Cole-Albäck, 2021)

Lundy model of child participation

Laura Lundy, director of the Centre for Children's Rights at Queens University Belfast, has developed an award winning model for listening to children (Lundy, 2007). According to Lundy "listening to children is important for keeping them safe from harm and abuse. It contributes to their wellbeing and can help ensure that the services they receive are effective" (QUB, 2019). The Lundy model of child participation, as it has become known, is based on four concepts: Space, Voice, Audience and Influence as illustrated below (DCYA, 2015: 21).

For Ireland's National Strategy, Lundy developed a checklist on participation to help organisations, working with and for children and young people, to comply with Article 12 and ensure that children have the space to express their views; their voice is enabled; they

have an audience for their views; and their views will have influence. (DCYA, 2015: 22). This is a model and conceptualisation of Article 12 and the child's right the right to have a say and be taken seriously also easily adaptable to early childhood education.



DCYA (2015) *National strategy on children and young people's participation in decision-making, 2015-2020*. Available at:
<https://assets.gov.ie/24462/48a6f98a921446ad85829585389e57de.pdf>

Online training resources

Queens University Belfast has developed a set of online resources on the UN Convention on the Rights of the Child, available at: <https://www.qub.ac.uk/research-centres/CentreforChildrensRights/Resources/>



Quote

The eminent child rights scholar Michael Freeman (1997: 128) said some time ago what still holds true today:

The Convention can only be seen as a beginning, but it will not have an impact on the lives of children until the obligations it lays down are taken seriously by legislatures, governments and all others concerned with the daily lives of children, in reality by all adults.

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