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THE CONVENTION ON THE RIGHTS OF THE CHILD: SUCSESSES AND GAPS IN REDUCING CHILD LABOR AND RIGHT VIOLATIONS

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DOI: 10.5937/EEE24067P

JEL: J13, K31

Review Scientific Paper

ABSTRACT

The most significant international document in the field of children's rights is the 1989 United Nations Convention on the Rights of the Child (CRC), established to transform the treatment and perception of children by adults. Despite this, children's rights are frequently violated. Numerous children succumb to preventable diseases, lack access to education, and are left vulnerable when their parents die from illness or conflict. Many children endure violence, exploitation, and abuse, from which they are unable to protect themselves. The CRC was the first to establish a universally accepted definition of the fundamental rights of the child. With ratification by 196 countries, the CRC holds the distinction of being the most ratified human rights treaty. However, the primary shortcoming of the CRC is the absence of robust legal mechanisms for the practical implementation and protection of individual children's rights. According to data from international labor organizations, over 200 million children under the age of 15 are engaged in labor, including roles such as shoe shiners, newspaper vendors, agricultural workers, carpet weavers, quarry workers, and mine clearers.

KEYWORDS

Convention on the rights of the child, children's rights, international documents

“In the little world in which children have their existence,
whosoever brings them up, there is nothing
so finely perceived and so finely felt as injustice.”
(Charles Dickens)

INTRODUCTION

After World War I, which left many children orphaned, Eglantyne Jebb founded the world's first organization dedicated to children's rights in 1923 – Save the Children. At Eglantyne Jebb's initiative, the League of Nations General Assembly adopted the first Declaration of the Rights of the Child in 1924, which served as the foundation for the further strengthening of the concept of children's rights.

After World War II, during which children were not only victims but also participants in the conflicts, the United Nations was established in 1945. This organization has been instrumental in the creation of documents that advance children's rights: the Declaration of the Rights of the Child (1959), which

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includes 10 fundamental principles highlighting children as a particularly vulnerable group, and the Convention on the Rights of the Child (1989), which represents the first international document of binding nature for ratifying states addressing children's rights. A decade of preparation for the Convention on the Rights of the Child yielded results, and within just a few months, the Convention received the necessary 20 ratifications and entered into force on September 3, 1990. The process of acceptance continued, and with the endorsement of 196 countries, the Convention on the Rights of the Child became the most widely accepted international treaty, applying to nearly all children worldwide. The only two countries that have not ratified it are the United States and South Sudan.

The influence of the Convention on the Rights of the Child on legislation and practice can be observed in all parts of the world. The Convention was the first document ratified by South Africa, leading to the prohibition of corporal punishment and the development of an independent juvenile justice system. In Brazil, following the ratification of the Convention in 1990, a new Children and Adolescents Law was enacted based on the principles of the Convention. Burkina Faso established a Children's Parliament, implementing the principle of children's participation in society and the creation of new laws. The Russian Federation established juvenile and family courts. Morocco founded the National Institute for Monitoring the Respect of Children's Rights. Finland developed a plan for early childhood education and care, a new comprehensive education program, a recommendation for the quality of school health care, and an action plan against poverty and social exclusion. Eritrea's Penal Code prescribes penalties for parents or caregivers who neglect, abuse, or abandon children (Sejmur).

STRUCTURE AND CONTENT OF THE CONVENTION OF THE RIGHTS OF THE CHILD

The text of the Convention on the Rights of the Child is divided into a preamble and three parts.

The preamble recalls the fundamental principles of the United Nations and specific provisions from relevant human rights treaties and declarations, affirming that children, due to their vulnerability, require special care and protection. It emphasizes the primary role of the family in the upbringing and protection of the child. The preamble also reaffirms the necessity of legal and other forms of protection for children before and after birth, the importance of respecting the cultural values of the communities from which children come, and the vital role of international cooperation in safeguarding children's rights (Convention on the Rights of the Child, 1989).

The first part of the Convention contains the rights recognized for children as well as several provisions that require State parties to take all necessary measures to implement the rights outlined in the Convention and to uphold the highest standards in this area. Article 1 of the Convention defines a child as any human being below the age of eighteen unless, under the law applicable to the child, majority is attained earlier.

To facilitate information about and application of the rights guaranteed by the Convention, various classifications are used:

- The classical division into civil, political, economic, social, and cultural rights;
- Rights classified as participatory, protective, and developmental;
- Rights categorized as rights to survival, protection, development, and participation in community life (participatory rights);



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- Rights classified as participatory, protective, preventive, and developmental.

The Committee on the Rights of the Child, to aid State parties in reporting on the implementation of their obligations under the Convention, has delineated categories such as civil and political rights, family environment and alternative care, rights to health and social services, rights to education, leisure, recreation, and cultural activities, and rights for children in special situations.

These classifications primarily serve a practical purpose and do not imply a hierarchy of rights in terms of importance, although four rights are elevated to the level of principles, as it is not possible to ensure the enjoyment of other rights without their realization:

- The right to non-discrimination (Article 2),
- The best interests of the child (Article 3),
- The right to life, survival, and development (Article 6),
- The right to participation (Article 12).

In the second part of the Convention on the Rights of the Child, the obligations of State parties are further elaborated, and the establishment and functioning of a special supervisory body – the Committee on the Rights of the Child – are regulated.

The third part of the Convention addresses matters related to signing, ratification, accession, entry into force, reservations, amendments, denunciation, and deposit.

PROTECTION AND SUPERVISION – COMMITTEE ON THE RIGHTS OF THE CHILD

The Convention on the Rights of the Child establishes a specialized body – the Committee on the Rights of the Child, based in Geneva. This Committee consists of eighteen experts whose task is to monitor the alignment of national legislation with the provisions of the Convention, ensure the implementation of rights, and assess the practical situation regarding the enjoyment of children's rights.

The Committee obtains necessary information through reviews of reports that State parties are required to submit periodically (The initial report from State parties is submitted two years after the ratification of the Convention on the Rights of the Child, and thereafter, they are obligated to submit periodic reports every five years). The Committee may also supplement its understanding of the status of children's rights in a country with alternative reports prepared by non-governmental organizations. If the Committee finds that a State report is incomplete or contains inaccuracies, it will request additional written explanations from the State, which is then invited to provide an oral defense of its report.

Based on the review of both the State and alternative reports, responses to additional questions, and oral defenses, the Committee on the Rights of the Child prepares a report that includes recommendations to the State aimed at overcoming difficulties and improving the implementation of the Convention and overall conditions related to the realization of children's rights.



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THE ROLE OF THE STATE IN IMPLEMENTING THE CONVENTION OF THE RIGHTS OF CHILD

By ratifying the Convention, a State undertakes the obligation to take all necessary legislative, administrative, and other measures to realize the rights recognized by the Convention. The State must take measures to the maximum extent of its available resources and, where necessary, within the framework of international cooperation (Convention on the Rights of the Child, Article 4). State parties are also committed to familiarizing both adults and children with the principles and provisions of the Convention (Convention on the Rights of the Child, Article 42). In this way, the State assumes primary responsibility for realizing children's rights.

The formulation of Article 4 of the Convention reflects the acknowledgment of the reality that a lack of resources may hinder the full implementation of economic, social, and cultural rights in a State. Thus, the concept of “progressive realization” of guaranteed rights is introduced, meaning that States must demonstrate that they have implemented the rights “to the maximum extent of their available resources” and, where necessary, sought international support and cooperation.

In its guidelines for reporting and assessing State parties' reports, the Committee on the Rights of the Child pays significant attention to identifying and analyzing resources allocated for children. No State can prove that it has fulfilled children's economic, social, and cultural rights to the maximum extent of available resources (in accordance with Article 4 of the Convention) if it cannot identify the percentage of the national budget allocated to the social sector, including the proportion directly or indirectly earmarked for children. The Committee advises State parties that the Convention should serve as a framework for international development aid and encourages States to work towards achieving internationally agreed goals, including the United Nations target for development aid at 0.7 percent of Gross National Product, which was also endorsed in the Monterrey Consensus reached at the International Conference on Financing for Development in 2002 (Report of the International Conference on Financing for Development, 2002).

The Committee positively evaluates the inclusion of sections on children's rights in national constitutions, as it reflects the fundamental principle of the Convention—that children, alongside adults, are also bearers (enjoyers) of human rights. However, constitutional guarantees of rights “for all” do not automatically ensure the enforcement of children's rights, raising questions about whether these rights are effectively applied to children and whether they can be protected in court. Therefore, full implementation of the rights under the Convention on the Rights of the Child requires additional legislative measures (General Comments of the Committee on the Rights of the Child, General Comment No. 5, p. 42).

In cases of conflict between the provisions of the Convention and domestic law or customs, the Convention applies in accordance with Article 27 of the Vienna Convention on the Law of Treaties (Vienna Convention on the Law of Treaties, 1969).

The Committee on the Rights of the Child recommends that State parties utilize technical assistance from the United Nations Children's Fund (UNICEF), the Office of the High Commissioner for Human Rights (OHCHR), and other United Nations agencies in the process of implementing the Convention.

THE ROLE OF CHILDREN IN REALIZING RIGHTS

The Convention on the Rights of the Child seeks to balance between the developmental capabilities of the child and adults' assessments of what is in the best interest of the child. The Convention advocates



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for the empowerment of children by introducing the right to participation as one of its fundamental principles. Although children's rights are often addressed by adults, the principle of participation serves as a foundation for actively involving children in the realization of the Convention. The intention is not to confront children's views with adult values, but to create a responsibility for adults to ensure that children are involved in decision-making processes that affect them.

The right to participation does not, however, imply absolute freedom of action. The extent to which a child's opinion will be considered depends on various factors: the child's age and maturity, the specific circumstances, the nature and complexity of the decision, and the rights and interests of other parties involved.

For a more comprehensive understanding of implementation, the Convention requires States to conduct self-monitoring by assessing the impact on children and the enjoyment of their rights for every proposed law, decision, policy direction, or budgetary allocation, as well as evaluating the impact of measures taken as a result of implementation. In this regard, the Committee on the Rights of the Child emphasizes that, in many cases, only children can indicate whether their rights are fully recognized and realized. Conversations with children (interviewing) and data collected by child researchers are the best ways to determine the extent to which their opinions are heard and respected within families, schools, etc. It is also important that data collection covers the entire period of childhood, up to eighteen years of age. Additionally, it is crucial not only to establish an efficient data collection system but also to ensure that the collected data is evaluated and used to assess progress in implementation and to identify related issues.

Children must gain knowledge about their rights. UNICEF and certain non-governmental organizations have created child-friendly versions of the Convention with information on where to seek help and advice. On the other hand, it is essential to provide information and training for adults, as without understanding the implications of the Convention—particularly its affirmation of children's equal status as rights holders – parents, other family members, teachers, and caregivers are unlikely to recognize the rights outlined in the Convention for most children.

In raising public awareness about the Convention and expanding knowledge and understanding of it, the media play a crucial role. Involving children and consulting with them should not be merely a formality but a means through which the State engages with children, values their viewpoints, and becomes more sensitive to the implementation of children's rights. However, it has been observed that while listening to children may not pose a problem, paying due attention to their opinions requires changes. For instance, children who have experience with the juvenile justice system should be included in the process of preparing proposals for amendments to laws in that area. Similarly, children who are either adopted or from foster care should contribute to the drafting of adoption legislation. It is essential for authorities to establish a direct relationship with children rather than interacting indirectly through non-governmental organizations and human rights institutions.

REALITY – FURTHER CHALLENGES

Reports from UNICEF indicate that for two-thirds of the world's children, less than two dollars are spent per day. Due to weakened immune systems, in 1998, two million children in Africa fell victim to AIDS. Annually, 11 million children still die from preventable diseases, such as measles or gastrointestinal illnesses (Schmitz).

Half of the 31 million refugees and displaced persons are children and young people under the age of 18. The number of children left to fend for themselves after losing parents or other relatives in displacement is estimated at between 6 to 10 million (Kauffmann).



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According to Terre des homes (The German children's aid organization, established in 1967 during the Vietnam War, organized rescue flights from Vietnam to treat war-injured children in German hospitals and facilitated connections between orphans and adopting families. Today, this organization operates in 35 countries with the aim of protecting children from material and emotional distress, oppression, and exploitation), ten years after the adoption of the Convention on the Rights of the Child, two million children worldwide were killed in wars and armed conflicts, around six million were injured, and ten million suffer from war-related trauma (Stuttgarter Zeitung). In some countries, one in four children dies before their fifth birthday (Terre des hommes).

In Sri Lanka, approximately 17,000 children are involved in prostitution, in the Philippines around 60,000, in Thailand at least 200,000, and in India 400,000 (Klein). Every year, a million children are sold or become subjects of illegal sexual trafficking (Terre des hommes). Many of these children live under conditions similar to slavery.

According to international labor organizations, over 200 million children under the age of 15 work as shoe shiners, newspaper vendors, in agriculture, carpet production, quarries, or mine clearance. Over 40% of these children work to finance their education (Suddeutsche Zeitung, Child Labor Exploitation). Around 130 million children who should be in school are not (Terre des hommes), with two-thirds of them being girls.

The first UN study on children in war, conducted in the late 1980s, reported that 200,000 children under 16 were serving in the military. The study reveals that armed children are commonplace in Afghanistan, Nicaragua, El Salvador, Colombia, Burma, Liberia, Sudan, Angola, Mozambique, and crisis areas in the Balkans. In Liberia, 18,000 children fought in the civil war, while in Lebanon and Sri Lanka, children were coerced into joining suicide bomber units. According to UN data, in Rwanda, children were for the first time in history accused of participating in genocide (Suddeutsche Zeitung, Child Soldiers).

The prevalence of easily accessible weapons, the daring nature of young recruits, their ability to influence, and the lack of demands from child soldiers are considered contributing factors. UNICEF has called for recruitment to be limited to individuals aged 18 and above. In June 1998, six NGOs established the Coalition to Stop the Use of Child Soldiers with the aim of adopting and enforcing the Optional Protocol to the Convention on the Rights of the Child, which would prohibit the recruitment and use of children in armed conflicts as defined by international law. As a result of the Coalition's efforts, the Statute of the International Criminal Court considers the recruitment or use of children under 15 in armed conflicts and national or international conflicts as a war crime under the Court's jurisdiction. Furthermore, the Convention on the Worst Forms of Child Labour recognizes for the first time the recruitment of children under 18 for armed conflicts as a form of child labor.

The COVID-19 pandemic has brought significant attention to and highlighted the long-neglected issue of children's mental health. It is estimated that more than 13% of adolescents worldwide have mental health disorders. Even before the pandemic, psychosocial stress and poor mental health affected far too many children. In 21 countries, 1 in 5 young people aged 15 to 24 reported feeling frequently depressed or disinterested in things, according to a global survey by UNICEF and Gallup.

The most vulnerable are the millions of children forced to leave their homes due to conflict and natural disasters, deprived of education, protection, and support. Suicide is the fourth leading cause of death among individuals aged 15 to 19. Each year, nearly 46,000 children between the ages of 10 and 19 end their lives, which equates to one child every eleven minutes worldwide (UNICEF, The State of the World's Children 2021).



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CONCLUSION

The term "children's rights" refers to rights that are inherently human and that every child possesses regardless of the country they live in, their political, cultural, or economic environment, or the traditions, customs, and beliefs they are exposed to.

The most important international document in the field of children's rights is the Convention on the Rights of the Child, adopted in 1989 with the aim of changing the way adults view and interact with children worldwide. The rights outlined in the Convention are based on the concept of the child as an autonomous individual with specific needs and rights, thus recognizing them as active bearers of legal claims rather than merely objects of adult protection. At the same time, due to their unique psychological and physical characteristics, and varying levels of maturity, children are a particularly sensitive and vulnerable group that warrants special and additional protection.

The Convention on the Rights of the Child (CRC) established the first universally accepted definition of fundamental children's rights. As the Convention has been ratified by 193 countries (Convention on the Rights of the Child, 1989), it is the human rights treaty with the highest number of ratifications. It is the first international document in the field of human rights to encompass traditional groups of human rights: economic, social, cultural, political, and civil rights. The Convention is also an innovative document as it addresses new and challenging human rights issues (e.g., the right of the child to freely express opinions, the right of the child victim of any form of abuse, maltreatment, or exploitation to physical and psychological recovery and reintegration), and implicitly, for the first time in an international human rights treaty, recognizes the role of non-governmental and other civil society organizations in the process of realizing children's rights, primarily as independent sources of information from the state. Thus, the Convention serves as a framework for the promotion and realization of children's rights on both the international and national levels.

One of the major shortcomings of the Convention on the Rights of the Child is the lack of legal instruments for the practical enforcement of individual children's rights. In this regard, an initiative was launched within the Committee on the Rights of the Child to adopt a specific protocol, in addition to the existing Optional Protocols to the Convention – one concerning the involvement of children in armed conflict (Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, 2000) and the other on the sale of children, child prostitution, and child pornography (Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2000). This new protocol would introduce the possibility for individual complaints to be submitted to the Committee on the Rights of the Child, allowing children (their guardians and legal representatives) to have their own "Strasbourg Court" to seek justice if their rights are not realized through national decisions or are lost in the labyrinth of national administration. On December 19, 2011, the UN General Assembly approved the Third Optional Protocol on a communications procedure, which allows every child to submit a complaint for specific violations of their rights under the Convention and the first two Optional Protocols. The Protocol entered into force on April 14, 2014 (Optional Protocol to the Convention on the Rights of the Child on a communications procedure, 2011). However, the Republic of Serbia has not yet ratified this Protocol.

The Convention on the Rights of the Child was enacted to bridge the gap between what is known and what is done, between rhetoric and action, between demands and reality. We cannot say that the Convention has achieved what it aimed for. The world does not respect the rights of its children – many children die from treatable diseases, many children do not go to school, many are left to fend for themselves when their parents die from illness or as victims of war, and many children are victims of



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violence, exploitation, and abuse from which they cannot protect themselves. The Convention demands a revolution that places children at the center of human development, not because they represent the potential of the future and an investment that would yield multiple returns, but because it is their right.

The Convention on the Rights of the Child has provided the essential basis for doing what is necessary in the field of children's rights. Just as in a market economy consumers decide on the purchase of a product, and thereby on the conditions of production, a foundation was established in Germany with the idea of using German consumers to limit the exploitation of Indian children, who (around 300,000 of them) sit daily in front of looms weaving carpets. The foundation monitors manufacturers who have voluntarily renounced child labor and stamps their products with the label: "Rugmark, guaranteed child labor free" (Pinzler, 2023). Thus, every consumer can show whether they are truly ethical. Many footballs used in Europe are sewn by children's hands in Sialkot, Pakistan. Protests by Christian Aid and UNICEF activities led to a change in the thinking of FIFA's leadership, which, in order to preserve its image, decided to introduce special labels that only sports equipment manufacturers who adhere to minimal ethical standards can place on their products (Pinzler and Piper). Such examples of good practices not only help in combating child labor but also encourage broader responsibility and ethics in business. It is important to continue working on the implementation of the Convention and its protocols and to promote further development of awareness and actions to better protect children's rights around the world.

REFERENCES

- Convention on the Rights of the Child. Available at: <https://www.unicef.org>. Accessed January 20, 2022.
- Convention on the Rights of the Child (1989). Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>. Accessed February 10, 2023.
- General Comments of the Committee on the Rights of the Child, Available at: <http://www.bgcentar.org.rs>. Accessed May 3, 2024.
- International Conference on Financing for Development Report. Monterrey, March 18-22, 2002.
- Kauffmann, H. The Gap Between Demands and Reality. Available at: <http://www.dadalos.org>. Accessed November 14, 2023.
- Klein, S. Children as Commodities. *Suddeutsche Zeitung*. Available at: <http://www.dadalos.org>. Accessed October 13, 2023.
- Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (2011). Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-child-communications>. Accessed March 15, 2023.
- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (2000). Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-child-involvement-children>. Accessed March 15, 2023.
- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography (2000). Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-child-sale-children-child>. Accessed March 15, 2023.



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Pinzler, P. (2023). Rugmark, Guaranteed Child Labor-Free. Die Zeit, Available at: <http://www.dadalos.org>. Accessed December 20.

Pinzler, P., Piper, N. Football Without Child Exploitation. Die Zeit. Available at: <http://www.dadalos.org>. Accessed December 20, 2023.

Sejmur, D. Convention Brings Progress in Children's Rights, but Challenges Remain. Available at: <http://www.unicef.rs>. Accessed April 20, 2023.

Schmitz, C. UNICEF's Assessment. Das Parlament No. 52-53. available at: <http://www.dadalos.org>, Accessed November 14, 2023.

Stuttgarter Zeitung. Two Million Children Killed. Available at: <http://www.dadalos.org>. Accessed September 8, 2023.

Suddeutsche Zeitung. Child Labor Exploitation. Available at: <http://www.dadalos.org>. Accessed October 13, 2023.

Suddeutsche Zeitung. Child Soldiers. Available at: <http://www.dadalos.org>. Accessed October 13, 2023.

Terre des hommes. One Decade for Children. Available at: <http://www.dadalos.org>. Accessed September 8, 2023.

Vienna Convention on the Law of Treaties (1969). Available at: <https://www.docsity.com/sr/becka-konvencija-o-ugovornom-pravu>. Accessed March 13, 2024.

UNICEF (2021). The State of the World's Children 2021. Available at: <https://www.unicef.org/reports/state-worlds-children-2021>. Accessed March 5, 2024.