

Legal Issues Which Affect Children's Rights in the Context of Poverty and Social Exclusion by Rodianne Caruana

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The European Union is one of the richest areas in the world, but still 17% of EU citizens have such limited resources that they cannot afford the basics.^[1] Although, very often, the perception is that poverty relates to developing countries, where a lack of food and clean water are a daily challenge, Europe is also being affected by this dimension of poverty and social exclusion. It may not be as severe, but is nonetheless unacceptable.^[2]

I believe that poverty is a trap; sometimes you see it, sometimes you don't.^[3] During the Caritas Malta's official Launch of the European Year 2010, Mr. Marius Wanders^[4] said that "Increasing numbers of people fall into poverty in spite of having a job: they simply cannot afford their housing, heating and food bills anymore."^[5] He went on to speak about Malta, and how "[he] was told that in Malta, poverty is often hidden and may not be very visible, having no Roma people roaming around, no beggars in the street or no other visible confrontations with poverty."^[6] Yet, I think that sometimes we don't see poverty simply because we don't want to see it, because it intrudes into our comfort zone. I cannot help but thinking of Phil Collins' song "Another Day in Paradise" in which the author describes a situation of a woman asking for help and a man pretending not to have heard her, not to have seen her and crossing to the other side of the road because he's

embarrassed to be there.

2010 is the European Year for Combating Poverty and Social Exclusion; two conditions which are interrelated and interdependent. Poverty does not have one source to it, and consequently neither does it have just one solution; however, if we are to tackle child poverty and social exclusion, the least we can do is examine it from a child's perspective and not simply subsume it from a family's point of view. The idea that social exclusion may result from dim future prospects makes one think pretty quickly about children.^[7] Professor Yanghee Lee^[8], has stated that "...for a very long time, there existed the implicit binarism of the psychological model which viewed children as immature, irrational, incompetent, asocial and acultural..."^[9] He continues that "...for a very long time, (which I am afraid that this still exists to certain extent in all societies) children were viewed as to be the possession of the parents. Parents in particular, and adults in general, believed that since children are immature, that they were their property, that they had to look out for them. Meaning that, it was the adults who had the power and duty to make all the decisions because it was in best interest of the child."^[10]

The UN Convention on the Rights of the Child,^[11] states that State 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.^[12] Inclusion in decision making and participation should have the purpose of the child expressing his views with the end result being that those views are taken into consideration when one makes a policy or takes a decision. Respecting children's views means that such views should not be ignored; it does not mean that children's opinions should be automatically endorsed. Research has established that children do not necessarily want self determination but they want to be involved in decisions which are made about them.^[13]

How can this be achieved? In my ideal world, upon the filing of separation proceedings, be it a mediator, a social worker or any other qualified person, should be assigned to the case. Such person's role would be to speak to the child or children to that particular family – irrespective of their age – and explain to them what the connotations of their parents' actions mean, what will happen and what the possible outcomes are. It is only then that children are to be asked whether they would like to have a say or otherwise with regard to the issue; and if they want to speak and give their opinion, the least we, as adults, can do, is listen to them either directly or through a child advocate. During our first years within the law course, we are introduced to the principles of natural justice; one of which is "audi alteram partem,"^[14] and the

automatic question which arises is, 'why is it so difficult to adhere to it when it comes to children?'

Children are often excluded from any decision-making participation because they are deemed to be "childish"[15] and because adults think they do not know what is best for them; but how can you expect an eighteen year old today, to make a decision on his own, if for his entire childhood he was precluded from doing so? Participation need not necessarily be in terms of judicial matters, but in all aspects of life, including health and education. We know that 'exclusion' may offer a useful label for the fate that awaits some children who suffer from various disadvantages in childhood which threaten their capability to achieve in the future;[16] but why does the system work in such a way as to include all children, in general, into this 'trap'? Shouldn't we work on combating it? Theories are fundamental, as is education, but example should be our first step; as Mahatma Gandhi once said "Be the change you want to see in the world."

Participation rights support a sense of belonging and inclusion but more importantly teach children how they can bring about change.[17] Students are in their majority apathetic to participate and contribute towards school life; they view their own student councils' as mere ornaments, which are there only to be consulted upon frivolous issues and as a boost for the CVs of those who actually bother involving themselves; no more, no less. We should challenge and motivate our children, if our expectations of them are low, they will sink to them. We should create a system in which the children have a say in the establishment of rules, it is only in such a way that they will respect them and abide by them. If children are not allowed to actively participate in all aspects of their lives, it cannot be guaranteed that once they passed their 18th birthday, they will all of a sudden become "competent and mature."

Having said that, there is another type of exclusion which is attached to particular children due to their family and financial situations, and which cannot be entirely blamed on the system and the institutions. One of the contributors to such a social exclusion is stigma. Research shows that family income significantly predicted children's academic achievement and ability; our Constitution on the other hand, in article 11 states that Capable and deserving students, even if without financial resources, are entitled to attain the highest grades of education and it goes on, [t]he State shall give effect to this principle by means of scholarships, of contributions to the families of students and other provisions on the basis of competitive examinations.

We must realise that although education is free, there are a number of extras which parents are expected to pay for nonetheless. Children who are part of families with financial difficulties are often influenced by

their family's stresses, unlike other kids. It should not be their problem to worry about where money is coming from for their next school trip or groceries next week and yet they do.[18] This can humiliate them further if they are centered out or made to feel different when they cannot present the proper funds for things like school activities.[19] Most children want and do their utmost to blend in with others, but in some circumstances, they involuntarily stand out. This could be minimised by school intervention. How? For instance, by the distribution of copy books and basic stationery to all students irrespective of their social backgrounds; furthermore, students who finish their years in a particular school, or who grow out of their uniform, may donate their uniform to the school, which in turn will distribute them to children whose parents cannot afford to buy for them a new uniform. It is something which is already being carried out in particular church schools and which does work out. Some promote the idea of free meals to students with financial difficulties, however, I am not so sure it would actually work out, because it seems that there is no privacy as to how the issue is tackled; to the extent that everyone knows exactly who is getting a free meal and who is actually paying for it. A 12 year old British child says that "People don't claim free school meals out of embarrassment. I would let people with money go ahead of me in the queue so they wouldn't see." [20] It is useless offering an alternative when you have a number of children who decide not to take what they're entitled to simply because they do not want to expose themselves. It is a fundamental thing that we try and help, but it is equally important that we think in terms of persons with dignity, which we ought to respect.

Poverty is unfortunately a vicious cycle which unless tackled concretely will never end. Greg Duncan from Northwestern University and Jeanne Brooks-Gunn from Columbia University have summarized extensive research findings that substantiate significant associations between poverty and children's health, cognitive development, behaviour problems, emotional well being, and problems with school achievement.[21] For example, children from poor families are 1.7 times more likely to be born with low birthweight, 2 times more likely to repeat a grade in school, 2 times more likely to drop out of school, and 3.1 times more likely to have an out-of-wedlock birth than children from non-poor families.[22]

This leads to the never ending debate of single mothers, which are viewed by the majority of society as one of the greatest evils of society. Recently it was reported by the media that nineteen single parents have had their benefits withheld after investigation by the Directorate for Benefit Fraud and Investigation with the Social Policy Ministry [23] and this has led to so much controversy and comments that I have decided

to omit from my assignment simply because I deem quite superficial. It seems that people read only what pleases them and what triggers debate; for instance, the same reportage also stated that more than a hundred cases were investigated, and thus it is evidently a minority of them who are fraudulent. When will we realise that not all single parents are there to bite off their share of social benefits? During the same week, the same newspaper reported another story; of a single mother with five children who live "in abject poverty". The mother claimed that she is actively seeking a part-time job, which would make her "lose the social benefits, but [she has] more to gain".^[24]

I believe that single parents, irrespective of whether males or females, should be educated and rendered competitive for work; yet, it is also true that it is difficult to juggle between work demands and children. The solution would be child care, which already exists but which is ineffective for parents who really do need it. Locally, when we speak of child care, the image which comes to mind is that of a well-off couple who are so focused on their businesses that they do not have time for their children. Whilst I do understand that such children also need attention and care because their parents are too busy for them, we must keep in mind, that those who really do need it, are either not getting it because it is not affordable, or else they are getting a worse service because they are financially limited.

Whether we are prepared to face it or otherwise, the harsh truth is that all problems have money at their source and also at their solution. I honestly do see sense in Mgr Victor Grech's call for a redefinition of poverty and I strongly disagree with Parliamentary Secretary for Health Joseph Cassar, according to whom there is no such thing as absolute poverty in Malta. It is not possible that tariffs, prices and rents increase whereas wages are jammed; it is logical that in such situation those who before were at risk of poverty, are now immersed into it. It is genuinely beyond me how the Hon. Prime Minister admirably recognized that "[they] have realised that simply sending a cheque to people might not necessarily address the social problems associated with the individual",^[25] yet concurrently authorizes the spending of 250,000€ on a mere official opening of a square and another €60-€80 million for the rebuilding of a Royal Opera House and City Gate among other expenditures; with nearly half the Maltese population who think that priority should be given to addressing poverty.

It stands to reason, that not even one of my proposals can become a reality if those who should put them into concrete plans, decide to go about the issue of poverty and social exclusion in such a roundabout way and if they opt to close their eyes to what is staring back at them. Truth is that we neither can expect families with difficulties to get out of the problem on their own, nor spend money frivolously on projects and

matters, which in my humble opinion can be postponed. I genuinely believe that Government should redefine its priorities and make sure it efficiently tackles the problems, the people who elected it are facing.

- [1] European Commission, Employment, Social Affairs and Equal Opportunities: "European Year for Combating Poverty and Social Exclusion"
<<http://ec.europa.eu/social/main.jsp?langId=en&catId=637>> accessed 27th March 2010
- [2] Ibid
- [3] Barnardo's – the Trap of Child Poverty, Video
- [4] Caritas Europa's General Secretary
- [5] Mr Marius Wanders, "[Caritas in Europe and the European Year for Combating Poverty and Social Exclusion](#)", <accessed 27th March 2010
- [6] Ibid
- [7] Micklewright John, "Social Exclusion and Children: A European view for a US debate" [2002], page 8
- [8] The chairperson of the UN Committee on the Rights of the Children
- [9] Professor Yanghee Lee, "Child participation and access to the United Nations Convention on the Rights of the Child"
- [10] Ibid
- [11] The United Nations Convention on the Rights of the Child is not enforceable in a law court locally.
- [12] Article 12(1) of the UN CRC
- [13] Cashmore, J., "Promoting the participation of children and young people in care", Child Abuse and Neglect [2000], page 26
- [14] Hearing both sides
- [15] Adj. 1. Childish – indicating a lack of maturity; "childish tantrums"; "infantile behaviour"
- [16] Micklewright John, "Social Exclusion and Children: A European view for a US debate" [2002], page 9
- [17] Smith Anne. B., "Children and Young Peoples participation rights in education" [2007]
- [18] Williams Sandra, "Child Poverty and Self Esteem: How Poverty Can Contribute to Children's Negative Emotional State" [2007]
<http://poverty.suite101.com/article.cfm/child_poverty_and_self_esteem> accessed on 2nd April 2010
- [19] Ibid
- [20] Unknown Author, "Effects of Poverty: Are children affected by their experience of poverty?" [2007]
<<http://www.childreninwales.org.uk/areasofwork/childpoverty/endchildpovertynetwork/2156/2160/index.html>> accessed 2nd April 2010
- [21] Social Issues Encyclopaedia, Child Development Reference – Vol 6, "Poverty – Consequences of Poverty" [2010] <<http://social.jrank.org/pages/500/Poverty-ConsequencesPoverty.html>> accessed 2nd April 2010
- [22] Ibid
- [23] "19 cases of withheld benefits", Timesofmalta.com [2010]
<<http://www.timesofmalta.com/articles/view/20100326/local/19-cases-of-withheld-benefits>> accessed 2nd April 2010
- [24] "Living in abject poverty", Timesofmalta.com [2010]
<<http://www.timesofmalta.com/articles/view/20100325/local/living-in-abject-poverty>> accessed 2nd April 2010
- [25] Sansone. K., "Increasing minimum wage `not a solution'", Timesofmalta.com
<<http://www.timesofmalta.com/articles/view/20100322/local/increasing-minimum-wage-not-a-solution>> accessed 2nd April 2010