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CHILD PARTICIPATION IN THE PROTECTION SYSTEM THROUGH THE LENSES OF THE CAPABILITY APPROACH: QUESTIONS ABOUT WHO, HOW AND WHOSE TERMS

CHI, COME E IN CHE MODO? LA PARTECIPAZIONE DEI MINORENNI NEL SISTEMA DI TUTELA ATTRAVERSO IL CAPABILITY APPROACH

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The hegemonic cultural and economic model of our societies – neoliberalism– is premised upon self-valorization and unbridled competition at all levels, including the education system. This erodes the democratic ethos and fosters the development of regressive and destructive drives. The contribution looks at how the Capability Approach, with specific reference to Nussbaum's version, can offer an alternative perspective in a context as peculiar as the protection system, where participation is mediated by institutional actors such as the social service and the court. By drawing on the results of consultations with care leavers, conducted within the European REC project Empowering Child Care Systems and Supporting Leaving Care from Inside, it will be argued how questions about *who*, *how* and on *whose* terms need to be asked for the

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patterns underlying participation, including conflict, to be deconstructed, developing a model of democratic participation understood as a dialogical and constructive process.

Il modello culturale ed economico egemonico delle nostre società – il neoliberismo – si basa sull'autovalorizzazione e sulla competizione sfrenata anche nel sistema educativo, erodendo l'*ethos* democratico e favorendo lo sviluppo di spinte regressive e distruttive. Il contributo propone il *Capability Approach*, con specifico riferimento alla declinazione di Nussbaum, come una prospettiva alternativa, in un contesto peculiare come il sistema di tutela minorile, dove la partecipazione è mediata da attori istituzionali come il servizio sociale e il tribunale. A partire dai temi emersi durante le consultazioni con i *care leavers*, condotte nell'ambito del progetto europeo *REC Empowering Child Care Systems and Supporting Leaving Care from Inside*, si argomenterà che interrogativi su *chi*, *come* e *a quali condizioni* debbano essere posti per decostruire gli impliciti alla base della partecipazione, compreso il conflitto, promuovendo un modello di partecipazione democratica intesa come processo dialogico e costruttivo.

1. Introduction

It is today almost a commonplace to say that, in the space of a few decades, the dominant social and political system in Western societies – neoliberalism – has deeply transformed all spheres of social life. Numerous scholars have pointed out that neoliberalism is not only a way of conceiving the economic organisation and functioning of society: more profoundly, it must be understood as a new form of rationality centred on self-valorisation and competition (Brown, 2005; Dardot & Laval, 2019) that has had major impacts on the way individuals project themselves and their lives, on social life understood as life in common, and finally on democratic

institutions. Wendy Brown has persuasively argued that the implementation of neoliberalism, understood as a global form of governmentality (in a Foucauldian perspective), is to be seen as the origin of the gradual disappearance of the *homo politicus* that characterised (although surely with all its limitations) the life of modern liberal democracies (Brown, 2005; 2015; see also Dardot & Laval, 2016). Not only that: according to Brown, even the recent phase of the return of nationalism, characterised by an increasingly defensive (in the psychoanalytic sense) "desire for closure" on the part of national communities, should be read in continuity with the *mise en place* of neo-liberal rationality, constituting a socio-political reaction to the effects of neoliberal globalisation (2010; 2019).

In recent years, various authors have insisted on the importance of the educational dimension for the maintenance of the democratic ethos of liberal democracies, emphasising at the same time how the educational system constitutes a crucial terrain for the neoliberal offensive (Brown, 2005; Laval & Vergne, 2021; Laval, Vergne, Clément & Dreux, 2011; Nussbaum, 2010; Pippa, 2022). Within the array of philosophical and pedagogical positions on these themes, the perspective developed by Martha Nussbaum over almost three decades (2000; 2010; 2011) appears particularly relevant due to its ability to bind together a critical analysis of the current predicament with a normative point of view as to the strategy to counter the prevailing tendencies, articulating democracy, social justice and education in a framework that centres on the concept of "capabilities", understood as real and concrete opportunities enjoyed by individuals of being and doing what they attribute value to (2010). On the one hand, Nussbaum insists that education is central to the preservation and development of the ethos that underpins liberal democracies (2010). In this perspective, Nussbaum resolutely condemns the global techno-scientific drift towards profit-oriented education, insisting on the need to develop skills such as critical dialogue/critical thinking, the ability to think from a cosmopolitan perspective, and to cultivate faculties not normally – but wrongly – associated with democracy such as imagina-

tion and artistic thinking. These are, for Nussbaum, essential abilities to form responsible citizens and nurture a healthy democracy in which social conflicts can be managed in a dialogic and inclusive way (2010) – the roots for peace. On the other hand, Nussbaum's theory develops the thesis that one can speak of social justice only where a certain set of basic, fundamental capabilities «in key areas ranging from life, health, and bodily integrity to political liberty, political participation, and education» are guaranteed to individuals and this forms the content of their concrete agency (2010, p. 24). The capabilities that Nussbaum deems indispensable in a democratic society include basic dimensions such as life, health and physical integrity, as well as more complex capabilities: the possibility of developing senses, imagination and thought; the possibility of developing a sense of belonging, including caring for oneself and others, and the social foundations of self-respect; practical reasoning; play; and political and material control over one's environment (2011). These capabilities do not simply define what ought to be concretely possible for everyone; they also outline – and this is paramount – a collective horizon of a democratic being together. In this sense, they define the contours of what can be called an *intrinsically democratic agency*, encompassing all those dimensions that for Nussbaum, today more than ever, need to be cultivated to protect the life of liberal democracies and to foster their development.

Thus, Nussbaum's capability approach provides a complex and demanding perspective on social justice, intimately linking the very existence of a democratic ethos to the development of a multidimensional agency that encompasses dimensions that far exceed the dominant model of citizenship promoted by neoliberalism (and vice versa: the multidimensional agency Nussbaum has in mind can only exist in democratic societies). The question that a perspective such as Nussbaum's poses to those who work in the field of education and politics is therefore the following: how, in our society, do we manage to implement practices and *dispositifs* which favour the development of such democratic agency, promoting the development of a life worth living within a context in which the same real opportunities are guaranteed to all? Adopting a point of view

inspired by Nussbaum's thinking commits us to examining how our society guarantees the real (and not just "on paper") development of these capabilities and thus promotes, in turn, the creation of a democratic society capable of managing its tensions in an inclusive and non-discriminatory manner. But this approach also clearly assigns a demanding task to the practice of education, which it requires to conceive of itself, resolutely, as education for democratic citizenship, thus engaging educational practice in an effort to promote, develop and consolidate the fundamental capabilities without which a society cannot be said to be just, and without which no democracy can function as such.

The CarINg project, the results of which we present here, set off from these assumptions and this framework, which was adapted and modified during the development of the project according to our context and needs. The project aimed to investigate the way in which a system as peculiar as the care system works, or can work, for the education of future citizens. Interrogating this institutional dispositive through the Capabilities approach, and making use of tools linked to it, our project was intended not only as an analysis but also as an intervention to promote lines of action consistent with the idea that only the exercise of a democratic agency, understood in this context as real and active participation in decision-making processes, can guarantee the development of that democratic ethos that many, today, rightly consider under threat.

2. The study project: CarINg and development of democratic decision-making processes within the child protection system

CarINg[1] is a research and action project co-funded by the Rights Equality Citizenship (REC) Programme of the European Union. It

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[1] For details on the project please consult: https://www.caringproject.eu/ [15/04/2023].

is focused on empowering care leavers and supporting their transition to an autonomous life. Care leavers are people (typically over 18 years of age), who spent all or part of their childhood in alternative care and who have recently left it or are about to do so.

The project aims to create opportunities for care leavers to participate in decisions concerning their life path by working with social services and local stakeholders.

Since the United Nations Convention on the Rights of the Child (UNCRC) was adopted in 1989, child participation has been extensively studied and different participatory practices have been introduced. However, children's participation has not yet turned into a broad-based practice in the wider development community. Furthermore, in the child protection system, this principle is difficult to put into practice, especially in situations where the child's life or health is at risk, such as when it is necessary to place them in alternative care. The transition to an autonomous life can be particularly challenging for care leavers and can generate difficult emotional experiences, such as the sense of abandonment, the loss of the acquired sense of security, fear of not succeeding, anger and regression (Pandolfi, 2019). The literature has highlighted the risks of social exclusion and unsuccessful life outcomes for care leavers (Driscoll, 2013; Stein & Munro, 2008). The CarINg project aims to address these challenges by creating a gradual process of care leaving, starting from care leavers perspectives, and involving them in the project.

Specifically, the contribution presents the results of one of the most meaningful phases of the whole project, which envisages a participatory action research articulated in four consultation activities with the care leavers part of the protection system of the Municipality of Florence and of the Health Society of the Area of Prato, Italy (areas in which the project was piloted). The consultations initiated a participatory process that led to the development of a policy toolkit containing recommendations for leaving care (Biffi, Pepe, Pippa, Montà & Ratotti, 2023).

3. Research questions and methods: collaborative approaches

The CarINg project participants were selected by the involved municipalities based on established criteria, including the presence of participants placed both in residential care and in foster families; the presence of unaccompanied minors; sufficient knowledge of the Italian language; both female and male participants; inclusion of participants with disabilities; possible permanence in the project until March 2023. The study was approved by the Ethical Board of the Milano-Bicocca University (prot. n. 647) and followed the guidelines suggested by the ethical code of the Italian Society of Pedagogy (SIPED, 2020) and by the Declaration of Helsinki (World Medical Association, 2001).

The consultation process, conducted from October to December 2021, explored the meanings that 18 care leavers (aged 17-21) attributed to participation in decisions concerning their life project, starting from their experiences and the capabilities that sustain and inform it.

Initially, the research questions were examined using the collage inquiry approach (Butler-Kisber, 2010) and later through play-based languages (Butler-Kisber, 2010; Clark & Moss, 2001; Demetrio, 1999) to allow participants to express themselves most suitably. Eisner (2008) notes that knowledge cannot always be expressed through language alone, and the collage technique facilitated an open and welcoming atmosphere for participants to express their thoughts on delicate topics related to their lives. In a broader context, using arts-based and visual methods has enabled participants to slow down and appreciate the process of creating meaning from their unique experiences (Loads, 2009; Roberts & Woods, 2018).

The decision to use the collage inquiry approach was based on various factors (Biffi & Zuccoli, 2015), including the fact that Italian language proficiency and graphic-pictorial skills were not required. Actions such as de-composition, s-composition, and re-composition, which involve decontextualizing and recomposing

elements, can activate a hermeneutic circle. The originality, transformation, and ongoing productivity of the proposals, along with the ability to experiment with different approaches, contributed to the choice of this technique. Additionally, the approach allows for a balance between casual and rigorous use.

During the second part of the consultation activities, Nussbaum's 10 basic capabilities were introduced and explored through a revisitation of the "Game of Life" (Gioco della vita), which was created by Duccio Demetrio (1999), an Italian pedagogist who introduced the autobiographical approach into the pedagogical debate. The game was designed to help people explore while playing, their memories and stories. It provides a unique way to reflect on one's biography and examine our experiences, desires, and hopes, capabilities from a different perspective. Through this game, which was created and played with the participants, care leavers were encouraged to share and describe their experiences within the childcare system, with a particular emphasis on relating them to Nussbaum's capabilities.

The consultations ended with the drafting of recommendations for practitioners. Nussbaum's 10 capabilities have been used to group the recommendations into specific categories of attention. Life/Physical health, control over one's environment and membership have been chosen as the most important capabilities for the care leavers to participate in for a life worth living.

All consultations were recorded and transcribed, following standard qualitative research practice (Davidson, 2009), and the data were analyzed using thematic analysis (Joffe, 2012).

In a second phase (July 2022) the CarINg Project organised the so-called "Peer to Peer Sessions", i.e., a research action articulated in four moments of consultation and exchange between the professionals of the child protection system of the Municipality of Florence and of the Health Society of the Prato Area. The objective was the understanding of the functioning of the protection system and the establishing priorities for action, with specific reference to space for care leavers' participation in decision-making. Therefore the "World Café" approach was used. The World Café

is a conversational process that aids groups in engaging in productive discussion around important issues, developing interpersonal relationships, and fostering collaborative learning. Traditional research methodologies, in which knowledge is created by outside "experts", and knowledge and policy are spread downward through a hierarchy, have faced several challenges over the past few decades (Dirkx, 2006; Lee & Garvin, 2003). The new ideas raise issues regarding the role of power and the debatable nature of knowledge itself, as well as traditional notions of what expertise, study methods, and ownership are. Discussions about the potential of collaborative research approaches, such as action research and participatory action research in social work settings, as well as the promotion of practitioner research and reflexive practitioner-based enquiry, have reflected this (Bond & Hart, 1995; Healy, 2001). We are hearing more and more recommendations for researchers and practitioners to move beyond conventional information transfer practises and towards a more suited notion of information exchange (Lee & Garvin, 2003), as well as for practitioners to stop simply receiving knowledge transfer and start actively contributing to the creation of new knowledge (Karvinen-Niinikoski, 2005). Therefore, in comparison to other collaborative methods, the World Cafe' (Fouché & Light, 2011) is effective in utilising the cross-pollination of ideas through developing rounds of information exchange and the use of a social setting modelled after a cafe that promotes the equitable and non-threatening sharing of information. During this activity, professional educators and social workers together reconstructed their workflow, starting from the time a case is reported (warning) to the child protection system to the child's exit from the protection system, reflecting on spaces for participation.

The last phase of the research (November 2022-January 2023) foresaw the involved care leavers working together with the professionals to try and develop concrete actions for supporting the care leaving process, amongst which the development of a Policy Toolkit (Biffi et al., 2023).

In recent years, the participation of children and young people in policymaking has gained an unprecedented prominence in Europe. To this end, let's think of the European Strategy on the Rights of the Child (2022) that was created by consulting over 10000 children around Europe. Furthermore, child-friendly versions of the plan were created in the various languages of the EU.

The involved care leavers met face-to-face twice with the professionals to elaborate on the recommendations generated during the consultations, discussing them and enriching them. The process was facilitated by the involved researchers. Specific ethical attention was given to the composition of the working group. First of all, care leavers did not work with their own educators and social assistants, to allow their participation to be as free as possible. Secondly, the care leavers were prepared in advance on what and how the working session would have been constructed, answering all their questions. Finally, the need to promote an authentic listening process and a judgment-free environment was felicitated before starting the session.

The involved researchers gathered the emerging themes and drafted policy recommendations that were shared with the participants in two online sessions to be checked and enriched.

4. *Emerging pedagogical reflections: building the roots for democratic living*

The consultation process with the care leavers lead to the emergence of specific themes and dimensions characterizing the meaning (Mortari, 2016; Van Manen, 1990) of participation in relation to Nussbaum's version of the Capability Approach. Specifically, as mentioned, the care leavers highlighted which, according to their experiences, are the most crucial of Nussbaum's 10 capabilities to support their participation in the construction of their life path. These reflections were integrated, as discussed, with practitioners' experiences, formulating policy recommendations.

Below are the capabilities and connected recommendations that were defined:

a) Capability Life/Physical health.
- Health system: support the care leavers to learn how to use the healthcare system.
b) Capability Control over one's environment.
- Participation spaces: create a context in which the care leavers can participate in choices and be informed on decisions concerning them.
- Economic autonomy: support the care leavers in their career path.
- Everyday life: avoid taking the management of daily life for granted.
- Rules: formulate more age-appropriate and case-specific rules/give opportunity to earn trust.
- Preparing for the future: supporting care leavers in expressing and defining goals, aspirations, dreams inherent in building their life plan <u>in time.</u>
- Space: having the possibility and the right to choose/have one's own space.
c) Capability Membership (friends, relationships, family)
- Awareness campaign: raising awareness on the issue of living outside the biological family.
- Relationships with peers: having opportunities to build and maintain long-lasting relationships and hanging out with friends outside: creating the conditions.
- Relationships with practitioners: building relationships of mutual trust.
- Relatives: work in a network by involving care leavers, families and professionals in determining the most appropriate ways to conduct sheltered meetings

As we previously mentioned, these capabilities are the ones deemed by Nussbaum to be indispensable in a democratic society. We can see that they include basic dimensions such as life, and physical health, as well as more complex capabilities: the possibility of developing a sense of belonging, including caring for oneself

and others, and the social foundations of self-respect; and political and material control over one's environment. Moreover, as we mentioned these recommendations are the result of collective work and this is paramount when thinking widely about constructing a democratic horizon of being together, cultivating democratic *agency*.

The drafting process, in fact, of policy recommendations, has contributed to developing a shared understanding of what being a care leaver means, and of what the educational process involving them means as well.

5. Conclusions

Building on what has already been written elsewhere (Montà & Jeans, 2020), it is crucial to mention that the policy recommendations are conceived as "active" documents (Ferraris, 2014) that can directly shape the educational process and ethos within the child protection system. Through the use of the policies, the practitioners clearly understand what care leavers need from them and what is valued as quality educational practice. Additionally, the policies create agency in the care leavers. In fact, through the policies care leavers can identify and express when their needs aren't being met and can hold adults accountable when the key messages are not being upheld. Implementation of the policy recommendations can support the protection system in developing democratic practices and processes. The policies must be continually applied and evaluated if there is to be continuous discussion and dialectic in system.

It is important not only to guarantee care leavers' right to participate but there is also a need to provide opportunities to listen carefully to them, creating decision-making spaces and recognising that this contributes to creating real experiences of civic participation. In the best interest of children and adolescents, their right to participate directly in their own life project must be recovered, implemented, and made enforceable, especially in the case of minors outside their family of origin. Policies create the framework in which these spaces can be created.

Finally, the first form of protection of rights remains the possibility of taking part in guaranteeing the rights themselves. The possibility, that is, of being not interlocutors but actors in the processes that govern a democracy. The research we have illustrated here moved by proposing a work of constant interweaving between the level of research – as generative of knowledge –, of training – as generative of knowing how to do – and of politics – as generative of knowing how to be.

The participatory process that has been activated has allowed constant contamination of these three levels, where young people, researchers, professionals, and policymakers have collaborated for a common goal.

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