

Voice But No Choice? Reducing Child Party Status From 15-12 Years

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KEY MESSAGES

- Lowering the age for party status to 12 years empowers children as right holders
- Muting the voices of children or transmitting it through an adult undermines the dignity of children

Background

Children under the age of 14 constitute 17 percent of the Norwegian population¹. In line with the United Nations Convention on the Rights of the Child, the Norwegian 2014 constitution reaffirmed children as rights-holders and acknowledges children's rights as human rights (Nylund, 2019). One of the rights in contention is the right to participation (party status) – that is, to be heard, be informed and be considered in decisions regarding their welfare.

“A party is the person to whom the decision is directed or who is directly concerned (Haugli et al., 2020, p.207)”, In Norway, party status is restricted to children aged 15 years and above, while those below 15 are offered participation through a support person. The support person is someone who has substantial knowledge of children but may not know the child represented. They compile the child's opinions and perspectives and report to the decision-making body. Although this effort appears to recognize the child's voice, only 28% were elaborately considered. (Nylund, 2019).

“Under Norwegian law, the right of the child to be heard is widely recognized.

Nevertheless, children's voices are sometimes absent in decision-making or hearing children is treated as a formality with little impact (Nylund, 2019, p.1).”

In 2021, the Norwegian government appointed an expert committee to review the practice of child protection laws, NOU 2023: 7 Trygg barndom, sikker fremtid (Eng: Safe childhood, secured future). One of the recommendations of the committee is to reduce the party status age from 15 to 12 years, as stated in the child welfare act. The recommendation is based on the systematic neglect of child voices in child welfare cases.

It must be noted that the age limitation of 15 years lacks adequate explanation and presumably follows past societal norms such as 15 years for the first communion and also holding criminal responsibilities (Haugli et al., 2020). The age limit contrasts the view of the Norwegian constitution on children as right holders, and the public administration act's age independent right to participation. Comparably, other Nordic countries such as Denmark and Finland, already give party status to children at 12 years. While Norway is still contemplating reducing the age to 12 years, Denmark is considering to further

¹ <https://www.statista.com/statistics/327213/age-structure-in-norway/>

reduce the age to 10 years as a way of expanding children's participatory rights.

This policy brief will unfold as follows; critique of the age reduction recommendation, support for the recommendation and further considerations.

Has the burden of decision making been considered?

Children are a vulnerable group, considering both biological factors of age and social factors of their dependence. The big question is; Are 12-year olds capable of independently making life changing decisions and bare the magnitude of stress and anxiety during and the aftermath of such decisions? In foster homes the responsibility of decision making for the child is divided between three actors, the birth parents, foster parents and the child protection services, even then, the process is considered complex and tiresome. As complex as it currently is, it is a decision by the care order to distribute the responsibilities. There are reports indicating negative impacts on child mental health after their involvement in custody proceedings².

Why consider reducing party status to 12?

Children have a reduced possibility affecting decisions concerning them, there are big variations and lack of equality in how children's rights to participation are taken care of by the different actors in the child protection system. The system for complaining is not adequately adjusted to children and their needs. This refers to access to information about their rights to complain and the time it takes for the complaint to be attended. This points to the

need for making systemic changes that secure children's right to participation through consistent systems. Even if these systemic changes are met, we need to ensure a more holistic participation that enables children to state their opinion, be heard and accounted for. Reducing party status from 15 to 12 years old, means that the child will have the right to information and justifications and can request review and reconsideration of the child welfare services or the board's decisions.

Being aware of the burden of decision making for 12year olds, we argue that the stress from lack of information and being excluded from the process is more stressful for the child. A clarity in the process of the case, which is offered by party status, will give a better foundation for children to handle the burden of the process and get adequate support in their participation. Moreover, at age 12 a child is considered to have developed more abstract thinking and can hence articulate their wants and needs. This would also be in resonance with modern view of children as legal subjects. The best-interest of the child has for long been advocated and propagated by adults. This should be counter balanced with the child's own interest. By reducing the party status children will retain their right to be heard, freely express their wants and needs through their right to participate.

Further considerations

We recommend creation of a child friendly environment. Through including their observations, perceptions and sentiments in the process. Information of the legal proceedings should be availed through sensitization to children about their rights.

² <https://www.otssolicitors.co.uk/news/mental-health-allegations-in-child-arrangement-order-court-applications/>



SOS CHILDREN'S
VILLAGES

Continuous data driven engagement must be made as an integral part of the execution of this policy brief to provide strategic direction for future policy decision making.

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Ministry of Children and Familiesm 2021: Child Welfare Act Act relating to child welfare (Child Welfare Act) secured Rights to the children, have we discussed it?