

Towards a matrix of rights to public space for children and
young people in Australia

by

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*Submitted in fulfilment of the requirements for the
TASA Re-imagining Sociology Conference 2-5 December
2008 at The University of Melbourne*

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Abstract

Tensions frequently occur when children and young people seek to make use of a multitude of public spaces (Loader 1996; Brown 1998; White 1999; Valentine 2004; White and Wyn 2008). In Australia over a number of years, various strategies have been adopted by local councils, police and other stakeholders such as business groups, to respond to such tensions. Rarely, if ever, are children and young people involved in meaningful ways in the design and control of public space that reflects their needs and aspirations (White 1999; Freeman and Riordan 2002; Freeman 2006).

Deploying the prisms of urban planning and law and order to deal with perceived public space issues impacts adversely on children and young people, contributing to their partial or complete removal from public space (Harris 2006; Waiton 2001).

The provisional matrix presented here draws on existing material advocating child rights, extending these rights to include young people, as there are few frameworks of rights that are truly inclusive of young people (Skelton 2007).

Introduction

When advocates of child and youth rights seek support for arguments in favour of rights to public space and participation in the planning and ownership of spatial developments, they may reach for the 1989 United Nations Convention on the Rights of the Child or the *UNCROC*. Questions can be posed however, about the ongoing usefulness of this and other such instruments and whether they are as comprehensive,

inclusive and durable as they need to be, given the dynamic, socially constructed nature of the categories of 'child' and 'youth' (Brown 1998; Mathews 2001; Franklin 2002). In order to develop the discussion this paper examines the UNCROC further.

The UNCROC, adopted by the General Assembly of the United Nations in 1989, was ratified by the Australian Government in 1990 (Rayner 2002). The background enabling the UNCROC to come into being is complex, building on years of lobbying by supporters of child and youth rights (UNCROC 1989).

The 54 Articles of the UNCROC span a broad array of rights having a bearing on the position of children and young people and includes articles setting out rights to: non-discrimination, survival and development, protection from abuse and neglect, social security, health, education and an adequate standard of living (UNCROC 1989). The UNCROC can be summarized as constituting the "three Ps", being rights to provision, protection and participation (Franklin 2002:19). Key articles in the UNCROC for the purposes of this paper are Article 14 (the right to freedom of thought), Article 15 (the right to freedom of association and assembly) and Article 12 (the right of children to be listened to in matters which affect them). Article 15 in particular, is the touchstone for many who work with children and young people around public space issues.

The UNCROC has provided an important vantage point when arguing the case for rights for both children and young people, amid a growing acknowledgement of them as competent individuals and important social actors in their own right (Watson 2006). This competence is evidenced in a broad range of social and economic activities, such that the category of child-youth, as conventionally understood as a

waiting room for the granting of adulthood and citizenship rights, is no longer tenable (Morrow 2002; Sercombe et al 2002; White and Wyn 2008). Arguments frequently arranged against the recognition of child-youth rights allege a lack of competence, as if this can be measured in absolute terms, rather than more usefully and equitably, “being displayed and evidenced in concrete settings” (Franklin 2002:24).

Opposition to rights for young people on the grounds of competence posit that children and young people because of their age and perversely perhaps, also due to a lack of decision-making experience, will make mistakes if entrusted with the authority to make decisions (Franklin 2002). However, the performance of the adult world suggests no shortage of flawed decision making and therefore “few reasons to boast about the practical rationality of adults” (Mortier 1999: 87). As most of the really important forms of learning usually emerge from what appear to be mistakes, “why not allow children, like adults, the possibility of learning from their mistakes and growing in knowledge and experience as a consequence?” (Franklin 2002:24).

Problems with ‘rights’

A central problem with devices like the UNCROC are that the “rights” contained within them are not rights in the legal sense of being both claimable and enforceable particularly as “states parties” can post reservations, thereby emasculating key aspects of the Convention (Roche 1997:32). Similarly, tensions exists between getting child and youth rights on the political agenda and seen as a significant policy area, and advocating for better rights for all humans, with coverage of these same rights to actively include children and young people (Moss and Petrie 2002).

Further problems occur with age specific rights as opposed to rights applying to all human beings, regardless of age. For example, the description of “every human being” aged under 18 as a child, as not yet adult, ignores both the diversity and complexity of being under 18 and assumes all childhoods everywhere, to be broadly the same (UNICEF 1989; Franklin 2002). The allocation of rights according to age is inherently flawed as a wide range of anomalies in the gaining of responsibilities and accretion of rights suggests (Jones 1996). This age based anomaly potentially cuts both ways, given the changing context of childhood and youth. The shortcomings of the opposition to the articulation of child-youth rights and the age based parameters of the UNCROC and even its nomenclature warrant critical examination and possible revision. For example, few adolescents aged 15-17 actually think of themselves as children and in some legislatures they may be legally entitled to marry and serve in the armed forces, but not to vote at elections or to drink alcohol (Brown 1998).

Perhaps a key frailty in the construction of the UNCROC and harshly exposed in current times, is that it reflects a “northern-centrism” in the assumptions that child and youth-hood is a fixed/linear condition conceived in straightforward terms, without taking into account the nature of children’s daily lives (Skelton 2007:43). The complexities of the lives of children and young people in places located away from the developed northern world are considerable and as they form the majority of children and young people in the world, their life experiences should be reflected in the UNCROC (Skelton 2007). To this end more than one UNCROC may be required. An alternative, or truly more inclusive UNCROC could provide a richer, more difficult picture of children and young people who are citizens and child soldiers,

heads of orphaned families and workers in major profit producing industries for the northern-industrial portion of the planet (Chawla 2002; Aitken et al 2007).

The concept of citizenship touched on earlier, while central to Western democratic practice is a contested landscape, where different emphases and values abound (Hall, Coffey and Williamson 1999). This is particularly the case for children and young people's claims on social citizenship, with its stated aspirations for participation, greater social equality and access to the benefits of health, education and a supportive and expansive welfare state (Marshall 1950). Social citizenship rights are largely about access to opportunities and quality of life issues and as considered by Marshall (1950) connect closely with elements of the United Nations Human Rights enactments of the 1940s as precursors to the UNCROC.

In broad terms, this paper argues that young people, citizenship and the use of public space are interdependent, mutually implicated spheres where social citizenship, following the principles set out by Marshall (1950) is concerned with full participation in the national social life. For Tonkiss (2005: 68) public space in the form of the street, the square and the café are "simple expressions of citizenship". The use of the term citizenship here is not concerned with the formal legal aspect of citizenship in the guise of passports and visas but much more around the central idea of a sense of belonging and as McNeely (1998: 9) notes, "the right to have rights".

Key approaches in the conceptualization of children and young people and their place within and rights to public space are outlined in the table below (Table 1).

Table 1: Matrix of key approaches to young people and public space:

Legal-civic approaches	Social well-being approaches	Child and youth rights approaches	Youth-unfriendly & control approaches
<p>Advocate for anti-discrimination and the legal rights to be in malls and other forms of public space.</p> <p>Legal questions around what is and what is not public space and who should be in it.</p> <p>Iveson's (1998) models of public space: the ceremonial, community, liberal and multi-public models</p>	<p>Stress the importance of fun, play and a positive social environment for the physical and mental health of children and young people.</p> <p>The use of public space by children and young people without feelings of threat and suspicion is central to their view of their community, wider society and self worth.</p>	<p>Rights to education, health, housing, income, protection, safety, association and protest.</p> <p>Rights to public space as an extension of these economic, political and social rights.</p> <p>Rights, standards, protections and expectations of <i>all</i> users of public space should be articulated.</p>	<p>Forms of neo-liberal governmentality that focus on technical issues of control and the pooling of data-the democratic question of rights is secondary to control and security.</p> <p>Material spatial practices of power and representation.</p> <p>Children and young people perceived as trouble or possible trouble in public spaces-suspicion greets them in shops, malls etc.</p>
<p>Key references: White 1990, 1996, 1998, 2001, Copeland 2004, Iveson 1998.</p>	<p>Key references: Gleeson 2006, Freeman 2002, Stanley, Richardson & Prior 2005.</p>	<p>Key references: The UNCROC 1989, Marshall 1950.</p>	<p>Children and young people 'planned out' of public space and excluded by a range of other means.</p>
Social citizenship approaches	Human rights approaches	Youth-friendly approaches	<p>Policing of public space is often coercive, where risk management frames dominate all other considerations- (e.g. technical advances in CCTV will lead to more intrusive surveillance).</p>
<p>Public space is a key expression of the rights and aspirations of social citizenship.</p> <p>Public space as "collective belonging and social exchange", with the street as the "basic unit of public life" (Tonkiss 2005:68)</p>	<p>Within which all children and young people are included. Public space is for all people. Children and young people are to be valued and supported.</p> <p>Critique of move-on and anti-terror laws in limiting the use of public space for young people.</p>	<p>Locate young people as members of the community and also citizens, consumers and workers using public space.</p> <p>Businesses and local communities also benefit from being youth-friendly.</p>	
<p>Key references: Jacobs 1965, Tonkiss 2005, Watson 2006, Dee 2008, Marshall 1950.</p>	<p>Key references: Petrie & Moss 2002, Mitchell 2003.</p>	<p>Key references: Heywood & Crane 1998, Wooden 1997, White & Wyn 2008, White 1996.</p>	<p>Key references: Loader 1996, Chawla 2002, Mitchell 2003, Valentine 2004, Harris 2006, Lefebvre 1974, Norris & Armstrong 1998.</p>

Table 1 indicates the range of approaches and concomitant issues discernable in much of the literature relating to children, young people and their use of public space. A broadly based human rights based approach lodged in conceptions of social citizenship, provides an important way of (re) configuring debates about public space.

The strategy adopted by Copeland (2004) is an interesting starting point, in looking at the application of common law and anti-discrimination legislation around the age based exclusion of young people from shopping malls. Copeland's project identifies the legal vagaries of what constitutes 'private' space and also the discriminatory practices of security personnel and others, in excluding some children and young people from malls and shopping centres (Copeland 2004). The general allure of the mall for children and young people of in terms of a meeting place, entertainment, food, cinemas, etc. is strong, with contextual niceties like heating in northern hemisphere locations, where the mall may be the warmest, most brightly lit place to go on a dark winter day (Dee 1995). For young people in Australia, the mall may literally be the *coolest* place to go on a hot and humid day (Harris 2006).

Copeland's approach, while specific to the quasi-private space of the mall, seeks to promote the clarification of broadly based human rights declarations around freedom of peaceful assembly and freedom of association. These declarations, contained in the UNCROC connect with efforts to articulate social citizenship based rights for children and young people, to be in public and hybrid-public-private forms of space as article 15 declares (UNCROC 1989):

“1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly. 2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law

and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of the rights and freedoms of others”.

A key problem exists however, in the capacity of modern, urban public space to genuinely accommodate children and young people’s need to experience excitement and fun in what has been termed “unprogrammed space” (Lynch 1977:71), or simply to ‘hang out’ in unstructured social space, with control by civic authorities a key concern (Valentine 1996, 2004, Harris, 2006, Gleeson and Snipe 2006). For many children and young people, their experiences of attempting to use public space are sometimes marred by the denial of everyday rights and courtesies. The reasons for this are complex and as White and Alder (1994:68) note “the central logic of the shopping mall” is the pursuit of commercial concerns. Therefore, denying what is the prime market of children and young people, simple but all important dignity and respect, makes poor commercial sense. It also negates their right to be treated in the same way as other citizens out and about in public space.

A key and related challenge is identified by Heywood and Crane (1998) in articulating the nature of the inclusion that many children and young people say they want from local communities and the wider society:

Inclusive policy and practice requires viewing young people as members of the community, rather than as separate to it. In operational terms this means emphasising that the goal of public and community space interest is to allow the rights of all members of the community to access core resources to be respected, and that young people are part of the community (p.248).

A successful model of rights to public space for children and young people would, in outline form, need to enshrine rights, protections, standards, responsibilities and expectations for all users of public space, giving equal weight to the interests and

demands of children and young people (Gleeson 2006). This work is clearly a task still in progress.

Conclusion

In adopting an approach based on key social, civil and political rights, including the right to a sense of belonging, rather than the presumed wrongs of children and young people, their aspirations and potential come to prominence, requiring a policy response that is more sophisticated and genuinely engaging than may be the case currently (Gleeson and Snipe 2006; Franklin 2002; White and Wyn 2008).

In a multitude of ways in many locations worldwide, public spaces are under attack from developments and control measures seeking to exclude children, young people and others (Watson 2006). In this climate of rapid sometimes violent, change within the nature of public space, it is becoming increasingly and highly contested as Mitchell (2003:164) notes:

What is at work is the implementation, at the urban scale, of a regulatory regime-and its ideological justification-appropriate to the globalizing neo-liberal political economy.

Perhaps there really cannot be too many rights which support the active use and enjoyment of all forms of public space, by children and young people. Gleeson (2006) suggests that viewing public space issues through the lens of social citizenship alongside the connected elements of civil and political citizenship, can revitalize and restore public space, something that ever increasing attempts at control, policing, camera surveillance and more stringent exclusion of 'undesirables', cannot achieve.

In promoting greater understanding and tolerance of the rights and needs of all users of public space, the spirit of Jacob's (1965) hope for the generations to mix together, sharing community infrastructure and yet maintaining personal safety and dignity, might become a reality for more children and young people around the world.

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