

REVIEW

From recognition to impact: communicational inclusion of children and adolescents with ASD in the Chilean justice system

Del reconocimiento a la incidencia: inclusión comunicacional de NNA con TEA en justicia chilena

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ABSTRACT

Introduction: the study identified the right of children and adolescents to be heard as a pillar of the protection system, recognized by the CRC and Chilean laws 19.968 and 21.430. It identified that the effective exercise of this right was strained when children and adolescents had autism spectrum disorder (ASD), due to communication and sensory particularities that were not sufficiently considered in forensic practice. Based on frameworks such as the Lundy model and the CRPD, the need for reasonable procedural conditions and support to ensure substantive participation was raised.

Development: the national and international framework, the Judiciary's guidelines, and the evidence on confidential interviews were reviewed, revealing a lack of standardized protocols and a predominance of verbal formats. ASD (DSM-5) was characterized, including communicational heterogeneity and atypical sensory processing, which increased stress in judicial settings. Under the umbrella of Universal Accessibility (physical, sensory, cognitive), Augmentative and Alternative Communication (AAC)—pictograms, boards, social scripts, voice output devices, and anticipation—was established as a resource for expanding comprehensibility and communicative agency. The gap between regulatory intent (including Law 21.545) and its implementation was evident due to a lack of training, resources, and operational guidelines.

Conclusions: the study concluded that the gap between legal recognition and actual participation persisted for children and adolescents with ASD. It determined that AAC, integrated into flexible protocols, improved understanding, self-regulation, and the voice of children and adolescents, provided that there was early communication assessment, individualized selection of supports, environmental adaptations, and interprofessional coordination. It recommended institutionalizing screenings, accessible preliminary materials, systematic use of AAC in hearings, evidentiary recording of supports, and ongoing training of operators, promoting pilot programs with fidelity, cost-effectiveness, and impact on decision quality assessments.

Keywords: Right to be Heard; ASD; Universal Accessibility; Augmentative and Alternative Communication; Family Justice.

RESUMEN

Introducción: el estudio situó el derecho de niños, niñas y adolescentes (NNA) a ser oídos como pilar del sistema de protección, reconocido por la CDN y las leyes chilenas 19.968 y 21.430. Identificó que su ejercicio efectivo se tensionó cuando los NNA presentaron Trastorno del Espectro Autista (TEA), debido a particularidades comunicacionales y sensoriales poco consideradas en la práctica forense. Desde marcos como el modelo de Lundy y la CDPD, se planteó la necesidad de condiciones procedimentales y apoyos razonables para asegurar participación sustantiva.

Desarrollo: se revisó el marco nacional e internacional, la guía del Poder Judicial y la evidencia sobre entrevistas reservadas, constatándose ausencia de protocolos estandarizados y predominio de formatos verbales. Se caracterizó el TEA (DSM-5), incluyendo heterogeneidad comunicacional y procesamiento sensorial atípico, que incrementó el estrés en entornos judiciales. Bajo el paraguas de Accesibilidad Universal (física, sensorial, cognitiva), se fundamentó la Comunicación Aumentativa y Alternativa (CAA)—pictogramas, tableros, guiones sociales, dispositivos con salida de voz y anticipación—como recurso para ampliar la comprensibilidad y la agencia comunicativa. Se evidenció la brecha entre intención normativa (incluida la Ley 21.545) y su implementación por carencias de formación, recursos y lineamientos operativos.

Conclusiones: el estudio concluyó que la distancia entre reconocimiento jurídico y participación real persistió para NNA con TEA. Determinó que la CAA, integrada a protocolos flexibles, mejoró comprensión, autorregulación e incidencia de la voz del NNA, siempre que existiera evaluación comunicacional temprana, selección individualizada de apoyos, adecuaciones ambientales y coordinación interprofesional. Recomendó institucionalizar tamizajes, materiales previos accesibles, uso sistemático de CAA en audiencia, registro probatorio de apoyos y capacitación continua de operadores, promoviendo pilotos con evaluación de fidelidad, costo-efectividad e impacto en la calidad de las decisiones.

Palabras clave: Derecho a Ser Oído; TEA; Accesibilidad Universal; Comunicación Aumentativa y Alternativa; Justicia de Familia.

INTRODUCTION

The right of children and adolescents to be heard in judicial proceedings is a structural principle of the rights protection system. In Chile, this right is recognized in the Convention on the Rights of the Child and incorporated into Law 19.968 on Family Courts, as well as in the System of Guarantees (Law 21.430). However, its effective exercise presents tensions when children and adolescents have neurodivergent conditions, particularly Autism Spectrum Disorder (ASD), whose communicational and sensory characteristics are not always considered by standard forensic practices. Recent evidence and institutional diagnoses reveal a persistent gap between normative recognition and substantive participation, particularly in highly demanding contexts, such as closed hearings.

From a theoretical perspective, contemporary approaches to child participation—such as Lundy’s model (space, voice, audience, and influence)—require a shift in focus from mere “listening” to the creation of material and procedural conditions that enable children and adolescents to express and influence their opinions. At the same time, the Convention on the Rights of Persons with Disabilities requires reasonable accommodations and support to ensure access to justice on an equal basis. In the case of ASD, this means recognizing heterogeneous communication profiles (oral, non-oral, multimodal) and sensory sensitivities that can amplify the stress of the judicial environment, affecting comprehension, self-regulation, and conversational reciprocity.

In this context, Universal Accessibility—in its physical, sensory, and cognitive dimensions—provides a conceptual and operational framework for redesigning pathways, materials, and interactions to enhance accessibility. Specifically, Augmentative and Alternative Communication (AAC) provides a repertoire of strategies (pictograms, visual boards, graphic supports, voice output devices, anticipatory routines, and social scripts) that do not replace existing communication but rather expand it and make it accessible. The specialized literature reports benefits of AAC in increasing comprehensibility, reducing disruptive behaviors associated with sensory overload, and improving communicative agency, findings with high potential for transfer to the family setting.

Despite regulatory advances—including Law 21.545, the “TEA Law,” which specifies measures for adapting communication in legal proceedings—gaps remain in the implementation, standardization, and training of legal operators. This study, therefore, aims to analyze the communication barriers faced by children and adolescents diagnosed with ASD in family courts and to substantiate a proposal for contextualized, feasible, and diversity-friendly AAC that provides guidelines, roles, and resources to ensure truly accessible hearings, with informed participation and duly considered opinions.

DEVELOPMENT REFERENCE FRAMEWORK

This chapter outlines the theoretical, regulatory, and empirical foundations that underpin the analysis of the research problem posed in the first chapter and guides the proposal from the articulation of the proposed thematic axes, which, from disciplinary perspectives, bring us closer to understanding the difficulties that arise in the exercise of the right to be heard by children and adolescents diagnosed with ASD in family courts and expose the vast possibilities offered by AAC strategies as a tool for communicational accessibility.

The right of children and adolescents to be heard in judicial settings in Chile

The validation and recognition of children and adolescents as full subjects of rights constitutes a fundamental paradigm shift in the legal sphere and social consideration of childhood.⁽¹⁾ According to the author, this highlights the historical view of children as objects of protection and property. Therefore, the evolution towards recognizing their rights is primarily due to our country's ratification of the Convention on the Rights of the Child (CRC) in 1989 and the subsequent adaptation of current legislation.^(2,3) It is in this context that it is imperative to expand the elements of substantial participation within the framework provided by Law 21.430 on Guarantees and Comprehensive Protection of the Rights of Children and Adolescents, without prejudice to the explicit shortcomings in the participation of children and adolescents with autism spectrum disorder. On the other hand, establishing this vision change is essential to grasp the relevance of the entire exercise of this right, which stands out from the formal elements, positioning itself as a fundamental principle and procedural guarantee underlying the law.

Right of children and adolescents to be heard in family courts

In Chile, the right of children and adolescents to be heard in court is incorporated into family justice under Article 69 of Law 19.968 on Family Courts, which refers to the appearance of children and adolescents where “the judge shall duly take into account the opinions of children and adolescents, considering their age and maturity”, in an appropriate environment and safeguarding their physical and mental health. However, despite its legal inclusion, the procedural action to hear children and adolescents, according to Vargas *et al.*, “lacks specific regulation and in practice takes on various names: private hearing, special hearing, or confidential hearing,” which can give rise to different interpretations in practice.

A confidential interview is a type of special interview that differs from expert interviews. It is not necessarily primary evidence, although it is a factor that may be taken into consideration in sentencing. Its main objective is to allow the child or adolescent to express their current situation, opinions, and feelings, as well as their prospects, rather than to obtain information to prove facts. Although forensic interview protocol techniques developed for criminal proceedings (such as Chile's Investigative Interview Guide) can be adapted, the confidential family interview has broader objectives than merely obtaining information to prove a crime. Thus, a confidential interview should effectively avoid guiding or pressuring a child or adolescent to change their position and version of what they are saying.

The wide variety of cases in family courts (including personal care, direct and regular contact, violations of rights, juvenile offenses, etc.) makes it challenging to establish a protocol for interviews of this nature. However, this is why, in 2015, the Judiciary published the document “The right of children and adolescents to be heard in family courts: Approach Guide,” which provides guidance aimed at ensuring full respect for the right of children and adolescents to express their opinions and be heard in judicial proceedings in family courts, offering criteria, guidelines, and appropriate practices designed to ensure effective compliance, especially about form, principles, and procedures. These guidelines are aimed at judges, lawyers, curators *ad litem*, as well as technical advisors and judicial officials. They are presented as “good practices” with the aim of: guide and assist the actions of the different parties involved, thereby supporting their efforts to improve the conditions and quality of the approach taken towards children and adolescents in the judicial process. These guidelines should not be understood as imposed in a uniform and rigid manner, but instead adapted with a degree of flexibility to the unique realities of each location, in accordance with current legal regulations, available resources, and the sociocultural conditions of users.⁽⁴⁾

The Family Court must consider the opinions of children and adolescents when resolving issues that affect them, taking into account various factors expressed throughout the case and during the closed hearing. The views of children and adolescents, regardless of their age and maturity, do not necessarily align with their “true best interests.” Therefore, special attention must be paid to respecting their dignity and their right to be informed and protected at the various stages of the judicial process, with adults viewing them as subjects of rights, thereby promoting the protection of human rights.⁽⁴⁾

International Regulatory Framework: The Convention on the Rights of the Child (CRC)

Having analyzed the right to be heard in the Chilean national context as a central element of this proposal, it is necessary to refer to the substantive bases that govern, regulate, and, in a certain way, judge the progress of international and national territories in terms of guarantees of children's rights, referring to the provisions of Article 12 of the CRC, which is an essential basis for the right to be heard, since, as stated in this proposal, it establishes that States Parties shall guarantee that children who are capable of forming their own views shall express those views freely. Therefore, it should be noted that this article is not limited precisely to judicial proceedings, but is particularly relevant in cases where the measures implemented may have an impact on the lives of children, allowing it to be considered in judicial contexts within the national territory, as recognized in Law 19.968, which created the Family Courts.

On the other hand, with the same level of relevance, the Committee on the Rights of the Child, in its General Comment No. 12,⁽⁵⁾ delves into the scope of this right, emphasizing that it is not simply a right to be heard, but that the opinion be duly taken into account. This means that States have an obligation to establish accessible and adapted mechanisms. It also emphasizes that the ability of children and adolescents to form their own opinions should not be invalidated by age or disability, and that various forms of communication, including nonverbal communication, should be considered. This element is crucial for the present proposal related to children with ASD, whose forms of communication may differ from those traditionally expected, and it highlights the need to implement adaptive communication access mechanisms when required.

That is why, from an international perspective, the Convention on the Rights of Persons with Disabilities (CRPD), approved by the United Nations in 2006 and enacted in Chile in 2008, also reinforces this right from a disability perspective, promoting full and effective participation and inclusion in society.⁽⁶⁾ Although the CRPD focuses on persons with disabilities, its articulation with the Convention on the Rights of the Child is essential to guarantee the rights of children and adolescents with disabilities, guiding the necessary adaptations to enhance their participation on equal terms, integrating children and adolescents diagnosed with ASD.

The report on “Access to Justice for People with Autism in Spain”,⁽⁷⁾ prepared by the Pilot Center on Autism Spectrum Disorder, addresses the specific case of people with ASD in the Spanish context, where there continues to be a great deal of ignorance in judicial circles, as well as a lack of adjustments in the procedures necessary for legal operators to have the tools and knowledge to facilitate access to justice for women and men with autism. The main topic analyzed is the impact of the CRPD and Law 8/21 on the legal capacity of persons with disabilities, which establishes as a fundamental principle that “all persons have legal capacity and, therefore, no one shall be denied access to justice based on their disability”, which implies a paradigm shift from a system of incapacitation of persons with autism to one based on the pursuit of “greater autonomy, strengthening support systems, and removing everyday life from the jurisdiction of the courts”.

Reception in the Chilean legal system and its challenges

Chile has ratified the CRC and given it constitutional status through Decree No. 830 of 1990, which implies the State’s obligation to guarantee the rights enshrined therein, including the right to be heard.⁽²⁾ This allows us to look back on thirty-five years of efforts to guarantee and implement a system of rights for children, with the current legislative model showing greater progress, as evidenced by Law 21.430 on Guarantees and Comprehensive Protection of the Rights of Children and Adolescents, which reinforces this right by establishing the State’s obligation to ensure the free expression of opinions and their due consideration, allowing for a response to the observations already made by the Committee on the Rights of the Child. Similarly, Law 19.968, which creates the Family Courts, establishes a framework for judicial proceedings involving children and adolescents, the practical implementation of the right to be heard, particularly for those with specific communication needs such as autism, presents significant challenges, which is reflected in the absence of adaptive interventions in communication spaces with children and adolescents diagnosed with ASD. However, Chilean case law has indicated that failing to consider the child’s perspective can render the sentence null and void, highlighting that Law 19.968 requires judges to ensure the proper representation of children and adolescents and to appoint a guardian ad litem in cases where they lack legal representation or a conflict of interest exists. Nevertheless, all of this does not guarantee the proper scope for the development of effective communication in the child population with ASD.

Above and beyond the above, and as the only reference point adjusted to the legal context, we highlight the findings of the Children’s Ombudsman’s diagnosis of the rights situation, which indicate that the gap between regulatory recognition and effective practice persists one year after its publication. This reflects the fact that traditional mechanisms in family courts, which are heavily based on verbal and written communication, are inaccessible to many children and adolescents. This is compounded by a lack of knowledge of their rights, restricted participation in various spaces underlying communication barriers, and a lack of appropriate information to form their own judgment, which are historical barriers that prevent the full realization of this right, especially in the judicial sphere.⁽⁸⁾ This tension between the regulatory framework based on paradigm shifts and traditional judicial practices that remain in place is at the heart of the problem. It reinforces the search for innovative solutions that can be applied correlatively to the legal context and the population of children and adolescents diagnosed with ASD, which is perceived as being unconcerned.

Theoretical Perspectives on Child Participation

Having referenced the normative bases, it is also necessary to consider an essential perspective from a theoretical point of view regarding child participation, both in terms of updating the most current models proposed and in relation to the right to be heard as a component of what is understood as participation. In this way, the postulates of Laura Lundy’s model of participation cited by García et al. take on greater significance, as social and legal theory has evolved in its understanding of child participation, highlighting that

these more contemporary views advocate for models that recognize children and adolescents as co-researchers or co-innovators, emphasizing their expertise in their own lives and considering four practical dimensions for participation: space, voice, audience, and influence. Applying these perspectives to the legal context requires recognizing children's participation as more than a right, but also as something that influences their quality of life and sense of belonging in judicial decisions. However, for children with ASD, this participation requires a deep understanding of their particularities and the adaptation of processes so that they can express their opinions effectively. The presumption of incapacity, which the CRPD and the CRC oppose, must be reduced through the implementation of mechanisms that validate and facilitate the individual capacity of each child, regardless of their diagnosis.

The right to participation, according to national procedural law, states that: every child and adolescent has the right to express freely, in their own words, their beliefs, opinions, and views on any matter, and to contribute, especially to decisions that affect them, including those adopted in the context of any judicial process, and that these views be taken into consideration, according to their abilities, age, evolving capacity, and intellectual maturity.⁽⁴⁾

Autism Spectrum Disorder (ASD) from the perspective of communication and sensory characteristics relevant to the judicial context

Delving deeper into Autism Spectrum Disorder, it is worth referring to the findings of Alcalá and Ochoa, who highlight that the primary references associated with ASD agree that it is a neurodevelopmental condition characterized by persistent differences in social communication and interaction, as well as restricted and repetitive patterns of behavior, interests, and/or activities. Therefore, it is essential to understand that this condition manifests differently in each person, hence the broad spectrum of symptoms. Neurodiversity, as a central approach, proposes that these differences are not deficits to be remedied and that they are not degenerative in nature, but rather are natural variations in brain functioning that require understanding and adaptation of the environment.

The Judiciary, within its 2015-2020 Strategic Plan, presents the Protocol for Access to Justice for Vulnerable Groups, to effectively raise awareness among its members regarding access to justice for the five recognized vulnerable groups: 1. Persons with disabilities; 2. Children and adolescents; 3. Migrants and persons subject to international protection; 4. Indigenous persons, peoples, and communities; and 5. Women victims of gender-based violence. These guidelines encompass concepts, general principles, national and international standards, and recommendations or considerations for judges, which are provided as guidance for judicial action to enhance access to justice for individuals, particularly those who meet one or more conditions that may be considered grounds for potential discrimination. In this context, the purpose of adapting the Ibero-American Protocol on Judicial Action on Access to Justice for Persons in Vulnerable Situations to social and legal realities is fulfilled. Specifically addresses “improving access to justice and greater protection of the rights of persons with disabilities and obliges those who operate with regulations related to this issue to always employ the highest standards in favor of persons with disabilities”.

Law 21.545, known as the “ASD Law,” promotes the inclusion, comprehensive care, and protection of the rights of individuals with ASD in the social, health, and educational spheres. Article 2 states that:

For this law, the following definitions shall apply: a) Persons with autism spectrum disorder. Individuals with autism spectrum disorder are understood to be those who present a difference or diversity in typical neurodevelopment, which manifests as significant difficulties in initiating, reciprocating, and maintaining social interaction and communication when interacting with different environments, as well as in exhibiting restrictive or repetitive behaviors or interests.

Restrictive or repetitive behaviors or interests. The spectrum of significant difficulty in these areas is broad and varies from person to person.

These characteristics constitute a degree of disability when they have a significant functional impact on the person, affecting family, social, educational, occupational, or other aspects, and, when interacting with various environmental barriers, prevent or restrict their full and effective participation in society on an equal basis with others.

For its part, Article 23 expressly states that “In judicial proceedings, care shall be taken to ensure that persons with autism spectrum disorder are treated appropriately. They shall be heard, information shall be provided to them in clear and easily understandable language, and they may use signs, visual aids, or pictograms, if necessary.”

This provides a much deeper scope and presents a significant challenge for judicial operators in addressing the sensory and communicational characteristics of persons with ASD, as well as the essential requirement of adapting the environment. It is imperative to highlight the need for tools and strategies that allow for the exercise of the right to be heard, given the absence of specific references in judicial matters regarding children and adolescents diagnosed with ASD. This is understandable given the nature of the phenomenon and the proposal under study, which is underpinned by the secrecy that characterizes the legal sphere. Therefore, the

authors' current postulates enable us to construct an optimal reference path for understanding it, considering that autism is a spectrum and, as such, exhibits diversity in its characteristics.

Particularities in Social Communication and Interaction

Differences in social communication are a central feature of ASD, which can include challenging scenarios in verbal and nonverbal language. In some cases, subjects may have limited or absent oral language. In contrast, others may be verbal but struggle with pragmatic aspects of language, such as understanding metaphors, sarcasm, double meanings, the social context of communication, or conversational reciprocity.

In 2013, the American Psychiatric Association (APA) published the new version of the Diagnostic and Statistical Manual of Mental Disorders, DSM-5. After a long process of discussion and analysis, the organization of the manual has undergone significant changes (for example, the classification by axes has been eliminated), as well as the conception of several disorders, including autism and other pervasive developmental disorders (PDD). In the DSM-5, the different subtypes of PDD have disappeared. Autistic Disorder, Asperger Syndrome, and Pervasive Developmental Disorder Not Otherwise Specified have been merged into a single disorder called Autism Spectrum Disorder (ASD). The name change aims to highlight the multidimensional nature of the disorder across various affected areas and the challenge in defining precise boundaries between subgroups.⁽⁹⁾

In an effort to achieve more specific diagnostic criteria, DSM-5 increases the number of areas affected to consider that a person has the disorder. For a person to have ASD, they must have impairments in the three areas included within the deficits in social interaction and communication (socio-emotional reciprocity, nonverbal communication, and development, maintenance, and understanding of relationships), as well as two of the four areas affected in the restricted repertoire of behaviors and interests (repetitive behaviors, insistence on invariance, restricted interests, or sensory alterations).⁽⁹⁾

Morocho et al.⁽¹⁰⁾ indicate levels of ASD severity based on the DSM-5, mentioning core characteristics in terms of severity based on social and communicative impairment and the presence of repetitive and restricted behavior patterns.

Nivel de gravedad	Comunicación social	Comportamientos restringido y repetitivos
Grado 3 "Necesita ayuda muy notable"	Las deficiencias graves de las aptitudes de comunicación social verbal y no verbal causan alteraciones graves del funcionamiento, inicio muy limitado de las interacciones sociales y respuesta mínima a la apertura social de otras personas. Por ejemplo, una persona con pocas palabras inteligibles que raramente inicia interacción y que, cuando lo hace, realiza estrategias inhabituales sólo para cumplir con las necesidades y únicamente responde a aproximaciones sociales muy directas.	La inflexibilidad de comportamiento, la extrema dificultad de hacer frente a los cambios u otros comportamientos restringidos/ repetitivos interfieren notablemente con el funcionamiento en todos los ámbitos. Ansiedad intensa/dificultad para cambiar el foco de acción.
Grado 2 "Necesita ayuda notable"	Deficiencias notables de las aptitudes de comunicación social verbal y no verbal; problemas sociales aparentes incluso con ayuda <i>in situ</i> ; inicio limitado de interacciones sociales; y reducción de respuesta o respuestas no normales a la apertura social de otras personas. Por ejemplo, una persona que emite frases sencillas, cuya interacción se limita a intereses especiales muy concretos y que tiene una comunicación no verbal muy excéntrica.	La inflexibilidad de comportamiento, la dificultad de hacer frente a los cambios u otros comportamientos restringidos/ repetitivos aparecen con frecuencia claramente al observador casual e interfieren con el funcionamiento en diversos contextos. Ansiedad y/o dificultad para cambiar el foco de acción.
Grado 1 "Necesita ayuda"	Sin ayuda <i>in situ</i> , las deficiencias en la comunicación social causan problemas importantes. Dificultad para iniciar interacciones sociales y ejemplos claros de respuestas atípicas o insatisfactorias a la apertura social de otras personas. Puede parecer que tiene poco interés en las interacciones sociales. Por ejemplo, una persona que es capaz de hablar con frases completas y que establece comunicación pero cuya conversación amplia con otras personas falla y cuyos intentos de hacer amigos son excéntricos y habitualmente sin éxito.	La inflexibilidad de comportamiento causa una interferencia significativa con el funcionamiento en uno o más contextos. Dificultad para alternar actividades. Los problemas de organización y de planificación dificultan la autonomía.

Figure 1. Severity levels of Autism Spectrum Disorder

Source: Seldas⁽⁹⁾

Different Sensory Processing

To reinforce the above idea, as highlighted by Del Toro et al.⁽¹¹⁾, a relevant component, and often overlooked in formal contexts, is the atypical sensory processing experienced by many people with ASD, which can make them hypersensitive or hyposensitive to different external and proprioceptive stimuli. These statements, based on various authors, are reinforced by the results obtained in their study focused on understanding the characteristics of sensory processing in a child population with ASD, concluding that:

Children with ASD exhibit abnormal sensory processing, characterized by sensory hypo- and hyperreactivity behaviors, which directly impact other areas of development, including access to functional and symbolic play, personal autonomy, language, and social skills.

Augmentative and Alternative Communication (AAC) as a potential application in judicial contexts

From the reference elements already mentioned, it is essential to search for elements that allow us to propose communication mechanisms tailored to the specific characteristics of children and adolescents diagnosed with ASD, which are applicable in judicial contexts. For this reason, the implementation of Augmentative and Alternative Communication (AAC) strategies is proposed, given their expansive nature. It should be noted that, although there is no formal record of its application in Chile, research and postulates at the international level are needed to inform the present reference context.

For his part, Sazo⁽¹²⁾ refers to favorable impressions of the use of AAC strategies applicable to hybrid communication systems, highlighting that it is in a stage of application to various processes that has become more robust in recent years. It is essential to recognize that AAC does not aim to replace traditional communication mechanisms, but rather to augment them, thereby providing new alternatives when existing ones are limited. Reaño⁽¹³⁾ reaffirms that its theoretical basis lies in the belief that all people have the fundamental right to communicate and that the provision of appropriate tools and supports can facilitate this communication, emphasizing that AAC is not a single technique, but a broad field with diverse strategies adapted to individual needs and based on models that recognize the variety of human communication methods that can include gestures, facial expressions, body language, sign communication systems (such as sign language), visual aids (images, pictograms, symbols), voice communicators (electronic devices that “speak” when symbols or text are selected), and writing.

From another perspective, building on the above, Deliyore as cited in Cerpa et al.⁽¹⁴⁾, points out that “those who communicate alternatively, as long as they do not have alternative communication resources, will experience exclusionary and discriminatory barriers, making it impossible for them to participate in society actively”.

Specific AAC strategies relevant to children and adolescents with ASD

Vanacloig et al., through a literature review of various authors on the effectiveness of AAC application in children with ASD in school contexts, conclude that interventions are effective for the development of communicative competence through verbal or nonverbal components, as all the treatments analyzed show positive results in relation to this competence. Therefore, it is essential to highlight that a large part of AAC strategies is based on effectiveness correlated with the high use of visual elements, which allows the strengths of existing visual processing in children and adolescents diagnosed with ASD to be extracted. Therefore, the image exchange communication system mentioned in Chapter I is a notable example. The application of these strategies in family courts, as proposed, aims to capitalize on the visual strengths and information-processing abilities of children and adolescents diagnosed with ASD to overcome the communication barriers that characterize the traditional judicial environment.

Ernesto Reaño⁽¹⁵⁾, in his article “Language, autism, and augmentative and alternative communication,” explores the development of communication in people with ASD, its differences from neurotypical forms, and the crucial importance of AAC systems as a “fundamental human right,” as established in Article 19 of the UDHR, for the non-speaking population with this condition, advocating for a paradigm shift not only in education but also in society in general, to guarantee the right to communication for all autistic people, since the absence of an adequate communication system violates the human rights of these individuals. This is in relation to the fact that it is estimated that between 20 and 25 % of the general autistic population is minimally speaking or non-speaking, and traditionally, this population has been associated with “severe” profiles of autism and diagnosed with intellectual disability when assessed with intelligence mediation tools designed for a neurotypical speaking population. Speaking is expected and desired in a child’s early childhood, and it is understandable to believe that oral language is the primary or best form of communication. “But not speaking does not mean not thinking, nor does it mean not understanding.” The vast majority of non-speaking autistic people can understand language even if they cannot use it in its expressive oral form. For individuals who experience difficulties in developing oral language, AAC systems (such as manual signs, communication boards with symbols, and computerized devices) provide a means of exercising their right to communication.

AAC systems are the ‘voice’ of non-speaking autistic people and a significant number of people with speech disabilities. Being unable to communicate is perhaps the primary barrier to accessing all forms of social interaction. Not having a communication system is a violation of human rights”.

Universal Accessibility Paradigm as a theoretical foundation

Taking into account the elements described above, it is worth noting the coexisting impressions in Spain through the Rumbo project, which seeks to promote an innovative model for addressing disabilities. In this case, the model will be specifically tailored to children and adolescents with ASD, closely related to the cognitive dimension. However, first, we will describe universal accessibility as: “(...) the condition that environments, processes, goods, products, and services, as well as objects, instruments, tools, and devices must meet in order to be understandable, usable, and practicable by all people in conditions of safety and comfort and most autonomously and naturally possible. (...)”.⁽¹⁶⁾

From the perspective of these authors, it is important to identify three dimensions of universal accessibility that facilitate the construction of more perceptible societies: physical, sensory, and cognitive, which are defined as follows:

- Physical accessibility, which is the characteristic of environments and elements that people with different mobility needs can use.
- Sensory accessibility, which is the characteristic of environments and elements that allows their use by people with different needs related to vision, hearing, or hyper- or hyposensitivity to certain sensory stimuli.
- Cognitive accessibility, which is the characteristic of environments and elements that makes it possible for all people, regardless of their abilities or situation, to understand and use them.⁽¹⁶⁾

Along with this, it suggests that the main difficulties in cognitive accessibility that we may encounter in the autism spectrum underlie the anticipation of information and the use of accessible information:

- Anticipation of information. Many people with autism encounter barriers when faced with unfamiliar situations. Faced with a world that may seem illogical or hostile, they find a source of security in establishing transparent and predictable routines. Therefore, when faced with unfamiliar situations, it is crucial to provide them with clear and understandable information in advance, ideally as far in advance as possible, about the environment they will visit, the meeting they will attend, or the task they will perform.
- Accessible and understandable information. As mentioned above, the diversity of the autism spectrum means that we encounter people who face greater or lesser barriers to comprehensive communication, that is, to processing the information they receive from their environment or from a conversation partner.⁽¹⁶⁾

Complementary to the above, we highlight the idea of considering characteristics that the author defines as “visual thinkers,” referring to individuals who find it easier to understand information when it is presented with visual support. This reinforces the central idea of this proposal, highlighting the use of communication pictograms to promote understanding among people with autism spectrum disorder, due to the particularities of their information processing.^(16,17,18)

Reinforcing these difficulties, research indicates that people on the autism spectrum face significant barriers in physical spaces, such as a lack of signage unfamiliar environments, explicitly referring to the context of courts, where unfamiliarity with the place, combined with interactions that are not only novel but also potentially hostile due to the importance of the issues discussed, affects information processing; overwhelming sensory stimuli, which, as indicated, can be a significant barrier to participation for many autistic people, who must expose themselves to the possibility of sensory overload in order to attend specific spaces; as well as the lack of information and support.^(7,16)

Thus, it is permissible to opt for communication pictograms as a feasible means of reducing the communication barriers experienced by children and adolescents in judicial contexts, considering from the outset that their use is personal and individual, and that prior work must be done to ensure that they are understood and used by a specific group of people.^(16,19,20)

Relevant Legal and Public Policy Framework in Chile: Intersectionality of Rights

It should be noted that the intersectionality between being a child or adolescent and having ASD implies a double layer of vulnerability and the need for specific adaptations that consider both the stage of development and neurodivergent particularities.^(21,22)

Therefore, guaranteeing the right to be heard for children and adolescents with ASD in Chile requires the convergence of various regulatory and public policy frameworks from an intersectionality of rights perspective.

In other words, in this case, such convergence implies recognizing that the identities and conditions of children and adolescents with ASD cannot be analyzed in isolation because they do not add up, but rather interact with each other.

Although the System of Guarantees and Comprehensive Protection of the Rights of Children and Adolescents in Chile, Law 21.430, establishes the possibility of the participation of children and adolescents, the Office of the Ombudsman for Children maintains that various clear guidelines and a true mainstreaming of participation have not yet been implemented, nor in the judicial sphere. It is also worth noting that this public policy is making progress in terms of formal recognition.⁽⁸⁾

Even before the practical implementation of Law 21.545 on Autism Spectrum Disorder (ASD), challenges and opportunities have been identified⁽²³⁾, as it is a pioneer in several areas of inclusion for people with this condition. However, the law faces a significant gap between its stated intention and the observed reality. Although the law should guarantee inclusive spaces, its effectiveness is compromised by the lack of policies for spaces specifically designed for the needs of people with ASD, adapted infrastructure, education, and awareness at the national level, which seek a more inclusive and respectful approach to diversity, improving the quality of life of people with this condition in Chile.

There is an apparent tension between the legal and public policy imperative to guarantee the participation and non-discrimination of children and adolescents (including those with disabilities) and the operational reality of a judicial system that lacks the mechanisms, training, and tools necessary to enable the participation of children and adolescents with ASD through adapted communication methods. Addressing this tension is central to the proposed intervention.

CONCLUSIONS

The analysis carried out revealed a structural gap between the normative recognition of the right of children and adolescents to be heard and its effective exercise when neurodivergent conditions are present, particularly Autism Spectrum Disorder (ASD). Although the Chilean legal framework—reinforced by the CRC, the CRPD, Law 19.968, Law 21.430, and Law 21.545—establishes express guarantees of participation and accommodations, forensic practices remain anchored in predominantly verbal formats, with little standardization of supports and limited training of operators. This mismatch resulted in communication, cognitive, and sensory barriers that restricted the communicative agency of children and adolescents in closed hearings and other procedural milestones, weakening the substantive consideration of their opinions and impacting the quality of decisions.

From a conceptual standpoint, the adoption of contemporary approaches to participation (such as the Lundy model) and the Universal Accessibility paradigm offers a robust operational framework for redesigning procedures, materials, and environments. In this regard, Augmentative and Alternative Communication (AAC) emerged as a set of ideal strategies—pictograms, social scripts, boards, and devices with voice output, visual aids, and routine anticipation—that do not replace existing communication but rather expand it and make the judicial process understandable. The evidence reviewed showed that AAC can improve comprehensibility, reduce sensory overload, promote self-regulation, and, consequently, increase the actual incidence of children and adolescents' voices in decisions. However, its potential depends on enabling conditions: early communication assessment, individualized selection of supports, interprofessional coordination, and monitoring of results.

In terms of practical implications, it is recommended that communication accessibility guidelines be institutionalized in family courts, with flexible and scalable protocols that include: (i) screening for communication and sensory needs; (ii) preparation for the hearing with accessible materials; (iii) systematic use of AAC supports during interaction; (iv) adaptations of the physical environment to mitigate aversive stimuli; and (v) evidentiary record of the supports used and their impact on the child's comprehension and expression. These measures should be accompanied by ongoing training for judges, technical advisors, defenders, and psychosocial teams, as well as coordination with educational and health networks to ensure continuity of support. Among the limitations identified are the heterogeneity of the spectrum, the absence of standardized metrics for "effective participation," and the scarcity of local implementation studies. Therefore, it is recommended to proceed with controlled pilots that assess fidelity, cost-effectiveness, and impact on decision quality, incorporating the voices of children and families. In summary, guaranteeing the right of children and adolescents with ASD to be heard requires a shift from formal compliance to an accessible, person-centered, data-driven procedural ecosystem.

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