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The right to be heard: an access to justice debt. Special focus on the rights of children in residential care

Julieta Marotta, PhD, is Associate Professor at Maastricht University/United Nations University-MERIT. Her research focuses on inclusive forms of access to justice for vulnerable groups (victims of domestic violence and children) through empirical legal research. Julieta was a visiting researcher at the Centre for Socio-Legal Studies, Oxford University, UK (2024); the International Institute for the Sociology of Law, Oñati, Spain (2018); and the National Center for Access to Justice, Fordham Law School, USA (2017).

1. What is legal empowerment?

Legal empowerment is an approach to access to justice that views individuals as capable of making decisions and resolving conflicts, thereby reinforcing the exercise of personal freedoms. It acknowledges various mechanisms for delivering justice and highlights the importance of all actors involved in conflict resolution.[1]

Legal empowerment treats the law and judicial institutions as tools that empower people. To do this, laws and institutions must adapt to the characteristics of the population in order to propose a structure that is appropriate and responsive to the needs of different groups in society. It also requires individuals to know their rights, and in this process of acquiring knowledge, the specific realities of each group must be taken into account.

Awareness-raising campaigns must be tailored to their target audience, because only when individuals understand their rights and the legal implications of different options can they make autonomous decisions and take responsibility for them. For example, judges have used dolls that explain rights through storytelling, therapy dogs to create a relaxed atmosphere for children and adolescents during hearings, and mock-ups that simulate what a courtroom looks like. These techniques help individuals visualise the process, manage emotions, and make informed decisions.

[1] Julieta Marotta, "Access to Justice and Legal Empowerment of Victims of Domestic Violence through Legal Organisations in the City of Buenos Aires: A Qualitative Empirical Legal Study" (the Netherlands, Maastricht University / United Nations University, 2017), www.merit.unu.edu/training/theses/marotta_julieta.pdf.

The legal empowerment process requires specialised and committed judicial actors. Research shows that the letter of the law and initiatives by organisations to promote legal knowledge, participation, and thus access to justice, are only effective when legal actors are trained and engaged. In practice, it is more practical to design and carry out cognitive training than to implement training focused on specific skills.

2. Listening and participation: the right of children and adolescents to participate

A socio-legal study that analysed the relationship between access to justice and adolescents in care homes found that the way staff interact with adolescents has a significant impact on how they experience their right to be heard and participate in decisions that affect them. As Peleg explains, it is a mistake to believe that children cannot understand the situations they live through. Children's ability to express opinions is activated when adults provide them with the right opportunities, context, and methods to be heard. Participation enhances children's right to development and well-being, fostering a sense of agency and responsibility.

So, how can we ensure the participation of children and adolescents in decisions that affect them? It is a complex task that requires expertise, as most professionals do not have concrete protocols to ensure meaningful participation — which makes experience and willingness essential. As one family court judge explained in a 2022 interview: "The CRC is incredible, but implementing it is very difficult."

3. Adolescent Girls in Care: Lived Experiences

Adolescent girls who participated in the socio-legal study shared that those who listened to them actively, spent time with them (even in silence), and showed genuine interest, changed the way they experienced the loneliness of living in a care home without close personal attachments.

They also noted that when care home directors set clear rules and committed to applying them — including consequences — this conveyed a message of care, love, and interest. In cases where directors were clearly concerned about the girls' well-being but were less present in their daily lives, they were perceived as disinterested, leading to feelings of loneliness.

The quality of interactions between care home staff and adolescents also influences how the girls participate in legal proceedings and daily decisions. Guaranteeing the right of adolescents to be heard and to participate in care settings is a fundamental right recognised by the CRC, and it is also a way to support them in preparing for life beyond institutional care.

Are we, as a society, ready to guarantee children and adolescents their right to be heard and to participate in legal processes? In the day-to-day rush, and given the number of rights violations that children and adolescents suffer, and the sheer volume of cases entering judicial systems, it is difficult to envision a system that ensures consistent listening and participation.

Listening and participation must be tailored to each adolescent's capacity, history, and lived experience, taking into account the best ways they express themselves: through play, art, sports, words? All of this requires time, patience, rights-based knowledge, financial resources, and experience. While experience can be acquired, the qualities of time and patience must come from those who are in direct contact with adolescents.

Adolescents interviewed defined the right to be heard in the following ways:

- *"Being heard means being listened to by people, by family, by psychologists… and also listening to yourself, talking to yourself, and seeing what is happening to you."*
- Another expressed the frustration of being "heard" without any concrete follow-up: *"They say they listen to me… but in the end, I feel like they don't. Because they never did anything I asked."*

Being heard is not just a right — it is also a way to support these young people as they prepare for life outside the care system.

is not only a right, it is a way of accompanying these people to prepare for life outside the home.
🎥 To learn more:

- *Ruido!!!* – A rap by adolescents in care homes
- *Access to Justice and Childhood* – Audiovisual summary of the fieldwork
- *III Federal Congress* – Adolescent participation at minute 52:40

4. Final reflection

To implement techniques that support legal empowerment by effectively transmitting information to children and adolescents, it is essential to adopt an approach that trusts every individual's capacity to make decisions when given the right tools. This means constantly training staff so they can assist effectively and ensure children can evaluate the information they receive — rather than simply following instructions.

We have made progress, we have recognised the situation, and we now have the responsibility to improve — for the sake of those most vulnerable, who, without choosing it, were exposed to abuse at an early age. Abuse that has left them with fears, mistrust, and loneliness that no judicial system or care home can fully heal.

However, we must show these young people that, as a society, we can work together to prevent such abuse from happening again and ensure they experience relationships based on respect, love, and freedom of expression. Relationships in which they are valued and respected, and their qualities are recognised — so they can build self-esteem and confidence in their ability to make decisions about their lives, and believe that a life free from violence, grounded in listening and respect, is possible.