

Youth powerpack – Cultural expressions and the Rights of the Child

The Rights of the Child

As literature claims, the European Union (EU) is potentially one of the most powerful actors in protecting children's rights¹ although it does not have a long-lasting tradition in doing so.² The EU began including children's rights protection in EU policies at a relatively late stage. The first legal step towards child protection's recognition was with the Treaty of Lisbon, which introduced an objective to promote children's rights (Article 3(3) TEU).

The protection and promotion of children's rights is an explicit objective of the European Union enshrined in several legal documents:

- **The United Nations Convention on the Rights of the Child 1989 (UNCRC)**¹ is the first universal instrument of a legally binding nature to address the rights of the child. There are currently 193 parties to the Convention including all 27 EU countries. The Convention addresses children's civil, political, social, economic, and cultural rights. It provides the international community with the guiding principles to ensure that policy and strategy implemented at national level are undertaken from this child-rights based approach. Although the EU is not party to the UNCRC, it must embrace the UNCRC by interpreting its norms in the light of the UNCRC. This duty derives from the EU's constitutional obligation to follow the principles and provisions set in international human rights law in relation to those matters that follow within the scope of EU competence.²
- **Article 3(3) of the Treaty on European Union** establishes the objective for the EU to promote protection of the rights of the child. Specifically, it states "*The Union shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.*"³

Moreover, the EU intervention in the field of children's rights is related to the principle of subsidiarity enshrined in Article 5(3) of the Treaty on European Union and Protocol (No 2) on the application of the principles of subsidiarity and proportionality, which establishes a constitutional mechanism "*for demarcating the boundaries of EU intervention in matters that do not fall within the exclusive realm of EU competence*".

¹ United Nations Convention on the Right of the Child, available at: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>, last access 27/01/2022.

² Lusmen, I. and Stalford, H. (2016), op. cit., 9-18.

³Treaty on European Union, Article 3(3), available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008M003#:~:text=It%20shall%20combat%20social%20exclusion,and%20solidarity%20among%20Member%20States>, last access 27/01/2022.

- **The EU Charter of Fundamental Rights** guarantees the promotion, respect, and protection of the rights of the child in all relevant policies and actions by the EU institutions and by Member States when they implement EU law. Article 24 focuses on the rights of the child and it's based on the UNCRC, particularly Articles 3,9,12 and 13 thereof.

It states as follows:

1. *Children shall have the right to such protection and care as is necessary for their well-being.*

They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.

2. *In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.*

3. *Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents unless that is contrary to his or her interests.*

The third (3) paragraph takes account of the fact that, as part of the establishment of an area of freedom, security and justice, the legislation of the Union on civil matters having cross-border implications, for which Article 81 of the Treaty on the Functioning of the European Union confers power, may include notably visiting rights ensuring that children can maintain on a regular basis a personal and direct contact with both of their parents.⁴

- **The European Convention on Human Rights⁵ and the case-law of the Court in Strasbourg** constitutes an additional legal source of reference for the protection of children's rights in the European Union.
- **Article 153 of the Treaty on the Functioning of the European Union** highlights the areas of social policy in which the EU supports and complements EU countries' own activities, including fighting social exclusion and implementing social protection systems.⁶

Cultural expressions

The word "culture" comes from the Latin, "cultura" meaning "to tend, guard, cultivate, till". It was around 1500 CE that the word first started to appear in the figurative sense of "cultivation through education" and it was only in the mid-19th century that the word was linked to ideas about the collective customs and ways of life of different societies. It is this meaning of culture as inherited patterns of shared meanings and common understandings that we address in this section. Within each culture, it is possible to identify "subcultures", meaning groups of people with distinctive sets of

⁴ Available at: <https://fra.europa.eu/en/eu-charter/article/24-rights-child?page=1#explanations>, last access: 27/01/2022.

⁵ European Convention on Human Rights, available at: https://www.echr.coe.int/Documents/Convention_ENG.pdf, last access: 27/02/2022.

⁶ Article 153 of the Treaty on the Functioning of the European Union, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3A1712_2, last access: 28/01/2022.

practices and behaviours that set them apart from the larger culture and from other subcultures. Culture is as difficult to define as it is to seize; since cultures are ever evolving and changing⁷.

The UN Committee on Economic, Social and Cultural Rights defines culture as follows:

*Culture [...] encompasses, inter alia, ways of life, language, oral and written literature, music and song, non-verbal communication, religion or belief systems, rites and ceremonies, sport and games, methods of production or technology, natural and man-made environments, food, clothing and shelter and the arts, customs and traditions through which individuals, groups of individuals and communities express their humanity and the meaning they give to their existence, and build their world view representing their encounter with the external forces affecting their lives*⁸.

Culture plays a significant role in shaping the character as well as the way of life of a child. Some aspects of culture are visible whereas others are mostly unconscious. In a nutshell, it is the lens through which people view and interpret life as well as society while it influences the way that people respond to their needs.⁹ Thus, the methods and processes used to confront rising matters are highly influenced by the cultural background of a child. As a result, there are major differences between kids when it comes to the implementation of diverse activities, both in school but also in community engagement too.

In order to achieve this, it must be made certain that all children, regardless of background, have equal access to participation and cultural activities. For instance, having the ability to visit local libraries, museums, attend culture-related events etc. It can be argued that children who come from minority groups, such as UMs or migrant families in general, face more challenges in relation to their integration in society. The European Union calls for an integrated mechanism to provide a comprehensive solution for the diverse needs of children while further promoting the UN Convention on the Rights of the Child (UNCRC). The Convention ensures that all essential actors and systems – education, health, welfare, justice, civil society, community, and family cooperate in an endeavour to assist all children and protect them from any kind of negative behaviour¹⁰.

Finally, protecting and promoting cultural rights is important to the process of empowering individuals and communities. Having their cultural rights recognized helps communities to build their self-esteem and to be motivated to maintain their traditions while being respected for their practices and values.

Exercises, games, quizzes

Objectives:

- To research and enhance the knowledge of legal tools to ensure the promotion of children rights
- To reflect on the efforts that the EU is making to further protect children's rights

⁷ <https://www.coe.int/en/web/compass/culture-and-sport>

⁸ <https://www.coe.int/en/web/compass/culture-and-sport>

⁹ <https://www.coe.int/en/web/compass/culture-and-sport>

¹⁰ European Union Agency for Fundamental Rights, available at: <https://fra.europa.eu/en/content/child-protection-systems>, last access: 22/04/2022.



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- To increase curiosity about the cultural expressions of the children

Exercise 1: Cultural Tree¹¹

Draw a tree that represents your own personal culture. Please try to find terms that represent your own cultural background for the following three parts of the tree and write them down on your piece of paper/ sheet next to the tree:

- **Roots** = origin, sense of belonging to cultural groups (e.g. German, European, or other cultural groups like regional cultures, family culture, fan culture etc.)
- **Trunk** = values that you find important in your cultural context (e.g. tolerance, discipline etc.)
- **Leaves** = visible signs of your cultural background (e.g. a certain meal, a language or a way of communication, a symbol etc.)

After having completed this part please reflect about the following questions:

- Was it easy to define the cultural group that you belong to? Have you chosen several groups?
- Do you feel that the values you have chosen are "typical" for your cultural origin?
- Do you feel comfortable with the visible part of your cultural background or do you prefer to make this as "invisible" as possible? Why? In which situations?
- What would the cultural tree of your class potentially look like?

After having reflected on the questions please read the conclusions of this exercise below.

1. Cultural identity is not the same than nationality or ethnicity

Many people find it difficult to define a specific cultural group for themselves. In the root part of your tree, you may have named your national or ethnic background, but you might also have named a city or a certain region, or even a fan community. This is because we belong to many different cultural groups. Cultural identity is not determined solely by national culture: although there are certainly aspects of national culture, there are also regional cultures (for example, regional differences within a country), urban or rural cultures, family culture, fan culture. So people have a multiple cultural identity, they can also consciously decide to accept or reject cultural practices (personality aspect).

2. Culture is dynamic and changeable

You might also feel that your cultural background and your values have changed during life (for example, values from family tradition vs. values in later adult life, changes in cultural traditions when moving). Culture is not static but dynamic and changeable. We are in a constant learning process in dealing with the culture around us, culture is changing constantly, especially in a globalized world.

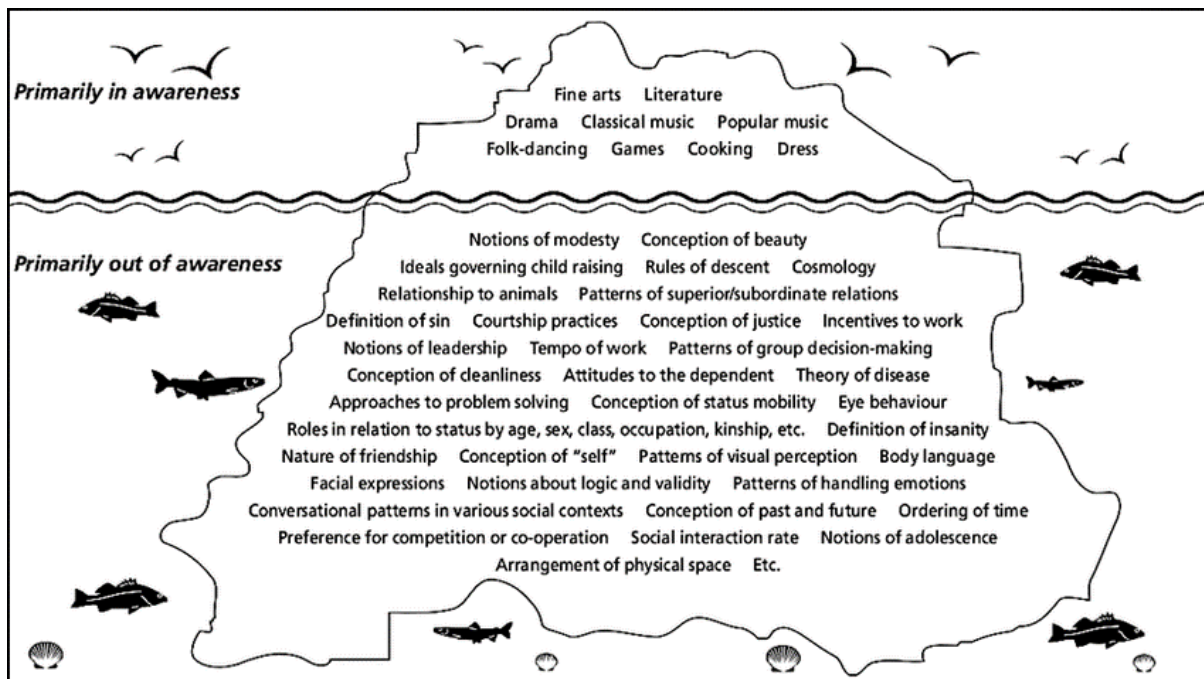
3. Culture can be associated with stereotypes

People tend to connect culture with stereotypes. You yourself might have experienced a situation when somebody has made assumptions about you based on your cultural background. At the same time we have to be aware of the assumptions that we make ourselves about other cultural groups.

¹¹ <https://practice-school.eu/exercise-1-cultural-tree-exercise-for-self-reflection/>

When we meet people from other cultures we tend to draw conclusions from the “visible” part of their culture about their potential behaviour or about their values. These assumptions may bias our perception of other cultures and so are known as cultural bias. Culturally-biased assumptions result in perceptions that impact on your objectivity when working with culturally diverse groups. The consequences are stigma, stereotyping and discrimination. Especially if you work with a culturally diverse classroom you need to reflect about your perception of different cultural groups.

In addition, the “iceberg model of culture” can be used to illustrate a model of culture that shows the visible and the invisible elements of culture.

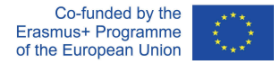


The Iceberg model of culture

One of the most well-known models of culture is the iceberg. Its main focus is on the elements that make up culture, and on the fact that some of these elements are very visible, whereas others are hard to discover.

The idea behind this model is that culture can be pictured as an iceberg: only a very small portion of the iceberg can be seen above the water line. This top of the iceberg is supported by the much larger part of the iceberg, underneath the water line and therefore invisible. Nonetheless, this lower part of the iceberg is the powerful foundation. Also in culture, there are some visible parts: architecture, art, cooking, music, language, just to name a few. But the powerful foundations of culture are more difficult to spot: the history of the group of people that hold the culture, their norms, values, basic assumptions about space, nature, time, etc.

The iceberg model implies that the visible parts of culture are just expressions of its invisible parts. It also points out how difficult it is at times to understand people with different cultural backgrounds –



because we may spot the visible parts of immediately see the foundations that these parts rest upon.

“their iceberg”, but we cannot

Exercise 2: Believers¹²

In this activity, the young individuals have the opportunity to better understand Article 18 of the UDHR through sharing personal views and thinking critically about the different ways in which we give meaning to life.

It's important to make it clear to participants that they need to be aware of what they say and how they express themselves. The protection of religious beliefs, as well as religious symbols from insult and denigration, falls within the scope of culture. However, protection must be balanced against freedom of thought and expression and does not mean blanket immunity from criticism of beliefs. Thus honest, open enquiry is acceptable whereas speech motivated by prejudice and discrimination is not.

If the exercise is implemented, the participants can be divided into small groups of 4-6 people and will be asked to reflect individually for 3-4 minutes on their personal beliefs. For example, if they have a religion, how closely do they observe creeds and rituals? Then, as an icebreaker, ask participants to talk about the first time they took part in a religious ceremony.

After, the cards will be placed in the centre. The participants will have half an hour and should keep their discussions short so that they can get through as many cards as possible. That way they will get a broad perspective on the issues; they can follow up topics that are of particular interest later. Explain that in each round a participant takes a card, reads it out aloud and then comments on the statement. Then the others have the opportunity to contribute with an example from their own religion or experience.

Exercise 3: Quiz

Follow the link and complete the Quiz online in relation to cultural activities.

<https://quizizz.com/admin/quiz/5fb7fd47d9336c001da5c490/cultural-activities>

You can find more information in relation to your rights at the links below:

- <https://www.unicef.org/child-rights-convention/convention-text>
- <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1538472574246&uri=CELEX:12016ME/TXT>
- https://www.europarl.europa.eu/charter/pdf/text_en.pdf
- <https://www.echr.coe.int/Pages/home.aspx?p=basictexts&c>

¹² <https://www.coe.int/en/web/compass/believers>