Chapter 5 Infants' and Toddlers' Rights in Early Childhood Settings



Research Perspectives Informing Pedagogical Practice

Andi Salamon and Ioanna Palaiologou

Abstract Globally, early childhood education and care (ECEC) settings are increasingly influenced by the United Nations Convention on the Rights of the Child (UNCRC) (United Nations, Convention on the Rights of the Child. United Nations, Geneva, 1989). The Convention emphasises that the best interests of the child is a central focus for actions and decisions concerning children. This includes the best interests of infants and toddlers. Enacting rights that emphasise children as participants in research and practices that involve them (Articles 3.3, 12, 13 and 36), has led to an exploration of methods and practices that support this aim. However, this chapter problematises the notion of participation in relation to infants and toddlers. Coming from UK and Australian perspectives (and experiences that have shaped the authors' epistemological standpoints), the authors argue that participation with infants and toddlers might be an illusion. They also address some of the asymmetries of the rights of children under the age of three in ECEC. In this chapter, the authors discuss how participation can be conceptualised in practice and research with infants and toddlers at two levels. Firstly, axiologically, the discussion evolves around the core principles of participation and questions how these axioms can be understood in practice and research with infants and toddlers. Secondly, ontologically, the authors discuss the asymmetries of children's rights in practice

A. Salamon (⊠)

Faculty of Arts and Education, Charles Sturt University, Bathurst, NSW, Australia e-mail: asalamon@csu.edu.au

I. Palaiologou

School of Education (Psychology in Education), University of Bristol, Bristol, England, UK e-mail: ioanna.palaiologou@bristol.ac.uk

and research, and the role of participation. Finally, the chapter concludes by suggesting a changing in discourse, and makes the case that instead of focusing on how participation can be achieved with children under three in practice and research, the focus should be to achieve ethical praxis by acknowledging ethical permeability, relatability, Otherness and emotional capital.

Keywords Children's rights · Participation · Axiology · Ethical praxis · Permeability

Introduction

The United Nations Convention on the Rights of the Child (UNCRC) (United Nations, 1989), and its near universal ratification by state parties of the United Nations (UN), has promoted developmental, protection and participation rights as fundamental for children. Most countries that belong to the UN have changed aspects of their domestic policies, legislation and practices in order to uphold these UNCRC rights (Kilkelly, 2017). For example, in 2009 the Swedish government changed the name of its Child Policy to Child Rights Policy to demonstrate their commitment to implementing the rights of the child (Swedish Parliament/Riksdag, 2012/2013). Arguably, the UNCRC created a public debate that has affected how children are viewed, and prompted an ideological shift that sees children as agentic human beings with the right to be included and involved in all aspects of their daily lives. Subsequently, the UNCRC, and children's right to participation (European Court of Human Rights, 2014), has increasingly gained recognition in education systems and curricula, including in early childhood education and care (ECEC).

ECEC contexts worldwide work within a wide range of legislative requirements, adhering to regulatory standards and curriculum documents. These may be designed with reference to the requirements of the UNCRC to promote the best interests of children and uphold their rights to provision and protection. In Australia, for example, the Education and Care Services National Regulations (New South Wales Government, 2018) stipulates that children's dignity and rights should be considered through both the design of premises that appropriately facilitate supervision and through interactions between educators and children. Another example comes from England where the statutory Framework for Early Years Foundation Stage (Department for Education [DfE], 2017) emphasises safeguarding children and their welfare, at a time when photographing children is central to pedagogical programming and planning. Within the safeguarding policy and procedures are clear explanations of how visual data of children in ECEC settings are used, stored and communicated with parents, including policies for the use of mobile phones and cameras (DfE, 2017). These legislative efforts reflect an ongoing interest in upholding young children's rights to provision and protection.

At the same time, a shift in focus on the participation rights of very young children is increasingly expounded in early years contexts. Regulatory and curriculum documents mandate assessment of the child's "needs, interests, experiences and participation" in educational programs (NSW Government, 2018, Regulation 74), guided by the recognition of children's right to "play and be active participants in all matters affecting their lives" (Department of Education, Employment and Workplace Relations [DEEWR], 2009, p. 5). Similarly, in each of the UK's constituent countries' (England, Wales, Scotland, Northern Ireland) different curriculum frameworks, whilst the emphasis on areas of development might differ, key to all is an emphasis on play, play-based learning and children's voices. In all the UK's curricula, there is an emphasis on promoting children's rights and on valuing children's voices, no matter their age or evolving capacities (e.g. DfE, 2012).

This shift in focus on young children's participation rights is also reflected in national and institutional (e.g. universities) ethical guidelines for research with young children and young people. In particular, ethical concerns about research involving children centres on their capacity to understand the research process and "whether their consent to participate is sufficient for their participation" (Australian Research Council, 2015, p. 50). With an emphasis in the field of ECEC research on children being actively involved participants in research (Mesquita-Pires, 2012; Pascal & Bertram, 2012), there is a potential divide between ethical discourses and guidelines that seek consent of young research participants and how they are enacted in practice. Subsequently, researchers have started examining how they can conduct rigorous research that involves children (including infants and toddlers) as participants, that also informs and improves pedagogical practice (Gallacher & Gallagher, 2008; Harrison et al., 2017; Murray, 2017; Palaiologou, 2017; Powell & Smith, 2009; Salamon, 2017b).

The quest for rigorous research with children as participants is laudable but complex when research concerns infants and toddlers. Indeed, participatory research involving infants has been the focus of increasing interest and critique. Research that aims to capture infants' perspectives (Sumsion et al., 2014; Yoshida & Smith, 2008) and enhance their participation (Salamon, 2015; Sumsion et al., 2011), has aimed to capture infants' lived experiences in ECEC contexts. However, the true nature of infants' participation in research and ECEC is problematic. Researchers have highlighted that it is difficult to gain infants' perspectives (Elwick & Sumsion, 2013; Elwick et al., 2014), authentically incorporate infants' active involvement in research processes (Salamon, 2015) and demonstrate how infants can be participants with the means to influence and shape practice and research (Palaiologou, 2014). The problematic nature of infant and toddler participation is the result of an *illusion of participation*, grounded in the valuing of some rights over others. The following discussion examines this illusion and the accompanying asymmetry of the rights of children under three.

The Illusion of Participation

The World Health Organization (2007) defines participation as "involvement in life situations" (p. 9). Saxena (2011) extends this definition thus: "the essence of participation is exercising voice and choice", which is facilitated by "developing the human, organisational and management capacity to solve problems as they arise in order to sustain improvement" (p. 31). Within the social contexts of participation, "manifestation of individual agency" (Percy-Smith & Thomas, 2010, p. 357) is enabled. The key characteristics of participation are agency, empowerment, the ability to voice one's views, choice, involvement and decision making. However, it is important to consider whether the interests of researchers and partners align with such conceptions of participation (Kristiansen & Bloch-Poulsen, 2014), and to acknowledge the implementation of participation differs from one context to another. Researching and working with infants and toddlers has axiological challenges in terms of understanding the concept of participation, how the children are positioned in relation to adults in power, and how the children can exercise agency.

Axiological Challenges of Participation

Participation of children in decision making and in research is now the locus of a new sociology of childhood that underpins practice and research with children (Jones & Welch, 2010; Morrow & Pells, 2017; Powell & Smith, 2009; Punch, 2002). Contemporary research in early childhood education seeks ways "to bridge the gap" between capturing children's experiences of the world "as it is lived from their own voices and the rigour of scientific research and dispassionate explanation" (Smith et al., 2002, p. 11). Children are presented as agentic social beings within the idea of "children's agency in their own constructions of knowledge" (Murray, 2016, p. 718)—and infants and toddlers in particular, are being recognised for their sophisticated agentic capabilities (Elwick et al., 2014; Salamon, 2017a). Consequently, the field of early childhood research and practice is experiencing an increasing amount of research that examines participatory approaches. In an attempt to inform practice "against the backdrop of the objectification of children by traditional and psychological social research, participatory approaches appear emancipatory and democratic, respecting children's agency as individuals in their own right" (Gallacher & Gallagher, 2008, p. 499).

We argue that the core axiological challenge lies with an *adultomorphic* interpretation of children's participation that encompasses a passive agenda. Adults are most often the ones who determine the content and process of participation and communicate children's views to others. In that sense, participation can be tokenistic and can hide a controlling agenda behind the ensuing deliberation (Dahlstedt & Fejes, 2015). This *adultcentric* role in children's participation is also identified by Lundy (2007), who argues that in order to achieve participation in schools, adults should create conditions for children and young people to have a voice and listen to

and respect children's views, which ultimately act as factors of influence. In traditional systems of education, whether this occurs is often out of children's control. When we seek to listen to infants' and toddlers' voices this becomes even more problematic, because participation is often seen as the verbal ability to articulate one's views about the matters of participation that concern them so adults can respond and act on them.

Thus, we argue here for the use of ethics to critically examine young children's participation in ECEC research, to avoid an "easy classification" (Mazzei & Jackson, 2009, p. 4) of participation and voice that becomes "domesticated" by and for adultcentred purposes (p. 7), being treated in ways that are "too easy" (Lather, 2007), or merely involving another technique to be followed. Instead we should "seek the messy, opaque, polyphonic; a voice that exceeds easy knowing and quick understanding" (Mazzei, 2009, p. 50). We propose that participation should be examined as a "multidimensional social construction, which is subject to change" (Komulainen 2007, cited in Harcourt & Einarsdottir, 2011, p. 303), and is largely dependent on the social site of its practice. Following Mazzei (2009), for example, messy participation in Australian ECEC contexts may include deciding whether infants should sleep in outdoor environments while other children play. This might look different in the UK. Furthermore, we advocate that when infants and toddlers are involved in practice or research, we need to move beyond the term voice—as synonymous to participation—and engage with ethical axioms that capture the ontological standpoints of children's rights.

Ontological Challenges: Asymmetries of Children's Rights

As explained above, an emphasis on children's participation rights now underpins a frame of reference in ECEC practice and research (Bergold & Thomas, 2012; Christensen & James, 2000; Clark, 2011, 2014). However, children's rights—especially when it comes to children under three—are connected to some asymmetries that need to be considered when we try to enact them in ECEC.

The first asymmetry—which applies to all children's rights—derives from the debate as to whether children's rights are a part of, or different from, human rights in general. In the field of research and practice examining children's rights, there are some who support the idea that children's rights cannot be seen as separate from broader human rights (Alderson, 1999; Bennet & Hart, 2001; Bobbio, 1996). Others claim, however, that the "rights that children have, differ from the general rights of humans" (Brantefors & Quennerstedt, 2016, p. 2). Quennerstedt (2010) argues, for example, that within the UN (1966), rights are referred to as civil, political, economic, social and cultural, but within the UNCRC, children's rights focus on development, survival, protection and participation. This creates a divide in the discourse of human rights and children's rights and necessitates a view of children's rights as needing to be understood in the social and cultural worlds of their experiences, such as education, play and their evolving capacities.

The second asymmetry lies with the duty of care of adults. The UNCRC states clearly that it is the duty of adults to make sure that all children are aware of their rights and that "children [should] have the right to be involved and to be heard in matters that affect them" (Sandberg & Ärlemalm-Hagsér, 2011, p. 46). However, according to the Convention, children's rights "cannot exist unless they are transformed into a behavior only possible through education" (Akengin, 2008, p. 226). For infants and toddlers, this education is oriented by the educators *knowing* best how to create an environment where children are protected and their developmental rights can flourish. Given infants' limited verbal capacities, adults often translate what *knowing best* is into attempts to protect and support them. This raises the issue of whether there is a hierarchy of rights. According to the UNCRC all rights are equal; however, with infants and toddlers, adults have to use their judgement, align with rights-consistent practices and work within boundaries (e.g. codes of practice, legislation) to safeguard the under-threes. Arguably, this is likely to occur most often with infants and toddlers due to the construction, and at times the physical reality, of the youngest children as needy and vulnerable (Sorin, 2005; Woodrow, 1999). Ontologically, this places the under-threes in a situation where, in relation to their rights, they may not fully "inhabit" a rights-based life (Ingold, 2011, p. 145, emphasis in original), but, rather, live it through adults who work to ensure young children's rights are realised and fulfilled.

Thirdly, as previously mentioned, in recent years participatory rights have become synonymous with the concept of voice. While the appeal of participation (children's voice) has brought changes in research and practice, Ärlemalm-Hagsér (2014) cautions us that "children's right to participation is constrained with ambiguity and divergent views of how it is to be understood, as well as to be enacted, both in research, as in practice" (p. 104). The ambiguity and divergence exist in the potential differences between what an infant or toddler would consider their rights, and what an adult would, largely affected by cultural expectations. Listening to children under three and honouring their right to participation is driven by an adult agenda, which "may not mark a proper engagement with all the richness, strangeness and diversity of children's worlds" (Jones, 2008, p. 202). The power of the adult, when children try to express their own views (Alderson, 2013), is undeniable. Tensions exist when adults don't acknowledge or value children's voices by knowing better what is good for them (Warming, 2011), and when their duty of care to protect young children overrides the child's choice to participate. As emphasised in Article 3 in the UNCRC, those working with or researching alongside infants and toddlers, first and foremost have a responsibility to focus on children's best interests when making decisions regarding them. Children of this age are still in a developmental stage where they are often in need of provision that offers protection to safeguard their healthy survival. The rights of protection, survival and development are key, though, in some cases, they may be in asymmetry with the right to participation.

Changing Discourse: Ethical Praxis

As has been demonstrated in this chapter, the implementation of infants' and toddlers' rights has serious axiological and ontological challenges and tensions that require careful consideration in ECEC. We propose a shift in thinking about participation, and an attempt to conceptualise ethical praxis. As Palaiologou (2012) states:

ethical praxis is concerned with the exercise of logic, moral judgment and sensitivity to the contexts of children's lives, involving the latter's culture, religion, social values and economic and political situation. Thus the researcher [and the ECEC practitioners] should firstly develop a full understanding of the nature of the projects and methods under the lens of a set of principles orienting the ethical praxis. (p. 35)

We suggest that participatory research and practice should be intermingled and interconnected with *eupraxia* (good praxis). Eupraxia, a key element in ethics, should allow permeability for professionals and researchers who are concerned with the rights of children. Although ethical procedures concerning children's rights may be in place, they can vary, be limited and can still exclude infants in terms of content and processes. Extending our thinking on ethical praxis (Salamon, 2017b; Palaiologou, 2012, 2014), we argue that three elements can be added in our (re) conceptualisation of the rights for infants and toddlers: ethical permeability and relatability, Otherness, and emotional capital.

The Case for Ethical Permeability and Relatability

Mouffe (1993) suggests that "instead of trying to erase the traces of power and exclusion, democratic politics requires that they be brought to the fore, making them visible so that they can enter the terrain of contestation" (p. 149). In relation to infants' rights, this terrain acknowledges the inherent axiological and ontological challenges outlined earlier and does not try to erase the adultcentric nature of upholding infants' and toddlers' participation rights in research and practice. Rather, we argue that an ethical terrain of research and practice with infants and toddlers be created based on permeability (emotional responsiveness to children) and relatability (emotional relatability to children and children's spaces) (Palaiologou, 2020). Ethical permeability, tuning in and responding to young children's reactions to adults' actions, and relatability—relating to the child's world rather than trying to understand it from a position of power (Palaiologou, 2019, 2020), are central to a line of thinking that makes the challenges of participation for under-threes visible, and better honours infants' and toddlers' true capacity for participation.

In that sense we argue for more nuanced ethical practices when researching and working with infants, as a need to contest the linear, hierarchical or circular approaches to participatory research and practice. Instead, we suggest that ethical praxis and its permeability (emotional responsiveness) and relatability (emotional relatability) should be firmly placed in research and practice agendas to explore

potentialities of an axiomatic understanding of what is required for conducting ethically sound practice and research. Research and ECEC contexts should seek other dimensions in the rights discourse for infants and toddlers: permeability and relatability, as a way of evaluating ethical practice and research, and the extent that outcomes of this evaluation will alter the spaces and lived experiences of children. Salamon (2015), for example, evaluated how the infants in a research study did not *stick to the plan* intended in the methods, or how methods (intended to promote participation) actually inhibited how the toddlers chose to participate and subsequently altered how the research was conducted (Salamon, 2017b). Ethical praxis and its permeability and relatability should be firmly placed in research and practice agendas to better uphold children's rights with regard to content and processes.

The Case of Otherness

Broadly, the idea of the *Other* separates one (or a group) as different, based on distinguishing characteristics, to the more powerful and popularly represented group. More specifically, the concept of *the Other* has been studied extensively (e.g. Jones, 2009; Lacan 1936/2000; Levinas, 1985, 1991). In Australian, New Zealand and UK contexts, there is commonly a demarcation and Othering of infant and toddler pedagogy, compared with the relatively more acknowledged (and politically resourced) age group of the preschool (3–5) years. On the one hand, this has helped (rightly) acknowledge the specialised nature of infant and toddler pedagogy (Dalli et al., 2011; Ministry of Education, 1996; Rockel & Craw, 2011) and professional development unique to educators' work with infants and toddlers (Elfer, 2012; Elfer & Dearnley, 2007; Goouch & Powell, 2013). On the other hand, this reflects Gottlieb's (2000) claim about the Othering of infants, where she outlines the lack of anthropological literature about infants, a hallmark of cultural anthropology being to study "the Other" (p. 124).

The notion of infants as Other has been given attention by early childhood researchers examining the increase in participatory research with infants that attempts to represent their experiences. For example, working to avoid any reductive theoretical or conceptual notions of infants and their worlds, researchers concluded that inherent uncertainties of studying infants "reconstructs such research as a site for ethical rather than epistemological practice" (Elwick et al., 2014, p. 198). This is important, highlighting the ethical responsibilities of researchers working with infants. As Salamon (2015) notes, however, positioning infants as a group with whom research can be so challenging has the potential to result in the challenge becoming the focus. Rather, focusing on the commonalities of infants as participants (to some degree), while considering their inherent and unique differences, can be beneficial in both research and pedagogical practice (Salamon, 2015). This view acknowledges common characteristics of participation of all subjects, recognising the unique and context-specific differences of participants, and acknowledging the subjectivity of the researchers or educators. Interrogating one's own practices and

understandings about ethical praxis is essential to changing discourses and engaging in ethically responsive ways to "the potential power imbalances" between researchers, educators and (all) participants (Salamon, 2015, pp. 1027–1028).

The Case of Emotional Capital

Although adults are the ones who are responsible for the organisation of the physical environment, learning experiences and what forms of assessment will be implemented, infants have an exceptional capacity for developing and using sophisticated social and emotional communication skills to guide engagement with adults in their lives (Salamon, 2017a; Salamon & Harrison, 2015). Thus, it is possible to consider degrees of participation of infants and toddlers, and a first step to supporting a more holistic view of infants' rights is understanding the ways infants do participate. Emotional capital has recently been theorised in relation to infants' evocative emotional communication and engagement skills as involving "intentional emotional practices, including facial expressions, gestures and vocalisations" (Salamon et al., 2017, p. 371). This understanding of emotional capital can help frame practitioners' understandings in ways that impact on infants' participation rights. For example, if educators understood the emotional communication of infants as the sophisticated and purposeful repertoire of skills that it is, they might see how much infants actually do participate in natural and less overt ways than a planned learning experience (aimed to enhance participation) may do. By enabling educators' understandings of emotional capital, it may be possible to better reconcile concepts of voice with the observable practices that infants engage in, often being the ones in control and wielding the power. In doing so, infants can be seen to act with great agency and engage in ways that are far from passive, though the challenge of adults' interpretations remains.

In ECEC literature, developmental theory has been critiqued for its relevance in a diverse world, where children's development is influenced by sociocultural factors that cannot be reduced to universal norms (Dahlberg et al., 1999; MacNaughton, 1997). The potential to "throw the baby out with the bathwater" and lose valuable developmental ideas, however, by dismissing developmental theory completely, may be a part of the tension between how protection and participation rights are promoted in early years learning contexts. Rather than dismiss the challenges developmental theory may present, researchers and practitioners can navigate Mouffe's (1993) "terrain of contestation" (p. 149), in a bid to uphold a wider range of infants' rights. By drawing on understandings of developmental learning, as emotional capital does, educators can potentially enact infants' and toddlers' protection rights by acting in their best developmental interests and minimising harm. Further, understandings of emotional capital can help educators recognise infants' natural and seamless capacity for participation and help them engage in healthy relational dynamics that support and foster the development of beneficial dispositions for learning (Salamon, 2017a).

Conclusion

To conclude, we do not claim that we have identified all the asymmetries of the rights of infants and toddlers, but what we argue here is that (as adults) we do need to recognise that the enactment of their rights has ontological and axiological complexities. Working with and researching children under three raises issues of power asymmetries between rights. Adults are the ones who are responsible for infants' and toddlers' routines, organisation of the physical environment, learning experiences, what forms of assessment will be implemented, as well as their safety. Children under three usually have very little say in any of these discussions, which can cause tensions with the participation rights of infants and toddlers.

As adults, we need to acknowledge and raise the issue that practice and research about children's rights with under-threes might need to be (re)conceptualised to build better understandings of how we can construct ethical research and practice, which looks at and interpret infants' and toddlers' lived experiences "so that ethics and participation in research [and practice] stand next to each other" (Palaiologou, 2019, p. 41). As has been argued in this chapter, we need to (re)coneptualise what it is meant by participation of children under three. We argue that when ethical praxis underpins infants' and toddlers' participation, adults are responsive (emotional permeability), relate (relatability), and are attuned with infants' and toddlers' different, yet similar, (otherness) life narratives. Through the lens of ethical praxis, it is concluded that the asymmetries in rights can be balanced by better understanding infants' and toddlers' developmental capabilities and agentic nature (emotional capital) and being emotionally responsive in their lives.

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