Power, Politics and Children’s Citizenship: The Silencing of Civil Society

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Abstract

Children remain marginalised in theoretical analyses of citizenship and political rights, with their partial citizenship status attracting minimal attention. We consider the ontological need for political engagement, children’s political agency and intergenerational justice. We discuss how Derrida’s hospitality concept may inform analyses of power structures that serve to exclude children from the demos. We then examine the case of Japan where education law neglects children’s political rights, though respect for human rights and popular sovereignty are core constitutional values. Analysis of parliamentary debates addressing Article 12 and children’s right to be heard and organise collectively reveals a long-standing ideological divide concerning children’s political participation. The Committee on the Rights of the Child has explained Japan’s reluctance to implement Article 12 as reflecting “traditional” attitudes. The reality is more complex. From the late 1950s, Japan experienced a wave of student-led protests, focusing on the US-Japan Anpo Security Treaty. Subsequently, the Japanese government prioritised public order over students’ political rights, and global economic competitiveness over citizenship rights. Article 12 remains a site of struggle between those wishing to extend children’s citizenship rights and those who
wish to maintain their partial citizenship, fearing social unrest and a focus away from global economic competitiveness.

Keywords


1 Introduction

Despite the near-universal ratification of the UN Convention on the Rights of the Child (UNCRC) (UN, 1989), children remain marginalised in debates about citizenship, political engagement, and the ‘right to have rights’ (Arendt, 1968). In proposing a universal ‘right to have rights’, Hannah Arendt addressed the needs of stateless persons who find themselves beyond the protection of the law. She was preoccupied by questions of human security and the experience of statelessness, something that she herself encountered during and after World War Two. She makes two arguments for the right to have rights: the first is pragmatic and relates to the human subject’s vulnerability to domination. The second addresses the human need for political engagement.

While we are mindful of the insecurity of those children who lack citizenship status, in this paper we focus primarily on the situation of children who, despite holding formal citizenship status (nationality), are denied the right to have rights because of their status as children. Here we are concerned, first and foremost, with the second of Hannah Arendt’s arguments about the right to have rights, based on an ontological or human need for political engagement. We are curious as to why children remain marginalised in theoretical analyses of citizenship and political rights. We consider how Derrida’s hospitality concept (Derrida, 1999; Derrida and Dufourmantelle, 2000) may inform discussion of children’s citizenship; intergenerational justice; and children’s relationship to the demos (citizenry with rights), that is to say, their political relationships with institutions and adult citizens. We contend that the concept of hospitality throws fresh light on the unequal relationship between adult citizens and children and may enable scholars to understand better why children are marginalised in theoretical discussions of citizenship, political participation and rights.

The need for children’s political engagement has been codified and expressed as a series of political rights in the UNCRC: primarily through Article 12 (the right to be heard), and through a series of related political rights: Article 13 (freedom...
of expression); Article 14 (freedom of thought, conscience and religion); Article 15 (freedom of association and peaceful assembly); and Article 16 (access to information).

The country-based reports of the UN Committee on the Rights of the Child (hereafter the UN Committee) commonly explain failure to implement Article 12 in certain countries to traditional attitudes; this explanation is proffered by the UN Committee in the case of Japan (CRC, 1998: para.156). We examine the case of Japan to look closely at why, despite ratification of the UNCRC, Article 12 has not been implemented in domestic education law and why children remain excluded from the demos, analysing political discourse in the Japanese Diet (parliament) on children’s right to be heard. Our analysis is informed by the hospitality concept and Derrida’s insights into the power relations operating in cases of political exclusion. By applying this concept to the Japanese case we consider: how and why lawmakers resist recognising children’s political rights. Our analysis is contextualised with reference to Japan’s 20th century history and its impact on political debate today.

2 Citizenship and Human Rights

Rights mean little without the means to claim them. Geraldine Van Bueren illustrates how ‘citizenship and human rights have a symbiotic, although not exclusive, relationship’ and in reflecting on the historical relationship between citizenship and human rights, reminds us that when:

the movement [for citizenship] has been retrogressive— with the refusal in the United States to implement the Fourteenth Amendment to all Americans or confiscation of citizenship from Jews in Germany and from South African citizens during apartheid—it can be seen as a warning sign of even graver violations of human rights.

Van Bueren, 2011: 31

In the 21st century, increasing numbers of children find themselves stateless or undocumented. Conflicts and vast global inequalities between the global North and South have led families and unaccompanied children to migrate to western Europe and the US. Nation-states, and sometimes established citizens, frequently show themselves unwilling to respond to the needs and rights of adult migrants and asylum seekers or protect children from migrant families (Bourbeau, 2015). There is frequently a gap between nation-states’ human rights rhetoric and formal commitments to migrants and asylum-seekers on
the one hand, and the harsh realities faced by migrants on the other. This is despite their obligations as duty-bearers, under the UNCRC, to secure the rights of all children regardless of citizenship status (Kilkelly, 2001; UNICEF, 2009). State policies have a disproportionately negative impact on children, who are among the most vulnerable in an acutely vulnerable grouping (Osler, 2016; 2020). Although migration studies are frequently framed with children as subjects vulnerable to government policies, legal rulings and parental choices, this does not mean that they lack agency, nor that they are necessarily passive victims of statelessness, state-led domination, or formal political exclusion.

The case of the US immigrant youth movement is an example of the human need for political engagement and a struggle for justice and the full citizenship rights of undocumented children and youth. Undocumented young people, known as the Dreamers, originally came to the US as a result of their parents’ migration and find themselves caught up in the hostile anti-immigrant political climate that has developed since the mid-1990s (Nicholls, 2013). Despite access to formal political participation, these youth display a shared desire for political engagement and a range of political perspectives (Dabach et al., 2017). This is an example of how young people have maintained a collective and sustained struggle for their human rights.

In exploring children’s need and right to political engagement, we recognise the UNCRC’s normative framework but do not limit ourselves to it, noting that at the time it was drafted, children were recognised, at best, as ‘passive citizens’ (Van Bueren, 2011: 31). We explore children’s political rights, first by examining political theory and then by considering a contextualised and historically framed case, namely children in contemporary Japan. Our focus here is primarily on children who have the formal status of citizen, yet whose ambiguous citizenship status, and consequent right to have rights, has hitherto attracted little theoretical attention.

At both the theoretical and empirical levels we are concerned with the silencing of children and their allies, effectively a silencing of civil society. We examine political discourse in the Diet on children’s right to express their views on education and schooling. We are interested in whether Japanese education law and administrative guidance is in keeping with the principles

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1 Japan has a significant number of resident children who do not hold Japanese citizenship (Osler, 2018). Japan’s population is just over 127 million. These include around 1.7 million foreign nationals who include zainichi Koreans who may be the fourth or fifth generation in Japan, as well as more recent labour migrants. Ethnic Koreans in Japan lost their citizenship rights after World War Two. While many have since assimilated, others campaign for equal rights without having to undergo naturalisation processes.
enshrined in the UNCRC and with the fundamental principles of the Japanese constitution. Before turning to this case, we review reasons put forward for children's exclusion from the demos and then consider how Derrida's concept of hospitality might offer fresh theoretical insights into children's position and intergenerational justice.

3 Children's Exclusion from the Demos

Here we discuss the uncertain space that children hold in democratic politics and consider the theoretical void that surrounds children's citizenship, distinguishing them as a category from other sets of citizens in liberal democracies. We consider how, among political theorists, 'children are seen as a justifiable and somewhat uninteresting exception to the rules of democracy rather than as an instructive case of the ambiguity of membership meriting sustained academic attention' (Cohen, 2005). This perspective is supported by researchers who note that, 'the concept of youth political participation remains controversial in many contemporary Western democracies', so that their political participation, 'has long remained unexplored in the research agenda' (Toots et al., 2014).

While the UN Committee in its General Comments No. 12 has characterised UNCRC Article 12 as guaranteeing 'participation rights' (CRC, 2009: para. 3), something it recognises as a 'unique provision in a human rights treaty' (CRC, 2009: para. 1), the UNCRC nevertheless accords to parents and other adult guardians a number of rights on behalf of children. Article 12 provides:

1. States 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.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law (UN, 1989).

Article 13 further confirms the child's right to freedom of expression and Article 14 to freedom of thought, conscience and religion. Yet Article 14 also accords parents or guardians the duty to 'provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child'. In the matter of freedom of thought, conscience and religion, as other areas, adults responsible for representing children's interests may conflate or...
substitute their own interests or beliefs with that of the child. Article 3 states that, ‘In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.’ If adults conflate their interests or institutional interests with those of the child, then the principle of the child’s best interests remains in tension with prevailing political cultures. While courts may make rulings, taking into account the evolving capacities of the child, there remains a significant everyday risk to children’s rights within the paternalistic cultures in which many (perhaps most) children live. These tensions remain at the heart of the UNCRC.

Thus, the UNCRC may endorse customary practices with regard to children’s rights. But society also has special duties owing to children. The demos (or its representatives) takes decisions on behalf of future generations. For the sake of intergenerational justice, there are, necessarily, ‘obligations that are owed to incomplete, partial citizens such as children’ (Bohman, 2011: 129). Relationships between generations may be considered from both legal and political perspectives. Children’s exclusion from the demos and their subsequent lack of political rights will impact on their long-term guarantees of social, environmental and economic rights. The choices, actions and inactions of current political leaders regarding global climate change and the Covid-19 pandemic affect future generations, including those as yet unborn. Thus, intergenerational justice and nondomination provide justification for children’s democratic participation (Bohman, 2011). It seems likely ‘that the current generation will dominate future generations’ (Bohman, 2011: 129), restricting what Feinberg (2007) and others refer to as the possibility of an open future. Within Sen’s (1992) capability approach, political participation is closely allied ‘one’s “capability set,” the real options from which an agent is free to choose’ (Bohman, 2011: 132). This type of freedom, according to Bohman, needs to be accompanied by ‘well-being freedom’ such as an epidemiologically safe environment and freedom from starvation.

Currently, children cannot seek redress through international courts, when governments limit their citizenship rights.2 Referring to ‘multigenerational citizenship’, Geraldine Van Beuren (2011) identifies a developing facet of citizenship that is ‘essential in a globalized world, and that is the capacity to act

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2 In September 2019, a group of 16 children, including Swedish climate activist Greta Thunberg, lodged a legal case with the Committee on the Rights of the Child against Argentina, Brazil, France, Germany and Turkey, asserting these countries breached their obligations by failing to protect them from the ‘direct, imminent and foreseeable risk to their health and wellbeing’ posed by the climate crisis. The Guardian 5 May 2020 www.theguardian.com.
on one's own behalf and on behalf of others internationally and, in particular, before international bodies, since the UNCR C omits procedures whereby children can challenge their governments' decisions concerning citizenship (39).

In today's interconnected world, citizenship necessarily requires reciprocal membership with others in an international community. Children need recognition as both national and cosmopolitan citizens.

One further consideration, from the child citizen's perspective, is the non-separation of the powers of the courts, the legislature, and the executive (who control resources), normally considered as critical in a democracy. Adult citizens can periodically remove a democratically elected government from power through their votes if resources are not distributed in ways that are to the liking of the majority. Members of the legislature are likewise mindful of the wishes of the electorate they represent. Since children generally do not vote, there is for children as a group, no effective separation of powers or of checks and balances on the executive. If the interests and rights of child citizens, who are generally not enfranchised, are to be guaranteed, then the courts may need to intervene to guarantee their rights, and this may imply, for example, the ordering of resources to fulfil those rights, drawing on the principle enshrined in international law, that in decision-making the best interests of the child prevail (Van Bueren, 2011).

One challenge is identifying a theory of democratic participation that addresses children as political actors, that is, as citizens. While there has been an increased interest in children’s citizenship, with the concept increasingly applied to children, for example in analysing the transition from childhood to adulthood (Nakata, 2015), it does nevertheless remain the case, as Cohen notes, that:

Theorists, both of politics and of citizenship, have had difficulty in addressing questions pertaining to the governance of children in liberal democracies and few explore the issue beyond pointing out that children do not hold full citizenship.

Cohen, 2005: 223

Children’s customary exclusion from the demos, or from the citizenry with rights, is frequently explained by doubts about their competence. While the UN Committee recognises the difficulty of defining children’s maturity in expressing a view on matters affecting them (CRC, 2009: para. 30), Henaghan (2017) suggests that a further problem lies in the wording of Article 12: that ‘capable’ suggests that children have a limited ability to express their views and that the reference to ‘age and maturity’ effectively limits the weight to be
given to these views. This perspective is not universally shared. Parkes (2013: 32) states that: ‘The [UN] committee has emphasised that state parties should refrain from using this phrase as a limitation’ and ensure that children of all ages are provided with the greatest possible range of opportunities to express their views. Furthermore, while it is not always possible for children’s views to be direct determinants of outcomes, these views should be ‘listened to and respected’ (Henaghan, 2017: 541).

Turning to education, various child rights researchers have stressed that children, like adults, not only have social, cultural and economic rights but also civil and political rights (Verhellen, 1992, 2000a and b; Osler, 2010; Osler and Starkey, 2010 and 2019; Quennerstedt, 2010) and that these rights need to be exercised in the public sphere, across a range of social contexts, including schools. Among the reasons put forward as to why Article 12 is not endorsed by national education systems are first, that the child’s capacity is underestimated, and secondly, that allowing children to take more control over decision-making in school may undermine what may be a delicate power balance between children and school authorities (Lundy, 2007). The first problem relates to notions about competence; the second may be, in part, a pragmatic response of hard-pressed educators, but also reveals an underlying assumption about who is a legitimate rights-holder (the adult, rather than the child).

Some scholars discuss Article 12 from the perspective of children’s democratic participation as citizens (Verhellen, 1992: Freeman, 2000; Osler and Starkey, 2005; Alderson, 2008, Parkes, 2013), addressing the school as a public space where children may practice democratic engagement. Among these, Parkes stresses the value of Article 12 in encouraging children to exercise and respect democracy. Osler (2010) warns about the dangers of promoting cynicism in teaching children about the ideals encapsulated in Article 12 if they simultaneously experience denials of these same rights. Nondomination is a precondition for psychological security, and freedom to plan. Article 12 requires that society accept children’s participation in a world long dominated by adults. It may protect against nondomination in the context of schooling, enabling children to be ‘legally secure from domination even without having attained full legal or political status (Bohman, 2011: 135).

We assert that questions of intergenerational justice and nondomination are key considerations in children’s citizenship, addressed to different degrees under the provisions of Article 12. We have seen how children are consistently barred from membership of the citizenry with political rights and recognise that the concepts of “due weight” and “age and maturity” remain problematic in implementing the UNCRC. Recognising that questions about children’s competence may continue to serve as a barrier to children’s democratic participation,
we suggest questions about the *legitimacy* of their claim to democratic rights (their right to be part of the *demos*) remain relatively unexplored in democratic theory, further restricting the implementation of Article 12.

It has been suggested that ‘the right to participate in democratic policy-making processes, the right to self-determination and the right to assert these rights independently are the main pillars of human rights’ for youth (Verhellen, 1992: 81). If, as we understand, children have both the right to participation, and the right to democracy, then we must turn to the state to understand why this right is not adequately guaranteed. Democracy is exercised by the *demos*, but it is the state that determines who is included in the *demos*. Since it is adults who are the ‘present possessors’ of democracy (Bohman, 2011: 137–138), we examine the concept of “hospitality” to clarify why we need to open our doors to those hitherto denied access.

We see that children lack some of the requisite parts of the citizenship in liberal democracies to which adults lay claim. Faced with this difficulty, few theorists of either citizenship or democratic politics have explored children’s citizenship status in depth. Children’s perceived limited competencies have effectively led theorists to ‘conclude that the standards of deliberative self-governance do not apply to them’ (Cohen, 2005: 223). This assumption appears to be the root of the theoretical void we face.

## 4 Derrida’s Concept of Hospitality

Our examination of the work of political theorists suggests there is a theoretical void in relation to children’s citizenship. We therefore consider the possibilities of Jacques Derrida’s hospitality concept to shed light on child and youth inclusion in the *demos*. Derrida discusses the boundaries that divide citizen from non-citizen, using the concept of hospitality. We consider how Derrida’s hospitality concept may inform discussion of children’s citizenship and intergenerational justice, before examining the case of Japan to consider: why are children excluded from the *demos*? What obstacles prevent their ‘right to be heard’ and organise collectively?

Scholars have built on the hospitality concept to discuss varied issues, including migration law (Stronks, 2012), the ethics of feminist research (Davids, 2014), and education (Ruitenberg 2011). In each case there is an explicit concern about ethical behaviour in contexts where there exist power imbalances, as experienced between the migrant and the state, the researched and the researcher, and the student and the school authorities. We apply the concept of hospitality to children and their citizenship. We are interested in
the relationship between children and the state. Although there are checks and balances to protect the rights of adult citizens, these checks and balances are limited for child citizens. Their citizenship status is incomplete and frequently ambiguous. In political theory children are effectively ‘semi-citizens’ to whom ‘the standards of deliberative self-governance do not apply’, even though as children they have claims or special rights as children that adults do not (Cohen, 2005: 22). Derrida’s hospitality concept throws fresh light on the power imbalance between children and the state, not dissimilar to the power imbalance between the migrant and the state.

According to Baban and Rygiel (2017: 101), ‘the border between citizen and noncitizen [has been created] in necessarily hierarchical ways’. For these scholars, a distinctive feature of the concept of hospitality is the way Derrida examines the qualifications for citizenship from the perspective of the stranger, the outsider, rather than from the perspective of the powerful. From this viewpoint, it is possible to consider why society should accept young people as engaged citizens, and holders of democratic citizenship rights. Hospitality was a central element in his argument that the state needs to open its borders to provide asylum or refuge (Derrida and Dufourmantelle, 2000). Historically, the state has denied the rights of marginalised groups, because of differences of nationality, ethnicity, gender and other characteristics. Here we focus on children’s exclusion on grounds of age. We consider why hospitality should be shown to the young, so that they are invited into the democratic sphere. The inclusion of children in the democratic sphere is, we further argue, a means of realising intergenerational justice, and ensuring the nondomination of youth.

4.1 Unconditional Hospitality

Derrida explores the concept of hospitality by asking how we might invite someone we do not know, who is excluded from society, into our home. Generally, hospitality is shown to a stranger after s/he has said who s/he is. In this situation, the host ‘is aware of her or his indebtedness to the guest’ and by receiving hospitality the guest admits his debt to the host (Ruitenberg, 2011: 3–32). But Derrida asks us to imagine different, extreme conditions and what he terms ‘unconditional hospitality’ (Derrida, 1999; Derrida and Dufourmantelle, 2000). Here, he posits the case of welcoming an unknown guest, without first establishing their identity. By deconstructing two contrasting concepts, ‘conditional [ordinary] hospitality’ and ‘unconditional hospitality’, Derrida is inviting readers to deconstruct normally taken-for-granted institutions, laws, structures and experiences, so that the two original terms “hospitality” and “unconditional hospitality”, ‘are shown to share a relation to a new “concept” that exceeds them both’ (Haddad, 2010: 117). The aim is to
discover a new reality through exploring the tension between the two original concepts (Haddad, 2010). In answer to the question concerning the possibility of unconditional hospitality, Derrida’s (1999: 24 and 35) conclusion is, ‘we must say yes’. By applying the concepts of hospitality and unconditional hospitality to children, we are imagining what it might mean to throw open the door to children and how institutions, law, structures and political theory, would need to change and develop to accommodate them.

4.2 Unconditional Hospitality and Citizenship

Derrida observes that: ‘Citizenship is given or refused on the basis of territorial law or the law of blood relationship, the foreigner is a foreigner by birth, is a born foreigner’ (Derrida and Dufourmantelle, 2000: 87). Just as the host will open the door after asking a prospective guest who and what s/he is, so the state gives citizenship to people who meet certain qualifications. Yet Derrida demands that society offer unconditional hospitality to those who are not (yet) recognised as citizens. In drawing attention to the boundary dividing conditional and unconditional hospitality, he raises questions about the boundary between someone who qualifies as a citizen and another who does not. He invites us to consider inviting the alien into our society without the screening process normally required. He acknowledges this may not be possible in the real world, but his aim is to reveal the power that the state exercises when it requires the alien undergo a citizenship screening process. Through the process of labelling another person an alien, the state seeks to justify a process that distinguishes “us” from “the other”.

Moreover, Derrida (1999: 58) asks: ‘what becomes of the welcome when the subject-host takes on the attribute being-hostage?’ Hospitality without any identification means that there is no indebtedness of the host to the guest. The relationship becomes unequal, it is no longer reciprocal. As Baban and Rygiel (2017: 104) explain: ‘Derrida turns the logic of hospitality upside down by indicating that the act of hospitality is not something that the host offers, but is, instead, the stranger’s right to claim’. Here, in contrasting unconditional and conditional hospitality, he is exploring what distinguishes “us” from “the other”; in other words, what divides the citizen from the noncitizen. In the case of children, we can explore what distinguishes the adult citizen from the child “semi-citizen”. By labelling a person as a child, the state justifies legal and administrative processes that assert that democratic standards of deliberative self-governance do not apply to this category of persons.
4.3 Hospitality and Law

Additionally, Derrida explores the notion of law and rights or duties, claiming: ‘Absolute hospitality should break with the law of hospitality as a right or duty’ (Derrida and Dufourmantelle, 2000: 25). Although domestic law guarantees the rights and makes explicit the duties of citizens, the law itself may provide citizens with a justification for refusing to admit the stranger, in the name of a right or duty to observe the law. Derrida attempts to break down the justifications put forward by the nation-state and develop a law based on a new conception of justice.

Stronks (2012: 75) makes a useful distinction between the “Law” and laws, identifying what he sees as an inherent contradiction in the concept of hospitality:

It does matter whether laws or the Law prevails. If the Law is given to much space, hospitality can easily turn into xenophobia, which relates to the collusion of power and hospitality. After all, the power of the host implies he will select and filter the visitors and guests as he would otherwise lose the sovereignty of his home. ...This power consequently implies a certain inclusionary and exclusionary force at the very threshold of the right of hospitality.

4.4 Hospitality in the Context of Article 12

Article 12 provides that the state opens democratic processes to children, extending the boundaries of democratic citizenship. The hospitality concept offers us new insights into the boundaries that exist between adult citizens and children, between the present and future possessors of democracy. If we examine the enactment of Article 12 through the prism of unconditional hospitality, we gain new insights. Derrida (1999: 125) states: ‘The law of hospitality demands a break with hospitality by right, with law or justice as rights’. Here, he is not denying rights but alerting us to the paradox of hospitality: just as Stronks (2012) warns us that the law can turn hospitality into exclusion and xenophobia, with the state (the host) selecting and filtering migrants (guests), so children can be denied democratic citizenship rights by adult duty-bearers operating on behalf of the state, who express concern that extending democratic participation rights to children will upset existing power balances. In other words, those who have power exclude children from democratic processes. Citizens who are unhappy with the government's record can vote for change. In the case of children, who lack electoral power, there is no effective separation of the powers of the executive and the legislature because children
are seen as a constituency who may not lay claim to the power currently invested in adults (for example, as professionals).

Adult decision-makers may focus on the limitations of Article 12, focusing on whether the child in question, ‘is capable of forming his or her own views’ and interpreting ‘due weight in accordance with the age and maturity’ to exclude from the demos, rather than include in the spirit of unconditional or absolute hospitality. Effectively, the international legal framework provided by Article 12 may not serve as a positive force. Through the exercise of power, Article 12 may turn hospitality into exclusion. An Article, intended to include, may morph into a general characterisation of youth, as not like “us” (capable, mature) and therefore less deserving of democratic engagement.

Constitutional arrangements in liberal democracies provide for the separation of the powers of the executive, the legislature, and the judiciary, providing checks on the power of the executive and offering protection to citizens. This means not only is the executive not accountable to children, but also that it operates in the case of children with an exceptional degree of power (Van Bueren, 2011). This is an example of what Stronks (2017:75) refers to as, ‘the collusion of power and hospitality’.

If we consider extending the invitation of full citizenship to children, without submitting them to any tests of identification or of competence, we may uncover the real reasons behind the nation-state’s obstructive or exclusionary behaviour. Our discussion of Article 12 above suggests that age is the only boundary between children and adults. Since age does not correlate absolutely with competence, we may assume that there are also other unidentified factors that exclude young people from democratic participation. According to Haddad (2010: 128), unconditional hospitality, ‘demonstrates how norms cannot serve as the basis for an ethics, politics, or religion that would be beyond the threat of destabilization’.

We aim to identify and examine such norms when exploring the reason for children’s democratic exclusion in Japan. We now turn to this case to consider how Derrida’s hospitality concept may inform discussion of children’s citizenship, looking first at the domestic legal framework and then examining parliamentary discourse better to understand: Why are children excluded from the demos? What obstacles prevent their “right to be heard” and organise collectively?
5  UNCRC Article 12 and Japanese Legal and Policy Frameworks

The Constitution was drafted in the aftermath of World War Two (WW2) in parallel with the drafting of the Universal Declaration of Human Rights (UN, 1948). It is founded on three principles: pacifism; popular sovereignty; and respect for fundamental human rights (Constitution of Japan, 1947). Since both fundamental human rights and democratic participation are supreme constitutional principles, we might expect the UNCRC Article 12, which provides for children’s democratic participation in matters affecting them, to be endorsed in the domestic legal system.

5.1  The Domestic Legal Framework

While there are other jurisdictions where policymakers have been unwilling to endorse Article 12 within education legal and policy frameworks (Lundy, 2007; Osler and Starkey, 2010; Parkes, 2013), our aim here is to understand the specific barriers that exist to its implementation in Japan. UNICEF (2004) asserts that a firm legal framework is essential to the implementation of child rights. In its General Comment No. 12, the UN Committee urged all Member States to ensure the provisions of Article 12 within domestic legislation (CRC, 2009).

Japan ratified the UNCRC in 1994, but the first initiative to endorse Article 12 was the 2008 Act on the Promotion of Development and Support for Children and Young People (Kodomo wakamono ikusei shien hō) (Government of Japan, 2008: para. 2.2). The UN Committee was critical of this development, observing, ‘there is no comprehensive child rights law in place’ (CRC, 2010, para. 11). The 2016 Child Welfare Act (Jido fukushi ho) can be taken as the first significant effort to integrate Article 12 into Japanese law, addressing child protection (The Child Welfare Act [Amended], 2016, paras. 1–2). But the UN Committee, responding to the Government of Japan (2017), ‘remains seriously concerned that the right of children to express their views freely in all matters affecting

3 The Act was amended with the primary purpose of addressing child abuse, which had been on the rise for two decades (Ministry of Health and Welfare, 2011). The Japanese government finally responded to one of the main concerns of the UN Committee (CRC, 1998: paras. 153 & 174; 2004: paras 37 & 38; 2010: para 49) by confirming the provisions in domestic law. Nao (2017) suggests that this reform came about through pressure by the Japanese UNICEF Committee on Yasuhisa Shiozaki, then Minister of Health, Labour and Welfare.

4 Japanese administrative notices are not generally considered legally binding documents but are influential in determining procedures to be followed. They are published by ministries or other high-level bodies for the purposes of helping employees in lower echelons interpret specific laws. They are widely recognised as problematic, with several judicial cases awaiting judgement on the status of a specific administrative notice.
them is not respected’ (CRC 2019, para. 21). Moreover, the rights provided under Article 12 have not been endorsed in any education legislation although, for all practical purposes, there is no neat division between the spheres of child welfare and education.

There is one key policy document that has been influential in setting the tone concerning children’s right to be heard and their democratic participation in the sphere of education: an administrative notice issued by the Ministry of Education, Culture, Sports and Technology (MEXT) to teachers and school authorities, just days after the UNCRC was ratified. Its provisions relating to the UNCRC Article 12 read as follows:

4. From CRC Articles 12 to 16, although the basic right to be heard and freedom of expression etc. are allowed, it is possible to instruct or guide pupils or students, and frame school rules for educational purposes, to a necessary and reasonable extent.

School rules are clear regulations for pupils or students for their healthy school life, as well as for their growth and development. These rules are the responsibility of each school.

As school rules are related to daily educational instruction, they should take account of pupils’ and students’ situations, their parents’ or guardians’ ways of thinking, local conditions etc.

5. Regarding Article 12 § 1, although the right to be heard must generally be given due weight, according to the age and maturity of the child, it is not always guaranteed that children’s views will be taken into account.

In schooling, the pupil’s or student’s actual situation must be considered, according to the age and maturity of the child. School must instruct pupils or students educationally in a more detailed and sufficient way (MEXT, 1994, paras. 4–5, our translation).

The Ministry’s view is that the child’s freedom of expression should be curtailed and permitted in school only ‘to a necessary and reasonable extent’. The Ministry further stresses that, ‘it is not always guaranteed that children’s views will be taken into account’ (MEXT, 1994 paras. 4 and 5). The notice is discussed below, first in relation to Government reports to the UN Committee, and secondly, in our analysis of parliamentary debates on the child’s right to be heard.

5.2 Government Reports to the Committee on the Rights of the Child

The Japanese government’s attitude to the provisions of Article 12 in schools is consistent from the first report, submitted in 1996, to the most recent, dating from 2017 (Government of Japan, 1996; 2003; 2009; 2017). Each report reaffirms the policy laid out in the 1994 administrative notice (MEXT, 1994). The first report is of particular interest: it states that the 1994 notice (in relation
to disciplinary action) ensures that ‘full attention is paid to the student’s condition individually, with an opportunity being given to the student to explain the situation and his/her views’ (Government of Japan, 1996, para. 69, emphasis added). The third report states: ‘Aspects such as the formulation of school regulations and organization of curricula do not personally involve individual children and are not considered to be subject to the right of expressing their opinions as provided for in Article 12’ (Government of Japan, 2009, para. 205, emphasis added). The official purpose of listening to children in accordance with Article 12 is to ensure that disciplinary actions, including suspension from school, have ‘educational benefits’ (Government of Japan, 2017: para. 38). In fundamental decisions about rules or curricula, children’s opinions are not to be taken into account.

Government policy is that Article 12 in school applies only to individuals. In each report, the terms individually or personally are frequently used. Individual children may express their views on matters that affect them personally, as may school councils, but there should be no provision for children’s individual or collective views to be taken into consideration on educational processes such as school rules, curricula, or examinations that affect children in general or particular sub-groups of children (for example, children with disabilities, children who do not hold Japanese nationality). This excessive individualisation of Article 12 stands in contrast to the CRC’s General Comment No. 12, which urges governments to consult children as a group and support the development of independent children’s organisations (CRC, 2009).

A key issue is the low level of public awareness of the UNCRC, with the UN Committee urging the Government to run public information campaigns, work with NGOs, train professionals and inform parents (CRC, 1998: paras. 11 and 12; 2010, para. 23). Although there is no comprehensive research data on the degree to which Japanese authorities or public are familiar with Article 12, our keyword search of the database of The Yomiuri Shimbun, Japan’s best-selling newspaper, brings up just seven articles about Article 12 over the 24 years since ratification (The Yomiuri Shimbun, 2018b). By contrast, the Parliamentary debate database shows that this issue was debated in 97 plenary sessions and committees, from 1994 until the 2016 Child Welfare Law amendment (National Diet Library, 2018). Kita claims that an awareness campaign ‘on the UNCRC as a whole has been carried out at various levels by national and local government, by citizens’ or employees’ organisations and at the child-parent level’ (cited in Nao, 2017:150, our translation). However, awareness-raising has tended to focus

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5 The Yomiuri Shimbun has a daily circulation of over 9 million copies (The Yomiuri Shimbun, 2018a).
on children internationally, with little attention to the specific situation of Japanese children. There have also been campaigns stressing children's obligations rather than their rights (Nao, 2017). Thus, the only substantive discussion of Article 12 has taken place at the national political level and, in the sphere of education, government policy recognises no collective right of children to democratic participation.

The UN Committee explains the Japanese government's reluctance to implement Article 12 in terms of "traditional" attitudes (CRC, 2004, para. 27; 2010, para. 43) yet this does not adequately explain an education policy framework that specifically denies children a collective voice. Significantly, the UN Committee also expresses concerns about 'restrictions on political activities undertaken by schoolchildren' both on and off school campuses. It is also concerned that children below the age of 18 require parental consent 'to join an association'. The Committee urges the authorities to review such regulations (CRC, 2004: 29–30). We next present the socio-historical background to young people's democratic participation, to contextualise parliamentary discourse on child participation rights.

5.3 Japanese Protest Movements and the Politics of Student Democratic Participation

Japanese protest movements in the second half of the 20th century have taken place against a back-drop where the Liberal Democratic Party (LDP) has remained the dominant ruling party (often in coalition). Since 1960, the LDP has secured electoral victory by focusing on economic growth, while the Japan Socialist Party (JSP) and the Japan Communist Party (JCP) have lost much of their ideological appeal. In the early 2000s, the Democratic Party of Japan (DPJ) was formed to present 'a more unified opposition front against the LDP' (Scheiner, 2006: 45).

6 In 1955, the existent socialist parties merged to form the Japan Socialist Party (JSP), and the Liberals and the Democrats followed with their own merger to form the LDP (Scheiner, 2006). The LDP has remained in power except for two periods from 1993–4 and from 2009–2012 (Shushokantei, 2018). Indeed, 'between 1995 and 2005, the LDP was out of power for a total of ten months and 20 days' (Scheiner, 2006: 1).

7 The ostensible purpose of the Anpo Treaty was to defend Japan from its communist neighbours (Ando, 2014) but its entry into force coincided with the beginnings of the Cold War and US concerns about an internal Japanese communist threat. Restrictions were placed on the democratisation processes that protestors saw as a threat to regional peace and the new fragile democracy.

8 Junior high school students are generally aged 12–15 years and senior high school students 15–18 years. The protesters thus included children.
5.4 The Anpo Student Protest Movement

From 1955 to 1970, Japanese society experienced a wave of student-led protests against the US-Japan (Anpo) Security Treaty. As we shall show, the Anpo protests play a symbolic role in present-day debates about children's democratic participation.7 The protests reached their peak in May and June 1960 with protesters, boosted by anti-colonial movements, forming an alliance of 'nuclear disarmament groups, anti-military base groups, women's groups, farmers' unions and youth groups' (Ando, 2014: 29). Groups led by university students, but including high school students,8 staged radical protest actions, such as blockading the airport to prevent a meeting of Prime Minister Kishi with US President Eisenhower. On 15 June, 1,500 protesting students clashed with police armed with water cannons and tear gas, resulting in the death of a Tokyo University student protestor (Ando, 2014). A strike mobilised 6.2 million workers, but the signing of the Treaty went ahead.

On the political left, the violent police intervention took on symbolic importance as an ‘undemocratic way of decision-making over the Treaty’ (Ando, 2014: 33). Following the 1960 US-Japan Security Treaty, protests continued for another decade, deepening left-right societal rifts (Jesty, 2015). As the LDP established political dominance, a major ideological struggle developed between economic liberalism and socialism (Scheiner, 2006). These protest movements represent the historical experiences of children and youth engaged in political activism. By deconstructing present-day parliamentary debates, we can see how past youth activism influences the present-day fears of those who perpetuate children's exclusion from the demos.

Nikkyōso, the Japanese Teachers' Union, is frequently mentioned in parliamentary debates on children's participation rights. Founded in 1947 with a mission to defend the post-war democratic settlement, Nikkyōso represents teachers at all levels.9 From 1989 and the end of the Cold War it began to cooperate with a broad range of political parties. At the time of Japan's ratification of the UN CRC, Nikkyōso's power was declining and it was no longer an effective counter to the LDP or MEXT (Aspinall, 2001).

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9 In 1958, 86.3% of state schoolteachers were members (Kamiya, 2008). Despite its importance, Nikkyōso is little researched. According to Ichikawa, this is because Japanese education researchers have avoided positioning themselves on a 'delicate question' that might even have ‘negative repercussions for their careers’ (Ichikawa, cited in Aspinall, 2001).
5.5 Parliamentary Discourse and Data Analysis on the Right to be Heard

Our analysis of parliamentary debates 1991–2016 reveals a complex economic and political story. To understand the barriers to the implementation of Article 12, and the reasoning behind children’s exclusion, we analyse Japanese political discourse, using Derrida’s hospitality concept to inform our analysis and promote discussion about children’s ambiguous citizenship status.

We searched the digital archive (National Diet Library, 2018) using a series of combined keywords (‘the right to be heard’ and ‘child’, ‘pupil’, or ‘student’) to identify appropriate debates over a 25-year period, from 1991–2016. Our interest is in the term, ‘the rights of young people’ and specifically the use of the term ‘young people’s right to be heard’. We identified 97 such debates in plenary sessions and committees. We focused on 73 debates, addressing the discourse relating to education (53 debates), implementation measures (16 debates) and general policy-making processes (4 debates).

5.6 Parliamentary Discourses

We identified four overarching themes: rights, rule and discipline; the role of education, society and the nation-state; internationalisation; and democratic participation and its legislation.

5.7 Rights, Rule and Discipline

Here, the child is discussed as the subject of rights (rights-holder) (see Figure 1), and discourse is framed partially through traditions stemming from the European Enlightenment, with frequent claims that human rights are natural rights (Komori, JSP, Committee on Foreign Affairs 12, 21.05.1993: Takano, New Frontier Party (NFP), Research Commission on the Constitution, 03.03.2000), as well as efforts to construct a Japanese universality (ways of applying the concept of universal rights within a Japanese context). The child’s identity is addressed both in relation to ‘the right of self-determination’ (Nagai, University Professor, Committee on Foreign Affairs, 10, 19.05.1993) and in

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10 Our search was from 9 April 1991, when ‘the right to be heard’ was first recorded, to 6 May, 2016, when the Child Welfare Act was amended to address Article 12. The UNCRC or Article 12 is not always the focus of the discussion.

11 We followed the categorisation used by Kilkelly and her colleagues (2005). In addition, we add #7 General Policymaking Processes to examine how policymakers generally interpret Article 12 in law-making, and #8 Others for debate about a very specific law-making issue, for example how policymakers relate Article 12 to the 2011 Great East Japan Earthquake disaster reconstruction.

12 Each speaker is referred to by name; MP’s political party/profession; name of parliamentary committee; date.
relation to others (Abe, JCP, Committee on Education, Culture, Sport, Science and Technology, 9, 24.05.2001).

Those who seek to challenge or restrict the concept of the child as rights-holder emphasise the child’s need for protection and her physical, mental or emotional immaturity. This discourse seeks to limit the application of Article 12, restricting decision-making rights in relation to future education, employment and marriage.

Significantly, the Japanese word for child (kodomo) is frequently discussed in this discourse. In the Japanese translation of the UNCRC, the Ministry of Foreign Affairs elected to use the word “pupil” (jidō). Officials claim this is because domestic law uses this term: for example, The Child Welfare Act is rendered as the Pupil (jidō) Welfare Act (Yoshizawa, MOF official, Committee on Education, 4, 07.04.1992). Yet jidō refers solely to primary school students. This official translation is frequently criticised for restricting the range of rights-holders under the UNCRC, which should properly include all from age 0–18 years (e.g. Kobayashi, JSP, Committee on Education, 4, 07.04.1992). The translation of “child” as “pupil” suggests government officials are afraid of giving high school students democratic power.

Figure 1 also addresses the discourse of rule and public order, where the third lower column lists terms used by those expressing concern about the pressures of Japan’s highly competitive schooling, focused from pre-primary education on access to (top) universities with associated challenges such as crammer schools, and bullying. By contrast, the fourth lower column lists terms used by advocates of control-based education. The UN Committee explains control-based approaches and denials of children’s rights to “traditional” attitudes (CRC, 1998: para.156). The Committee does not elaborate its meaning, but we understand it to refer to measures such as strict dress codes, physical punishment and the sanction of exclusion from school. As we have seen, MEXT has sought to restrict the provisions of Article 12 through an administrative notice (MEXT, 1994). This discourse, addressing public order, uncovers the meanings behind this official guidance: rights are presented as in tension with public order and contrasted with the obligations of schoolchildren.

The debate around educational considerations reveals a further tension: whether it is genuinely “educational” for young people to express their views at school or whether limits need to be imposed to prevent classroom chaos (Yano, LDP, Committee on Foreign Affairs, 7, 10.06.1993), with school principals setting the norms and restrictions (Sakamoto, MEXT official, Committee on Education, 2, 21.11.1993).

These discourses echo the reports and communications between the Japanese Government and the UN Committee. The assertions of those arguing
for young people’s recognition are close to Verhellen’s (2000a, 2000b) calls for the full legal recognition of children. The opposing discourses focus largely on young people’s competence, their duties, and question their legitimacy as rights-holders. Referring back to Derrida’s hospitality concept we can see discourses that support the invitation of children into the democratic sphere, but these are in tension with discourses that appeal to law and administrative procedures as well as to children’s lesser competence, as a means to filter out children from the democratic sphere. Use of the word “pupil”, rather than “child” serves to question the status of children as fellow citizens or rights-holders. Effectively, children’s exercise of rights at school is denied by labelling this practice as lying outside the sphere of activities that are judged “educational”.

5.8 The Role of Education, Society and the Nation-State
In the discourse on the role of education, society and the nation-state, MEXT is referred to in both negative and positive terms. It is addressed negatively by those advocating the implementation of Article 12 (Figure 2). For example, an MP criticises its centralising power, and its ‘over-administration of schooling’, contrasting it with the office of the children’s ombudsman that aims to provide mechanisms by which young people can express their views, thus...
countering MEXT’s centralised power (Doi, JSP, Committee on Foreign Affairs, 13, 26.05.1993). MEXT is subject to further criticism for failing to provide an Article 12 public awareness campaign for youth (Takano, NFP, Committee on Foreign Affairs, 11, 23.04.1998).

MEXT is contrasted unfavourably with the Ministry of Foreign Affairs (MOFA), the government body that reports to the UN Committee, and believed to be more sympathetic to Article 12 because of its expertise in international law. Policymakers frequently question the different stances of MEXT and MOFA. On the other side of the debate, MEXT is seen as adopting a pragmatic approach to schools’ realities, offering them guidance, and preventing confusion (Yano, LDP, Committee on Foreign Affairs, 1, 29.03.1994).

The term “society and the nation-state” takes on contrary meanings (see Figure 2), with those who advocate for youth participation and greater societal openness discussing the dangers of denying young people democratic rights. They suggest this ultimately risks totalitarianism and make various historical references to WW2; the Imperial Rule Assistance Association;13 and Nazi fascism (Komori, JSP, Committee on Foreign Affairs, 12, 21.05.1993).

Those who express negative attitudes to Article 12 accept that young people need to learn about democracy but argue that they need to prioritise their membership of society and the nation-state over individual freedoms (Tomon, Committee on Foreign Affairs, 2, 23.04.2003). The emphasis here is on a perceived ‘tension between human rights and [the interests of] the state’ (Kakizawa, LDP, Committee on Foreign Affairs, 12, 21.05.1993).

Both those who support and those who express reservations about Article 12 address questions of community. They share concerns about pressures to enter higher education; the consequent attendance at crammer schools; and insufficient opportunities to play, socialise or learn about community life (Kawamura, LDP/ MEXT Minister, Committee on Budget, 12 17.03.2004). There are shared concerns about bullying, high suicide rates and other pressures (Hosaka, Journalist, Committee on Foreign Affairs, 10. 19.05.1993). Concrete suggestions are made by those favouring young people’s right to be heard, through representation at Local Educational Board meetings where they can contribute to discussions about overly-competitive schooling, as one means of implementing Article 12 (Sanuki, University Professor, Committee on Education, Culture and Science, 14, 25.06.2001).

Contrary voices prioritise traditional family, local community and societal values and insist on strong home discipline (Tōyama, MEXT Minister, Plenary

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13 This was a movement founded in 1940 that operated during WW2 to promote totalitarianism in Japan. L.
Session Upper House, 15.06.2001). Loyalty to the local community and strong family discipline are thought to nourish patriotism. A claim is made that the 1947 Basic Education Act, adopted after WW2, placed too much emphasis on the individual (Machimura, LDP, Special Committee on Basic Education Act, 3, 24.05.2006).

These debates present two alternative visions of the child: a current citizen with democratic participation rights and a future citizen who must learn to prioritise loyalty to the nation and delay claims as a rights-holder for the sake of his or her country. MEXT remains a powerful force, and Derrida’s hospitality concept highlights an acute power imbalance at play. We see that while MEXT’s highly centralised power base is supreme in the sphere of education, it is not absolute. There remain other societal forces, particularly at local and regional levels, that acknowledge the benefits of recognising children’s citizenship, and the dangers to the democratic state of children’s continued exclusion.

Derrida’s concept of unconditional hospitality allows us to imagine a renewed democracy, where children practice their citizenship rights and where child participation mechanisms are developed and strengthened, perhaps initially at local level, so that the host then sees how children’s democratic participation brings enrichment to both children and adults in an expanded demos. Civil society (children and their adult allies) is silenced in part because there is limited public awareness of Article 12. Awareness raising might be enhanced through alliances between students’ unions, children’s advocacy groups, grassroots organisations, local authorities, sympathetic legislators, and those professionals already grappling with its meaning, including those engaged in child welfare. Some of these groupings already have international networks on which to draw.

5.9 Internationalisation
In this third discourse, two terms “international society” and “internationalisation” (see Figure 3) are used both to support and restrict children’s democratic participation. “International society” relates here to international military cooperation and security. The discussion among legislators is over two different facets of “democracy”: young people’s individual democratic participation in Japan, and Japan’s international participation in military efforts to realise global security.

From 2004–2009, the Japanese government dispatched the Japanese Self-Defence Forces (SDF) for non-combat duties in Iraq. This controversial decision marked ‘a major turning point for the nation’s defence and security policy’ (Nabeshima, 2004), since this was the first time the SDF had been used abroad during a de facto war. At some schools, students joined in the public debate on
sdf deployment, and some high school students organised petitions requesting the withdrawal of sdf troops from Iraq. On the one hand, a member of parliament claimed that there was no formal political procedure for hearing students’ views about government decisions (Hayashi, JCP, Committee on Education, 2, 18.03.2004). On the other side, the then Minister of Education argued for students to learn the necessity of international military cooperation (Kawamura, LDP, Committee on Education, 2, 18.03.2004).

Within the discourse on “internationalisation” there is also discussion among legislators about the concept of the desirable citizen in an age of economic globalisation (Figure 3). Here, those supporting the implementation of Article 12 discuss the detrimental impact of schooling on youth: economics-driven education policy contributes to the dehumanising nature of schooling, with no means for young people to request changes, even though Article 12 guarantees their right to be heard (Shimazaki, JSP, Committee on Education, 2, 17.02.1993). Legislators express concern about the domination of children by adult-determined, money-driven policy and challenge a narrow view of education as an economic investment (Yamauchi, Social Democratic Party (SDP), Committee on Education, Culture and Science, 3, 27.02.2002).
Those opposed to Article 12 re-assert the need for economic competitiveness (Figure 3, lower right-hand column). They do not deny democratic values but stress the importance of a balance between individual rights and citizens’ collective contribution to society. Children are characterised as future citizens who will re-establish Japan’s global competitiveness and enable future scientific and technological development (Kosaka, LDP, MEXT Minister, Special Committee on Basic Act of Education, 4, 26.05.2006).

The school-level engagement of some children in the national debate and activism related to the deployment of the SDF in Iraq indicates that within a prevailing climate, where much of education focuses on university entrance and students’ future contribution to the economy, some teachers and students are able to exercise a degree of freedom. The power of MEXT is not monolithic. These students, with the support of their teachers, enter the democratic space, but the opportunities remain limited, though acknowledged by parliamentarians. Membership of the demos remains restricted to adult citizens. This is not the hospitality of the nation-state, but small-scale initiatives at school or classroom level. It is important but tokenistic.

5.9 Democratic Participation and Enabling Legislation
This discourse is central in revealing legislators’ understandings of young people’s democratic participation. Here we uncover strong ideological left-right conflicts about young people’s right to be heard, and legislators’ understandings of the relationship between the provisions of the UNCRG concerning young people’s political rights, and constitutional entitlements. Figure 4 illustrates the general terms that those advocating for young people use (lower left-hand column), which stand in contrast to many terms used by those wishing to curtail youth political participation (lower right-hand). The latter group reference perceived problematic historical developments: the “the spectre of the past”, such as US-led post-ww2 democratisation initiatives, and Cold War-period student protests.

Several decades after the end of the Cold War, its discourse remains surprisingly powerful. Machimura attacks union leaders as a barrier to education reform, claiming:

Some [teacher] union leaders still cannot escape from Marxist-Leninism ... Education after the war ... does not force children at all, respecting their individuality, which is the basis of the post-war education scene ... The basics and foundation cannot move forward, accompanied by a sort of fluffiness (Machimura, LDP, Special Committee on the Basic Act on Education, 3, 24.05.2006).
For Machimura, the concern here appears to be Japan’s position in the educational league tables, but he adopts the ideological discourse of the Cold War era. The intervention illustrates how the contemporary standards debate is referenced to a historical ideological debate, with children’s right to democratic participation additionally derided as a fluffy overconcern with the individual child. Long-standing resentment persists of the US democratisation policy following WWII, specifically the enacting of labour laws and the enabling of freedom of association (Ōmae, LDP, Special Committee on Basic Act on Education, 4, 26.05.2006).

We return to the government’s periodic reports to the CRC, where it is assumed on questions such as curricula and school regulations that children do not have the right to express collective opinions since such matters do not personally involve individual children (Government of Japan, 2003, para. 370; 2009, para. 205; 2017, para. 38). The reasoning behind the restriction on the right to be heard becomes clear in these parliamentary debates. Children’s democratic participation remains associated with the extensive protests that Japanese society experienced in the Cold War era. Young people’s political participation in the 21st century remains associated with Nikkyōso or another “ideological group” (Yano, LDP, Committee on Foreign Affairs, 7, 10.06.1993) and with terms such as “communism” and “Marxist-Leninism”. Here we uncover the most plausible reason why the Japanese government has recognised the

**Figure 4** Discourse on democratic participation and enabling legislation
individual rights of children in the context of Article 12 but denied their collective right to express opinions. The LDP-led government retains a strong ideological allergy to the stance of the political left: participation is associated with labour rights, freedom of association and youth challenges to the established neoliberal project.

There is one further discourse, concerning domestic legalisation (incorporation of Article 12 rights into domestic law). Debate focuses on the relationship between the UNCRC and the Constitution. Those calling for domestic legalisation refer to the 1979 Convention on the Elimination of All Forms of Discrimination Against Women\textsuperscript{14} (Inui, DRP, Plenary session of Upper House, 20, 28.05.1993). They call for domestic legislation since they see children as marginalised from democratic participation in much the same way as women.

Those opposed to domestic legislation of Article 12 as a collective right make reference to the Constitution (Kakizawa, LDP, Committee on Foreign Affairs, 12, 21.05.1993). The discussion focuses on two pillars of the constitutional framework: fundamental human rights and popular sovereignty (Constitution of Japan, 1946). Policymakers discuss Article 12 in the context of implementing children’s human rights. Since fundamental human rights are categorised separately from popular sovereignty within the Constitution’s modal framework, some policy-makers insist that Article 12 cannot be applied collectively, since constitutionally, fundamental human rights are (theoretically at least) assured individually. Nevertheless, Article 12 is an element of international law that Japan has ratified, and this claim does not stand up well. According to UNICEF, it is ‘through collective organization [that] children learn self-protection, self-representation and self-advocacy’ (Lansdown, 2011: 141).

6 Conclusion

The Japanese government has prioritised public order at school and in society over students’ political rights. The political right fears children’s democratic participation, associating it with the political left, student protest and past challenges to authority. Schooling plays a central role in Japan’s neoliberal project, and those opposing children’s democratic participation claim youth democratic engagement threatens economic success. Efforts to implement Article 12 and embed children’s democratic participation thus provoke strong opposition from the architects of neoliberalism.

The political dominance of the LDP, together with the USA’s post-WW2 democratisation and military policies, intended to contain communism, have

\textsuperscript{14} Ratified by Japan in 1985.
effectively silenced the perspectives of children and their allies. In line with economic policy that emphasises global competitiveness, school students’ democratic action is intentionally labelled “socialist” in a political discourse that favours economic liberalism. We find no evidence from parliamentary discourse that “traditional” attitudes adequately explain the denial of children’s collective participation rights. By proposing a cultural explanation, the UN Committee may be doing Japanese children a disservice and assuming a homogeneous view of childhood that does not necessarily exist.

Derrida’s hospitality concept uncovers how power imbalances between adults and children become normalised and accepted, preventing intergenerational justice and an invitation to children to join the demos. Children are likewise excluded through institutional inertia. The hospitality concept reveals how government officials, acting as duty-bearers, nevertheless act against children’s rights by appealing to a 1994 administrative notice issued by the Ministry of Education (MEXT) that carries much weight, but which has not apparently been subject to democratic scrutiny. Children, and their allies in civil society, have been silenced. They are denied full citizenship rights. Derrida allows us to imagine unconditional hospitality in which full citizenship rights are accorded to children, enabling them to participate in the demos.

While the architects of neoliberalism claim their policies have worked for the Japanese economy, they have failed children. There remain strong ideological divisions between left and right over child participation rights, yet both sides recognise the urgent problems of an excessively competitive school system: bullying, undue pressure, and damage to children’s mental health and wellbeing. It may be through working with children on these areas of agreement that progress is made in implementing the provisions of Article 12.

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