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JANUSZ KORCZAK AND THE RIGHTS OF THE CHILD

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Abstract:- Janusz Korczak was a Polish writer, doctor and leader in the field of education and social work who introduced the concept of children's rights in the early 20th century. Through his work Korczak contributed to the first international treaty to address children's rights: the 1924 Geneva Declaration of the Rights of the Child. The United Nations Convention on the Rights of the Child (UNCRC) was not opened for ratification until 1989. Twenty-five years later, in 2014, children, young people and adults from 41 countries spanning the continents of Africa, America, Europe, Asia and Oceania met at a world conference on children's rights and participation titled Children as Actors for Transforming Society (CATS).

1. INTRODUCTION

Children, young people and adults from all over the world shared best practices on children's rights and participation (Article 12). As of 2015, almost all countries in the world have agreed to work according to the ideas in the UNCRC, the exceptions being South Sudan and the United States of America. In 1912, Janusz Korczak founded a Jewish orphanage in Warsaw where he set up a kind of republic based on a children's rights perspective, with a 'Court of Peers', a Parliament and a newspaper, all run by and for the children. This article will introduce the background of the concept of children's rights and present the 'Court of Peers' procedure practised at CATS as a technique for discussing unfair treatment and deciding how to respond.

Janusz Korczak

Janusz Korczak dreamed of creating a better world for children (Spielman, 2007; Gilad, 2014). Korczak was a pioneer of international work for children's rights and an innovative social worker, educator and author of many books and articles on child development and parenting in the early years of the 20th century. At CATS, Batia Gilad, chairperson of the International Korczak Association, gave an interesting presentation of the UN Convention on the Rights of the Child (UNCRC) and its relation to the ideas of Korczak. In 1912 he established a Jewish orphanage in Warsaw where he introduced his progressive humanist and democratic ideas about Child Development and Children's Rights. The orphanage was designed as a social experiment with a strong foundation in children's right to be respected. Janusz Korczak's real name was Henryk Goldsmith, but he used the penname Janusz Korczak for all his books. In 1917 Korczak wrote the book *How to Love a Child*. In this book he listed the rights of the child. In her lecture, Gilad pointed out that Korczak was 'the first educator who truly recognized the rights of the child and initiated a revolution in the field of education' (see also Shreidan & Pramling Samuelsson, 2001). Korczak 'proposed the idea of establishing a convention on the rights of the child long before this was raised at the United Nations. He drafted a convention that comprised many of the rights embodied in today's convention' (Gilad, 2014).

World War I caused the deaths of millions of people and created many orphans and orphanages. In the late 1930s and 1940s, during World War II and the Finnish Winter War, many children were sent without their parents from the war-torn countries to other countries (Brunberg, Borg & Fridström, 2011). After the wars in Europe many children lived as unaccompanied refugees in foster families or orphanages, and even today many children from non-European countries do so. There are also still children living in vulnerable situations and who are homeless. Korczak's progressive ideas on child development and children's rights were created in a different time, but many children are still growing up in vulnerable situations and in orphanages. Korczak's progressive social work and pedagogical ideas can also be used in many other situations than just orphanages. Korczak expressed a deep respect for children and a strong belief in their capacity. He wanted to create an orphanage based on democratic principles

with children as active participants. He created a 'Children's Republic' in the orphanage that he ran. One of these new ideas was to set up a 'Court of Peers' where the children themselves passed sentence on violations of the rules in the orphanage. The children themselves were entrusted with handling discipline issues. Janusz Korczak also founded a journal with contributions solely written by children—*Mały Przegląd*. It was the first time ever that such a journal was published. The children were paid for their contributions. The daily work at the orphanage was shared between all the adults and the children.

When the Nazis occupied Warsaw, the Jewish orphanage that Korczak headed was moved to the Warsaw Ghetto. In 1942, during World War II, Korczak was deported to Treblinka together with the two hundred children in his care. When he found out the children in his care were to be deported, Korczak refused an offer of sanctuary for himself, and marched together with the children to the train that was to take them to their deaths.

The development of children's rights

At the CATS conference, Batia Gilad made a presentation on how Janusz Korczak proposed the idea of establishing a convention on the rights of the child as early as 1917. The next significant initiative taken on behalf of the children dates back to 1924, when the first international treaty on children's rights was adopted – the Geneva Declaration of the Rights of the Child. This first version of the coming CRC contains the following five articles relating to children's welfare and protection:

1. The child must be given the means requisite for its normal development, both materially and spiritually.
2. The child that is hungry must be fed; the child that is sick must be nursed; the child that is backward must be helped; the delinquent child must be reclaimed; and the orphan and the waif must be sheltered and succoured.
3. The child must be the first to receive relief in times of distress.
4. The child must be put in a position to earn a livelihood, and must be protected against every form of exploitation.
5. The child must be brought up in the consciousness that its talents must be devoted to the service of fellow men.

The main ambition of the Geneva Declaration was to generate international momentum for the protection of children and young people. Some decades later, in 1959, the next step was taken and United Nations adopted the Declaration of the Rights of the Child. The framework of children's rights was expanded to comprise ten articles, including the rights to social welfare and social security (see Åkerström, 2014). The CRC was presented in 1979, at a time of increasing global awareness of social inequalities, a growing emancipation movement, and the founding of social movements to promote the rights of other groups. The drafting process was also influenced by other contemporary theories about children and young people's situation, for instance within the sociology of childhood and the ecological approach to human development.

Civil and political rights

Korczak viewed the rights of the child 'from the point of view of natural laws'. According to Gilad the rights he demanded refer more to 'personal development than to the ideas of caring for every individual in society, the equality of development and moral development.' The civil and political rights were included in children's rights at a time when ideologies of welfare and social justice had already spurred the creation of economic, social and cultural human rights for adults. Children became entitled to civil and political rights much later than adults. Children's rights stem from the recognition that natural rights are universal and apply to all human beings, and have an educational viewpoint. These rights also were developed through dialogues conducted with children (Gilad, 2014). The UN CRC and other human rights treaties now include a range of important civil and political rights for children such as children's right to information, to have their voices heard and to freedom of expression, religion and association. As of 2014 the number of examples of good practices is increasing, but a number of things remain to be done before all children will feel respected and fully enjoy their citizenship rights.

The convention on the rights of the child

The articles in UN CRC rest on four core principles. Each principle is considered to be embodied by a specific article in the Convention, but the principles are also general and are to be considered in the interpretation and implementation of all other articles. These four core principles are non-discrimination (Article 2), devotion to the best interest of the child (Article 3), the right to life, survival and development (Article 6), and respect for the views of the child (Article 12). The rights in the CRC are commonly referred to as the three p's: provision, protection and participation (Committee on the Rights of the Child, 2009).

Article 12 was considered an innovative and radical element of the children's rights framework at the time when the CRC was drafted (Bartley 1998). The article mandates that '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' (UN CRC, 1979). Article 12 states that children are competent to form their own opinions and that these opinions are to be considered. In 2015, this is still a radical element, with remaining concerns about compliance.

In 2012 the Committee of Ministers in the Council of Europe issued recommendations to the member states on the participation of children and young people under the age of 18. The aim was to achieve greater unity between the European member states. The ministers were convinced that 'the right to be heard and taken seriously is fundamental to the human dignity and healthy development of every child and young person' (Council of Europe, 2012, p. 2). The Committee of Ministers defines 'participation' as individuals and groups of individuals having the right, the means, the space, the opportunity and, where necessary, the support to freely express their views, to be heard and to contribute to decision making on matters affecting them, their views being given due weight in accordance with their age and maturity. (Council of Europe, 2012 p. 3)

There is no age limit on the right of the child to express her or his views freely. Children and young people who exercise their right to freely express their views must be protected from harm. 'All processes in which children and young people are heard should be transparent and informative, voluntary, respectful, relevant to children's lives, in child-friendly environments, inclusive (non-discriminatory), supported by training, safe and sensitive to risk, and accountable' (p. 4). If all processes in which children are heard were to follow the recommendations of Article 12, Janusz Korczak's dream of a better world for children would be much closer to becoming reality. But children and young people are still discriminated and treated unfairly, and often are not heard and respected, as the discussions at CATS between children, young people and adults from countries all over the world showed.

The 'Court of Peers' at the 2014 CATS program

More than 300 children, young people and adults from 41 countries around the world participated in the CATS conference. In 24 smaller groups the participants discussed their experiences of people being treated unfairly. This could be their own experiences or the experiences of someone they knew. It could also be fictive cases. Four cases of unfair treatment were presented to a 'court' where the judges were three young people accompanied by an adult. The court, with its young lawyers, investigated the case presented by young people, sometimes with the support of an adult who also could act as an interpreter. The lawyer held a 'hearing' in order to obtain more evidence in the case. When they were satisfied with the information they had received the 'court' recessed for discussion. They later returned with a 'verdict' containing reflections about the case and what could be done. One of the cases concerned discrimination and bullying in school.

An Indian boy and a girl with disabilities told the court about their experiences in school. 'The children in my school always say very bad words about me', said one of the children. The other child had a motor disability and said that because of her condition she has to go to the toilet very often during class. 'The teacher does not let me, because when I ask for permission to go to the toilet I also ask for someone to accompany me. The teacher says this is not possible because it's during 'class'. The judges in the court decided that the children were being unfairly treated. The children were recommended to go on talking with their parents to get support and to talk to the head teacher of the school, which according to the court was responsible for acting to create a better situation for the children.

Another case of unfair treatment was related to Funky Dragon – a youth-led organization in Wales (The Children and Young People's Assembly for Wales, Funky Dragon). Funky Dragon would no longer receive financial support from the Welsh Government to continue their work. Funky Dragon reports directly to the Welsh Government on issues that affect all aspects of young people's lives (see www.funkydragon.org). The court held a hearing and asked relevant questions to deepen its understanding of the situation and find out whether any other relevant organizations received funding from the Welsh Government. The organization that did receive money was not youth led but was an adult-led organization working with children's issues. The conclusion of the court of young people from other countries than Wales was that Funky Dragon was being unfairly treated and should receive funding, and that the two organizations could work together. The other two cases were a fictive case about sexual abuse and a case from Peru when the government cleared the streets of children who worked in the streets.

CONCLUSION

If all processes in which children and young people are heard would follow the Council of Europe's 2012 proposal and be transparent, informative, voluntary, respectful, relevant to children's lives, conducted in child-friendly environments, inclusive, sensitive to risk, and accountable, Janusz Korczak's dream of a better world for children would be reality; but it is not. Children and young people are still discriminated and treated unfairly, as the discussions among children and young people at CATS showed.

'The Court of Peers' at CATS aimed to enable participants to experience one of the tools that Korczak developed for upholding the rules at the orphanage he ran between 1912 and 1942. The intention behind the 'Court of Peers' was

different at CATS than in the Jewish orphanage where the children were trusted to handle disciplinary issues. At CATS 'The Court of Peers' was more of a technique that can be practised in many situations to discuss what resources and responsibilities children have and how to act to improve the situation of vulnerable young people on a personal level, and to work for change based on children's rights on a structural level.

Box

The four core principles of the UNCRC; Non-discrimination (Article 2), devotion to the best interest of the child (Article 3), the right to life, survival and development (Article 6), and respect for the views of the child (Article 12).



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