

Policy Briefing for UN diplomats

How to advance language on child participation in HRC and GA resolutions

Child participation is a **broad concept which stems from Article 12** of the UN Convention on the Rights of the Child (UNCRC), whereby States Parties should guarantee children the right to be heard and express views on all matters affecting them and ensure their views are given due weight, in accordance with their age and maturity.¹ Child participation is often used to describe the implementation of Article 12 through different processes, including information-sharing, dialogue and consultations between children and adults on the development of legislation, policies, programmes and measures in all relevant contexts of children's lives.² Yet **the scope of Article 12 is much wider**.

The Committee on the Rights of the Child and other human rights mechanisms established Article 12 as one of the four general principles which should guide interpretation and implementation of all other rights in the UNCRC. These rights include children's other **civil and political rights** and in particular, the right to freedom of expression (Art. 13), the right to seek and access to information in the media (Art. 17), the right to freedom of thought, conscience and religion (Art. 14), the right to freedom of association and peaceful assembly (Art. 15) and the right to privacy (Art. 16).

Child participation must be seen as part of a **package of interlinked and indivisible rights**. Article 12 should be implemented hand in hand with all other rights in the UNCRC, including parents'/guardians' rights and duty to provide guidance in the exercise of all child rights in line with the child's evolving capacities (Art. 5). Children have the right to receive guidance, but this should always be aimed at empowering the child, including on how to protect herself/himself/themselves from harm. **Child participation should not be conditional to evolving capacities**³: this principle is there to remind us that parents'/guardians' right to provide advice and guidance is not absolute. Similarly, Article 3 and the best interests of the child cannot be correctly applied without a proper understanding that a **child's best interests** includes their ability to enjoy the full range of rights, including their right to be heard and civil and political rights.

Treaty Bodies⁴ have emphasized that the principle of participation in public life is well established in both the UNCRC and the International Covenant on Civil and Political Rights (ICCPR), among other treaties. They have also stressed the importance of child participation as a **means of political and civil engagement**. Building on this, UNICEF has highlighted that participation contributes to the **empowerment** of children and adolescents and should be considered as a **fundamental right** deriving from the recognition that every human being is entitled to equality, dignity and the capacity for self-determination.⁵ OHCHR's Guidelines⁶ for States on the effective implementation of the **right to participate in public affairs** have recognized that, no matter the voting age, children are nevertheless entitled to take part in public affairs under both Article 12 UNCRC and Article 25 ICCPR.

Child participation is therefore a broader concept which encompasses children's engagement in political and public affairs and their actions in **civic space** at community, national, regional and

¹ CRC [General Comment No. 12](#) 'The Right of the Child to be Heard'.

² ['Advancing the rights of child human rights defenders: Implementation Guide'](#), Child Rights Connect.

³ There should also be no age limits to child participation – see [General Comment No. 12](#), para. 21.

⁴ CRC [General Comment No. 20](#) 'The Implementation of the Rights of the Child during Adolescence'; CRPD [General Comment No. 7](#) 'Participation of persons with disabilities in the implementation and monitoring of the Convention'

⁵ <https://www.unicef.org/media/59006/file>

⁶ <https://www.ohchr.org/EN/Issues/Pages/DraftGuidelinesRighttoParticipationPublicAffairs.aspx>

international level. The Human Rights Council⁷ and the UN Secretary General⁸ have made it clear that **children are civil society actors** and that special efforts are needed to reach out to children and enable them to participate. It has also been recognized that many of the children taking action in the public space are child human rights defenders⁹, as per the UN Declaration on human rights defenders¹⁰, including when they promote or protect human rights in a peaceful manner, as well as exercise other civil and political rights. More examples of the activities conducted by child human rights defenders can be found in [reports](#) and [statements](#) by the Special Rapporteur on human rights defenders.

Recommendations based on existing language and standards (*see Annex below*)

- Participation in public life and decision-making

Emphasizing the importance of child participation as 1) a means of political and civil engagement through which children can exercise their civil and political rights, advocate for the realization of human rights and hold States accountable, 2) reaffirming children's right to equal and effective access to justice and effective remedies for violations of their right to participate in public affairs.

Underlining the importance of the empowering, safe, sustained, and inclusive participation of children in decision-making across all sectors and at all levels, particularly in the civic and political spheres, and reaffirming that the views of the child should be given due weight in accordance with the age and maturity of the child.

- Positive obligations of States

States should conduct, in consultation with children, child rights impact assessments to mainstream child rights into legislation, policies, budget decisions, programmes and services and take all the necessary measures to facilitate children's participation, including strengthening their autonomy and empowering them to better negotiate situations of risk, preventing violence against children and other child rights violations.

- Enabling environment for CHRDs

Recognizing the positive, important, and legitimate role played by child human rights defenders for the promotion of human rights, as well as their specific rights and needs, States should provide a safe and empowering environment, both online and offline, for their initiatives and those of child-led movements, promote child-centred innovation and ensure protection from all negative consequences (such as acts of intimidation, harassment, deprivation of liberty and abuse) and reprisals.

Urging States, civil society, and other potential donors, to provide flexible multi-year funding to civil society groups, including unregistered, grassroots child- and youth-led organisations, to reduce the administrative burden related to proposal development and reporting requirements, and to ensure funding opportunities are accessible to marginalised groups. States should remove restrictive laws and regulatory measures that impede the civil and political rights of children (and civil society at large), including the rights to freedom of peacefully assembly and of association.

⁷ <https://undocs.org/A/HRC/47/L.1>

⁸ [OHCHR | Role of the United Nations in protecting and promoting civic space](#)

⁹ [Outcome report of the 2018 Day of General Discussion of the CRC Committee](#) on Protecting and Empowering Children as Human Rights Defenders

¹⁰ <https://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf>

- Child rights approach

States should develop and implement a child rights-based approach to children’s participation in accordance with their obligations under international law to promote their resilience and capabilities, increase their agency in decision-making and empower them as social, economic, political and cultural actors.

Annex: Rationale and key references

- Participation in public life

Rationale: States should welcome the recognition by Treaty Bodies and the UN General Assembly that children’s participation in public life is their right and something that matters to them. What’s more, States should promote child participation language that incorporates political and civil engagement, to advance the recognition and implementation of children’s civil and political rights.

Key references: [CRC General Comment N°20](#); [CRPD General Comment N°7](#); [UN Declaration on Human Rights Defenders](#); [A/HRC/RES/38/12](#); [A/HRC/RES/47/3](#) ; [OHCHR Guidelines on political participation](#)

- Participation in decision-making

Rationale: Treaty Bodies and the Sustainable Development Goals promote that children’s participation in decision-making must be broad and encompassing of all sectors (and not be restricted to ‘child-specific’ sectors) and all levels (including national, regional and international level decision-making processes). This is in line with the advice given to States on how they can ‘fully’ implement the right of the child to be heard. States should welcome this recognition including the specific reference to children’s participation in decision-making in the civic and political spheres.

Giving due weight to the views of the child “in accordance” with their age and maturity (as per Article 12) is often confused with Article 5 and parental guidance given to children “in a manner consistent” with the evolving capacities of the child.

It is important to stress that children’s right to express views and have them given due weight is *not* dependent on the “evolving capacity” of the child. This phrase is often lifted out of Article 5 as an interpretive approach across the Convention which can threaten the understanding and realisation of other rights. The term ‘evolving capacities’ is there first and foremost to apply to the right to receive and the duty to give children guidance to the extent that they may or may not need.

Key references: [CRC General Comment N° 12](#); [CRPD General Comment N° 7](#); [CRC Concluding Observations to Tunisia, 2020](#) (17a, 17b) ; [SDG Goal 16.7](#)

- Positive obligations of States

Rationale: States should comply with their obligations under Article 4 of the UNCRC and follow the Committee on the Rights of the Child’s repeated calls for States to undertake child rights impact assessments as a crucial tool for the full implementation of the UNCRC. They can help to visibly integrate children’s participation in decision-making, which in turn empowers them to understand, evaluate and negotiate situations of risk which can support preventing and counteracting violence against children. Child rights impact assessments also encompass all human rights and can support recognition of the inherent links between the SDGs and children’s rights. The OHCHR has recently

called States to “conduct child rights impact assessments that examine the effects of proposed actions on children and fully respect children’s rights.”

Key references: [CRC Article 4](#); [CRC General Comment N°5](#); [CRC General Comment N°20](#); [CRC General Comment N°21](#); [A/HRC/RES/34/16](#); [OHCHR report on child rights and the 2030 agenda on sustainable development](#)

- Enabling environment for CHRDs

Rationale: States should ensure that the UN Declaration on Human Rights Defenders is afforded to children as well as adults, in a world where children are increasingly standing up for theirs and others human rights. The Human Rights Council has called on several occasions for States to develop, support and protect safe and empowering environments for children, including in relation to child human rights defenders acting on environmental rights, climate justice, LGBTQIA+ rights, indigenous rights, land rights, and girl’s rights.

Key references: [UN Declaration on Human Rights Defenders](#); [A/HRC/RES/45/30](#); [A/HRC/RES/37/20](#); [A/HRC/RES/41/6 \(OP8\)](#); [A/HRC/RES/47/3](#); [A/HRC/RES/40/11](#); [UN Guidance Note on the Protection and Promotion of Civic Space](#); [The Third Optional Protocol to the Convention on the Rights of the Child on a communications procedure](#)

Rationale: It has been recognised across the UN that the ability of civil society actors to seek, secure and use funding and resources is essential to their participation activities and to exercising the right to freedom of association. Children are at a greater disadvantage in accessing funding and resources due to the lack of recognition that they are civil society actors and human rights defenders (and the key role they play in the civic and democratic space), age restrictions to registering their own organisations and expanding their work, and complex administration processes that are not child-friendly. States have a critical role to play in enabling child-led organisations to exist and to be able to solicit, receive and utilise resources for their valuable work.

Key references: [A/HRC/RES/38/12](#); [A/HRC/44/25](#); [A/HRC/RES/47/3](#); [UN Declaration on Human Rights Defenders Article 13](#); [OHCHR | Role of the United Nations in protecting and promoting civic space; Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai](#)

- Child rights approach

Rationale: States should welcome and follow the broad recognition and support across the UN and UN human rights mechanisms that taking a human rights approach is crucial in ensuring duty-bearers meet their human rights obligations established by international law and rights-holders claim their rights.

Key references:

[CRC General Comment N° 12](#); [CRC General Comment N°21](#); [CRC General Comment N°20](#); [CRC General Comment N°13](#); [A/HRC/RES/40/11](#); [A/HRC/RES/37/20](#); [UN Sustainable Development Cooperation Framework](#); [UNICEF Child Rights Education Toolkit: Rooting Child Rights in Early Childhood Education, Primary and Secondary Schools](#)