

Legal system and the social construction of childhood

[Life, Childhood](#)



In 1924 the League of Nations promulgated the first international agreement setting out the principles, which should inform the universal treatment of children. The underlying image of the child contained in the Declaration of Geneva was thoroughly imbued with a modernist concept of childhood. In particular children were seen as incomplete, non-social, weak and dependent. The Declaration, therefore, placed its emphasis on the duties of adults towards children.

The UN Convention of the Rights of the Child (UNCRC), agreed in 1989, took this a stage further by making its provisions legally binding on national governments that ratified it. By 2003 this included all governments of the world except the US. The UNCRC, however, surpasses the modernist notion of children as a cultural other. It raises children's social participation as a goal alongside protection and provision.

Children's participation has become an international rallying point for child advocacy. It is seen as capable of transcending differences in the social, cultural and economic conditions of children's lives around the world (Davie, Upton and Varma, 1996; Flekkoy and Kaufman, 1997; Franklin, 1995; Hart, 1992; Lansdown, 1995).

From one point of view the UNCRC represents a benign attempt to bring enlightenment and humane standards to all children. It has been used in this way and it is on these grounds that it draws enthusiastic support and even evokes a certain amount of zealotry. It has also been characterized as high in rhetoric but low in intensity. In this sense it is a highly suitable instrument

through which declarations of lofty principle can be made but about which little needs to be done in practice.

However, it is also the case that the children's rights lobby is, for good or ill, on the forefront of the global spread of norms about childhood. As Boyden (1997: 197) notes, these efforts have their precursors in the 'civilizing mission' of colonialism: " As the twentieth century has progressed, then, highly selective, stereo-typical perceptions of childhood - of the innocent child victim on the one hand and the young deviant on the other - have been exported from the industrial world to the South ... It has been the explicit goal of children's rights specialists to crystallize in international law a universal system of rights for the child based on these norms."

The effects of this, she argues, are not always positive. Rights is a concept which is ultimately tied up with cultural values. Their successful implementation depends upon the existence of a compatible framework of meaning and an infrastructure of social and economic supports. The right to protection, for example, may translate well into practice when agencies, such as the police, are reliable upholders of law. When they are reliably corrupt it can be a recipe for oppression.

Furthermore, some aspects of the concept of childhood contained in the UNCRC might also depend for their realization upon a level of economic wealth that many countries do not possess. As we have seen, for some countries international economic policy has led to deepening poverty, ill-

healthand inequality at the same time that social policy is urging the adoption of the rights of children.

Perhaps, though, this is to underestimate the subtle processes that the UNCRC is enmeshed within. The different ways in which it (or part of it, Article 12) can be interpreted illustrate well how cultural globalization creates both diversity and homogeneity. It is, as Lee (1999) has pointed out, a document that has effectivity only because it is ambiguous. It is framed in such a way that its general principles are given a great deal of space for local interpretation. In fact, such was the level of disagreement among those who drafted it that this was the only way to make it acceptable to a wide range of countries with different cultural traditions about childhood.

As Lee (2001a: 95-6) comments: “ If the Convention had been intended to clarify children's position, it would indeed crumple under this burden, but the Convention operates in a rather different way. Having generated childhood ambiguity, it then lays theresponsibilityfor managing that ambiguity on the legislatures and the policy-makers of the states that have ratified it.”

The representation of childhood found in the UNCRC has become more complex and ambiguous than the earlier Declaration. The protection and provision articles of the Convention still emphasize children's need of adult support but, at the same time, especially through Article 12 of the Convention, children are pictured as social actors, not outside but inside society, not passive recipients but active participants.

Role of the Legal System in Regulating children

However, the contradictory effects of globalization do not all flow in the direction of self-expression and rights. From another point of view the twentieth century has witnessed increased levels of institutional control over children. The introduction of compulsory schooling and children's formal exclusion from paid work signaled a historical tendency towards children's increasing compartmentalization in specifically designated, separate settings, supervised by professionals and structured according to age and ability.

Näsman (1994) has called this process the institutionalization of childhood. Throughout the twentieth century schooling has gradually been extended both 'upwards' (for example in incremental steps towards an older leaving-age for compulsory schooling) and 'downwards' in the growing emphasis on pre-school education and nursery provision (Moss et al., 2000.)

Even leisure time is often framed in this way for many children because activities such as sport or music increasingly take place within some kind of institutional setting. It can be seen in the provision of after-school and holiday clubs that organize and regulate children's activities under an adult gaze, channeling them into forms considered developmentally healthy and productive. Such phenomena have been noted across European societies.

German sociologists, for example, have used the terms 'domestication' to describe the progressive removal of children from the streets and other public spaces and their relocation in special, protected spaces. They use the

term 'insularization' to describe the decreased levels of children's autonomous mobility around cities and the creation of special 'islands' of childhood to and from which they are transported (Zeicher, 2001, 2002).

Within these institutions, but with significant variations according to national policy, it is possible to discern a struggle to tighten the regulation of children and to shape more firmly the outcomes of their activities. Schooling is a good example of this.

In the last decades of the twentieth century the rather instrumental schooling regimes of the 'Tiger Economies' of Southeast Asia were held up as the model for producing economic efficiency and were widely influential in changing educational systems in Europe. I have argued elsewhere that this phenomenon represents a refocusing of modernity's drive to control the future through children (Prout, 2000a).

This tightening of control over children derives from a declining faith in other mechanisms of economic control, combined with increasing competitive pressures from the world economy. The intensification of global competition and the intricate networking of national economies erode the state's capacity to control its own economic activity. In such circumstances, shaping children as the future labor force is seen as an increasingly important option. This, after all, is exactly what supply side economics is about but, as far as children are concerned, it often leads to attempts to regulate and standardize what they learn and how they learn it.

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