

CHILDREN'S RIGHTS IN GLOBAL GOVERNANCE: CRITIQUE OF THE CONVENTION ON THE RIGHTS OF THE CHILD

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ABSTRACT

The Convention on the Rights of the Child is the most significant global expression of children's rights in the history of childhood. With 195 parties, the Convention remains the most widely ratified binding international agreement. However, despite its normative character and near universal ratification, its implementation in many countries remains constrained. Globally, many children fail to claim the standard of living it prescribes due to poverty and lack of access to social services. This paper argues that the lack of theoretical and conceptual validation (which characterize human rights formulation and children's rights in particular), inadequate resources and lack of political will by governments contribute immensely to the Convention's implementation challenges in some countries.

Key Words: childhood, children's rights, Convention on the Rights of the Child

INTRODUCTION

Although the topic of children's rights is relatively new in global politics, childhood as a socially constructed concept has been debated throughout the history of moral and political philosophy and remains a major topic in contemporary debates (Archard and Macleod, 2002; Hayden, 2001). Increasingly, children's rights are now being included in international and domestic law, considered by judicial bodies, used by governments as policy framework, discussed in academic circles, and utilized by civil society as an advocacy tool (Tobin, 2013:395). This childhood narrative has led to children now being seen as subjects of international politics (Holzscheiter, 2010). However, despite this widespread engagement, the moral and political status of children in global society remains contested (Archard and Macleod, 2002). As statistics indicate, children continue to be marginalized (Gran, 2010, p 14). Millions of children continue to be denied their rights 'because of the family into which they were born, the community or country in which they live, or other circumstances beyond their control' (UNICEF, 2015).

In this paper, I examine the concept of children's rights in the global context, focusing more critically on the Convention on the Rights of the Child. I propose that the challenges affecting the implementation of the Convention are not only caused by problems associated with conflict and children's circumstances, but also by the vaguely or sloppily drafted nature of human rights in general (Bentley, 2005; Toope, 1996, p 43), as Sen (2004) calls it, the 'mushiness' of human rights conceptual grounding. 'Many philosophers and legal theorists see the rhetoric of human rights as just loose talk, perhaps kindly and well meaning forms of locution, but loose talk nevertheless' (2004, p 315–316). In particular, the conceptual foundation of children's rights has also not been adequately theorized due to the failure of current debates to articulate a coherent philosophical foundation for children's rights (Tobin, 2013; Guggenheim, 2005; Archard and Macleod, 2002). These theoretical problems raise many ontological and epistemological questions about the nature of children's rights generally and have significant implications for how such rights are perceived and implemented in different cultural contexts.

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The rest of the paper is structured as follows: Section 2 briefly discusses some of the pertinent issues in the contemporary debate on children's rights, highlighting the key milestones in the history of childhood and international law making. Section 3 assesses in more detail the Convention on the Rights of the Child in terms of its global importance, strengths and weaknesses. I argue that although it is the most significant global expression of children's rights in contemporary politics, the Convention's implementation in many countries remains a challenge. I then conclude in Section 4 that while the Convention provides the legal basis for children's rights at the global level, it is only through national legal and policy frameworks that these rights can be effectively implemented anchored in the child's social context.

CHILDREN'S RIGHTS IN GLOBAL GOVERNANCE

Generally, the ideas that underpin contemporary children's rights discourse are inspired by Western liberal values embedded in a post-war conception of human rights proclaimed in the Charter of the United Nations and the Universal Declaration of Human Rights, particularly Article 1 (Seagrave, 2011; Bentley, 2006; Pupavac, 2000; Gourevitch, 2009). The concept of children's rights articulated in contemporary human rights discourse and enunciated in official UN documents is a socially constructed concept reflecting a discursive shift from the early liberal concepts of childhood (Becker, 1977; Simmons, 1992, p 192; Arneil, 2002, p 72; Hayden, 2001; Hegel, 1967; Locke, 1966; 2002, p 2; Montgomery, 1988). The core aspects of global politics, including treaty formation, are socially constructed, defined, as it were, by ongoing processes of social practice and patterns of interaction in the international system. In other words, the patterns of social interaction in the international arena are 'cultural, putatively social and contingent, factors that influence international outcomes' (Jackson and Nexon, 2002). Consequently, contemporary debates about children's rights in global politics are influenced by global factors. These factors have shaped not only policymaking in the local context, but have invariably transformed the identity and interests of states (Wendt, 1992).

The formal expression of children's rights and human rights generally in global governance is through treaties, customary international law, general principles and other sources of international law. As norms of international law, children's rights are legal and moral imperatives that bind state and non-state actors (Clapham, 2006). The earliest global attempt to address children's rights can be traced back to the international conferences held in Frankfurt and Brussels in 1846 and 1847 to discuss the rights of juvenile delinquents (Fusch, 2007). Real international law-making activities regarding children only began in 1924 with the adoption of the Geneva Declaration of the Rights of the Child (Holzscheiter, 2010). The Geneva Declaration was the first international treaty to exclusively address the rights of children. The notion of rights implied in the Geneva Declaration is an articulation of moral principles: 'Mankind owes the child the best it has to give' which was principally concerned with the provision of 'children's social, economic and psychological needs' (2010, p 123–124).

The next significant development after the Geneva Declaration was the adoption of the United Nations Declaration on the Rights of the Child in 1959. The 1959 Declaration was a post-war international action intended to protect child victims of the Second World War. This treaty and other international instruments adopted in the 1960s and the 1970s assume that children are passive holders of rights who depend on the protection of adults to claim these rights (Holzscheiter, 2010, p 125). It took a couple of decades of global negotiations and lobbying involving representatives of governments, intergovernmental and non-governmental organizations to come up with a definitive and authoritative statement on children and childhood. This global process culminated in the adoption of the Convention on the Rights of the Child in 1989. The Convention is a significant milestone in the history of childhood and international law-making, and is the core document of the international children's rights

regime, a component of the evolving system of global governance (Pupavac, 2003, p 59; Rehman, 2010, p 598).

In addition to these human rights treaties, the general international human rights instruments, notably the Universal Declaration of Human Rights, the International Covenants on Civil and Political Rights, and Economic, Social and Cultural Rights, which relate to all human beings, apply to children as well. For example, as Holzscheiter (2010) correctly observes, Articles 25(2) and 26 of the Universal Declaration embody a more welfare-oriented approach towards children based on their vulnerability, and protect the right to education, respectively, while Article 18(4) of the International Covenant on Economic, Social and Cultural Rights protects the religious and moral education of children in conformity with their own convictions. The fact that some provisions in these instruments specifically refer to children strengthens the argument that children require special attention (2010, p 127).

Other international instruments that supplement this legal framework include the Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), United Nations Guidelines for Action on Children in the Criminal Justice System, and the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines). In addition to this international machinery, children's rights are also articulated under other international mechanisms adopted by the General Assembly for the advancement of children's rights and welfare.

These agreements reaffirm the same principles outlined in the Convention on the Rights of the Child. Among these mechanisms are included the World Summit on Children, which was held in New York from 29 to 30 September, 1990 and the outcome document of the Special Session of the General Assembly on Children held from 8 to 10 May, 2002, entitled 'A World Fit for Children', which commits world leaders to complete the 'unfinished agenda' of the 1990 World Summit for Children and reaffirms their obligation to promote and protect the rights of every child. These mechanisms provide important provisions that reinforce the ideals of the Universal Declaration and the Convention.

To summarize, the emergence of children in the twentieth century from being previously seen as incompetent beings without moral and political status (Archard and Macleod, 2002), to being seen as political and legal subjects in contemporary global politics (Holzscheiter, 2010) is historically contingent upon the legal, political and sociological patterns and negotiations that preceded the formulation and adoption of, and which continue to drive, the Convention on the Rights of the Child.

THE CONVENTION ON THE RIGHTS OF THE CHILD

The Convention on the Rights of the Child is the most important global expression of children's rights and a pivot upon which contemporary children's rights debate rests (Freeman, 1997, p 47). Supplemented by three optional protocols — each dealing with specific concerns: the Optional Protocol on the sale of children, child prostitution and child pornography; the Optional Protocol on the involvement of children in armed conflict; and the Optional Protocol on a communications procedure — the Convention places special obligation on states to adopt laws and policies that reflect the norms and standards it enunciates (Steiner et al., 2007, p 1087). The formulation and adoption of the Convention was to a large extent influenced by Western liberal values, although the human rights norms and standards the Convention articulates have come to be accepted as global values, applicable and culturally appropriate in non-Western countries. What is central to this claim is the argument that 'international politics is shaped by persuasive ideas, collective values, culture, and social identities.' As Alder (1997,

p 319) argues, ‘international reality is socially constructed by cognitive structures which give meaning to the material world.’

Generally, the Convention was designed to address the challenges facing children in the world and remains a major international agreement, resulting from a painstaking history of global efforts and the need to enunciate, promote, protect and fulfill universal human rights standards specific to children (Tooze, 1996, p 35). The Convention builds upon the breathtaking scope of the Universal Declaration of Human Rights and represents a contemporary global consensus on the status of children in the world (Tooze, 1996, p 35; Freeman, 1996; Alston et al., 1992). In particular, it incorporates a wide range of civil, political, economic, social, and cultural rights (Rehman, 2010, p 598). It accords children both liberty and welfare rights, notably the right to the enjoyment of the highest attainable standard of health provided under Article 24, and the right to ‘a standard of living adequate for the children’s physical, mental, spiritual, moral, and social development’ articulated under Article 27.

Importantly, in the history of international law there has never been any international instrument so widely ratified and with such normative consensus as the Convention (Kaime, 2009). ‘This overwhelming normative consensus affirms a shared and welcome global recognition of the rights of the child’ and represents an acceptance by the international community that the basic values articulated by the Convention are children’s human rights, which are best protected in a codified single international treaty specifically designed for this end (2009, p 1). The Convention’s near universal ratification affirms the argument that there is consensus among states at the governmental level regarding the existence of children’s rights as legal rights, with some rights increasingly being accepted and recognized as human rights norms of customary international law (Van Buerens, 1998, p 15). With 195 state parties,² the Convention remains the most ratified and first legally binding human rights treaty to incorporate a full range of human rights: civil and political, and social and economic, rights and enjoys a certain moral force (Pupavac, 2003, p 59; Rehman, 2010, p 598).

The Convention is also seen as a standard for monitoring progress for children’s rights and development, a clear testimony of global efforts to codify and condense ideas about childhood and children’s rights into a succinct and coherent children’s rights theory — integrating major issues affecting children in the contemporary world (Holzscheiter, 2010, p 87). In this sense, the Convention’s adoption is a landmark in the history of childhood, as it is the first time that children are put on the global development agenda after being neglected for a long time in global governance, both as agents and subjects of research (Freeman, 1996; Holzscheiter, 2010).

In terms of structure, the Convention spells out four broad principles that are critical for child development: non-discrimination (Article 2); the best interest of the child (Article 3); the right to life, survival and development (Article 6); and participation (Article 12). These rights may be seen as subcategories of Article 27: the child’s right to a standard of living adequate for his or her physical mental, spiritual, moral and social development (Tooze, 1996). The key provision in the Convention is Article 12, in that it expresses the greatest impact of the children’s rights movement, as it requires states to ensure that children are able to form their own opinion and to express their own views freely (in all matters affecting them: economic, social, political, cultural, religious, and judicial) and recognizes the child as a full autonomous being (Freeman, 1996:1–3; 1997:56). The right asserted in Article 12, which asserts the children’s participation in decisions that affect their lives, is not only a challenge for traditional societies, but is equally problematic for Western countries, as social and legal policy may conflict with the requirements of the Convention (Tooze, 1996, p 37). As Freeman tells

² United Nations Treaty Collection, *Convention on the Rights of the Child*, status as at: 23/05/2015. Available from: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en [Accessed 20 October 2015].

us, Article 12 is ‘significant not only for what it says, but because it recognizes the child as a full human being, with integrity and personality, and with the ability to participate fully in society’ (1997, p 56).

Most notably, the Convention’s innovation lies in being the first human rights treaty to desegregate, explicitly, the two broad categories of rights: civil and political, and economic, social and cultural rights (Toope, 1996, p 59). This innovation is significant because it underscores the importance of both categories of rights in equal measure. The practical implication of this integration can be seen in several of its articles. For example, Article 3 provides that in all actions affecting children ‘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.’ This provision places an obligation on state parties to care and protect all children’s well-being by taking appropriate legislative and administrative measures, ‘taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her.’

Similarly, Article 6 provides that state parties shall: (1) recognize that every child has the inherent right to life; and (2) ensure to the maximum extent possible the survival and development of the child. Article 24 provides for the child’s right to the highest attainable standard of health, while Article 28 makes primary education compulsory and available to all. Article 27 protects the right to an adequate standard of living. However, unlike civil and political rights, there are caveats placed on these rights; their implementation depends upon national circumstances and to the maximum extent possible of the available resources and is to be achieved within the framework of international cooperation as provided under Article 4. But, as Toope correctly observes, if these provisions were to be read with Article 6(1) in mind, children’s rights advocates would make a stronger legal argument — especially in poor countries, which often spend large portions of their national budgets on military hardware or other non-essential items — to persuade governments in such countries to reassess their spending priorities. Thus, the Convention’s emphasis on the need to attain the highest possible standards in the social and economic spheres for children reverses the lowest common denominator approach, which is perhaps why this human rights treaty is seen as a milestone (1996, p 36–70).

In spite of its normative character and overwhelming ratification, the Convention’s implementation is constrained by many factors. Children’s access to formal rights and opportunities in many countries continue to be restricted (Gran, 2010, p 14). For example, as UNICEF (2015) notes, 2014, the year that marked the 25th anniversary of the Convention on the Rights of the Child ‘was also one of the most devastating years for children in recent memory’ (UNICEF, 2015). While in the past 25 years social progress for children has been recorded, millions were, and continue to be, affected by a ‘rising number of disasters, conflicts and chronic crises - and new threats like the Ebola outbreak that could roll back years of progress.’ Globally, children continue to be denied their right to a fair chance because of the family into which they were born, the community or country in which they live, or other circumstances beyond their control, such as their gender, ethnicity or disability (2015, p 1–10).

There are also other reasons, which affect the implementation of children’s rights. Firstly, although in theory Article 4 of the Convention requires all states to undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the Convention, in practice many countries do not comply due to scarcity of resources (Freeman, 1996, p 4). To implement the rights envisioned in the Convention requires ‘massive global redistribution of resources’ (Archard, 2004, p 210) as well as political will (UNDP, 2013). But Wall (2008) argues that the gap between the ideals and the reality of children’s rights is not entirely a result of inadequate resources and implementation, but rather the lack of a clearly articulated conceptual understanding of what children’s rights are.

Similarly, other scholars contend that the Convention lacks philosophical grounding in its conception of rights, because, as evidence shows, during its drafting there was no discussion about the moral rights of children, as the delegates ostensibly prioritized their limited time to addressing the ‘silent emergency of childhood deaths from malnutrition and disease’, rather than engaging in the theoretical debates they felt were some kind of a game (Tobin, 2013, p 399; Van Bueren, 1995, p 6). It is thus argued that the Convention is an incompletely theorized agreement (Tobin, 2013, p 399). Undoubtedly, the argument of resources is equally legitimate. Although most governments in developed countries allocate adequate resources for child survival and development, it is not often the case with their counterparts in developing countries due to inadequate resources and a lack of political will by some affluent countries of the North to transfer substantial resources to the poorer South (Toope, 1996, p 34).

Secondly, the Convention’s weak enforcement mechanisms and lack of an individual court for petitioning against incompliant states also affect its implementation (Lyon, 2007). While it is argued that in the absence of court-based enforcement the Committee on the Rights of the Child monitors compliance through state party reporting and its jurisprudence through the concluding observations and general comments (Lyon, 2007, p 405–6), the current monitoring system is not very effective and state parties are not current in their reporting obligations and many others have not submitted their subsequent reports since ratifying the treaty (Ramesh, 2001).³ Also, the self-reporting monitoring mechanism, originally introduced by the International Labour Organisation, was found to be weak (2001, p 1948–49; Van Bueren, 1995, p 384). Moreover, there is no guarantee that the current system is any better. It should also be noted that even though the ten experts who constitute the Committee serve in their personal capacity and are expected to be independent in their judgment, the fact that they are nominated by state parties means that ‘their independence has to be considered with caution because it is unlikely that state parties will nominate any candidate who publicly disagrees with their policies’ (Ramesh, 2001, p 1949). The Committee is also constrained by the volume of work and inadequate resources (Rehman, 2010, p 598).

Thirdly, the sloppily drafted nature of the Convention affects its interpretation and implementation, as most of its provisions are ‘vague’ in their conceptual grounding (Sen, 2004; Toope, 1996, p 43; Grover, 2004). The vagueness or mushiness of the Convention is evident, for example, in the wording of Article 1, the definition of the child which is couched as follows: ‘a child means every human being below the age of eighteen years *unless under the law applicable to the child, majority is attained earlier*’ (Italics mine). In its current formulation, Article 1 does not reflect the intent and spirit of the Preamble, which emphasizes the protection of universal children’s rights (Grover, 2004, p 260–61). The Article circumscribes the rights of children as it ‘places limits on who will be afforded its protection depending on the age of majority in the law applicable to the child in the home country’ (Grover, 2004, p 259). The provision also contradicts Article 25(2) of the Universal Declaration that recognizes the ‘special vulnerability of children’ (Grover, 2004, p 263), which unequivocally protects all children as it states: ‘Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.’ Thus, the ambiguity inherent in Article 1 of the Convention makes it possible for states to lower the age of majority. This has implications for criminal proceedings where there is a public outcry, such as gang violence, and also allows states to enlist children in armed forces to advance their own state interests (Toope, 1996, p 43).

Fourthly, the insertion of a statement in the Preamble that ‘due account’ is to be taken of ‘the importance of traditions and cultural values of each people for the protection and harmonious development of the child’ proves problematic to implement in traditional settings,

³ *ibid.*

because it can be used to justify the argument, particularly among traditionalists, that in such instances a child's welfare can be trumped by adverse 'cultural values and traditions' (Freeman, 1997, p 54). As Freeman observes, this statement can also legitimize harmful traditional and cultural practices, such as female genital mutilation (which are medically unnecessary and painful operations) or child marriages as 'cultural values' in some traditional societies. Although the Preamble asserts the 'inherent dignity and inalienable rights of every child', in reality this narrative does not reflect any comprehensive theory of human dignity for children (Tobin, 2013), but merely reflects a historically contingent and contested understanding of the rights to which states have agreed, albeit under an 'incompletely theorized agreement,' which is likely to shift and change over time. This dynamism does not produce an arbitrary theory of human rights for children, but one that is contingent on the 'anthropological realities' and 'contemporary political conditions' that characterize the environment in which the Convention was negotiated (Freeman, 1994, p 513–514; Tobin, 2013, p 433–434).

In addition, it can be argued that the Convention is replete with a plethora of 'hegemony, colonialist liberal ideology and power', which conflict with traditional communitarian values, making its implementation in such cultural contexts problematic (Rana, 2010; Montgomery, 2001). Seen from a postcolonial perspective, the Convention's considerable norm-catalogue character is deeply problematic to accept as a universal children's code (Holzscheiter, 2010, p 17–18). But other scholars note that the tension between tradition and 'liberal' rights must be seen as a creative relationship that can result in a positive reassessment of the validity and value of certain traditions and cultural values, which define the child's social context. Duncan, for example, asserts that this provision assists in avoiding the 'absolutism and orthodoxy' that generally typifies human rights discourses and debates (1998, p 31). Van Bueren (1998, p 15) also argues that the criticism that the Convention is largely influenced by Western values is incongruous and cannot apply to many of the rights and standards it enunciates. However, the inability of the drafters to come to terms with the problem of cultural relativism cannot be overlooked. For example, the concept of family promoted in the Convention by the drafters is the late nineteenth-century European idea of the nuclear family, which takes the semblance of 'parents' in the Convention (Toope, 1996, p 44; Articles 3(2), 10, 17, 27). The concept of family, as defined in the Convention, excludes the extended family concept found in many traditional African societies. The lack of the extended family in the life of the child is taken as a North-South issue and the liberal emphasis on autonomy as the model of human relationships prevalent in the Convention further reflects a deep misconception of traditional cultures (Toope, 1996, p 44). In the African philosophy of *Ubuntu* a parent, for example, is any responsible adult who can take the role of a parent and is seen as such in the sense of providing for all children, because children belong to the clan or community, not just their nuclear or biological parents. As a matter of fact, in non-liberal traditions the Convention represents, in many ways, hegemony over autochthonous concepts of childhood. For this reason, effective protection of children's rights as defined in the Convention is likely to be met with implementation challenges unless the substantive provisions are perceived as culturally legitimate, that is, they are in conformity with the accepted standards or rules of a particular culture in a particular social context across different cultures and communities, taking into account the cultural and religious context of the child (Kaime, 2011; Na'im, 1990; Coward and Philip, 1996).

Similarly, it can also be argued that although the project of universal rights is an attempt to change culture, to make it more accepting of human rights, it can be contended that successful implementation of the concept of rights envisioned in the Convention must take cognizance of the best traditional values and cultural practices existing in traditional societies. For example, among the Bemba-speaking people in pre-colonial Zambia, child protection structures already existed and promoting children's rights in practice, such as the right to be

heard, were seen as a duty of both parents and the community. Thus, trumping such values through the wholesome application of the provisions of the Convention as a blueprint for all countries can be seen as a prescription of some kind that does not take into account local traditions, customs and cultural practices that provide safety nets for children in traditional settings (Kaime, 1999). This, as Rana (2010) argues, can create tensions in such contexts and evoke colonial sentiments. In such cases, the Convention must adapt to some of the best local customs and traditions by ‘respecting’ the cultural diversity and legal traditions that define the child’ in such a context (Duncan, 1998). For this reason, children’s rights in traditional contexts cannot be effectively protected without balancing the relationship between the Convention and local contexts.

Furthermore, the Convention does not practice what it preaches in Article 12, the child’s right to participation; children were not even ‘consulted’ or involved in formulating its contents on the assumption that what was being formulated is what children need (Cohen, 1990; Freeman, 1997, p 8). Children’s voices are marginalized in contemporary debate as the concept of rights ‘continue to be ethically grounded in the experiences and perspectives of adults’ (Wall, 2008:523). On the major matter of the contents of the Convention itself, there is no evidence that children or children’s groups as such participated or were consulted on drafting, or had any real influence in preliminary discussions. The Convention thus encrypts a set of rights and takes an image of childhood from the perspective of the adult world looking in, almost as an external observer, on the views of children (Freeman, 1998, p 439; Arce, 2012, p 9). For example, it has been argued that the three rights asserted by the Convention concerning agency — the right to freedom of thought, conscience and religion (Article 14), the right to freedom of expression (Article 13) and the right to culture (Article 30) are quite problematic to implement and attributing them to children legally endangers children’s interests, as it tends to lead to subordinating their interests in religion, expression, and culture to those of their parents (Brighouse, 2002, p 2). Although this may be true, it can be argued that children are still able to play a constitutive role in shaping the meaning of their rights under the Convention and express their views (depending on their level of reasoning) on any matter of their interest deserving of protection, as a consequence of the flexibility of Articles 3 and 12. The periodic state party reporting process is one way in which children may be involved through consultative workshops.

In the final analysis, while there is global consensus regarding the existence of certain international children’s rights as norms of customary international law (Van Bueren, 1998; Toope, 1996, p 35; Freeman, 1996; Alston et al., 1992), it can be argued that the Convention’s concept of rights is not broad-based because ‘the drafting process was dominated by Western states and completely excluded children’ and other perspectives from the process (Tobin, 2013, p 398; Kaime, 2009; Cohen, 1990; Freeman, 1997, p 8). Disagreements as to the content and extent of these rights as international norms and standards still exist, partly because childhood and children’s rights have been socially constructed in such a way that even in situations where substantive provisions of the Convention have been changed to protect the best interest of the child, these have been found to be falling below the expected standard set in Article 12 (Van Loon, 1993, p 209–211).

CONCLUSION

In conclusion, it can be seen from the above analysis that, firstly, the rights asserted in the Convention on the Rights of the Child are ethical claims articulated in specialized legal discourse. It is the underlying ethical commitment that must be upheld while precise legal consequences of the new discourse are worked through. However, a list of abstract legal rights may be fundamentally deceptive, because rights without services are meaningless, while, without a commitment of resources, services cannot be provided. Secondly, the key to effective

protection of children's human rights lies in formulating stronger national legal and policy frameworks with effective monitoring mechanisms, because it is within national legal systems that human rights are contested and more concretely protected through judicial enforcement. Lastly, it should be noted that the international human rights regime provides an opportunity for the international community to move beyond entrenched historical assumptions about human rights to fresh new ground (Wall, 2008, p 533). In terms of children's rights, the Convention is a good starting point and remains the key international legal instrument for promoting, protecting, respecting and fulfilling children's rights throughout the world. However, its impact lies in giving it more effect by amending many of its provisions to reflect the social context of the child.

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