

Identifying child's  
opinion/hearing of a child  
*a psychological perspective*

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# Identifying child's opinion/hearing of a child

- 1) Why listening is important/needed?
- 2) Practical questions



# Children as a witness / active participant

Whipple (1910): children are the "most dangerous of witnesses" - remember little, and prone to fantasy.

Varendonck (1911): "When are we going to give up, in all civilised nations, listening to children in courts of law?".

Lipmann (1911): children cannot distinguish fact from fantasy.

Binet (1900), Stern (1910): children are susceptible to leading questions.

***Dent (1988): children's memories can be as reliable as adults'.***



# Why listening to children is important ?

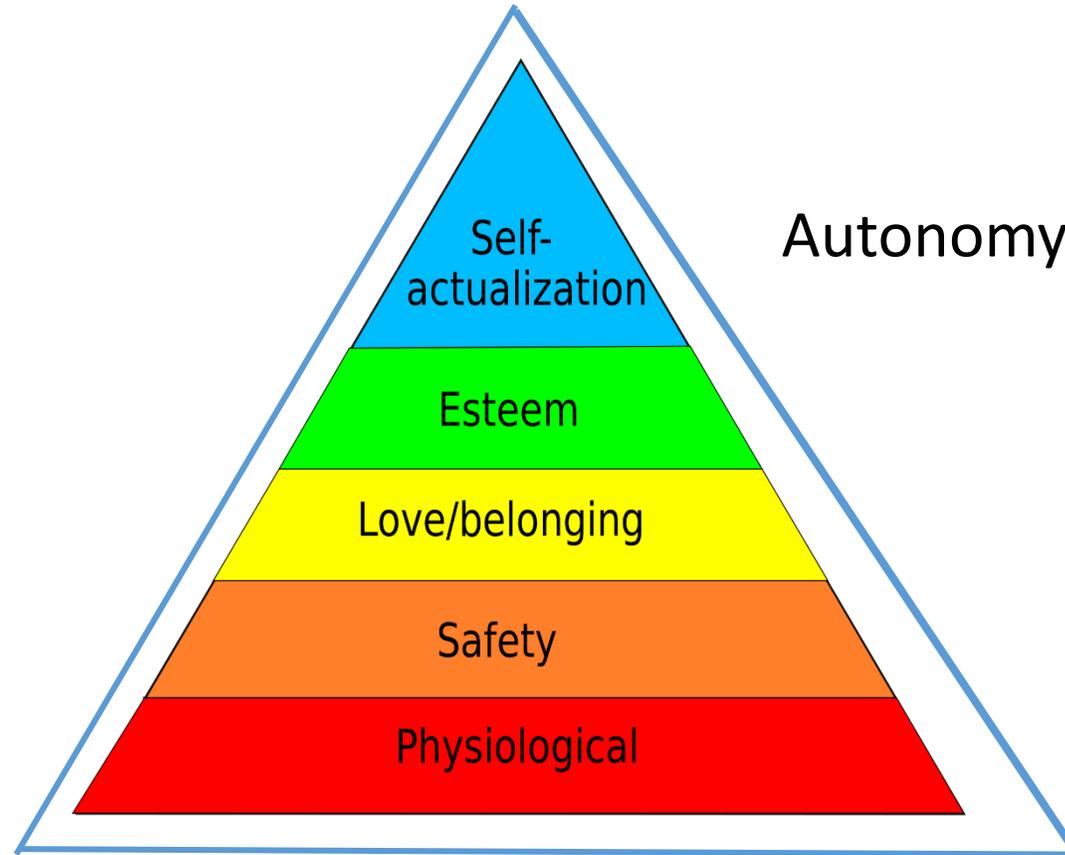
Because it is the child's **RIGHT**.

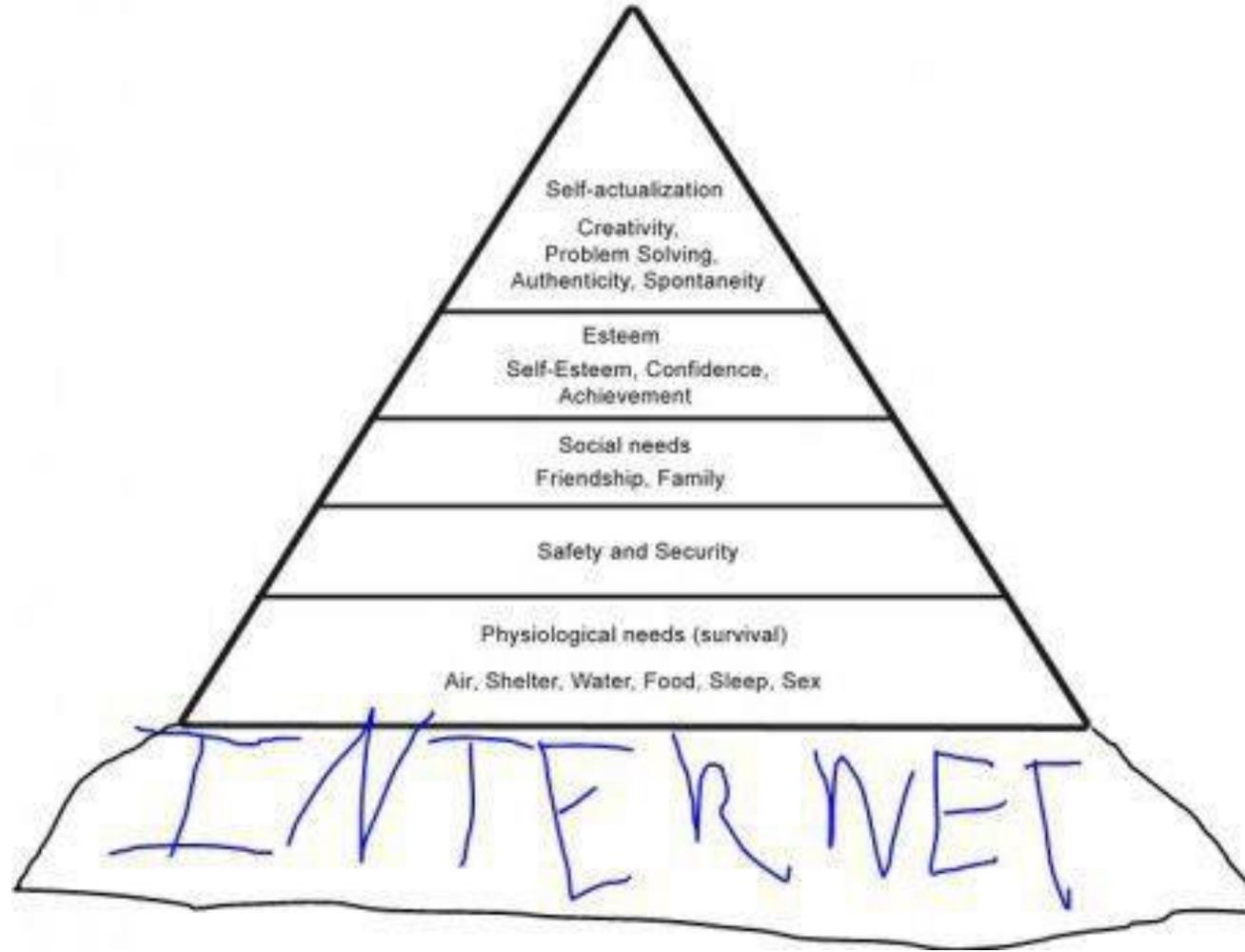


OR

Because it is the child's **NEED**

# CHILD'S NEEDS





# PRINCIPLE OF AUTONOMY



# PRINCIPLE OF DIRECTED AUTONOMY



# FROM PASSIVE OBJECT TO ACTIVE SUBJECT



# The rights of children as an expression of their needs

The basic psychological need



## THE NEED OF AUTONOMY

ALSO

It is the child, more than anyone else, who will have to live with what the court decides.

# WHAT IS AUTONOMY?



1. TO UNDERSTAND WHAT IS GOING ON
2. TO HAVE THE POSSIBILITY TO EXPRESS MY OPINION
3. TO HAVE THE POSSIBILITY ACTIVELY INFLUENCE MY SITUATION

WHY PARTICIPATION IS NEED?

# Participation contributes to personal development

- Nurture the need for autonomy
- Promotes personal and social responsibility
- Helps in the proces of socialization
- Helps in understanding and trust into the social and legal system

# Participation leads to better decision-making

- Empirical research (i.e. Nybom, 2005) provides evidence
- Cases where children are involved:
  - Take shorter time
  - Lead to more acceptable decisions
  - Have lower tendency to get back to the courts

# Participation serves to protect children

- Hearing the child is the only way how to find out what is going on.
- Empirical evidence proves (i.e. Clemence, 2015) that involvement of children into juridical law decision making is connected to lower risk of:
  - possible maltreatment of children
  - possible false allegations

# Social aspects of participation

- Contributes to civil society development
- Increases tolerance and respect for others
- Participation strengthens accountability

# Arguments against children's participation

- *Children lack the competence or experience to participate.*
- *Children must learn to take responsibility before they can be granted rights.*
- *Giving children the right to be heard will take away their childhood.*
- *It will lead to lack of respect for parents.*
- *Children cannot have the right to be heard until this right is respected for adults.*
- *Children's rights is a Western concept being imposed on other countries.*

# How to do it? & Practical questions



# Consultative participation

- This is a process in which adults seek children's views in order to build knowledge and understanding of their lives and experience. It is characterised by being:
  - adult initiated
  - adult led and managed
  - lacking any possibility for children to control outcomes.

# Collaborative participation

- This provides a greater degree of partnership between adults and children, with the opportunity for active engagement at any stage of a decision, initiative, project or service. It can be characterised as:
  - adult initiated
  - involving partnership with children
  - empowering children to influence or
  - challenge both process and outcomes;
  - allowing for increasing levels of selfdirected action by children over a period of time.

# Child-led participation

- This is where children are afforded or claim the space and opportunity to initiate activities and advocate for themselves. It is characterised by:
  - the issues of concern being identified by children themselves
  - adults serving as facilitators rather than leaders
  - children controlling the process.

# Practical questions - age limits

- All efforts to agree on a minimum age at which the views of the child could be taken into account failed, since all the ages suggested seemed artificial, even arbitrary. It seemed best to leave the application of this clause to the each specific case.

# Practical questions - age limits



**0-3:** The need of physical autonomy



**3-6:** The need for autonomy in activities



**6-12:** The need for understanding and involvement



**12+:** The needs equal to adults

# Practical questions

- Lack of complete moral understanding
- Cognitive/Language limitations
- Young Children are more susceptible to suggestion
- Embellish the story more
- Give answers; rather than say “I don’t know”
- Influence by one of the parents
- Situational influence

# Steps to be taken

## **Preparing children by providing them with accessible information about:**

- *their role in the hearing, including:*
  - *their rights at each stage,*
  - *the support they can be given,*
  - *how they can participate,*
  - *and how their views will be considered*
- *the practical arrangements :*
  - such as when the hearing will take place, and where,
  - how long it will last,
  - who will be there,
  - what protection he or she will be provided with,
  - when and how decisions will be made

# Steps to be taken

- ensuring that the child can be heard effectively in the hearing by the introduction of legal rights which are properly implemented, and creating child-friendly, safe and accessible courts
- assessment of the capacity of the child by consideration of whether the child is able to form a view of the issues being addressed and, if so, what weight must be attached to those views.
- **there should be a presumption in favour of the child's capacity**
- **feedback to the child is necessary** so that she or he knows exactly what decisions have been made and why
- **mechanisms for the child to make a complaint**, or seek a remedy or redress if her or his right to be heard has not been properly implemented.

# BASIC REQUIREMENTS FOR CHILD PARTICIPATION

- 1. Transparent and informative
- 2. Voluntary
- 3. Respectful
- 4. Relevant
- 5. Facilitated with child-friendly environments and working methods
- 6. Inclusive
- 7. Supported by training
- 8. Safe and sensitive to risk
- 9. Accountable

# Thank you for your attention

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