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***Child's Views and Child's Rights: insuring young people  
Democratic Participation***

The main focus of this paper is the link between the right of the child to express his/her views and the democracy in Russia. With this in view I will give a brief overview of the international framework of the child's right to express his/her opinion. Further, I will examine the current legal situation as well as practice of the implementation of the principle of child participation in Russia. Analysing the main problems in promoting child's participation I will explore the traditional attitudes towards children in Russia and will consider if these attitudes are only specifics of Russia or represent a common European problem.

**International framework of the right of the child to express  
his/her views**

One of the four guiding principles of the UN Convention on the Rights of the Child (CRC)<sup>1</sup> is the respect for the views of the child. The Convention upholds the rights of children to participate in decisions that affect their lives. As a party to the Convention, Russia is legally obliged to realize this right for those under 18 y.o.

Article 12 of the Convention reads:

1. States Parties shall assure to the 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 being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

The Committee has consistently emphasized that the child must be regarded as an active subject of rights and that a key purpose of the Convention is to emphasize that human rights extend to children. The Committee has rejected what it termed "the charity mentality and paternalistic approaches" to children's issues. It invariably raises implementation of Article 12 with the States Parties and identifies traditional practices, culture and attitudes as obstacles.<sup>2</sup>

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<sup>1</sup> Ведомости СНД и ВС СССР 1990. № 45. Ст.955.

<sup>2</sup> Implementation Handbook for the Convention on the Rights of the Child. United Nations Children's Fund/ 2007. P.149

The principle of child participation has been set in a number of the international instruments. The Universal Declaration of Human Rights<sup>3</sup> states: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers” (Article 19). And the International Covenant on Civil and Political Rights<sup>4</sup> states: “Everyone shall have the right to hold opinions without interference” (Article 19(1)). The significance of Article 12 of the Convention on the Rights of the Child is that it not only requires that children should be assured the right to express their views freely, but also that they should be heard and that their views be given “due weight”.

In 2006, following its Day of General Discussion on “The right of the child to be heard”, the Committee adopted detailed recommendations on the issue, with a preamble emphasizing that:

*“The Committee considers that recognizing the right of the child to express views and to participate in various activities, according to her/his evolving capacities, is beneficial for the child, for the family, for the community, the school, the State, for democracy.*

*“To speak, to participate, to have their views taken into account: these three phases describe the sequence of the enjoyment of the right to participate from a functional point of view. The new and deeper meaning of this right is that it should establish a new social contract. One by which children are fully recognized as rights-holders who are not only entitled to receive protection but also have the right to participate in all matters affecting them, a right which can be considered as the symbol for their recognition as rights holders...”<sup>5</sup>*

Children are a significant part of civil society and have much to contribute to the governance of their world. Children make up 50% of the population in many countries of the world and their views and capacities can make a crucial contribution to the development of their societies. In sharing their knowledge, insights and creativity, young people are also assisted in developing important life skills such as problem analysis, democratic decision-making, developing feasible solutions and seeing these through. It is essential that society foster opportunities for children to learn and practice throughout their development.<sup>6</sup> The participation of boys and girls in decision-making about their lives represents the broadening and deepening of how we practice (or, in the case of Russia I would still say: “build”) democracy.

International organizations working in the field of child participation classify the types of Child Participation according to the extent of the child’s involvement in the process:

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<sup>3</sup> Российская газета, 10.12.1998.

<sup>4</sup> BBC СССР. 1976. №17. Ст.291

<sup>5</sup> Committee on the Rights of the Child, Report on the forty-third session, September 2006, Day of General Discussion, Recommendations, Preamble. For full text, see [www.ohchr.org/english/bodies/crc/discussion.htm](http://www.ohchr.org/english/bodies/crc/discussion.htm)

<sup>6</sup> RBM and Children’s Participation: A Guide to Incorporating Child Participation Results into CIDA Programs. Canadian International Development Agency (CIDA), 2006. P.2.

### ***Types of Child Participation<sup>7</sup>***

#### ***Non-involvement***

The project is designed and run by adults. Children are either not consulted or the consultation is tokenistic.

*Example:* Children are consulted on how to better sensitize youth against AIDS but no feedback is ever provided to them on their input and their involvement in the initiative ends there.

#### ***Assigned but informed***

Adults decide the project but children volunteer for it. Children understand the project and know who decided to involve them and why. Adults respect children's views.

*Example:* Adults enlist the help of children in cleaning up a nature reserve and children organize their own group initiatives.

#### ***Consulted and informed***

The project is designed and run by adults but children are consulted. They fully understand the process and their views are taken seriously.

*Example:* A School Improvement Committee is chaired by teachers although the views of student representatives are considered before the decisions are taken.

#### ***Adult-initiated, shared decisions with children***

Although adults have the idea, children are involved in planning and implementation. Children are involved in challenging outcomes and taking decisions.

*Example:* Children are invited to participate as researchers on child rights violations and then work with community leaders to design responses to the problems identified.

#### ***Child-initiated, shared decisions with adults***

Children have the idea, set up projects and come to adults for advice, support.

*Example:* Youth raise the need for a peer-to-peer counseling service on suicide in their community — community leaders ask the local community center to work with youth in establishing one.

#### ***Child-initiated and -directed***

Children have the idea and decide how the project will be carried out. Adults are available but do not take charge.

*Example:* A youth-led organization initiates a campaign against family violence in their community and seeks the assistance of a women's rights NGO for advice on advocacy and lobbying.

### **Law and practice in the field of child participation in Russia**

The end of the Communist era was marked by a change of perception of the state's role in child's life on a political level. Russia ratified the UN Convention on the Rights of the Child in 1990,<sup>8</sup> and thus undertook an obligation to respect and observe

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<sup>7</sup> Ibid P.10.

<sup>8</sup> Резолюция ВС СССР от 13 июля 1990 (ВВС СССР 1990, №26. Ст. 497).

globally-acknowledged children's rights. During the following years legislators have undertaken significant efforts to bring the Russian legislation concerning the rights of the child directly or indirectly into compliance with the UN Convention.

The Constitution of the Russian Federation<sup>9</sup> adopted in 1993 contains several articles related to the child's right to express his/her views: on the freedom of conscience and freedom of religion (Art.28), on the freedom of ideas and speech (Art.29), on the right to association (Art.30), on the right to participate in managing state affairs both directly and through their representatives (Art. 32), on the right to participate in cultural life (Art. 44).

The Family Code of the Russian Federation<sup>10</sup> — the key law, regulating the legal status of the child in Russia — sets the right of the child to contribute his/her opinion in any family decision concerning his/her interests, and the right to be heard in any court or administrative proceeding. The law refers to the obligation of the authorities to “take into account the opinion of the child over 10 y.o.” which is in accordance with the CRC's provision that “the views of the child being given due weight in accordance with the age and maturity of the child”. However, setting this obligation the Family Code immediately releases the authorities from it stating that the child's opinion should be ignored when such an opinion contradicts his best interests not actually identifying the concept of “the best interests of the child”. As for the right of the child to express his/her views within the court's proceedings, it should be noted that the existing Civil Procedure Code<sup>11</sup> also does not ensure the child's access to justice, and thus the absence of a law which would provide for procedural status of a child in court proceedings makes this right illusory.

The child's right to express his/her views through the participation in various activities relating to their lives set in the number of other laws, like the law “On the basic guarantees of the rights of the child in Russian Federation”<sup>12</sup>, the law “On public associations”<sup>13</sup>, the law “On state support to the youth and child's public associations”<sup>14</sup>. All these provisions, however remain to be declaratory as the child can not claim their realization of protection from violation in courts or through the administrative procedures.

Speaking about the practice of the child voicing his/her views it should be noted that almost all the initiatives in this field were “top-down” initiatives. Most of them have been initiated by the NGOs, working in the field of child protection or by the bureaucrats of different levels. The good example here would be a Child's Public Counsel, instituted by the Child's Ombudsman under the RF President in 2009 with the aim to hear and to consult children on different topics.<sup>15</sup> Youth Parliaments, Child's Public Legal Chamber, Child's Ombudspersons instituted in various subjects of Russia although effective from the point of the child's rights protection can not be seen as child's initiated bodies. They contribute to the informing the children on their

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<sup>9</sup> Российская газета, N237, 25.12.1993

<sup>10</sup> СЗ РФ N 1. Ст. 16

<sup>11</sup> СЗ РФ N 46. Ст. 4532

<sup>12</sup> СЗ РФ №31. Ст.3802

<sup>13</sup> СЗ РФ N 21. Ст. 1930

<sup>14</sup> СЗ РФ N 27. Ст. 2503

<sup>15</sup> Child participation in activities on the protection of their rights: Interregional thematic report. — M., Institute of the family and Upbringing RAO. 2010. P. 18.

right to express their views to a certain extent but are not designed to expand the culture of the responsible decision-making.

Several problems were noted in the 2010 Child's Ombudsman under the RF President' report on child's participation<sup>16</sup> as obstructing a further development of the child's participation in Russia:

**legislative shortcomings** that allow authorities a widest discretion as to taking a decision with regard to whether the child's opinion should be or should not be taken into the account;

**lack of information** about the child's right to participate in family, public and political life of their country;

**lack of professional staff** trained to implement the principle of child's participation in practice;

**lack of state funding** of initiatives involving child's participation.

The Committee on the Rights of the Child while considering the Russia's third periodic report on the situation of children recommended that:

*"further efforts be made to ensure the implementation of the principle of respect for the views of the child. In this connection, particular emphasis should be placed on the right of every child, including children who are members of vulnerable and minority groups, to participate in the family, at school, in other institutions and bodies and in society at large. This right should also be incorporated in all laws, judicial and administrative decisions, policies and programmes relating to children. The State party should also ensure that adults who work with children and young people show them respect and are trained to ensure that children are effectively able to express their views and that their views are taken into account..."*<sup>17</sup>

Addressing the issue of the child's right to express his/her views on the Day of the General Discussion on "The right of the child to be heard" the Committee highlights the obstacles that might be caused by the traditional and paternalistic attitudes and notes that the realization of this particular right *"implies, in the long term, changes in political, social, institutional and cultural structures."*<sup>18</sup> Indeed, the certain traditional societal attitudes towards children in Russia as they stand now should be considered to be the main problem in promoting child's participation.

### Cultural context affecting the right of the child to express his/her views and to have his/her views taken into the account

Traditionally in Russia a child was seen as an object of property rights rather than a subject of any rights. The old Russian language had the same word identifying the "children" and the "slaves". It was only in the middle of the 17<sup>th</sup> century when the state started to form its structures of childcare. By the 19<sup>th</sup> century the state system of

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<sup>16</sup> Ibid. P. 16.

<sup>17</sup> CRC/C/RUS/CO/3, p. 7

<sup>18</sup> Committee on the Rights of the Child, Report on the forty-third session, September 2006, Day of General Discussion, Recommendations, Preamble. For full text, see [www.ohchr.org/english/bodies/crc/discussion.htm](http://www.ohchr.org/english/bodies/crc/discussion.htm)

the childcare and protection was already formed but it was still too early to speak about a child's right to have any views not to mention to voice them. The Soviet ideology was not helpful to upbringing of a person with independent opinion or judgment either. It was the view of the Soviet state that a child should live and get education within the state care institutions. "One way or the other we will force mothers to agree with the nationalization of children," the Bolshevik A.G. Badayev said<sup>19</sup>. This aim was not unachievable, bearing in mind that every person was obliged to work full-time under the Soviet law and parents had to give their children to day care institutions from the age of one year or even earlier. This way, an average child in the overwhelming majority of families would start his/her education at the age of one year in the nursery, then continue to a kindergarden and, and at the age of 7 years — to school, where after regular classes (from 9 a.m. till 1 p.m.) many children had to stay for "prolonged hours" (until 6 p.m.) in order not to be left at home without a family supervision. By the time a child reached the age of maturity, he/she had limited emotional contacts with parents and was largely influenced by the state/group values one of which was that the majority's opinion is always the correct one.

Now when we are in the 21 century and while we have access to the international community's experience in child participation brought up in the comments of the international or regional human rights bodies or within the frame of international dialogs, Russia still preserves the paternalistic attitude towards its children. The words said by Volodya Ulyanov: "We will go our own way," became a motto during the Soviet times and seem to be perfectly applicable to the present situation with child participation as well. We deny children their right to participate with the reference to a traditional "Russian" understanding of this issue.

The group of the UNICEF experts conducted an analysis of models of child participation in Russia within the frame of the UNICEF initiative "Cities fit for children" in 2010. The study noted that the discussion on whether it is feasible to involve children into the decision-making is still on in Russia. Those against the child participation refer to the lack of the child's capacities to effectively participate in the decision-making process: certain development level, susceptibility to influence by adults, legal status, communicational barrier between children and adults etc. In addition to scientifically based arguments there is a set of myths preventing child participation practices from spreading. Among other: "Children should get their obligations first and rights after", "Our traditional culture does not presume consideration of the child's views", "To give children their civil rights would mean to deprive them of their childhood", "Child participation in the political processes decrease their parents' influence on them" etc.<sup>20</sup>

Surprisingly, these traditional attitudes are not unique and quite widespread in Europe as well. The researches and practitioners note, *inter alia*, the following obstacles to the promotion of child participation:

- different values and habits of young people and adults;

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<sup>19</sup> Ibid C.89.

<sup>20</sup> Калабихина И.Е., Ионцева С.В., Козлов В. Анализ моделей участия детей в процессах принятия решений по вопросам, затрагивающим интересы ребенка (на примере российских городов, присоединившихся к инициативе ЮНИСЕФ «Города, доброжелательные к детям»). Электронное издание ЮНИСЕФ — [www.unicef.ru](http://www.unicef.ru).

- place of youth in the social hierarchy (in some cultures young people have traditionally very low position and influence);
- patronizing youth by adults;
- negative stereotypes (all the young people are...; all adults are...), mutual misconceptions and biases;
- belief that it is a job of someone else to work on youth participation;
- belief that nothing will change, even if young person participates;
- young people who participate are not representative for the whole youth.

It is obvious from the list above that the stereotypes preventing children and youth from participation are very much shared by Russia and Europe. This gives us an idea that if Russia would follow some European experience in the field of promotion of child and youth participation the definite positive changes could be achieved.

Noting the problems in this area the CoE notes a growing number of initiatives promoting and strengthening youth involvement at very different levels in Europe — international, regional, national and the local one.<sup>21</sup> The experience of development organizations working in traditional environments shows that there are efficient ways of dealing with the challenges. They stress the role of the community organizations and youth organizations in involving young people in their activities, in initiating a constructive dialogue between young people and older people and in creating tools for efficient co-operation. Another important goal to achieve in communities based on hierarchical structures and submission to authority is working on attitudes of people who hold positions of power, so that young people can be perceived as partners.<sup>22</sup>

One of the main problems of the democracy in Russia now is the lack of the will of citizens to actively participate in life of the community and political life of the country as a whole. It is absolutely true that the participation does not just happen; it does not develop out of nothing. You can hardly expect a child who was never allowed to form and express his/her views to suddenly turn into an active citizen upon reaching the age of majority. The culture of participation has to be developed together with an ability to have the views and to express them. The due respect to the views of the child will not only support their formation as active citizens of their country free of traditional biases but will also start the chain reaction of the child participation.

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<sup>21</sup> Have your say!/ Manual on the Revised European Charter on the participation of young people in local and regional life. CoE Directorate of Youth and Sport. P. 5.

<sup>22</sup> Ibid P. 17.

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