

Committee on the Rights of the Child (CRC)

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Letter from the Ombudsman for Children in Finland and the proposal included in it to the UN Committee on the Rights of the Child on the preparation of a General Comment on research methods for childhood studies.

The Committee on the Rights of the Child steers and monitors implementation of the UN Convention on the Rights of the Child (CRC) and two Optional Protocols to the Convention by its State parties. The Committee steers and monitors implementation of the CRC through the regular State parties' reports, in addition to which the Committee issues General Comments relating to the Articles of the CRC and thematic issues, which the Committee uses to steer the interpretation of the CRC and help State parties fulfil their reporting obligation.¹

The status of the Committee on the Rights of the Child as the highest authority steering interpretation of the CRC places significant weight on the General Comments in the implementation of the CRC. To some degree, the General Comments are already being used in bill drafting and legal practice, but not yet enough. In Finland, for example, the Supreme Administrative Court referred in its decision on international protection to General Comments 12 and 14 with respect to the hearing of the child in the asylum process. The Government Bill for the Act on Early Childhood Education and Care referred to General Comment 5 as grounds for the improved collection of information on early childhood education.

One of the duties of the Ombudsman for Children in Finland is to convey information regarding children to children, those working with children, the authorities and the general population and to promote implementation of the Convention on the Rights of the Child in Finland in various ways (Act on the Ombudsman for Children 1221/2004). In 2015, the Office of the Ombudsman for Children in Finland took the decision to translate the General Comments into Finnish and send a general letter concerning them to Finnish government bodies and other relevant actors. To date, the Committee on the Rights of the Child has issued 23 General Comments of which the Office of the Ombudsman for Children in Finland has prepared Finnish translations.²

¹ UN Committee on the Rights of the Child, Rules of procedure, Rule 77; CRC/C/4/Rev.4

² General Comments of the UN Committee on the Rights of the Child online in the official languages of the UN https://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11 and Finnish translations of Comments 1–21 on the website of the Ombudsman for Children in Finland <http://www.lapsiasia.fi/lapsen-oikeudet/komitean-yleiskommentit/>.



Article 12(1) of the CRC assures to every 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 must be given due weight in accordance with the age and maturity of the child. Paragraph 2 of the Article states that the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child.

The right of the child to be heard and have his or her views to be taken into consideration laid down in Article 12 of the Convention on the Rights of the Child is one of the fundamental principles of the Convention. The Article emphasises the position of the child as an active and equal holder of rights, although the child still lacks full authority to decide on his or her affairs.

General Comment 12 (2009) of the UN Committee on the Rights of the Child³ expands upon the child's right to be heard. The Committee strongly urges the State parties to hear children and ask for their opinion. The Committee notes that by expressing their views, children can introduce important perspectives and experiences to the handling of various issues, and therefore their views should be considered in decisionmaking and policy planning both in the preparation and assessment of laws and/or measures. The Committee additionally states its concern about the quality of many current practices. Particular concern has been raised in the Committee by the implementation of the right in the case of specific groups of children, such as disadvantaged groups.

The Committee on the Rights of the Child has emphasised the inseparable link between Article 12 and Article 3(1), which concerns the primary nature of the child's best interests. The Committee has emphasised that Article 3(1) cannot be correctly applied if the right of the child to express his or her views and to have the views taken into consideration pursuant to Article 12 has not been applied appropriately.⁴ The child's own views are hence instrumental in the assessment of a decision in the best interests of the child.

As the Ombudsman for Children in Finland, I would like to point out that when discussing the inclusion of children, the research context should be better identified. Studies allow children's experiences and views to be investigated on a large scale, both nationally and internationally. Studies provide representative and generally applicable data on children's experiences and views, which can be used to support decisionmaking. Disadvantaged groups of children can also be heard through studies. In comparison with representative participation methods, studies can often better reach children in a vulnerable position. Decision-making requires information on children's experiences and views collected on a large scale. This can only be obtained through research studies. For this reason, the importance of studies should be better recognised also in the guidelines issued by the Committee on the participation of children.

To ensure the genuine enforcement of children's right to be heard, attention should be paid to how the studies are carried out. Research concerning children involves many special challenges and ethical questions that should be recognised when planning the collection of information. Studies that investigate children's own views and experiences give children the role of an active participant. As a study target group, however, children are also in a vulnerable position compared to adults. The research methods and practices must therefore be child-appropriate. This means, for instance, that the researchers conducting the study must consider their own conception of children, that the purpose of the study is the best interests of the child, the questions posed to the children are formulated in a child-appropriate manner and the data collection is carried so that the children dare to honestly express their views.

³ General Comment No. 12 (2009) The right of the child to be heard (CRC/C/GC/12).

⁴ General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (CRC/C/GC/14).

There are some guidelines for the collection of children's experiences and views. In the field of multidisciplinary childhood research, for example, methods have been developed for the collection of children's experiences and views. A number of publications have also been published on data collection pertaining to children. However, the guidelines are scattered, inadequate and often at a national level, which means that the right of children to be heard in a research context is realised to a varying degree in different countries. There is a pressing need for unified guidelines concerning the topic in order to ensure the right of children to be heard also on a wide scale in all countries.

Based on the above grounds, I respectfully propose to the UN Committee on the Rights of the Child that it would prepare a General Comment on the methods of childhood research for use by the State parties.

City of Jyväskylä, Finland, 4 February 2019,



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