

Understanding Child Rights Governance and Issues with the Western Child Rights Paradigm

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If global governance is, as James Rosenau describes it, the “systems of rules at all levels of human activity ... from the family to the international organization,” then children are inevitably included within the scope of global governance.¹ However, what distinguishes children from other actors in the global system is their limited (if not non-existent) agency. Children tend not to represent themselves in matters of international relevance but are often represented by parents, teachers, social services, or other adult actors. Since 1989, when the UN General Assembly adopted the UN Convention on the Rights of the Child (CRC), the human rights of children have been considered in policy by both state and non-state actors. Although child rights are now considered to be an essential and undisputed branch of global governance, problems persist within the current paradigm.

My analysis explores the current landscape of child rights governance in two parts. First, I will briefly discuss the history of child rights governance since the adoption of the CRC and provide an overview of its current status in the governance framework. Second, I will examine the controversies in child rights research and advocacy at the international level, focusing mainly on the tension between attempts to globalize childhood norms and conflicting levels of material development. This later section will also examine the problem of how child rights research relies almost exclusively on Western constructivist theories that are based on “Western historical experiences, which [excludes] the experiences of childhood in developing countries.”² In balance, I will conclude that although the CRC and other institutional measures have indeed resulted in “important processes of social change,” there is not enough empirical data to draw meaningful conclusions about how the material conditions of children have improved as a result of international child rights advocacy.³ I will also argue that there is no single correct institutional solution that can apply to all local contexts. The current approach has not yet contextualized efforts to reach children

needing protection and has a long way to go before including them in matters of international relevance as “important actors in their own protection.”⁴ It is important to note that the problem presented here does not constitute a ‘crisis’ in the traditional material sense. Rather, the ‘crisis’ lies in the nature of the overarching child rights discourse.

I. DEFINING THE CHILD RIGHTS GOVERNANCE FRAMEWORK SINCE THE CRC

The inclusion of children on the human rights agenda is a relatively recent phenomenon. Until the 1980s, many scholars claimed that children, as human beings entitled to rights, did not require a specialized human rights instrument such as the CRC.⁵ The adoption of the CRC in 1989 shifted this narrative completely, acknowledging that children not only require the standard protections of conventional human rights law but also additional protections given their vulnerable legal and developmental position. Moreover, adopting the CRC involved acknowledging that children constitute a minority group that can be oppressed and exploited by adults, who form the political majority, and therefore require special protections.⁶

Four core principles guide the CRC: (1) non-discrimination, (2) devotion to the best interests of the child, (3) the right to life, survival, and development, and (4) respect for the views of the child.⁷ Protections made under the CRC include the child’s right “to say what they think should happen when adults are making decisions that affect them and to have their opinions taken into account,”⁸ “to think and believe what they want and to practice their religion,”⁹ and “to relax, play and to join in a wide range of leisure activities.”¹⁰ According to the United Nations’ International Children’s Emergency Fund (UNICEF), the CRC is the most “complete statement of children’s rights ever produced and is the most widely-ratified international human rights treaty in history.”¹¹ However, the CRC alone cannot guarantee progress; it merely expresses international consensus on a certain standard of rights for children. Despite its lack of enforcement teeth (as is typical for any formal declaration of human rights), the CRC has proved a useful tool for: (1) encouraging governments to better protect children, (2) shaping the agendas of child advocacy organizations, and (3) establishing corporate policies that protect children from exploitation (e.g. child labour laws, prohibiting child sex tourism).¹² In general, scholars agree that children “are in a better position with [the CRC] than without it.”¹³ The results of a 2012 UNICEF review support this point empiri-

cally; interviewees from countries that have incorporated the CRC are more likely to say that children are perceived as rights-holders than interviewees from countries that have not.¹⁴

While the CRC serves mainly as inspiration for government action regarding children, countries that commit to ratifying it are responsible for carrying out its aims in legislation. Every five years, representatives from these countries must provide implementation reports to the CRC detailing the measures it has taken to realize the rights of children. Such measures might include an analysis of government spending to determine what portion of public funds are being used on children, awareness-raising initiatives, and the development of a national agenda for children's rights.¹⁵ In total, 196 countries are signatories.

The adoption of the CRC gave rise to new international human rights standards that include children. For example, in 1996, UNICEF changed its mission statement to clarify that the organization's work begins from a child rights perspective. This change represented a significant departure from its previous objective to set specific health goals for universal achievement. Despite the CRC's substantial norm-setting power, a problem persists: there is a lack of comprehensive data that can be used to identify the most vulnerable categories of children in affected countries. Although there is plenty of data on child development and well-being, attempts to develop and employ child rights indicators are rare.¹⁶ This lack of up-to-date and disaggregated data makes it difficult to track the causal effect of the CRC and its knock-on effects on government policy. Although the CRC has had a profound influence on the material conditions of children in that it has established an international standard of what such conditions ought to be, it is difficult to observe how these commitments have played out on the ground. The CRC has been applied inconsistently across national contexts, however since the convention's widespread ratification in the 1990s, many countries have solidified their commitment to the rights of children in legislation.

IIA. CURRENT CONTROVERSIES IN CHILD RIGHTS GOVERNANCE

Although scholarly work addressing the problematic aspects of the CRC is sparse, some work has been done to examine the document more critically. The most commonly cited problem with the CRC is its tendency towards a liberal and Western bias.¹⁷ Given that the CRC is the canonical text for child rights governance, most of the child rights scholarship that

has emerged since its adoption has perpetuated these biases. However, we must first acknowledge that the CRC was the first document of its kind to open up avenues for thinking about children's rights "with regard to gender, ethnicity, and culture, addressing inter alia issues like harmful traditional practices, freedom of religion or the right of children to privacy."¹⁸ While it is undisputed that this aspect of the CRC is a significant and necessary advancement in child rights governance, we must also look at the ways that it has:

Formalized, universalized and homogenized the understanding of childhood and rights of children, thereby disregarding how class, ethnicity, gender or culture, then and now, shape local perceptions of for example corporal punishment, disability or the environment.¹⁹

The CRC's ethnocentrism is especially obvious as it favours Western cultural perspectives over equally valid perspectives from the rest of the world. Susan Bissell and colleagues use the example of international child labour standards to prove this point. They argue that the child labour standards promoted by rich countries tend to be based on the West's own historical experiences with industrialization, which inform policy that is not necessarily compatible with the diverse economic and settlement patterns found in many "developing" countries.²⁰ For example, the CRC protections that might have made sense for nineteenth and twentieth century industrial Europe might not make sense for many "developing" countries, where most child work is done on family farms.²¹

When child labour policies do not reflect the contexts in which they are meant to operate, Bissell et al. argue that children can frequently be put at greater risk of exploitation in informal, non-regulated sectors. In this case, the ethnocentrism that comes with a homogenized international standard like the CRC harms the children it seeks to protect. However, despite its practical failings, accusations of ethnocentrism in policy-making circles are not often welcomed: "the question of ethnocentrism ... is so emotionally charged that most rights advocates and most analysts have been reluctant to address the issue."²² Differences in local values and contexts tend to be dismissed as moral relativism, and the Euro-American implementation strategies of child rights tend to be prioritized as more beneficial for children. While not inherently harmful, these highly individualistic strategies have not been proven to be more beneficial for children than approaches that rely more heavily on non-state social institutions (e.g. communities, kinship-based

systems, religious affiliations).²³ These Western individualistic strategies must not be adopted uncritically, for they may “[displace] the rich resources of [I]ndigenous approaches that might have been more useful.”²⁴

IIB. CHILD RIGHTS GOVERNANCE THROUGH THE CONSTRUCTIVIST LENS

Western social constructivist theories heavily influence the current approach to child rights governance. Not long after its adoption, social constructivist studies identified that the CRC is a purely Western construction that bases itself almost entirely on childhood norms and the history of childhood in the Global North.²⁵ Viewing child rights governance through the constructivist lens has revealed some significant findings that have material consequences for children. Vanessa Pupavac, whose paper takes this specific approach, argues that child rights advocates have focused too heavily on moral and institutional reform while de-emphasizing the social, political, and economic conditions that have prevented the realization of children’s rights in certain countries.²⁶ Moreover, she argues that the Western cultural ideal of childhood, which has been elevated into a “utopian space, upon which broader political hopes and fears [are] projected,” is conceptually distinct from the experience of childhood, particularly in the Global South. On the surface, this distinction may merely appear to be academic anxiety.²⁷ However, in practice, the mobilization of these Western idealized understandings of childhood limits how effective children’s rights interventions might be. Without a better understanding of the “social conditions and the social solutions” that children face across diverse socio-economic climates, child rights advocates are unlikely to succeed in realizing children’s rights and improving their overall well-being.²⁸ Pupavac takes this point even further, arguing that seeking to enforce post-industrial cultural norms in “developing” societies with the expectation of improving the material conditions of children is “perverse and only reinforces international inequalities.”²⁹ However, the social constructivist approach emphasizes that if childhood norms are constructed, they can also be reconstructed to support material and social progress for children more appropriately. How these norms might be reconstructed will be the focus of the remainder of this analysis.

III. SUGGESTIONS FOR REFORMULATING THE CONSTRUCTIVIST APPROACH

Thus far, the state-centric approach to child rights governance has been insufficient for accomplishing its intended goals, particularly in the Global South. Currently, the CRC establishes that national governments should be among the most central parties responsible for the well-being of children. Many of the fifty-four articles in the CRC make explicit the role of governments: “governments should protect children from sexual abuse,”³⁰ “governments should provide extra money for the children of families in need,”³¹ and “governments should make the Convention known to all parents and children.”³² I am not making the case that governments ought to have less of a hand in the well-being of children, as these CRC protections are important and a certain level of government intervention is necessary and effective in most contexts. My argument here is that the CRC and the international conventions that followed it do not make adequate provisions for alternative constructions of childhood. For example, although Western childhood norms suggest that children ought to be exclusively concerned with play and school, children flourish in many parts of the world where children share some economic and social responsibilities with their families and communities.³³ Article 32 of the CRC, which states that “governments should protect children from work that is dangerous or that might harm their health or education,” might be uncritically employed as a protection against this alternative construction of childhood. Many experts agree that Article 32 is an unrealistic standard for some of the world’s poorest families, who depend on their children’s labour at home.³⁴ The implementation of children’s rights must not become weaponized, in a moral sense, against alternative cultural perspectives on childhood and child protection. Furthermore, assigning near-primary responsibility of child protection to governments might not work in instances where countries cannot cope with the high levels of standardization and bureaucratization that the implementation of the CRC requires.³⁵ My suggestion for the reformulation of the constructivist approach here is to adapt the state-centric language of child rights governance in such a way that alternative social organizations (e.g. communities, religious organizations, and kinship-based systems) are included in the framework *alongside* governments and are offered adequate access to the resources offered by the major child rights institutions. Recognizing both the state and the community as central actors in the protection of children is an important step in acknowledging a

wider range of experiences of childhood and reconstructing the Western child rights paradigm.

Mónica Ruiz-Casares and colleagues argue that, although it is difficult to realize in practice, children's rights require the "respect and implementation of both the protection and *participation* of children and young people."³⁶ Bissell et al. draw a similar conclusion: "children themselves must participate as important actors in their own protection, and all interventions in their lives need to be in part accountable to them."³⁷ If child rights are something that all actors in society must support and contribute to, then children themselves must participate. Importantly, they must be recognized as both "recipients of opportunity and capability [and] contributors to them as well, both for themselves and for others."³⁸ Indeed, the inclusion of children in child rights advocacy might seem somewhat intuitive in principle, but it is actually a new frontier of child rights and protection. In 2018, UNICEF released a report detailing the benefits of children's participation in National Human Rights Institutions (NHRIs). First and most obviously, including children in NHRIs leads to creating more effective, relevant, and sustainable services and policies that better serve children's interests. Second, by providing children with direct access to policy-makers and complaint and redress mechanisms, they are better equipped to challenge violations of their rights and are better able to hold governments to account. It also provides a space for children's concerns to be heard in safety, without the threat of violence, abuse, or discrimination. Lastly, the UNICEF report argues that children's participation in NHRIs enables children to develop civic engagement, tolerance, and respect for others that positively contribute to the child's development, education, and future employability.³⁹ This perspective represents a significant and necessary shift in the child rights paradigm, one that is just beginning to play out around the world.

In Nepal, children were given a voice in drafting the country's new constitution; In France, a national program offers high school students a stipend to undertake comprehensive child rights education. Upon successfully completing their training, students are offered mechanisms to alert authorities in instances where children's rights are being violated.⁴⁰ These types of programs, while still in their infancy, are important because they challenge the institutional norm of adults being the exclusive representatives of children's rights and interests. It is only through the inclusion of children in policy-making and rights advocacy that adult child rights advocates can "practice what they preach" and recognize children as full

rights-endowed citizens entitled to a voice in the matters that concern them. Guidelines for best practices when including children in these matters are still in the early stages. However, it is imperative that interventions are properly contextualized and do not uncritically disregard Indigenous practices or local values and customs. The participation of a few "professionalized children" in child rights advocacy must be avoided.⁴¹ To properly address the social and material needs of *all* children, the voices of the most vulnerable must also be included.

IV. CONCLUSION

First, the adoption of the CRC has made an important contribution to promoting children's rights by establishing what children's rights ought to look like. Despite its lack of formal enforceability, it has proved a powerful tool for establishing global respect for children's rights and normalizing certain child protection standards. However, we will not fully understand the material consequences of the CRC until mechanisms are created to evaluate the progress of child rights in countries that undertake the CRC's recommendations.

Second, the CRC must be undertaken as a subject for critical review. The CRC's glaring Western and liberal biases, ethnocentrism, and limited provisions for alternative experiences of childhood make clear that we have not yet arrived at a truly international standard of children's rights that is inclusive of *all* children, especially those who are most vulnerable.

Lastly, if the CRC is interpreted as a Western *construction* informed by Western experiences and histories, it can reasonably be *reconstructed* with other approaches to better serve its goals. It is imperative that we do not impose a conceptual or moral hierarchy that places Western approaches to childhood and child protection above non-Western approaches. Possible suggestions for the reconstruction of the current child rights paradigm include: (1) the proper recognition of community-based actors as central to the support and implementation of children's rights, and (2) the inclusion of children's voices in human rights policy and advocacy.

Endnotes

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