

# Children's Rights and the UN Convention on the Rights of the Child: Monitoring and Implementation in Norway

## Barns Rettigheter og FNs Barnekonvensjon: Kontroll og Implementering i Norge

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*In this article, we will examine children's rights and the UN Convention in a Norwegian context. The aims and structure of the Convention will be reviewed, and aspects of its monitoring and implementation in Norway will be described including Norway's interaction with the UN Committee on the Rights of the Child. Special attention will be given to Article 12 of the Convention which ensures respect for the views of the child. Children's rights have had a long history in Norway, and, in the last decade, Norway's interaction with the Committee on the Rights of the Child through its four reports to the Committee has played an important role in heightening awareness of children's rights in the country, and as a catalyst for important reforms. Despite progress, improvements are still needed. These include important questions of children's rights to participation, to be heard and to have their views taken seriously. We expect continued improvements in the future as Norway strives to fulfill its obligations according to the UN Convention under the watchful eyes of the Committee.*

*Keywords: Children And Youth, Children's Rights; UN Convention On The Rights Of The Child; Implementation Of Rights; Monitoring Of The Convention; Norway.*

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*Denne artikkelen omhandler barns rettigheter og FNs barnekonvensjon i en norsk kontekst. Vi vil beskrive målene og strukturen i konvensjonen, samt aspekter ved overvåking og implementering av konvensjonen; inkludert Norges samhandling med FNs komité for barns rettigheter. Det fokuseres spesielt på artikkel 12 i konvensjonen som omhandler barnets rett til medvirkning. Barns rettigheter har en lang historie i Norge, og det siste tiåret, har rapporteringen til FN komiteen spilt en viktig rolle i å styrke barns rettigheter. Dette gjennom blant annet å være en katalysator for sentrale reformer. Til tross for framgang, er det fortsatt behov for forbedringer. Disse inkluderer spørsmål knyttet til barns rett til medvirkning, å bli hørt og at deres meninger blir tatt alvorlig. Norge tar sine forpliktelser knyttet til bestemmelsene i barnekonvensjonen, alvorlig. Under kontroll av FNs komité for barns rettigheter, forventes ytterligere forbedringer i framtiden.*

*Nøkkelord: Barn Og Ungdom; Barns Rettigheter; FNs Konvensjon Om Bbarns Retti-gheter; Implementering Av Rettigheter; Kontroll Av Konvensjonen; Norge.*

### *A Short History of Children's Rights*

There has been increasing focus on children's rights, particularly since 1980, both in Norway and internationally. There have, however, also been significant earlier milestones on the path to stronger rights for children.

The 20<sup>th</sup> century was optimistically called 'The Century of the Child'. It was the Swedish author Ellen Key who introduced this slogan in her book with the same title, published in 1900<sup>1</sup>. While it has been questioned whether Key's proclamation represented a real change in the understanding of the child<sup>2</sup>, it no doubt led to professional and political debate about children's status and role in society.

The two world wars increased awareness of children's living conditions. Millions of children and their parents ended up as refugees. Many children became orphans and were placed in large institutions. All the distress and horror to which many children and their parents were exposed, led to more political and professional awareness of children's rights, and voluntary organizations grew up to help them.

One such organisation was 'Save the Children International Union' which was established just after World War I. The organisation had five main goals which were put into a five point program. These were later included in the 'Geneva Declaration of the Rights of the Child' which was adopted by the League of Nations in 1924. The main goal of the declaration was to promote children's basic rights, and to establish that adults are responsible for children. The declaration was reconfirmed in 1934. Since then, children's rights have been a concept in international law (Verhellen, 1997).

After World War II, a new declaration of children's rights, the 'UN Declaration of the Rights of the Child' (1959) was passed; built on the principles of the earlier declaration from 1924. The new declaration emphasised the increasing responsibility of the public to safeguard children's rights. Private, voluntary and public parties were requested to recognise children's rights and to contribute in their implementation; e.g. in statutory framework.

### *The UN Convention on the Rights of the Child*

In November 1989, the UN Convention on the Rights of the Child was unanimously adopted by the UN General Assembly. The Convention clearly reflects the understanding that children are individuals with their own rights and having independent legal status (Lurie, 2001). This modern understanding of childhood, with children being seen as active, independent social actors with their own lives and rights, rather than as passive possessions of their parents has been described by sociologists of childhood (for example James and Prout (1997); others have developed related theories of 'childhood as a social phenomenon' (Agathonos-Georgopoulou, 2003).

The Convention was immediately signed by 61 countries in January 1990, and entered into force in September 1990. Today the Convention has been ratified by all the countries in the world, with the exception of the US and Somalia. Unlike international declarations which are not legally binding on the countries which have signed them, international conventions, including the Convention on the Rights of the Child, place much greater responsibility upon the countries which have ratified them. Countries which have ratified a convention are responsible for carrying out the provisions in the convention making them important documents in international law.

### *Categories of rights in the Convention*

The rights defined in the Convention have been categorised in various ways to facilitate an understanding of the document, and/or to highlight the importance of certain rights. Examples of this are the five categories traditionally used to classify human rights for adults; civil, political, economic, social and cultural (Lurie 2003/2004). Verhellen (1997) writes that the rights recognised by the Convention clearly coincide with these traditional categories. After its adoption in 1989, UNICEF chose to promote the Convention using four categories; survival, development, protection and participation. Cantwell (1993) argued that the choice of these categories reflects UNICEF's own agenda with emphasis on survival and development.

Another classification which has been used to present the Convention to the public is the so-called 'three Ps' – Provision, Protection and Participation.

These are 1) Right to provision of basic needs 2) Right to protection from harmful acts and practices, and 3) Right to participation in decisions affecting their lives (Toope, 1996; Verhellen, 1998, 1997; Cantwell, 1993). These popular categories were developed by Defense for Children International together with UNICEF as an easily remembered slogan to describe the contents of the Convention.

The child's right to provision of basic needs refers to sharing and distribution and includes the right to possess, receive or have access to certain resources and services for instance health care and education. Provision is understood as a more general concept, and is involved in many parts of children's life.

The child's need for protection is addressed in the Preamble to the Convention which states that childhood is entitled to special care and assistance.

The UN Convention is the first international agreement to recognise participation rights for children. Article 12 in the Convention is probably the most important, and aims to guarantee that children shall be heard in matters which affect them, and having their opinions taken seriously. Children's participation rights can also be more controversial than the other two categories, because they may threaten parents and other adults who must relinquish some of their own authority over children, for instance when it comes to determining the best interests of the child (Flekkøy & Kaufman, 1997; Cloke & Davies, 1995).

### *The Structure of the Convention*

The Convention consists of a preamble and 54 articles. The articles are divided into three parts. Part 1 (art. 1-41) are the substantive articles which define the rights of the child and the obligations on countries which have ratified the convention. Part 2 (art. 42-45) provides the procedures for monitoring the convention. Part 3 (art. 46-54) provides the provisions which govern entry into force of the convention.

### *Preamble*

The Convention, like many international conventions, begins with a preamble or introduction which explains the background to, and the reasons for the Convention. It provides a frame of reference for interpreting the Convention, but does not contain binding principles (Verhellen, 1997).

The preamble grounds the Convention in the principles recognised in earlier international agreements including the Charter of the United Nations (1945) and agreements relating to human rights generally, and children's rights in particular. These include: The Universal Declaration of Human Rights (1948), the International Covenants on Human Rights (1966), the Geneva Declaration of the Rights of the Child (1924) and the UN Declaration of the Rights of the Child (1959).

The preamble expresses the following basic views:

- The importance of the family and its central role in child development
  - the family should be given necessary protection and assistance, so

that it can provide a positive environment for the child's development in an atmosphere of happiness, love and understanding

- The child should be brought up in the spirit of the ideals proclaimed in the UN Charter, in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity
- The child needs special safeguards and care, including appropriate legal protection, due to its physical and mental immaturity.
- There are children living in exceptionally difficult conditions who require special consideration
- Traditions and cultural values are important for the protection and harmonious development of the child
- International cooperation is important for improving the living conditions of children, particularly in the developing countries

### *Substantive rights*

The Convention provides a full range of rights for children. These substantive rights are spelled out in 40 substantive articles (2-41), following a definition of the child (art. 1). These include all the traditional categories of human rights – civil, political, economic, social, and cultural. As noted above, these rights are sometimes classified in other categories, such as those adopted by UNICEF or the easily recognised '3Ps'. Despite the popular use of such categories, it is generally agreed that the convention itself makes no distinction between the different rights, and establishes no hierarchy. They are to be seen as equally important, interrelated and mutually reinforcing (Flekkøy & Kaufman, 1997; Verhellen, 1997; Cantwell, 1993).

### *Monitoring implementation of the Convention*

Countries which have ratified or acceded to the Convention are expected actively to implement its provisions through legislative, administrative and other measures. This is clearly stated in Article 4.

The Convention itself provides procedures for monitoring implementation (Articles 42-45). States are expected to make the principles and provisions of the Convention widely known to its citizens, both adults and children (Art. 42). Responsibility for overseeing implementation is assigned to a special monitoring body, the Committee on the Rights of the Child established 'for the purpose of examining the progress made by States Parties in achieving the realisation of the obligations undertaken in the present Convention' (Art. 43). The Committee is a body of independent experts who are elected for a four year term. It originally had 10 members but has been expanded to 18.

States parties are obliged to submit regular reports to the Committee on how the rights are being implemented (Art. 44). Countries are required to submit an

initial report two years after ratifying the Convention, and additional reports every five years after that. The Committee meets three times each year in United Nations headquarters in Geneva to consider reports from countries. These reports are used as the basis for a discussion between the Committee and the State, after which the Committee issues its 'concluding observations' which include recognition of compliance by the State, areas of concern, and recommendations for improvement. NGOs, including UNICEF and other children's rights organisations can submit alternative reports to the Committee as a supplement and different perspective from the State's official report (Art. 45).

The Committee issued General Guidelines for Periodic Reports in 1996 which outline the structure which countries are expected to use in their reports to the Committee. The reports are to include the following eight topics: general measures of implementation, definition of the child, general principles, and five sections on specific categories of children's rights – civil rights and freedoms, family environment and alternative care, health and welfare, education, leisure, and cultural activities, and special protective measures.

The guidelines identify four general principles which are intended to play a special role in monitoring implementation of the Convention as a whole). These principles are based upon four important articles of the Convention: non-discrimination (art. 2), the best interests of the child (art. 3), the right to life, survival and development (art. 6) and respect for the views of the child (art. 12) (Committee on the Rights of the Child, 1996; Doek, 2007).

As described above, the Convention has a relatively weak implementation system. It is a system of self-assessment based on the submission of periodic reports by States Parties. There is no individual or interstate right to complain to the Committee. This type of monitoring based upon positive sanctioning, rather than upon confrontation or punitive sanctions was chosen deliberately by the authors of the Convention in order to maximise the number of countries willing to ratify the Convention (Verhellen, 1997).

Fottrell (2000) describes the rationale for this type of positive sanctioning as follows:

*The Committee follows the established practice of other UN Committees, championing a constructive dialogue with States and avoiding confrontational supervision. This encourages States to view the Committee as a facilitator; States are invited to be honest in their reports and in return the Committee makes considerable efforts to assist States through constructive and creative suggestions. However, the system undoubtedly works best with those States that generally have high levels of compliance with international human rights treaties' (p.6-7).*

### *Children's rights in Norway*

Norway is a small country with five million inhabitants. It is a democracy, and the country's social policy has its basis in the Nordic welfare model. Values of equality and distribution of benefits to take care of its citizens are emphasised. Implementation of legal rights that safeguard a country's citizens is of central importance in a welfare state. This is particularly important for children and is reflected in Norwegian policy (Tjelflaat & Lurie, 2009).

In many ways, Norway is seen as a pioneer country when it comes to child welfare and children's rights. The first child protection act was passed in 1896 and went into effect in 1900 (*Lov om behandling av forsømte barn*, 1896). The act was aimed at the treatment and protection of neglected and vulnerable children, and is said to be the first child welfare act in the world. Both the legislation and Key's proclamation about 'The Century of the Child' brought about great optimism in child welfare in Norway.

Sometimes, however, the distance between rhetoric and practice is quite long; the reality for many Norwegian children was far from political and professional intentions and desires in the first half of the 20<sup>th</sup> century. Many children's living conditions were far from favourable because of inadequate helping resources. The act of 1896 was also criticised for not being child oriented enough, and not exclusively having children's needs in focus. Dahl (1978) stated that the motivation for the act was two-fold; young criminals should be useful citizens, and at the same time society should be protected from them. Institutions grew up to take care of children in need of out of home placements, but the first ombudsman for children in Norway Målfrid Grude Flekkøy argued that these were mainly effective as a way to isolate children and keep them away from the rest of society (1991). The conditions for child welfare work were particularly difficult during the two world wars, and many children's institutions were wiped out, damaged, burned down or used by the Germans during the occupation in 1940-1945.

Slowly after the Second World War, child welfare was again put on the agenda in Norway, and from 1954 to 1993 a new era in child welfare emerged. In 1953 a new child welfare act was passed which went into effect in 1954 (*Lov om barnevern*, 1953). The act was the first one in Norway to use the concept of child welfare, and 'the best interest of the child' was a central principle. This act was in effect for nearly 40 years until it was replaced by the current child welfare act in 1992 (*Lov om barneverntjenester* 1992).

It took a long time, however, before the laws reflected the child's status as subject, and it was not until the 1980s that children's rights began to receive significant attention. Norway was the first country in the world to establish an Ombudsman for children in 1981 (*Lov om barneombud*, 1981).

One of the Ombudsman's responsibilities is to monitor children's rights. The Ombudsman is also expected to act as children's spokesperson and advocate. The Ombudsman is expected to play an independent role, and to be able to freely criticise the government or other actors when this is called for. The Ombudsman is appointed, however, by the Government (the Ministry of Children and Equality), and this has led to discussions in Norway about whether or not the Ombudsman is sufficiently independent of the Government. Some have suggested having Stortinget (the Norwegian legislative body) appoint the Ombudsman instead.

Children's rights gained increase status in Norway during the 1990s following the country's signing of the UN Convention on the Rights of the Child in January 1990. Norway was one of the first countries to sign the Convention. It was ratified 12 months later in January 1991, and became effective in Norway in February 1991.

A lot of effort has been made to implement and strengthen children's rights in Norway according to the principles of the Convention. From a legal point of view, the new child protection act of 1992 was considered to be more child-oriented, and it reflected many of the principles in the Convention. Children were given greater participation rights which were also addressed in white papers, directives and statutory requirements. In 2003, the legal status of the Convention was strengthened through its incorporation in Norwegian law as part of the human rights legislation (*Menneskerettsloven*, 1999). This means that the Convention applies as Norwegian law and will have precedence if any conflict should arise between the Convention and other statutory law. Norway has also made changes in other national laws concerning parents and children and child protection in order to make them more consistent with the Convention (*Lov om barn og foreldre*, 1981; *Lov om barneverntjenester* 1992). A new act regulating preschools and kindergartens was passed in 2005 which included a provision ensuring children's right to express themselves, and to have influence on the everyday life in the preschool (*Lov om barnehager*, 2005).

There have been many political and professional initiatives aimed at enabling children to exercise their participation rights. Several models for participation have been implemented for vulnerable children and young people. According to Winsvold and Falck (2011), the aims of these are two-fold: They shall ensure democratic influence and the participation of children in developing society and the neighbourhood, and at the same time ensure personal inclusion and dignity. In some of the initiatives children are direct participants. Examples are panels and groups set up by the Ombudsman for Children. In these, children can discuss and give information to the Ombudsman about issues of concern and give advice from their perspective.

NGOs consisting of young people with experience from child protection and other specific areas (relatives of psychiatric patients, prisoners etc.) have been established. The organisations are funded by the government, and the aim is



that the young people shall give advice to improve services and spread knowledge.

There are also programs which allow young people to take part in conflict arbitration (in school, in the neighbourhood etc.). Children can also take part in the local political process in councils for children both at the municipal and county level. The aim of these councils is to make the political views of children more visible, and to help to implement practical programs<sup>3</sup>. A pilot project in 21 municipalities, will allow children from age 16 to vote in local elections in the fall 2011; the minimum voting age is normally 18 years.

To ensure that Norwegian children and young people were heard directly by the Committee on the Rights of the Child, a special hearing was arranged in Oslo in October 2009. 59 children and young people between the ages of 11-18 years met with one of the Committee's members to present their views about the implementation of children's rights in Norway. Issues raised by the young people at this hearing included the need for better schools, increased participation in leisure activities, better rights for children with a parent living in prison, an end to violence and abuse, improved child welfare services, all children must be heard, and minors seeking asylum must be provided for. The hearing was organised by the Norwegian Ombudsman for Children, Save the Children Norway and the Norwegian children and youth council. Results of the hearing were published in a report entitled 'The Children's Hearing 2009: Children in Norway Had Their Say!' (Redd Barna *et al.*, 2009).

#### *Monitoring and implementation in Norway*

As previously described, monitoring of the implementation of the Convention on the Rights of the Child in individual countries is primarily done through a reporting system, whereby countries submit periodic reports to the Committee on the Rights of the Child describing the progress they have made in implementing the Convention in the period covered by the report. The Committee considers these reports at their annual meetings in Geneva, together with supplementary information provided by NGOs, and then issues their comments and recommendations to the country as 'concluding observations'.

Norway has submitted four reports to the UN Committee on the Rights of the Child, an initial report in 1993, and follow-up reports in 1998, 2003 and 2008. We shall look more closely at how this process has been carried out in Norway using the example of the most recent report (2008). This report entitled 'The Rights of the Child' was submitted to the Committee in February 2008 by the Ministry of Children and Equality and the Ministry of Foreign Affairs.

Rather than trying to summarise such a comprehensive document in this article, we will focus on Norway's efforts to implement one of the important gen-

eral principles of the Convention, ‘Respect for the views of the child’ (Article 12). We choose this example because we consider it to be one of the most important and most controversial rights in the Convention. Children’s right to be heard has been the focus of much discussion and attention in Norway in recent years

The 2008 report devotes four pages to this topic and includes the following measures which are designed to ensure that the views of the child be made known and be taken seriously. These include:

- Lowering of the age limit for children’s right to express themselves from 12 to 7 years in cases which concern themselves in various legislation including the Child Welfare Act and the Children’s Act
- Children and young people’s participation in local planning shall be implemented through measures including national guidelines which give municipalities a responsibility to ensure that children and young people are heard in this process
- Children and young people’s participation in municipal decision-making processes through the establishment of municipal youth councils (currently existing in about 3/4 of Norwegian municipalities)
- Dialogue between children and young people and state authorities for instance at conferences, meetings, brainstorming sessions, hearings and consultations
- Children’s right to express themselves in immigration cases to help to clarify the total life circumstances of the child
- Measures to strengthen the participation of children in decision-making in schools for example through student councils and school environment committees
- Participation among children in kindergarten through a section of the Kindergarten Act of 2005 which ‘shall ensure children’s right to express themselves and to have influence on the everyday life in the kindergarten’.

#### *Supplementary reports to the Committee*

Three organisations submitted supplementary reports to the Committee in response to Norway’s 2008 report (as provided under art. 45). These were the Norwegian Ombudsman for Children (2009), the Norwegian Forum for the Convention on the Rights of the Child and the Norwegian Centre for Human Rights. We shall limit discussion here to the Ombudsman’s report.

The report begins with the following introductory remarks:

*‘For the majority of children, Norway is a good place to grow up. However, considerable challenges remain for certain children and groups of children. This report touches on a number of key areas, and will place*

*special focus on the areas within which the Ombudsman for Children has worked in recent years.'*

The following challenges are then identified:

- Primary challenges lie in the practical implementation of children's rights
- Despite a relatively good welfare system, there are substantial deficiencies in the ability to identify children at risk including those exposed to violence, neglect and abuse, and those with psychological problems and disabilities
- Public services often intervene too late, and occupational groups do not cooperate satisfactorily
- Need for improved training in the area of children's rights and increased competence of those who work with children
- Child welfare services which have a special responsibility for following up children who are exposed to violence and neglect are not functioning satisfactorily
- Challenges in following up violations of children's rights, for example municipalities which don't follow-up children's rights in schools
- Children are not being heard to the extent that they are entitled
- The rights of certain groups of children including Sami, ethnic minorities, refugee children and children in prison are not being adequately fulfilled (p.6).

With regard to 'Respect for the Child's Views' (art. 12), the Ombudsman had the following remarks:

*'The Ombudsman for Children believes that Norway has not adequately fulfilled the Convention's requirements both in terms of the child's right to express him/herself in cases which involve the child in question as well as the child's opportunity to be an active participant in society' (p.13).*

Specifically, the Ombudsman referred to:

- A gap between law/regulations and practice with respect to the child's right to be heard
- Problems with the child's right to be heard in custody cases following the parents' separation/divorce, particularly when it comes to visiting rights to the parent without daily custody; children's contact with family counselling services needs to be improved

- Child welfare services which do not adequately arrange for children to be heard, and sometimes fail to talk to the child alone at all; case-workers competence in speaking to children needs to be improved
- Children and young people's participation in municipal decision making needs to be improved; about 100 municipalities lack consultative bodies for children and youth, and many of those that exist do not provide real influence for children and young people; a binding mandate and guidelines for these youth councils should be developed (p.13.14).

*The Committee's concluding Observations to Norway*

Norway's 2008 report was considered by the Committee during its 53<sup>rd</sup> session in Geneva in January 2010. The Committee's 'Concluding Observations' begin with a brief introduction and a short summary of 'follow-up measures and progress achieved by the State party'. These consist of a list of legislative reforms undertaken since the previous report.

Most of the Committee's observations are devoted to areas of concern and recommendations. These include more than 60 comments and recommendations on a variety of issues. We shall again limit our discussion here to the issue of 'Respect for the views of the child' (art. 12). The Committee has the following comment on this issue:

*'The Committee welcomes the fact that amendments to the Children Act and the Child Welfare Act have lowered the age at which children have the right to express themselves in cases of concern to them, from 12 to 7 years, and that also younger children may be heard. The Committee is concerned, however, that, in practice, the child's right to be heard is not fully implemented or effectively practiced in all phases of decisions about and arrangements for children's lives, in particular in child care and immigration cases. The Committee regrets that children have the right to be heard regarding health issues after the age of 12. The Committee notes with interest that a pilot project in 21 municipalities will allow children from age 16 to vote in their local elections' (p.5).*

The Committee then makes the following recommendations:

- That the State party continue and strengthen efforts to fully implement article 12 of the Convention and promote due respect for the views of the child at any age in administrative and judicial proceedings, including child custody hearings, immigration cases, and in society at large.
- That the State party promote the participation of children, assist them effectively to exercise this right and ensure that due weight is given to their views in all matters that concern the family, school, other

children's institutions, the community, national policy formation and in the evaluation of plans, programmes and policies... (p.5).

The Ministry of Children and Equality recently issued a report (June 2011) describing their plans for following up the Committee's comments and recommendations from 2010. Follow-up will be achieved through changes in laws, regulations and guidelines, through new routines, innovative programs, and the development and dissemination of knowledge. The report includes a response to each of the Committee's comments and recommendations.

With regard to the example previously discussed, 'Respect for the views of the child' (art. 12), the Ministry discusses follow-up in various areas. Among these are follow-up on the recommendations of a group of experts appointed by the Ministry of Children and Equality to consider how municipalities can help to develop positive leisure time activities for young people which can improve their participation in democratic processes and their influence at the local level. The Government has also appointed a new committee which shall write a White Paper on the issue of young people's influence and participation in Norway.

### *Conclusion*

In this article, we have discussed the development of children's rights in Norway with emphasis on monitoring and implementation of the Convention on the Rights of the Child. We have examined particularly the monitoring and implementation of Article 12, concerning children's right to express their views and to have these views respected by adults. We have given special attention to this Article, because it has received much attention and discussion in Norway, and because our centre, the Regional Child Protection Research Unit in Trondheim, has long been interested in children's participation rights, including children's right to be heard.

Child protection and children's rights have had a long history in Norway, going back over a century to the enactment of the first child protection act in 1896. The last 30 years have seen dramatic improvements in children's rights in Norway, including the establishment of the world's first Ombudsman for Children in 1981, the signing and ratification of the Convention in 1990/1991, and the enactment of a more child-oriented child protection act in 1992 which embodies many of the principles of the Convention.

Norway's interaction with the Committee on the Rights of the Child through its four reports to the Committee, starting in 1993, and the Committee's 'Concluding Observations' to Norway have played an important role in heightening awareness of children's rights in Norway, and as a catalyst for important re-

forms. These include Norway's decision to incorporate the Convention as part of Norwegian law in 2003, and the lowering of the age for children to be heard from 12 to 7 years in the child protection system and in family matters, following recommendations from the Committee.

Despite such progress, improvements in children's rights are still needed in Norway. These include the important question of children's right to participation, to be heard and to have their views taken seriously. The Committee's 'Concluding Observations' to Norway in 2010 included strong recommendations regarding the need for better implementation of Article 12 in promoting due respect for the views of the child, particularly in child custody hearings and immigration cases, and 'to promote the participation, assist them to effectively exercise this right and ensure that due weight is given to their views, in all matters that concern them in the family, school, other children's institutions, the community, national policy formation and in the evaluation of plans, programmes and policies' (p.5). Both the Norwegian Ombudsman for Children (2009) and Norwegian children and young people themselves in their special hearing in Oslo in October 2009, with one of the Committee members, also stressed the need for greater participation rights for children in Norway, and greater respect for their views.

Participation rights for children and young people are often more controversial and more difficult to implement than rights belonging to the other two 'P' categories – provision and protection. This is because participation rights can be threatening to parents and other adults who are not always ready to relinquish their own authority to decide what is in the 'best interest of the child'. Children's competence to make decisions on difficult matters which concern them, or to participate effectively in public decision-making processes, such as municipal planning, is often still questioned.

Despite remaining challenges, particularly for groups of especially vulnerable children such as Sami, ethnic minorities, refugee children, and children in prison, much progress has been made in ensuring the rights of children and young people in Norway. We may expect continued improvements in the future as Norway strives to fulfil its obligations under the Convention on the Rights of the Child under the watchful eyes of the Committee.

### *Notes*

[1] Key's book was published originally in Swedish in 1900 with the title 'Barnets arhundrade' and then translated to English in 1909, with the title 'The Century of the Child'.

[2] Dekker (2002) who analysed the 20th century with basis in Key's book concluded that Key '... contributed to a child oriented century, not to a century of the child (p. 43)'.

[3] For more information on models for safeguarding participation see Winsvold and Falck (2011).

## References

- Agathonos-Georgopolou, H. (2003) 'Child maltreatment in sociocultural context: from a syndrome to the Convention on the rights of the Child,' *International Journal of Child & Family Welfare*, vol. 6, no. 1-2, pp. 18-26.
- Cantwell, N. (1993) 'Monitoring the Convention through the Idea of the 3 Ps', *Eurosocial Report*, no. 45/1993, pp. 121-126.
- Cloke, C. Davies, M. (eds.) (1995) *Participation and Empowerment in Child Protection*, Wiley, New York.
- Dahl, T. S. (1978) *Barnevern og samfunnsvern: Om stat, vitenskap og profesjoner under barnevernets oppkomst i Norge*, Pax, Oslo.
- Dekker, J. J. H. (2002) 'Demystification in the Century of the Child: The Conflict between Romanticism and Disenchantment in Youth Care from 1830s to 2000', in *Professionalisation and Participation in Child and Youth Care*, eds E. J. Knorth et al., Ashgate, Aldershot.
- Doek, J. (2007). 'The CRC General Principles' in *18 Candles*, *The Convention on the Rights of the Child Reaches Majority*, Institut international des droits de l'enfant, Sion, Switzerland.
- Flekkøy, M. G. (1991) *A Voice for Children. Speaking out as Their Ombudsman*, Jessica Kingsley Publishers, London.
- Flekkøy, M. G. & Kaufman, N.H. (1997) *The Participation Rights of the Child – Rights and Responsibilities in Family and Society*, Jessica Kingsley Publishers, London.
- Fottrell, D. (2000) 'One Step Forward or Two Steps Sideways? Assessing the First Decade of the Children's Convention on the Rights of the Child' in *Revisiting Children's Rights 10 Years of the UN Convention on the Rights of the Child*, ed D. Fottrell, Kluwer Law International, The Hague.
- James, A. & Prout, A. (1997) *Constructing and Reconstructing Childhood. Contemporary Issues in the Sociological Study of Childhood*, The Farmer Press, London.
- Key, E. (1909) *The Century of the Child*, G. P. Putnam's Sons, New York.
- Lurie J. (2001) 'Barns rettigheter i barnevern etter innføring av lov om barneverntjenester: Er dagens praksis i samsvar med lovens intensjoner?' in *Sosialt Arbeid – Refleksjoner og Nyere Forskning*, eds I. Tronvoll & E. Marthinsen, Tapir, Oslo.
- Lurie J. (2003/2004) 'The Tension between Protection and Participation – General Theory and Consequences as Related to Rights of Children, Including Working Children', *IUC Journal of Social Work Theory and Practice*, vol. 6, no. 7, 2003-2004.
- Tjelflaat, T. & Lurie, J. (2009) 'Children in Norway – Welfare and Protection' in *Proceedings of the 20<sup>th</sup> Anniversary Conference School og Social Work Theory and Practice*, ed D. Maglajlić, IUC, Dubrovnik.
- Toope, S. J. (1996) 'The Convention on the Rights of the Child: Implications for Canada', in *Children's Rights: A Comparative Perspective*, ed M.D.A. Freeman, Aldershot, Dartmouth.
- Verhellen, E. (1997) *Convention on the Rights of the Child. Background, motivation, strategies, main themes*, Garant, Leuven.
- Verhellen, E. (1998) 'The Convention on the Rights of the Child' in *Exploring Children's Rights*, ed A. Saporiti, Franco Angeli, Milan.
- Winsvold, A. & Falck, S. (2011) *Modeller for å sikre medbestemmelse og medinnflytelse blant utsatte ungdomsgrupper*, Notat 5/11, Nova, Oslo

### *Laws and other official documents*

- Barne- likestillings- og inkluderingsdepartementet [The Ministry of Children and Equality] (2011) *Oppfølging av avsluttende merknader til FNs barnekomité av januar 2010*.
- Barneombudet [The Ombudsman for Children] (2009) *Supplerende rapport til FNs komité for barns rettigheter*, Barneombudet, Oslo.
- Charter of the United Nations* (1945).
- Geneva Declaration of the Rights of the Child* (1924/1934).
- International Covenants on Human Rights* (1966).
- Lov om barnehager* (2005) [Day Care Institutions Act].
- Lov om barnevern* (1953) [Child Protection Act].
- Lov om barneverntjenester* (1992) [Child Welfare Act].
- Lov om barneombud* (1981) [Ombudsman's Act]
- Lov om barn og foreldre* (1981) [Children Act]
- Lov om behandling av forsømte barn* (1896) [Treatment of Neglected Children Act].
- Lov om styrking av menneskerettighetenes stilling i norsk rett* (1999) [The Human Rights Act].
- Norwegian Ministry of Children and Equality & Norwegian Ministry of Foreign Affairs (2008) *The Rights of the Child – Norway's fourth periodic report to the UN Committee on the Rights of the Child*.
- Save the Children Norway (2009) *The Children's Hearing 2009: Children in Norway Had Their Say!*
- The Ombudsman for Children in Norway (2009) *Supplementary Report to the UN Committee on the Rights of the Child*.
- The Norwegian Forum for the Convention on the Rights of the Child (2009) *Supplementary Report 2009 to Norway's fourth Report to the UN Committee on the Rights of the Child*, Oslo.
- The Norwegian Centre for Human Rights (2009) *Supplementary report 2009 to Norway's fourth report to The Committee on the Rights of the Child*, Oslo.
- United Nations Committee on the Rights of the Child (2010) *Consideration of reports submitted by States parties under article 44 of the Convention – Concluding observations: Norway*.
- UN Committee on the Rights of the Child (1996) *General guidelines regarding the form and contents of periodic reports to be submitted by State parties under article 44, paragraph 1 (b), of the Convention*.
- UN Convention on the Rights of the Child* (1989).
- UN Declaration of the Rights of the Child* (1959).
- Universal Declaration of Human Rights* (1948).