

SOLVING THE PARADOX: THE SOCIAL SEMANTICS OF CHILDREN'S RIGHT OF SELF-DETERMINATION

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Abstract. Centred on a critical examination of the United Nations Conventions on the Rights of the Child (UNCRC, 1989), this article proposes an approach to children's right of self-determination as social semantics, to illuminate the dynamic and paradoxical coupling within discourses on childhood between a fundamental social process, the reproduction of generational order and a fundamental social institution, human rights as codified in European modernity. The article presents the result of a three-stages study, articulated in: a systematic review of literature around the theme of children's right of self-determination; a discussion of children's right of self-determination as social semantics; the use of Early Childhood Education as a significant case-study to observe the development of children's self-determination as a tenet of the mainstream semantics of childhood in society. It is argued that the semantics of children's right of self-determination: 1) describes a paradoxical coexistence between intergenerational order and human rights; 2) is capable of maintain its viability as a cultural form because it is coupled with another semantic distinction, between human rights and personal rights. It is hoped that the scholarly debate will benefit from the contribution of an article exploring the intersection between social ontology of childhood and children's right of self-determination.

Keywords: *Self-determination, United Nations Convention on the Rights of the Child, social semantics, Early Childhood, safeguarding, autonomy.*

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1. Introduction and methodological notes

This article discusses a study that explored the intellectual and ethical foundations of the discourses on children's right of self-determination, centred on a critical examination of the United Nations Conventions on the Rights of the Child (1989). The aim of the article is to propose an approach to children's right of self-determination as social semantics, to illuminate the dynamic and paradoxical coupling within discourses on childhood between a fundamental social process, the reproduction of generational order and a fundamental social institution, human rights as codified in European modernity. It is argued that the semantics of children's right of self-determination: 1) describes a paradoxical coexistence between intergenerational order and human rights; 2)

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is capable of maintain its viability as a cultural form because it is coupled with another semantic distinction, between human rights and personal rights.

The first stage of the study discussed in the article consisted in the systematic review of literature around the theme of children's right of self-determination. Key search terms were articulated to allow more stringent selection across several disciplines. The challenge consisted of maintaining the review of literature focused while crossing several disciplines. Coherence was sought by redefining keywords, funnelling down to precise strings of research terms constructed to identify works interested in the interaction between discourses on children's rights and children's right of self-determination and the social contexts where principles and ethos translate into practices.

More stringent selection criteria allowed a process of saturation that identified key themes, theoretical approaches and methodologies (Thomas, 2013). After the first stage, the literature review had constructed a coherent multi-disciplinary discourse on the interaction between children's self-determination and the social contexts of children's lives. The results of the first stage of the study are presented in section 2 and 3.

The second stage of the study utilised the theoretical and methodological themes emerging from the previous stage to articulate a discussion of children's right of self-determination as social semantics, investigating how children's right of self-determination meet a fundamental need of European modernity, that is, to produce a self-description that can discursively resolve the paradoxical coexistence of the reproduction of generational order and children's position as holders of human rights. The results of the first stage of the study are presented in section 4 to 7.

The reference to European modernity is methodologically pivotal: the paradox that the semantics of children's right of self-determination resolves is a challenge emerged within European modernity, which represent the context of the discussion proposed in this article. However, while the prevailing understanding of children and childhood is influenced by cultural forms produced during the evolution of European society (Mangez & Vanden Broeck, 2021), it would be a methodological and ethical weakness of this article if the relevance of diverse cultural perspectives on children and childhood was not acknowledged. Although the discussion of non-European semantics of childhood, children's right of self-determination and generational order falls outside the scope of this article, a recent collection of essays edited by Percy-Smith et al. (2023) is an example of sociological research with children in regions where European cultural perspectives do not hegemonies communication about, with and from children. This article discusses an analysis of children's right of self-determination as self-description of the coexistence of generational order and human rights. It is essential emphasising that the empirical objects of such analysis, reproduction of generational order and human rights as both underpinned by an understanding of children and childhood developed within European modernity.

The third stage of the study approached the flourishing field of Early Childhood Education as a significant case-study to observe the development of children's self-determination as a tenet of the mainstream semantics of childhood in society. Early Childhood Education positions young children as agents who can make choice and can construct valid knowledge. Paraphrasing Freire's description of critical pedagogy, in the discourse of Early Childhood Education the emphasis on children's agency constructs a view of *education from children, for children, for adults*. The results of the third stage of study are presented in section 8, which is followed by the conclusion, hoping that the

scholarly debate will benefit from the contribution of an article exploring the intersection between social ontology of childhood and children's right of self-determination.

2. The semantics of children's self-determination

Self-determination appears in the English language towards the end of the 17th century, when it refers to *determination of one's mind or will by itself toward an object*, generally declined politically *as the action of a people in deciding its own form of government* (Wehmeyer, 2004). Self-determination is used within an individualistic dimension between the 18th and the 19th century, where it refers to free will and life choices without external pressure (Wehmeyer, 2004). The 20th century saw the use of self-determination as a principle to explain the function of biological and more pertinently, psychological systems (Wehmeyer, 2004). The implication is that whilst the 19th century self-determination was a choice, a political or an ethical position, in the 20th century self-determination become a natural, universal, attribute of life.

However, as self-determination was finding a prominent place in the conceptual toolbox of several disciplines, its definition became contested (Wehmeyer, 1994; 2004; Wehmeyer *et al.*, 2017; Farini & Scollan, 2019). Two meanings of self-determination coexist in the current debate. The first meaning considers self-determination as an ontological attribute of human beings that can be acted upon or ignored but nevertheless predates individual or collective choices. The second meaning considers self-determination as *the choice to make autonomous choices* (Freedberg, 1989), that is, an ethical and political position that interacts with the social contexts. McDermott (1975) proposes a concept of self-determination as a component of one's self-identity. Self-determination is part of an identity advocated as the identity of choice-maker, which can be encouraged or discouraged by specific contextual conditions.

In 1983, Freeman pointed to the difficulties of the legal debate in approaching children's right of self-determination beyond the principles of protection and welfare rights, emphasising that self-determination, in order to be internally coherent, must entail the recognition of autonomy and responsibilities. Two decades later, Fortin (2003) still observed the enduring difficulties of jurisprudence in acting upon children's self-determination in delicate legal cases. Lundy (2012) suggests that the subordination of children's self-determination to adults' assessment can disempower the voices of children when such voices are not expressed in the ways that adults expect. Wehmeyer *et al.* (2017) efficiently summarise the difficult translation of the children's right of self-determination into practice as they point to possible contrasts between decisions made by children and decisions of adults who claim that they are acting in the child's best interest. Alderson (2008) and Monk (2004) observe how medicine (Alderson) and psychology (Monk) are prudent in positioning children as equal participants. Handley (2005) observes that, in legal and educational practices, children's self-determination is conditional on adults' evaluation of children's competence which is often framed by a protecting approach. Regarding education, Freeman (2011) suggests that children's self-determination is perceived as a risk by professionals who are positioned in oppressive discourses of responsibility and accountability.

The robust scholarly and interdisciplinary debate on children's right of self-determination is read in this article throughout the lenses of the theory on the evolution of the semantics of human value proposed by Charles Taylor. The aim of this intellectual exercise is to propose an innovative approach to children's right of self-determination as

social semantics, that is, as a form of self-description of European modernity. The idea is that the ambiguous position of children and children's right of self-determination in modern society, as shown by the United Nations Conventions on the Rights of the Child (1989), is consequential to the ambiguous social semantics of childhood which, in turn, is the outcome of a fundamental socio-cultural process: the conceptualisation of human value.

3. The debate that generates social semantics: Children's interests and children's needs

The semantic of children's self-determination are articulated within broader discourses that position children and adults within different forms of intergenerational relationships. Different forms of intergenerational relationships: the *discourse of children's needs* and the *discourse of children's interests* (Wyness, 2013). The discourse of children's needs and the discourse of children's interests construct divergent meanings of children's self-determination. *Children's needs* positions adults as advocates who act on behalf of children, to provide children with what the judgement of adults deem as essential for their development (Holt, 1974; McDermott, 1975; Wehmeyer *et al.*, 2017). *Children's interests* position children as members of a social group, who share common interests and who are able to voice them, bringing about *consequential* changes in the contexts of their experiences (Wyness, 2013; Farini & Scollan, 2019; Moss & Urban, 2020). Consequentiality refers to children's autonomous choices that: 1) are significant for other participants; 2) make a difference in the context where they are made, changing the context of other participants' experience. A consequential choice is a choice that other participants in a social situation cannot not consider as they make their decisions. The two contrasting discourses of children's needs and children's interests influence the way in which children's choices and voices are responded to (Gabriel, 2017; Moss & Urban, 2020). The positioning of children whether within a discourse of needs or a discourse of interests entails political, social and cultural implications. For instance, when children are perceived through the lenses of their needs the possibility to make autonomous choices is confined by adults' decision making *for* and *on behalf of* children (McDermot; 1975; Fass, 2007). Konstantoni (2013) and Duhn (2019) argue that children's self-determination is less meaningful in situation of limited trust, where adults do not trust children's decision-making. Te One (2006; 2019), Thomas (2007) and Duhn (2015, 2019) relate limited trust in children's decision making to the influence of an image of children as incompetent and immature which cannot be challenged because, in a sort of vicious circle, limited trust prevents true listening to children's voices, knowledges and skills. Thomas (2012) recognises that when children are observed through the lenses of their needs, adults are positioned on a superior status as the providers for children's needs. The implication of looking at children through the lenses of their needs is that their self-determination may be promoted, but within the limits imposed by adults' decision-making and agendas.

Differently from the discourse of children's needs, the discourse of children's interests positions children as competent social actors who can pursue their own agendas and interests, can voice their opinions and hold others accountable (Holt, 1974). Through the lenses of children's interests, acting *for* and *on behalf of* children is criticised because, notwithstanding all the good intentions, still silences their voices as they emerge, in the 'here and now'. When children are positioned in a discourse of children's interest, adults

are responsible, if children's right of self-determination is to be taken seriously, to construct ways of listening to children's voices that can be expressed in many ways (Carr & Lee, 2012; Cockburn, 2013; Farini & Scollan, 2019).

This latter observation resonates with the idea that adults working with children should not evaluate the quality of children's voices before choosing whether listening to them or not. Children's voices are not to be evaluated or measured but to be valued and listened, inviting adults to reflect on the motivations and interests underpinning children's choices rather than judging them (Malaguzzi, 1996; Davies, 2014; Clark, 2020).

The semantics of self-determination shifts significantly in the movement from children's needs and children's interests (Farini & Scollan, 2019). In the discourse of children's needs, self-determination is conditional and decision-making is reserved to adults, silencing children's voices. In the discourse of children's interests, children are positioned as agents whose choices can make a difference and their self-determination is expected and promoted. For Rogoff (1990), the recognition of children as agents who construct their agenda and interest is characterised by a shift in the balance of responsibility, from the adult to the children. Self-determination is a process of participatory *responsibilising* of the children (Rogoff, 1990). What makes a difference for the discourse on self-determination is whether or not there is a recognition of the voices of children as a force that can shape the contexts of experiences not only for children but also for adults (Farini & Scollan, 2019). The theoretical constructs of the discourse of children's needs and the discourse of children's interests can be utilised to add theoretical depth to Penn's (2006) model that articulates children's rights in two macro-categories that co-exist in a conflicting manner: 1) welfare rights, 2) self-determination rights.

Welfare rights are advocated for children by adults on behalf of children, to and for children. A consensus is often observable in the public discourse around welfare rights, for instance when welfare rights concern 'safe-guarding' (Moss, 2006; Alderson, 2008; Penn, 2011). Welfare rights are framed by the discourse of children's needs. *Self-determination rights* are more controversial because they position children as decision-makers who take responsibilities and negotiate power away from adults (Holt, 1974; Wehmeyer, 2004; Wehmeyer *et al.*, 2017). Self-determination rights are framed by the discourse of children's interests.

A concept of self-determination rights where power is completely taken away from adults was proposed in the 1970s by Holt (1974). However, since the 1980s, more moderate approaches have replaced the emphasis on children's liberation from adults' power with the idea of children working alongside adults (Freeman, 1992; 2002). A definition of self-determination that is at the same time strong but also compatible with the idea children-adults partnership is provided by Alderson. Alderson's articulation of self-determination (1995) is useful because it recognises the conditions for self-determination on a physical, psychological and social level. For Alderson, children's self-determination presupposes adults' respect of children's integrity on three levels:

- 1) Physical integrity: a child's right to determine what is to be done to its body;
- 2) Mental integrity: a right not to be mentally pressured or coerced;
- 3) Personal integrity: a right of children to be considered as fully formed and integrated personalities who have a clear enough conception of themselves.

The complexity generated at the intersection of different discourses on children's rights, as exemplified by the ambiguity around the ontological status of self-determination, can be related to the position of children's right of self-determination as

social semantics that describe a paradoxical coexistence between the reproduction of generational order and children's status as holders of human rights. Section 4 is dedicated to exploring the roots of the paradox; section 5 introduces how social semantics is generated to solve the paradox at the level of discursive practices.

4. What makes children's right of self-determination complex? The semantics of human value

It is possible to start with a statement: the genealogy of the current social semantics of childhood and children's right of self-determination is rooted in a socio-cultural process: the conceptualisation of human value. This statement is founded on Taylor's work (1989) on the evolution of the semantics of human value. The history of the semantics of human value proposed by Taylor sustains an innovative approach to the semantics of childhood and children's right of self-determination.

The semantics of human value consists in the axiological criteria that measure the value of each individual as a member of society. The semantic of human value is a social-cultural process, it evolves diachronically and synchronically, it changes over time and across societies. Taylor's historical analysis suggests that the transformations of the semantics of human value have a causal effect on the transformation of the organising principle of societies.

Taylor argues that in societies organised by a hierarchical principle (Taylor utilises as example the early medieval European feudal society), human value is a function of an individual's proximity to the ultimate owner of the land. In the historical contexts used by Taylor as an example this would be one of a monarch, the Sacred Roman Emperor or Pope. Obviously, private ownership of the land was not unknown in feudal Europe; still, from a legal point of view, ownership of the land was a concession from the highest political or spiritual authority. The proximity to the ultimate owner of the land is the criterion to construct the hierarchy that presides to all social relationships, mutual obligations and allows to rely solid expectations concerning each individual action, as well as concerning each individual understanding of action. In a circular fashion, the network of mutual obligations represents the material reference of the self-description of hierarchical societies, both diachronically and synchronically (Luhmann, 1995).

Each layer between an individual and the owner of the land was a diminution in the human value of the individual. In hierarchical society, the measure of human value is *honour*. A characteristic of hierarchical society is that the position of the individual with respect to the apex of society is defined by birth, with extremely rare exception. Another characteristic is that economic success or any other form of personal success is not impossible for individuals of low value. In fact, personal success can dramatically change individual trajectories; nevertheless, it does not affect the position in the social hierarchy regarding human value. The famous novel *Don Quixote* offers a clear example of the concept of human value in hierarchical societies. Quixote is poor, surely he is poorer than most merchants in any provincial town. Still is a Don, a knight and a nobleman and he positions himself as a 'man of virtue', a man of high value, higher than the value of the richest but non-aristocratic merchant. Examining the Southern European transition from feudal societies to societies based on trade which took place from the 11th century, Taylor observes a change in the structural principle of society coupled with a change in the semantics of human value. Taylor indicates the development of international trade as the long-term cause of societal transformation. In the margin of rural feudal society, a new

semantics of human condition develops with international trade, where human value is a function of successful choices in situations of risk. Decision-making implies a social condition, the availability of alternative choices at any point, and a cultural condition, the idea of individual responsibility (Luhmann, 2017). Both the social and the cultural conditions are absent in hierarchical societies, where availability of alternatives and responsibility are defined by the non-individual attribute of honor. In a hierarchical society alternative are confined to the limits allowed by social rank and responsibility concern the reproduction of behaviours that are expected based on individual honor. The distribution of human value according to honor acquired at birth is not conducive to rational assessment of risks and benefits and limits the scope for individualised judgement. A new conceptualization of human value emerged in a circular relationship with the transformation of society: the idea of human value as a function of *dignity*. While honor is unequally distributed according to the accident of birth, dignity is taken to be both the possession of and what it is owed to, every person regardless of the conditions of their birth. If human value is ontologically equal, then any system of preference that is not visibly based on merit appear illegitimate. While honor is distributed according to group membership (the accident of birth), dignity is an individual attribute, indifferent to group membership. Dignity is a universal and individual principle that allows reconceptualizing the position of everyone in society as the outcome of decision-making. Taylor writes of dignity as an ontological *enabler of possibilities*.

Notwithstanding the universalistic semantics of dignity, human value as a variable that contributes to differentiated positioning of individuals does not disappear in modernity. The social need of differentiating grades of human value cannot be fulfilled by the universal and inclusive principle of dignity. For Taylor, this problem is solved with another social transformation: the coupling of the universal and inclusive principle of dignity with the selective and exclusive principle of *levels of development*.

Levels of development are measured according to separateness from others, self-governance and independence from the claims, wishes and command of others. Separateness from others, individuals or groups, is essential to exercise rational decision-making and to identify individual responsibility. Development is higher when the extent of separateness from others is higher. The cultural politics of Shaftesbury, centred around the social forms of *manners* (*Characteristics of Men, Manners, Opinions, Times*, first published in 1711) is an early example of the double semantics of dignity and levels of development. Re-elaborating the stoic philosophy, which he considers the hegemonic ethics of early Roman Republicanism, Shaftesbury considers human value as a function of public demeanour. The manners that signal human value, sociability and politeness, are individual attributes that can be cultivated in a process of individual development.

The double semantic figure of dignity and levels of development is essential to explore the ontological underpinnings of the condition of minority of the child in the discourses of modernity, which is exemplified by modern European scientific theories. Freud's theory of taboos (*Totem und Tabu*, first published in 1913), in this sense not dissimilarly from Shaftesbury's stoicism, puts at the foundation of human society self-regulation and self-control, exercised by separated individuals. Freud metaphorically and epistemologically link primitive societies to a condition of childhood, which allow a conceptual movement from cultural to generational relationships. Childhood, of humanity as of the individual, is marked by lack of self-control and separation from the world. From influential Freud's theories, the idea of childhood as a society of *sauvages* within modernity places children in a liminal space in society where they are excluded from the

exercise of citizenship because of their incomplete separation from the adults. Another example is offered by Piaget's developmental psychology (*The Construction of Reality in the Child*, first published in 1954). Within a developmental framework that culminates with the full autonomy of the individual (the empirical manifestation of development is separation from others), young children are seen by Piaget as 'egocentric', in the sense that they are not aware of a difference between themselves and the rest of the world. Individual development refers to the ability to create a distinction between self and the world. Separation between self and the world is the goal of child's development, and a condition to access to reason. Both Freud and Piaget's theories depict change as a movement from a less to a more desirable state, coinciding with normatively stipulated anticipations of improvements as the child accomplishes the transitions to the adult life phase.

5. The tripartite semantics of childhood through the lenses of children's right of self-determination

Taylor comments that the ultimate function of the coupling of dignity and levels of development was to detect a shared quality among aristocracy and the emerging bourgeoisie, which would otherwise be separated by degrees of honour. However, such coupling functioned as a catalyst for the generation of social semantics, in form of categorical distinctions to be applied to the history of societies (savages against civilised), gender (female against male), ethnicity (black people against white people) and personal development (child against adult).

In late modernity, the coupling between dignity and levels of development is currently accepted in the public discourse only regarding intergenerational order (Jost *et al.*, 2022), and in particular within education (although it has been made the object of criticism, particularly from the area of childhood studies (Leonard, 2016; Wyness, 2013).

An important question concerns the implications of the coupling of dignity and levels of development for the semantics of childhood. It will be argued in this section that the coupling of dignity and levels of development is a major force in the semantics of childhood.

First, it is possible to start with a question, emerging from the previous discussion on the consequence of the application of the principle of development to the construction of children as a social category. If children are the 'egocentric sauvages' who are excluded from the exercise of citizenship due to their (still) incomplete separateness, does this entail that children are excluded by the exercise of human rights?

Another concept introduced by Taylor can help developing the discussion at this crucial point: the idea of *separability*. Separability refers the possibility of *future* separateness, and it is an attribute of universal dignity. Separability refers to the observation of the future adult that resides in each current child. Bringing separateness back in the semantics of childhood as a reference to future-oriented potential, that is, as separability, allows an ambivalence in legislation and policies between 'human rights', concerning the preservation of the individual, and 'personal rights', concerning inclusion in all social domains. Separateness in the present is component of the individual condition of sufficient development and it is the foundation of *personal rights* that preside to conditional inclusion in the different social domains. Examples of personal rights are the right to vote, the right to property, the freedom of movement: these are all rights that are conditional on the level of development as evidence by separateness from others.

Separability, the potential for future separateness, is intrinsic in universal human dignity and, when applied to children, is the foundation of universal human rights, with the full inclusion of children.

Developing the theorization of human rights as social institution by Verschraegen (2002), subsequently revisited by Teubner (2012) as well as by Madsen and Verschraegen (2013), it is possible to approach children's right of self-determination as the socio-cultural process of the construction of the individuality of the child through a dogmatic of dignity. The complexity generated by the intersection of different discourses on children's self-determination transpires from the United Nations Convention on the Rights of the Child, which will be reviewed in the following sections of the article. In fact, Taylor's historical semantics of human value allows recognizing in the empirical definition of children's rights in the UNCRC as an example of a tripartite construction of a semantics of childhood in the *material dimension*, in the *temporal dimension* and in the *social dimension*.

6. The complexity of self-determination: The case-study of the United Nations Convention on the Rights of the Child

Divergent discourses and positioning of children and adults coexist, and are vividly represented, in the United Nations Convention on the Rights of the Child (UNCRC, 1989). The discourse on children's interests and the discourse on children's needs construct very different meanings of children's rights, with material implications for their social experiences. For instance, the discourse on children's interests and the discourse on children's needs contribute to a complex and sometimes contradictory definition of the right of self-determination in the UNCRC.

The UNCRC is a pivotal document that serves as a global frame of reference for children's rights in legal, professional and political terms (Freeman, 2002; Thomas, 2007; Stoecklin, 2013; Smith, 2016; Leonard, 2016). The UNCRC challenges the position of children as passive objects of care and charity (UNICEF, 2015) and could therefore appear to be underpinned by the discourse of children's interest, moving away from the children's needs approach connotating its predecessor, the 1959 Declaration of Children's Rights. Nevertheless, the UNCRC also lends itself as an example of the ambiguous status of children's rights, where welfare rights are juxtaposed with self-determination rights in an unstable balance that influences the meaning of self-determination.

It is possible to explore the *material dimension* of the semantics of childhood revealed by the UNCRC. From this angle, children's rights are human rights in a narrow sense, concerning the preservation of potential separateness, that is, the separability of the child. Separability can legitimate the possessive love of those who extend a claim on children, just as it can rule against possessive exploitation. On the contrary, whilst separateness is constructed in the social spheres by help of the principle of dignity, it must be based on the attribute of development. Separability without separation, as it is the case for children within development framework, does not coincide with separation. The semantics of children's rights is based on the dogmatic of dignity, but dignity does not define human value.

Dignity generates inclusive and universal human rights which include children because separability is sufficient to support it. However, differently from universal human rights, personal rights, which are often categorised using the meta-concept of *citizenship* (Mattheis, 2012), generate exclusive and conditional access to important social domains (Farini, 2019, Juliussen *et al.*, 2023). For example, in the education system children do

not experience the negation of their human rights. In fact, education is provided, to use the language of the Convention on the Rights of the Child (UNCRC, 1989) ‘for the best interest of the child’ (Article 3). What children experience in education is the exclusion from ‘personal rights’, that is, the exclusion from citizenship in the education system (Biesta & Lawy, 2006; Farini, 2019). While the semantics of rights is based on the dogmatic of human dignity (Luhmann, 1981; Teubner, 1988, 2010), human dignity that does not presuppose human value. Separateness from others, self-governance and independence allow to define different grades of individual value, that qualify the universal attribution of dignity. The semantics of childhood is constructed in different social spheres, but a common thread is children’s limited access to personal rights. Children have dignity, but are not separated from others, consequently to their incomplete development: this contributes to legitimize the creation, typical of European modernity, of the condition of moral and legal minority.

Theories on the semantics of human value developed in modern constitutional thought (Dunoff *et al.*, 2015; Joerges *et al.*, 2004; Teubner, 2022) can help understanding the ambiguous relationship between children and citizenship, where citizenship refers to the possibility to actively participate in all social domains. Contemporary constitutional theories emphasise that citizenship is not linked to universalistic dignity, but to the conditional inclusion in all social domains (Golia & Teubner, 2021), which is normatively constructed as personal rights. Dignity, and not personal rights, is the foundation of children’s right of self-determination, which in turn have been underpinning education and care policies on a global scale. Children’s right of self-determination as a generation-based expression of human rights, can be understood, with Teubner (2010), as the semantic foundation that *constitutionalisation* of the child, that is, the preservation of the conditions of children’s dignity. An influential example of constitutionalisation of the child is offered by the Convention on the Rights of the Child (UNCRC). The UNCRC globally strives to change the way children are treated and protected from neglect, abuse and exploitation and although the UNCRC is a set of rights for children, it regards human rights, providing children with a distinct set of rights instead of as passive objects of care and charity (UNICEF, 2015).

Lee (2005) elaborated the distinction between human rights, concerning the preservation of human dignity, from ‘personal rights’, concerning inclusion in all social domains and therefore defining the meaning of citizenship. Whilst Lee’s aim is to classify different forms of rights, the separation between citizenship and human rights has been elsewhere recognised as pivotal in the crisis of modern constitutionalism (Dimitrijevic, 2019). This is particularly important in relation to children, because it opens a space for the ambivalence between the recognition of children’s rights as human rights and a conditional concept of children’s citizenship.

The critical discussion of the UNCRC vis-à-vis children’s right of self-determination can begin from article 3 of the Convention, which is the discursive space where the construction of a semantics of childhood at the intersection of dignity and levels of development extends to the *temporal dimension*. The temporal dimension informs the cultural form of minority in European modernity, which entails skeptical observations of children’s citizenship in the present: without a careful evaluation of each child’s levels of current separateness, self-governance and independence, his or her citizenship in the present can become a risk for the development of the future adult. Minority is a component of the semantics of children’s rights which transpires, for instance, from the

article 3 of the UNCRC. Article 3 introduces the concept of child's best interests, to be defined by adults for and on behalf of children.

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration'. Article 3 (UNCRC, 1989).

Notwithstanding the use of the word 'interest' article 3 promotes a welfare rights model within a children's needs discourse (Landsdown, 2005; Lundy *et al.*, 2012). Children's interests are defined by the adult, for children. Here, with a degree of linguistic ambiguity, 'interest' is used to frame the rights of the child within a 'children needs' discourse. Best interests are not defined and advocated from the child for the child (and the adult) but are defined by the adult for the child.

The concept of best interest was already present in the 1959 Declaration, where it can be traced as one of the Declaration's ethical pillars. By stating in its preamble that *the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth*, the 1959 Declaration firmly establishes itself within the discourse of children's needs.

However, whilst it is influenced by the discourse of children's needs, as particularly evident in article 3, the UNCRC is more complex and more fluid, than the 1959 Declaration. An example of such complexity is offered by well-researched sequences of UNCRC articles 12 to 15. These articles define the meaning of children's self-determination, diverging from the semantics of childhood enshrined in article 3.

The protection of the separability potential introduces the construction of a semantics of childhood the *social dimension* of children's right of self-determination. In the social dimension, the semantics of children's rights as human rights underpins the position of children's citizenship in the present as subordinate to the responsible adult. This is what Baraldi and Ceccoli (2023) present as the paradox of agency: the relevance of children's agency depends on the relevance of adults' actions in promoting children's actions; this paradox originates from the positioning of children, who have no access to the most important decision-making process in social systems. Article 12 is surely the most discussed, as well as the most criticised:

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.

Article 12 is generally known as *the self-determination article*, because it advances an image of children as active subjects who are not given but *have* rights, whose views are to be given due weight and recognition (Tisdal & Punch, 2012; Riddell & Tisdal, 2021). Nevertheless, while it is true that emphasis is placed on the *opportunity (for the child) to be heard in any judicial and administrative proceedings affecting the child*; the apparent drive towards children's autonomy is diluted in a model of tutorship by the specification that the child's voice (interestingly, the *child* is conceptualised as an abstract category, rather than recognising the plurality of *children's voices*) can be raised *via a representative or an appropriate body*. The practical consequence of such linguistic turn is that, in order to be heard, children's voices must be accepted by adults. Adults are

responsible for assessing capacities and competences of children, because only capable children (according to adults' criteria and standards) have the right to be heard.

Again in 2015, an interpretation and summary of article 12 published by UNICEF stated that children should be seen as objects of protection rather than subjects with interests. The commentary is adamant that the children's right of self-determination should not undermine the right and duty of the adult to make decision for protection of the child. Children's voices should be heard, if they converge with adults' vision of children's needs. It appears that the UNCRC (1989) brings forward the idea that children's social competence should be checked by adults before the children's right of self-determination can be *conceded*. From this critical perspective, Wyness (2012) can argue the UNCRC is framed by a paternalist version of children's rights, where children's voices are ultimately spoken and narrated by adults.

The ambiguities in the meaning of self-determination that emerges from a critical analysis of the UNCRC are considered by Burr (2004) as the consequence of a weak ontology of children's right of self-determination that are built on the coexistence of the ultimately incompatible concepts of *protection* and *participation*. Alderson (2008) offers a more nuanced analysis stating that both protection and participation are essential for children's active citizenship. Baraldi and Cockburn (2018) suggest that although welfare rights and self-determination rights are not easy to combine, they are interdependent in practice: provision, participation and protection must include an element of children's participation to connect with the real needs of children. Conversely, participation cannot exist if provision and protection are not secured, because participation needs that basic well-being requirement are met.

The UNCRC may have solved its inherent ambiguity opting for an often-paternalistic tone; nevertheless, even the most critical approach should recognise that the UNCRC has been a driving force that managed to firmly insert children's self-determination in the public discourse (Moss & Durban, 2020). From a philosophical perspective, the main contribution of the UNCRC is the constitutionalisation of the human rights of children, therefore of children's agency. The UNCRC stands as a cultural landmark that advanced the transformation of children's right of self-determination in a social institution and while doing this, reproducing in the legal system the ambiguity that can be traced back to the paradoxical coupling of the principles of dignity and development. The combination between 1) the principles of *protection* and *provision*, both rooted in a semantics of human rights that require adults to act *for* and *on behalf of* children and 2) the semantics of the children's right of self-determination that makes it accessible based on children's supposed capacity of responsible decision-making, can transform the principle 'levels of development' into a universal principle that continues to generate social semantic. Freeman suggests that protection of children can turn into oppressive control without the *recognition of their autonomy, both actual and potential* (Freeman, 1996). In particular, , it is the recognition and protection of present potential of future autonomy (separability) that contrast the recognition of autonomy in the present. The cultural battle between potential and actual is often won by the former and this influences the semantics of childhood produced across several social systems and this influences the semantics of childhood produced in social systems such as, among others, education, the family, health, law, politics. The ambiguous status of the children's right of self-determination within the UNCRC, as well as the ambiguities in the same language utilised to declare it, lends itself as an example.

Throughout the 35 years that separate the current day from the declaration of the UNCRC, the new ontology of self-determination has contributed to gradual, often inconsistent but nevertheless consequential, transformation of the discourses on childhood and children's right of self-determination across different social spheres. For instance, the ontological concept of children's self-determination can be traced back in the transformation of the pedagogical discourse around education for young children, towards the development of a cultural framework that position children as agents in their own education.

7. The social semantics of children's self-determination and cultural transformation: The case of Early Childhood Education

This section explores the cultural shift in the construction of childhood that has been fuelling, since the early 1990s, the development of early childhood education as a pedagogy, that is, an educational discourse on children's development, centred around the recognition of children's right of self-determination.

Young children actively make sense of the physical, social and cultural dimensions of the world they inhabit, learning progressively from their activities and their interactions with others, children as well as adults (UNCRC, 2005).

This quote from the United Nations Committee on the Rights of the Child (2005) is exemplary of the shift in the positioning of children and adults in the public discourse. Claiming that young children *learn progressively from their activities and their interactions with others* entails the recognition of young children's role as authors of their own learning and development. Learning from interactions means that development is not the outcome of children's internalisation of knowledge transmitted by adults; rather, development is a process whereby children *actively make sense of the physical, social and cultural dimensions of the world that they inhabit*.

The autonomy of children's construction of the meanings of their experiences; an active role in learning; an interactive and relational ontology of development: these are the pillars supporting the development, since the early 1990s of the discourse of Early Childhood Studies (ECS). ECS is a discourse on childhood where several disciplines interact, sometimes within the same scholarly work or research. The coherence and disciplinary identity of ECS thus resides in the positioning of children as authors of their own development and active participants in the contexts of their social experiences. Notwithstanding different disciplinary backgrounds and professional interests, researchers, scholars and practitioners who contribute to the discourse of Early Childhood Studies share a fundamental perspective: the question is not *if* children should be listened to; the question is *how* to listen to them (Murray, 2019; McDowall-Clark, 2020; Clark, 2020). The discourse of ECS is supported by the contribution of several disciplines and enriches the discourses of several disciplines, of course including educational research and scholarship. The interdisciplinary ECS discourse on education for young children has generated a pedagogical discourse: Early Childhood Education (ECE).

The discourse on education for young children that underpins ECE is centred around a view of children as unique individuals whose experiences cannot be reduced within adult-constructed expectations of staged development. ECE challenges the idea that the positioning of children should depend on adults' assessment that uses criteria external to

the experiences of children. Coherently with the ECS plea for an active role of children in their own development, ECE recognises that children have unique ways to enter, live and leave the early phase of their life. ECS view young children as capable, competent and creative social actors (Farrell, 2005). This can be considered a pillar of ECE. How does the ontology of childhood developed by ECS inform pedagogical debate via ECE?

The idea of children as active participants to their own learning is a tenet of ECE (Bruce, 2021; Tovey & Waller, 2014; Palmer & Read, 2020) which develops from the legacy of pedagogists such as Vygotsky, Froebel, Montessori, Rousseau and Pestalozzi (Reed & Walker, 2015).

In 2021, the association of Early Education professionals and scholars *Birth to Five Matters Early Years Coalition Group* challenged the top-down model of transmission of knowledge underpinning school education, already criticised by the works of Tisdall (2015), Moss and Cameron (2020), Scollan and Farini (2021) among many others. Birth to Five Matters Early Years Coalition Group advocates for the application of ECE principles that the uniqueness of each child should be supported by bringing their individual life experiences and knowledge into the classroom environment. This means that children's knowledge and life experiences should be approached as a resource for education rather than being marginalised by standardised curricula.

The idea of children as active participants to their own learning is based on an underpinning epistemological theory that positions children, as all other individuals, as active constructors of knowledge.

Listening to the voices of children is essential for ECE to develop pedagogies that value the uniqueness of the child (Bath, 2013; Clark, 2020; McDowall-Clark, 2020). The pedagogical discourse of ECE is propelled by a vision of children as competent and trustworthy agents, who are positioned as equals to adults within non-hierarchical intergenerational relationships. The implications of non-hierarchical intergenerational relationships for education is that ECE not only positions children as co-authors of their learning; they are also positioned as potential leaders of adults' learning (Cagliari *et al.*, 2016; Baraldi *et al.*, 2018; Farini, 2019; Murray *et al.*, 2019). Children and adults can move between roles and children can be leaders of learning (Malaguzzi, 1996).

The positioning of children and adults as agents with equal opportunities to construct knowledge in educational interactions entails that children's choices can make a difference, changing the context and agenda of learning. White (2016) argues that *teachers and children need to be prepared to be altered in dialogic pedagogy which is an attitude and poised resourcefulness* (White, 2016). *Poised resourcefulness* refers to creativity, resilience and focus on relationships. Teachers thus need attunement to the unique child but, most importantly, they need to be prepared to learn from children in a dialogical co-construction of learning (Allen *et al.*, 2019). This is implied in the idea of children's access to the status of legitimate authors of knowledge (Bush, 2008; Cameron & Moss, 2020).

ECE is organic to a cultural shift in the discourse on childhood that has been challenging the mainstream construction of childhood for more than 30 years, across different disciplines. ECE critique of pedagogy and professional identities has become a transformative act (Bruce, 2021), as educationalists challenge the top-down model of transmission of knowledge underpinning school education, advocating for the application of ECE principles, starting from the principle of the *unique child*, where each child should be supported by valuing his or her individual life experiences and knowledges (Georgeson *et al.*, 2015). If children are considered as authors of knowledge and co-constructors of

education, professionals are invested with the challenge of waiving control on children, trusting their active participation and autonomous choices as a resource for education (Georgeson *et al.*, 2015). The promotion of children's autonomous choices as a resource for education relates to the recognition of children's right of self-determination.

Children's self-determination is at the centre of important theoretical developments in the discourse of ECE, with implication for educational practices. ECE positions children as competent and responsible co-constructors of their social worlds, social actors from the beginning of life (Osgood, 2009), holders of rights independently from adults' concession (Murray, 2019). Children's access to the status of constructor of valid knowledge has been recently positioned within the emerging discourse on sustainability: the recognition of children's self-determination and agentic contribution to the construction of knowledge promotes their active engagement in educational interaction, making the planning and practice of education more sustainable (Farini & Scollan, 2021).

Within the social sphere of education, the pedagogical discourse of ECE epitomises a movement towards the recognition of young children's right of self-determination that positions them as autonomous decision-makers. This movement, accelerated by the UNCRC, has successfully paved the way for the inclusion of young children in the discourse around children's self-determination, starting from a social context such as education, which is universally considered as pivotal in children's lives. This is evidenced by a review of the recommendations of the UNICEF-sponsored *Committee on the Rights of the Child* that, already in 2005, recognised young children as *holders of all rights enshrined in the Convention [because] early childhood is a critical period for the realization of these rights*.

8. Conclusion

An exploration of the intersection between discourses on childhood and the debate on the meaning of children's rights, with a focus on the rights of self-determination, was undertaken in this article. The ambiguous status of children's right of self-determination, caught between the diverging discourses of children's interests and children's needs was captured. What was also captured is that the semantics of children's right of self-determination can maintain its unity as a cultural form if coupled with a further distinction, between human rights and personal rights, which continue to generate social semantic. The ambiguity of the semantics of children's right of self-determination can resolve, at least discursively, the paradoxes emerging in the operations of social systems, such as the education system (Luhmann, 2003). The construction of the right of self-determination as human right based on human dignity, separated from the access to personal rights which is based on human development, securing its viability the right of self-determination as description of the coexistence between inter-generational order (differential access to personal rights) and human rights, which are universally accessed because they are based on dignity. For example, the construction of the right of self-determination as human right based on human dignity creates social space for children's agentic participation, as it is the case when children demand that adults take responsibility for climate change (Trott, 2024), based on their human right to a dignified future.

The coexistence between the principles of *protection* and *provision*, that require adults to act *for* and *on behalf of* children on the one hand and the principle of *self-determination* that refers to the capability of children decision-making to influence the contexts of children's social experiences on the other hand, remains problematic.

Freeman suggests that protection of children can turn into oppressive control without the *recognition of their autonomy, both actual and potential* (Freeman, 1996). The status of the children's right of self-determination within the UNCRC, the ambiguities in the same language used to declare it, lends itself as an example. The *conditionality* of self-determination puts children's competence and capability to make decisions as dependent on age and age-related level of development, theorised and measured by adults.

The semantics of children's right of self-determination is ambiguous because it reflects a paradox of inter-generational relationships in European modernity, where a fundamental social process, the reproduction of generational order, coexists uneasily with a fundamental social institution, human rights. Nevertheless, it can also be argued that the ontological concept of self-determination as intrinsic to the existential condition of children, recognised in the UNCRC, represents a fruitful shift in the positioning of children across different social spheres. The transformation of the pedagogical discourse on education for young children was used as a case study that demonstrates how changes in the discourse on childhood and children's right of self-determination have promoted practical and consequential changes in children's lived experiences, for instance changes in how teaching and learning are conceptualised and designed.

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