

Child Rights: A Critical Historical Context

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## **Abstract**

In this research, I examine the history of child rights using critical discourse analysis as a research methodology and theoretical approach to read, understand, analyze, critique, and contextualize three international child rights texts - the Declaration of Geneva (1924), the Declaration of the Rights of the Child (1959), and the UN Convention on the Rights of the Child (CRC) (1989). Informing the research findings is a conversation about the constructed nature of childhood, and the impact of the (mis)perception of children on the cyclical progression and regression of children's rights. The findings, which are essential to future research and to the progression of children's rights, are twofold – the dominant Western/Eurocentric image of 'the child' as weak and in need of adult protection as well as the categorization of 'the child' continue to play a dominant role in child rights discourse not only impacting the general perception of children but also policies on national and international levels. For children's rights to become a reality and not merely a promise of independence within an environment of dependence, it is essential to look at the past to identify the root causes/barriers preventing the progression of children's rights; only then can we move forward and ensure that rights become tangible for all children while keeping in mind their diverse contexts.

Key words: child rights, history, critical discourse analysis, sociology of childhood

## Résumé

Dans cette recherche, j'examine l'histoire des droits de l'enfant en utilisant l'analyse critique du discours comme méthodologie de recherche et une approche théorique pour lire, comprendre, analyser, critiquer et contextualiser trois textes sur les droits de l'enfant - la Déclaration de Genève (1924), la Déclaration des Droits de l'enfant (1959) et la Convention relative aux droits de l'enfant (CRC) (1989). La conversation sur la nature construite de l'enfance et l'impact de la (mauvaise) perception des enfants sur la progression et régression cyclique des droits de l'enfant sont à la base des résultats de la recherche. Les conclusions, qui sont essentielles pour les recherches futures et pour la progression des droits de l'enfant, sont doubles – l'image dominante occidentale / euro centrique de l'enfant comme étant faible et ayant besoin d'une protection adulte ainsi que la catégorisation <<l'enfant>> continuent de jouer un rôle dominant dans le discours sur les droits de l'enfant, non seulement en influant sur la perception générale des enfants, mais aussi sur les politiques aux niveaux national et international. Pour que les droits des enfants deviennent une réalité et non simplement une promesse d'indépendance dans un environnement de dépendance, il est essentiel de se pencher sur le passé afin d'identifier les causes profondes / obstacles qui empêchent la progression des droits de l'enfant; ce n'est qu'alors que nous pourrons avancer et s'assurer que les droits deviennent tangibles pour tous les enfants tout en tenant compte de leurs divers contextes.

**DEDICATION**

To my parents Amal and Ayham

**In loving memory of**

Doreen Starke-Meyerring

and

Amira Sabai



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### **Contribution of Author**

This research in its entirety was conducted and written by Hala Mreiwed under the supervision of Dr. Mindy R. Carter, McGill University, and the committee member Dr. Claudia Mitchell, McGill University.

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### List of Acronyms

CDA	Critical Discourse Analysis
CRC	Convention on the Rights of the Child
CRE	Child Rights Education
DA	Discourse Analysis
FTFC	Fight the Famine Council
HRE	Human Rights Education
ICW	International Council of Women
ILO	International Labour Organisation
IUCW	International Union for Child Welfare
NGO	Non-governmental Organization
OHCHR	United Nations Office of the High Commissioner for Human Rights
SCF	Save the Children Fund
SCIU	Save the Children International Union
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations International Children's Emergency Fund
WHO	World Health Organization
WILPF	Women's International League for Peace and Freedom

## Chapter 1: Introduction to the Research

“Every generation of children offers a fresh opportunity for the reconstruction of civilization” (Jebb, 1929, p. 5). To enable reconstruction, progression, and the development of a more peaceful present and future, it is vital to ensure that every generation of children is equipped with their rights, and for these rights to be real – relevant, accessible, and applicable. Child rights are not for the select few but are for all children. Having rights that are legally recognized and applied and knowing them (by contextualizing, critiquing, and reimagining them) can empower children. As Joel Feinberg (1970) asserted and R. Brian Howe (2007) affirmed, “claims based on rights – rather than actions based on benevolence or pity or a sense of duty – have value in conveying the understanding that the holders of rights are persons worthy of respect” (Howe, 2007, p. 2). Respect for children, their voices and lived experiences are essential not only for the future but for the present on a local and global level. Children, for centuries, have been helping in the development and progression of their respective societies. However, their roles have not always been documented by their respective countries and societies because children, in general, (particularly in the West) were perceived as objects; this perception eventually evolved as they became seen as ‘becomings’ and ‘beings’ in the making and later as dependent human beings (vulnerable and in need of protection).

The changes in perception were a result of new understandings about children and childhood, predominantly in the fields of science, developmental psychology and psychiatry. The two World Wars also had a profound impact on the changing image of the child leading to two international texts calling for the protection of children – the Geneva Declaration of the Rights of the Child (1924), and the Declaration of the Rights of the Child (1959). Following these two nonbinding Declarations, children’s rights advocates from various parts of the world called for a

document with legal standing. After “a long and difficult drafting process” (Fottrell, 2000, p. 1), the General Assembly passed the United Nations Convention on the Rights of the Child (CRC hereafter) in 1989 with the *intention* of fostering equality, safety, and empowerment of children worldwide. The CRC was seen as “a significant legal and political achievement...[that] elevated the child to the status of an independent rights-holder and placed children’s issues at the centre of the mainstream human rights agenda” (Fottrell, 2000. p. 1). By signing and ratifying the CRC, member states agreed to put the best interests of the child (who as per Article 1 of the CRC is any person under the age of 18) in the decision-making process regarding issues concerning the child’s well-being, education and protection, and to enable the child’s participation in the process. It was subsequently ratified by all states, with the exception of United States (U.S.). Children’s rights advocates hoped that with the CRC, children would finally be treated as rights holders. They would participate in decisions and policies that impact them, have access to resources and services even in countries other than their own, and be protected as human beings under laws that are specific to them. However, the present reality is that being party to and ratifying the CRC does not ensure full or even partial compliance.

More than three decades after the CRC was passed, and even after member states (also referred to as States parties in compliance with original texts), renewed their commitment to its full implementation in 2019, child rights often remain as acts of charity or pity. They are often taken up as causes by local, national, regional, and international non-governmental organizations (NGOs) and charities. Overall, children’s voices continue to be ‘muted’, whether intentionally or unintentionally, and the perception of children as weak beings incapable of making decisions remains a part of dominant discourse. This is a social wrong, and it will be referred to as such based on Norman Fairclough’s trans-disciplinary research methodology (2012), that has become

embedded within the fabric of many countries including Canada. As the 2020 global pandemic, COVID-19, spreads around the world, it is further exposing the already strained systems in areas such as healthcare, education, welfare, and juvenile justice across the world. Children are suffering, particularly those in already vulnerable situations, with closures of schools, centres for children and youth, and, at times limited or no access to services including healthcare. What also exacerbates this gap is that there is little to no knowledge by children of their rights and their roles as integral members of their respective societies/communities and the international community. This lack of knowledge not only goes against the agreement in Article 42 of the CRC, which requires States Parties to make these rights widely known to children and adults, but it also makes children more vulnerable to violations of their rights.

This social wrong is historically interlinked to child rights discourses, power, and social structures and the interplay between them as well as the various semiotic elements and ‘moments’ that have contributed to the direction of such discourse. While on the surface, these elements appear different and separate, they are not. Thus, what is needed to remedy this wrong is not a band aid or a short-term solution, but systemic change within each country to ensure that children’s rights are tangible and a part of all policies and legislations. However, for systemic change to occur, the language *in* use of child rights must be contextualized (*‘in’* is purposefully italicized as it denotes the contextualization of language), understood, studied, and taught. Through an understanding of and critical reflection on the core of the problem, solutions can be explored to help make children’s rights a reality and to move the CRC from a symbolic text simply used to signify the presence of rights to a document in which rights are lived (experienced) and living (contextualized and adapted to present and emerging needs).

## Purpose of the Research

Using a critical historical context, this research examines the [mis]perception of children and childhood, the cyclical progression and regression of child rights, and analyzes child rights discourse through language *in use* in three international child rights texts: the Geneva Declaration (1924); the Declaration of the Rights of the Child (1959); and the CRC (1989)]. These specific texts have been selected as they helped make children rights holders and brought child rights discourses to the fore. The purpose of analyzing them is threefold:

1. Contextualize the (mis)perception of children, childhood and child rights as well as the role they play separately and together in child rights discourse in the present day;
2. Illustrate through a critical historical lens the interconnection between the dominant discourses that led to the production of the aforementioned child rights texts;
3. Demonstrate through the application of CDA the importance of contextualization and critical analysis of language *in use* to change perceptions and open the path to the removal of barriers inhibiting children's rights education, implementation, dissemination, and participation while keeping in mind that children's lived experiences and contexts differ.

By examining the language *in use* related to child rights, as expressed in three different timeframes based on the three child rights international texts, I will address the critical role that these texts have played within a historical, sociopolitical, and educational context. I will also explore the potential implications that a CDA lens to child rights can have on children's rights and child rights education (CRE) in the present day. In this research, the type of CRE that I will introduce at the end as a way forward is not merely about teaching children that they have rights but about making these rights lived and living. This will take place by explaining what these rights mean through their historical contextualization, how they can be improved upon/reimagined to be more relevant



and accessible, and how they can be applied within a changing world that is no longer separate but interconnected and interdependent.

It is important to note that as I explore and analyze the texts, I attempt to do so with the rigour of a child rights educator informed by CDA rather than a linguist or a historian. My intention is to look beyond the language as it appears in the text and delve into the way different orders of discourse (social practices) are created, and how meanings and connections are made using power relations to legitimize social and discursive practices that continue to marginalize and mute children. To ensure the flow and consistency of the narrative for each text and period, there may be some repetition of certain policies, text descriptions and historical events. To maintain authenticity, all punctuation as well as what may appear to be grammatical errors by standards of classical texts were maintained as per the original texts. The term(s) child(ren), adolescent(s), youth and young people will be used interchangeably to refer to individuals under the age of 18.

Moreover, this research offers an essential exploration of certain historical moments in the understanding of children, childhood, and child rights, but it is not an extensive examination of every historical moment and the stories and peoples behind these moments. Therefore, to better understand the impact of each event and period on children, a more thorough local and national level research and analysis is needed. Although the world has become more interconnected, each country's history and peoples' journeys and experiences are separate and unique to them. A summary cannot give justice to these diverse histories, cultures, and contexts. When trying to understand and contextualize children's rights, it is essential to look at the past to understand the present and be able to make the necessary changes whether they are political, economic, social, cultural, legal or discursal. In doing so, one must never forget that perceptions and contexts differ.

## **Situating Myself in the Study**

It is essential to recognize and reflect on my positionality and the lens in which I approach this research. I am a Syrian Canadian female, a child rights advocate and educator, a researcher, critical analyst, and a learner with a passion for history and drama education. I acknowledge that my personal, professional, and academic experiences have shaped my positionality vis-à-vis my understanding of children, childhood, and child rights. With this knowledge, I continuously applied reflexivity, which as explained by Patnaik (2013) is a “constant awareness, assessment, and reassessment by the researcher of the researcher's own contribution/influence/shaping of inter-subjective research and the consequent research findings” (p. 4). In this sub-section, I will briefly bring these experiences into perspective.

When the CRC was passed, I was ten years old. I was not aware of it at school both in Damascus, Syria where I was at the time or in Montreal, Canada where I completed my high school education. While I did not know that I had rights as a child, I was lucky to have been taught by my parents that I have equal rights as a human being. These were not just words that they said but practices they implemented by ensuring that our voices (my siblings and I) were always heard. I remember my parents sharing with us every struggle and every success; they did not shield us from the world but made sure that we understood it so we can protect ourselves and others. By being an active participant in my own life, I learned a lot about myself and the world that I was living in. What empowered me growing up was knowing that in the face of injustice, I could speak up and have my parents’ full support. Knowing my rights and being able to defend them was powerful even when I could not always change the outcome.

I first learned of the existence of the CRC in one of the books I was reading for an International Relations course for my Bachelor’s in Political Science at a Canadian university

when looking at international human and child rights texts. However, it was never mentioned in any of the courses that I did for the duration of that degree or during my Master's in Public Policy and Public Administration. Having become aware of the CRC, I became interested in its application in Canada and in other countries that ratified it. What I learned was that the CRC was a symbolic text rarely referenced or used in relation to education, policy and legislation in Canada and most countries. After graduation, I worked for NGOs with the goal of creating policies that empower and protect children. However, I soon realized their limitations on the ground. Through teaching at an elementary/secondary school and in Higher Education, I noticed that there is a huge gap when it comes to teacher training and equitable practices and approaches to education that a child rights approach and child rights education (CRE) can fill. Since CRE was and still is not a mandatory part of teacher training and certification or children's education in the majority of countries around the world including Canada, many teachers are not aware of it. Knowing that the success of an education system depends on many variables and varies from one country to another, it was difficult at first to come up with a solution that is adaptable and contextual.

While I knew that rights empower their holders, I was not sure how to teach it in a way that extended beyond the words in the CRC's text and ensure that the diverse contexts of children are not lost; this became my goal. The importance of CRE was further solidified during my work at an International NGO for children in alternative care; I worked on programs and training materials to assist children/youth and their caregivers (mothers, social workers, educators, national staff, and village heads), and focused on child protection training and reporting, dissemination of relevant educational tools and strategies based on evaluations and needs assessments. From the reports that I read and first-hand accounts that I heard, I was able to better understand the needs of children/youth who have experienced loss and trauma along with the needs of the individuals who

take care of them. I also became aware that many of the children assumed that violations against their rights (which in most cases they did not refer to as rights or violations) are the norm or their fault – just something that adults do because they have done something wrong or ‘bad’. Many of the children did not understand what verbal abuse meant and that physical violence is not a common or acceptable form of ‘discipline’. Some adults were also not sure about what is considered to be abuse (verbal, psychological, physical) as they saw their actions as ‘discipline’. Some stated that hitting is an acceptable form of ‘discipline’ and can only be deemed abuse if a bone breaks or there are clear physical marks. What constituted sexual abuse was also confusing to many adults; for example, during discussions and workshops on child protection, some caregivers asserted that “boys cannot be raped”, and therefore, there is no need to discuss these issues with all children and bring up “unnecessary” topics. This topic was taboo and unacceptable to bring up although there were cases of sexual abuse. Sexual education and the rights of girls were also areas that were not discussed. While a few adults eventually changed their outlook, most were still unwilling to teach children about their rights. This stance was more from the heads of some national offices as opposed to the people living with the children and youth in care, out of fear that this would lead to “chaos”, caregivers would no longer be able to ‘discipline’ their children/the children under their care, and the overall loss of power.

Throughout my journey, there were many stories and situations that made me wonder if I should continue in this path. Informing children about their rights may seem easy and logical to some; however, the reality is that it is a highly politicized issue. In my experience, politics within each country infused with a multitude of factors, always found a place in any situation involving children, particularly children in alternative or foster care and the welfare system. Ensuring that children were aware of their rights, received these rights and were fully protected meant having to

go up against a system that is embedded in boundaries and a political web of power, authority, and jurisdiction. Being a part of an International NGO meant that there were limits to what can be done, and the level of involvement in the investigation of violations and in responses to them. However, I found solace in the positive situations that I witnessed and the amazing children and great caregivers that I met. The adults in these situations treated the children in their care as their own and built a community amongst other caregivers. These individuals were not afraid to ask for advice, training and seek support when needed. They were willing to teach children about their rights because they understood that rights would not only protect them but create stronger bonds and mutual respect. However, they had to do it on their own (and at times in secret) without the proper tools or support.

Failure to protect children unfortunately happens more often than people think, and it is not limited to one country. As Jo Becker (2001), a member of the Editorial Board of the UN Secretary-General's Study on Violence against Children states: "Children are betrayed every day by silence, inaction, and impunity" (p. 34). Whether at home, in school, in alternative/foster care, or in jail/youth detention centers, children are put in the hands of adults who are supposed to protect them and ensure that they get the help that they need. However, this does not always happen. While I will not delve into specific cases for privacy reasons, I will note that in the case of education, I witnessed how difficult it is for children to succeed academically in an environment that does not support or listen to them. Education is not and should not be seen as a service offered by schools but a RIGHT for every child and a place for other rights to be met. Unfortunately, not all children know that. If children learned about their rights in a way that is embodied and connects them to the world that they live in, they would become active participants in knowledge-making as opposed to mere viewers and receivers of information, and their schooling would have meaning and

purpose. Schooling not only becomes about the future (part of a mere process of becoming an adult, getting into university or a job) but about the present and about empowerment and understanding of the world – the here and now – and how they relate to it and can help shape it.

While working as a media researcher for two children's television channels that offered educational and entertaining original and acquired content, I conducted and co-led qualitative and quantitative research studies with children across the Gulf, Middle East and North Africa for almost five years. The findings over this period helped me understand what children ages 2-15 living in different contexts preferred when it comes to education. What the majority wanted was to be able to share their opinions and experiences, to hear the experiences of other children their age (past and present narratives), and for learning to be fun. Moreover, through my participation in different events for children, I witnessed the power of the arts (i.e., theatre, drama, and drawing) in empowering children. At the time, I understood that for CRE to succeed, it must also be done in a contextualized and creative manner that involves children.

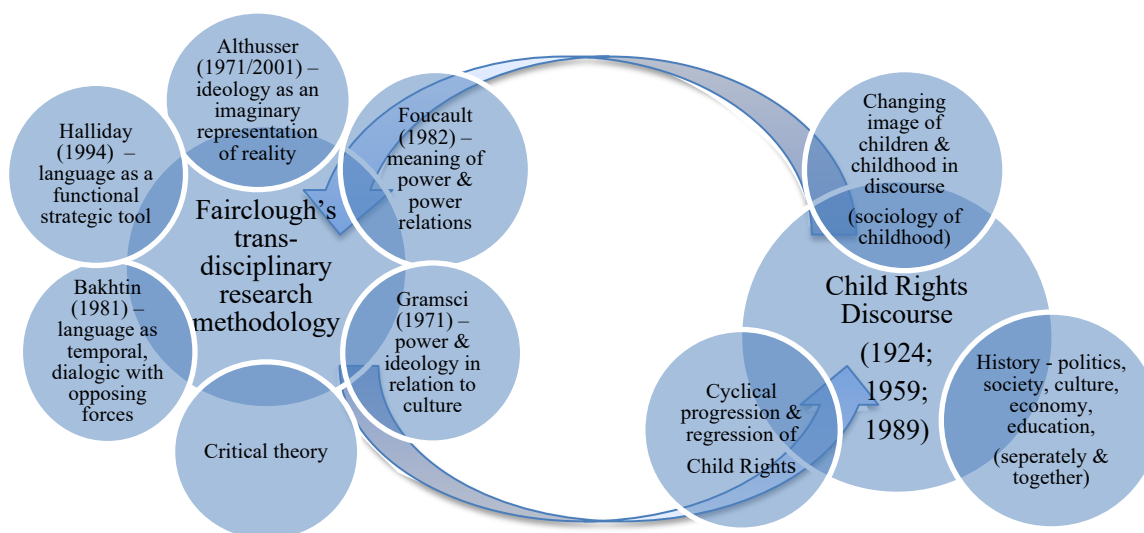
Why are you focussing on children's rights when there are so many other important issues? How can there be child rights when basic human rights are violated daily? How can you advocate for CRE when you know that even if you teach children about their rights, they will not be able to attain them? If you teach children their rights, will they listen to us (referring to adults such as parents, caregivers, and teachers)? These are just some of the questions that I have consistently received from caregivers, teachers, parents, and some colleagues. My response has been the same, how can you not teach children about their rights, and expect them to know how to protect themselves, ask for help when they need it, understand the world that they live in, and deal with the present in order to have a future? As adults, we expect a lot from them, I have seen it as a teacher, as an aunt, in alternative care settings, as a researcher, and as a child rights consultant and

advisor. Children are overloaded with information intended to ‘guide’ them to become ‘good’ adults/citizens in the future forgetting that they exist here and now and have their own lived experiences and narratives that shape who they are and how they think. Without such an understanding and involvement of children, it will be difficult for rights to become lived or living.

### **Research Methodology**

In the initial stages of this research, I found that my research problem could not be thoroughly examined using one theory as there are a combination of factors at play when it comes to an understanding of children, childhood, and their journey to becoming ‘rights’ holders and the progression and regression of these rights. Therefore, I decided to use CDA as it can be both a theory and methodology (Fairclough & Wodak, 1997; Luke, 2002; Phillips & Hardy, 2002; Weiss & Wodak, 2003). Following extensive research, I came upon Fairclough’s (2012) trans-disciplinary research methodology, which enables the use of different methods and theories based on “the theoretical process of constructing...[the] object [of research]” (Fairclough, 2012, p. 13). As a result, I draw on different theories and disciplines (Maxwell, 2012) that may on the surface appear to be separate but are interlinked (see Figure 1). Weiss and Wodak (2003) note that CDA is a “theoretical synthesis of conceptual tools” (p. 7). Synthesizing the available materials, data, theories, and approaches, and putting together this model helped me map out, in relation to the research area that I am investigating, the key areas and points, their role on a micro, meso and macro levels, and their connections. It has also helped me “assess and refine...[my] goals, develop realistic and relevant research questions, select appropriate methods, and identify potential validity threats to...[my] conclusions” (Maxwell, 2012, p. 39-40).

**Figure 1: The Research Methodology**



*Note.* Each bubble in the cycle on the left side represents a specific theoretical approach to the understanding of ideology, language, and power and power relations. While they may appear separate, they are interconnected to each other and to the reasons on the right that have helped bring the CRC to existence but have also left it to become a symbolic text.

The framework consists of understandings selected from the different theoretical foundations with regards to the meaning of ideology, power, power relations and language and their connection to each other, to the society and the social order that emerges as a result. In exploring, addressing, and analyzing the data, I rely on Althusser's (1971/2001) definition of ideology as an imaginary representation of reality; Foucault's (1982) definitions of meaning of power and power relations; Gramsci's (1971) connection between power, ideology and culture; Bakhtin's (1981) perception of language as temporal, dialogic with opposing forces; Halliday's (1994) approach to language as a functional strategic tool; and, what it means to be critical. These are used in correlation with Fairclough's trans-disciplinary research methodology and analysed based on an adaptation of the first two stages of his four-stage of analysis: 1) focussing on the social wrong in its semiotic aspects; 2) identifying obstacles to addressing the social wrong; 3) considering whether the social order 'needs' the social wrong; and, 4) identifying possible ways past the obstacles (Fairclough, 2012, p. 13; see chapter 2 for a detailed description).



The first two stages contextualize our understanding of the language *in use* with regards to children, childhood, and child rights through a critical historical context, and show how this understanding is connected to the progression and regression of rights. They pave the way to proving the importance of a critical historical approach to child rights and CRE. Education that is critical can ensure that the CRC is contextualized and recontextualized bringing forth change not only in the field of education but on social and legal levels within local and global contexts. I selected this particular methodology because it allowed for the use of different theories and methods under its umbrella emphasizing the importance of transdisciplinarity within research.

### **Data Collection, Analysis Process, and Research Question**

Prior to delving into CDA, I first began the process of gathering data by following the rules of Classical Content Analysis (CCA) as outlined by Titscher et al. (2000). For the first stage, I used Ole R. Holsti's (1968) multi-stage selection process. As the CRC was the springboard for my research, I began surveying all the other international texts on child rights that led to its fruition. I found two additional integral documents leading to the final selection of three texts: 1) the Declaration of the Rights of the Child (also known as the Declaration of Geneva, the Geneva Declaration) (1924); 2) the Declaration of the Rights of the Child (1959); and 3) the Convention on the Rights of the Child (1989). These texts were selected for a number of reasons predominantly: 1) they are essential in the field of international child rights because they helped alter the overall language and perception of children and their childhoods impacting both contemporary written and visual texts concerning child rights; 2) they were written during periods with major political, social, economic, and religious shifts as well as scientific and technological advancements that had global and local impacts; 3) they are interdiscursive; 4) they are internationally recognized with the CRC receiving majority agreement amongst States; and 5)

child rights as outlined in the CRC (with its limitations) has the potential of empowering children not only on a social and legal level but also on an educational one if understood, contextualized, critically reflected on and re-contextualized/reimagined with children to better serve their needs. These three texts became the primary sources of data. As for the secondary sources, which were identified through the research process, they included: international declarations and conventions, archival data such as meeting minutes, official records from several international organizations connected to each period examined, UNICEF annual reports, Working Group session reports, as well as literature and images from across disciplines.

Once I identified the primary source materials (texts) for the research, I needed to establish context, so I created a table with the following items for each text: language, country and place of origin; author and date; publication date and location; genre and medium; and the social and historical context (connection to major events and discourses prior to and following publication). Following this stage, I digitized each text in preparation for coding and analysis. The second stage focussed on the reading of the texts, which I divided into three steps that involved what Leigh Price (2002) refers to as “both engagement with, and estrangement from, the text” (p. 75). In the first step, I did a simple reading of each text taking what was written at face value without questioning the status quo. The aim here was to simply understand and describe what the text intended to communicate. Price (2002) notes that “reading *with* the text” (p. 75) is necessary as it enables “entry of the text into the confines of our subjectivity” (p. 75). However, it is essential to note that “[e]ngagement without estrangement is a form of submission to the power of the text regardless of the reader's own positions” (Janks, 1997, p. 331). Such a reading offers a narrow entry into the text confining the reader to one perspective; it is therefore essential to conduct a

reading *against* the text allowing ‘otherness’ to enter. CDA’s role is integral within this respect as it offers this counterbalance.

Before beginning to read *against* each text, I did a second close reading where I noted and coded general key terms, concepts and phrases connected to the literature review on child rights and sociology of childhood such as child[ren], childhood, adults (including men and women), government/States, participation (voice), protection, independence, dependence, provision, and best interests of the child and highlighted terms that could be connected to them. In the process, I also began to identify links – instances of interdiscursivity between the texts. This preliminary step led to a third more analytical reading of each text that was based on the object of the research and the research question. During this more directed reading, I narrowed down the key terms, and began drawing connections between the discourse fragments (parts of the text that deal with a specific theme) from each text that I identified in the previous reading to create discourse strands (Jäger, 2001); this served as the points of focus for the analysis. Mayring (2002) refers to this form textual coding as “evolutionary coding” (p. 120). As Nicholas P. Triplett (2017) notes: “The identification and comparison of these larger discourse strands allowed for interpretations of the major discursive themes of the text” (p. 14).

During this step, I also re-examined my research question to ensure that the wording clearly addresses the social wrong and the object of the research. The focus as such is on the impact of the dominant discourses on children and childhood on child rights language resulting in the muting of children and rendering rights as symbolic. The following research question emerged in the process:

1. What can be learned from a critical discourse analysis of the three international child rights texts, and what are the implications of this analysis on children’s rights in the present day?

The question was then explored using an adaptation of Fairclough's (2012) trans-disciplinary research methodology, which served as a way to tell the story of the historical journey of child rights as they progressed and regressed within different timeframes and contexts and with different social players and language *in use*.

### **Rationale**

I decided to use CDA as a theory and a method, with emphasis on Fairclough's (2012) trans-disciplinary research methodology, as it focusses on structures, shifts and strategies, and supports the understanding and recontextualization of texts. This is an essential part in conducting a comprehensive examination of historical events and experiences as expressed in the language *in use* in the three child rights texts, and their impact on the present and future. While these texts have resulted in a paradigm shift in perception, moving children from property to human beings with rights, they have also maintained a narrative of dependence and paved the way for a path of possible independence of children (that has yet to be realized). With this research, I am aiming at identifying the barriers to child rights in order to overcome them. As Reynaert et al. (2015) note:

A critical perspective creates space for alternative ideas on children's rights. The awareness that children's rights are shaped in a particular way and governed by certain logics that are human-made, eliminates an essentialist understanding of children's rights, i.e. an understanding of children's rights as determinate, unchangeable entities with consistent characteristics. A critical perspective...has an *emancipatory* objective: it considers children's rights as a framework for social action and a lever to change societal conditions towards greater respect for the human dignity of children. (p. 10-11)

Changing the way knowledge is transmitted and received is essential, and it is what child rights is about. It is thus essential to explore and critically reflect on where these rights come from, what

they imply, and what is needed to transform them from symbols of compliance into texts of power and action.

### **Organization of the Dissertation**

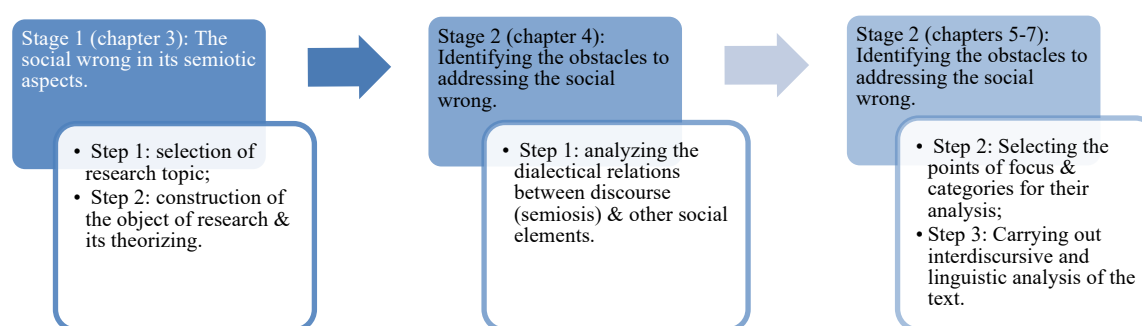
In the introductory chapter that frames the research, I addressed the purpose of the study, highlighted some of the emergent issues concerning the perception of children and child rights that will be delved into in the subsequent chapters, and situated myself in the research as my personal, professional and academic experiences have profoundly impacted my perspective on child rights and the CRC. The chapter also serves as an introduction to Fairclough's (2012) trans-disciplinary research methodology, the data collection and analysis process, and the research question.

The second chapter examines the literature on CDA and Fairclough's trans-disciplinary research methodology (2012) used both as a method and theory for the textual analysis of the three child rights texts. It begins with a definition of discourse and an exploration of discourse analysis leading to CDA. This is followed by a historical and theoretical overview of CDA and its various approaches. The focus then shifts to the trans-disciplinary research methodology (Fairclough, 2012), the terminology *in use* (Fairclough, 2003), the stages of analysis, and critiques of CDA and responses to them ending with concluding remarks. This chapter is essential as it serves as a springboard for the subsequent chapters that explore the role of ideology, power and power relations in the language *in use* in discourses on children, childhood, and child rights, as well as the barriers leading to the progression and regression of these rights.

There are several steps within each stage (see Figure 2). The first Stage focuses on the social wrong in its semiotic aspects; it is made up of two steps: 1) the selection of a research topic that brings the social wrong to the fore and introduces the object of the research; and 2) the construction of the object of research and its theorizing in a trans-disciplinary way (Fairclough,

2012). The third chapter, which frames the research on the conceptualization of childhood, constitutes the first stage of analysis. In it, I identify the social wrong, which is the ‘muting’ of children due to a general [mis]perception of who they are and what their childhoods denote; this is done by examining the constructed nature of childhood and the changing perception of ‘the child’ as seen in the development of the sociology of childhood and the new emergent paradigm. This conversation is integral as it sheds light on how the language used in the Western world to refer to children has impacted child rights, and how the progression of these rights is also impacted by the language *in use* on children and childhood.

**Figure 2:** Summary of Fairclough’s (2012) Two Stages & Corresponding Chapters



Stage two focusses on identifying the obstacles in addressing the social wrong; it is made up of three steps. The first step, which is analyzing the dialectical relations between discourse (semiosis) and other social elements constitutes the fourth chapter. In it, I examine and historically contextualize the progression and regression of child rights as seen in three timeframes identified through the Declaration of Geneva (1924); the Declaration of the Rights of the Child (1959); and the CRC (1989). As I follow their journey of development, I also address their relation to other texts, events, and social practices, which were all impacted by the dominant Eurocentric/Western image of the child. These documents, which contributed to the changing image of the child, are not used to thoroughly examine international law on child rights, but as a backdrop to providing insights into where child rights discourse is situated within global social structures leading to the

progression and regression of child rights and preventing the materialization of rights and the development of new contextual rights. It also demonstrates the essential role that a critical lens can play in changing the way adults and children view and understand rights.

The fifth chapter begins the textual analysis process. It addresses the second and third steps in Stage two: 2) selecting the points of focus and categories for their analysis; and 3) carrying out interdiscursive and linguistic analysis of the text. In this chapter, the language *in use* in the Geneva Declaration (1924) is analyzed based on social events, genre and social relations, intertextuality and assumptions, difference, semantic/grammatical relations between sentences and clauses, representation of social events, and modality and evaluation (Fairclough, 2003). Understanding the historical context that led to the writing and adoption of this text is essential to understanding its purpose, impact on the perception of children, and the child rights declaration that followed it.

The sixth chapter also addresses the second and third steps in Stage two. It analyzes the language *in use* in the Declaration of the Rights of the Child (1959) (referred to as the 1959 Declaration hereafter). The text is analyzed based on social events, genre and social relations, intertextuality and assumptions, difference, semantic/grammatical relations between sentences and clauses, representation of social events, and modality and evaluation. The contextualization and decoding of this text offers insights into the impact of the social events on language *in use*, the reasons behind the continuous suffering of children following the two World Wars, and the CRC.

The seventh chapter continues to address the second and third steps in Stage two through the analysis of language *in use* in the CRC (1989). Unlike the other two texts, the CRC is not analyzed in its entirety; focus is on the preamble and the four general principles (Articles 2, 3, 6 and 12). The select text is examined based on social events, genre and social relations, intertextuality and assumptions, difference, semantic/grammatical relations between sentences and

clauses, representation of social events, modality, and evaluation. A major part of the analysis is based on archival UNICEF reports and session reports from the UN Working Group. Understanding the context, the drafting, deliberation and adoption processes are essential to understanding the CRC, the reasoning behind the language *in* use, and the persistence of the social wrong despite strides in child rights.

The eighth chapter is a discussion of the overall results, which are interpreted based on the research question and research methodology in conjunction with the relevant theories and literature findings. Through the analysis of the three child rights texts, I examine the impact that the language *in* use and the [mis]perception of children has had and continues to have on the progression and regression of child rights. By examining the main research findings, the goal is to find ways to move forward - make child rights a reality.

The ninth chapter concludes the research. It begins with a summary of findings, followed by contributions to new knowledge, limitations (academic, professional, and personal), and recommendations for future research. The journey of inquiry into child rights, however, does not end with this research; it is just a step in the way forward.



## Chapter 2: Critical Discourse Analysis

The chapter explores the literature on Critical Discourse Analysis (CDA hereafter), its main theoretical foundations, and its role in bringing forth change to the existing social reality. It also examines the correlation between discourse and “other social elements such as power relations, ideologies, economic and political strategies and policies” (Fairclough, 2015, p. 5), and addresses the main critiques and responds to them concluding with the final remarks.

CDA as a methodology is an essential part of this study as it informs an understanding of the way children and their ‘universal’ rights are seen in contemporary society, and the impact of that perception on the present and future of child rights. To understand the present and be able to make changes for a better future, it is essential to examine the past and uncover the sources of inequality and injustices that are embedded within the texts and grand narratives that we rely on.

As Theo van Leeuwen (2006) notes, CDA is:

[...] founded on the insight that text and talk play a key role in maintaining and legitimizing inequality, injustice and oppression in society. It employs discourse analysis to show how this is done, and it seeks to spread awareness of this aspect of language use in society and to argue explicitly for change on the basis of its findings. (p. 294)

For centuries, children’s rights advocates all over the world and across disciplines have been trying to ensure that children are treated as human beings with rights. Unfortunately, although as research indicates strides have been made, children remain marginalised and silenced as they continue to be perceived as “becomings” or weak beings unable to make decisions. The main sources of this marginalization of children have been and continue to be dominant discourses and texts. Without an in depth understanding of these texts and the reasons behind them, child rights cannot advance and adapt with the changing times.

## Defining Discourse

As a starting point, it is important to define the relevant terminology beginning with an understanding of discourse. Etymologically, the word discourse stems from the Latin verb *discurrere* (*dis* - away and *currere* - to run) and *discursus* which means to run about - run to and from. In the late 14th century, the English translation influenced by the French word *discours* meaning conversation/speech, denoted the process of reasoning, thinking, and understanding. Presently, the term has multiple definitions and connotations associated with it including 23 presented in Michel Foucault's inaugural 1970 lecture: "Orders of discourse" at Collège de France as listed in Reisigl (2004) and cited in Wodak (2008). To Foucault, discourse is not an object that is easily defined or categorized "but rather a set of relationships existing between discursive events" (Wodak, 2008, p. 5). A discursive event, as Fairclough (1993) posits, is an "instance of language use" (p. 138) that can then be analyzed "as text, discursive practice, [and] social practice" (p. 138). To Wittgenstein (1967) and Austin (1962), on the other hand, discourse is predominantly "understood as *linguistic action*, be it written, visual or oral communication, verbal or nonverbal, undertaken by social actors in a specific setting determined by social rules, norms and conventions" (Wodak, 2008, p. 5).

For Teun van Dijk (1990), discourse can be seen as text in context (p. 164); while the generality of this definition opens the door to a range of interpretations, it puts to the fore the importance of context. The meaning and role of context also varies depending on the authors' field of study, their research, and theoretical interests. In this research, I do not delve into the different definitions of context (see Wodak, 2008, p. 10-14 for a more detailed description of the different layers of context) but will rely on one; context here will refer to both "intertextuality and sociocultural knowledge" (Titscher et al., 1998/2000, p. 148). This denotes that discourses are not

independent but interlinked to past and present discourses and texts that are in turn woven together with language and symbols (verbal and non-verbal) “and are only intelligible in terms of the underlying conventions and rules” (Titscher et al., 1998/2000, p. 148). Linking text to textile and/or to weaving is not new as the term is etymologically derived from the Latin *textus* meaning tissue, which stems from *texere* - to weave. This gives rise to the implication that a weaver also exists. An integral part of understanding a text is understanding who the weaver or weavers are (e.g., one or more individuals, organizations, government[s], NGO[s]), what is being woven, and the purpose(s) they serve in the short and long term.

Lemke (1995) offers a more specific way of looking at discourse and text; he writes: “When we want to focus on the specifics of an event or occasion, we speak of the text; when we want to look at patterns, commonality, relationships that embrace different texts and occasions, we can speak of discourses” (p. 6). This means that texts are specific products of discourses; they “are both socially-structuring and socially-structured” (Fairclough et al., 2004, p. 27). While they can be similar in content and form, they can also differ in how they are produced, the message(s) they intend to relay, and the level of impact that they have. This is due to a number of factors including but not limited to the author or authors involved, social relations, context, time and space, ideology/ideologies, and politics/power relations. It is therefore essential to look at “how texts generate meaning and thereby help to generate social structure... [, and] how the production of meaning is itself constrained by emergent, non-semiotic features of social structure” (Fairclough et al., 2004, p. 27). This denotes that meaning is not only made through language use but language *in* use (e.g., impact of social structures on the production of a text, and the impact of a text on these social structures as they materialize into social norms, policies, other texts [within a given

community/society], as well as the limitations of the meaning[s] derived from a text). Within this context, semiotics plays an integral role in making and understanding the process of ‘meaning’.

While I will not delve into the history of semiotics (see Eschbach & Trabant, 1983), it is important to address its connection to discourse and our understanding of it. Semiotics stems from an understanding of the concept of the sign, which was theorized by Stoic philosophers in the third to the second century BC in ancient Greece (Halliday, 1989). Two thousand years later, Ferdinand de Saussure further developed it as a general study of signs (for a detailed account of Saussure’s work, see Jonathan Culler, 1976). Michael Halliday (1989), a British social semiotic linguist and functionalist, found that despite Saussure’s “conception of language as a set of relationships” (p. 3), there was a dominant general perception of a sign as an isolate entity. This isolation of a sign from its relation to other signs in the initial stages of examination is very limiting resulting in a narrow understanding. It is, therefore, essential for semiotics to be more encompassing of meaning made, not only in language but in other realms as well, and in the connections they have to each other. Halliday (1989) thus defines semiotics “as the study of sign systems – in other words, as the study of **meaning** in its most general sense” (p. 4). These systems of meaning, which come together in networks of relationships, can externally manifest in the form of a sign. Language then becomes one of many “systems of meaning that, taken all together, constitute human culture” (Halliday, 1989, p. 4). A focus on these interconnections began to gain traction through discourse analysis and CDA (specifically as seen in the work of Norman Fairclough) albeit through different approaches to language, discourse, text and society and the interplay amongst them.

### **Discourse Analysis: Paving the Way to CDA**

In 1952, Zellig Harris (1909-1992), an American linguist and structuralist, introduced the term discourse analysis (DA) as a form of analysis of connected speech and writing. In “Discourse

Analysis”, Harris (1952) posits that DA can be approached in two ways that are related: “language beyond the limits of a single sentence at a time... [and through] the question of correlating ‘culture’ and language (i.e., non-linguistic and linguistic behavior)” (p. 1). He further asserts that there has been a failure to do both adequately. In the case of the second point, the failure stems from the notion that a connection between behaviour or social situations and language is “beyond the scope of linguistics proper” (Harris, 1952, p. 1). This misconception swayed many researchers to focus on language use. Translation may have also played an important role in shifting the focus of the researchers/practitioners. In France, for example, in the 1960s, Michel Pêcheux (a linguist and philosopher) and Michel Foucault (a historian and philosopher) further expanded on the correlations that Harris (1952) made between language and culture in their own work. In Germany and the Netherlands, the focus was on the development of ‘text linguistics’ to uncover and describe text grammars. The differences in focus may have been a result of the way the main terms were translated; in the German version, ‘discourse’ was replaced most of the time by the word ‘text’; since Harris (1952) tended to use the terms simultaneously without differentiating them, they were seen as one. This led to the use of the term ‘Textlinguistik’ in some German-speaking countries even when referencing discourse analytical issues (Reisigl, 2011).

While translation or mistranslation is a factor, understanding of discourse analysis also varies based on the scholars and framework(s) used and the intention(s) behind them; for example, constructionists place emphasis on the value of discourse and the construction and reconstruction of the reality it produces. To that effect, Phillips and Hardy (2002) note that “without discourse, there is no social reality, and without understanding discourse, we cannot understand our reality, our experience or ourselves” (cited in Heracleous & Marshak, 2004, p. 1290). Functionalists also recognize the importance of discourse, but they approach its analysis as “the analysis of language

in use” (Brown & Yule, 1983, p. 1), which “cannot be restricted to the description of linguistic forms independent of the purposes or functions which these forms are designed to serve in human affairs” (Richardson, 2007, p. 23). That is, language cannot be independent or separated from the context it is used *in*, and the purpose or function it is used *for*.

As the use of DA in research began to increase, a change in perception and application across frameworks also began to occur. One of the most notable publications that helped bring forth this change was a book entitled: *Towards an analysis of discourse: The English used by teachers and pupils* by John Sinclair and Malcolm Coulthard (1975). Although seen as a part of sociolinguistics, the research had an impact on different fields as it examined the role of language in the interaction between teachers and students in classrooms. The authors paid special attention to the patterns and connections of words beyond the confines of a single sentence, and how through their grammatical structure and positioning in the discourse, they end up functioning as statements, questions, and commands (each with its own impact on the students). The authors noted that their findings were limited since they could not address the entire classroom context, specifically, student to student interactions. Other research focussing on language and its interconnection to context followed. As Reisigl (2011) notes: “since then, the discourse-analytical sensibility of the intertextual, interdiscursive, social, political and historical ‘context’ of linguistic and – in the wider sense – semiotic practices has continuously increased” (p. 11).

This change in sensibility and the rise of the importance of context and interconnectivity in research led to various definitions of DA. While the approaches and theories may differ, emphasis on the role and impact of language in the real world became dominant. As James Paul Gee (2011) asserts, DA is “the study of language at use in the world, not just to say things, but to do things” (p. ix). This means that what is being analyzed is not merely language in its literal sense

but language *in use*, which includes linguistic aspects (language, grammar, form) and the context it was said/written/shown in as well as the interplay between them. In its early years, DA was not considered to be an independent branch but a part of others such as sociolinguistics (see Sinclair & Coulthard, 1975; Stubbs, 1983; 1988) or pragmatics (see Brown & Yule, 1983; Yule, 2000 [with a change in definition in his book: *The study of language* [2006]).

By the mid-1980s, a further shift in understanding about the possible benefits of interdisciplinary approaches began to take place. As a result, linguistic discourse analysis became more interdisciplinary with connections to “sociology, philosophy, history, political science, psychology, literary studies, anthropology, education studies and geography among other disciplines” (Reisigl, 2011, p. 12). This notable paradigm shift in the social sciences in relation to an understanding of linguistics as they relate to power, context, ideologies, and society and the value of interdisciplinarity in research (Rogers et al., 2005) also impacted other fields including sociology of childhood and education, and paved the way for CDA in the late 1980s. CDA was seen as a problem-oriented interdisciplinary approach intended to demystify and challenge dominant ideologies and power through transparent, reflective and reflexive modes of analysis that include the exploration of written, spoken and/or visual materials.

### **CDA: Early Beginnings**

Although there were notable works on CDA that include: *Prejudice in discourse* by van Dijk (1984), *Language and power* by Fairclough (1989), and *Language, power and ideology* by Wodak (1989), it only began to gain traction in the early 1990s. In 1990, van Dijk launched the journal *Discourse and Society*. In 1991, at a symposium in Amsterdam, a small group of scholars that included Teun van Dijk, Norman Fairclough, Gunther Kress, Theo van Leeuwen and Ruth Wodak discussed the similarities and differences in their approaches to CDA as well as the various

theoretical frameworks that inform their work. With the continuous use of early approaches and the openness of the field for the development of new ones, CDA established itself as a prominent approach used across different disciplines and fields of study.

***Theoretical Foundations, Approaches and Shared Principles***

CDA is not a homogenous method; it is a “problem-oriented interdisciplinary research movement, subsuming a variety of approaches, each with different theoretical models, research methods and agenda” (Fairclough et al., 2011, p. 357). There is, however, common ground with regards to an understanding of discourse, critique, power and ideology and the role that they all play together *in* and *on* society. The theoretical foundations of CDA are also critical to the analysis of childhood, child rights and child rights education.

**Theoretical Foundations.** Some of the theoretical frameworks that have informed and continue to inform the different approaches of CDA are: “Louis Althusser’s theories of ideology, Mikhail Bakhtin’s genre theory, and the philosophical traditions of Antonio Gramsci and the Frankfurt School.... [as well as] Michel Foucault...[and] Michael Halliday’s systemic functional linguistics” (Titscher et al., 2000, p. 144). Although they are not always explicitly stated, many of the scholars tend to draw upon these diverse theoretical assumptions that can be seen as neo-Marxist (with the exception of Foucault’s ideas), particularly in reference to discourse, ideologies, power relations, language, social applications and implications, and critique as well as the interconnection of these elements. As Hodge and Kress (1979/1993) explain: “discourse cannot exist without social meanings, and... there must be a strong relation between linguistic and social structure” (as cited in Titscher et al., 2000, p. 145). Discourse is thus also connected to ideological constructions, which in turn play an major role in the construction of social realities through social practices and subjects resulting in the creation and maintenance of power relations. To Karl Marx,



these power relations are rooted in economics, and created and sustained by the ruling class who control the general population/the workers using dominant ideology that reflects their interests, values, and beliefs.

*Antonio Gramsci: Philosophical Foundations.* Gramsci (1971), an Italian philosopher, politician, and founder of the Italian communist party, explores power and ideology in relation to culture. He sees that “the political structure of society is dependent upon a specific combination of political/institutional and civil society. To achieve the agreement of the majority to the pressure exerted by the political society, a collective will must be formed” (Titscher et al., 2000, p. 145). Attaining ‘collective’ compliance is not simply done using direct force but through ‘cultural hegemony’. To socialize people into accepting or believing in and adopting certain norms and values, dominant social groups spread their ideologies in social institutions such as places of worship, schools, universities, the media, and courts. The way they become embedded into these institutions and are delivered to the rest of society varies, but the end goal is the same – to have the majority accept certain norms, beliefs, and values (proposed by dominant social groups that control these institutions) as facts and a part of their realities that cannot be changed. Gramsci (1971) noted that people can achieve advanced thought and cease to become ‘followers’ if they understand and recognize the difference between ‘common’ and ‘good’ sense. He saw ‘common’ sense as ‘chaotic’ and ‘contradictory’ since it consists of “diffuse, uncoordinated features of a general form of thought common to a particular period and a particular popular environment” (Gramsci, 1971, p. 330). ‘Good’ sense, on the other hand, is the “[p]hilosophy of criticism and the superseding of religion and ‘common sense’” (Gramsci, 1971 p. 326). Although socially and historically constructed, he saw it as “an ‘intellectual’ unity and an ethic in conformity with a conception of reality that has gone beyond common sense and become, if only within narrow

limits, a critical conception” (Gramsci, 1971, p. 333). Through this critical lens, ‘good’ sense can help create coherence and bring order to the mind.

**Louis Althusser: Theories of Ideology.** In his work, Althusser (1971/2001), a French philosopher, further elaborates on Gramsci’s perception of the power of ideology, its symbolic positioning and effect on one’s consciousness; he posits: “*Ideology represents the imaginary relationship of individuals to their real conditions of existence*” (p. 109). This means that ideology is not reflective of the real world and the relations within it that “govern the existence of individuals” (Althusser, 1971/2001, p. 111), but rather, it creates an illusion that alludes to reality. To be able to operate within this realm, ideology can be seen as having “*a material existence*” (p. 112) as it “always exists in an apparatus, and its practice, or practices” (p. 112) and manifests through “actions inserted into [these] *practices*.... governed by the *rituals* in which these practices are inscribed” (p. 114). This indicates that these practices manifest in the real world through, for example, policies created by institutions or ‘Ideological State Apparatuses’ such as schools, the church, and family. With ‘subjects’ (followers) embracing them, the lines become blurred in terms of what is real and what is simply an allusion to reality or guised as reality through language *in* use in and through social practices both verbal and non-verbal. Unlike Gramsci, however, “Althusser... rejects the existence of an independent human will that can function outside the superstructural (ideological) determinants” (Daldal, 2014, p. 159). Ideology thus creates and perpetuates this illusion leading to compliance by subjects.

**Foucault: Power & Power Relations.** Foucault (1982) recognized that power was everywhere in society, and power relations are clear and imbalanced, but what was interesting is the way human beings become subjects. In his work, he explored “three modes of objectification which transform human beings into subjects” (Foucault, 1982, p. 777); they are:

[First] modes of inquiry which try to give themselves the status of sciences; for example, the objectivizing of the speaking subject in... linguistics.... [T]he second [is]... ‘dividing practices’. The subject is either divided inside himself or divided from others. This process objectivizes him. Examples are... the sick and the healthy, the criminals and the ‘good boys’.... Finally [,] ... the way a human being turns himself into a subject. (p. 777-778)

This means that human beings can objectify themselves and can be objectified by others becoming subjects who directly and indirectly legitimize the power exerted over them. Foucault (1982) provides two meanings to the term ‘subject’; the first is “subject to someone else by control and dependence; and [second] tied to his own identity by a conscience or self-knowledge” (p. 781). In both, there is “a form of power which subjugates and makes subject to” (p. 781). He further posits that to be able to understand this form of power in relation to the objectification of the subject, “ongoing conceptualization” (Foucault, 1982, p. 778) is necessary. The process “should not be founded on a theory of the object – the conceptualized object is not the single criterion of a good conceptualization” (Foucault, 1982, p. 778), but on the critical examination and understanding of “the historical conditions which motivate our conceptualization.... and... the type of reality with which we are dealing” (Foucault, 1982, p. 778).

It is within this understanding that one can critically reflect on the power relations and struggles that have taken place and continue to take place as part of everyday life. Foucault (1982) identifies three general types of struggles:

[...] against forms of domination (ethnic, social, and religious); against forms of exploitation which separate individuals from what they produce; or against that which ties the individual to himself and submits him to others in this way (struggles against subjection, against forms of subjectivity and submission). (p. 781)

Over the decades, these struggles with their internal and external manifestations have led to diverse movements, confrontations, domination, subordination, successes, and failures. Although interconnected, power relations and struggles are not stable and can change at any given moment as they are dependent on a multitude of factors including context. Thus, while interpretations can be made of “the same events and the same transformations either from inside the history of struggle or from the standpoint of the power relationships” (Foucault, 1982, p. 794), they will not yield the same result(s). This is because they do “not consist of the same elements of meaning or the same links or the same types of intelligibility although they refer to the same historical fabric, and each of the two analyses must have reference to the other” (Foucault, 1982, p. 794-795). Foucault (1982) adds that “the disparities between the two readings... make visible those fundamental phenomena of ‘domination’ which are present in a large number of human societies” (p. 795). Language *in use* is a source of these disparities and the perpetuation of dominance in theory and in practice.

***Mikhail Bakhtin: Genre Theory.*** Bakhtin (1981) addresses the importance of understanding language not merely in its unitary form (which is something that is desired and seen in ideological discourse) but as temporal, dialogic, and consisting of opposing forces that interact with each other. He asserts that language is not static but conditioned by multiple factors that intersect at a given time and place; words in language have a history, a past, a present and a future that cannot be broken down to one single unit. It is only deemed to be unitary because literary language is unitary in the sense that it has shared linguistic norms and markers, but it is also “self stratified [through genres] and [is a] heteroglot” (Bakhtin, 1981, p. 288).

Hence, the way language is used varies based on the purpose, genre and on the ‘multiple languages’ (i.e., differing viewpoints/variations within a single language), which he refers to as “heteroglossia”; this can include slang, language from different social circles and disciplines, and

different dialects) that are complementing, competing and in dialogue with one another. Thus, every utterance differs as it is a combination of unitary language and social and historical heteroglossia, and “each reproduction of a text by a subject... is in fact a new performance, a new text, a new event. Reiteration (or exact reproduction) of a literary text is theoretically impossible” (Thomson, 1984, p. 32). Moreover, every text can be seen “as dependent on socially predetermined repertoires of genres... and ... differing genres can be mixed in creative ways” (Titscher et al., 2000, p. 146). Language as such is not “a neutral medium” as it is it populated by meanings that are associated with it prior to its use, but also by the user’s intention and form(s) of expression.

**Michael Halliday: *Systemic Functional Linguistics*.** Halliday (1994) saw language as a strategic tool used to make meaning and achieve specific communicative ends, and text as “any instance of language, in any medium, that makes sense to someone who knows the language” (Halliday & Matthiessen, 2004, p. 3). Within this understanding, text in its basic form is language that is ‘functional’ as it consists of select words and sentences combined for a specific purpose and context. He asserts that such a text can be explored from different angles and lenses, and distinguishes between two angles that differ but also complement one another: “[one,] focus on the text as an object in its own right; two, focus on the text as an instrument for finding out about something else” (Halliday & Matthiessen, 2004, p. 3). By focussing on ‘text as an object’, “a grammarian will be asking...: Why does the text mean what it does (to me, or to anyone else)? Why is it valued as it is?” (Halliday & Matthiessen, 2004, p. 3). ‘Text as an instrument’, on the other hand, brings to the fore a question such as: “what [does] the text reveal... about the system of the language in which it is spoken or written?” (Halliday & Matthiessen, 2004, p. 3).

Through an understanding and application of what he refers to as functional grammar and his systemic functional linguistics (SFL) (for a detailed analysis and application of functional

grammar of modern English, see Eggins, 2004, Halliday, 1994, and Halliday & Matthiessen, 2004), theorists and researchers using CDA as well as other modes of textual and discourse analysis have been able to address a multitude of concerns. These concerns range from theoretical (e.g., understanding of the nature of language and its functioning), historical (e.g., understanding the evolution of languages), and developmental (e.g., understanding the development of language by children) to educational (e.g., helping people understand of mother tongue and foreign languages are learned) (see Eggins, 2004, p. 2; Halliday, 1994, p. xxix). An exploration of any of these concerns can offer a glimpse into the wide range of purposes to which linguistics can be utilized. It is within these uses that the functionality of grammar becomes evident.

Halliday (1994) further asserts that what makes grammar functional are the different yet related interpretations in terms: “(1) of texts, (2) of the [linguistic] system, and (3) of the elements of linguistic structures” (p. xiii). In reference to the first point, functionality manifests in the way language is used. “Every text .... [u]nfold[s] in some context of use” (Halliday, 1994, p. xiii). Language is also functional in its evolution and organization (the way it is logically structured) to meet the ever-changing needs of human beings. What makes up ‘meaning’ in language also connotes its functionality. For the second point, Halliday (1994) posits that there are “two... general purposes which underlie all uses of language: (i) to understand the environment (ideational), and (ii) to act on the others in it (interpersonal)” (p. xiii). While the ideational is reflective, the interpersonal is active. A third component that is more specific and “breathes relevance to the other two” (Halliday, 1994, p. xiii) is ‘textual’. He refers to these three components as ‘metafunctions’ that manifest in the linguistic system and simultaneously operate to make meaning.

With regards to the third main point (‘interpretations of the elements of linguistic structures’), each element that helps make up a language is to be examined in “reference to its

function in the total linguistic system.... In other words, each part is interpreted as functional with respect to the whole” (Halliday, 1994, p. xiii). If we look at language as “a semiotic system, a conventionalized coding system, organized as sets of choices” (Eggins, 2004, p. 3), the fusion of the three elements becomes possible as every choice attains direct or indirect meaning from the other choices made within the system. As language-users tend to encode multiple meanings at the same time, it is integral to examine these linguistic choices in relation to their meaning, function, and contexts to draw connections between them. Halliday further asserts that languages, dialects and ‘registers’ (functional variety of language) differ both in form and their ‘meaning potential’. For example, the emotional responses that some people have from hearing accents tends to be due to the thought patterns and lifestyles that they think or feel are associated with these accents.

To be able to understand and assess the type of social exchange taking place and the meanings made within a text, understanding the environment - the ‘context of the situation’ is integral. According to Halliday (1989), to do so, one can use the three features of the ‘context of the situation’: the field, the tenor, and the mode. Although I will not be referring to them using the exact terminology, a brief explanation is warranted as similar concepts are a part of Fairclough’s (2012) second stage of analysis. The field of discourse refers to the social action taking place – what the situation is and what the participants are doing. The tenor of discourse refers to the participants in the action – who they are (i.e., statuses, roles, relationships, level of involvement in the action and/or dialogue). The mode of discourse addresses the role of language (spoken, written, or both) in the overall situation; this encompasses the expectations of the participants in terms of “what...the language...[will] do for them in that situation: the symbolic organization of the text, the status that it has, and its function in the context, including...what is being achieved by the text” (Halliday, 1989, p. 10). The intention of the text may differ from what it ends up achieving as the

result depends on a number of factors that includes but is not limited to: the audience, the time, context, topic, tone, register, and format. For example, a text written with a goal to persuade may fail to do so in some places but succeed in others. Understanding the social context of a text through the exploration of its different layers can lead to a more comprehensive analysis that is both reflective and critical.

*Critical Theory.* Being critical is an essential part of CDA and this research, as it provides insights into understanding the world that we live in, how it functions, where and what the problems are, where knowledge comes from and what we can do to change or improve upon it. The term “critical” can mean different things within different contexts; it is therefore essential to clarify both the meaning and context in which a critical approach to child rights will be used within this research. I will be relying on a basic understanding of critical theory, particularly its impact on the critical process of exploration of society, children and childhood, culture, language, and context as seen in the new sociology of childhood and CDA. Unlike traditional theory, its focus is not only on understanding, explaining, or reflecting on society but critiquing and changing it when necessary. Within this context, I will be ‘critiquing’ the CRC as opposed to ‘criticizing’ it; drawing a distinction between the two is essential. While criticism implies positive or negative judgement potentially leaving “out a thicker analysis of the problem at stake” (Reynaert, et al., 2015, p. 10), a critique is “an on-going exercise of questioning assumptions, knowledge and acts as well as the associated norms and values that shape the social, educational or legal practices that rely on the child rights framework” (Reynaert et al., 2015, p. 10),

Literature shows that critical theory can be traced to three major timeframes that reflect different schools of thought and disciplines: 1) Greek philosophy and literature (Socrates and Plato); 2) Max Horkheimer and the Frankfurt School (founded in 1923) with members that include



philosophers, sociologists, political scientists, psychologists and economists. The group examined works by Kant, Marx, and Freud to gain a better understanding of the meaning of knowledge, reasoning and the implications of “modern” society; 3) and the application of critical theory within a context of a discourse of domination (for a more in-depth analysis see Agger, 1992) “concerned with institutional and conceptual transformations” (Leonardo, 2004, p. 11). Within these key periods, critical theory helped in “explaining and [aimed at] transforming the circumstances that enslave human beings” (Moisio, 2013, p. 558). As Horkheimer notes, as cited in Olli-Pekka Moisio (2013), “the normative basis for the critical research and critique should be founded on the needs, longings, and moral demands of the people living under the conditions of the system or structure that are criticized” (p. 559). In other words, a research becomes critical when it addresses a problem or problems that are based on real issues, needs and demands of human beings, and sheds light on the different factors that are in play within their particular contexts and realities to bring about change. As for becoming critical, Horkheimer asserts that a person who “never ceases to point to the unrealized potential for a more rational and humane society and to the forces hindering the realization of this potential” (Abromeit, 2011, p. 168) is a critical intellectual.

Due to the interdisciplinarity and interconnectedness of critical theory, scholars such as Bennett de Marrais and LeCompte (1999), Craig Calhoun (1995), Morrow & Torres (1995) and Patricia Hill Collins (1998) have combined it with social theory and have drawn further connections to feminist theory and race theory. These connections have also been often made across the different approaches of CDA that include: discourse-historical (see Wodak, 2001; Titscher et al., 2000); Social actors (see van Leeuwen 2008; 2009); and, dispositive analysis based on Michel Foucault’s discourse theory (see Jäger & Maier, 2009) (for a Summary of approaches in CDA and their epistemological background, see Wodak & Meyer, 2009, p. 20). Although not

all CDA approaches such as corpus-linguistics, socio-cognitive, and dialectical-relational, have critical theory as their main theoretical attractor, they do aim “[i]n the tradition of Critical Theory...to shed light on the discursive aspects of societal disparities and inequalities” (Wodak, 2001, p. 52). The purpose of bringing these critical issues is to expose their roots, challenge them, and ensure that they are not reproduced.

**Differences & Shared Principles.** CDA has diverse approaches that enable researchers to explore their research questions from a multitude of angles/lenses. Each approach may draw upon different theories and use different methodologies or a combination of methodologies. For example, Fairclough’s interdisciplinary dialectical–relational approach (see Fairclough, 2009; Fairclough et al., 2011) draws on Halliday’s multifunctional linguistic theory (Halliday, 1994) and Foucault’s ‘orders of discourse’ concept. Fairclough uses them to link discourse, power and social structures and address the interplay amongst the various elements, which he asserts is dialectical; this means that while these elements are different, they are not separate. On the other hand, Ruth Wodak’s discourse-historical approach (DHA) (see Wodak, 2001 & Titscher et al., 2000 for a more detailed description) draws on the traditions of Bernsteinian sociolinguistics and the Frankfurt school. While it was developed to address postwar anti-Semitism in Austria, it is continuously used for interdisciplinary research that focusses on addressing injustices and hate (i.e., anti-Semitism, sexism, identity politics, and racism). Its “distinctive feature...is its attempt to integrate systematically all available background information in the analysis and interpretation of the many layers of a written or spoken text” (Fairclough & Wodak, 1997, p. 266).

Similar to DHA, other CDA approaches also share interest in identifying and investigating disparities and inequalities within societies. As they address issues such as “social processes of power, hierarchy building, identity politics, globalisation and glocalisation, inclusion/exclusion

and subordination” (Wodak, 2013, p. xxxix), they tend to investigate the linguistic tools used to bring about and/or maintain these inequities. Other commonalities include: interdisciplinarity (as a way to better understand the social issue/problem/phenomena being examined); diversification of data collection (while most rely on existing data such as speeches, debates, legal documents, and policies, data from ethnography and fieldwork has increased); and a problem-oriented focus and analysis with emphasis on language *in use* as well as “self-reflection at every point in one’s research” (Wodak, 2013, p. xxxix-xi).

### **Fairclough’s Trans-disciplinary Research Methodology: Stages of Analysis**

Fairclough (1995) states that “one cannot properly analyze content without simultaneously analyzing form, because contents are always necessarily realized in forms and different contents entail different forms and vice versa” (p. 188). Both content and form are essential to understanding the history and progression and regression of child rights. This study, therefore, employs an adapted version of Fairclough’s (2012) trans-disciplinary research methodology that consists of the following four stages: 1) “Focus on a social wrong, in its semiotic aspects; 2) “Identify obstacles to addressing the social wrong; 3) Consider whether the social order ‘needs’ the social wrong; 4) Identify possible ways past the obstacles” (p. 13). Fairclough (2012) notes that these stages are a “variant of Bhaskar’s ‘explanatory critique’” (p. 13; for a more detailed explanation of this method, see Bhaskar, 1986). While I will only explore the first two stages in my analysis as the other two are beyond the scope of this research as, in my opinion, they require a country-specific approach, it is essential to explain all the stages to show the potential impact that a contextual future research of the latter two can have. The first stage requires the research to focus on a “social wrong”, which in the broad sense refers to “aspects of social systems, forms or orders that are determinantal to human well-being and could in principle be ameliorated if not

eliminated, though perhaps only through major changes in these systems, forms or orders” (Fairclough, 2012, p. 13). The oppression of a minority group such as children, poverty, and racism are examples of social wrongs. Once a social wrong is identified, it is important to construct the object of research (the basis of the research question[s]) by investigating the nature and sources(s) of this wrong; this is done through a trans-disciplinary.

For the second stage, Fairclough (2012) outlines three steps: 1) analyzing the “dialectical relations between semiosis [discourse] and other social elements” (p. 14); 2) based on the object of the research, selecting “texts, and points of focus and categories for their analysis” (p. 14); 3: carrying out “interdiscursive...and linguistic/semiotic analysis” (p. 14) of the texts. In this stage, the obstacles preventing the social wrong from being addressed are investigated by delving into the way society is structured and organized. Relevant texts are also selected and analyzed in relation to the network of practices that the social wrong belongs to; the relationship of semiosis (discourse) to other elements within the particular practice(s); and the discourse itself. For the third point, areas of analysis can include social events, genre, difference, intertextuality, assumptions, semantic/grammatical relations between sentences and clauses, discourses, representation of social events, styles, modality, and evaluation (Fairclough, 2003).

The third stage explores whether the social order ‘needs’ the social wrong. At this stage, it is important to question if the social wrong being examined is an inherent part of the social order, and “whether it can be addressed within it, or only by changing it” (Fairclough, 2012, p. 15). If the social order continues to give rise to the same social wrong(s), then addressing it would not be enough to bring change as change will only happen if the social order itself is changed. Within this phase, ideology, and its role in maintaining, and, at times proliferating certain power relations can

be further explored. It is also essential to note that since each social order differs, a contextual (i.e., country-specific) research would be ideal as it would yield more specific results.

In the fourth stage, ways past the obstacles are identified. An integral aspect of CDA is addressing social ‘problems’ with the goal of bringing forth change. Similar to the method used in identifying the obstacles, a ‘semiotic point of entry’ through discourses, narratives and arguments can be used to examine how “these obstacles are actually tested, challenged and resisted, be it within organized political or social groups or movements, or informally, by people in the course of their ordinary working, social and domestic lives” (Fairclough, 2012, p. 15).

Fairclough (2012) states the order of the four stages helps in creating a framework that one can refer back to, but since each research and analysis differs, one does not have to follow the sequence of steps. This is in line with other approaches to CDA that urge researchers to adapt their research approach to the research they are working on as there is no universal approach that can be applied to all (Hyland & Paltridge, 2011; Wodak, 2013). Based on my research question and the limitations of the research in terms of scope, I decided to follow the sequence of the first two stages as they are interconnected, and to aim for future research that explores the other two stages.

### ***Fairclough: Terminology in Use***

Before delving into the analysis, below are some key terms that are relevant to the understanding of the overall methodology. Fairclough (2012) acknowledges that discourse has been used in different ways that may be confusing. He thus defines “[d]iscourse (an abstract noun) - [as] language use conceived as social practice” (Fairclough, 1993, p. 138), and as a countable noun, as a “way of signifying experience from a particular perspective” (Fairclough, 1993, p. 138). To be more encompassing, in his later writings, he uses the term *semiosis* to refer to discourse as “the making of meaning” (Fairclough, et al., 2004, p. 27), and as one of the elements of the social

process that is an “interplay between three levels of social reality: social *structures, practices* and *events*” (p. 11; see also Chouliaraki & Fairclough, 1999).

Fairclough (2012) further asserts that “social fields, institutions and organizations are constituted as networks of social practices” (p. 11), which “‘mediate’ the relationship between general and abstract social structures and particular and concrete social events” (p. 11). The relations between the elements that emerge as a process are deemed to be “dialectical in the sense of being different but not ‘discrete’, i.e. fully separate; each one ‘internalizes’ the others without being reducible to them” (Fairclough, 2012, p. 11). This means that in the process of analyzing, for example, political institutions or NGOs, it is important to avoid reducing them to being merely semiotic objects as this takes away from insights into the “*relations between semiotic and other elements*” (Fairclough, 2012, p. 11). Semiosis is also dependent on the understanding(s) of those who are making/deciphering the meaning. Fairclough et al. (2004) assert: “While meaning and motive are emergent phenomena of semiosis, they need minds with certain capabilities to co-construct social action and interaction” (p. 27-28). Hence, the limitations of these minds and their capabilities must be considered as part of the process of discourse, text, and discourse analysis.

The point of entry for the analysis in this research is “on two dialectical relations: between structure (especially social practices as an intermediate level of structuring) and events...; and, within each, between semiotic and other elements” (Fairclough, 2012, p. 11). To further clarify what this means, Fairclough (2012) notes that meaning made through text can surface in different ways such as action, representation and in the formation of identities. The interplay between these relations involves “three semiotic (or discourse-analytical) categories...: genre, discourse and style” (p. 11). Within these categories, I also explored intertextuality and assumptions, equivalence

and difference, semantic/grammatical relations between sentences and clauses, legitimization and representation, and modality and evaluation.

**Genre.** Traditionally, ‘genre’ and genre theory were connected with the classification of literary texts; however, this changed with time. Swales (1990) posits that genre can refer “to any distinctive category of discourse of any type, spoken or written, with or without literary aspirations” (p. 33). Based on her research, Donata Berūkštienė (2016) states that genre analysis can be applied to non-fictional texts such as academic, journalistic, political, and legal discourses. In his earlier work, Fairclough (1993) defined *genre* as the “use of language associated with a particular social activity” (p. 138). He expanded this definition to a “semiotic way of acting and interacting” (Fairclough, 2012, p. 11) discursively with the intention of going beyond the limitations of language keeping in mind that different social activities have different sets of genres. Identifying genres can be difficult as there are diverse types with different levels of abstraction associated within one genre. To make it simpler, Fairclough (2003) identifies three overarching and abstract types: dialogue, argument, and narrative, which he refers to as ‘pre-genre’ (as suggested by Swales, 1990). As for less abstract categories such as interviews that were developed in particular networks of social practices and have “transcend[ed] differences of scale to become internationally used forms” (Fairclough, 2003, p. 69), they are referred to as ‘disembodied genre’. ‘Situated’ genre refers to categories specific to particular networks of practices, and ‘Individual’ genre can be analysed in terms of activity, social relations, and communications technology.

**Intertextuality and Assumptions.** As Fairclough (2003) notes: “What is ‘said’ in the text is ‘said’ against a background of what is ‘unsaid’, but taken as a given” (p. 40). It is that ‘given’ – that assumed common ground – that enables a reader to understand the meaning of a text or texts. Unlike intertextuality, assumptions connect one text to other texts through relations as opposed to

specific attribution. “It is a matter...of a relation between this text and what has been said or written or thought elsewhere, with the ‘elsewhere’ left vague” (Fairclough, 2003, p. 40). Through the use of various assumptions in the text (that can be explicit or implicit) such as existential assumptions (what exists), propositional/factual assumptions (what is, can be or will be), and value assumptions (what is desirable/undesirable), common ground/understanding can be shaped. These assumptions, at times, are marked or ‘triggered’ by certain linguistic features; for example, definite articles and demonstratives (the, this, that, these, those) can be used as markers for existential assumptions, certain verbs such as ‘knows’, ‘remembers’, and ‘realizes’ denote relations between persons and propositions and can be markers of factual assumptions. Value assumptions, on the other hand, can be triggered by verbs such as ‘help’ and can be regarded as belonging to particular discourses that place ‘values’ at their core (Fairclough, 2003, p. 55-58).

### **Equivalence and Difference.**

Equivalence and difference are in part textual relations, and it is fruitful to ‘operationalize’ this rather abstract theoretical point in text analysis, looking at how entities of various sorts (people, objects, organizations, and so forth) are differentiated in texts, and how differences between them are collapsed by ‘texturing’ relations of equivalence between them” (Fairclough, 2003, p. 88).

In the case of the child rights texts analyzed, understanding their orientation is essential as each provides insights into how children, adults, organizations and States are perceived (through the texturing of their voices), what their respective roles are, and the information that these texts are attempting to legitimize by including or excluding specific voices. Fairclough (2003) explores five different scenarios that can help illustrate the direction of a text in terms of difference: 1) recognizing and accepting difference(s) through direct examination; 2) accentuating difference,



for example, by showing conflict; 3) attempting to resolve or overcome difference(s); 4) bracketing difference(s), for example, by focussing on commonality; and 5) normalizing and accepting “differences of power which brackets or suppresses differences of meaning” (p. 193). Each scenario can provide insights into the direction and focus of the text through the voice or voices included or excluded, and whether they are accentuated or suppressed, explored separately, bracketed or simply accepted as the norm.

**Semantic/grammatical Relations Between Sentences and Clauses.** According to Fairclough (2015), language contributes to “the emancipation of those who are dominated and oppressed in our society” (p. 229). Discourse analysis is thus based “upon the assumption that language is an irreducible part of social life, dialectically interconnected with other elements of social life, so that social analysis and research always has to take account of language” (Fairclough, 2003, p. 5). The exploration of the semantic and grammatical relations between sentences and clauses can enhance understanding of a social issue or issues within a text or texts. There are different types of semantic relations between sentences and clauses – local and higher-level semantic relations (Fairclough, 2003). ‘Local’ relations include: causal (reason, consequence, purpose), conditional, temporal, additive, elaborative, and contrastive/concessive. Higher-level or ‘global’ semantic relations such as ‘problem-solution’ relation tend to cover longer sections of a text or whole texts (Fairclough, 2003; Hoey, 2001, Winter 1982). These “[s]emantic relations are realized in a range of grammatical and lexical (vocabulary) features of texts” (Fairclough, 2003, p. 92). Grammatically, clauses within sentences are either related paratactically (equal or coordinate) or hypotactically (a main clause with a subordinate clause) (Eggins 1994, Halliday 1994). Fairclough (2003) also adds embedded relations (where one clause functions as an element of another clause or phrase), and notes that in addition to grammatical relations, there are cohesive

markers that indicate semantic relations amongst sentences. Based on literature on ‘cohesion’ (Eggins, 2004; Halliday & Hasan, 1976; Martin, 1992), Fairclough (2003) summarizes a number of cohesive relations between sentences; the first being ‘reference relations’ in which markers such as the definite article (the), demonstrative pronouns (this, that and those), and personal pronouns (he, she, it, they) are used to refer “back to earlier sentences, or forward to later ones” (p. 94); the second is ‘lexical (vocabulary) relations’ in which a “predictable pattern of co-occurrence between words... constitute lexical ‘chains’ through texts” (p. 94) creating a specific image or directing a specific narrative; the third is ‘conjunctive relations’ which “are marked by conjunctions such as ‘but’,...or sentence connectors like ‘therefore’ or ‘however’” (p. 94).

**Legitimization and Representation.** Fairclough (2003) notes that analysis can illuminate issues of legitimation. According to Weber (1964), “every system of authority attempts to establish and to cultivate the belief in its legitimacy” (p. 325), and that “legitimation provides the ‘explanations’ and justifications of the salient elements of the institutional tradition” (Berger & Luckmann, 1966, p. 111). Different strategies can be used as a form of text legitimation and justification; van Leeuwen (van Leeuwen & Wodak, 1999) identifies four strategies: 1) authorization (legitimation by reference to the authority of tradition, custom, law, and of persons given some form of institutional authority); 2) rationalization (legitimization by reference to the benefit of institutionalized action, and the socially constructed cognitive validity); 3) moral (legitimation by reference to value systems; and 4) mythopoesis (legitimation conveyed through narrative) (as cited in Fairclough 2003, p. 98). Legitimization is essential to make the texts acceptable to those viewing/reading them. In the case of the child rights texts, it serves as a way to establish common ground and understanding, reemphasize and legitimize previous agreements to show that consensus already exists, and bring to the fore specific points for emphasis. The

process of legitimization can also be seen through social representations, and the inclusion or exclusion of certain texts and voices and social actors.

Fairclough (2003) asserts that representation within clauses can include “aspects of the physical world (its processes, objects, relations, spatial and temporal parameters), and aspects of the ‘mental world’ of thoughts, feelings, sensations and so forth, and aspects of the social world” (p. 134). While all these aspects are essential, the focus in the analysis is on the different aspects of the social world (i.e., its structures, relations, direction) that tend to be generalized or abstracted at varying degrees. In the most concrete form, specific social events are represented; in a more abstract/generalized form, social events are abstracted as a set or series; and, in a most abstract form, social events are represented “at the level of social practices or social structures” (Fairclough, 2003, p. 138). Within such clauses, there are three main elements: 1) processes (usually represented by verbs); 2) participants (subjects and objects either direct or indirect); and 3) circumstances (represented by adverbial elements that may also reflect time and place; within these representations, there is a distinction between location and extent [duration, distance]). With regards to circumstances, there are various material and verbal processes. The material processes can be transitive (active or passive that include the Actor + Process + Affected), and intransitive (either Actor + Process or Affected + Process depending on the role of the process as an action being done or ‘happening’) (Fairclough, 2003, p. 142).

An integral part of understanding a text and its direction is examining the level of representation or lack of representation of the social actor or actors. Fairclough (2003) identifies several variables that should be explored: 1) the level of inclusion or exclusion (through complete suppression by not including them or their voices, or through backgrounding by mentioning them at one point in the text resulting in them being inferred in other places); 2) the use of a pronoun or

a noun in reference to the social actor; 3) the grammatical role of the social actors in a clause (as a participant within the circumstance, or as a possessive noun or pronoun); 4) the activation or passivation of the social actor(s) (i.e. the affected or the beneficiary); 5) personal versus impersonal representation; and 6) reference to the social actors by name or through classification/categorization (which can be specific or generic) (p. 146-145).

**Modality and Evaluation.** “Both modality and evaluation can be seen in terms of what authors commit themselves to, with respect to what is true and what is necessary (modality), and with respect to what is desirable or undesirable, good or bad (evaluation)” (Fairclough, 2003, p. 164). Identifying the relationship between the author(s) and representation(s) is important because it sets the tone for the text, and serves as an indicator of its direction and the message relayed (whether it is explicitly stated or implicitly weaved in). Modalities can be epistemic (in terms of truth and probabilities) or deontic (in terms of obligation and necessity). They can appear as categorical (e.g., made through assertions or denials) or modalized (using markers of modality such as modal verbs and adverbs). The use of modalities is also linked to evaluation; for example, by using specific deontic modalities such as ‘must’ and ‘should’ to amplify necessity and/or obligation, the authors are committing to certain values that they see as desirable or undesirable. The way these values are communicated in the text are indicative of the interplay between the author’s commitment and social representations.

### **Critiques of CDA**

CDA’s diverse, critical, and interdisciplinary nature as well as its adaptability to investigate a wide range of social issues, make it appealing to many researchers; however, they also open it up to criticism. While CDA has been recognized across disciplines, it has also been criticized by some (see Breeze, 2011; Karikari, 2016; Poole, 2010), particularly due to its interdisciplinary nature,

openness to multiple forms of analysis, ‘new’ ways of knowledge acquisition and meaning making (Titscher et al., 2000; Wodak & Krzyzanowski, 2008), and vague and “fuzzy...concepts and definitions” (Wodak, 2013, p. xxxix). Breeze (2011) asserts that a lack of uniformity inherent to CDA has led to conflicting perspectives and an array of interpretations. According to Widdowson (2004), this results in further confusion. Widdowson (1995, 1996) further argues that analysts engaging in CDA tend to interpret text as opposed to analyse discourse, and they do so in a manner that privileges their perspectives/opinions over others. The “lack of systematic analysis and representative data” (Wodak, 2013, p. xxxvii) is problematic. In line with this thought, Stubbs (1997) refers to CDA as mere “textual commentary” (p. 100).

Another major critique stems from the fear that a focus on issues of power and privilege can lead researchers to lose sight of the purpose of their work potentially resulting in biased interpretations (Haig, 2004; Widdowson, 2004). What also contributes to this is the selection process of the texts/documents to be analyzed. Critics of CDA argue that researchers ‘cherry-pick’ the text(s) that would best serve their ends as opposed to surveying all the texts connected to the subject-matter examined, and tend to provide a ‘narrow’ analysis instead of a thorough one (Karikari, 2016). Fairclough (1995) also asserts that CDA can become problematic when such a selection occurs without thorough research and contextualization; he notes:

[...] analysts sometimes fail...to *historicize* their data, that is, on the one hand to specify the particular historical conditions within which it was generated and what its properties and shape owe to these conditions, and on the other hand, to specify what part it plays in wider historical processes. (p. 19)

Fairclough’s (1995) critique, however, is not of CDA per se but of those who may choose a shorter path to their analysis.

Another critique with regards to CDA and the analysts who use it comes from Michael Billig (2008a) who questions whether CDA has become ‘uncritical’ after becoming institutionalized. In “Nominalizing and de-nominalizing: A reply”, Billig (2008b) responds to the comments made by van Dijk, Fairclough, and Martin on “[t]he language of critical discourse analysis” (p. 829); he addresses several issues with the way CDA scholars write arguing that “analysts typically use ‘nominalization’ imprecisely, employing this same word to denote linguistic entities as well as processes of very different kinds” (p. 829). This results in misrepresentation making their work similar to the texts they are critically deconstructing. He also notes that “by concentrating on technical details or even idealized processes, we can sometimes ignore the actions that speakers/writers are performing” (Billig, 2008b, p. 836). By ignoring these critical actions, meaning can be altered defying the goals set out by CDA, its analysts and proponents. He concludes the article with a thought-provoking statement: “[...] the point is not to categorize language, but to change it” (Billig, 2008b, p. 841).

### ***Responses***

For some researchers like me, the fact that CDA draws on various theories and addresses texts on multiple levels helps create an understanding that is beyond what is on the surface; this is a strength not a weakness. Research should evolve with the times and involve as many disciplines, contexts, and methods/theories as possible as the world that we live in is separate yet interconnected and constantly changing. As for the critiques by Widdowson (2004), Wodak (2013) states that some of his points are justifiable, particularly with regards to specific research works lacking systematic analysis and representative data; however, these works are not reflective of the entire field of CDA and the analysts who use its various approaches. Wodak (2013) notes, in “include[ing] very little recent research, no research in languages other than English, and also

neglect[ing] relevant research in related fields like text linguistics” (p. xxxvii), Widdowson’s generalizations and his challenges appear to be targeted and limited in scope and content.

Similar to Widdowson, Stubbs’ (1997) critique is also targeted, specifically towards Fairclough’s work, and as Wodak (2013) states ignores a “wide range of critical discourse work published over the years” (p. xxxvii-xxxviii). Purposefully generalizing based on select content/data, or at times unknowingly, leaving out content that does not adhere to one’s opinions, and passing on opinions as facts is dangerous; however, it exists in research across disciplines. Thus, being critical is essential at every stage and is integral to CDA. Critical discourse analysts are supposed to not only *describe* why things are the way they are in terms of discourse, text, language, and context, but *explain* them and explore how and why they change while seeking answers from “the social, economical and political world, by integrating social theories as well as empirical studies” (Wodak, 2013, p. xxxviii). This makes them more than textual commentaries as Stubbs (1997) claims. A part of the research process is also acknowledging one’s positionality and the driving force(s) behind one’s work. Being reflexive is essential. While ‘cherry picking’ data and the privileging of certain agendas, opinions, and/or interpretations over others may still occur, just like any research, it is the job of the analyst/researcher to make sure that everything is laid out and clear (i.e., purpose, motive, context, positionality). If it is not done, the onus is not on the field/discipline but on the analyst/researcher.

### **Concluding Remarks**

Wodak and Meyer (2009) state that CDA is “interested in analyzing opaque as well as transparent structural relationships of dominance, discrimination, power and control as manifested in language” (p. 10). Through the critical investigation of social inequality in language/discourse, one can begin to understand how certain ideologies/agendas are enacted, reproduced, and at times

also resisted within text (Fairclough, 1992; Machin & Mayr, 2012; van Dijk, 2004). It is also essential to understand language as both “a medium [in itself] of dominance and social force” (Habermas, 1967, p. 259) as well as “a cultural tool [that] mediates relationships of power and privilege in social interactions, institutions, and bodies of knowledge” (Rogers et al., 2005, p. 367).

In reflecting on Billig’s (2008b) critique that can be viewed in reference to research in general, it is important to look at the way language is being used to write about language *in use*. In conducting this research and going through hundreds of books, articles and dissertations that are about CDA and employ different approaches to it, I have come to realize that there are some texts that can be confusing, especially to novice researchers and readers in the field. While it is not about one specific article, research, dissertation, or book, but an overall use of language and structure to analyze data or data sets, which can feel reductive and detached from the experiences/contexts of the individuals involved. However, finding this early on helped shape my research; instead of focussing on language per se, I focussed on the situation – the narrative (an understanding of the history of the CRC), the factors impacting it (the dominant Eurocentric/Western perception of children and childhood), what needs to be done to change this understanding and make child rights a reality. As Billig (2008b) states, the focus should not be on the categorization of language but on changing it. This to me denotes changing the way we look at language and the way we use it as Fairclough (2012) emphasizes. CDA and Fairclough’s trans-disciplinary research methodology allow for this questioning and change.



## Chapter 3

### Children and Childhood: Meaning and Implications

At the core of the social wrong (the muting of children and lack of child rights implementation) is a general (mis)perception and (mis)conception of who children are, what they are capable of and what their childhoods signify. Before delving into what this means within the broader context of children's rights, it is essential to critically reflect on the meaning of childhood and the changing perception of children from objects to 'becomings' to beings. The chapter explores this journey through a historical and social overview of the changing image of the child, and the new sociology of childhood or 'emergent paradigm' as referred to by James and Prout (1995). This paradigm is a part of the trans-disciplinary methodology that informed this study as it has played a significant role in the progression of child rights. Some of the critiques and limitations to this approach are also explored concluding with the final remarks that open the path to understanding the foundation of child rights language within child rights texts.

It is important to note that the literature and discussions reviewed in this section come primarily from Western/European research and works. This is a great limitation to the study of childhood as available research in this area is in English or translated into English from mostly French, German, and Swedish manuscripts. I have added (where needed) my insights and findings from my personal and professional experiences as a Syrian Canadian working with children for over a decade in different socio-economic, geographical, religious, and cultural contexts as well as reflections from diverse authors and researchers in the area to mitigate possible bias.

#### Understanding the Concept of 'Childhood'

What is childhood? An image of childhood carries with it an array of connotations that vary based on historical, socio-economic, cultural, religious, political, and geographical contexts

that are also interconnected to personal and public experiences, emotions and memories associated with being a child (James et al. 1998; Jenkins, 1998; Turmel, 2008). When informally asking my friends and colleagues from different parts of the world (Middle East, North Africa, Europe, Asia, U.S. and Canada) what the term childhood means to them, some mentioned their memories of being children that included playing, studying, going to school and their teenage years, others simply noted that it was nothing special just a part of their journey to adulthood – to becoming who they are today.

As I reflected on my own understanding of childhood, I realized that my memories of being a child were also different. Since I spent most of my childhood, or what is considered to be childhood in the Western sense, travelling with my parents, my memories are not of being a child per se but of the experiences that I had with my family, my older siblings who lived abroad, other children and teachers in different schools and countries, and interactions with different cultures, religions and traditions. These memories and experiences make up my childhood. The different perceptions on childhood including my own align with research findings that indicate that a common base for understanding childhood tends to be related to one's own experiences of being a child and what that means to them (Norozi & Moen, 2016; Freeman, 2012; Stearns, 2011). As Flemming Mouritsen (2002) concurs: "Everyone has a childhood in his or her baggage, with the memories, the knowledge, the attitudes, the sensory and cognitive mind-sets this involves...some long for childhood, some are stuck in it, some seek to be rid of it" (p. 37-38). While we each have our own idea of what childhood may mean, it is necessary to avoid reducing the term to one thing or another. Wendy S. Rogers (2003) contends that simplifications of childhood take away from the many facets and layers that construct childhood. Thus, to understand the concept of childhood, it is important to examine the foundations and layers that make up the term. To Jens Qvortrup

(1994), the definition is not universal but contextual; it lies within the limitations placed by a particular culture, society and group “i.e. its definitions through the courts, the school, the family, the economy, and also through psychology and philosophy” (p. 3).

Over the past four decades, there have been many discussions and debates on the constructed nature of childhood (James et al., 1998; Jenks, 1996; Mayall, 2002; Qvortrup, 1994), and its use to draw a clear line between adults as human ‘beings’ and children as human ‘becomings’ (Lee, 2001; Qvortrup, 1994). Nick Lee (2001) notes this “division between beings and becomings is that between the complete and independent and the incomplete and dependent” (p. 5). What is problematic with this premise is its implication that all adults are complete, stable, competent, and independent, while children are not. Such generalizations are false and should not be made as they ignore the array of factors that come into play when addressing maturity, stability, independence, and competence that are not necessarily related to or limited by age such as mental and physical abilities, geography, and socio-economic status to name a few. Within such a narrow narrative, the lived experiences of children that lead to different childhoods are also not considered. As Peter Stearns (2011) asserts, it is essential to acknowledge these differences that make up childhoods; he writes:

Childhoods can vary amazingly from one society or one time period to the next.... Some societies assume that it is normal for most young children to work, often fairly hard. Other societies are shocked at this kind of violation of childhood innocence and vulnerability.... Some societies assume that childhood ends around puberty.... But other societies define adulthood much later. (p. 2-3)

While these are only a few differences, they shed light on major arguments about whose image(s)/perception(s) are deemed correct if they were to be judged, as they usually are, within a value/social system that does not necessarily consider all aspects of an argument.

In some societies, and if we delve deeper, in some families, a child can be the breadwinner of his/her/their immediate family as well as the extended family, and while they may be viewed as children under the CRC, they are considered as adults within their own societies and/or families. In Syria, Lebanon, and Egypt, I have seen children working to support themselves and their families (in the situations that I witnessed, they were mostly boys supporting their single mothers and younger siblings). While they are not legally recognized as adults within their respective countries, they are the sole breadwinners of their families and are recognized as such by the community that they are a part of and live in. With the rise in the number of forcibly displaced persons worldwide reaching 79.5 million at the end of 2019 with 26 million refugees, approximately 50% of whom are under the age of 18 (UNHCR, 2020), the number of children working has also increased and will continue to rise. While some do it to survive as there are no other solutions, others are not permitted to go to school and are forced into working. Their experiences vary based on their situations, the type of labour and whether it is done with consent or force. Within this context, the concept of childhood becomes relative not only to geography and biology but also to a child's circumstances and lived experiences as well as how he/she/they is viewed within a particular society and time. Thus, the term 'childhood' does not have a fixed or universal definition; this indicates that even when similarities are found, "the idea of a universal child is an impossible fiction" (Montgomery, 2009, p. 1). For instance, although puberty may be considered to be a key feature within childhood and a reference point for many cultures for adulthood, perception of it varies; while some societies perceive it as a part of the process of

development, others may see it as the end of childhood. Stearns (2011) posits that these differences emerge because “key features of childhood, including puberty, thus involve a complex interplay between basic, biological aspects of the human experience – such as sexual maturation – and the fact that different societies handle these aspects quite variably” (p. 3).

These variations demonstrate the importance of understanding different societies and their approaches as well as recognizing that many of the historical insights into the lives of children that have led to major findings on the study of childhood have been mostly recorded and written by adults. This is mainly due to the fact that “[c]hildren leave relatively few records. People recall their childhoods, adults write about children, and [while] there are material artifacts – cradles, toys and the like, ...these too are usually arranged by adult intermediaries” (Stearns, 2011, p. 4). The history of the changing image of childhood that I will present is also not from the perspective of children but that of adults and societies as reflected in laws, policies and overarching or ‘grand’ narratives. This will serve as a springboard to demonstrate that child rights depend “on the prevailing image of childhood” (Veerman, 1992, p. 10), which also means that when this image changes as it has over the centuries, so must the rights of children. Having rights that are not relevant/updated, and that are not fully agreed upon by all those involved renders them unusable and irrelevant; and, in the case of the CRC becoming merely symbolic.

### **Changes in Perception: From ‘in the Making’ to ‘Being’**

Prior to the 18th century, children in Europe were viewed as the property of their fathers. They were deemed incapable of being logical, ‘civil’ and making decisions as they are “guided by evil intentions” (Holzscheiter, 2010, p. 101), and only with guidance – discipline and punishment – from their fathers/adults in their lives (primarily men) can they potentially become ‘righteous’

or ‘docile’ adults (Hobbes 1651/2018). The focus as Michel Foucault (1977) asserts is then placed on the body that is perceived as the site of manipulation; he states:

The classical age discovered the body as an object and target of power. It is easy enough to find signs of the attention then paid to the body.... that is manipulated shaped, trained, which obeys, responds, becomes skillful and increases its forces. (p. 136)

This depiction reduces the child to a body that is in the making only becoming a being – a good citizen – that fits in with the dominant social order through discipline (verbal, physical, or both) at home, in society and through education. Associated with this reductionist view were dominant cyclical images of the child as innocent or evil, natural or developing, unconscious, or the ‘other’ child (e.g., the sick, the orphan, the war-child, the hungry, the abused, and the malnourished).

### ***The Evil Child vs. The Innocent Child***

Words with religious connotations such as ‘evil’ and ‘righteous’ were a part of the social discourse for centuries as religion was embedded within the fabric of society and guided the actions of people. The notion of the original sin and the fight against good and evil (i.e., the devil/Satan) was viewed as essential and ongoing, and parents needed to guide their children to live a righteous and moral life. This perception perpetuated the image of children as ‘naughty’ and ‘evil’, and if left to their own devices – without discipline and guidance – are capable of harming themselves and others, disrupting society and ultimately “threaten[ing] the stability of the adult collectivity, the social order to which children in time will aspire” (James et al., 1998, p. 10) to be a part of. This image has been further depicted albeit in different forms in art, literature, poetry and film throughout the years (e.g. See Figure 3, Rembrandt’s, *The Naughty Child* [1635]; See Figure 4, *Der Struwwelpeter* [1845], “The Story of Cruel Frederick,” by Heinrich Hoffmann; additional

examples include: *Lord of the flies* [1954] by William Golding; *The Children of Dymmouth* [1976] by William Trevor; the films: *The Bad Seed* [1956]; *The Exorcist* [1973]; *The Good Son* [1993]).

**Figure 3:** *The Naughty Child*

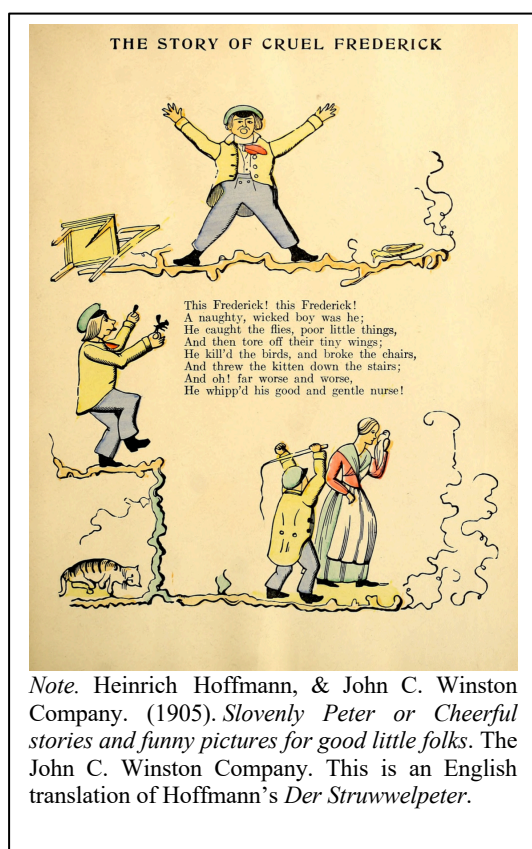


In Figure 3, a young boy, who as the title implies was “naughty”, can be seen crying and moving around as he is being forcibly carried by an adult resulting in the exposure of his lower body. The other children in the image, who appear slightly older, are watching from behind. This shows that the child, who is possibly throwing a tantrum, appears to be unaware of his surroundings and is too innocent or angry to care about being exposed. The juxtaposition of the different images of children “highlights the long-standing cultural ambivalence surrounding the child as both a figure of innocence and evil” (Egan & Hawkes, 2010,

p. 103). Although I will not survey the impact of different religious discourses on the (mis)perception of children across time and in different countries, I acknowledge that it is important to conduct further research. Of particular interest is the impact of religious theories guided by cognitive developmental theories on discourses legitimizing moral guidance by adults (see Bridges & Moore 2002; Elkind, 1964; Elkind, 1970; Goldman, 1964; Piaget, 1962; Piaget & Inhelder, 1958; Oser, 1991). It is also important to look at the misrepresentation and misinterpretation of major religious doctrines used as a way to control, dominate and create unjust and unequitable policies both past and present for children (see Clough & Mitchell, 2001).

Another depiction of an undisciplined child can be seen in Figure 4, which is an excerpt from a translated 19th century series of ten short children's stories *Der Struwwelpeter* (1845) written by Heinrich Hoffmann, a German psychiatrist. The main character of this specific story is "Cruel Frederick", who is a young boy that does 'bad' things including hurting animals, other children and the woman in the image. The stories, which sold 1,500 copies within the first four weeks of their publication and were translated into English, Danish, and Russian due to their popularity, not only showed what society saw as 'bad' behaviour, they also addressed punishment for this behaviour with the intention of scaring children into behaving (Savelsberg, 1996).

**Figure 4:** *The Story of Cruel Frederick*



These punishments or "sanctions" as Joachim J. Savelsberg (1996) refers to them were all negative and often involved shaming, corporal punishment or death. Savelsberg (1996) writes: "They reach from death through starvation..., the cutting off of thumbs..., dog bites..., being shot at..., falling into water..., to being blown away" (p. 184). The fact that this series was popular and such punishments were deemed acceptable even if only to scare children provides an insight into the dominant social perception of children at the time, and the value placed on discipline for children not to deviate from the acceptable social norms and remain

'unruly' or become 'wicked or 'evil'.



Jonathan Davidson (2018), however, looks at Hoffman's stories from the viewpoint of psychiatry; he writes: "Even though *Struwwelpeter* is no longer customary childhood reading, it continues to exert an influence in today's culture and represents a remarkably insightful early Victorian portrayal of childhood psychopathology, identifying syndromes that now appear in the diagnostic manuals" (p. 174). These syndromes include attention-deficit hyperactivity, eating disorders, pyromania, and antisocial behavior, to name a few. Davidson's (2018) interpretation is primarily based on previous knowledge of Hoffman's work and his contributions to the field of psychiatry as he describes them at the beginning of his article. He does not, however, consider the danger of such depictions of children, and the possible applications of these punishments by the adults reading them. Such images, stories and the connotations associated with them have become embedded within the narrative of childhood and continue to inform (whether directly or indirectly) understandings and theories on childhood. To this date, the stories are accessible online.

The perception on childhood may vary from one culture, religion, society, and country to another, but the driving force behind it, in the European/Western perspective, is the premise that a child is incapable of doing the 'right' thing and making logical decisions until 'it' becomes an adult (variations also exist depending on when adulthood is deemed to occur; see Ingoldsby & Smith, 2006; Montgomery, 2009; Stearns, 2011). Although this attitude did not fully change going into the 18th century, a change in perception was noticeable during the Age of Enlightenment.

With the progression of science, research into how children grow and develop began to increase opening the path to a new understanding of children – children as human beings in their own right. However, it also, to a certain extent, helped perpetuate the image of children as 'innocent' and 'weak' in need of protection and guidance to fully grow and develop into 'full' beings – adults/productive citizens. This notion of children as innocent beings became more

prevalent towards the end of the 18th century going into the 19th century during the Romantic period and was perpetuated through depictions of innocence in literature and art. Children were shown in a range of settings – at home in family portraits (e.g., Anton Graff’s painting, *The Artist’s Family* [1785]), outside being active (playing) or being still (in a dream-like state).

**Figure 5:** *The Age of Innocence*



Note. Sir Joshua Reynolds (1788), *The Age of Innocence*, Tate (N00307), digital image © Tate released under Creative Commons Licence CC-BY-NC-ND (3.0 Unported).

According to Anne Higonnet (1998) as cited in Patricia Holland (2008), Sir Joshua Reynolds’ painting, *The Age of Innocence* (1788) (see Figure 5) was “a pivotal moment in the construction of the archetypal Romantic image” (p. 42). In this painting, a child, who could be around four years of age, is shown shoeless sitting under a tree, wearing a loose white dress with a ribbon in her hair and arms folded to her chest as she dreamily gazes into the distance. It is a depiction of an elegant, free, serene, and innocent child. The title of the painting, given to it by the printmaker who marketed its

engravings after the artist’s death, further perpetuated this image of purity and innocence (Holland, 2008). As a popular image, it was replicated in different formats leading Martin Postle (2005), an art historian, to refer to it as “the commercial face of childhood” (p. 7).

Other artists such as Thomas Gainsborough (1727-1788) and Thomas Lawrence (1769-1830) also drew portraits of children not as ‘little’ adults but as children (in terms of physicality and activities) both alone and with other children (at times, with animals such as dogs), playing, sitting, climbing trees, or running while dressed in loose clothing that appeared to be comfortable

and not restraining (Holland, 2008). Most of the literature and artworks in the 18th century and beyond placed emphasis on describing/showing clothing to create a visual image and communicate with the reader or viewer insights into the lives of the individuals, and in the case of children, their childhoods and lives both real and imagined. As Terry Castle (1986) notes, clothing can be seen as a discourse in itself as it is an important signifier of culture (society and social norms) as well as identity and their development separately and together. He asserts that “like language, clothing is...a system of signs, and a means of symbolic communications. Like speech acts, different costumes carry conventional meanings; clothing opens itself everywhere to interpretation by others, in accordance with prevailing systems of sartorial inscriptions” (Castle, 1986, p. 55). He further posits that “[t]hen, as now, dress spoke symbolically of the human being beneath the folds. It reinscribed a person’s sex, rank, age, occupation—all the distinctive features of the self” (p. 55). While these images do not accurately represent children or their childhoods at the time, they do, however, show the existence of children signifying their presence within the family and society albeit within the context of the child “as an adult in the making” (Freeman, 2012, p. 2).

### ***The Natural Child vs. The Developing ‘Universal’ Child***

Discourse on children, the importance of identity and the role of education also began to gain traction primarily through the works of thinkers such as Jean-Jacques Rousseau (1712-1778) in particular his text *Émile, ou De l’éducation* (1762) and other writers such as Johann Heinrich Pestalozzi (1776-1827), Friedrich Froebel (1782-1852), and Elizabeth Peabody (1804-1894) who were referred to by Clark Butler (2012) as “child rights activists to whom we owe kindergarten” (p. 13). These thinkers (directly or indirectly) were also inspired by the works of their predecessors and their differing views on the source of knowledge and its attainment such as Socrates (470/469-399 BC), Plato (427-347 BC), Aristotle (384-322 BC), Roger Bacon (1214-1294), René Descartes

(1596-1650), Francis Bacon (1591-1626), and John Locke (1632-1704) to name a few. While some correlated the attainment of knowledge with their religious and spiritual beliefs, others focussed on reasoning, analysis, and direct experience (Davidson, 1970). Rousseau, on the other hand, saw that children learn and develop when they are free – not chained down by the constraints of society. He contends that since the education of children is impacted by society, it is inhibiting their ‘natural’ development. He further posits:

[T]here are three kinds of education: education that comes from the development of our faculties, education that comes from our experience with things, and education that comes from man – that is society.... [While] education from things gives rise to individuality and authenticity..., education from society leads to immortality and lack of true selfhood. (Elkind, 2015, p. 63)

Thus, he asserted that it is important to allow children to become educated ‘naturally’ through play and exploration as opposed to a stringent structured format based on habit and societal requirements put forth by adults. This view is in line with Locke’s belief that “[l]earning should be like play.... Children love freedom, and, hence, should not be subjected to compulsion, or forced to do things.... They should be reasoned with not scolded” (Davidson, 1970, p. 201). However, this does not mean that children will comprehend things by themselves right away as they “do not possess inbuilt or a priori categories of understanding, or a general facility to reason (James et al. 1998, p. 16); Locke (1690/2000) asserts that this knowledge comes with experience.

This line of thought was met with criticism from other intellectuals including Georg Wilhelm Friedrich Hegel (1770-1831) who stated that “school-age children learn chiefly by increasing association with adults, and by participating increasingly in adult activities. Thus, the most intelligent thing children can do with their toys is break them” (Butler, 2012, p. 15). For

Hegel, toys and other similar activities that separated children from adults were more harmful than useful as they inhibited children from reaching the final destination – adulthood – as fast as possible. Unlike Locke and Rousseau, who saw children as having “a set of special interests and needs that are special and should be recognized as such” (James et al. 1998, p. 16), Hegel saw them as mere ‘becomings’ molded into beings by adults.

It is important to note that while Rousseau brought discussions on the education of children to the forefront, he did not support the education of girls and women beyond ‘training’ them to being good wives and mothers as these are their ‘natural’ roles in society. Moreover, his views on how this ‘training’ is achieved have also led to critiques (for a more critical analysis of Rousseau’s views on women and their subordination, see Darling & Van De Pijpekamp, 1994; Wollstonecraft, 1792). Within this research, I will not delve into the gender bias that constructed a separate image of girls, their childhoods and education throughout time contributing to the past and present injustices that they are experiencing as this warrants a separate in-depth research (see Helgren & Vasconcellos, 2010; Mitchell & Moletsane, 2018; Smith et al. 2018). However, I find it essential to point out that the foundations of education and most policies and systems on a global level were built on ideologies of difference based on biases and misconceptions leading to the marginalization of women and children (with boys getting an elevated status once they become men).

With the development of the field of psychology, particularly developmental psychology, and the rise of dominant thinkers such as Jean Piaget (1896–1980) and Lev Semyonovich Vygotsky (1896–1934), the perception of how children learn and develop began to change. This ultimately led to re-altering the image of the child and childhood resulting in the field of psychology dominating the narrative. According to James et al. (1998), its power stems from its capitalization “on two everyday assumptions: first, that children are natural rather than social

phenomena; and secondly, that part of this naturalness extends to the inevitable process of their maturation” (p. 17). Piaget, a Swiss biologist, psychologist, and epistemologist asserts that children develop naturally; their cognitive capabilities are present from birth (sensory-motor intelligence), and progress as they grow and interact with their physical and social surroundings (Ormrod et al., 2006). He further posits that “children construct knowledge from their experiences.... [thus] [i]nteraction with one’s physical and social environments is essential for cognitive development” (Ormrod et al., 2006, p. 17). It is within these environments that “social activities” take place and “[c]omplex mental processes begin” (Ormrod et al., 2006, p. 24) helping them reach ‘operative intelligence’ as adults (James et al. 1998). Vygotsky, a Russian psychologist, further explains that “as children develop, they gradually internalize these processes and begin to use them independently” (Ormrod et al., 2006, p. 24). Knowledge is thus attained through these experiences that become personal once internalized and processed. To Vygotsky, children see, learn, and assess information through social interactions, specifically dialogue; they then take the information and adapt it, reflect on it, and develop it based on their understanding of it and experience with it.

It is important to note that Piaget’s research and theory of cognitive development impacted many disciplines including anthropology, religion, sociology, and education (see Elkind & Flavell, 1969; Piaget, 1962; Ormrod et al., 2006). Just as his work has been praised, it has also been critiqued, particularly his assumption that there are only four stages of logical reasoning capabilities amongst children, which are broken down based on age categories (Ormrod et al., 2006). The notion that child development is standard and universal is wrong, misleading, biased, and dangerous (Archard, 1993; Burman, 1994; James et al., 1998; Morss, 1990); children do not develop in the same way as their abilities differ based on multiple internal and external factors.

Vygotsky, on the other hand, asserts that the mental development of children is not limited to four stages and varies based on their age and experience at that specific age. He refers to this difference as the zone of proximal development, which is defined as: “The distance between the actual developmental level as determined by independent problem solving and the level of potential development as determined through problem solving under adult guidance or in collaboration with more capable peers” (Vygotsky, 1978, p. 38). A child thus moves into different zones of development depending on his/her/their level of engagement in independent problem solving and the level of support that he/she/they receives from another older child or adult. This form of moving from one zone to another or step by step learning with support is referred to as “scaffolding”. In education, for instance, through scaffolding, the teacher helps children add new knowledge by building on their own experiences and existing knowledge; this technique is popular in the field of education as it is believed to enhance knowledge and cater to diverse needs.

While Piaget and Vygotsky offer essential insights into understanding the developmental and cognitive needs of children and have informed and still inform multiple disciplines and research into children and childhood, their approaches and that of other psychologists in this area becomes restrictive if viewed in isolation and tends to perpetuate the notion that children are not beings but are in constant stages of ‘becomings’. Mayall (2013) asserts that “[f]or most people in minority world societies (Western European countries and North America), developmental psychology provides the basis of their understanding of children and childhood” (p. 4). As the dominant discipline in these societies, it has shaped the understanding of children for those who work with and for children in health care, education, law, and alternative/foster care as well as parents. James et al. (1998) concur:

Psychology, unlike sociology, never made the mistake of questioning its own status as a science and, in the guise of developmental psychology, firmly colonized childhood in a pact with medicine, education and government agencies. This has led in turn to enhanced prestige, authority and the power of persuasion, and a continued high level of public trust and funding. (p. 16)

Because of psychology's profound impact on children and the understanding of childhood, it is essential to acknowledge it and ensure that it is addressed in conjunction with all the possible contexts that can impact a child's development both internally and externally (historical, social, religious, cultural, political, economic, geographical, ecological, temporal, personal, psychological, and physical). Although developmental psychology remained a constant in understanding how children as 'universal' beings develop into future adults, by the end of the 19th century going into beginning of the 20th century, new interest regarding the impact of childhood on adulthood began to emerge because of the rise of Freudian theories and the notion of 'the unconscious child'. This also led to a change in perception and direction of the notion of a 'universal' child.

### ***The Unconscious Child***

Sigmund Freud (1856–1939), an Austrian neurologist and founder of psychoanalysis, explored the impact of being a child on the adult psyche. He contends that a person develops when the id (the primitive and unconscious part of one's psyche), the ego (a part of the id that is impacted by the external world and a mediator between the id and the super-ego), and the super-ego (the moral conscience that relies on learnt values and morals) come together. Based on this understanding of development, a child is born with only the id – uncontrolled desires that operate on pleasure and require immediate gratification (Freud, 1920/1961). For successful development



and integration into the adult world to occur, the id needs to be controlled by the super-ego, which is formed from values and morals taught/modelled by adults; thus, “Freudian theory positions the child as no more than a state of unfinished business or becoming” (James et al., 1998, p. 20-21). Within this framing of the child as an unconscious being (as referred to by James et al., 1998), “childhood is once again dispossessed of intentionality and agency” (p. 21). What differentiates this model from the previous ones is that the child is completely unconscious of what lies within. Freud added a few more layers to this depiction by also constructing an image of the sexual child (for a more detailed analysis of Freud’s position, critiques, and implications, see Egan & Hawkes, 2010). Peter Coveney (1967) notes that with the beginning of the 20th century, as marked by the constructed Freudian image of the child, the concept of childhood collapsed. For others like Neil Postman (1983), childhood, as it had been portrayed for centuries, disappeared with the rise of media including the electronic media (i.e., television) and western consumer culture. Not only has this led to the further exploitation of children and their childhoods, but also the loss of their ‘innocence’ (Giroux, 2000), or to the ‘innocence’ that has become semiotically associated with the image of childhood and is presently being placed on the loss of ‘innocence’ of the ‘other’ child.

### ***The ‘Other’ Child***

The ‘other’ child is the non-Western child depicted in Western media as a child in ‘danger’ and ‘in need’. This child – the ‘sick’ child, the ‘war’ child, the ‘malnourished’ or ‘hungry’ child – appears on the news, in documentaries, in film, and in print and digital adverts and campaigns as a victim of circumstance, war, poverty, and abuse, who is dependent for survival, nourishment, protection and education on the charity of adults, developed countries or local, National or international NGOs such as UNICEF, Save the Children, World Vision, SOS Children’s Villages, to name a few. These NGOs, many of whom are also registered charitable organizations, use the images of children from different countries across regions such as Africa, Latin America, and Asia

to ‘pull on the heart strings’ of viewers to raise funds, increase awareness about their initiatives and campaigns, and bring to the fore local and global issues and conflicts.

In 1919, Eglantyne Jebb was amongst the first to use this method; she passed leaflets with the images of starving nude children to bring attention to the impact of World War I (WWI) on children (See Appendix A, amended image from original news clipping of ‘*A Starving Baby*’ and ‘*Our Blockade has caused this!*’, 1919). While such emotive campaigns and adverts do bring in funds leading to their continuous use, their impact extends beyond the image – affecting the children themselves, who may have initially agreed (depending on their age, their guardians may have agreed on their behalf) to the use of their image without fully knowing or understanding the extent that their image will be used and shared on the internet. While NGOs claim that they respect the rights and dignity of children when they take these photos or videos, they do not address how they will protect these images from being shared and reshared. NGOs cannot claim that they are able to control the spread as well as the misuse of these images the moment they enter the physical or virtual world. A case in point are the images of the nude children in the leaflets: ‘*A Starving Baby*’ and ‘*Our Blockade has caused this!*’; they are still circulating on the internet and have become archival materials decades after their distribution and their sharing on the cover of the British newspaper *The Daily Herald* on May 16, 1919.

In 2016, children at a UNICEF rights respecting primary school in South London campaigned to show charities that the use of children in their adverts and campaigns is not moral or ethical. Toluwanimi Adesanya, a nine-year-old child noted:

I can see the point of view of charities and what they’re trying to do. I know that they’re trying to help, but all children still have the right to be safe, and sometimes, when pictures taken of them are all on the internet, they might not feel respected. Do charities think about

how that child is feeling at that moment? Maybe that child doesn't understand what [the charity] is going to do with the photograph. (Slawson, 2016, para. 5)

In addressing a response that they received from one of the NGO that they contacted, Jaedon Osei-Bonsu, a ten-year-old child, stated: "We wrote to lots of charities and Save the Children responded to say they are trying to respect the children's right to dignity but we don't think trying is enough" (Slawson, 2016, para. 3).

NGOs tend to opt for this method because it has proved to be profitable, and some see it as an integral part of their mission to raise awareness on the lives of children around the globe. In the 1990s, this form of photography, which had helped for decades many national, transnational, and international organizations with roots from the West grow, became known as humanitarian photography. Heide Fehrenbach (2015) defines it as "the mobilization of photography in the service of humanitarian initiatives across state boundaries" (Fehrenbach & Rodogno, 2015, p. 1). Discourse on photographs being 'universal' modes of communication capable of bridging boundaries and language (Allbeson, 2015; Vasavada, 2016) was mainly circulated by organizations such as UNESCO (Allbeson, 2015) to increase their power and presence. However, many non-Western nations saw "humanitarian photography" as a Western invention used to convey specific types of imagery and narratives from the narrow, intentional, and still lens of the photographers with the intention of showing "moral and political superiority" (Vasavada, 2016, p. 2) and maintaining the power dynamics.

Fehrenbach and Rodogno (2015) further note that the problem with humanitarian imagery is that it "focuses viewer attention on suffering, framing it as unjust yet amenable to remedy. It erases distracting political or social detail that would complicate the duty to act. In this sense, humanitarian imagery is *moral rhetoric* masquerading as visual evidence" (p. 6). What is excluded

from the frame is never mentioned or seen, and what is included is not always contextualized leaving the viewer with a constructed image. Vasavada (2016) notes that “[d]econtextualized images with little text ignore the diversity and specificity of the photographed individual’s experiences. The viewers are presented with a universalized experience, often representative of the organization’s principals and goals” (p. 2; see Allbeson, 2015).

When it comes to humanitarian photography involving children, this “universalized” image is often a depiction of the ‘other’ child who comes from a specific impoverished nation or region; thus, making poverty and suffering signifiers of the identity of the peoples and cultures within the countries or regions alluded to or stated in the captions. This further enhances the ‘superior’ image of the ‘developed’ countries and international NGOs who are helping them out. As Susan Sontag (2003) writes in reference to power representation in photography: “photographs objectify: they turn an event or a person into something that can be possessed. And photographs are a species of alchemy, for all that they are prized as a transparent account of reality” (p. 81). A photograph has the power to captivate, shock, scare, tell a story, create an imagined narrative, and capture a moment in time. While the stories and events may be forgotten, the images can remain in the minds of the viewers, be used as historical records and as tools of persuasion in the present and for future actions. As a result, the image of the ‘other’ child who needs saving, protection, and financial support to name a few has continued to dominate Western discourse and media through campaigns and adverts by NGOs and some governments in promotion of their international relief efforts. This has resulted in a misconception that rights violations only occur in certain countries/regions that are politically and economically in crisis, and that the CRC is in reference to rights for the ‘other’ child. This intentional constructed image, particularly by Western nations, is problematic as it creates a false sense of comfort and superiority inhibiting the progression of child rights.

### **Childhood in Perspective: From ‘Presociological’ to ‘Sociological’**

These predominantly western images of children as evil, innocent, natural, developing (based on a ‘set’ of universal standards of development), unconscious beings (who become conscious only as adults), and ‘other’ have unfortunately shaped the notion of childhood and have informed our contemporary understanding of it, and of children as both dependents and independents within ‘set’ boundaries. They have also impacted the way child rights have been formulated, the structure of diverse disciplines, policies as well as institutions that are intended to support, guide, teach and advocate for children including formal education. This assessment is in line with the work of James et al. (1998) who in *Theorizing Childhood* label this broad spectrum of approaches as ‘presociological’. Within it, they assert “contains the dustbin of history [,]...the realm of common sense, classical philosophy, the highly influential discipline of developmental psychology and the equally important and pervasive field of psychoanalysis” (James et al., 1998, p. 9-10). The diverse models within this ‘presociological’ category (with the exception of the ‘other’ child as it was not a part of their models) do not consider the social context of children and childhood and have over the decades given rise to different images of a dependent child that is constantly ‘in the making’. As a result, approaches that are ‘sociological’ in character began to emerge also shaping the perception and understanding of children and their childhoods.

Within the traditional sociological lens, the focus shifted from biology and psychology of the child to how society shapes that child. A child develops through a process of socialization – interactions with family, friends, members of the community, and society at large. Through these interactions, a child gains understanding of what is ‘right’ and ‘wrong’ – societal norms – and social structures eventually becoming an adult and a member of society. George Herbert Mead (1863-1931), a sociologist, philosopher and psychologist asserted that what guides personality or

the self, as he refers to it, are not biological drives as postulated by Freud or developmental maturation as described by Piaget, but the social experience (Mead, 1934/1962). If a child is isolated and is unable to go through this social experience, although the body may grow naturally, the self will not. In commenting on the impact of such traditional approaches to socialization theory, Shildkrout (1978) writes:

[C]hild culture is seen as a rehearsal for adult life and socialization consists of the processes through which, by one method or another, children are made to conform, in cases of ‘successful’ socialization or become deviants in cases of ‘failed’ socialization. (p. 109-110)

Within this context, childhood is informed by the process of socialization with the family, school and society as its agents, and children as mere ‘becomings’ as opposed to individual beings with their own agency and present contributions to the social order. By tying an understanding of children and childhood to a specific set of social norms predetermined by adults and the institutions they represent, and disregarding the impact these institutions have on their lives and their lived experiences, children who are seen as non-conforming – for example, those who may not do well in school for diverse reasons, children who have been neglected or abandoned, children with mental, physical, developmental, and/or social disabilities – will be further marginalized and endangered. James et al. (1998) label this traditional phase as ‘transitional theorizing’ because it “draws on the presociological models... and provides groundwork for the newer ideas which have emerged about how best to understand the ‘child’” (p. 22). The authors assert that these new ways challenge “socialization as the main interpretative devise” (p. 22) and bring into the arena new approaches that include the child in the narrative as an active agent/member of society and not simply within the context of the family.

James et al. (1998) offer four approaches to understanding the child that have helped them in their own exploration of “the agency of children and their present social, political and economic status as contemporary subjects” (p. 26). They acknowledge that these perspectives are not always compatible and “do not occur in an intellectual vacuum” (p. 26). Within each one, traces of the historical, or as they refer to it the presociological, understanding of childhood can be seen. The first approach is the socially constructed child or social constructionism in which childhood is understood through a hermeneutic lens (James & Prout, 1990; Jenks, 1982); it is not finite and identifiable but built up based on context (social, political, historical, and moral) as opposed to being biologically determined. Thus, it is necessary to note that value judgements made tend to be relative to one’s own worldview and understanding of what constitutes truth(s) (James et al. 1998).

The second approach is the tribal child, which sees the child as his/her/their own person within his/her/their own world; a world that “is...not...unaffected by, but...artfully insulated from the world of adults; it is to be understood as an independent place with its own folklore, rituals, rules, and normative constraints” (James et al. 1998, p. 29; for more on the independent world of children, see Opie & Opie, 1959/1977). While exploring a child’s world from the lens of a child, who is seen as an independent being with independent narratives, can provide great insights and improve policies, communication and education, it is not an easy task and requires caution from the researcher(s). James et al. (1998) assert that such an approach may lead to the writing of ‘whimsical’ and ‘anecdotal’ accounts, and it can be viewed as an intrusion into the child’s world bringing with it the threat of further control.

Within the third approach, the minority group child, the child is seen within a politicized lens similar to that of women and other minority groups living in an unequal, unjust and discriminatory society governed by power dynamics. In this approach, children are finally seen as

human beings with struggles similar to adults in different minority groups. However, the result of labelling them as a 'group' places the focus on the group's plight and the group's demands making them appear to be universal when in reality there are an array of differences within each minority group that require attention. Children's experiences, for example, differ from one country and one culture to another. Further differences also exist within the same country and can depend on a range of reasons skin color, religious/spiritual beliefs, gender, sexual orientation, and socioeconomic status to name a few.

The last approach that James et al. (1998) examine is the social structural child, in which children are viewed as social actors who are constantly present in society with needs and rights; they are shaped by societal parameters that enable them to have certain universal characteristics. In reference to the importance of defining such characteristics from a sociological research standpoint, Jens Qvortrup (1994) writes:

There is...a more positive, more important reason for preferring to speak about *the* childhood, namely the suggestion that children who live within a defined area... have a number of characteristics in common. [It]...enables us to characterize not only childhood, but also the society in which this childhood is situated as mutually both independent and indispensable constructions; .... it also permits us to ask to what extent childhood within a given area has changed historically...; and finally, it becomes possible when the concept of childhood is used, to compare childhoods internationally and interculturally, because we are availing ourselves of the same types of parameters. (p. 5-6)

The universality within the approach that Qvortrup (1994) is alluding to is not intended to make children's experiences irrelevant but to ensure that the concept of childhood is understood as a social phenomenon that can be explored through the specific parameters that shape it. However,



the notion that childhood can be understood from a universal standpoint – universal characteristics – that tend to be predominantly Western once again brings to the fore the debate of agency, particularity, locality, and change; where are these factors within these universal equations?

### **The Beginnings of a Sociology of Childhood**

With increased interest in the 20th century in the child as a person and as an object of analysis and exploration, such debates about how to approach the study of children and childhood continued to rise. In her book *Barnets århundrade* (1900), translated in English as *The Century of the Child* (1909), Ellen Key (1849 -1926), a Swedish author, claimed that the way children were viewed and treated would change in the 20th century, which she labelled the “century of the child”. Key (1909) was correct in her assessment that children would receive more attention; however, that attention did not bring children’s issues to the fore but rather led to the study of children. As one commentator noted: “Instead of the century of the child we got the century of the child professionals” (Stafseng, 1993, p. 77). More child ‘experts’ began to emerge across disciplines including French historian Philippe Ariès (1914-1984) who added a different layer to the argument; he brought the child to the fore through a historical narrative that explores imagery, language, perception and childhood within the context of society and the ‘modern’ family.

Ariès’ book *L’Enfant et la vie familiale sous l’Ancien Régime* (1960) translated into English as *Centuries of childhood: A social history of family life* (1962) traces the evolution of childhood from the Middle Ages to the development of schooling and progression of discipline alongside the changing image of the family from medieval to modern times. Ariès argues that the notion of childhood is modern and socially constructed only emerging in Europe between the 15th and 18th centuries (James & Prout, 1997). He asserts that based on historical records including art and manuscripts, this notion of childhood was not recognized in Medieval times. He writes:

Medieval art until about the twelfth century did not know childhood or did not attempt to portray it. It is hard to believe that this neglect was due to incompetence or incapacity; it seems that there was no place for childhood in the medieval world. (Ariès, 1962, p. 33)

He further asserts that the images that followed were not of children but of adults “depicted on a smaller scale” (Ariès, 1962, p. 33) (See Marco d'Oggiono’s *Francesco Maria Sforza [1491–1512]* as an example of an artwork from the medieval period). He contends that this is different from Greek art where children were present during the “Hellenistic period, but childhood disappeared from iconography together with the other Hellenistic themes, and Romanesque art returned to that rejection of the special features of childhood” (Ariès, 1962, p. 35) as this was in line with the dominant ideologies of the time. He posits that around the 15th century, signs of change emerged; in art, children began to appear as children as opposed to little adults, and parents and society began to recognize that their nature and needs also differ. A major shift in perception occurred with “the emergence of formal education and long periods of schooling as a prerequisite for children before they assumed adult responsibilities” (James & Prout, 2015, p. 16). Although formal education was only possible for those in the upper classes, it eventually trickled down impacting all of society.

Ariès’ work has been critiqued for its narrow representation that lacks concrete evidence in certain areas and political context; some historians have noted that certain historical reference points have been ‘misrepresented’ or were ‘misguided’ (see Evans, 1997; Montgomery, 2009; Pollock, 1983). Historian Geoffrey Elton asserts that Ariès’ aforementioned claim about children represented as adults based on portraits is a gross historical misrepresentation since “in everyday life children were indeed dressed differently to adults; they were just put in adult clothes to have their portraits painted” (Evans, 1997, p. 63). Thus, this should not be perceived as strong evidence

supporting his claims. Pollock (1983) addresses the problematic nature with the value system that Ariès uses to make judgements on childhood and the perception of children; she states:

Many historians have subscribed to the mistaken belief that, if a past society did not possess the contemporary Western concept of childhood, then the society had no such concept. This is a totally indefensible point of view – why should past societies have regarded children in the same way as Western society today?... [E]ven if children were regarded differently in the past, this does not mean that they were not regarded as children. (p. 263)

Pollock's point of contention about the misconception of universality is essential to keep in mind in trying to understand children and childhood and when conducting research. The lens that one views childhood with is what determines the narrative that ensues.

While there are many critiques of Ariès' work, it is still recognized as an essential starting point for the study of childhood (Freeman, 2012; Stearns, 2011; Turmel, 2008; Wyness, 2006) as his use of images and references to manuscripts provided insights into the changing image of a child within the family and broader social order. He brought to the fore the concept of childhood and its connection to society. Some of the issues that he also raised remain relevant today including the language of dependence used in reference to the child. Ariès writes that "[t]he idea of childhood was bound up with the idea of dependence: the words 'sons', 'varlets' and 'boys' were also words used in the vocabulary of feudal subordination" (Ariès, 1962, p. 26). Hence, reference to a child may have also included references to adults of lower rank. This notion of dependence has unfortunately remained a part of child rights discourse and education as seen in government reports and International Declarations and Conventions over the decades. As foreshadowed by Ariès, it has become embedded within the fabric of society and the legal system both past and present with constant calls for reforms (not only in Europe and the West, but in all countries and societies that

do not recognize children as human beings in their own right). Ariès (1962) also shows the multiple connotations associated with the word child; he writes: “At the beginning of the 18th century, Furetière’s dictionary gave an explanation of the usage: ‘Child’ is also a term of friendship used to greet or flatter someone or to induce him to do something” (p. 27).

As society began to change, the importance of education began to formalize. Education for children became popular as a consequence of “moralists...[teaching] them [parents] that it was their duty to send their children to school very early in life” (Aries, 1962, p. 413) as that is the process to becoming adults. Ariès contends that although this development made children noticeable as human beings, it eventually made them objects of society and its practices and made “[c]hildhood... institutionalized for all” (James & Prout, 1997, p. 17). Aries (1962) writes:

The solicitude of family, Church, moralists and administrators deprived the child of the freedom he had hitherto enjoyed among adults. It inflicted on him the birch, the prison cell – in a word, the punishments usually reserved for convicts from the lowest strata of society. But this severity was the expression of a very different feeling from the old indifference: an obsessive love which was to dominate society from the eighteenth century on. (p. 413)

This “obsessive love” and parental pursuit of schooling for their children (not for the sake of a child’s enrichment but as a form of control, ‘duty’ and grooming for adulthood), may have appeared to be a step forward but in reality it was a step back. Children were once again seen as dependents, grouped together, with one path to follow dictated by society vis-à-vis adults. This also proved how transient the image of the child can be, and its dependence on time and context. With praise, criticisms, and a mixture of both, Ariès (1962) work helped open up the conversation on the role of society in ‘defining’ childhood and the role of children within a social context.

This social framing of childhood also determined how children were treated under laws. While they were no longer viewed as property, and their welfare was taken into account, it was “inextricably woven into women’s welfare and women’s social condition; to an extent, children’s welfare has been subsumed under the composite concept ‘women-and-children’” (Mayall, 2001, p. 243). Reasons for such groupings vary from social, cultural, religious, and biological to political. Many arguments are centered on the assumption that as the child bearers, the well-being of their children vis-à-vis their rights is interconnected to their own. This does not mean that women can make decisions for themselves or their children, but that decisions historically within a patriarchal society are made for them by men. Continuous debates on abortion rights show how women in many parts of the world including children, who became pregnant due to child marriages, rape, or incest, do not have the right to make their own choices. According to the World Economic Forum, “only 37% of the world’s 1.64 billion women of reproductive age live in countries where abortion is permitted without restriction” (Beale, 2018, para.7). In her exploration of children in anthropology as a field of study, Charlotte Hardman (1973/2001) briefly addressed this similarity between women and children as groups who “might...be called ‘muted groups’ i.e. unperceived or elusive groups (in terms of anyone studying a society)” (p. 502). While their presence and existence cannot be denied, their voices are intentionally muted impacting their independence and rights not only in the past but the present as well as potentially the future if changes do not occur.

The progression of child rights over the past 100 years also demonstrates how deep this interconnection between children and women is, and the impact that it has had on the current state of child rights across the globe. Although presently, children are considered to be human beings and rights holders, they remain seen as individuals who are unable to determine their best interests making their parents, guardians, child professionals, and, at times, the State (their respective

governments), the decision makers and narrators of their narratives. A lack of understanding across disciplines of children as beings with experiences, abilities, and contributions (both existing and possible given the right circumstances and opportunities) has led to social, political, legal, educational, and economic policies that do not factor them in as active members in their own lives and/or within their respective societies. Over a decade and a half ago, Berry Mayall (2001), a theorist, researcher, author, and professor of childhood studies stated that this must change; for child rights to be implemented, there must be an understanding of “the social condition of childhood and... children [must be written] into the script of the social order.” (p. 243). Without that understanding, children will remain mere ‘becomings’ or ‘in the making’ awaiting to be seen as ‘beings’ by society, and violations of their rights will continue to rise across contexts (e.g., at home, in school, under the laws of their respective countries). Children need to be seen as “people to be studied in their own right, and not just as receptacles of adult teaching” (Hardman, 1973/2001, p. 504). It is within this framework that the need for a paradigm shift occurred; one that would examine the construction of childhood as well as its reconstruction *for* and *by* children.

### **A New Sociology of Childhood: An ‘Emergent Paradigm’**

According to Mayall (2013), sociology of childhood began to take major strides in the 1980s. James and Prout (1997) state that although at the time, there were individuals and groups working in different countries, and major work was being done, the sociology of childhood only became a distinct sub-discipline in the 1990s. Even then, there was not enough “[t]heoretical and empirical discussion” (James & Prout, 1997, p. ix); communication, research and exchange were limited so was the dissemination of information. However, seven years following the publication of the first edition of their book *Constructing and reconstructing childhood* (1990), James and Prout (1997) noticed “...a growing recognition of childhood as a legitimate and problematic

concern for research in sociology and cognate disciplines” (p. ix). With this shift in perception with regards to childhood, its meaning, the role of socialization and the importance of contextualization, it was no longer sufficient to view it from one lens that excludes the child’s voice, narratives and existence as an individual being and a social actor.

James and Prout (1995) note that as a result, a more inclusive framework that “...embrace[s] children’s experiences as both subjective and as the recipients of other peoples’ socializing through the institutions of family, school, and the state” (p. 81-82) began to emerge. At the core of this emergent paradigm is giving voice to children (this does not imply that they are voiceless, but that their voices have been ‘muted’) and ensuring that any work conducted about them is done not only with them in mind but also with them in practice. The authors outline six key features of this paradigm that interconnect history, structure, culture, children’s voices and research and analysis. Firstly, childhood must be understood as a social construction, “distinct from biological immaturity, [and] is neither [a] natural nor universal feature of human groups but appears as a specific structural and cultural component of many societies” (p.8). Secondly, childhood must be considered as one “variable of social analysis... [that] can never be entirely divorced from other variables such as class, gender, or ethnicity” (p. 8); there is no such thing as a single or universal childhood. Thirdly, children need to be studied as individual beings with their own relationships and cultures that are distinct from and independent of adults. They are not mere objects of socialization, or parts of the adult narratives but social agents in their own right.

The fourth feature emphasizes the need for children to be both active and “be seen as active in the construction and determination of their own social lives, the lives of those around them and in the societies in which they live... [and] not just [as] the passive subjects of social structures and processes” (p. 8). The fifth feature puts ethnography at the forefront for the study of childhood.

Over the years, ethnographic research has been used to examine gender relations (Thorne, 1993), technology, specifically gaming (Buckingham, 2000; McNamee, 1998), and peer relations in terms of power and impact on culture and identity (Adler & Adler, 1998; Corsaro, 2015). In comparison to other types of research such as experimental or survey styles, “[i]t allows children a more direct voice and participation in the production of sociological data” (p. 8). The sixth and final component is essential as it places onus on the researcher who must understand that engaging in a study of childhood requires a ‘double hermeneutic’ approach. Andrew Giddens (1976) who expounded this theory posits that unlike the natural sciences that tend to have a one-way understanding or as he refers to it as ‘single hermeneutic’, the social sciences engage in the ‘double hermeneutic’.

While approaches and impact to the study of human beings and society within the social sciences may differ, what is important to keep in mind is that the insights and knowledge that may emerge from the process of engagement can bring forth change to the practice of the researcher and the world that he/she/they is researching. For James and Prout (1995), to engage in the ‘double hermeneutic’ within the study of childhood under “... a new paradigm of childhood sociology is also to engage in and respond to the process of reconstructing childhood in society” (p. 8). Looking at what was, what is and what is possible within a contextualized understanding of childhood ensures that this understanding is not static and based on traditional Western models of child development and socialization.

Qvortrup’s (1987, 1993, 1994) research compliments this model and extends it by looking at children and childhood with respect to age. He contends that while a child stops being a child at a certain age, childhood remains as it is not in reference to individual children’s lives but to a collective and structural understanding of it. It is therefore necessary to draw a distinction between childhood as a period within a given time and society, and the role of children as social actors.



Other researchers have also drawn further correlations to gender (Alanen, 1994; Oakley, 1994), and economic power with children being a subordinate social class (Oldman, 1994). Daniel T. Cook (2002) builds on these models by looking at childhood through a symbolic lens; he asserts that as a “social artifact infused with contradictory and inexact meaning.... [it] can be taken apart and reconstructed in a variety of ways for a variety of purposes” (p. 1). By looking at the multitude of imagery and connotations associated with childhood, it becomes clear that this constructed term does not represent children and their lived experiences, but coded images that have been developed over time by adults of what children are supposed to look like and what they should represent. A new sociology of childhood sought to dismantle these misconceptions and ensure that children are not mere symbols but active participants in their lives and respective societies.

In his work, Michael Freeman (2012) addresses the notable impact that sociology of childhood has had on the way childhood is studied and perceived primarily by bringing forth an understanding of: the social order, and its role in shaping perception; the way childhood has been used to imply ‘social cohesion’; why and how children are different; and, childhood as a ‘social construct’ with an ‘essentially contested’ meaning as opposed to ‘a natural phenomenon’ (p. 30; see also Aries, 1962; Hultqvist, 1997; Pollock, 1983). One of the main points that is essential within this ‘emergent’ paradigm is acknowledging that changing perceptions and understanding of childhood and children is not easy. It must be done within an understanding of the different sociological dichotomies in mind – structure & agency; identity & difference; continuity & change; local & global (James et al., 1998), and the different pre-sociological and sociological codes associated within them. As James and Prout (1997) concur, it is essential for the sociology of childhood “to draw on the debates of the social sciences at large – and to contribute to them – if it is not to become an isolated and esoteric specialism” (p. 23).

## **Limitations and Possibilities**

James and Prout (1997) acknowledge that this ‘emergent paradigm’ or the new sociology of childhood that they have envisaged requires more work in the process of integrating, theoretically developing and empirically elaborating on the six aforementioned parameters that are at the core of their vision. The need for further research and clarifications is also called for by John Morss (2002) who asserts that while the works of James, Prout, and Jenks (independently and collaboratively) have helped open the path for more dialogue, debates and assessment and reassessment of childhood, there are a few gaps that they left open, which need to be filled. The first and most important is the lack of clarity in the use of the term ‘social construction’ or ‘social constructionism’ within this emergent paradigm. Morss (2002) asserts that the term has been used in different ways by the authors (James et al., 1998; James & Prout, 1997) – from general to phenomenological, discursive and finally specific – leaving it open to more interpretation. While a more general view is adopted and endorsed, the specific comes in the form of one of the four alternative approaches (socially constructed, tribal, minority, structural). Anne Trine Kjørholt (2004) argues that within these categories exist several paradoxes including the grounding of the ‘tribal child’ approach “in particular normative and western-oriented values associated with romantic and idyllic notions of harmonious children and autonomous communities of children” (p. 26). Morss (2002) also questions the extent of the proposed specificity of these approaches, primarily the first approach as an independent approach and in relation to the other approaches as well as the broader framework of social constructionism that is addressed. He asserts that the use of social constructionism as an umbrella for a multitude of meanings and levels within this emergent paradigm leads to some instability in the theorizing process going forward. He thus

proposes that some of the clarity missing from the new sociology of childhood can be found in other disciplines including critical psychology and social theory.

Morss (2002) attests that certain perspectives on social constructionism as described in James et al. (1998) within critical psychology “converge with, exemplify or complement” them (p. 48). It is therefore interesting to see what role their perspectives can play in further defining or layering social constructionism and theorizing childhood. Although the new sociology of childhood is informed by social theory, he suggests going deeper and looking at it through different lenses and in relation to the wider changes within society specifically with the advent of technology and modernization. For example, within a ‘risk society’ – a society that is preoccupied with the unknown and insecure future and the continuous development of ways to deal with the risks and insecurities that come with it (Giddens, 1994; Beck, 1999, 2000) – the narrative of childhood changes. This change in narrative comes with the changing face of society; a more interconnected global economy, advances in technology, and a more diversified structure of family, to name a few result in changes in systems as well as the social order, education and perspectives. With this in mind, Morss (2002) adds a fifth approach to those proposed by James et al. (1998) – the *performative* child; this category recognizes that “children and childhoods are produced both textually and practically, embodied just as much as adults, and with bodies that are just as much a textual-material hybrid as those of adults” (Morss, 2002, p. 51). To Morss, this addition can help add further insights to the understanding of childhood within a changing context of society.

Michael Gallagher (2008) also deems it necessary to look beyond sociology of childhood to better understand the relation between and meaning of participation of children and power. He asserts that looking at these two through a Foucauldian lens would add a useful layer to the understanding of what child participation means and looks like in discourse as opposed to in

practice. He suggests that it is not enough to think that adults with power can give power to children by letting them participate since participation can be merely symbolic as it depends on a multitude of factors (i.e., social, political, economic). To Foucault (1997), power is ambivalent; it does not have one universal meaning; it is diverse, relational, and dispersed across society with varying degrees depending on the contexts and entities involved. To Gallagher (2008), it is thus essential to think beyond the ideal (with participation comes power and voice) or dismal (participation is symbolic-tokenistic) connotations that are associated with the notion of children's participation, and address the reality by contextualizing power (what it is and is not within a given time, space, situation) to find the best means for real participation as opposed to mere intentions and ambitions.

This line of thought is also necessary when looking at children's agency. The term agency can have a multitude of implications that are not limited to two extremes – positive or negative, and it varies depending on the lens it is viewed from. In their co-edited book *Reconceptualising agency and childhood: New perspectives in childhood studies*, Esser et al. (2016) address the misconceptions associated with agency and the need for an understanding that keeps in mind that the term is not universal and cannot simply be placed in a dichotomy with structure as tends to be done within sociology of childhood. Agency does not imply automatic autonomy and power; just like power, it is also relational (Punch, 2016). Lan Anh Hoang and Brenda S. A. Yeoh (2014) posit that “children's agency is contingent on a social construction of childhood that is neither static nor universally uniform” (p. 182) and tends to be shaped by “adult perceptions of children's agency and needs” (p. 180). It is therefore essential to understand the context and structures that form it to be able to see the type of agency that is sought, created, and/or given.

Louise Holt (2011) also notes that while children's agency is essential, what tends to be neglected in these discussions is the socio-spatial context. If the model of agency is to remain the

same with its ideal ambition that with agency comes independence (that is separate from the family and is desired by all), then what happens to children who have limited agency, inability to assert their agency or a lack of desire to do so (as that may vary at different points in their lives and depends on individual dis/abilities and context)? Are they excluded from processes and decisions that concern them? These questions and many others that may arise depending on the context must be adequately addressed and examined in the process of researching, understanding and seeking children's agency as well as child rights. According to Holt (2011) what needs to be emphasized more within research are the structural constraints; she writes:

[I]n common with all agents, young people are not able to consciously trace all the ways in which their lives are constrained and enabled by broader 'structural' conditions, including normative values about identity positionings.... Therefore, the epistemological privilege accorded to young people is problematic. (p. 3)

Samantha Punch (2016) notes that many of the misunderstandings which arise are due to the fact that "many concepts and theories of Childhood Studies have been developed in the minority world and used in the majority world contexts, but rarely is the learning process reversed" (p. 192). It is therefore essential to draw "on examples of children's agency in majority world countries" (p. 192) just as she has done in her work in order to better understand how "children's potential as social actors is located within the generational order" (p. 192).

Context, language and influence are also issues that Doris Bühler-Niederberger (2010) explores in her article in which she examines the history, impact, status and possible future of sociology of childhood in ten countries: Australia, Brazil, Finland, France, Germany, Italy, the Netherlands, Romania, the UK and the U.S. While comparing the different countries, Bühler-Niederberger (2010) found that "*societal assumptions and institutions concerning children*

*influence scientific research as well as the sociological way of thinking about children*” (p. 377) not only impacting the way research is conducted but also the findings. If the impact is this strong on the research, then sociology of childhood fails to achieve some of its goals in being deconstructive, critically reflective and in contributing to new knowledge. It is essential to keep in mind that “childhood sociology remains subjected to the influences of each respective society, in spite of its critical stance” (Bühler-Niederberger, 2010, p. 381).

Another major influence in research is the fact that many of the key concepts and ideas of sociology of childhood come from specific authors such as Leena Alanen, William Corsaro, Allison James, Chris Jenks, Alan Prout and Jens Qvortrup, and are mostly written in English. Bühler-Niederberger (2010) notes: “[t]his produces a global scientific [and hegemonic] influence which initiates and shapes childhood sociological research” (p. 376). The author asserts that these “‘folk theories’ of childhood of these same countries – i.e., the everyday assumptions and their normative implications concerning childhood” (p. 377) come with major risks because they “have also become globally mobilized by non-governmental organizations, by foreign aid agencies, by consumer culture and by religion” (p. 377). What thus occurs is that the influence and knowledge that is applied – the foundation – to the research is imported and external to the country/society being examined; this is problematic and must be addressed and acknowledged.

Currently sociology of childhood research is lacking, particularly in terms of clear definitions, and structure of their models leading to open interpretations and criticism. More research that is both specific and interdisciplinary can clarify some of the key areas and create new knowledge within the field. Some areas that require further research include: intragenerational impact on children and their childhoods (Bühler-Niederberger, 2010); age and its role as “a cultural, as well as a cognitive or developmental, variable” (James, 1993, p. 21), and the lack of

sufficient services and funding for children with disabilities who become viewed as adults when they turn eighteen although some are still children based on their cognitive/developmental needs; impact of technology, and political and social structures; and meaning of agency within different contexts and realities. Limitations exist within every theory; how these limitations are dealt with depends on the researchers in the field, the diversity of the research, the results and analysis, and the manner in which they are disseminated, and how they are received, evaluated and when necessary criticized and deconstructed.

What sociology of childhood has done over the past few decades is break through some of the barriers that have inhibited children from being seen and heard by shedding light on the ephemeral and constructed nature of childhood (as well as its deconstruction) and the value of context – children’s lived experiences, opinions, and feelings within their respective societies/countries, families, and spaces. Although the field is considered relatively recent, it has made many strides and changed perceptions about the meaning of childhood and children as ‘beings’ and not mere ‘becomings’. It also has the potential in exploring and bringing to the fore areas that have been ignored, underdeveloped, and/or unexamined breaking further barriers and opening the path to new knowledge that is not only about children but *for* children, which can contribute to changing and improving policies, education, foster/alternative care, support and services for children with disabilities, family-life, juvenile system, and child rights to name a few.

### **Concluding Remarks**

Over the centuries, the perception of children and childhood drastically shifted. While in the 19th century, the dominant perception was interconnected to the dominant fields of health and pediatrics, it shifted in the 20th century with the advancement of psychology. Children were then predominantly understood based on their developmental and cognitive needs. This changed again

with the rise of sociology of childhood, which as Mayall (2013) notes has shown the importance of children as beings in their own right with their own experiences and contributions to society. It has also led to critiques of the traditional image of the child as evil, innocent, natural, developing, unconscious, and 'other' in constant need of help, protection and guidance.

There is nothing static about childhood as Austin (2003) notes; one's own experience of childhood cannot explain the experiences of others. It is within this realization that children began to be seen as more than adults 'in the making' or 'becomings' but 'beings' in the present with their own narratives and experiences. In addressing the essential role that sociological thinking has played in altering perceptions and increasing childhood research, Mayall (2013) asserts that "it is important, both socially and politically, to bring sociological thinking to childhood... to give due recognition to children as important members of society, not as pre-social objects of socialization, but as contributing agents to the welfare of society" (p. 2). As Mayall indicates and research on the history and sociology of childhood proves, children have contributed and continue to contribute to their respective societies. However, these contributions are not always recorded or recognized. This may differ when looking at the accomplishments of individual children in different parts of the world and communities. The issue at hand is that in categorizing children and viewing them as a collective static minority group who are in need of protection, we are negating their individual identities, contexts, histories, narratives and cultures. We are also contributing to their 'muting' and continued image as dependents



## Chapter 4

### The Cyclical Progression and Regression of Children's Rights

This chapter explores the history of child rights, and its cyclical progression and regression. Although children became recognized rights holders, their rights regressed as the image of children as 'becomings' and weak dependent beings in need of protection continued to be a part of dominant child rights discourse impacting and being impacted by social structures, practices and events. This dependence is both stated and implied in the language and imagery presented in the international child rights texts including the CRC. It is within this duality – a promise of independence within an environment of dependence – that the conflict in terms of applicability and relevance lies.

#### Children's Rights: An Overview

Child rights began as a way to 'save' and 'protect' children; it slowly transformed into a tool of "propagating the personhood, integrity and autonomy of children (protecting their rights)" (Freeman, 2012, p. 30). The narratives on what these rights mean (whether it be from a social, political, or legal perspective), and where they began varies. As I surveyed the progression of child rights in the international arena, I wanted to ensure that all perspectives are included. However, as I went back to the 1920s, I found that there is no clear data and findings on whether child rights discussions and actions on local levels from non-Western and non-European countries may have preceded what is internationally documented. However, the one narrative that has been agreed upon by the international community (referring to nations that have collectively agreed on major issues that impact the world; see Annan, 1999) is that concrete international action on children's rights leading to the 1959 Declaration began following World War I (WWI). As a UNICEF (2009a) report indicates: "The first formal conceptualization of child rights by the nascent international organizations derived from the work of Eglantyne Jebb" (p. 4). It further developed with the

progression of International Human Rights Law after World War II (WWII), and the establishment of the United Nations (Liefwaard, 2008, p. 37).

Going into the 18th century, perception about children as mere property of their fathers/guardians began to change with the Age of Enlightenment (1685-1815), which was closely associated with the scientific revolution (that had been building up since the 15th century). With the advancement of science and focus on reason and liberty, understandings about the nature of human beings and the cognitive and developmental needs and abilities of children began to shift. Even though children were slowly being viewed as human beings with potential of becoming ‘reasonable’ adults (Holzscheiter, 2010, p. 102), adults (particularly their fathers) remained the authority figures who were in control of their lives, in protecting their ‘innocence’, and in making them ‘good’ citizens.

Opinions and discourses varied about children, their education, modes of protection, and their developmental and cognitive needs (that were at times tied to arguments about science/reasoning vs. religion). However, what is vital for this research and for the progression of child rights was the fact that these discussions took place. They also proved the constructed nature of childhood based on social, political, religious, economic, geographic, and cultural circumstances. As Linda Austin (2003) states:

During the nineteenth century, the concept of childhood was often the subjective product of individual narration, of a particular life history. Whether an infinitely recessive object of nostalgia, [...], or a *locus* created for a discarded self, [...], childhood construction – immediate and temporary, [is] an extension of present circumstances. (p. 76)

It is the narrow and ephemeral nature of the construction of childhood that enabled its deconstruction, which in turn opened the path for children to be viewed as human beings and not

commodities, and for child's rights to become a legitimate point of discussion and action, particularly with regards to their welfare and education. Action on both the local and global arena varied based on the international, national, regional, and local organizations that were active or established for specific causes impacting children, and the willingness of the governments to act on certain issues that they saw affected their respective societies/States and were essential to their strategic development. Zoe Moody (2015) notes that state schools and the juvenile justice system were two institutions that "were of service to governments in implementing their educational and welfare ambitions.... [and] were instrumental in defending the cause of children" (p. 17). This was the case in Britain; with State schools, all children could get at least minimum elementary education. As for "the justice system for minors, ...[it] guaranteed state control of children who were at risk or who posed a risk" (Moody, 2015, p. 17). The purpose of these institutions was to assist in making children beings (adults) in the future that can be of service to their societies and countries. The notion of children as important players in building nations if they were treated "right" became embedded in the language of international child rights.

Each State had its own ways of "educating" and "protecting" its children. For example, Britain passed several Legislative Acts such as: raising the age of consent from 13 to 16 through the criminal Law Amendment Act (1885), the Infant Life Protection Act (1872 and 1897) (Hendrick, 2015), the Prevention of Cruelty to, and Protection of, Children Act (also known as the Children's Charter) (1889) enabling the state to intervene in relations between parents and children and arrest anyone in violation of the Charter. It also banned begging and provided guidelines on the employment of children. In 1894, it was amended and extended allowing children to give evidence in court, recognizing mental cruelty and making the denial of medical attention to a sick child an offence. In 1908, the Children's Act established juvenile courts and introduced the

registration of foster parents. Moreover, that same year, the Punishment of Incest Act made sexual abuse within families a matter for state jurisdiction rather than intervention by the clergy, and in 1918, the Maternity and Child Welfare Act was established.

In France, on the other hand, in 1841, when they discovered that young children were working and abuse of authority was occurring, labour laws to protect children were put in place; and, in 1882, France made schooling compulsory for children between the ages of six and 13 (Boring, 2016). Child labour (particularly in factories and mines) was also problematic in other countries such as Germany. Thus, during the first Conference on Workers' Protection in Berlin in 1890, a recommendation was put forward to make 14 years the minimum age for miners (OHCHR, 2007a). Child labour was later addressed in the Covenant of the League of Nations (1919) in Article 23(a) stating that Members of the League:

(a) will endeavour to secure and maintain fair and humane conditions of labour for men, women, and children, both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organisations;

Another issue mentioned in this Article was the trafficking of women and children. Article 23(c) came following the adoption of two international documents attempting to combat slavery: The International Agreement for the suppression of the “White Slave Traffic” (1904; came into entry in 1905), and the International Convention for the Suppression of the White “Slave” Traffic (1910) that materialized following an international conference in 1902 (with no quotation marks in the original title). In reference to the term used in both titles, Jean Allain (2017) asserts that it is racist and “downright offensive” (p. 1), he writes:

The term ‘White Slave Traffic’ is often placed in quotation marks reflecting a disquiet amongst scholars. Yet, much like the phrase ‘general principles of law recognized by civilised nations’, ‘White Slave Traffic’ is a window onto a very different world of the early twentieth century, one dominated by a Euro-centrism of overt racism, at the height of its colonial conquest. (p. 1)

These agreements are integral points of entry into the period and context in which discourses on the trafficking of women and children took place.

Moreover, women’s groups such as the International Council of Women (ICW) founded in 1888 by Elizabeth Cady Stanton and Susan B. Anthony (other members included May Wright Sewall and Frances Willard) in Washington, D.C. under the umbrella of the National Woman Suffrage Association (International Council of Women, 1888), fought for equality and the welfare of all women and children. As stated in the report of the ICW (1888):

In an International Council, women may hope to devise new and more effective methods for securing the equality and justice which they have so long and so earnestly sought. Such a Council will impress the important lesson that the position of women anywhere affects their position everywhere. (p. 10-11)

The ICW focused on women’s rights and the welfare of women and children within the context of a family. As the world began to change politically, socially, and economically, and new needs arose, the ICW urged international action and cooperation. Some of the resolutions adopted by the ICW during their meetings include: Study of questions concerning children (Toronto, 1909); equal rights of parents to children (Rome, 1914); endowment of motherhood, saving children in the famine-stricken Districts of Europe, and rights of children born out of wedlock (Kristiania, now known as Oslo, 1920) (See Monro & International Council of Women, 1979, p. 24). Due to the

actions by different countries and rights initiatives by groups such as the ICW (and other local, regional, and/or national groups that have not been documented), a new and more ‘collective’ societal outlook on children began to formalize and more voices emerged marking the early beginnings of a rights approach to children.

### ***Early Beginnings***

While the education of children was a point of discussion during the Enlightenment and the period that followed it, the need for physical and mental protection of children was brought to the fore due to WWI (1914-1918). In the wake of the economic devastations of the war (Keynes, 2003) and the allied blockade that caused widespread poverty and despair, as well as the influenza pandemic (1918-1919), it became evident that immediate and tangible measures were needed to protect human beings from starvation and disease including the most vulnerable – children (Bianchi & Ludbrook, 2016; Mahood, 2009). Unable to watch the continuous suffering, the Women's International League for Peace and Freedom (WILPF) established in 1915 and the Fight the Famine Council (FTFC), which Eglantyne Jebb joined (later co-founding the Save the Children Fund with her sister Dorothy Buxton) began to take their own measures by sending food and necessities to those in need and showing the impact of the war on people.

Since most of these women were seen as ‘important’ members within their respective communities, they had the means and the support to get organized and be heard (Lalli, 2014; Mahood, 2009; Storr, 2010). Jebb, for example, came from an affluent and educated family that were known for their charitable endeavours. Although her father was against spending money on the education of women, his suffragist sister, Louisa Jebb was not and supported her nieces’ educational expenses. As a result, Jebb graduated from Lady Margaret Hall in Oxford in 1895, where she studied history, and later trained at Stockwell Teachers’ College in London (where she

struggled) to become an elementary school teacher. However, after 18 months in her first assignment as an assistant teacher at a Church of England school in a lower-working-class neighbourhood in Marlborough, she returned to Cambridge due to her mother's ill health ending her career as a teacher (Mahood, 2009).

On 8 April 1919, the WILPF organized a protest in Trafalgar Square to bring attention to the effects of the blockade. To further raise the public's awareness, Jebb and Barbara Bodichon Ayrton-Gould passed out leaflets entitled: 'A Starving Baby' and 'Our Blockade has caused this!' with images of starving children (Bianchi & Ludbrook, 2016; Mahood, 2009; see Appendix A for the news clipping with an image of the leaflets). These images, used as intervention tools to raise awareness, were just the beginning of many others to come. For Jebb, "[t]here was a moral obligation for the British public to confront those photographs.... [She] wanted to touch the imagination of the world; [as] direct experiences and evidence... [can] dissipate hate and prejudice" (Bianchi, 2016, p. 75). The two women were arrested, charged, and fined £5 each as the leaflets were not "approved under the censorship laws of the Defence of the Realm Act" (Storr, 2010, p. 244).

Jebb's arrest motivated her to take action and alter perceptions, which she constantly did even during the proceedings. "During a break between hearings Archibald Bodkin, the prosecution's chief adviser, gave her his personal support.... even donated the symbolic £5...fine to her cause" (Lalli, 2014, p. 35). Jebb did not aim to challenge the system but to make people see and understand the actual impact that the war and the blockade had on people; she stated: "The problem is not lack of money but attitude of mind... the world is not ungenerous but unimaginative and very busy" (Lalli, 2014, p. 33). To ensure that children are not forgotten and to help people *see, understand* and *act*, Jebb and her sister established the Save the Children Fund (SCF) on 15

April 1919. Initially it was “formed as an emergency measure to aid the child victims of war, ...[but] with the backing of prominent British pacifists, intellectuals, humanitarians and feminists it took on an international dimension and became a ‘machine’ with a life of its own” (Mahood, 2009, p. 191). As SCF grew, so did the tensions between the offices in London and the umbrella office in Geneva (Save the Children International Union [SCIU]); confusion arose with regards to who was in charge and the purpose of the Geneva office (Mahood, 2009).

Inspired by the *Children’s Act* that passed in 1908 by the British Liberal Party that focused on the welfare of children and seeing the global impact of the war (Lalli, 2014, p. 34), Jebb decided not to close SCIU. Instead, she “expand[ed] its international influence and the profile of the fund and formalize[d] its role in peacetime.... [She] picked up an idea that was circulating at the time, that Save the Children International Union should claim certain ‘universal’ rights for children” (Mahood, 2009, p. 194). Jebb began drafting her children’s charter, which became known as the Declaration of the Rights of the Child; one of the earliest attempts to provide children with rights (Mahood, 2009). Although there are several versions of how the charter was drafted and who worked on it (Lalli, 2014; Mahood, 2009), Jebb’s major contribution is widely acknowledged (Mahood, 2009; Veerman, 1992). The charter’s focus was on enabling the physical development of the child, protection from exploitation extending beyond the 1908 *Children’s Act*, and including ‘all’ children. Although the Declaration was adopted by the League of Nations (an international organization founded in 1919 with its Covenant going into effect in 1920 following WWI with the mission of resolving international disputes), the journey to getting it completed was not easy, but it was considered to be ground breaking.



### *Declaration of Geneva (1924)*

World War I ravaged many countries; women and children were the ones who suffered the most both during the war and after it ended. As disease and hunger spread, and many children were orphaned, women across Europe, Canada and the U.S. began to organize to support the ongoing relief efforts. Those who were privileged, socially conscious and/or were simply looking for a cause either began new organizations such as WILPF, FTFC, SCF or joined forces with other existing groups such as ICW and expanded their mandates aligning them with the needs of the time. It is this rising need to protect children that led Jebb to work on a child rights charter with a universal direction; she declared:

If we wish...to go on working for the children... the only way to do it seems to be to evoke a cooperative effort of the nations to safeguard their own children on constructive rather than on charitable lines. I believe we should claim certain rights for the children and labour for their universal recognition. (SCF, as cited in UNICEF 2009a, p. 4)

The charter that Jebb envisioned was intended to be ‘child-centric’ (focussing on the needs of children and their protection) as opposed to ‘state-centric’. She wanted it to include: “a universal declaration of rights, a legislative code and a definition of the duties of parents, private organizations and the state” (Mahood, 2009, p. 194). She also recognized that each country is different; thus, for a charter to be accepted by everyone, it had to be about children and the language needed to be simple and impartial to ensure that the sovereignty and rules of each country are not infringed upon. She also wanted the community to be involved. To achieve this, she formed a sub-committee with Victoria de Bunsen and worked with teachers, doctors, national and international organizations to get more ideas. It is important to note that Jebb’s success in bringing the issue of child rights to the international arena is in part due to her privileged upbringing, support

from her family who were also socially conscious and active members within their community, and connections (Mahood, 2009).

Jebb was not the only one working on bringing children's rights to the fore; the ICW headed by Ishbel Maria Hamilton-Gordon, Marchioness of Aberdeen and Temair (Lady Aberdeen) had also developed what was known as 'The Children's Charter' (1922), which "summed up in 51 clauses and seven categories what women in member countries considered necessary for normal development and the measures state agencies must take to bring them about" (Mahood, 2009, p. 196; for the text of 'The Children's Charter', see Veerman, 1992; there are no archival records in the UN library from the League of Nations for the full document).

When Lady Aberdeen, who was also a patron of SCF, discovered that another charter was being drafted, she was disappointed, but "[s]he refused to let it supplant her charter and insisted that they all come 'to an understanding regarding the form of the Children's Charter to be ultimately adopted'" (Mahood, 2009, p. 197). After reviewing it, Lady Aberdeen requested "that a clause for interdenominational religious instruction in the schools be inserted and that de Bunsen's suggestion 'that children should learn an international language' be deleted because it was 'opposed to ICW policy'" (Mahood, 2009, p. 197). In reality, Jebb's overall vision for the content of a child rights charter as aforementioned differed from both drafts. While "the focus of the ICW's charter was on what the state should do for children...., [Jebb] envisaged a charter that appealed to 'everyone who came into contact with children. That included parents, teachers and voluntary societies of every nation, 'not only to governments'" (Mahood, 2009, p. 197-198). For Jebb, 'whole community' support within the respective countries was vital to ensure acceptance and implementation (Mahood, 2009, p. 197-198).

As for de Bunsen's draft, Jebb supported the "15 clauses...concerning practical rights like health care, adequate housing, wholesome food, education, vocational training, welfare and legal protection" (Mahood, 2009, p. 198), but she did not approve of the "numerous additional sub-clauses, which [she] regarded as 'purile'" (Mahood, 2009, p. 198). She wanted 'realistic' and 'universal' rights that would be accepted by the international community as opposed to "a list of sublime privileges like the 'right to share in mankind's heritage of beauty...sunshine... to hear good music and take part in pageantry'" (Mahood, 2009, p. 198). Jebb understood the importance of the ICW and the supporters of SCF (specifically in terms of funding); therefore, according to Mahood (2009), the ICW and SCF agreed to work together to finalize the charter. However, Jebb was not pleased with the final SCF-ICW charter she was asked to present to the SCIU executive council in Geneva in 1923 because it "made the child the recipient of state protection rather than the bearer of rights and responsibilities appropriate to his or her age" (Mulley, 2009, p. 306).

During her presentation, Jebb introduced the document "in two parts, the first being a preamble she had inserted based upon the 'children's code' she had written around 1922 [now known as the Declaration of Geneva]; and the second being the composite charter" (Mahood, 2009, p. 198-199). There is considerable reference to the composite charter or 'Children's Charter' as it was referred to (see Archives of the League of Nations, 1924; Cabanes, 2014; Mahood, 2009; Monro & International Council of Women, 1979); however, based on the archival records of the UN as I was informed through email correspondence from the UN Office at Geneva Library, "there is no record of the presentation of 1922 Charter in their files; neither does the Library hold the publication of the Charter itself" (A. Howland, personal communication, August 23, 2017). Prior to presenting the text to the Assembly of the League of Nations, it had been "redacted by the 'Union de Secours aux Enfants [SCIU] in 1923" (J. Oberson, personal communication, July 2,

2020). This implies that the composite charter may have only been presented to the SCIU executive council but not the League of Nations, who only received the preamble that Jebb wrote.

The Declaration, made of five Principles, was adopted by the League of Nations in 1924 (League of Nations, 1924; see Appendix B for the Declaration of Geneva and the English translation from the French original) and endorsed by ICW (Monro & International Council of Women, 1979). While the original text presented to the League of Nations was in French, the version that I am working from is the official translation done by Save the Children in London. The document begins with an implied consensus amongst the signatories on the duty of the ‘men and women’ to protect all children followed by five principles that address what must be given to the child: the required means to able to develop normally both materially and spiritually (principle 1); being fed, nursed, helped, reclaimed sheltered and succored based on the situation of the child (principle 2); receiving relief first during times of distress (principle 3); earning a livelihood, and being protected against every form of exploitation (principle 4); being raised aware that “its talents must be devoted to the service of fellow men” (principle 5). This was the closest that Jebb could get to the ‘child-centric’ version of the charter that she had envisioned.

In its opening paragraph, the Declaration relies on the words “owe” and “duty” to put responsibility of protecting children in the hands of individuals. It goes on to outline basic needs of children: material and spiritual development, food, medical care, assistance, and shelter, priority support during times of crisis, the opportunity to get skills to work, and protection from exploitation; and, finally, to understand their role in society and become active members. Each principle used “must” as a verb to place emphasis on actions that are integral and non-negotiable. The Declaration is by no means perfect, but because it was simple, straight to the point and did not pressure states, the League of Nations unanimously adopted it in 1924 without the detailed and

long composite charter (see UN Office at Geneva Library, 1924). Since the Declaration is only a resolution and was never considered to be a legal instrument, the UN Archives at Geneva do “not hold an official document signed.... [But] a copy of the ratification by the General Congress of the Union Internationale de Secours aux Enfants, February 28, 1924 can be found on the ‘Archives de l’Etat de Genève’ website” (J. Oberson, personal communication, June 22, 2020). Therefore, there is no record with names/titles of the members of the general council (international delegates) that signed and/or approved the Declaration. The two names that are clear from the signatures on the text adopted by the General Council of the ISCU in the French document (adopted 23 February 1923 and signed 17 May 1923) are Eglantyne Jebb and Gustave Ador, former president of the Swiss Confederation (for full text, see Marten, 2018).

The main criticism that the 1924 Declaration received was on its focus on child welfare, and the role of ‘men and women’ as opposed to that of the state. According to Van Bueren (1995): [T]he Declaration...was never intended to create an instrument which placed binding obligations upon states.... Children were regarded as recipients of treatment rather than holders of specific rights” (p. 7). This shift away from putting responsibility on the state is what Jebb wanted. While I agree with Van Bueren (1995) that children were not given legal rights but were to be protected by adults who were supposed to abide by the principles and nation states that promised to adhere to them, I understand Jebb’s aim for a ‘universally’ accepted document. Had Jebb introduced a more rights-based charter, it may not have been adopted at all since it would have been in direct conflict with the mandates, policies and legal and/or religious doctrines of many nation states who were members of the League of Nations. This criticism was also echoed by Janusz Korczak (1878-1942), a Polish paediatrician, pedagogue and author who fought for the right of children to be respected and heard, and whose work inspired the CRC. In reference to the Geneva Declaration,

Korczak states: “The Geneva lawgivers have confused duties with rights. The tone of the declaration is not insistence but persuasion: an appeal to good will, a plea for kindness” (Korczak, 1967, p. 386 as cited in Kerber-Ganse, 2015, p. 281). He was disappointed by the lack of clarity and the call for charity as opposed to concrete rights and respect for children. It is important to note that Korczak did not just speak of respect for children, but he put his words into action during his lifetime; in 1942, he was executed by German soldiers alongside orphaned children in his care from the Warsaw Ghetto after refusing refuge for himself (see Korczak & Council of Europe, 1929/2009; Milne, 2015; OHCHR, 2007a).

The Declaration’s limited impact was also critiqued since it was not legally binding and intentionally lacked details that would result in concrete actions/rights (Liefwaard, 2008; Van Bueren 1995). Nevertheless, with the continuous efforts of NGOs such as Save the Children and Rädde Barnen (its Swedish affiliate), the way was paved for a greater discussion on children’s rights and their protection within an economic and social context. What is also notable is the fact that the adoption of the 1924 Declaration meant that “[t]he adoption of international standards protecting the rights of the child preceded the adoption of international standards codifying universally recognized human rights” (Van Bueren, 1995, p. 8). Child rights were also later acknowledged in the Universal Declaration of Human Rights (UDHR) in 1948; this text along with the Geneva Declaration became the foundation of the 1959 Declaration.

### ***Declaration of the Rights of the Child (1959)***

Although significant strides were made in increasing child rights discourse, it became clearer following WWII that human rights in general were not being acknowledged in many parts of the world as more stories of suffering surfaced, and more people began documenting them. This was further amplified with the advancement of communication and telecommunication mediums

and the dissemination of images and videos of starving, abandoned and dead children to pull on the heart strings of socially conscious individuals and anyone interested in world affairs (Verhellen, 2015). With societal and economic changes across Europe and increased awareness, came calls for unified action. In part, these factors led to a change in perception towards children and childhood (Holzscheiter, 2010; Verhellen, 2015). As a result, dialogue amongst nation states about solutions was initiated culminating in the creation of UNICEF in 1946 and the adoption of the Universal Declaration of Human Rights on 10 December 1948 by the UN General Assembly outlining the inherent rights of all human beings including the right of a child to ‘special care and assistance’ (UN General Assembly, 1948).

The Declaration led to further initiatives on child rights; following the dissolution of the League of Nations in 1946 (Resolution for the Dissolution of the League of Nations, adopted by the Assembly on April 18, 1946, 1947), it was crucial to reaffirm the rights of the child and ensure the relevance of the Geneva Declaration (1924). Organizations such the International Union for Child Welfare (IUCW), which was formed in 1946 because of the merger between SCIU and the International Association for the Protection of Child Welfare, felt that following WWII, children needed more state supported protective measures. An updated and relevant version of the Geneva Declaration was vital to ensure that children were not exploited, abused, and received the care and education they needed.

Such discussions and the increasing need for achieving consensus on the protection of child rights (not just during times of war) led the IUCW to lobby the Temporary Social Commission (a sub-committee of the Economic and Social Council of the United Nations [ECOSOC]) to revisit the Geneva Declaration (Iriye & Saunierp, 2009, p. 926). After a series of meetings, the Commission voted in favor of revising it and “suggested that the Secretary-General consult with

Member States and non-governmental organizations” (OHCHR, 2007a, p. 4). Therefore, in March 1949, 21 governments (Belgium, Burma, Canada, Columbia, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, India, Iraq, Mexico, Netherlands, New Zealand, Panama, Philippines, South Africa, Sweden, United Kingdom, U.S. and Venezuela) submitted their comments to the Secretary-General (Van Bueren, 1995, p. 9-10). The Social Commission appointed a committee composed of the representatives of Australia, Brazil, France, Iraq, and Yugoslavia to consider all the comments and prepare a draft declaration, which was further amended by the Commission (OHCHR, 2007a, p. 4). Van Bueren (1995) posits that the input from all these countries made “the Declaration...a global initiative” (p. 10). On 11 July 1950, a ‘Draft Declaration’ was presented to ECOSOC in Geneva (UN General Assembly, 1959b).

The Draft Declaration was placed on the agenda of the seventh session of the Commission on Human rights in 1951, however, it was only reviewed in detail at the Commission’s 13th session in 1957. With further feedback from “[21] different governments and...new comments made by the *International Union for Child Welfare* and the *International Federation of Women Lawyers*” (Veerman, 1992, p. 164). Following a series of meetings, the Commission on Human Rights amended and supplemented the Draft Declaration and sent their version to the Social Commission in 1959; the amended version was then presented to the General Assembly of the UN. The Third Committee delegated to deal with the Draft Declaration met repeatedly to discuss and assess whether the document would be accepted by different governments. During the meetings, delegates presented their governments’ preferences that ranged from trying to turn the document into a more binding Convention (as preferred by Poland) to requesting implementation guidelines and practical solutions (Veerman, 1992). However, some countries such as the Netherlands asserted that a Convention at this time would not be acceptable due to “the great economic, social



and cultural differences and the greatly divergent views on morality and religion prevailing in the various Member states” (Van Bueren, 1995, p. 12). Following a series of amendments from different delegates, the draft Declaration was adopted by 70 votes and two abstentions (UN General Assembly, 1959b). The delegate from “Cambodia explained that she had abstained from voting ‘to give her country the freedom to adapt the Declaration to the customs and conditions prevailing Cambodia’.... [and the delegate] ‘from South-Africa said that he found it necessary to abstain on certain Principles’” (Veerman, 1992, p. 166).

The Declaration of the Rights of the Child (1959) extended the five Principles outlined in the Declaration of Geneva (1924) to 10 – expanding the protection (security) and provision (care) rights of children and placing further emphasis on the ‘needs’ and ‘best interests of the child’. The child, in this Declaration, is not an independent being but a dependent one who “by reason of his physical and mental immaturity needs special safeguards and care, including appropriate legal protection before as well as after birth”. The preamble continues to affirm the General Assembly’s commitment to the Declaration and to children receiving ‘the rights and freedoms’ that are outlined, and “calls upon parents, upon men and women as individuals, and upon voluntary organizations, local authorities and national Governments to recognize these rights and strive for their observance by legislative and other measures” (United Nations, 1959c; see Appendix C for the 1959 Declaration). Unlike the Geneva Declaration, accountability and responsibility was not only left to individual ‘men and women’, but also the state, organizations and local authorities. As Van Buren (1995) writes: “By 1959... children are beginning to emerge no longer as passive recipients but as subjects of international law” (p. 12); this shift in rhetoric was a major accomplishment that helped set the tone for children’s rights activists to delve deeper into the

possible roles that States and international organizations can play in ensuring the protection of children's rights not only economically and socially but also legally.

Some of the major additions and amendments to the Geneva Declaration (which also included minor changes to the phrasing of previous Principles) were: the right of child to be given a name and nationality at birth (Principle 3), the extension of protection to mothers (Principle 4), ensuring that children remain in the care of their parents, if possible, and protecting those who are orphaned and/or without support (Principle 6), free and compulsory elementary education, and the right of children to play (Principle 7), protecting children from 'all forms of neglect, cruelty and exploitation' including trafficking and child labor (Principle 9), and finally protecting children 'from practices which may foster racial, religious and any other form of discrimination' (Principle 10). Although these Principles were intended to be more relevant to the times, the focus remained on provision and protection of children as determined by adults whether it be their parents, or the State as opposed to ensuring their legal rights as individuals with their *own* identities and voices. This changed "[i]n the last half of the 20th century, [as] the focus shifted to rights of self-determination based on the assertion that children are not property of their parents or of the state but are legal persons who are entitled to many of the same rights as adults" (Peterson-Badali et al., 2004, p. 160) as later expressed in the CRC (1989).

This slow but evident shift in perception was also a direct correlation of changes taking place in the field of education, particularly in the understanding of how knowledge is attained, which also in return impacted the rights of children in education and to an education, and their right to play. In 1920s and 30s, Winifred Ward and John Dewey advanced the idea that knowledge is attained 'by doing' – by being immersed in the process. Thus, a traditional education system focusing only on knowledge attainment through scientific empiricism and the regurgitation of

information no longer sufficed. Children needed to learn the meaning of knowledge, their role in the making of this knowledge, the relevance of the knowledge they were attaining, and how it could be translated through action in the world that they live in. The journey of knowledge attainment needed to become a lived experience for children within the classroom and beyond its walls. In *The School and Society*, John Dewey (1921) writes:

The old education may be summed by stating that the centre of gravity is outside the child. It is in the teacher, the textbook, anywhere and everywhere... except in the immediate instincts and activities of the child... Now the change which is coming into our education is shifting the centre of gravity... The child becomes the sun about which the appliances of education revolve; he is the centre about which they are organized. (p. 35).

The focus of education, as Dewey suggests, needs to be on the child and for the child; knowledge is thus attained with the child's active participation. The teacher and the textbooks are vehicles in the child's journey of enquiry and exploration, and they are there to ensure the child's safe arrival to his/her/their destination.

In their work, Ward and Dewey also further elaborated on the process of 'learning through play', which became the core of drama in education (DiE) from its early days in England in the 1940s & 50s and creative drama as it became known in the U.S (specialists in the field who paved the way include but are not limited to Peter Slade, Brian Way, Dorothy Heathcote (1967; Heathcote et al., 1984), Gavin Bolton, Nellie McCaslin and Viola Spolin). Although the methodology began gaining more traction in these countries as perception of children and their needs began to change, these ideas were present prior to the 1920s in different parts of the world. As Grace Sloan Overton (1926) notes, drama in education is not a new idea but one that has been used for centuries in different societies (e.g., in religious ceremonies in Greece, India and Japan) as a tool to spread

knowledge. For example, in Ancient Greece, students learned through dance, music and literature. Greek philosophers such as Socrates and Plato deemed play to be fundamental to learning. Plato argued that “[w]e learn through playing, and only through playing” (Ardley, 1967, p. 234). It is through “play, and in particular in the diversity of play modes, we learn, without at the time knowing that we learn” (Ardley, 1967, p. 237). The word drama itself comes from the Greek root word “dran”, which translates into action or to act (Allien, 2004, p. 19). To play is to act. It is through this form of playing and acting that one can both directly and indirectly learn. Thus, by incorporating play in education, the learner is not a passive participant but an active one. This makes the learning process more fun, and the probability of relating to it also increases as the knowledge gained through the direct experience/action becomes a part of the learner’s memory that may also be tapped into at future time as the child further develops and experiences new things (Bolton, 1984; Ormrod et al., 2006).

One of the factors that made creative drama desirable is its potential in making education a lived experience – one that reflects the here and now – as opposed to a mere symbolic one. This ‘lived experience’ or ‘lifeworld’ as Edmund Husserl (1954/1970) refers to it, is the world that we live in and experience separately and together. Understanding this ‘life world’ is integral to our overall understanding. Husserl (1954/1970) argues that there are two truths: “on the one side, everyday practical situational truths [of the lifeworld];... on the other side there are scientific truths, and their grounding leads back precisely to the situational truths” (p. 132). In seeking scientific knowledge/truths, one has to understand the world as it is and was, and how our experiences with it impact what we know or think we know. William Pinar (1976), an educator and curriculum theorist, further explains that within this ‘lived experience’ or ‘lifeworld’ that is based on interaction and participation, understanding of oneself and the world take place and

knowledge occurs (both practical situational knowledge and scientific knowledge). What predominantly makes this experience educational is when “its effect upon its subject transcends the immediate encounter” (Pinar & Grumet, 1976, p. 34).

The concepts of ‘learning by doing’ or ‘knowledge through action’ and ‘learning through play’ opened the world of possibilities in the field of education. While inquiry and scientific reasoning remained essential, the role of play and imagination were being examined as a part of the development process of children albeit indirectly at times. For example, Dutch philosopher Baruch Spinoza recognized “that thought is always embodied: knowledge results from action, and each person can proceed to higher levels of thought by choice” (Courtney, 1989, p. 39). The educational journey, the how, thus becomes crucial as it is the realm in which the imagination is activated and embodiment is a possibility enabling these thoughts to become actions and be processed into knowledge. Scottish philosopher and British empiricist David Hume “saw that imagination is primarily responsible for our conviction that there was an external world” (Courtney, 1989, p. 39). It is within the mind that objects and narratives are created and knowledge is fostered of this world that is beyond the self. This aspect is an essential element of both human rights and child rights education and is interconnected to the changing image of the child and to the understanding of childhood (for research into the developmental, social, and academic benefits of the arts in general and drama in particular see, Anderson & Dunn, 2013; Cahill, 2016; Carter et al. 2014; Fels & Belliveau, 2008; Mreiwed et al., 2017; Nicholson, 2011; Yavuzer et al. 2008).

Great advances in knowledge, education, science, medicine, and technology in the 20th century did not translate into a ‘better’ world for children and adults. Suffering due to civil wars, diseases, lack of sufficient resources and differing to non-existent policies on education, legal rights, and labour laws for children, to name a few, continued resulting in a rise of child rights

violations; this made the need for a stronger binding convention more urgent. However, consensus on its adoption was hard to reach taking over a decade.

***UN Convention on the Rights of the Child (1989)***

The 1959 Declaration led the way for a greater discussion on children's rights around the world and the inherent responsibilities of not only citizens but the States in ensuring their protection. This need became more prevalent during times of conflict; hence, in recognition of the importance of achieving consensus on this issue amongst nations, on 14 December 1974, the UN General Assembly adopted the Declaration on the Protection of Women and Children in Emergency and Armed Conflict. The Declaration, consisting of six principles, began with a concern and acknowledgment of:

[...] the sufferings of women and children belonging to the civilian population who in periods of emergency and armed conflict in the struggle for peace, self-determination, national liberation and independence are too often the victims of inhuman acts and consequently suffer serious harm. (UN General Assembly, 1974)

The Declaration concluded with Principle six further affirming the need to protect women and children and to ensure that they: “[...] not be deprived of shelter, food, medical aid or other inalienable rights” (UN General Assembly, 1974).

Several other international instruments that refer to the right of the child to be protected exist. One of them is the International Covenant on Economic, Social and Cultural Rights with Articles 10 and 12 focusing on protection and the development of the child, and Article 13(1) on providing free and compulsory primary education (UN General Assembly, 1966a). Another one is the International Covenant on Civil and Political Rights that adhere to the Articles concerning children in the aforementioned Covenant, but also add in Article 14 “specific provisions for

children including safeguards concerning the administration of justice” (Van Bueren, 1995, p. 20). In Article 24 of this Covenant, three major points are emphasized: the protection of all children, the right of the child to have an identity in terms of a name and registration as well as a nationality (UN General Assembly, 1966b). Both these Covenants were adopted in 1966 but only entered into force in 1976 (with the former on 3 January and the latter 23 March 1976) (Van Bueren, 1995). They were of utmost importance to ensure that children were not discriminated against based on factors that included their gender, religious beliefs, and identity in their home countries and/or countries that they immigrated or fled to. Such needs were not new but became more noticeable as discussions on liberty and citizenship surfaced predominantly in Europe and the West following the two World Wars and with the formation of the UN.

These discussions initially ignited due to the political, social, and economic devastations following WWII leaving more children orphaned or abandoned, and increasing malnutrition, disease, and abuse. Presently, as the world experiences a rise in migration due to civil wars, persecution, and unrest in some countries, discussions for solutions have resurfaced. The rapid changes and developments around the world also contributed to a rise in dialogue and international gatherings as well as research into who children are, what they are capable of, and the nature of protection they need, and in some cases the importance of rights. The first international Conference on Human Rights took place in Teheran from 22 April to 13 May 1968 with the purpose of reviewing the progress made since the adoption of the Universal Declaration of Human Rights, and to plan for the years to come. During the conference, calls to action were made for the “international community [to] fulfil their solemn obligations to promote and encourage respect for human rights and fundamental freedoms for all without distinctions” (United Nations, 1968, Article 1); these calls included human rights education for children.

The importance of rights were also noted in *Birthrights* (Farson, 1974) and *Escape from Childhood: The needs and rights of children* (Holt, 1975). The authors addressed the importance of self-determination and child rights, while positioning “children as one of the major oppressed groups in western society with families and schools as major sources of oppression for children” (Phillips, 2016, p. 43). The changing perception of the child as well as the need for action to protect this ‘vulnerable’ group led to an increased need for a more detailed, relevant and legally binding document. In 1978, during discussions on the 1959 Declaration, Poland suggested the value of having a Convention as opposed to a Declaration (a point that had been previously discussed but rejected with regards to the 1959 Declaration). “Poland proposed to mark the International Year of the Child (1979) by a United Nations Convention on the Rights of the Child” (Veerman, 1992, p. 180); however, their proposed draft convention was not met with enthusiasm. This might be because it “was virtually identical to the Declaration of the Rights of the Child..., with the addition of an implementation mechanism” (Cohen & Naimark, 1991, p. 60).

There was also a concern that unlike the Declaration that was unanimously accepted by member nations, the Convention would only be ratified by some thus losing its ‘moral’ power as expressed by Sandra Singer (1986), Director of International Tracing and Welfare, the British Red Cross Society. At the time, “Although a Convention is theoretically stronger than a Declaration because it is legally binding, experience has shown that a Declaration adopted unanimously has a greater moral impact than a Convention only ratified by a few countries” (p. 165). Recognizing the concerns of Nations, the importance of the terminology to be used and the careful selection of points to be covered, the Commission on Human Rights set-up a Working Group that “consisted of representatives of the forty-three Member States of the Commission....[and] observers from other interested Member States of the United Nations and Inter-Governmental Agencies..., as well



as [invited delegates from] Non-Governmental Organizations (NGOs) in consultative status with ECOSOC” (Veerman, 1992, p. 182). The Working Group as Veerman (1992) states met and discussed a range of issues from material rights such as the importance of medical facilities to non-material ones that included freedom of thought and rights of children out of wedlock.

Achieving consensus on a list of rights for children was a lengthy process that lasted 10 years in terms of concrete action but had been in discussion for more than three decades. After a series of meetings and consultations that were not well attended, “a *NGO Ad-Hoc Group on the drafting of the Convention* [that met twice annually] emerged, ...to pool ideas and present clear, unified proposals to the United Nations Working Group. *Defence for Children International* served as secretariat for this fifty organizations AD-Hoc Group” (Veerman, 1992, p. 183). Their work culminated in a Draft Convention that was completed in 1988 and thoroughly reviewed by the UN Secretariat followed by another review from the Working Group before being sent to the Committee on Human Rights (Draft accepted in March 1989) and ECOSOC that forwarded it the General Assembly for a final decision. After making some minor changes, it was adopted by the Third Committee at the General Assembly (Detrick, 1999; Veerman, 1992), and on 20 November 1989, the CRC was adopted by the UN General Assembly coming into force on 2 September 1990 (Veerman, 1992). The CRC was accepted (at least on paper) by most States. In this regard, Thoko Kaime (2011) notes: “This overwhelming normative consensus affirms a shared and welcome global recognition of the rights of the child” (p. 3).

The CRC, guided by the aforementioned Declarations (1924 and 1959), and the evolving needs of the child as per the time period (from the 1960s to the early 1980s when the Convention was being drafted), was and still is being promoted as a universal international agreement intended to protect the rights of children that are vulnerable to having their rights abused. The vulnerability

of children was recognized in the preamble of the 1959 Declaration and reaffirmed in the CRC. The CRC consists of a preamble, and 54 Articles divided into three parts (part I: Articles 1- 41; part II: Articles 42-45; part III: Articles 46-54) (see CRC in Appendix D).

Articles 1-41 cover the following categories: definition of a child (Article 1); non-discrimination (Article 2); best interests of the child (Article 3); implementation of rights (Article 4); parental guidance and the child's evolving capacities (Article 5); right to life, survival and development (Article 6); name and nationality (Article 7); preservation of identity (Article 8); separation from parents (Article 9); family reunification (Article 10); illicit transfer and non-return (Article 11); respect for the child's views (Article 12); freedom of expression (Article 13); freedom of thought, conscience and religion (Article 14); freedom of association (Article 15), protection of privacy (Article 16); access to appropriate information (Article 17); parental responsibilities (Article 18); protection from abuse and neglect (Article 19); children deprived of a family (Article 20); adoption (Article 21); refugee children (Article 22); children with disabilities (Article 23); health and health services (Article 24); periodic review of placement (Article 25); social security (Article 26); standard of living (Article 27); education including vocational training and guidance (Article 28); aims of education (Article 29); children of minorities or indigenous populations (Article 30); leisure, recreation and cultural activities (Article 31); economic exploitation including child labour (Article 32); drug abuse (Article 33); sexual exploitation and abuse (Article 34); sale, trafficking and abduction (Article 35); other forms of exploitation (Article 36); torture and deprivation of liberty (Article 37); armed conflicts (Article 38); physical and psychological recovery and social reintegration (Article 39); administration of juvenile justice (Article 40); and, respect for higher standards meaning by applying the best law for children (Article 41).

The second part of the CRC includes: the promotion of rights and dissemination of information (Article 42); implementation provisions and establishment of the Committee (Article 43); reports from States Parties (Article 44); and international cooperation and technical assistance (Article 45). The third part includes Articles 46-54 that address signature, ratification, accession, entry into force, amendments, reservations, denunciations (OHCHR, 2007a; Veerman, 1992). In the child friendly version of the CRC, only Articles 1-42 are explained in detail, the rest are grouped together under the heading “How the Convention works”.

Further groupings of interrelated substantive articles were made based on the guidelines adopted by the Committee on the Rights of the Child for the reports submitted by state parties under Article 44 (the order of articles is based on the original text that was adopted on 15 October 1991 [reference document, CRC/C/5]). The categories are as follows: General measures of implementation (Articles 4, 42, 44[6]); Definition of a child (article 1); General principles (articles 2, 3, 6, 12); Civil rights and freedoms (Articles 7, 8, 13, 17, 14, 15, 16, 37[a]); Family environment and alternative care (Articles 5, 18 [1] and [2], 9, 10, 27 [4], 20, 21, 11, 19, 39, 25); Basic health and welfare (Articles 6[2], 23, 24, 26, 18[3], 27[1-3]); and, Education, leisure and cultural activities (Articles 28, 29, 31). The special protection measures cluster is further subdivided into categories: *Children in situations of emergency* (articles 22, 38, 39); *Children in conflict with the law* (articles 40, 37[b], [c] and [d], 37[a], 39); *Children in situations of exploitation, including physical and psychological recovery and social reintegration* (articles 39, 32, 33, 34, 36, 35, 30). Minor revisions to these clusters were further made by the Committee on the Rights of the Child (see Bergman et al., 2014), specifically the addition of: the cluster violence against children (Articles 19, 39, 24[3], 37[a], 28[2], 34), the term disability to the ‘basic health and welfare’

cluster, and a shift in the breakdown of the special protection measures as well as the addition of article 40 (the administration of juvenile justice) within that cluster.

The CRC, which is part of the UN's international human rights framework, has been signed and ratified by most States. South Sudan and Somalia were the most recent countries to ratify it in 2015 with only the U.S. remaining without ratification. This has made it the most ratified international human rights treaty; hence, achieving 'universal' status (Detrick, 1999). To ensure and monitor implementation in accordance with Article 43 of the CRC, in 1991 a Committee on the Rights of the Child consisting of 10 and then 18 internationally elected members by States parties was created (number of members amended in November 2002; term duration is four years with a possibility of re-election; United Nations, 1991). Countries that have ratified the CRC have agreed to "submit regular progress reports to the Committee, the first within two years of ratification and subsequent ones every five years thereafter.... Additional progress reports are required of countries that are party to the Optional Protocols" (UNICEF, 2009a, p. 8). Based on these reports, the UN and the countries themselves can assess the status of the CRC and the three Optional Protocols (Involvement of children in armed conflict [2000]; Sale of children, child prostitution and child pornography [2000]; and a Communications procedure [2011]).

Decades of work on children's rights by States, international organizations and NGOs around the world have culminated into the CRC. However, despite its success in achieving international recognition and having States become party to it, millions of children around the world are not in reality receiving their rights as human beings and as children. This has led to criticism of both the CRC's limitations and States Parties that have not followed through with their commitments. It has also brought to the fore questions about its power, scope, relevance, lack of rights awareness/dissemination, and why ratifying it has not translated into implementation.

### **Child Rights: Aspiration vs. Reality**

“With the Convention, we are committed to ensure that the opportunities of life are not determined by the circumstances of birth” (Marta Santos Pais, Editorial Board of the UN Secretary-General’s Study on Violence against Children as cited in Pinheiro, 2006, p. 33). Such commitments led child rights activists to envision a better world for children with the CRC. As countries argued, discussed, and reached an understanding on the CRC as well as the Optional Protocols (although ‘universal’ consensus is still not achieved on them), a shared desire emerged to ensure that children are treated as individuals with rights and responsibilities. However, understanding of these rights and how they are disseminated varies as each country has its own set of rules, particularly in areas such as: the age of maturity of a child (for some it remains lower than 18), education, family, weight of religious doctrines, marriage, the law and children (mainly the juvenile justice system). As Ton Liefaard (2008) states:

Despite two decades of efforts to establish an administration of juvenile justice in compliance with the CRC, ‘many States Parties still have a long way to go in achieving full compliance...’. The findings of the 2006 UN Violence Study show that the road to full recognition of the rights of children deprived of their liberty is even longer. (p. 4)

This remains the case more than a decade following the report referenced in the quote. Why is it difficult for countries to incorporate the CRC into their domestic legislation more than 30 years after its passing? The answer is not a simple one; there are many factors that are at play at the same time – political, economic, cultural, religious, social, and geographical, to name a few. Getting countries to agree on the Principles outlined in the 1959 Declaration and then the Articles in the CRC required years of deliberations and at times changes in language, tone and structure.

The language used in these documents varied based on the time and context that they were drafted in and the number of participant nations and NGOs. For example, in the Geneva Declaration, “language such as reclaiming the delinquent child resembles a form of child salvation” (Van Bueren, 1995, p. 8) that would not be acceptable for a declaration intended to be ‘universal’ within a contemporary setting. Moreover, the lack of clarity of the five Principles and, at times, problematic terminology (from a postmodern perspective) shows that there are possibilities for a range of interpretations that may have even caused misunderstandings and violations of children’s rights as we know them today. For instance, what is considered ‘normal development’ of the child, and who determines it? What is a definition of a ‘delinquent’ child, and who determines what falls under ‘delinquency’? How does one ‘reclaim’ a child? What and whose standards are these Principles based on? As Jebb was drafting the Geneva Declaration, she recognized the difficulty “involved in trying to reconcile individual and cultural differences in a statement of the universal” (Mulley, 2009, p. 307). However, she contended that having general principles would ensure that nations did not feel forced to follow certain standards that are in direct contradiction with their own cultures/beliefs and value-systems. Jebb posits:

Everything should be done to avoid imposing a uniform type of culture...; the methods of child nurture must necessarily vary greatly according to differences of climate, race, traditions, beliefs, etc. But nevertheless there are certain fundamental principles which should be respected, however... means of their practical application may differ in different localities. (Mulley, 2009, p. 307)

What Jebb had envisioned early on is still relevant today and is reflective of the fact that the wording of the principles in the 1924 and 1959 Declarations as well as the Articles in the CRC (although less than the other two documents as it is written with the purpose of being legally

binding) leave room for countries to interpret them in a manner that would be in line with their own cultural, legal, and religious systems. In reference to the Geneva Declaration (1924), Van Bueren (1995) asserts that it “was never intended to create an instrument which places binding obligations upon states” (p. 7), but to place a moral and social responsibility on individuals. What was significant about both Declarations is the fact that although children may not have been granted rights per se all over the world, they were recognized internationally as individuals (Van Bueren, 1995; Veerman, 1992). The CRC elevated this recognition and was a significant progression of child rights on ‘paper’, but, unfortunately, it did not translate into action in the real world. Rights on the ground in many parts of the world continue to regress. Children are more vulnerable than ever due to globalization, civil wars, economic, political, and social unrest, natural disasters, spread of diseases and the internet. It is even more dangerous when there are no real or legal consequences for nations that violate the CRC. It makes the document even more symbolic giving rise to further criticism and more excuses for lack of compliance.

### ***Critical Reflections and Responses***

The CRC has faced many criticisms based on several areas including the language *in use* in both the full text and the child friendly version (as well as their translations) that denote a liberal and Western bias (Holzscheiter, 2010; Quennerstedt et al., 2018). For example, the images used in association with the CRC through some child friendly posters, at times depict children from certain parts of the world, predominantly Africa, the Middle East and Asia, signifying that rights are only for children from specific regions as opposed to all children (for an example of UNICEF Canada’s child friendly poster, see UNICEF Canada, 2016). Furthermore, the language that was intended to be inclusive with the “best interests of the child” in mind is at times exclusive, elusive, and suggestive on several levels including that adults know best bringing to the fore “the tension

between paternalistic and anti-paternalistic features” (Quennerstedt et al., 2018, p. 39; see Bryson, 2010). Lawrence J. Leblanc (1995) asserts that the CRC does not tailor rights for children; instead of “affirming new rights or defining well-established rights more broadly than they have been in other international instruments, the convention reaffirms rights that have already been affirmed in other instruments” (p. 280). Clara Chapdelaine-Feliciati (2018) notes that it “also fails to mention issues that are distinct to specific groups of children, such as girl children, notably female infanticide” (p. 33), (Dalla et al., 2018, p. 114). This implies that all children are equal negating in the process (even if that was unintentional) the fact that gender-based violence such as female infanticide was and continues to be a problem in some parts of the world.

Another issue is one of several contradictions and vagueness within the CRC. As A. Glenn Mower (1997) states: “it might be said that the states became parties simply to avoid the appearance of being unconcerned about children. It also might be said that they took this action because they felt that the convention contained so many loopholes” (p. 14). For example, most of the rights in the final draft are extremely general implying that they are applicable to ‘all’ children referred to as ‘the child’, ‘he’/’she’ and ‘his’/’her’ (at the time, gender neutral terminology did not extend beyond those with the masculine pronoun always before the feminine) ‘everywhere’ and violations in areas such as gender rights are not clearly stated. Another ambiguity and contradiction is that of participation rights. While the CRC addresses the importance of participation rights of children, its own process from concept to drafting and its passing is primarily State-centred (representatives from States Parties) with possibly a few instances of child participation (OHCHR, 2007a); however, there are no detailed records of who participated and where, the selection process, or extent of the participation. The contradictions and lack of contextualization/vagueness result in the implication that certain rules are only intended for a select few and do not apply to all,



particularly girls and children with physical, cognitive and developmental needs, and those coming from or living in “developing” nations (a term often used in reference to countries that have a lower industrial base and Human Development Index [HDI] as well as Gross Domestic Product per capita [GDP]). They also show the impact of language *in* use on children’s rights application and the rendering of the CRC as a symbolic text.

The U.S., which to date has refused to ratify the CRC, argues “‘serious legal and political concerns’ with the treaty” (Blanchfield, 2009, p. 1). These concerns are with regards to education, juvenile justice and access to healthcare that tend to fall under the jurisdiction of each state. Therefore, certain Articles of the CRC that address the rights of the child within these categories come into conflict with state and federal laws. Additional reasons offered by ratification critics include: fear of undermining the authority of the parents; the belief that the U.S. has better child protection standards making the CRC unnecessary; and, that the CRC is more relevant to other countries with lesser human rights laws in place (Blanchfield, 2009). Other critics of the CRC also address the disconnect between the text’s ‘universal’ language and the diverse realities and contexts of children’s respective communities/societies; some see that a distinction between child rights and human rights further marginalizes children (see Cantwell, 2011).

Priscilla Alderson (2000) states that one of the criticisms is that “[t]he CRC does not grant to children the liberty or autonomy rights which adults in democracies take for granted.... Instead, the CRC enshrines some halfway-to-autonomy rights, such as article 12” (p. 440), which consists of two parts that affirm the value of a children’s opinions in issues impacting them. However, the weight of their participation is impacted by their age and maturity; with regards to judicial and administrative proceedings, a child has the right to be heard “either directly, or through a representative or an appropriate body” (UN General Assembly, 1989). Hence, whether a child

participates or not, and the level of participation are dependent on the adults (Alderson, 2000). This is problematic because it enables adults to exclude children and easily justify it. Another major issue that critics have noted is in reference to the notion and use of ‘voice’ as that implies “a kind of autonomous western individualism” (I’Anson, 2016, p. 20) that is not accepted by many. Gerison Lansdown (2010) contends that it is therefore crucial that Article 12 is looked at alongside other Articles that further extend the meaning of participation and voice. In defence of the importance of the participation of children, Lansdown (2011) argues:

There is a growing body of evidence that routinely taking children’s views and experiences into account – within the family, at school and in other settings – helps develop children’s self-esteem, cognitive abilities, social skills and respect for others.... Decisions that are fully informed by children’s own perspectives will be more relevant, more effective and more sustainable. (p. 5)

Children are capable of making decisions, speaking up and taking action if they are given the opportunity (see Campbell et al. 2011; Kirby & Bryson, 2002; Kränzl-Nagl & Zartler, 2010), and at times, permission to do so; there are many visible and invisible shackles that prevent them from their right to be heard and participate. In their research, Kirsi P. Kallio and Jouni Häkli (2013) stress “children’s competence as social and cultural beings who may act as full members of their communities and societies alongside with adults” (p. 4). Coady (2005) asserts that there are adults who see children as independent beings with rights (whom he refers to as ‘liberationists’) and are advocating for these rights; however, children remain oppressed and ‘muted’.

For real change to occur, a change in the overall perception of children must take place. Kallio and Häkli (2013) recommend “[a]pproaching children and young people’s lived worlds from a different direction, the sub-fields of children’s geographies and geographies of youth

accentuate the recognition of children as active ‘beings’ rather than policy objects, institutional recruits or future ‘becomings’” (p. 4). There are many children who are trying to be heard, but we may not hear about them because they are doing it within their respective communities, classrooms, and/or homes. Malala Yousafzai, a Pakistani girl who survived after being shot by the Taliban in 2012 as she defended her right to an education, is an example of a child who was heard around the world. She fought for her right to education, faced fear in the eyes and succeeded in becoming a Nobel Prize winner, and an advocate for the rights of girls and children worldwide. As Malala stated in the countless interviews and lectures she has given, she did not do it alone. Her parents (as she was living in a patriarchal society/culture) had shown her the value of education and given her the strength as a girl to not let her surroundings discourage her. If every child were raised to believe in themselves, and were given equitable opportunities to succeed, what type of world would we be living in? The CRC could have been the document to secure this dream, but it fell short due to fear from nations and adults as well as the detachment of the language it uses from the reality of children and their childhoods within their respective societies.

The reasons for fearing children’s rights vary; Coady (2005) asserts that there are those who simply see children from a ‘protectionist’ lens and think that it is their duty to protect them. Within this perspective, children are unable to take care of themselves and need adult support, guidance, and protection. Therefore, “emphasis on children’s rights reduces the pressure on adults to do right by children” (Guggenheim, 2005, p. 226). Power thus remains in the hands of their guardians whether it be a parent, relative caregiver or the State. Alderson (2000) addresses this fear of children being informed of their rights; the argument is that children are not capable of making decisions and will not know how to deal with rights and/or will make the wrong decisions, which may lead to conflict and the undermining of the power of the adults in their lives. I witnessed

this fear of child rights in my career when I was doing training on child protection with caregivers and staff in alternative care. They were worried that children informed of their rights would not listen to them resulting in a power struggle just as noted by Alderson (2000). Although they knew that they would still have control, they did not feel the need to create ‘conflict’ by discussing children’s rights, specifically with regards to children’s participation in the decision-making process and protection from abuse. The mere definition of abuse was also problematic for many.

“If it does not leave a mark, then it is not abuse”. This statement was made by a caregiver and reiterated by her colleagues. Definitions of abuse in more than one location and country were also vague, and when the CRC was introduced, they did not seem to understand that the rights allocated to children applied to children everywhere. I was also repeatedly asked two questions: ‘If adults do not have rights, then how can children have rights?’ and ‘If children happen to learn about their rights, how and where will they use them?’ Within this context the lack of understanding and training regarding both human rights and children’s rights were clear; what the caregivers and staff did not understand was that there are rights that they can fight for and defend even in countries where one feels that these rights are constantly violated. Although it may not always be easy, it is vital to know that no human being can be owned and violated in any way; and if they are, action must be taken. This can only happen if these rights are known and children are involved and empowered. Alderson (2000) further asserts that “[l]ike adults, children often know a great deal about their best interests, so that their participation rights can reinforce their protection rights” (p. 441). Moreover, because these rights “are collective not individual” (Alderson, 2000 p. 442), children learn to think about others as well.

In response to criticism that the CRC merely implies compliance but lacks concrete action, Alderson (2000) states that “[t]he CRC is a tool for change” (p. 442). If all States that are party to

it comply, real change can take place. However, the dilemma that remains is the fact that ensuring compliance is not a simple task; this has become even more difficult with the rising number of people and children on the move as nations engage in wars and conflicts. Paula S. Fass (2010) recognizes the limitations of the CRC, and asserts:

We should not be confused or misled. Even a better-structured and more sophisticated instrument of rights does not necessarily translate into embodied experience. But as a statement of purpose and a guide to ideals, it is a much better axe to wield in the world. (p. 27)

It is difficult to ascertain whether a different document would have more power (keeping in mind that if it were more elaborate with detailed restrictions and a list of violations, fewer nations may ratify it) as ultimately major decisions are in the hands of the respective governments of each nation. However, what the CRC has done is bring specific issues of provision, protection and participation to the fore holding nations that are party to it ‘responsible’ (even if so far, it is done in a symbolic way as opposed to through concrete legal action). It is also up to nations to ensure that these rights turn into an ‘embodied experience’.

### **Concluding Remarks**

The protectionist perspective continues to dominate the perception of children and children’s rights discourse. Political and economic interests continue to be more important than those of children, and power remains in the hands of the States and dominant groups whose voices are activated on local, national, regional and global levels. These have all contributed to the cyclical progression and regression of child rights, and to the ‘muting’, and, at times, ‘unmuting’ of children (when adults allow it). With every declaration, convention, new policy or legislation for children from 1924 up until 1989, hope rises and excitement takes over. However, what often

comes next is inaction or limited action in order not to ‘disrupt’ the existing political, economic, and social order within each country.

Although the aspiration with the adoption of the CRC was that children would cease to be treated as objects, and be treated as legitimate rights holders, the reality, from my perspective, is that they have become objects of rights not holders of these rights. Fears and misconceptions due to power and ideology have rendered children’s rights to be merely symbolic. Rights remain an aspiration at varying degrees in different countries, and children continue to be viewed as “dependents” and “becomings” in need of protection from the adults in their lives or their respective governments decades after they finally became understood as “beings”. This may seem like an ideal solution on the surface, but it is an unacceptable social wrong that has led to a regression of children’s rights as marked by the continuous rise in children’s rights violations around the globe. Poverty, hunger, starvation, malnutrition, statelessness, discrimination, abuse, exploitation, and lack of access to education, are some of the many issues that are affecting children to date (e.g., the humanitarian crisis in Yemen affecting over 11 million children, see UNICEF, 2021) although countries have agreed through the CRC and other human rights instruments to ‘protect’ them. For children’s rights to progress as they have at certain points in the past on universal and domestic levels (in some countries), they need to evolve with the times in terms of content, language, actions, and consequences for violators. With the advancement of technology, violations against children are also advancing. A close examination of the past and present (e.g., successes, failures, and gaps) is essential to be able to move forward.

## Chapter 5

### Declaration of Geneva: Language *in Use*

In this chapter, the Declaration of Geneva (1924) is analyzed using the following categories of textual analysis (Fairclough, 2003): social events, genre and social relations, intertextuality and assumptions, difference, semantic/grammatical relations between sentences and clauses, representation of social events, ending with modality and evaluation. The analysis of language *in use* is intended to show the impact of political, economic, and social contexts before and after WWI up to the mid-1920s on the content of the text, and the impact that the text has had on the image of children and childhood within multiple discourses. As a result, the social events section is more extensive than the others.

#### Social Events

The Geneva Declaration is a culmination of languages *in use* (social structures) and social events mediated by different social practices within Britain and elsewhere in Europe. Its content and adoption process involved a series of events with Eglantyne Jebb as their main social actor. What is important to note is that there was rising interest in the early 1920s, particularly by women and women's groups, to advancing the case of children as beings in need of protection. Examining the social events that took place in Britain and Europe before WWI and after the war are essential as they set the tone for this Declaration as well as the texts that followed.

Following the large-scale destruction from WWI (1914-1918) that led to the loss of millions of lives and the devastation of others (with approximately 9.4 million deaths; Perry, 2013), the division of nations (such as the Ottoman Empire into mandates for Britain and France through the Sykes-Picot agreement of 1916), and the influenza pandemic (1918-1919), countries began their recovery efforts on the political, economic, and social fronts (which were mostly

interdependent). While some countries were able to address issues within their own borders, others could not for a number of reasons including their colonization, and level of economic devastation leading to further dependence of some nations on others. The Geneva Declaration was a part of the recovery efforts that were underway. It was also an official marker of dialogue between nations for creating common ground, particularly on the social issues impacting ‘the child’ who is hungry, abandoned, orphaned, a refugee, displaced and deprived of childhood. This elevated the child from a national issue to a humanitarian transnational cause (Moody, 2015).

The 1920s saw political, economic, social, scientific, medical, and technological shifts and advancements as well as changes in discourses on women and children as they were profoundly impacted by the war. Perceptions of children and their childhoods also began to shift as a result of progress and new understandings based on studies in developmental psychology, sociology, neurology, and education as well as the fact that children were also participants in the war – as soldiers, as workers, and in many cases as heads of households/breadwinners for their families. Some of the advancements and changes were positive, others on the political, social, and technological front, paved the way for another destructive war - WWII.

### ***The Changing Perception of Women***

In Britain, where Jebb is from, there were many changes that can be seen to be a part of the chain leading to the text’s content. On the social front, women began to be seen differently in society due to their contributions to the war efforts leading to some changes in the laws. The perception of girls also changed although not specified in much of written texts but clear in the visual texts (for further details and images of female workers see Lewis, 1918; Woollacott 1994). When the men were at war, women and girls went to work keeping the economy running,



supporting the soldiers, and nursing the sick. They worked in the munitions industry, on trams, buses, farms, and in hospitals, and as firefighters, typists, and secretaries.

With the increasing need for workers, recruitment posters were disseminated showing women that they are integral to the war efforts (see 'On Her Their Lives Depend', 1916). In line with the times, the women in these posters, wore trousers rather than corsets and had shorter hair. Although they were not treated as equals to men in the workforce (Woollacott, 1994), their roles and rules shifted. For example, there was the Sex Disqualification (Removal) Act of 1919 that made it illegal to exclude women from jobs based on gender; this was followed by the Guardianship of Infants Act of 1925 that enabled the equal guardianship of children between men and women, and the Representation of the People (Equal Franchise Act) of 1928, which allowed women to vote on the same terms as men (Takayanagi, 2012). Both of which materialized due to years of advocacy. Furthermore, there were several women-led NGOs and charitable organizations including Jebb's Save the Children Fund.

### *The WWI Child*

As women took the lead in bringing social issues to the fore, children's issues became a part of their charitable and advocacy work. As aforementioned, before the Geneva Declaration, there was work on a longer Children's Charter (1922) by Lady Aberdeen and the ICW (see Veerman, 1992). However, what was adopted by the League of Nations was the text written and presented by Jebb who was influenced by the devastations that she had seen. When Jebb disseminated the leaflets of starving children, she wanted to show people, as opposed to simply tell them, what the war has done and will continue to do if action is not taken (refer to Appendix A of 'A Starving Baby' and 'Our Blockade has caused this!'). Hunger and starvation at the time was a direct result of poverty and famines around the world caused by the war. It is important to

note that there are different definitions and causes of famine (for more details see, Dyson & Ó Gráda, 2002; Sen, 1981), I am referring to a general definition: “a shortage of food or purchasing power that leads directly to excess mortality from starvation or hunger-induced diseases” (Ó Gráda, 2009, p. 4).

Another contributing factor was the exile or evacuation of children who were orphaned, abandoned or poor. It began before the war around the end of the 1860s and continued in various forms after WWII. Children were either temporarily or permanently exiled or evacuated under the guise of ‘child saving’. Simonsen (2005) notes that in Britain, for example, “private charity organizations such as Dr Barnardo’s.... made an industry of searching out foundlings and poor children and shipping them off to the colonies, ‘for a fresh start’, as it was put” (p. 270). In Canada, according to the immigration records at the Library Archives:

Between 1869 and the late 1930s, over 100,000 juvenile migrants were sent to Canada from the British Isles during the child emigration movement. Motivated by social and economic forces, churches and philanthropic organizations sent orphaned, abandoned and pauper children to Canada. Many believed that these children would have a better chance for a healthy, moral life in rural Canada, where families welcomed them as a source of cheap farm labour and domestic help. (Home Children, 1986-1932, n.d., para. 1)

The reality was that while some of these “home children” as they were referred to may have gone to families that took care of them, there were many who were exploited, mistreated, and abused as records prove. These records also show that many of these children “served with the Canadian and British Forces during both World Wars” (Home Children, 1986-1932, n.d., para. 2). Whether or not ‘shipping them off’ helped them get ‘better’ lives is a value assumption that should not and cannot be made. Each child’s story and journey is different, and what their lives would have been

like if they remained in their own countries is unknown, but the chance to know was taken away from them. What is known is that they were not free to choose, and their lives were dependent on those who took them in.

Other relocation programmes existed in different parts of Europe; in Germany, for example, the German Red Cross ran an internal relocation programme where “[h]undreds of thousands of children were sent from cities to the countryside to rescue them from the poverty, filth and sickness of the towns. From 1915 this programme included an adoption agency” (Simonsen, 2005, p. 270). It was not only for children without any parents (orphaned or abandoned), but for those who lost their fathers due to war and their newly single mothers needed to work. State authorities legitimized this separation of a mother and child by making it seem as if it was “a necessary sacrifice to be made by mothers in the interest of the nation” (Simonsen, 2005, p. 270), and for the protection of children from the harmful influence of their ‘single’ and ‘free’ mothers (Simonsen, 2005).

Not only were newly widowed women viewed as unfit mothers, but so were unwed and poor women. With the high mortality rates, new understandings and interests in population issues were on the rise. Each country wanted to ensure that its population continued to grow, while also improving the “quality” of their respective populations, including children. “As a result, impoverished women were regarded with mounting suspicion. They were construed as ‘dangerous mothers’, liable to injure their children through neglect, harmful child-rearing practices and lack of hygiene” (Simonsen, 2005, p. 273; Smart, 1992). To keep their children, these mothers would have to undergo “quality” assessments by state agencies. In Finland, for example, Simonsen (2005) writes that at the end of their civil war in 1918, “20,000 children of Finnish socialists and revolutionaries were taken from their mothers and brought into the custody of child-welfare

organizations and official authorities” (p. 273) to be placed in “politically trustworthy families” (p. 274) and given new identities. The State did not want these children to be raised by “socialists and revolutionaries” and in the future pose a threat to the “peace and democracy” of Finland (Simonsen, 2005, p. 274). By the end of WWI, Germany and Austria moved around half a million children to different countries for short- and long-term visits. Simonsen (2005) notes that the idea presented behind this move was that children would be more “thankful” if they received support from countries other than their own. As for the countries on the receiving end, such as Switzerland, Denmark, Sweden, Holland, and Norway, they perceived that by taking children and exposing them to their own countries and cultures, they could be useful “contacts as adults for cultural, economical and political connections between the two countries” (Simonsen, 2005, p. 270).

The different practices of child emigration, adoption, and short or long-term “visits” were legitimized as ways of helping children. However, what these state-sponsored methods ended up doing was getting rid of “unwanted” children, replacing mothers that they deemed as “dangerous” and “unfit” with “good” ones with the intention of changing children’s upbringings, childhoods, and identities, and using children as sources of cheap labor. All these factors serve political, economic, social, and national ends, but not the interests of children. Simonsen (2005) adds that, for example, the child emigration in Britain, also served “a eugenic purpose; by sending off British children the future white stock of the populations of the British Empire would be secured” (p. 270; see also Coldrey, 1996).

### ***The ‘Aggressive Assimilation’ of the Indigenous Child: A Canadian Example***

The oppression of Indigenous peoples continued in the 19th and 20th centuries. In the U.S., Canada, and Australia, for example, Indigenous children and their families continuously suffered at the hands of the colonial governments. While their narratives differed, many experienced similar

outcomes when it came to their children being taken away from them to be placed in state-sponsored institutions or with white families (Daschuk, 2014; Jacobs, 2009; 2014; Miller, 1996; Milloy, 1999; Moses, 2005; Roberts, 2006). In Canada, for example, many First Nations, Métis, and Inuit children were forcibly removed from their families and placed in federally set-up, church-run residential schools (Royal Canadian Geographical Society, 2018). In an official apology on behalf of the Government of Canada (dated 11 June 2008), former Canadian Prime Minister Stephen Harper noted that these schools had two primary objectives: “[...] to remove and isolate children from the influence of their homes, families, traditions and cultures, and to assimilate them into the dominant culture.... Indeed, some sought, as it was infamously said, ‘to kill the Indian in the child’” (Government of Canada, 2008, para. 2).

Different variations of these residential schools were around since the 17th century; there were day schools as well as boarding schools built by Roman Catholic missionaries and members of the Anglican churches with the goal of converting Indigenous children to Christianity and making them “civilized” (other churches such as United, Presbyterian, Baptist, and Methodist followed suit). In the late 1870s, Nicholas Flood Davin, a journalist and a defeated Conservative politician, was commissioned by Canada’s first Prime Minister, Sir John A. Macdonald to study the ‘U.S. industrial schools for Aboriginal children’ and advise on the establishment of “similar institutions in the North-West Territories of the Dominion” (as cited in Milloy, 1999, p. 7) as a part of their ‘aggressive civilization’ policy. In his report, Davin (1879) mentions the “benefits”, potential outcomes, and cost of these schools to Canada, suggesting that they be operated by churches to ensure that Christianity is a part of their upbringing. Sir John A. Macdonald used this report to justify the formal establishment of residential schools in the 1880s, and their expansion through policies and legislation.

The depiction of Indigenous peoples as “uncivilized”, “savage”, “unable to learn” and “lazy” in the report was one mode used for centuries to justify their oppression, the colonization of their lands, and the removal of their children with education as a guise and a legitimization tool. The tone and language *in* use in the report and in Sir John A. Macdonald’s speech to the House of Commons in 1883 (See Truth and Reconciliation Commission of Canada, 2015, p. 6) echoes the biases and attacks on Indigenous peoples and their cultures as seen in pre-Confederation legislation and the *Indian Act* (1876) as well as the various amendments to it (Truth and Reconciliation Commission of Canada, 2015). It is also indicative of the direction that the government had in mind for residential schools. Although Davin’s (1879) report was not the main reason for Canada’s decision to operate residential schools, it was as John S. Milloy (1999) notes:

[...] the ‘official’ justification for the concerted attack by church and state upon Aboriginal culture and underpinned... a curricular and pedagogical strategy that made the schools sites of ontological struggle.... The thought even before the deed... was violent in its intention to ‘kill the Indian’ in the child for the sake of Christian civilization. In that way, the system was, even as a concept, abusive. (p. xxxviii- xxxix)

The Canadian government’s plan for ‘aggressive’ assimilation was a tool to further colonize all aspects of life of Indigenous peoples. In 1884 (and later in 1920), an amendment to the *Indian Act* made attendance to these schools mandatory for all status Indian children, and if children ran away, their parents would have to return them or be “subject to prosecution” (Truth and Reconciliation Commission of Canada, 2015, p. 89).

In 1907, Dr. Peter H. Bryce, a medical inspector to the Department of Interior and Indian Affairs, based on findings from 35 schools, reported on major “health issues, overcrowding, the lack of proper sanitation and ventilation, and the failure of administrative controls” (Milloy, 1999,

p. 90). Bryce notes that of 1,537 children who were healthy when they entered the schools, 24% had died with the given cause of death as “consumption or tuberculosis” (Milloy, 1999, p. 91). Upon further analysis, he found that many children who were discharged were either dead or died soon after being sent home making the numbers even higher (Milloy, 1999, p. 91). Although Bryce’s findings directly correlate sickness and death to the industrial schools examined, children continued to be taken from their families and placed in these schools. In *The Story of a National Crime*, Dr. Bryce (1922) addressed the government’s inaction and suppression of health information of Indigenous children in all these schools, which he also placed within the context of a “criminal disregard for the treaty pledges” (p. 14); this disregard led to the “indefinite suffering and neglect” (p. 12) of these children and to their health conditions and diagnosis.

“By 1923 there were seventy-one schools, sixteen of them industrial schools and fifty-five boarding schools, with 5,347 children in residence” (Milloy, 1999, p. 52). In 1923, the term residential replaced boarding and industrial schools. Not much changed, and children continued at varying degrees to experience emotional, psychological, physical, and sexual abuse. Many died due to exposure to diseases, poor sanitation, overcrowding, insufficient or no access to medical support/services, malnutrition, or by suicide due to abuse, or while running away. The Geneva Declaration does not mention the suffering of Indigenous children in colonial settler nations; although one can infer that reference to “the child” includes Indigenous children, such an inference is not enough if we factor in the social events and relations that took place in the process of writing the declaration by Jebb, and its presentation to the League of Nations. This is indicative of the focus of the document, specifically on European children post-WWI, and the historical context that the Geneva Declaration was a part of.

### *Political and Economic Struggles*

On the political and economic front, Britain, like other countries was struggling. In an attempt to fix its broken economy, in January 1924, the first Labour Party government came to power. However, after ten months of frustration and inaction, its rule ended. The war also led to discussions amongst nations on how they can work together to prevent future wars. President Woodrow Wilson of the United States was an advocate of the idea of a 'League of Nations'. In 1918, he chaired the Peace Conference in Paris and later became Chairman of the Committee "established to formulate a list of 'rules and regulations' for an international organization whose purpose was to preserve world peace through open diplomacy and global consensus" (UNOG, n.d., p. 3). Following the Peace Treaty of Versailles, the League of Nations was inaugurated on 10 January 1920 with three basic goals: to ensure collective security, to assure functional cooperation, and to execute the mandates of peace treaties" (UNOG, n.d., p. 3). There were 32 original Members of the League who were also signatories of the Versailles Treaty. The four permanent members who made up the Council were France, Italy, Japan, and the United Kingdom, and then 10 non-permanent Council members were elected for a three-year period. The League of Nations was open to all States based on the fulfillment of certain requirements, and admittance was based on a two-thirds majority of "yes" votes cast in the Assembly. In the History of the League of Nations (1919-1946), it is noted that after Ramsay MacDonald, the British Prime Minister "attended the Assembly in 1924, other prime and foreign ministers followed suit" (UNOG, n.d., p. 4). Thus, there were 50 countries that accepted the Geneva Declaration.

Although commercial and trade interactions continued amongst nations, not all were able to recover to their pre-war days; for example, Great Britain, like many other European nations, lost its export position to Japan and the U.S. (Crafts, 2014). Eastern European nations that were



primarily agricultural continued to rely on sales to Western Europe. Latin America, on the other hand, saw increased trade as they began producing goods they used to import from Europe (Baer, 1972). Postwar, many African nations were left with further economic devastation preventing them from purchasing industrial goods, thus setting them behind other nations, which in turn further impacted the lives of children in these countries (Martin, 2005). While these factors are not mentioned in the text, they are integral to understanding the context that it was written in; children's lives were directly affected by the economic devastations of their nations post-WWI and trade played an important role in the process.

### **Genre and Social Relations**

The Geneva Declaration is a non-binding document that consists of a preamble and five principles. It is packaged as a humanitarian transnational Declaration. It does not belong to one genre per se but can be analyzed as an individual genre located within a variety of other genres and discourses that prevailed before and during the 20th century focussing on child 'salvation' and child 'saving' (moral/religious discourse). In its abstract form, it is persuasive and is a part of a larger chain built upon pre-existing narratives on children and childhood (as weak and innocent 'becomings' in need of protection). While its title implies that the focus is on the 'rights' of children ('rights' is only mentioned twice – in the title and in the name of the Declaration and is further removed from its abbreviated title), the content explicitly addresses child protection, which appears to be synonymous with child welfare. In the contents section of the League of Nations' Meeting minutes of the 21st plenary (26 September, 1924), the resolution was placed under the heading: "Protection of Children" (UNOG, 1924, p. 167). However, in its introduction to the members, the following was stated: "*The Assembly endorses the declaration of the rights of the*

*child...and invites the State Members of the League to be guided by its principles in the work of child welfare” (UNOG, 1924, p. 177).*

As seen in Text Box 1, children are classified in the Declaration of Geneva as “The child” and are passivated (with variations in capitalization of the term in the different versions from all caps to only the letter ‘C’ capitalized; see Appendix B). This is also made clear in the generic structure of the text; beginning with the preamble, in which the voice of the social actors – adults (as individuals and further classified as men and women) are activated. They are depicted as agents obligated to help children and are able to bring forth change if they choose to (e.g., choice of verbs owes, give, declare, accept). These men and women recognize that as part of “mankind” (a term generally used in reference to humankind not just males), they are obligated to give “the child” (the recipient) the “best” there is. The use of “owe” can be seen as an obligation to give something in return for what was received and “best” emphasizes the maximum that could be given. This further emphasizes and legitimizes the division of power. As for the use of “all nations”, it implies the universality of the content of the Declaration and its acceptance. The five points following the preamble, use the passive tense in reference to the action done for the child. As passivated actors, their subjection to processes/the actions of men and women are accentuated.

*Text Box 1: Declaration of Geneva (1924)*

By the present Declaration of the Rights of the child, commonly known as the Declaration of Geneva, men and women of all nations, recognizing that mankind owes to the child the best that it has to give, declare and accept it as their duty that, beyond and above all considerations of race, nationality or creed:

- I. The child must be given the means requisite for its normal development, both materially and spiritually;
- II. The child that is hungry must be fed; the child that is sick must be nursed; the child that is backward must be helped; the delinquent child must be reclaimed; and the orphan and the waif must be sheltered and succored;
- III. The child must be the first to receive relief in times of distress;
- IV. The child must be put in a position to earn a livelihood and must be protected against every form of exploitation;
- V. The child must be brought up in the consciousness that its talents must be devoted to the service of fellow men.

The social relations that take place in this text vary indicating the existence of different social hierarchies and social distance; on a macro level, it is between members of the League of

Nations who the Declaration is targeting and whose representatives have agreed to the resolution; on a meso level, it is between NGOs/charitable organizations as represented by Jebb addressing child protection and the League of Nations that represents nations. On a micro level, it is between individuals (including Jebb). Since the responsibility is not placed on the member nations but on individuals within them, agreement to the Declaration was not difficult. As for the men and women referred to in the text, they are not really involved in the process with the exception of Jebb and members of SCU. Although Jebb did consult with others while working on her charter (Mahood, 2009), the impact, if any, on the final text is unclear. One can infer that the majority of adults are merely informed and invited to accept and agree to the text. “The child” on the other hand, who the Declaration is for is not present in the discourse and is simply the recipient of actions; only in the last point is the child’s role in society mentioned in reference to being “brought up” to devote “its talents...to the service of fellow men”. This shows the social distance between the League and individuals, nation states and individuals, and between Jebb and individuals and between individuals and children. Based on the research findings, it appears that the Declaration was communicated via a two-way non-mediated (face-to-face conversations) with Jebb and members of Save the Children Union and was adopted via a two-way non-mediated mode at the plenary meeting; however, it was disseminated via diverse modes of communication including print. The extent of dissemination to the mass public in the nation states, if any, is unknown.

### **Intertextuality and Assumptions**

The Declaration is not intertextual in the most general sense as it does not incorporate other texts through direct or indirect speech. Although different aspects of other texts can be included without being referenced, it would be inaccurate to attribute them to this specific text based only on assumption and indicate their intertextuality and ideological links. However, there are various

assumptions made throughout the text that are based on the social events that have taken place pre, during and post-WWI, particularly the second, third and fourth principles.

Different assumptions embedded in the text lay the groundwork for establishing common ground, pulling on the 'heart strings' of the readers and simply showing that this is the way things are. The first are existential assumptions made throughout the text with the constant use of the definite article 'the' in reference to the existence of 'the child' who is not defined but rather is a product of dominant perception. This child is also "backward" as marked by the demonstrative pronoun "that", "the delinquent", "the orphan" and "the waif". 'The' is also used at the beginning of the preamble to indicate the existence of the Declaration and "the Rights of the Child". "That" is used in the preamble to recognize what "mankind owes", which is "the best that it has to give" in terms of the principles that ensue. Both "the" and "that" continue to be used in the principles to affirm the existence of the different 'types' of children and situations. For example, in the first principle, the existential assumption is that "the means requisite for its normal development, both materially and spiritually" do exist, hence, the child must be given those means. The same applies to the child in the second principle that is hungry, sick, backward, delinquent, orphan, or waif; it denotes that these different types exist as do solutions to them such as feeding, helping, and sheltering them. In the last principle, there is an essential existential assumption, which is that a child has talents. This is important as the child appears to be recognized as a 'person' with talents, albeit the latter part mentions that these talents are for "the service of fellow men". This is slightly a vague assumption that is not pursued further since the focus of the text is not on the abilities of the child but the needs of the child from the lens of the States or from the perspective of Jebb and the Union de Secours aux Enfants (ISCU).

The first factual assumption is triggered by the present participle verb “recognizing” “that mankind owes to the Child the best that it has to give”, which assumes that human beings owe children creating an assumption of responsibility. As for the use of “best”, there is the assumption that what is deemed “the best” is known and is common ground. As aforementioned, the use of ‘the’ makes it also appear that “the best” does exist and is within reach. In the principle following the preamble another value assumption is made with regards to the use of “normal”; the author assumes that her understanding of “normal” is the same as others and does not necessarily warrant an explanation. This is a clear instance of an individual and Eurocentric value system. The concept of “normal development” attempts to universalize the “development” of a child in the process negating that each child develops at a different level and what is deemed as “normal development” in one country, society, or culture, for instance, differs from another. Moreover, what is meant by ‘material and ‘spiritual’ development is not clear; it could be ‘physical’ and ‘mental’ as well as ‘religious’. Each term denotes an array of connotations that can vary based on intention of the author, the ideologies that she ascribes to, and the context the text was a part of.

### **Difference**

The text accentuates and normalizes the difference between children and adults. It shows that power lies in the hands of the adults to protect children from hunger, sickness, loss, disability, delinquency, neglect, and exploitation, and to ensure that they develop within a certain set of standards as denoted by the use of “normal” and be brought up to serve their fellow men (could be in reference to their societies or humanity as a whole within a transnational/universal context). In terms of a message to member states of the League of Nations, it is trying to focus on a few commonalities in the struggles of children to get consensus on actions that must be taken not by them, but by men and women who live in these nations.

In the last part of the preamble, only three types of possible forms of discrimination are mentioned: “race, nationality or creed:”; this implicitly shows the limits of the Declaration. As for “creed”, it is not clearly defined in the text. There are instances of creed being synonymous with religion under the law (Tarnopolsky & Pentney, 1985). Therefore, it may or may not be limited to religion. Given the context of the Declaration post-World War I, those involved in the process, and the rest of the language in the text, one can infer that it is limited to religion. However, based on Jebb’s biography (Mahood, 2009), while she was brought up in the Church of England, she appeared to be accepting of diversity, so she may have had other intentions. Another possibility is that the word may not have been added by her since there were edits to it by the SCU.

### **Semantic/Grammatical Relations Between Sentences and Clauses**

Although the text is short, there are clear semantic and grammatical relations between sentences and clauses used to help create a specific image of the child through the language *in use*. The problems and the existence of solutions can be seen throughout the principles of the Declaration. However, what is not clear are the factors causing them, and the process to making the solutions a reality. As I note some of these relations, it is important to state that there are slight variations in terms of punctuation from the different texts (see Appendices III & IV); however, they do not impact the overall content in any way.

### ***Preamble***

In the Preamble, which consists of relative clauses that are dependent on the principles and are hypotactically related, the main problem is not overtly stated, but can be inferred through the overarching solution that is offered beginning from the title – the “Declaration of the Rights of the Child”, which is repeated at the opening. The term “rights” ceases to be in use, and its presence is either assumed or seen as a ‘given’. The temporal relation at the beginning “By the present” places

the agreement in the realm of the ‘here and now’ denoting time and place of content approval. It then attempts to establish common ground by using “commonly known” in its elaboration to mark its other name implying that it is already known to the subjects – men and women of all nations.

Since it is addressing men and women of all nations, the aim is not to lay blame on governments but rather to say that there is a solution, and mankind owes it to the child to partake in it. The purpose is to be able to give the child “the best that it has to give”, which is also the reason for the principles. The solution is to follow the principles of the Declaration. This implies that if the “best” is not given, the ‘worst’ may happen. The demonstrative pronoun “that” also alludes to the best being the principles. This is a very narrow connection of cause and effect, but one that can be assumed based on the principles that follow and the consequences of WWI on children. The elaboration “that, beyond and above all considerations of race, nationality or creed”, which is also a relative clause marked by “that” acknowledges that these differences exist in reference to “the child” and should be factored in when looking at the principles.

### *Principles*

In the principles, there are explicit markers for higher-level/global semantic relations - ‘problem-solution’ (not necessarily in that order). Since all the principles are written using a similar technique, one can assume that it is intentionally done. There are no perpetrators in the principles only transnational/universal problems experienced by “the child” that need actions. The general solutions presented are in the hands of the adults; specifics are excluded leaving them open to interpretation by the readers/each country. In the first principle, the solution is giving the child “the means requisite for its normal development, both materially and spiritually”; what these “means” are is not clear but the text implies that they exist, and if you give them to the child (whatever they maybe), the child will develop ‘normally’ as opposed to ‘abnormally’. The

assumption is that there is an agreed upon form of ‘normality’ and unmentioned ‘abnormality’ with regards to the elaborative phrase addressing the type of development – material and spiritual.

In the second principle, several problems (hunger and sickness, being backward, a delinquent, an orphan and a waif) and their basic solutions are mentioned but there is no reference like the rest of the principles to what or who is responsible. While each is a major issue and a consequence of a multitude of factors that are economic, political, legal, cultural, social, physical, and mental, they are noted as natural happenings/problems that exist and can be fixed with the child being fed, nursed, helped, reclaimed, sheltered, and succored. The use of “the” in connection with the subject is also used to affirm their existence. For example, “the delinquent child” exists and therefore “must be reclaimed”. While each independent clause, separated by a semicolon, may initially look equal to the other, and may have been placed one after the other to show that they are linked, it is difficult to not notice the order in which they appear. This is significant in terms of the implied level of importance of each ‘type’ of child/situation. For instance, the “orphan” and the “waif” are placed together in the last clause to appear interconnected. The order could also be seen as laying common ground by putting forward priorities as starvation and famine were profoundly impacting different countries at varying degrees during and after the war period.

In terms of terminology the term “backward” was used in reference to children with physical and/or mental disabilities as labelled by specialists at the time (McNeal, 1909; Morgan, 1914). Similar to the other phrases, there is no explanation just an affirmation that a child who is “backward” must be helped. The type of help is as vague as the basis in which a child is deemed to be “backward” and who is able to make such an ‘assessment’ or call. As for the term ‘delinquency’, the type of ‘delinquency’ is not specified. In the 20th century, delinquency was not limited to criminal activity but anything that was deemed ‘indecent’ or inappropriate at the time



(McNeal, 1909). Inappropriateness was determined by social, cultural, or religious values and discourses. As for the use of “reclaimed” in connection to it, one can infer a form of ‘child saving/salvation’; this has religious connotations associated with it bringing up the possibility of delinquency being associated with ‘sin’. As for the last phrase in the second principle, the “waif” represents the weak and/or abandoned child. Throughout this principle, the text intentionally excludes the real cause of the problems. The content of the principle is consistent with the dominant image of the child at the time as weak, hungry, sick, abandoned, backward and delinquent, implying the need for help, guidance and protection. The way it is textured also eases the reader into the principle that follows.

The third principle addresses priority relief for the child “in times of distress”. What these “times of distress” are in reference to or who causes them is not clear, but the solution is giving the child priority, which is also temporal as it specifies when relief is to be given without providing any details. The fourth principle is a bit different as it provides a purpose and legitimizes the child working. One interpretation could be that if the adults would allow it, the child can make a living to support the family vis-à-vis society. Another assumption that is based on the additive phrase that follows it, is that children can work but “must be protected against every form of exploitation”. While exploitation is not defined nor is reference made to who or what factors might cause the child to be exploited, one can infer that this includes exploitation at work as it is within the same sentence and “every” is used to cover all the ‘unsaid’ factors (including exploitation based on race) leaving it to the common ground established in the preamble. This is the only phrase that could signify some form of ‘independence’ of the child; however, since employment of children following the war was necessary for many, it would be a stretch to correlate it with independence.

The last semantic relation is in the fifth principle, which does not have a traditional

problem-solution but a solution and purpose – if adults invest in the talents of the child, these talents can “be devoted to the service of fellow men”, which could be in reference to serving their respective societies and an allusion to the notion of citizenship. This can also be viewed as an indirect confirmation that the child has talents. Whether or not, this principle is about formal or informal education or both is not clear, but it does imply an “investment in children” (Freeman, 1996, p. 1) and the need for their ‘socialisation’ as that would have a positive outcome for society.

In the Declaration, men and women of all nations are the givers of all the actions as noted in the preamble. The principles that follow are all interconnected, with the clauses in the second and fourth principles paratactically related. Reference and lexical relations in the text create a cohesive connection among the sentences. The definite article ‘the’ is used throughout to refer to “The child” and what must be given to the child. The personal pronoun ‘it’ is used in the preamble to refer to men and women of all nations (the adults around the world). A clear lexical chain can be seen in the principles as there is a predictable pattern and a logic of appearance to reach the message/destination that these principles are a ‘must’ if children are to be protected. Each principle begins with “The child” followed by vocabulary that address what the child must be given to cover the issues that the author(s) deemed to be relevant at the time. There may be a causal connection between these sets and the order of the principles, but it is not clear. What is clear is that it moves from specific (personal development) to situational, economic, and social that includes protection of the child and service to society each alluding to different discourses that include but are not limited to developmental psychology, childhood, and child-protection.

Moral legitimation is a crucial part of this text and is made clear through the semantic and grammatical relations and use of value systems. In addressing ‘men and women of all nations’ and what they “must” do, assertions are used in the form of the principles to show that children in

different predicaments exist and are in need of protection from adults. There appears to be one overarching strategy – a moral one. The language of the preamble emphasizes a moral and social responsibility/duty of individuals, and, in the process, tries to create empathy and pity for children – or as Korczak (1967) notes “a plea for kindness” (p. 386). The Declaration is textured in a way that draws out the difference between adults and ‘the child’ to emphasize the need for protection.

### **Representation of Social Events**

Elements of the social events represented are forms of activity marked by the use of different action verbs beginning with the heading of the final text “Adopted by the League of Nations”. As for the preamble, the verbs recognizing, owes, declare, and accept, are used. In the principles, the verbs given, fed, nursed, helped, reclaimed, sheltered, succored, receive, put, protected, brought-up were used to refer to what the child must receive. The subject in the heading is the League of Nations, in the preamble, it is “men and women of all nations”/mankind, and in each principle, it is the child, who is also the object/receiver of the different forms of activities. These activities are given the most prominence in the text. The persons doing the action are mentioned in the preamble but are bracketed in the principles; this could be because the principles are considered an extension of it, or to allude to them as subjects/agents but not to make it concrete as a second reading of the preamble suggests. What is stated is that “men and women” agree that it is the duty of mankind; this does not necessarily mean that they are the passive agents in the principles.

As for the receiver (object) of the actions, the child is mentioned throughout as a category that is general and intended to be representative of a universal child (although the word universal is never mentioned but can be assumed since it is a Declaration adopted by the League of Nations). The social relations (why these actions are needed, and how they are connected), means (how these actions will happen), times (except in reference to “present” and “in times of distress”) and places

(except “all nations”) are also excluded. One can connect these exclusions to the grammatical forms of clauses; the principles are all passive clauses with intransitive material processes, the affected and the process are there but not the actor. If I compare it to the preamble, in which men and women of all nations are activated and can be seen as participants with a major grammatical role in the sentence, a clear distinction can be made between the adults, the givers of the actions, and the object (the affected), the child who is the beneficiary of the action. The child is passivated, classified and represented generically in the principles. Within this context, what is accentuated is the power of the adults and the subjection of “the child”.

### **Modality and Evaluation**

The author of the text and members of the League of Nations agreed that the principles in the Geneva Declaration are obligations of men and women to children. There are clear markers of modality as “must” is used throughout to place emphasis on the actions that are non-negotiable and “must” be upheld by individuals. The author is eliciting the commitment of others by making these demands/affirmations. Such statements with deontic (obligational) modalities are linked to evaluation, in which values are realized. The text presents desirable and undesirable situations that are interlinked but not explicitly stated; for example, being fed prevents the situation of hunger, which is denoted through the use of the “hungry child”. The desirable situations are connected to what adults can give/do/help children with (normal development, fed, nursed, helped, reclaimed, sheltered, succored, relief, earn, protected, brought up, devoted), and the undesirable situations are associated with children (hungry, sick, backward, delinquent, orphan, waif, distress, and exploitation). This text with its stated and implied images of the child formed the blueprint for the Declaration of the Rights of the Child (1959) that followed.

### **Concluding remarks**

The first World War of the 20th century left in its wake death, destruction, economic and political devastation with profound impacts on the health, well-being, and safety of children. By not considering the differences within nations that they divided, the war and its postwar peace settlements also led to the creation of further divisions, which eventually led to another World War. The Geneva Declaration was a step forward in bringing the suffering of children to the fore even if only amongst members of the League of Nations. While it was intended to be about child rights as its other title implies, its focus was on “obligations” of adults from all nations towards ‘the child’ (Verhellen, 2006, p. 65). This categorization legitimized the image of this child as innocent and weak with similar/universal needs. The purpose of the text was not the activation/empowerment of children or placing responsibility on States, but merely a moral and social call and a guide for States Members to use “in the work of child welfare” (UNOG, 1924, p. 177). As such, it was highly regarded and still is in the field of child rights becoming the foundation for both the proceeding 1959 Declaration and the CRC (1989).

## Chapter 6

### Declaration of the Rights of the Child: Language *in Use*

In this chapter, the Declaration of the Rights of the Child (1959) is examined as the second most significant international text intended for the protection of children and placed within the framework of child rights. As a non-binding resolution adopted by the UN General Assembly on 20 November 1959, the Declaration consists of the preamble, an operative paragraph (the proclamation by the General Assembly), and ten principles. This section begins with a historical overview of the social events that took place from the mid-1920s to 1959, which contributed to the content/language *in use* of the text. It is followed by an analysis of the genre and social relations, intertextuality and assumptions, difference, semantic/grammatical relations between sentences and clauses, representation of social events, ending with modality and evaluation (Fairclough, 2003). As a social, political, and economic tool that is a culmination of events, ideologies, signs, symbols and their intersections, this text is extremely powerful; much of its content is embedded in child rights discourse today through the CRC.

#### Social Events

Texts and social structures and practices played a significant role in the content and adoption process of the 1959 Declaration including but not limited to: the Geneva Declaration (1924), the end of World War II (with the devastations it left behind and the issues it brought to the fore including systematic state-sponsored policies and ideologies of hate), the end of the League of Nations, the beginning of the UN, and the Universal Declaration of Human Rights. Advocacy by NGOs as well as increased use of children as political and economic tools by agencies and States (Simonsen, 2005), and changes to the perception of children and childhood based on new theories, approaches and understandings in different fields such as developmental

psychology, education, sociology and anthropology also played an integral role. I will not delve into the entire history of WWII (for a more detailed account, see Perry, 2013) or its impact on every country and peoples as a general overview can never provide such insights; each aspect of the war and the people/societies impacted by it warrant a more in-depth analysis. I will, however, address a few key areas that may have contributed to the content of the 1959 Declaration and the CRC as well as briefly examine international NGOs that played an integral role in the process.

### ***WWII and Post-War: Instability, Power, Ideology, Hate and Racism***

WWI left in its wake an unstable Europe setting the stage for WWII (1939-1945). Political and economic instability and frustrations across the States as well as dissatisfaction with the Versailles Treaty led to anger and further divisions amongst powerful nations, specifically Germany; it perceived “the terms of the Treaty...humiliating and vindictive measures designed to keep Germany militarily weak” (Perry, 2013, p. 2). This instability and growing discontent further fueled by the Great Depression (1929-1939) helped Adolf Hitler and his National Socialist German Workers’ Party (commonly known as Nazi) come to power in Germany and Fascism in Italy under Benito Mussolini (Perry, 2013).

As a result of the “increasing economic strife and militant nationalism” (UNOG, n.d., p. 14) that marked the 1930s, a rift between States impacting their cooperation became apparent. With powerful states such as Germany, Italy, and Japan leaving the League of Nations, others followed suit. “[B]y the time the Second World War broke out in 1939, many had abandoned... [it] and its unfulfilled promise of collective security, and had instead returned to the traditional system of defensive alliances and power blocs” (UNOG, n.d., p. 14). The 43 members that remained unanimously declared that as of 20 April 1946, the League of Nations would cease to exist. During the final Assembly, one of the League of Nations’ founders, Lord Robert Cecil, stated

that work done by those who had established the League was “not lost, because without them the new international organization, the United Nations, could not exist” (UNOG, n.d., p. 14).

The rifts amongst nations as well as that amongst people of the same nations led to the rise of ideologies of hate and the use of war propaganda to entice people into joining with a promise of a different world. Marvin Perry (2013) notes that “Hitler’s thought comprised a patchwork of nineteenth-century antidemocratic, anti-Marxist, anti-Semitic, Volkish [with emphasis on the glorification of all things German and denunciation of the liberal-humanist tradition of the West] and Social Darwinist ideas [with a focus on the notion of ‘survival of the fittest’]” (p. 6). Hitler saw the world as divided “into superior and inferior races...pitted... against each other.... [with] only the strongest and the most ruthless ... destined to survive” (p. 6). He viewed Germans as the higher “superior” and “pure” race and despised the success of German and Austrian Jews on many fronts (e.g., in science, medicine, literature, law, business). Both “Austria, Hitler’s homeland, and Germany, where his movement was born, were...riddled with anti-Semitism” (Perry, 2013, p. 7) perpetuated by the spread of propaganda materials and myths about Jewish people (Perry, 2013).

Hitler’s obsession with power, the notion of “superiority” and hatred led to the systematic persecution and murder of around six million Jewish people with 1.5 million being children in what became known as the Holocaust (see Children during the Holocaust, n.d.). In 1942, Polish lawyer Raphaël Lemkin coined the word “genocide” (Irvin-Erickson, 2017; Lemkin, 1973), which is made up “of the Greek prefix *genos*, meaning race or tribe, and the Latin suffix *cide*, meaning killing” (UN Office on Genocide Protection and the Responsibility to Protect, n.d., para. 1). It was in reference to the deliberate and systematic destruction of a group based on their nationality, ethnicity, race or religion. In 1946, it was recognized as a crime by the UN General Assembly, and



in 1948, it was codified under the Convention on the Prevention and Punishment of the Crime of Genocide which came into force on 12 January 1951.

According to figures from the National WWII museum, overall, there were 60 million deaths with 25 million wounded. These numbers may vary from one source to another with the possibility of an even higher number of deaths per country (for a detailed breakdown, see National WWII museum, n.d.). In addition to the six million Jewish people, millions of minorities were persecuted and murdered. This includes European Sinti and Roma, who were referred to as “Gypsies”, and viewed as “inferior”, “asocials” (not part of “normal” society), and “a threat to German ‘Aryan’ racial purity” (Crowe, 2001, p. 33). The estimated number of deaths that also includes Yenish (Indigenous itinerant communities) is 250,000-500,000 (Law & Kovats, 2018; for further information, see Genocide of European Roma [Gypsies], n.d.; Sinti & Roma, n.d.). Individuals considered to be “handicapped” were also seen as a threat and approximately 80,000 were executed (Crowe, 2001, p. 33). Black and Polish people and anyone who was different in any way and in opposition to German policies, ideologies and politics were also persecuted at varying degrees. In sharing and teaching the history of the Holocaust, David Crowe (2001) notes that it is essential to share these stories and histories, but in doing so, one must “differentiate between those groups that were genocidal victims of the Germans and their collaborators, and those that were subjected to varying degrees of mistreatment” (p. 33).

According to “Children during the Holocaust” (n.d.), Jewish and non-Jewish children suffered on several fronts. Many were either killed upon arrival at “killing centres.... [or] immediately after birth or in institutions...[or] during reprisal operations or so-called anti-partisan operations” (para. 8). As for those who survived, they were either hidden by prisoners in the ghettos and camps where they were born, or in the case of children over 12 years of age, used “as

forced laborers and as subjects of medical experiments” (para. 8). The impact of the war extended beyond its duration affecting the lives of many survivors at varying degrees. Children, particularly those who were separated from their families, displaced, subjected to violence, and/or witnessed the death and suffering of many including their loved ones, experienced mental and emotional distress (for findings on the impact of WWII on children, see Freud & Burlingham, 1943). Further devastation occurred in 1945, when the U.S. dropped the atomic bomb on the Japanese city of Hiroshima killing approximately 80,000 and injuring 35,000, with another bomb three days later on the city of Nagasaki killing nearly 40,000. By the end of the year, due to radiation poisoning, many more got sick and another 60,000 died.

In the U.S., although the Civil War ended and slavery was abolished with the introduction of the 13th Amendment (ratified in 1865) to the U.S. Constitution, discrimination against African Americans continued. From 1881 into the 1940s, a series of racial segregation laws, known as Jim Crow laws (named after a Black minstrel character), were adopted by southern states and localities (Klarman, 2007; Newman, 2004). These laws led to the further marginalization of African Americans; challenging them was not easy, but it was essential. In 1896, the U.S. Supreme Court upheld the constitutionality of the racial segregation of public facilities in *Plessy v. Ferguson* under the excuse that public facilities should be equal but must remain separate. The legal barring of African Americans from sharing public facilities used by White Americans including busses, schools and public spaces was not acceptable but remained for decades despite calls for action and continuous activism. During WWII, African Americans fought in a segregated army; many saw the irony in the way the U.S. attempted to depict itself to the rest of the world as a liberal and free nation, while in reality, freedom was only given to white Americans. This prompted calls for a fight against fascism at home as well. Michael J. Klarman (2007) notes: “The Pittsburgh Courier,

a leading black newspaper, observed a year before Pearl Harbor that ‘our war is not against Hitler in Europe, but against the Hitlers in America’” (p. 51). Some also “reasoned that if they were good enough to die on the battlefield in this ostensibly democratic war, then they were ‘good enough to vote’ and ‘good enough for organized baseball’” (p. 51). Although in 1948, U.S. President Harry S. Truman signed an executive order (see Executive Order 9981, 1948) to desegregate the armed forces, desegregation did not fully happen until 1954 when the Secretary of Defense announced the abolishment of the last racially segregated unit in the U.S. armed forces (MacGregor, 1981).

In the 1950s, the National Association for the Advancement of Colored People (NAACP) further challenged racial segregation laws. In *Brown v. Board of Education of Topeka* (1954), the U.S. Supreme Court ruled that “State-sanctioned segregation of public schools was a violation of the 14th amendment and was therefore unconstitutional. This historic decision marked the end of the ‘separate but equal’ precedent set...nearly 60 years earlier” (*Brown v. Board of Education*, 1954, para. 2). Although there was resistance to the decision, it was still an essential step in changing legislation if not attitudes. The 1950s and 1960s continued to mark the height of the civil rights movement. In 1960, at the age of six, Ruby Bridges became the first African American student to integrate an elementary school in the South (for further details about Ruby’s experiences, see Bridges, 2009; Harris & Head, 2019). Every day for a year, escorted by four federal marshals, alongside her mother, Ruby walked into William Frantz Elementary School in New Orleans, Louisiana “past crowds screaming vicious slurs at her. Undeterred, she later said she only became frightened when she saw a woman holding a black baby doll in a coffin” (Michals, 2015, para. 5). In the next few years, a series of legislations also passed such as the Civil Rights Act (1964) legally ending segregation and the Voting Rights Act (1965) as well as the Fair Housing Act (1968) that was intended to end discrimination based on race in the renting and selling

of homes. However, racism and discrimination did not end as they were embedded within the systems and policies that many institutions including education were founded upon; thus, violations of the rights of African Americans, minorities and Indigenous peoples continued post-World War II in the United States and in different parts of the world.

In *A Generation Removed*, historian Margaret D. Jacobs (2014) examines the way American government authorities took Indian children from their families and communities to either institutionalize them or place them in foster care or with non-Indian adoptive families. According to the Association on American Indian Affairs (AAIA), by the late 1960s “*between 25 and 35 percent* of Indian children had been separated from their families” (Jacobs, 2014, p. xxvi). Similar incidences also continued to take place in Canada and Australia. In Canada, for example, the forcible removal of children from their communities and families continued as residential schools remained active. By 1930, “the Indian Affairs annual report... [noted that] there were eighty residential schools in operation across the country” (Truth and Reconciliation Commission of Canada, 2015, p. 3). Up to 1969, the Canadian government continued to partner with Roman Catholic, Anglican, United, Methodist, and Presbyterian churches who ran these schools, with “the prime mission of...cultural[ly] transform[ing] Aboriginal children” (Truth and Reconciliation Commission of Canada, 2015, p. 5). Unfortunately, being party to the 1959 Declaration of the Rights of the Child did not mean that Canada planned on protecting the rights of Indigenous children. However, what it did under the guise of “protection” was to take Indigenous children from their families and communities and place them with non-Indigenous families (through foster care and adoption). The removal of children through the child-welfare policy became known as the “Sixties Scoop” (see Truth and Reconciliation Commission of Canada, 2015).

The devastations of World War II were of great magnitude impacting nations, peoples and the environment. In addition to the millions of lives lost, the spread of hateful ideologies, increased discrimination, and the psychological and physical pain and suffering, the War led to the spread of communism from the Soviet Union into eastern Europe, China, and Cuba. This helped create a power shift; with Europe losing its power status, the U.S. and the Soviet Union took over. As many colonies began attaining their independence, they needed the support of these powers. For over four decades, these two rivals faced-off in what became known as the Cold War (1946-1991) (for a concise assessment of the Cold War, see Harper, 2011). These incidents as well as the plight of peoples across nations for freedom and independence as individuals and as groups had a profound impact on the content of the 1959 Declaration and the CRC.

### ***Economic Barriers and Technological Advances***

Trade remained an integral aspect of the survival of most nations during the postwar recovery efforts; however, there were many national and international barriers. In Latin America (Baer, 1972), and some parts of Asia and Africa import substitution industrialization (ISI) took place from the 1930s to the 1960s with the intention of increasing domestic production of consumer goods and their exportation to reduce reliance on developed countries (see Adewale, 2012 for an in-depth analysis of ISI). The disruptions of the Great Depression “saw the imposition of higher tariffs, tighter import quotas, foreign exchange controls, and discriminatory trade arrangements around the world” (Bown & Irwin, 2015, p. 1). WWII led to tighter governmental controls on foreign trade. Relief for some nations came in the form of the General Agreement on Tariffs and Trade (GATT) (1947; coming into effect in 1948), which “is usually given substantial credit for the liberalization of world trade that took place after World War II” (Bown & Irwin, 2015, p. 1). GATT was intended to minimize barriers to international trade by reducing tariffs,

quotas and subsidies and ensuring the presence of regulations. In 1957, Europe, the Netherlands, West Germany, France, Italy, Belgium, and Luxembourg signed a treaty in Rome establishing the European Economic Community (EEC) (also known as the Common Market) to reduce tariffs among member nations and create a common tariff policy for other world nations.

Technology also played an integral role in postwar recovery. As production of weaponry was elevated, so were industrial equipment (leading to increased production of textiles and metal goods including cars) and farming equipment (which along with improved seeds helped increase agricultural yields). However, with these advances came environmental devastations. Laakkonen et al. (2017) note that “[e]ven though battles were not fought everywhere, people, other organisms, and various natural elements—water, earth, and air—carried the socioecological consequences of the Second World War to every corner of the globe” (p. 9). The wars also led to further human and child rights violations with respect to exploitation and abuse of laborers (of all ages and differing nationalities across borders) as well as lack of protection from dangerous work environments.

### ***Food Shortages and Famine***

Food shortages and famines (widespread hunger or starvation) also marked the 20th century. The control of the food supply by some States led to the suffering of many groups and regions that were “less valued” (Wheatcroft & Ó Gráda, 2017, p. 240) further widening the economic and social gap. While the causes of the different famines around the world may have differed and the extent of the devastation and loss of life varied, the results were similar: sickness, malnutrition, death, and further suffering that extended beyond the duration of the famine. Amongst the most known were the Greek famine (1941-1942) with an estimated death toll of 200,000 (Neelsen & Stratmann, 2019), the Bengal famine (1943-1944) with an estimated death toll of 2-3 million (Maharatna, 1996; Mukherjee, 2016), and the Dutch famine (1944-1945) with

an estimated death toll of over 20,000 (Lumey & Van Poppel, 1994; Warmbrunn, 1963). Lizzie Collingham (2011) notes that deaths from starvation, malnutrition, and the diseases associated with them far exceeded the number of battle deaths. Children were amongst the most vulnerable to hunger and starvation, and this led to their increased suffering and exploitation. For example, in the German occupied Netherlands, Hitchcock (2008) writes: “It was not uncommon in the winter of 1944 to see Dutch children...fighting over trash pails where the GIs threw their uneaten rations, or offering sex in exchange for food” (p. 98). Hunger and starvation were one of the many reasons that led States to exile and evacuate children who were poor, orphaned, or abandoned.

### ***Children: “Useless-mouths” and Political Tools***

The practice of moving children across Europe continued. During the Spanish Civil War (1936-1939) that caused the deaths of around 350,000 Spaniards with another 200,000 in the period that followed (1940-42) from hunger, disease, imprisonment, and political repression (Richards, 2005, p. 116), around 31,000-34,000 children were secretly evacuated. They were sent to France, Britain, Belgium, the Union of Soviet Socialist Republics (USSR), Mexico and Switzerland (Zafra et al., 1989) out of fear they would be persecuted alongside their families by the ‘Nationalist’ or ‘Francoist’ regime. In the 1940s, remaining children “of executed, imprisoned or exiled opponents of the Francoist ‘New State’ were secretly taken after the civil war, renamed and given to families sympathetic to the new triumphant regime” (Richards, 2005, p. 117).

Before the beginning of the war in 1939, and within three days, around “1,500,000 British children were moved from their homes in the cities to rural areas” (Starns & Parsons, 2002, p. 266). Propaganda was used to play “on the fears of parents and argued that children would be healthier and stronger in the country” (Starns & Parsons, 2002, p. 268). Women were made to feel guilty and unpatriotic if they did not give up their children. These evacuations taking place under

the façade of child protection were ways of getting women to work in the war industries and in maintaining the morale of the men serving in the military (Starns & Parsons, 2002). In 1940, as part of Britain's war time policy, children were evacuated from England to Australia. The process was done through the Children's Overseas Reception Board (CORB), a British government sponsored organisation, which took requests from its semi-independent polities (Dominions). The U.S. was one of the countries willing to take some of the child evacuees to be adopted by American families. Due to the substantial number of children signed up for evacuation (more than 200,000), "the Government hesitated: shipping off children in such great numbers might be interpreted as a signal of defeatism" (Simonsen, 2005, p. 271). However, this did not stop the shipments from taking place. It is also important to note that the thousands of children evacuated by sea were on ships with other passengers including soldiers making them "valid targets for German submarine attacks" (Simonsen, 2005, p. 271). Hence, the protection of children was not really a priority; it was removing them from the country. This became known as the 'useless mouths' policy as "some government officials.... argued that people who were either too old or too young to fight needed to be evacuated to other countries...to conserve supplies for those who were able to take part in the war effort" (Starns & Parsons, 2002, p. 268).

This also took place in other countries such as Finland. Between 1939 and 1944, 70,000 children were sent to Sweden as part of an agreement between the two countries. As a neutral country, Sweden agreed to assist in humanitarian efforts. To ensure that no one questioned, critiqued or expressed concern about the well-being of the children, the Finnish government "banned all critique of the traffic from January 1942. Newspapers were censored" (Simonsen, 2005, p. 271). While the majority are said to have been returned to Finland, around 10,000 to 15,000 remained in Sweden with their adoptive families.



### *War-handicapped Child*

Children who were abandoned, orphaned, with disabilities or deemed “handicapped” within their respective societies were referred to as “war-handicapped children” (Brosse, 1950). They were seen as critical political, economic, and social “causes” because they were ‘helpless’ and in need of help, as well as ‘dangerous’ and in need of a solution. They soon became a humanitarian issue to be dealt with by neutral countries such as Switzerland and Sweden who had positioned themselves as humanitarian nations, and ideal locations to “save” these children (Simonsen, 2005). As more children were depicted to be in need of ‘saving’, both existing and new national and international relief and charity organizations began to focus on “war-handicapped children”. By “giving them shelter and food, and letting them undergo psycho-psychiatric examination followed by treatment and education, aid charities were contributing to a future democratic Europe” (Simonsen, 2005, p. 272). Even after the war, children continued to be sent for short or long-term stays to other European countries.

The practice of separating women considered “unfit” mothers from their children also continued after the war. Simonsen (2005) notes that governments in Norway and Spain, for example, conducted IQ tests on mothers of German-Norwegian war children and Spanish revolutionary women “to prove their low moral quality” (p. 274). They claimed that the “majority of the Norwegian women were found to be ‘mentally retarded’, as were about half of the Spanish republican women tested” (p. 274). The Norwegian psychiatrists tried to argue that “a biological link between Nazism and mental retardation [existed], and Spanish Civil War studies postulated a connection between a bio-psychological personality constitutionally predisposed toward Marxism” (Simonsen, 2005, p. 274; see also Richards, 2001). This was not only used to take away children, but to exclude them from society by marking them as dangerous and “retarded”.

In the 1940s and 1950s, “child psychologists argued for the psychological benefit of early separation of the unwed, destitute or otherwise unfit mother and her newborn baby. It was felt that separating the two immediately after birth would mean that no emotional bonds would be formed between mother and child” (Simonsen, 2005, p. 274). Without this bond, children would not feel maternal deprivation and would be able to adapt to their new circumstances with another mother figure. These findings came at a time when there was an increase in demand for early adoption by prosperous Western countries. Thus, States tried to legitimize their actions using different research findings from child-developmental psychology, psychodynamic theory to physiology. However, in his research exploring the impact of the separation of children from their primary caregiver (a mother or mother-figure), John Bowlby (1952), a British developmental psychologist and psychiatrist, noted a correlation between lack of an emotional bond (due to separation and lack of love and attention) to the development of behavioural problems (Bowlby, 1952).

Not only were behavioral problems attributed to separation and a result of the war, but they were seen from a medical lens to be a part of the biological and moral makeup of a person, with the war only removing the cover. In England, David Winnicott, a psychiatrist, and a member of a team of paediatricians and child psychiatrists studying juvenile delinquency, asserted that there are children who suffer from disorders that are not war-related, “though evacuation made public the fact of their existence” (Winnicott, 1947/1984, p. 60). Simonsen (2005) notes that symptoms of these mental disorders and deficiencies included bedwetting, theft, not attending school and consorting with soldiers with deprivation as a cause for some of these outbreaks. Similar studies were conducted in Finland and Norway as well as other European States as many saw “delinquent” children to be direct threats to their recovery plans and needed solutions or ways to legitimize their actions and treatment of these children. Norwegian psychiatrists “claimed that the high number of

Nazi party members in Norway was due to the lack of institutions and care for the mentally retarded” (Simonsen, 2005, p. 282). By making these unfounded assumptions (that they claimed were backed up with “medical” findings), they further stigmatized children who were deemed to have disabilities (which included children of women who had sexual relations with German soldiers) and created fear and hate towards them within their societies. Simonsen (2005) asserts that “the conceptualization of these children as ‘dangerous’ may have lived on in their immediate surroundings, giving added motivation for fuelling harassment and abuse” (p. 282).

In addition to trying to understand the impact of the war on the actions of the different countries during and after the war, new understandings on education that was contextual and dependent on the developmental needs of the child (Brosse, 1950), and the need for socialization of children (Mead, 1934/1962, Shildkroun, 1978) as well as their importance as future adults to their nations were also gaining traction. The general sentiment on the international arena was that if children were abandoned and neglected again, and left without an education or re-education, the results would be dire. They may turn “to Nazi and fascist ideologies in the future” (Simonsen, 2005, p. 275). Fear of such an outcome and a desire to ensure a democratic Europe, put children in general, and the “war-handicapped children” specifically on the political agendas of many European governments. It also made education a critical point of discussion.

### ***Education: A Tool for Peace and Democracy***

Prior to the end of WWII, several European Nations voiced their concerns about the status of education and what education would look like postwar. In 1942, at a Conference of Allied Ministers of Education (CAME) in the United Kingdom, the allies addressed the reconstruction of education once the war is over. Stemming from those discussions, in 1945, a UN Conference for the establishment of an educational and cultural organization (ECO/CONF) convened in

London. At this conference, the United Nations Educational, Scientific and Cultural Organization (UNESCO) was founded. Its constitution was signed on 16 November 1945, and it “came into force on 4 November 1946 after ratification by twenty countries” (UNESCO, n.d.b, para. 3) with others joining in at later dates. Prior to UNESCO on an international level, education was seen to be a part of the work of the International Committee of Intellectual Co-operation (CICI) (1922-1946), and its executing agency, the International Institute of Intellectual Co-operation (IICI) (1925-1946), as well as the International Bureau of Education (IBE) (1925-1968) (UNESCO, n.d.b, para. 7). IBE was a private NGO established by Swiss educators “to provide intellectual leadership and to promote international cooperation in education” (IBE, n.d., para. 1). After opening its membership to other countries in 1929, it became the first intergovernmental organization that advanced peace through education. Jean Piaget was its first director (remaining as head for almost 40 years). In 1969, it became a part of the UNESCO Secretariat, “while retaining its intellectual and functional autonomy” (IBE, n.d., para. 5).

Discussions on the way peace can be promoted through education were further elevated with the unleashing of the “power of the atom [that] had changed everything” (Christie & Hanley, 1994, p. 177) as noted by Albert Einstein in 1946. Not only were scientists researching the impact of a nuclear war, but also educators. In search for new ways of knowledge and understandings about the world in the context of a nuclear war through education, there were “120 articles...from education journals [between 1945 and 1947] as authors [with diverse political viewpoints] presented their views on the bomb” (Christie & Hanley, 1994, p. 177). Although there were differences in opinions and political stances “on the nuclear issue, most agreed that the pursuit of peace was the most important goal for humankind” (Christie & Hanley, 1994, p. 177; see Gelbond,

1974 for the atomic bomb's impact on education). Thus, children, if educated, 'properly' became seen as potential builders of this "peace".

However, not everyone saw education as a priority since there were other more immediate needs such as food and shelter since approximately 250 million children were starving worldwide post WWII (Brosse, 1950, p. 10). In the report on educational problems of "war-handicapped children", Thérèse Brosse (1950) writes that during a meeting on children in 1948 with representatives from 26 nations, the following was noted: "It is useless to talk of democracy to a starving child. If, however, he is fed and given clothes and a home, these things will teach him something about brotherhood" (p. 9). This shows that a connection was made during the discussion between education, democracy and rights, and education and basic needs. Further findings from the report draw correlations between education, health, and psychological and social development.

Dr. Brock Chisholm, a Canadian psychiatrist and the first director-general of WHO (1948-1953) stated: "Health is a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity" (Chisholm, 1948, p. 636 as cited in Brosse, 1950, p. 9). Education can thus help the child develop on multiple levels. This line of thought was affirmed by the French Minister of Health who "stated that medico-pedagogical treatment of children is, in fact, in 90 per cent of the cases, educational treatment" (Brosse, 1950, p. 10). Brosse (1950) notes: "Unesco's programme...is based on the fundamental idea that 'since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed'" (p. 12-13). Thus, a post-war education could not be the same as a pre-war one.

### ***The Rise of NGOs and International Organizations***

On the NGO front, in response to the widespread devastation caused by WWII, there were several organizations on the ground in Europe and the U.S. providing aid for refugees from the

war. One of these organizations was the International Rescue Committee (IRC). In 1933, in response to a plea by Albert Einstein, a group of 51 individuals founded the American branch of the International Relief Association (IRA) with the mission of aiding Germans suffering under Hitler; they later also helped refugees from Italy and Spain. The founders included intellectuals such as the philosopher and educator John Dewey, the writer John Dos Passos, the historian Charles A. Beard, and the theologian Reinhold Niebuhr. In 1940, the Emergency Rescue Committee (ERC) was formed to help European refugees trapped in Vichy France. In 1942, the ERC merged with the IRA to become the International Relief and Rescue Committee later known as the IRC. Based on the rising needs, they expanded to support refugees all over the world (Eight decades of rescue, n.d.; Kastner, n.d.). A notable international organization was the United Nations Relief and Rehabilitation Administration (UNRRA) established on 9 November 1943 by agreement of 44 nations with the goal of providing relief to impacted countries, and the coordination of these efforts. It soon extended its reach to assist civilians other than Europeans impacted by the war in Northern Africa and Asia (Cueto, et al., 2019).

Before its operations ended in 1946, at the final meeting in Geneva, the Polish delegate Ludwik Rajchman (a physician, bacteriologist, and former medical director of the Health Section of the League of Nations [1921-1939]), proposed that UNRRA's remaining resources be used to help children through a UN International Children's Emergency Fund (UNICEF). Subsequently, on 11 December 1946, UNICEF was established. In response to human rights violations, the UN Charter with human rights provisions was signed on 26 June 1945. All members, including the UN became bound by these provisions with Article 55(c) emphasising the promotion of “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion” (Charter of the United Nations, 1945), which is also

emphasized in Article 1(3). This is restated in the Universal Declaration of Human Rights (1948), which also proclaims in Article 25(2) that “Motherhood and Childhood are entitled to special care and assistance”. With these documents, rights were no longer just national concerns but international ones.

Other organizations were established for specific purposes. For example, in 1942, the Oxford Committee for Famine Relief (Oxfam) was founded in Britain to help with food supplies. In 1948, the World Health Organization’s (WHO) Constitution came into force to meet the growing postwar health challenges (e.g., spread of diseases and pandemics) and coordinate international health responses (see Cueto, et al., 2019). In 1949, following the 1948 Arab-Israeli conflict, the UN Relief and Works Agency (UNRWA) was established (coming into operation in 1950) to provide direct relief and support for Palestinian refugees. In 1949, Hermann Gmeiner, an Austrian medical student founded SOS Children's Villages to support orphaned and abandoned children. In 1950, Bob Pierce, a pastor and missionary, founded World Vision in the U.S. as a Christian international NGO caring for orphans and children ‘in need’ in Asia later increasing its global operations.

### **Genre and Social Relations**

The 1959 Declaration is a non-binding document that consists of a preamble, an operative paragraph and ten principles. Similar to the Geneva Declaration, it is packaged as an international Declaration. However, it has a broader reach since it is under the UN, and it follows a generic structure (in terms of form, language *in use*, and sentence formation) that is in line with other UN international declarations. It can still be seen as an individual genre as it is specific to children. It is also a part of a larger chain built upon situated genres and pre-existing narratives on children and child protection within a variety of discourses that prevailed pre- and post- WWII as seen in

the social events section. In its abstract form, although it attempts to be prescriptive, it is persuasive since it is a humanitarian call to parents, individuals, voluntary organizations, local authorities and national governments to protect children.

The language *in* use in the text (see Appendix C) places ‘the child’ as an “object of concern” (Freeman, 1996, p. 3) and protection due to “his physical and mental immaturity” as stated in the third preambular paragraph not as an independent rights holder. The focus thus is not child rights in the same sense as human rights since children are not the subject of these rights but their objects/recipients of adult actions. This is further emphasized in the continued classification of children as ‘the child’ at the opening of every principle, and the activation of specific voices including “the peoples of the United Nations”, “the United Nations”, and “the General Assembly” who have agreed to these rights; this legitimizes and accentuates the power divisions.

The social relations that take place in this text vary indicating the existence of different social hierarchies and social distance; on a macro level, it is between the Social Commission and the Commission on Human Rights that prepared the two draft declarations vis-à-vis members of the General Assembly (State representatives) that made further amendments and voted on the final draft as well as NGOs with consultative status who the Declaration is targeting and have ultimately agreed to it. On a meso level, it is between parents, individuals, voluntary organizations, local authorities and national Governments as they are asked to recognize these rights. On a micro level, it is between individuals/guardians/parents who deal with children (if this document ever reaches them) and their respective societies with the idea that a “a happy childhood” is not only good for the child but also for society as noted in the operative paragraph. While ‘the child’ is present as a recipient of actions, children are missing from this discourse. Since the document is nonbinding, it is just a call asking for recognition, understanding, cooperation and striving for their observance



through legal or “other” measures. These “other” measures are not clearly indicated in the document but alluded to with the idea that what is done needs to be done with “the best interests of the child” in mind. The lack of specific measures and State responsibility is one of the factors that enabled majority agreement on the final draft of the 1959 Declaration as the discussions below from both the Commission on Human Rights and the UN General Assembly show.

The 1959 Declaration went through several drafts and reviews. It is essential to examine the social relations (in the form of discussions and text approvals/rejections) that took place during these sessions (based on the reports from the UN Commission on Human Rights [1959a] and the UN General Assembly [1959b]) to better understand what issues were raised, and what content was accepted or rejected (based on voting records). The sub-sections below summarize some of the major proposed amendments leading to the final adopted text, which is the basis of the analysis. I will not address the entire content of the draft texts (for a full side-by-side comparison, see Appendix E; for the texts from the Commission on Human rights and the Social Commission, see UN Commission on Human Rights, 1959, p. 22-24). Content from the texts is cited with original punctuation; thus, APA in-text citation guidelines are not always met.

### ***Commission on Human Rights: Report of the 15th Session***

The texts referenced in this section are all from the UN Commission on Human Rights’ (1959) report of the 15th Session; while the report is useful as it provides insights into the discussions that took place, it does not provide the full picture. The first draft from the Social Commission was sent to the Human Rights Commission for discussion. In 1957, the Commission sent the governments of Member States the following documents: the draft Declaration, the record of the discussions and proceedings in the Commission on Human Rights and ECOSOC, and the written statements submitted by NGOs. Following feedback from 21 countries (OHCHR, 2007a),

the International Federation of Women Lawyers, and the IUCW (both with category B consultative status allowing them to take part in matters within their specific area of work), discussions took place from 30 March to 8 April 1959 during various meetings (sessions 626-640). According to the UN Commission on Human Rights (1959), many members were in favour of a brief declaration that proclaimed “general principles without provisions on methods of implementation” (p. 16). Some, however, preferred having a legally binding convention as opposed to a nonbinding Declaration. Nevertheless, they were willing “to support the principle of a declaration” (p. 16) but emphasized that it “should also provide for practical measures to ensure the observance of the rights of the child” (p. 16).

On 31 March 1959, the preamble was examined (see Appendix E). A notable change was in what became the fourth paragraph that addressed why this Declaration/protection of children was needed. Israel submitted a text replacement, which was orally revised to incorporate France’s and the United Kingdom’s suggestions to include reference to Article 25, paragraph 2 of the Universal Declaration of Human Rights and extend the presence of this affirmation to other statutes by specialized agencies and international organizations. This was a major step in legitimizing work on the welfare of children under the Declaration. The fifth paragraph was revised and moved up to the third paragraph. As for the operative paragraph, that addresses the purpose of the Declaration and where the responsibility lies, discussions took place on 1 April 1959. The USSR proposed the addition of: “the Governments of States as well as all” after the words “calls upon” and the deletion of the words “as individuals as well as through their local authorities and national Governments” (UN Commission on Human Rights, 1959, p. 18). However, this was not voted upon or included in the amendment as the addition would put the onus on governments, which is something that the majority of States did not want.

The principles were discussed at various sessions. Some proposed amendments were made and accepted, others particularly by the USSR were rejected as they put responsibility on States. On 1 April 1959, France proposed that the Social Commission's 10th principle, which addresses the enjoyment by the child of rights in the Declaration without discrimination based on "race, colour, sex, language, caste, religion, political or other opinion, national or social origin, property, birth, legitimacy or other status" become the first principle in the new Declaration; this was approved. France, Israel, and the United Kingdom submitted amendments that included the addition of the following: "in this Declaration without distinction or discrimination on account", the removal of the term "legitimacy", and the addition of "whether of himself or of either of his parents. All children, whether born in or out of wedlock, shall enjoy these rights" (UN Commission on Human Rights, 1959, p. 18) following the word "status". The United Kingdom called for the deletion of the word "caste"; all the changes were adopted (see Appendix E).

During discussions on 1-2 April 1959 of the third principle that addresses the "social security" benefits the child "shall enjoy", the Soviet Union proposed the addition of a paragraph to the second sentence noting the importance of the protection of women workers and paid maternity leave "[t]o safeguard the normal development of the child" by States (UN Commission on Human Rights, 1959, p. 18). This was rejected along with their other suggestion to add: "[...] free medical care to all children and expectant and nursing mothers by establishing an adequate network of hospitals, clinics, maternity homes and other medical institutions" (UN Commission on Human Rights, 1959, p. 18). The Soviet Union also made an oral amendment to the adopted principle (as proposed by India with approved changes by the United Kingdom) by proposing the insertion of the word "free" before the words "medical services"; however, this was also rejected.

On 2-3 April 1959, the Soviet Union suggested an amendment to the Social Commission's fourth principle, which addresses the child growing up "in economic security" with "his own parents", and "in a family atmosphere". The proposed amendment put responsibility on States to "[...] provide for the proper maintenance and upbringing in children's homes, boarding schools and other children's institutions.... The payment by the State of maintenance allowances to large families is desirable" (UN Commission on Human Rights, 1959, p. 19); this was rejected along with Iraq's suggestion for the removal of the word "young". However, Poland's proposal to add a sentence at the end making it the duty of society and public authorities to help children without a family or without means of support was adopted along with France and Israel's orally revised amendment to include Iran's suggestion. This became the sixth principle in the new draft. It included several key points such as reference to "his best interests" – "his" being 'the child' – and the addition of "moral and material security", which is in line with the moral responsibility at the core of the text.

For the seventh principle that was originally the Social Commission's fifth principle, which focusses on education, there were several proposed amendments discussed on 3-6 April 1959. One of the most notable was made by the Soviet Union who suggested the insertion of a new sentence that referred to education as a right, put responsibility on States to ensure schools are available, staffed and equipped, extended free education beyond the elementary stages to all children, and introduced the concept of "universal education" (see UN Commission on Human Rights, 1959, p. 20). Its rejection is indicative of the general direction that States wanted the declaration to take. What eventually became the newly formed seventh principle (based on a joint amendment) was more elaborative than the principle in the Social Commission's text as it addressed the content of education with respect to the promotion of human rights and non-discrimination as well as adding

the concept of “the best interests of the child”. However, it placed education as the primary responsibility of parents.

Principle 10, which was the Social Commission’s seventh principle, addresses the protection of the child; it was discussed on 7 April 1959. The Soviet Union called for the insertion of the following text after the first sentence: “In particular, the child shall not be subjected to corporal punishment in schools” (UN Commission on Human Rights, 1959, p. 21). Had this been accepted, it would have been an essential move in the protection of children from violence. The State representative also called for a more comprehensive principle that included “legislation prohibiting the employment of minors” and “measures to ensure a shorter working day, adult wage rates and adequate paid annual leave for minors” (UN Commission on Human Rights, 1959, p. 21). All the proposed paragraphs were rejected; a simpler version with amendments by the United Kingdom and Israel was adopted (see principle 10 in Appendix E under the text of the Commission on Human Rights). The second sentence that was added refers to employment of the child “before an appropriate age”, which is up to the Nations to determine; it also specifies in the last sentence the form of development being referred to – physical, mental or moral.

The 11th principle, which was the Social Commission’s eighth principle, addresses protecting the child from racial or national discrimination or hatred, raising the child with the knowledge that he can fully develop, and being devoted to the service of “his fellow men” (see Appendix E); it was discussed on 7 April 1959. Many written amendments were submitted; Poland, for example, called for the addition of the following text at the beginning of the principle: “The child has the right to live in peace” (UN Commission on Human Rights, 1959, p. 21); it was rejected. A proposed amendment submitted by the U.S. incorporating the sub-amendment of India, Lebanon and Mexico was adopted along with a submission by the Soviet Union, which consisted

of inserting the words “in a spirit of peace, friendship and brotherhood among nations” (UN Commission on Human Rights, 1959, p. 21) in the second sentence after the words “brought up”. Ukrainian SSR made an oral amendment calling for the replacement of the words “his fellow men” by “society” but that was rejected. The Soviet Union also called for the addition of the following: “States shall prohibit the dissemination of war propaganda and racial and national hatred in schools” (UN Commission on Human Rights, 1959, p. 22), but that was also rejected.

The last paragraph of Social Commission’s draft (see Appendix E) was discussed on 7 April 1959; Iraq proposed its deletion, which was approved. A Polish representative who had an amendment calling for an additional paragraph stated that she will reserve the right to raise it at the Economic and Social Council. The principles that were not covered in this section appear to have been adopted without much conflict as per the UN Commission on Human Rights’ (1959) report. On 10 April 1959, the representative from Iraq proposed that before voting on the draft Declaration as a whole, as previously suggested by the representative of India on 7 April 1959, it would be best to vote on them separately. Principles 1, 5, 6, 7, 10 and 11 were voted on separately followed by the entire draft Declaration, which was adopted unanimously. On 8 April 1959, the draft resolution prepared by Argentina, India and the Philippines was adopted to be sent to the Economic and Social Council with the draft resolution (see Appendix E).

### ***UN General Assembly 14th Session: Report of the Third Committee***

On 30 July 1959, the Economic and Social Council passed resolution 728 C (XXVIII) to transmit the Draft Declaration of the Rights of the Child and all accompanying documents to the General Assembly. On 6 November 1959, the Draft Declaration was added to the Assembly’s agenda at the 14th session. The following section covers a summary of the proceedings from the Third Committee that devoted 23 meetings (907 to 929 meetings) from 25 September to 19

October 1959 to the consideration of the draft Declaration. At the meetings, the Committee heard from State representatives and organizations. Some of the opinions echoed those of earlier ones ranging from preferences for a brief and more concise text with a list of principles without provisions on implementation to a need for a convention and implementation instructions. One of the proposed amendments by Israel was to change the title to the “Children’s Charter”, which they later withdrew as State representatives expressed their preference for the existing title.

From 30 September to 2 October 1959 at four meetings, the preamble was discussed. Representatives from Mexico and Peru proposed the replacement of the words “por cuanto” to “considerando que” in the Spanish text for the first five paragraphs. After a vote, this amendment was made to the first and second paragraphs of the preamble and later to the rest of the paragraphs. This was one of a few instances where a translation of the text was mentioned as the language *in* use in terms of draft texts and discussions appears to have been primarily in English (side conversations and extensive language translations are not noted in the reports). While the first two paragraphs of the preamble were adopted as presented by the Commission on Human Rights (see preamble of Draft Declaration in Appendix E), the third paragraph had several suggested amendments. One of these amendments was a sub-amendment to Italy’s made by the Philippines who suggested the addition of: “before as well as after birth” (UN General Assembly, 1959b, p. 5) following the word “child”. Italy proposed the replacement of the first clause with: “Whereas the child from his conception and after birth” (p. 5). While Italy’s sub-amendment was rejected, the Philippines sub-amendment was adopted becoming the third paragraph of the preamble. Mexico and Peru submitted an amendment to delete the fourth paragraph but withdrew it in support of an amendment by the Philippines to remove the words “has again been” following the word

“recognized” and “Article 25 (2) of” (UN General Assembly, 1959b, p. 6), which were adopted (see preamble of Draft Declaration in Appendix E).

There were several amendments to the sixth paragraph (operative paragraph). The USSR wanted to replace “men and women as individuals as well as upon local authorities and national Governments” with “Governments of States, local authorities, and all men and women” as well as adding the following paragraph: “The General Assembly appeals to all States to bring their legislation into conformity with these principles and to be guided by them in practice” (UN General Assembly, 1959b, p. 7). Although the word “appeals” is not strong, had it been adopted, it would have been a powerful move as strong domestic legislation in most cases is missing in child rights. The Netherlands’ proposed several changes; the ones adopted were: the addition of “parents” following “calls upon” and “upon voluntary organizations” instead of “as well as” (UN General Assembly, 1959b, p. 7). Afghanistan’s amendment called for the deletion of the clause: “particularly those specified in the Universal Declaration of Human Rights”, which was also a part of the Philippines’ proposed replacement text (orally revised with the USSR’s sub-amendment in mind). It was adopted up to the words “set forth” (bolded in Text Box 2). The last clause was orally amended as seen in the Draft Declaration in Text Box 2. Following a technical review, the first part of the clause was further amended by removing “those rights” and inserting “their” after the word “observance”. The operative paragraph and the preamble with its amendments were adopted.

*Text Box 2: Operative paragraph*

Text of the Commission on Human Rights	Draft Declaration of the Rights of the Child
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<p><i>The General Assembly recognizes and proclaims the essential Rights of the Child to the end that he may have a happy childhood and be enabled to grow up to enjoy for his own good and for the good of society, the fundamental rights and freedoms, particularly those specified in the Universal Declaration of Human Rights, and calls upon men and women as individuals as well as upon local authorities and national Governments to recognize these rights and strive for the observance of those rights through the application of the following principles:</i></p>	<p><u>The General Assembly</u> <u>Proclaims</u> this Declaration of the Rights of the Child to the end that he may have a happy childhood and enjoy for his own good and for the good of society the rights and freedoms herein <b>set forth</b>, and calls upon parents, upon men and women as individuals, and upon voluntary organizations, local authorities and national Governments to recognize these rights and strive for their observance <b>by legislative and other measures progressively taken in accordance with the following principles:</b></p>
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According to the UN General Assembly (1959b) report, the first principle (non-discrimination) was discussed on 2 and 5 October 1959; Saudi Arabia submitted an amendment to replace the words “whether born in or out of wedlock” with the phrase “with no exception whatsoever” (p. 10). Afghanistan proposed adding “and relatives” after the word “parents”. The Philippines proposed the deletion of the clause: “whether of himself or of either of his parents” (p. 10). Belgium proposed the addition of a definition of a “child” but withdrew their amendment. The representatives of Afghanistan and Saudi Arabia withdrew their amendments after an oral suggestion made by the representatives of France and Poland, and they jointly sponsored an amendment as seen in Text Box 3. This principle was adopted unanimously, but it went through a few changes following the review stages. “All children” replaced “every child” but in the final version, this was reamended (with a change in location) to “Every child”

*Text Box 3: Principle 1*

Jointly sponsored amendment	Draft Declaration	Declaration of the Rights of the Child (1959) (final)
<p>The child shall enjoy all the rights set forth in this Declaration. These rights shall be enjoyed by <b>every child</b> without any exception whatsoever and without distinction or discrimination on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family</p>	<p>The child shall enjoy all the rights set forth in this Declaration. <b>All children</b>, without any exception whatsoever, shall be entitled to these rights, without distinction or discrimination on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family.</p>	<p>The child shall enjoy all the rights set forth in this Declaration. <b>Every child</b>, without any exception whatsoever, shall be entitled to these rights, without distinction or discrimination on account of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family.</p>

What became the second principle following the amendments, was initially the second and third principle from the text of the Commission on Human Rights (see Appendix E); it was

discussed on 5 and 6 October 1959. This principle called for special protection and opportunities to help the child develop. Thailand called for the deletion of the third principle as did the Netherlands along with a replacement of the text of the second principle. The Netherlands later revised their amendment and included an oral suggestion made by the Philippines representative (UN General Assembly, 1959b, p. 11). This principle was adopted with no changes made to the final version (see Appendix E). Afghanistan called for the deletion of the words “and normal”, but it was rejected as was Uruguay’s addition of the word “responsibility” following “dignity”. The issue was that “normal” signified a value standard that was not clear. The “conditions of freedom and dignity” were also not clarified implying a general understating amongst members. Afghanistan, Argentina, Brazil, Italy, Spain, and Uruguay proposed the insertion of a new principle between the first two giving the child the right to life from the moment of conception, but this was also rejected. Since the question of when a child becomes a human being was highly controversial, States did not want to enter into a debate or specify as they knew this would be rejected. As for the concept of “the best interests of the child”, it would later play an integral role in discussions on the right of the children to participate in matters that impact their lives.

The third principle: “The child shall be entitled from his birth to a name and a nationality”, which was principle four of the text by the Commission on Human Rights, was discussed on 6 October 1959. Thailand proposed its deletion, but later withdrew it. Belgium proposed the insertion of the word “suitable” before “name” but that was rejected. Uruguay suggested adding “and to know who his parents are” (UN General Assembly, 1959b, p. 13), which was also rejected. The text was adopted without amendments. This principle was essential as many children were orphaned and abandoned due to the war. Without a name or a nationality, they would not be able to access basic services or their rights compared to citizens in their respective countries.

The fourth principle addressing social security and special care and protection, which is based on principle five of the text by the Commission on Human Rights, was discussed on 6-7 October 1959. Thailand proposed its deletion; the Netherlands proposed the deletion of the words “in health” and the insertion of the words “under conditions conducive to health” (UN General Assembly, 1959b, p. 13); these two amendments were withdrawn. The USSR revised its initial amendment during the discussion proposing three parts (somewhat similar to what they proposed for the previous draft): the addition of the words “by legal and other measures” following the words “shall be provided” (UN General Assembly, 1959b, p. 13); the insertion of the word “free” before “medical services”; and, the addition of the clause: “which shall be secured by the progressive extension of a network of public medical institutions” following the word “services” (UN General Assembly, 1959b, p. 13). The Philippines’ sub-amendment to the USSR suggested the following text: “The child shall enjoy the benefits of social security, adequate pre-natal and post-natal care, nutrition, clothing, housing, recreation and medical services” (UN General Assembly, 1959b, p. 13); it was not considered as it did not meet the deadline for amendment submissions. The three parts of the USSR’s amendment were voted on and rejected. The principle was adopted without changes (see Appendix E). For pro-life activists, this was an essential principle as it recognized that the child needs care even before birth.

The fifth principle, which is based on the ninth principle of the text of the Commission on Human Rights addressing “special treatment” for the “physically, mentally or socially handicapped” child, was discussed on 13-14 October 1959. Italy’s amendment was revised twice during the discussion. The representative of Italy orally proposed the following text: “The socially maladjusted child, including the delinquent child, may not be separated from his family save by decision of a competent judicial authority” (UN General Assembly, 1959b, p. 15). Peru proposed

a sub-amendment but withdrew it in favour of a separate vote on the words “including the delinquent child”. Both the words “including the delinquent child” and the amendment were rejected. This principle was adopted unanimously without changes becoming the fifth principle. The term “handicapped” was not seen as problematic to some States as it was used by UNESCO and other relief organizations in reference to children who were abandoned and destitute in post-war Europe – seen as socially and personally “handicapped by circumstances” (Brosse, 1950, 13).

On 7-8 October 1959, the sixth principle was discussed; it addressed the needs of the child to be able to develop, which included the child remaining with his mother where possible. This was critical as children were taken away more frequently from their mothers during WWII. There were several proposed amendments, but some were withdrawn or revised becoming a joint amendment by Thailand, Denmark, the Netherlands, Greece, and the United Kingdom. Although, the sponsors requested separate votes on parts of the amendment since they were not committed to them as a group, they were all adopted as amended with additions from Poland, and the USSR (see Appendix E). Guatemala and Israel proposed the addition of the following text: “The child has the right to grow up in the religious faith and national loyalty of his parents; but he shall be protected against any practice which may foster racial, religious or national discrimination and hatred” (UN General Assembly, 1959b, p. 17). This was rejected along with an orally revised version in which they removed the words “and national loyalty” along with the second sentence.

The seventh principle on education was discussed from 8-12 October 1959. Several countries submitted amendments to the Commission on Human Rights’ text. Afghanistan proposed the deletion of the phrase “and of the principles and purposes of the United Nations” (p. 18). Thailand, Denmark, the Netherlands, Greece and the United Kingdom of Great Britain and Northern Ireland submitted a joint amendment based on their individual amendments. It was

further revised during the discussion to include a part of Uruguay's proposal, which was added as a sixth sponsor. The sponsors' amendment, which included the first two paragraphs of the final text was adopted. The third paragraph was adopted as proposed by Mexico, Peru, and Romania (see Appendix E). As a sub-amendment, which was revised during the discussion, Cuba proposed the replacement of the words "education" with "schooling" and "elementary stages" with "elementary school"; both were rejected. It also proposed adding "and with the greatest possible respect for his vocational aptitude" (UN General Assembly, 1959b, p. 18) following the word "opportunity"; this was also rejected. Another proposal that was withdrawn was the replacement of the word "abilities" with "capacities". It also proposed the following addition to the last sentence: "His education shall promote understanding of the culture of his own people and of the other peoples of the world" (UN General Assembly, 1959b, p. 18-19); this was also rejected.

Bulgaria's sub-amendment to the sponsored amendment, which was rejected, was the deletion of the words "in the first place" and the addition of "as well as with society and the State" (UN General Assembly, 1959b, p. 19). The USSR's amendment had two parts; the first was the addition of a more elaborative sentence on the measures the State should take to ensure the child's right to free and compulsory education; however, this was not put to a vote. The second, which was orally revised to include the suggestion of the United Arab Republic representative, included the following addition: "The utilization of teaching in schools for the propaganda of war and racial and national discrimination shall be prohibited" (UN General Assembly, 1959b, p. 19). Following a roll-call vote, this was rejected. Chile and Honduras made an oral recommendation to replace the words "be under an obligation" with "endeavour to" (UN General Assembly, 1959b, p. 20). This principle, in its final standing, put a small spotlight on education since it was not mentioned in the Geneva Declaration but alluded to when referring to the development of the child's talents. It also

brought forth the concept of the “best interests of the child” to be used as a guide for those in charge of the child’s education, but it places guidance the onus on the child’s parents. On 12 October and 14-15 October 1959, the eighth principle was discussed followed by the ninth principle (based on principle 10 of the text of the Commission on Human Rights; see Text Box 4). The Netherlands proposed the addition of the word “amongst” before the word “first”. This addition was approved, and the principle with its amendment was adopted. The final read as follows: “The child shall in all circumstances be among the first to receive protection and relief”. Since there was general agreement on this principle and language *in use*, discussions were not as extensive as those for the ninth principle. The USSR proposed the following addition at the end of the ninth principle: “Responsibility before the law shall be established by legislation for the paid employment of minors who have not reached a specified age laid down by law and for the employment of adolescents for work endangering health or life” (p. 21); this was rejected. Romania proposed the following addition at the end of the first sentence: “He shall not be the subject of traffic in any form, nor shall he be bought or sold” (p. 21). While the first part of the amendment was adopted, the second “nor shall he be bought or sold” was voted on separately as requested by Mexico’s representative and was rejected. After revising its amendment, Venezuela proposed the addition of the word “minimum” before “age” (p. 21). The principle with its amendments was adopted unanimously (see Text Box 4).

*Text Box 4: Principle 9*

Text of the Commission on Human Rights	Declaration of the Rights of the Child (1959) (final)
10. The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be admitted to employment before an appropriate age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental or moral development.	The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be the subject of traffic, in any form. The child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental or moral development.

The tenth principle based on principle 11 of the text of the Commission on Human Rights was discussed on 15-16 October 1959. Afghanistan, Greece, Thailand and the United Kingdom of Great Britain and Northern Ireland proposed a new joint text based on a revision of amendments submitted by Afghanistan, Thailand, and Greece and the United Kingdom (see Text Box 5).

*Text Box 5: Principle 10*

Joint Amendment	India and Mexico's sub-amendment	Declaration of the Rights of the Child (1959) (final)
<p>The child shall be brought up in a spirit of peace, tolerance and universal brotherhood, and in full consciousness that <b>/his energy and talents should be devoted to the service of his fellow men/ /he will achieve his fullest development and derive greatest satisfaction through devoting his energy and talents to the service of his fellow men/</b>.</p>	<p>The child shall be protected from practices which may foster racial, religious and all other forms of discrimination. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood and in full consciousness that <b>/his energy and talents should be devoted to the service of his fellow men/ /he will achieve his fullest development and derive greatest satisfaction through devoting his energy and talents to the service of his fellow men/</b>.</p>	<p>The child shall be protected from practices which may foster racial, religious and any other form of discrimination. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.</p>

The phrases bolded in the square boxes of the joint amendment were choices for the committee to decide on. Poland and Romania's sub-amendment proposed the addition of the words "understanding, friendship and" between "spirit of" and "peace", and the replacement of the words "tolerance and universal brotherhood" with "among all peoples" (UN General Assembly, 1959b, p. 22). India and Mexico orally revised their sub-amendment during the discussion based on suggestions from Italy and the USSR (see Text Box 5). The words "racial, religious" were voted on separately as requested by France's representative, and were adopted along with the second sentence and its first clause. However, the last clause in the bolded square boxes was not adopted (UN General Assembly, 1959b, p. 22). Both the ninth and tenth principle address the protection of children from "neglect, cruelty, exploitation, and trafficking" as well as discrimination, which were essential as the social events sections proves.

On 19 October 1959, the Rapporteur, Francisco Cuevas Cancino (Mexico) reported making drafting changes to the adopted text of the Draft Declaration “in the interests of coherence and conformity between the versions in the various languages (UN General Assembly, 1959a, p. 105). He noted that due to observations from various delegations on the unofficial versions of the text that circulated, minor changes that did not alter the substance to the English and French texts were necessary (for edits to the French text, see UN General Assembly, 1959a, p. 105). The changes to the English text were as follows: beginning with the preamble, in the last paragraph, the words “to recognize and strive for the observance of these rights” was replaced by “to recognize these rights and strive for their observance”. As for the sixth principle, the word “to” was inserted between “and” and “those”. In the second paragraph of the seventh principle, the word “upbringing” was replaced by “guidance” (UN General Assembly, 1959a, p. 105). The principles were also renumbered as per the new approved draft Declaration. The Committee approved the changes, and it was adopted as a whole with 70 votes to none and two abstentions (see Appendix E for the draft Declaration of the Rights of the Child sent to the General Assembly).

**States Representatives: Opinions on the 1959 Declaration.** During the entire process from drafting to the adoption of the final Declaration, “the child” who the Declaration is for is not present in the discourse and is simply the recipient of actions. Similar to the Geneva Declaration, the child’s main goal is to ultimately devote “its talents...to the service of his fellow men”. This was an essential common ground established amongst States as it denoted that treating a child “right” will be beneficial to society on local and universal levels. This shows the social distance between the UN, States, individuals, and children as the message emphasized was that following these principles is good for societies. This distance was also clear in the perception of the



Declaration amongst State representatives who during discussions on 19 October 1959 addressed some of the reasons for their votes.

The Swedish representative stated that his voting on the Draft Declaration throughout the process was based on the inclusion of general principles (without implementation measures) that are acceptable by the majority of countries. This was echoed by Finland's representative who emphasized the importance of having general principles "acceptable to the great majority... irrespective of the level of their economic development, their history and culture, their legal systems and the like" (UN General Assembly, 1959a, p. 105). He also noted that being general in addressing education is the best route as in Finland "education at the primary level was a local government responsibility" (UN General Assembly, 1959a, p. 105). The Japanese representative was also satisfied with the general principles. The representative from Chile noted that while the draft Declaration is lengthy, it is "a simple and reasonable common denominator between the views of various delegations" (UN General Assembly, 1959a, p. 106).

Others who were satisfied with the outcome included: Honduras and Poland; Venezuela that saw the Declaration as "a contribution to international brotherhood" (UN General Assembly, 1959a, p. 106); Brazil who was hopeful that it would speed up the introduction of legislative measures for the protection of children by States who did not have them, and support from specialized agencies; and, Guatemala who was hopeful in the potential of the Declaration to improving the lives of children. The representative of the Dominican Republic noted the country's advanced legislation in matters concerning children and hoped the Declaration would be accepted by all countries. The representative from Afghanistan noted that the Declaration is "a universal text" even if it will not be applied the same way in every country. Romania's representative also

addressed the importance of the text as an international instrument but stated that it “should be a guide to action, not merely a set of principles” (UN General Assembly, 1959a, p. 106).

On the other hand, the Union of South Africa’s representative abstained from voting on the full draft Declaration because he did not agree with all its parts. The representative from Cambodia noted that she abstained because she wanted her country to be “free to adapt the Declaration to the [prevailing] customs and conditions” (UN General Assembly, 1959a, p. 106). The representative of Australia said that her delegation abstained from voting on some amendments that were “unnecessary and in some cases even unwise” (UN General Assembly, 1959a, p. 106), but they supported the “draft Declaration as a statement of principles and...voted for the text as a whole” (UN General Assembly, 1959a, p. 106). The representative of the USSR was also not satisfied; although she voted for the Declaration, she cited that implementation measures including free medical aid and education should be clear. She hoped that the UN “would find ways and means of implementing the rights of the child that had been laid down in the Declaration, as well as more progressive principles” (UN General Assembly, 1959a, p. 106).

**Communication and Dissemination.** The Declaration appears to have been communicated via a two-way non-mediated and mediated means. Member States had face-to-face conversations at the various sessions, and they received the draft texts and send back written feedback via mail. It was also adopted via a two-way non-mediated mode at the General Assembly and disseminated via diverse modes of communication including print. Although a draft resolution was adopted (following revisions) for publicity to be given to the 1959 Declaration submitted by Afghanistan’s representative (See UN General Assembly, 1959a; reference document A/C.3/L.763), the extent of its reach beyond States representatives is not known. What is known is that during discussions on how to communicate the Declaration to children, some states voiced

their concerns; for example, the Cambodian representative princess Pingpeang Yukanthor stated that “it was a mistake to teach children their rights without stressing that they also had duties, for they might feel that they were entitled to do anything they wished and thus become delinquents” (UN General Assembly, 1959a, p. 107). This is a clear sign of the misperception and lack of understanding that this State representative had of children and rights, but it is also indicative of what other adults at the time thought as her comment was not met with a debate or discussion (at least based on the written meeting records; see UN General Assembly, 1959a, p. 107). Another comment was from Afghanistan’s representative who agreed that children have duties but noted that “it was for the school-teacher to explain the meaning of the Declaration and to stress that the enjoyment of rights involved corresponding duties” (UN General Assembly, 1959a, p. 107). Others noted that it is enough for governments to apply these principles enabling children to enjoy their rights. To date, this correlation between responsibilities and duties, and the discussion on rights education remain a dominant part of child rights discourse and debate.

### **Intertextuality and Assumptions**

There is significant intertextuality and assumptions within the Declaration; external relations are incorporated into the text with and without attribution. Beginning with each paragraph in the preamble to the operative paragraph followed by the principles, the way the content is framed serves three interconnected purposes: reminding Member States of the agreements that they have made to prove common ground, substantiating the work they have done in the form of this Declaration, and addressing the welfare of children, as they see it, through the general principles.

The preamble, which is divided into five separate yet interconnected paragraphs, begins each one with “Whereas” to address the different layers of the Declaration. The first paragraph refers to the Charter of the United Nations (1945), and its reaffirmation of the respect for and

observance of universal human rights as agreed upon by Member States in the preamble and Articles 55 and 56. Its content first appeared in the Charter, then in the fifth paragraph of the preamble of the Universal Declaration of Human Rights (1948) and was recontextualized in the first paragraph of the 1959 Declaration's preamble. Although most of the content used is done verbatim, it is not directly quoted; it is repositioned to fit in to the new context of 'child rights' and maintain the spirit of the Charter in the Declaration and as a constant reminder of the tone of the Universal Declaration of Human Rights. The intertextuality serves as reminder of the presence of the UN and its Charter and the consensus achieved by Member States; it also shows common ground and understanding on the rights and dignity of human beings with the aim of promoting "social progress and better standards of life in larger freedom" (Universal Declaration of Human Rights, 1948, preambular paragraph 5). This helps lay the foundation needed to achieve consensus on the Declaration as a whole, which is integral as a general agreement signifies universality.

The second paragraph of the preamble affirms the Universal Declaration of Human Rights by referring to it with the core content from its second Article regarding non-discrimination. Although the content is not directly quoted, it is alluded to by mentioning the source as well as maintaining the same order of categories: race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. This was also reaffirmed in the first principle of the 1959 Declaration. Similar to the first paragraph, since the majority of the content was already adopted by Member States for the Universal Declaration of Human Rights, it was agreed upon fairly quickly. This part of the Declaration is notable as children are included under the umbrella pronoun "everyone" – meaning they are also human beings and members of society. This is a considerable shift in tone from the Geneva Declaration. However, the second paragraph of the second Article of the Universal Declaration of Human Rights was not included.

The third preambular paragraph is indicative of the times in terms of the perception of the child; it affirms the image of the child as physically and mentally immature, and in need of “special” protection measures and care. This image was dominant in many countries as clearly indicated in the discussions by Member States. Not only did it lead to the rise of welfare organizations claiming to “protect” children and speak on their behalf, but it also led to the ‘muting’ of children. The other concept introduced is “appropriate legal protection”; although it is an elaboration placed in between bracketing commas that if removed would not impact the sentence, it is still notable as it alludes to the importance of the law. The time clause at the end: “before as well as after birth” was a point of utmost importance as it could be used by anti-abortion activists who argue that a child has rights from the moment of conception although this is not clearly stated.

The fourth paragraph expands on the third affirming the “need” for these “special safeguards” as made in the Geneva Declaration, and further recognized in the Universal Declaration of Human Rights, and the statutes of specialized agencies and international organizations. Although these “safeguards” are mentioned, they are not detailed in the Declaration. This paragraph is intended to reaffirm the agreement made on all the content mentioned and reframe them within a child rights context. The last paragraph, which is in part from the preamble of the Geneva Declaration is not quoted or referenced. The phrase: “Whereas mankind owes to the child the best it has to give” is repeated within this context for several reasons; it emphasizes, in the form of an affirmation, that adults “owe” children the “best” there is attempting to trigger an emotional and moral connection. It also shows Member States that the spirit of the Geneva Declaration remains present in the 1959 Declaration. It is followed by “Now therefore,” to further affirm time and place – the date and location of the agreement, as well as drawing a connection between all the paragraphs of the preamble, the proclamation that followed, and the 10 principles.

The proclamation paragraph also pushes forward the notion that these rights denote or could lead to a “happy childhood” that is good for both the child and society.

Intertextuality is also present in the eighth and 10th principles; the third principle from the Geneva Declaration was recontextualized into the eighth principle to fit in with the new narrative that uses “shall” instead of “must”, makes the child “among the first” as opposed to the first to receive protection and relief, and expands the scope to “all circumstances”. The last clear form of intertextuality is in the 10th principle, which expands on last principle of the Geneva Declaration but keeps the core concept – devotion to the service of fellow men – intact. The words that remained from the original text of the Geneva Declaration were: “The child”, “be brought up”, “in... consciousness that”, “talents”, “be devoted to the service of” “fellow men”. They were then repositioned based on concepts from the Universal Declaration of Human Rights (1948) such as “spirit of brotherhood” (Article 1) and “tolerance”, “understanding” and “friendship” (Article 26[2]) although not direct attributed. While the rest of the content could be connected to other texts, since there is no direct or indirect attribution, intertextuality cannot be claimed on the mere basis of assumptions. The way the entire document is textured implies the inclusion of children within an established and agreed upon universal framework of understanding, rights and freedoms, cooperation, and common goals amongst nations.

The text also consists of a series of various assumptions intermixed and embedded to further establish this common ground and substantiate the presence of universality when it comes to ‘the child’s’ needs and protection. Since it is a nonbinding Declaration, it is done through affirmations intended to pull on the heart strings of the readers (Member States, individuals and organizations). I am basing my analysis of these assumptions on my own understanding of the text. If we look at the text as a story unfolding, the first essential point that is made in the text is that

there are rights and freedoms that “everyone” is entitled to, which are proclaimed in the Universal Declaration of Human Rights. This point is made using existential and factual assumptions to create a narrative that is real but at the same time hopeful showing the potential of rights.

The most evident existential assumptions made throughout the text are triggered by the definite article ‘the’ and the demonstrative pronouns ‘this’, ‘these’, ‘those’, and ‘that’ in reference to something that the authors believe exists or possibly want others to believe in even if they may not. In the text, reference is made to the existence of “the child” denoting that there is one type of child, a universal child, who is also physically and mentally immature as indicated in the third preambular paragraph and is also “every” child as noted in the first principle. Once this image is set-up, “the need for such special safeguards” as presented in the principles is justified.

The other category that only appears at the beginning but is essential are “the peoples of the United Nations”; while they do exist, the use of “peoples” connote a wider range than a category such as “members”. Within this context, several factual assumptions are also made beginning with the first preambular paragraph in which there is a reaffirmation (triggered by the verb “reaffirmed”) of the faith (that can be seen as a value assumption) of the peoples of the UN “in fundamental human rights and in the dignity and worth of the human person” as noted in the Charter (a text that exists). This (re)affirmation of the existence of the human person, “human rights”, “dignity” and “worth” of this “person” legitimatizes the second preambular paragraph in which there is another factual assumption – the proclamation (triggered by the verb ‘proclaimed’) by the UN that “everyone is entitled to all the rights and freedoms”. Since this text is from the Universal Declaration of Human Rights, which exists, then the assumption is that “everyone” is entitled to these rights. The third factual assumption sets the tone for the third paragraph and the entire text as it clearly states how children are seen – as physically and mentally immature. This

implies a ‘universal’ agreement/common ground on the physical and mental immaturity of the child resulting in the need for “special safeguards and care” thus substantiating the paragraphs and principles that ensue. The fourth paragraph refers to existing texts - the Geneva Declaration, the Universal Declaration of Human Rights and statutes of specialized agencies and international organizations - where these “special safeguards” were “stated” and “recognized”. These serve as affirmations to further legitimize the agreed upon needs of ‘the child’ within the new context.

The last notable assumption in the preamble is triggered by the verb “owes”; “mankind owes to the child” creating an assumption of responsibility. It can also be seen as an assumption of value as it ends with the “best it has to give”. What the “best” means and encompasses is not the same for everyone. This is also problematic in the operative paragraph that proclaims that the purpose of this Declaration is in part so that the child “may have a happy childhood” with the assumption that the standard of happiness is universal and can be attained by abiding to the Declaration. The fourth principle presents a similar assumption in reference to “the right to adequate nutrition, housing, recreation and medical services”; what level is considered “adequate” and who determines such adequacy and on what basis is not clear.

Other value assumptions can be found in the second principle triggered by the word “normal” in reference to the child’s mental, moral, spiritual and social development. What is perceived as “normal” within this context is from a Eurocentric lens. Even within such a framing, the notion of “normal” remains vague and creates conflict in the process as it implies that there is “abnormal” development. This value assumption is further made in the sixth principle with the notion that the child “needs love and understanding” to be able to fully develop. The questions that arise as a result are: Who determines what is “normal” or “full and harmonious development” and what is not? How do these value judgements impact the child in terms of perception, treatment and



development? In the seventh principle, the purpose of the education of the child is addressed and one of its goals is for the child “to become a useful member of society”; what “useful” implies and by whose standard is once again not clear. The assumption remains that if the child gets the “right” education, then the child can become useful to society. This notion is entrenched in discourses that emerged during the war about the importance of education to ensure peace and democracy postwar.

Through a first reading of the 1959 Declaration and the discussions among Member States on the drafts, it appears that there is a balance in the text between the voices of the different countries. However, upon closer examination of how these voices are textured, it becomes clear that there is no balance but an allusion of it. There is clearly one dominant voice – that of the UN (the dominant Member States as well as possibly a few NGOs with consultative status who worked on the initial draft and whose amendments were accepted at the General Assembly). This voice is textured to substantiate the notion of universality and cooperation. It is also framed in a way suggesting that the text is speaking on behalf of children and ‘mankind’ (OHCHR, 2007a). In purposefully excluding the voices of children and the different communities from around the world along with the rejection by the majority of Member States of any mention to State responsibilities and actions (as suggested multiple times by the USSR in its amendments), it is clear that Declaration is not inclusive; it is also not a text about children as rights holders (even if the child is the subject of the Declaration), but ‘the child’ as the object of these rights.

### **Difference**

The text accentuates differences in terms of power and abilities between adults and children by normalizing and bracketing them to show commonality and achieve consensus. Through this process, the issues affecting children and their voices are not addressed but suppressed in the form of implied universality. Not only does the text present a specific perception of children by those in

power, but it also legitimizes political, economic, and social agendas in the name of child protection. Similar to the Geneva Declaration, the structure and content of the text clearly draw a distinction between the child (the dependent “being in the process of development” [OHCHR, 2007a, p. 21]) with the adult (the independent and responsible being). The main difference in the 1959 Declaration, as inferred from the analysis, is the accentuation of the child in need of protection not only for the child’s sake but for the future and a bigger global goal – bringing peace.

Adults whether as individuals or members of a group (voluntary organizations, local authorities, and national Governments) are represented as givers as marked by the verbs associated with their role: reaffirm, promote, proclaim, recognize, owes, strive, give, provide, protect, and bring up (tenses have been amended to the present form as some words appear multiple times with different tenses). Children’s diverse voices are completely excluded from the narrative as they are depicted in the singular form under “the child” (alluding to the image of the universal child); this “child” is also physically and mentally immature, thus is in need of special safeguards and care, and legal protection (preamble, para. 3) “without distinction or discrimination” (principle 1) from adults. The only sign of commonality between children and adults is in the possible forms of discrimination mentioned in both the second preambular paragraph that refers to “everyone” (which includes children) and in the first principle (specifically referring to child rights). The goal of the rest of the text is that this child “develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity” (principle 2) and be “brought up...in full consciousness that his energy and talents should be devoted to the service of his fellow men” (principle 10). The text thus connotes a correlation between a happy childhood, enjoyment of these rights and freedoms, development and becoming a useful member of society with adults doing their part by recognizing these rights and striving for their observance.

### **Semantic/Grammatical Relations Between Sentences and Clauses**

The ‘multiple languages’ in use within the Declaration and their interconnections are specific to its purpose, which is based on historical, social, political and economic contexts. The semantic and grammatical relations between sentences and clauses help bring to the fore these contexts and accentuate the image of the child as in need of protection and care, which was dominant at the time. The problems and solutions are intentionally excluded as noted during the discussions by Member States. The logic behind this is that States are best equipped to decide on specific processes for their own countries. It is also an issue of power (sovereignty) – no country wants to be told how to deal with its own populations and what legislation to create even if they do not infringe on its policies and are in ‘the best interest of the child’. I have noted some of the different relations and the connecting phrase(s) or word(s) associated with them that show their interconnection and different levels. Although this is not a legal text, it is important to note that the Declaration does not follow traditional grammatical rules and structures; thus, this analysis is based on my understanding of the semantic/grammatical relations between sentences and clauses.

#### ***Preamble and Operative Paragraph***

The preambular paragraphs, which are hypotactically related, provide reasons for the Declaration. “Whereas”, as a subordinating conjunction, begins each dependent clause in the preamble laying out the foundation for the direction, order, and core of the rest of the Declaration. It always ends with a comma to show a continuation of the idea. The first two paragraphs consist of reasons and elaborative relations referring to different texts and their specific content. The first being the UN Charter, with an elaboration of the reaffirmation and determination of the peoples of the UN. The reason provided is the promotion of “social progress and better standards of life in larger freedom.”. In the second paragraph, the subject is the UN with the prepositional phrase “in

the Universal Declaration of Human Rights” as an elaboration denoting the source of the reason, which is that “everyone is entitled to all the rights and freedoms set forth therein”; the rest that follows is an elaboration of the non-discrimination categories.

The third and fourth paragraphs are interconnected. In the third paragraph, the main relation is a causal one. There is a higher-level/global semantic relation – problem-solution. The problem, however, is not presented as a problem, as that would make it negative, but as a reason. Unlike the first two that recount content of other texts, this addresses the issue/reason, which is the child’s “physical and mental immaturity” (placed in between bracketing commas) and presents the solution - “special safeguards and care” - as a need. This is then elaborated on with the phrases “including appropriate legal protection” and “before as well as after birth”, which is also temporal as it denotes time albeit not specific leaving it up to countries to decide when a child is considered a human being and the age that a child ceases to be considered a child. Both phrases are in between bracketing commas; while they do not interrupt the phrase, their positioning implies that they are weaker in terms of priority. The reason legitimizing the cause in this paragraph foregrounds the basis of the rest of the document, as it lays common ground on the perception of the child, and the logic behind the order as well as the content of the principles emphasizing the protection of the child. The fourth paragraph affirms where this need “for such special safeguards” was first stated (in the Geneva Declaration), and as an elaborative relation where it was recognized (in the Universal Declaration of Human Rights, and in the statutes of specialized agencies and international organizations). Repeating the words “special safeguards” within this context, is a way of reminding the readers of what was previously agreed upon in reference to the child’s immaturity.

In the last preambular paragraph, the assumption is that the “best” exists and is known; the reason for the Declaration is providing whatever the “best” maybe as “mankind owes to the child”.

Why the child is owed something is not stated but implied as the child is brought into the world by adults, and they are responsible for the child until ‘he’ becomes an adult. The last temporal phrase in the preamble is “Now therefore,” which denotes a time and place of the agreement; each being different since the Declaration went through several drafts. In this case, it is in reference to the time and place of the adopted/final Declaration. It also leads to the operative paragraph, which is the proclamation made by the General Assembly. In this paragraph, the Declaration is presented as the solution with an elaboration of the end goal/purpose being enabling the child to “have a happy childhood” and to enjoy these rights, which are “good” for the child and society. These are presented through hypotactically related clauses using coordinating conjunctions “that” in the first clause followed by “and” in the remaining clauses. The last phrase that introduces the principles is an elaboration on what is meant by “their observance”, which is “by legislative and other measures”, which are taken in accordance with the principles of the Declaration.

### ***Principles***

In some of the principles, there are explicit markers of higher semantic relations (principles 5, 9 and 10), while in others the relations are implicit. Each principle addresses the purpose of that specific principle in the form of an affirmation using “shall” followed by the solution. In some cases, a problem is not explicitly stated but can be inferred from the purpose of the principle. Since all the principles are written using a similar technique, one can assume that it is intentionally done to create both a flow and connections between one idea to the next. In the first principle, the solution is clearly stated, which is also the purpose of the principle – the enjoyment of and entitlement to rights by the child. As for semantic relations between clauses, elaboration is used as a mode of explanation as indicated in the following phrase “Every child, without any exception whatsoever, shall be entitled to these rights, without distinction or discrimination on account of

...”. The first part “without any exception whatsoever” is intentionally placed in between bracketing commas as it signifies a weak interruption to the phrase that if removed does not affect the sentence, particularly since more emphasis is intended to be on the non-discrimination categories listed: “race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family”.

The second principle consists of the solution/purpose of the principle, which is enjoying “special protection” and being “given opportunities and facilities” with both concepts hypotactically related. This is followed by an elaboration of what these “facilities” are “by law and by other means”. The reason for this principle as elaborated on is “to enable him [the child] to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity” with the underlined parts serving as further elaborations. This is followed by a new sentence: “In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration”; the use of the underlined pronoun indicates that it is related to the previous concept with “the best interests of the child” proposed as a solution.

In the third principle, which consists of one short sentence, the solution presented as the purpose of the principle is that the child needs “a name and a nationality”. The problem, as with the previous principles is not noted; what is implied is that living without a name and nationality is problematic. The fourth principle is also similar as it consists of the solution and purpose, as indicated in the first sentence – the enjoyment of the child of “the benefits of social security”. The sentence that follows it: “He shall be entitled to grow and develop in health” is paratactically related. However, the one that comes after is hypotactically related through the textual marker “to this end”, which also introduces the reason/solution – providing both the child and his mother with “special care and protection” which is elaborated on to include “adequate pre-natal and post-natal

care”. The assumption is that social insecurity can be overcome if the child and mother are given this special care and protection, as well as “adequate nutrition, housing, recreation and medical services” as introduced in the last sentence, which is paratactically related. The problems causing social insecurity are not addressed since they are presumed to be known by each State.

The fifth principle consists of one sentence: “The child who is physically, mentally or socially handicapped shall be given the special treatment, education and care required by his particular condition”. The embedded descriptive clause underlined with the textual marker “who” serves both as the element of the phrase and a representation of the specific child that is the subject of the principle. This principle affirms that a different kind of child with different needs exists, thus the solution is treatment, education and care based on that child’s condition.

The sixth principle consists of five paratactically related sentences with additives, an elaboration, and solutions. It asserts that the child “needs love and understanding”, which can also be perceived as the solution without reference to any problems. The reason as elaborated on is – “for the full and harmonious development of his personality”. In the second sentence, there are elaborative relations as triggered by the underlined textual markers: “He shall, wherever possible, grow up in the care and under the responsibility of his parents, and, in any case, in an atmosphere of affection and of moral and material security”. While it is not stated but implied, the opposite of this would be problematic for the child. The sentence that follows, which is the only one separated amongst the others with a semicolon, elaborates on the possibility of the separation of “a child of tender years” from the mother, which is not desirable, but can happen “[...], save in exceptional circumstances” (with the phrase bracketed in between commas). These “circumstances” are not as they are dependent on the respective policies, cultures, societies, etc. of each State. The lack of elaboration was intentional as the social events show, the taking of children from their

parents/families was in most cases State-sponsored. Another solution is presented in the sentence that follows, which is the duty of society and public authorities to “extend particular care to children without a family and to those without adequate means of support”. This is the only principle that refers twice to children in the plural form. The last solution, which is presented as “desirable” action but by no means mandatory or highly needed is: “Payment of State and other assistance towards the maintenance of children of large families is desirable”.

The seventh principle, which consists of three paragraphs with multiple sentences each, addresses education as the overarching solution to an implicit problem. The clauses in this principle are mostly hypotactically related. The first sentence notes: “The child is entitled to receive education, which shall be free and compulsory, at least in the elementary stages”. The underlined phrase interrupts the sentence and is between bracketing commas signifying that it is of lesser importance. The next sentence that is paratactically related to the first addresses the impact of education on the child; it “will promote his general culture and enable him, on a basis of equal opportunity, to develop his abilities, his individual judgement, and his sense of moral and social responsibility, and to become a useful member of society”. This is also alluding to the type of education needed. The first is an elaborative relation as triggered by “on the basis” and the rest are additive relations as they are similar and interconnected but also separate. The second paragraph consists of a sentence and a subordinating clause, which is an elaboration: “The best interests of the child shall be the guiding principle of those responsible for his education and guidance; that responsibility lies in the first place with his parents”. It serves as a reminder that the onus falls on the parents when it comes to education and guidance. This is an elaboration of “those responsible” referred to in the sentence before it. In the last paragraph, which consists of a sentence, an elaborative clause, and a separate subordinating clause, play and recreation are



elaborated on as a part of the right/entitlement to education. This point is made through the elaborative clause: “which should be directed to the same purposes as education”; another elaboration comes at the end with society and public authorities endeavoring to promote this right.

The eighth principle: “The child shall in all circumstances be among the first to receive protection and relief” consists of one sentence with the elaboration underlined embedded in the sentence signifying its importance. The ninth principle, which consists of two paragraphs, addresses protection in all its forms using a solution – problem format; for example, in the first paragraph with two paratactically related sentences: “[solution] The child shall be protected against [problem] all forms of neglect, cruelty and exploitation. [solution] He shall not be the subject of traffic [problem], in any form”. The problems are presented in an indirect manner to avoid stating that they exist in Member States, but if they do, then the solution is protection. The sentence ends with a prepositional phrase (as underlined). In two paratactically related sentences in the second paragraph, employment of the child is addressed with the problem – solution dynamic also implied. The solution here is that “The child shall not be admitted to employment before an appropriate minimum age” with “before” marking a temporal relation. The independent clause that follows with a semicolon addresses the type of employment the child should not do as another solution with the elaborative relations “which would prejudice his health or education, or interfere with his physical, mental or moral development”.

The last principle, which consists of two paratactically related sentences with elaborative and additive relations concludes the Declaration. The first sentence notes the importance of protecting the child from “practices” that are elaborated on in the following phrase: “which may foster racial, religious and any other form of discrimination”. However, the type of “practices”, which are the problem, are not clarified (just their possible consequences) leaving them open to

interpretation. The second sentence addresses how the child is to “be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood”, which is a solution to an implicit problem. The clause that follows it is an additive as marked by the underlined coordinating conjunction “[...], and in full consciousness that his energy and talents should be devoted to the service of his fellow men”.

In the Declaration, the givers of all the actions are the adults (parents, men and women, voluntary organizations, local authorities, and national Governments) as stated in the preamble. Reference and lexical relations in the text create a cohesive connection among the sentences. The definite article ‘the’ is used throughout particularly in reference to ‘the child’ with each principle beginning with this affirmation. This is to say that “the child” as a category in its singular and universal form exists. “The” is also used in the preamble to refer to, further legitimize, and affirm the existence of specific concepts, “peoples” and international agreements such as: “the peoples of the United Nations”, “the Charter”, “the dignity and worth of the human person”, “the rights and freedoms”, “the Universal Declaration of Human Rights”, “the need for such special safeguards”, “the statutes of specialized agencies and international organizations”. This is also a mode to further establish common ground before delving into the core content. The operative paragraph also relies on the use of “the” in relation to: “the good of society”, “the rights and freedoms”, and the principles. Once the foundation is laid for the readers, the principles that follow begin with the child, and further use “the” to affirm what the child needs; for example: “the rights set forth” (principle 1); “the enactment of laws” and “the best interests of the child” (principle 2); “the benefits” and “the right to” (principle 4); “the special treatment” (principle 5); “the full and harmonious development” (principle 6); “the enjoyment” (principle 7). “The” is also used to affirm the child’s role in “the service of his fellow men” (principle 10). The personal pronoun ‘it’ is used

once in the preamble in reference to mankind. A clear lexical chain can thus be seen throughout the text as a predictable pattern and a logic of appearance is created. The ultimate goal is to reach the message/destination that these principles are agreed upon and highly desirable if ‘the child’, who is physically and mentally immature, and is representative of every child, is to be protected. Legitimation thus plays an integral role in communicating this overall message. The text is legitimized through authorization, which is clear in the use of intertextuality in reference to agreed upon texts by the States; rationalization by showing the benefits of institutionalized/community action; and moral by alluding to value systems (e.g., a happy childhood, being normal).

### **Representation of Social Events**

From a representational lens what is given the most prominence throughout the text are the different forms of activities; beginning with the action verbs in the heading of the final Declaration (proclaimed), the preamble (reaffirmed, promote, proclaimed, recognized, owes), operative paragraph (proclaims, calls upon, recognize, strive) and the principles (enjoy, develop, have, receive, become, promote, protected, admitted, engage, interfere, brought up). The subject of each paragraph differs in the preamble and the operative paragraph from the subject of the principles. In the preamble, the subjects are the peoples of the United Nations, the United Nations, the child, the Declarations and statutes of specialized agencies, and mankind (listed in order of the paragraphs). The subject of the operative paragraph is the General Assembly, and the main subject of the principles is the child not as the doer but as the recipient of the action. Only a few principles have another subject/actor such as the sixth principle in which, in addition to the child, “Society and the public authorities” are referred to as well the State (alluded to through the noun phrase: “Payment of State”); and, at the end of the seventh principle “society and the public authorities” are also noted. The ‘best interests of the child’ is also the subject of two clauses in the second and

seventh principles. The actions are mostly done for the child (the recipient/object) who is presented as a general category intended to be representative of “every child” – a ‘global/universal’ child. There is no agent for the action, as responsibility is left to be determined by the State (a few suggestions are made such as parents, society and public authorities).

In terms of social relations, the main reasons that are given for the Declaration are aforementioned agreements on the rights of human beings and the need for special actions and protection for the child due to the child’s physical and mental immaturity. The connections of these social relations are made through prior consensus on other international texts as well as present consensus on the needs of the child as outlined in the principles of the Declaration. The means by which the action(s) in each principle will be achieved is alluded to in some cases but not elaborated on to ensure that Member States are not told what to do but are guided by ideas; this was the main reason that the Declaration as a whole was adopted as noted by some States representatives.

The text presents a mixture of clauses that are transitive and intransitive material processes. In some situations, the actor, process and affected are noted (i.e., principle 7), while in most of the principles, the process and affected are there but not the actor. A clear distinction can be made between the adults (the givers of the actions), and the children (objects/beneficiaries of the action) who are classified and generically represented in the principles when comparing them with the first two preambular paragraphs and the operative paragraph. In the sentences in which the actors/subjects are adults, they are activated and can be seen as participants with a major grammatical role. The child, on the other hand, is predominantly presented as a noun, particularly at the beginning of each principle, with a few instances as the pronoun “he” in the latter parts of principles four, six, seven, nine, and 10 as a form of creating cohesion through reference relations. Even when the child has a role, for example, in enjoying the rights of the Declaration (principle

1), special protection (principle 2), and benefits of social security (principle 4), the child can only do so with the permission of adults. Thus, these “rights” become only attainable if given by adults.

There is also an attempt to create a relationship between the universal and local, and the national and international through references to international texts and statutes of specialized agencies and international organizations, which differ from one group/country to another<sup>1</sup>. These relationships also extend beyond texts to include human beings in different hierarchical positions such as “peoples of the United Nations”, “everyone”, “mankind”, “parents”, “men and women as individuals”, “voluntary organizations, local authorities and national Governments”, “every child”, “society and the public authorities”. The concept of “universal brotherhood” also solidifies the importance of these established/agreed upon relations. The allusion is that there is universal consensus that can be locally applied, and that the onus falls on everyone. There is a clear political, economic, and social motivation behind these exclusions; not only does it reflect the way the child is perceived as weak and immature but also to ensure power hierarchies (hegemony).

### **Modality and Evaluation**

The authors of the text, who are also Member States of the General Assembly of the UN, acknowledged in their discussions that these principles are recommendations and the content is the “best” that “shall” be given to the child. There are clear markers of modality as “shall” is used throughout the text; this is a formal way of making suggestions based on the “special” needs of the child. Such statements with deontic (obligational) modalities (although slightly different in tone than the Geneva Declaration that relied on the use of “must”) are linked to evaluation, in which values are realized. The text places emphasis on desirable actions connected to adults such as helping, giving, protecting, and enabling the child to grow and develop. On the other hand, undesirable actions or situations are associated with child suffering such as “all forms of neglect,

cruelty and exploitation” (principle 9) and separating an infant from his mother (principle 6). Throughout these principles, the child is depicted as a passivated actor that “shall enjoy”, “shall be entitled”, “shall be given” these rights. Overall, this accentuates the power of the adults and affirms the child’s subjection to the processes that “it” “shall be given”.

### **Concluding Remarks**

Children around the world continued to feel the impact of both World Wars as well as political, economic, and social unrest in their respective countries. Although the 1959 Declaration “placed stronger emphasis on children’s emotional well-being.... [, it] remained fixed in a welfarist approach, aiming to safeguard and protect children, with little emphasis on empowering them” (UNICEF 2009a, p. 5). The text repackaged the image of the ‘weak’ and ‘immature’ child that needs support from individuals to ‘the child’ in need of protection from adults and governments. This image is solidified in the way the Declaration is textured and the unfolding of the narrative with passivated actions and abstracted circumstances. What was also amplified was the universality of the needs of ‘the child’ vis-à-vis justification for the principles. While the 1959 Declaration had no impact on a legal level, the text with its language *in use* became an integral part of child rights discourse and was eventually recontextualized to become a part of the CRC. Not only is it intertextual as history (society) is embedded into the text, but the text has become embedded into history (see Kristeva, 1986); it is also interdiscursive as it mixes different genres with institutional and social meanings (see Fairclough, 1992).

## Chapter 7

### CRC: Language *in Use*

This chapter examines the obstacles that carried through into the CRC from 1959 up to 1989. It is divided into six sections that address: social events, genre and social relations, intertextuality and assumptions, difference, semantic/grammatical relations between sentences and clauses, representation of social events, and modality and evaluation. The first section, which informed my reading *with* and *against* the text (Price, 2002), explores the historical impact of different social, political, economic, and to a limited extent cultural factors as well as their intersectionality with other areas such as science and education on child rights discourse and the pursuit of a ‘universal child’. The CRC is not analyzed in its entirety due to its length; examining each right is essential to better understanding the rights that are outlined and the CRC as a whole, but it is not possible given the scope of this research. Thus, the analysis focuses on the preamble and the four general principles (Articles 2, 3, 6 and 12) as grouped by the Committee on the Rights of the Child, which I have used as a springboard to frame the tone and direction of the text. It is important to note that while the Articles can be read separately as I have done, they are interdependent and interrelated and stronger when read together.

#### **Social Events**

Before the end of the Cold War that spanned over four decades, a series of events marked the 1950s to early 1990s that included unrest in Europe and the U.S., the weakening of communist regimes, the falling of the Berlin Wall in 1989 (a symbol of oppression of Soviet rule), and the rise of democratic movements. The end of the war in 1991 did not mean the end of conflicts, civil wars, political and economic instability around the world; these continued to affect, at varying degrees, the well-being, health, and safety of children. Thus, with the emergence of a new world order, a

more diverse global economy, and advancements in technology, the need for more comprehensive, and inclusive child protection measures became more essential. While many States agreed to this need, the type of text/legislation, content and implementation process were not agreed upon. Such discussions were not new; they started in the 1950s and continued during the long drafting process of the CRC. Although the CRC was adopted and opened for signature and accession on 20 November 1989, its content is not reflective of the needs of that period as its drafting began in the late 1970s. For the purposes of this dissertation, a brief overview of some of the events from the late 1950s to the late 1970s and early to mid-1980s is presented.

### ***An Overview of Economic Triggers***

Children continued to suffer following the passing of the 1959 Declaration as a direct and indirect result of interconnected economic, political, and social events. In the 1950s to the early 1970s, many Western European countries experienced an economic boom as well as a population decline and labor shortages in industries such as agriculture, construction, and mining. To fill these vacancies, as Christof Van Mol and Helga de Valk (2016) note, several governments including France, Switzerland, Belgium, the Netherlands increased their recruitment of “guest workers” through bilateral labor migration agreements with countries such as Turkey, Morocco, Portugal, Tunisia, and Yugoslavia. According to Marek Okólski (2012), from the 1950s to the early 1970s “the foreign population in Germany increased by around 3.5 million; in France and Britain by more than 2.5 million; in Switzerland by nearly 800,000; in Belgium by 400,000; and in the Netherlands and Sweden by 300,000” (p. 27).

Although these opportunities enabled “guest workers” to make a living, the wages were extremely low, they were often living in poor conditions doing labour that put their health at risk and were, at times, subjected to discrimination and violence. By 1973, many Western European



countries stopped labor migration due to rising costs, weaker economies and increasing anti-foreign sentiments. The oil crisis (1973-1974) and the recession that followed (see Castles, 1986) not only affected these countries economically, but it also changed the political and social landscapes. Even when new migrant workers were no longer wanted, countries could not fully prevent those who had permanently settled from bringing their families since “family reunification...was considered a fundamental right, anchored in article 19 of the European Social Charter of 1961” (Van Mol & de Valk, 2016, p. 35). Discourse on the important role that these workers played in growing the economies of the countries they migrated to was not as popular as growing political and ideological discourse spreading hate and fear leading to the continuous suffering of many migrants and their families. Van Mol and de Valk (2016) state that the “[i]ncreasing unemployment levels due to the economic recession fuelled hostility, racism, and xenophobia towards certain ‘visible’ groups of resident migrants” (p. 35). The media and politicians further fueled these sentiments and actions by presenting ethnic minorities as peoples “who take away other workers’ jobs, sponge off social security, cause the housing problem, overwhelm the schools, and generally swamp ‘our’ society and culture” (Castles, 1986, p. 776). Even their children were depicted as threats to “public order through muggings, drugs and attacks on the police” (Castles, 1986, P. 776). “Islamic minorities in France, Germany and Britain...[were] portrayed as a threat to occidental Christian civilization” (Castles, 1986, p. 776).

While Europe faced a population decline, China attempted to control its population by enacting policies to limit the number of children. In the 1960s, couples in rural areas were allowed only one child and those living in urban areas were allowed two. This changed in the 1980s, allowing one child per family resulting in a reduction in childbirth as well as forced abortions, sterilizations, infanticide, and the hiding of infants amongst family members (particularly in rural

areas) leaving them without official registration. Moreover, the Cultural Revolution in 1966 resulted in the death of more than one million people in China that included children, and the suffering of millions of others (White, 1989).

As some economies lagged, others saw further expansions in the 1960s and 1970s with the opening of new sectors and industries and the increase of multinational corporations. For example, the production of automobiles and electronics, inexpensive consumer goods, textiles, and steel to name a few helped the economies of different countries such as Japan and Korea prosper and increased competition amongst nations. However, with growth also came further exploitation; children continued to be sold and trafficked and used as cheap labor in agriculture and factories around the world. Although the Organization of Petroleum Exporting Countries (OPEC) was founded in 1960 to regulate oil prices and control oil distribution, oil-producing nations continued to manipulate both prices and supply impacting the global market. As demand increased and with little to no repercussions, the use of cheap labour from developing countries continued to play a dominant role in driving the economies of many developed countries.

Although the process enabled these developing countries to experience industrialization and enter the “global” market, it also led to “a strong external dependence on the markets of the wealthy, advanced industrial countries” (Pavlic & Hamelink, 1985, p. 47). This dependence resulted in the prospering of developed countries and the “economic lag” (Pavlic & Hamelink, 1985, p. 47) of dependent ones. The main issue was that the old economic structures intended to benefit the colonial countries continued to be used. By the late 1960s and early 1970s, political leaders and economists called for a restructuring of the international economic system leading to “proposals for alternative development models based on concepts such as ‘basic needs’, ‘self-reliance’ and ‘a new international economic order’” (Pavlic & Hamelink, 1985, p. 47). This new

order was supposed to not only depend “on political and economic factors, but also on socio-cultural factors... crucial in the struggle of peoples against all forms of domination” (as cited in Pavlic & Hamelink, 1985, p. 9). However, the reality on the ground was different. The major concern amongst developing is that power continued to lie in the hands of developed countries (see Pavlic & Hamelink, 1985). In 1972, because of the nuclear arms race, European countries met in Helsinki, Finland to address security and co-operation in Europe. This led to the Helsinki Accords (1975) in which 35 signatory countries agreed to respect human rights and freedoms, and to cooperate on different fronts including economic, scientific, and humanitarian.

With the decline of communism at the end of the 1980s, more nations implemented free-market economies. Regional trade associations were organized to facilitate trade, and mass consumerism created a global marketplace. In the 1970s and 1980s, there was a desire for a more conservative approach toward government spending in Britain and the U.S. leading to a decrease in welfare programs. In the 1980s, the economic recession hitting many parts of the world led to the lowering of living standards. For example, “[b]etween 1980-1985, average incomes fell in 17 out of 23 countries in Latin America and 24 out of 32 countries in sub-Saharan Africa. Overall, average incomes fell by 9% in Latin America and 15% in Africa” (UNICEF, 1987b, p. 2). In addition to the falling incomes, the price of commodities rose, and some governments cut spending on certain areas such as health and education impacting the most vulnerable and the poor (UNICEF, 1987b, p. 2). Economic instability and dependence were the major factors contributing to many of the events that unfolded within different countries and the continuous violations of child rights. In the developed countries, the case was different, but only on the surface, as the most vulnerable also suffered due to economic changes. With the dissolution of the Soviet Union, the U.S. became the only superpower, leading to a new age of globalization and new concerns and

threats to children that the CRC did not cover. Moreover, going into the 20th Century, environmental threats from decades of warfare, industrial and automobile emissions, and oil spills to name a few also posed further challenges to children around the world.

***A Glimpse into Natural and Political Triggers (1959-1989)***

Famines contributed to the deaths and suffering of millions impacting the most vulnerable. In *Famine: A short history*, Cormac Ó Gráda (2009) explores the impact of famines that extend beyond death from hunger and malnutrition to crime, slavery, prostitution, infanticide, child abandonment and cannibalism. As M. Muqtada (1981) argues, factors leading to famines such as wars and poor communications (especially in the early periods with variations due to growing interdependence amongst nations), natural disasters, food shortages, “fluctuations in ‘exchange entitlements’ [See Sen, 1977],...the role of the state *vis-à-vis* controlled distribution” cannot be viewed in isolation; they are “related to the structural, institutional and technological constraints operating within the economy” (Muqtada, 1981, p. 3). He posits that “[t]he recurring famines cause aberrations and even a breakdown of the normal economic relationships...reflect[ing] the fragile structure of the economy, which also affect the already vulnerable sections of the population” (Muqtada, 1981, p. 3). This interconnection between famines, poverty and struggling economies becomes clearer when one examines the countries and populations most impacted by these recurrences around the world.

One of the worst famines was the Chinese Great Famine (1959–1961) that killed an estimated “16.5 to 45 million individuals, most of whom were living in rural areas” (Meng et al., 2015, p. 1568; for further details see Banister, 1987; Dikotter, 2010). The Biafran famine, which took place during the Nigeria-Biafra war (1967–1970), was another major event in history with an estimated one to three million deaths (Falola & Heaton, 2008, p. 158; see Heerten & Moses, 2014).

Another famine requiring international relief efforts was in West Africa (1972-1974); there was drought in the region impacting agriculture and stockbreeding vis-à-vis the livelihoods of millions. Those mostly affected were partly or entirely in the Sahel or desert including “Senegal, Mauritania, Mali, Upper Volta [now Burkina Faso], Niger and Chad” (Derrick, 1977, p. 539); Gambia and Nigeria were also impacted. Within the same period, there were droughts in Kenya, Tanzania, northern Ethiopia and Somalia. Another deadly famine took place in Bangladesh (1974/1975) while the government was trying to reconstruct the country’s economy following its civil war in 1971 (Muqtada, 1981).

In Cambodia from 1975-1979, approximately two million people died due to violence, starvation and/or disease (Tyner & Rice, 2016). Karamoja (in Uganda’s eastern part of the North region) was one of several regions that experienced drought and conflict leading to severe famine in 1980. Marcela Umana-Aponte (2011) writes: “Some studies suggest that the famine was, in terms of mortality rates, one of the worst in history. Approximately 14% of the population in Karamoja died, most of them children” (p. 2; see Alnwick; 1985) According to a UNICEF report examining the state of the world’s children from 1980-1981: “the number of men, women and children now living out their lives in absolute poverty is estimated at 780 million out of a total world population of 4,400 million. More than 300 million of these ‘absolute poor’ are children” (Grant, 1981, p. 4). This did not improve with time as many countries continued to be ravaged by wars, drought and famine leading to “silent emergencies” with an estimated weekly death of 280,000 children worldwide from frequent and treatable infections and undernutrition (see UNICEF, 1987b). According to UNICEF (1987), millions of children died due to dehydration, respiratory infections, tetanus spasms, measles, ‘ordinary’ illnesses (e.g., cold, fever diarrhoea)

resulting in weakened immune systems and malnourishment in countries such as Pakistan, India, Bangladesh, Mexico, and Indonesia.

In the 1980s, famine in Ethiopia led to food shortages and hunger resulting in an estimated one million deaths. International support became essential. In her article, “The terrible face of famine” featured in *Macleans*’ world section, Shona McKay (1984) described the horrors of the famine, the need for financial assistance, difficulties facing the delivery of aid, alongside examples of kindness from Canadians and others from around the world including governments. At the centre of the article is an image of a mother and child with the caption: “Mother and child at Korem: an anguished wait for the world’s mercy” (for the *Macleans*’ article, see McKay, 1984). The mother has her hand on her chin and is gazing downwards while holding her child close to her chest with the other hand. The child has both hands on the mother’s chest and is gazing in the direction of the mother’s right hand. Both child and mother are wearing simple fabric draped on their bodies. The image and caption denote the need for compassion by those in power as well as an appeal to their religious values as indicated by the use of the word “mercy”. The language *in* use in the article is in line with the moral and charitable approach that developed countries have taken and continue to take when providing aid to developing countries; it is also a tool for raising funds and support from citizens.

Mozambique was also struggling due to wars, drought, and typhoons (Griffiths, 1988). It experienced three decades of war – the liberation war in 1964-1974, which led to its independence from Portugal in 1975 (Hanlon, 2010), the Rhodesian war (1972-1990) (Matthew, 2004), and its longest Civil War (1981–1992) that resulted in the death of an estimated one million people and the displacement of five million (Hanlon, 2010). The war also devastated its economy and destroyed or led to the closure of “60 per cent of all primary schools” (Hanlon, 2010, p. 80). Ieuan

L. Griffiths (1988) writes that “Mozambique’s civil war is the creation of neighboring white-minority regimes” (p. 60); hence, South Africa’s continued involvement in the country’s destabilization (see Hanlon, 1986). Interference from outside forces, including neighbouring countries as well as richer countries aiming to destabilize a country/use its time of weakness to their benefit, was not unique to Mozambique as other countries who attained their independence experienced similar outcomes at varying rates and consequences.

In South Africa, where racial discrimination was institutionalized through a policy of apartheid (separateness) from 1948 with the coming of power of the National Party and ending in 1991, millions suffered from racism, violence, and poverty. Joyce Hickson and Susan Kriegler (1991) note that the effects of apartheid were “particularly devastating for black children” (p. 141) resulting in trauma and psychological disorders. Access to health care services, support and education were problematic and inequitable, but it was even more difficult for black children with disabilities. Furthermore, growing up in a society where racism is legitimised, and racist discourse is the norm can have a profound impact on a child’s development and mental health. Children in South Africa were also detained, harassed, intimidated, abused, and tortured (Hickson & Kriegler, 1991, p. 148). The effects of systemic racism on children extends beyond what is noted in this brief paragraph and what can be found in research and books; thus, further exploration of the past and its impact on the present is essential (for more information, see UNICEF, 1989).

The people of Sudan also experienced devastation and loss of life due to civil wars (1955-1972; 1983-2005), mass killings and famine (De Waal, 2016). From 1985 to 1989, the *murahaliin* “militia killed, plundered, burned, and raped their way through a huge swathe of southern Sudan.... They also abducted thousands of women and children into servitude and created a famine of exceptional severity among the displaced” (Keen, 1994 as cited in De Waal, 2016, p. 127). Those

living in camps struggled to survive; international aid did not always reach them. De Waal (2016) notes that at one point, aid workers discovered that “internationally donated aid had stood untouched in railway wagons for over a year, just yards from a camp where children were starving to death” (p. 128); this led to “pressure on the government to allow relief to reach the famine victims... [resulting in] the launch of Operation Lifeline Sudan (OLS) in January 1989” (p. 128).

### ***Select International Agreements***

There are several international agreements that preceded the CRC in advocating for child protection and education, which took place alongside the rights of women. These agreements reflected the situations and dominant discourses taking place at the time. For example, UNESCO’s Convention against Discrimination in Education (1960) “is the first international instrument which covers the right to education extensively and has a binding force in international law” (UNESCO, n.d.c, para. 1). In the International Covenant on Economic, Social and Cultural Rights (1966), UN Member States agreed to the “protection and assistance...of all children and young persons without any discrimination for reasons of parentage or other conditions” (Article 10[3]) as well as their protection from economic and social exploitation and the right to education (Article 13). On the other hand, the International Covenant on Civil and Political Rights (1966) advocated for the parents’ right for the moral and religious education of their children (Article 18[4]), child protection in case of dissolution of marriage (Article 23[4]), and non-discrimination based on factors that included “race, colour, sex, language, religion, national or social origin, property or birth” (Article 24[1]) as well as the prevention and reduction of statelessness by registering children immediately after birth (Article 24[2]) and through the right to acquire a nationality (Article 24[3]). Both Covenants came to force in 1976.



In 1973, the International Labour Organization (ILO) adopted C138, the Minimum Age Convention, which entered into force in 1976. It set the minimum age of employment at 15 (depending on the type of work) with 18 years as the minimum age for work that may be hazardous to the child's health, safety, or morals. The Declaration on the Protection of Women and Children in Emergency and Armed Conflict (1974) was also essential as it recognized the need to protect women and children in emergencies and armed conflicts as they are the most vulnerable and are often targets of abuse and violence. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) that came into force in 1981 was essential to changing perceptions and discourse on the rights of women. It emphasizes that the upbringing of the child is a shared responsibility and "that the interest of the children is the primordial consideration in all cases" (Article 5[a]). It addresses the importance of putting children's interests first, and the need to specify the minimum age of marriage as well as affirming that betrothal and child marriage are not legal (Article 16. 1[d][f]). It also emphasizes the granting of "women equal rights with men with respect to the nationality of their children" (Article 9[2]).

Statelessness was and continues to be a major issue for many children who are discriminated against for a range of reasons (e.g., being born out of wedlock or outside of one's country due displacement, orphaned or abandoned with unknown parents). As noted in the "Global Action Plan...only about 60 per cent of the States in the world have laws that allow children born in their territory to acquire their nationality if they do not acquire any other nationality at birth" (UNHCR, 2017, March 20, p. 3). This is in line with Article 1 of the Convention on the Reduction of Statelessness, in which Member States are obligated to "grant its nationality to a person born in its territory who would otherwise be stateless" (UN General Assembly, 1961).

***UNICEF Reports: Insights into International Child Rights Discourse (1960-1990)***

To get further insights into how children were perceived in the international arena prior to the CRC, it is essential to examine UNICEF's reports, particularly their annual reports from 1972-1990; they are reflective of the progression of the issues and changes in discourses. By grouping children of various contexts under umbrella categories, their situations appeared to be connected and the notion of universal/global issues with universal/global impacts and solutions garnered more understanding, sympathy, support, and willingness by governments to cooperate.

In the 1950s, the dominant discourse was on food and nutrition (supplementary feeding, milk conservation, production of high protein foods), disease control (Malaria, typhus, diphtheria and whooping cough, yaws, and tuberculosis), water and sanitation, and maternal and child welfare programmes to help educate and reduce infant mortality rates. This continued in the 1960s with a focus on the important role of national development, applied nutrition, integrated health services, social services and education (Beyer & Balcom, 1987; Cousins, 1992; Grant, 1986; Iskander, 1989; Phillips, 1987; Zizzamia, 1987). Going into the 1970's, the main focal areas from previous years continued to dominate discourse with the issues impacting women and girls 'picking up speed' as noted by Virginia Hazzard (1987) in her report: "UNICEF and women *the long Voyage*".

In UNICEF's annual reports from 1972 to 1973, the main categories in terms of support and aid given or needed continued to be: health (i.e. "basic health services with emphasis on maternal and child care" [UNICEF, 1972, p. 2], immunization, disease control, clean water, and health education); nutrition ("the processing and distribution of new protein-rich weaning foods, milk conservation schemes..., and village programs" (UNICEF, 1972, p. 3); and, education (with emphasis on curriculum reform, teacher preparation, and practical training for young people; see Phillips, 1987). It was also essential to empower national personnel through training in developing

countries, and action during emergencies with special priority for disadvantaged groups (primarily children and women/mothers), least developed countries, and the ‘young child’ (in terms of health, nutrition, emotional development, and education needs). As a long-term benefit, emphasis was also placed on supporting countries “clarify and elaborate their national policies for children and youth” (UNICEF, 1972, p. 11).

In the 1974 UNICEF annual report, the tone and text format shifted into an urgent one in comparison to the previous reports; although on the cover of the report, there was a pixelated image of a smiling child, the tone was a serious and sombre one. UNICEF’s Executive Board had declared an “Emergency for children in the developing countries” (UNICEF, 1974, p. 1) and stated that immediate action was needed. The rest of the report continued to address the same areas of support from the previous report with emphasis on expenditure on aid from 1973. The report also elevated the category of ‘responsible parenthood’ noting the necessity of an inclusive multi-service approach that includes but is not limited to health, nutrition, education, well-being, and support to improve the quality of life for children and their families. The annual report that followed continued with the same sombre tone beginning with the issue of widespread food shortages and the need for practical actions. In one notable quote, a UNICEF representative working in the field noted that “the term ‘developing country’ no longer applied in his area: on the contrary, in almost every aspect, the prospects for children were moving backward – less health services, more schools closing, increased hunger and malnutrition” (UNICEF, 1975, p. 1). The rest of the report is in line with the previous one in terms of categories with more examples of actions taken and actions needed including improving “the status and condition of women and girls as an important means to improving the over-all welfare of children. This would include more help for literacy and education for young girls” (UNICEF, 1975, p. 24).

As a result, in UNICEF's 1976 annual report, a small section was dedicated to brief examples of services for women and girls. The report also included another small section: "Children in Shanty towns" (UNICEF, 1976, p. 20) in which it addressed UNICEF's work in the development of services for women and children in urban slums and shanty-towns in different cities in Egypt, Zamia, India, Indonesia, Columbia and Ecuador. However, the primary focus of the report, as noted in the introduction, was the "new approach" in reference to 'Basic services'. This approach was based on the idea that by training select workers (chosen and supported by their respective communities) to do specific tasks, they will in turn train others in their communities; the goal was that by investing in locals, they would become empowered and independent. A key note in the report was regarding the question of having a formal UNICEF Charter for children, which the Executive Board decided against as it "might lead to a loss of flexibility for the organization's work on behalf of children" (UNICEF, 1976, p. 24). From this remark, which was not elaborated on in the report, one can infer that UNICEF was concerned with resistance from States as well as limiting themselves in terms of content and reach.

The 1977 annual report further elaborates on the importance of Basic Services and positions the approach as a "Unifying Policy" (UNICEF, 1977, p. 3). It adds two separate sections: village-level technology (support in the development or rediscovery of inexpensive labor-saving devices) and social welfare services for children that include "parent education, ... neighborhood and community centre programmes, day-care services, youth agencies and women's clubs" (UNICEF, 1977, p. 21). It also introduces UNICEF's intention of making 1979 the 'International Year of the Child' in which the situation of children around the world would be reviewed to make needed reforms. UNICEF's annual reports from 1978-1981 pick up from the previous years, listing UNICEF's ongoing activities and expenditures. The 1982 annual report slightly shifts as it reviews

UNICEF's progress from 1981-1982 and reflects on the impact of the recession on children. It also addresses under the childhood disabilities heading, the need for programme cooperation as a "great percentage of childhood disabilities in the developing world are preventable; they result from inadequate nutrition, problems during pregnancy and birth, infections, diseases and accidents" (UNICEF, 1982, p. 7). The report also shares insights from several countries and addresses lessons learned including the need for more support for women and children in poor urban areas. UNICEF's 1984 annual report moves from a "child health revolution" noted in the previous report (UNICEF, 1983, p. 3) towards a "child survival revolution" (UNICEF, 1984, p. 10) with low-cost interventions as key ingredients to helping children survive. These ingredients include: the monitoring of children's growth using simple charts, oral rehydration, promotion of breast feeding and immunization with emphasis on the connection between diseases and malnutrition.

The next annual report extends the term to include development making it the "child survival and development revolution" (UNICEF, 1985, p. 11). This was essential as infant mortality and child death rates remained high, particularly in countries impacted by droughts. The fact that malnutrition and hunger continued to be an issue when there was enough food was not acceptable (UNICEF, 1986). Although advances were made, health and nutrition continued to dominate the direction of discourse in the years that followed. Based on UNICEF's reports from 1987 to 1988 (with a slight shift in tone), calls continued for universal immunization, prioritizing oral rehydration therapy, breast-feeding, weaning practices, increasing education and availability of nutritious food and essential drugs as well as the prevention of childhood disability. There was also a need for clean water and basic sanitation and services for urban areas in many parts of the world. UNICEF's 1986 Annual report showed hope by demonstrating the difference that governmental and inter-agency cooperation can make on the ground. It noted that in 1985 due to

over two years of immunization vaccines and the doubling of oral dehydration sachets, “more than one million children survived to see 1986” (UNICEF, 1986, p. 6), and in the following year that number increased by half a million (UNICEF, 1987a, p. 3).

Education both formal and non-formal was also a priority. In 1985, through research and work in Africa and other parts of the world, UNICEF (1986) noted that there is a “link between ill-health and lack of basic education, poor nutrition, low incomes and preventable deaths” (p. 17). Moreover, while literacy grew from the earlier decades, illiteracy remained an issue that needed immediate attention. According to UNICEF (1990), “the total number of children ages 6-11 out of primary school in developing countries in the 1960s and 1970 was 50 million, increasing to 80 million in the 1980s” (p. 9). An earlier UNICEF (1986) report addressed some of the disparities in primary education “between: enrolment and retention; boys’ and girls’ enrolment; child and adult learning; resources available and needed; educational content and its relevance to life; institutional structures and social reality; and levels of literacy among and within countries” (p. 17). These interconnected factors impacted the education of children as well as their ability to simply live.

The impact of economic factors and interconnection between poverty and education became more evident in UNICEF’s annual reports from 1988 to 1989 as the tone shifted to a more persuasive one with dire projections if action is not taken. While these reports continued to highlight the accomplishments of UNICEF and its partners, they also provided insights into a change in language *in* use vis-à-vis a change in perception of children and their needs. In UNICEF’s (1987a) annual report, two sections were added reflecting the newly added mandates to UNICEF by the Executive Board in 1986: ‘children in especially difficult circumstances’ and children in armed conflicts. According to UNICEF (2009b), “[t]he term ‘children in especially difficult circumstances’ drew on programme experiences with children living and working in the

streets in Latin America and elsewhere [;] ... it soon expanded to include children in armed conflict and victims of neglect and abuse” (p. 4).

While UNICEF’s reports were not the only texts addressing the situation of children, they are significant as they provide insights into the issues prioritized, the narratives shared and the language *in* use by the UN and in the international arena. During my literature review, I did not find research that draws on the correlations between these texts and the CRC from the drafting to its implementation. However, it is hard not to do so as the tone and overall direction of the CRC is similar to the reports. From the issues prioritized to the categorization of children and their depiction as dependent beings in need of protection.

### **Genre and Social Relations**

Unlike the earlier nonbinding Child Rights Declarations (1924; 1959) that depended on a moral or political commitment of ‘good faith’ by member States, the CRC is a binding legal commitment on an international level. However, its impact on a country-level depends on its adoption into domestic law. It is a legal text that is part of legal discourse. As definitions on what constitutes a legal text vary, I rely on the following definition as noted by Berūkštienė (2016): “a legal text can be regarded as any text that is produced in legal language and/or used by specialists in law as well as non-specialists for legal purposes in legal settings” (p. 95). While there is no consensus on the classification of legal texts, there is agreement that legal texts belong to a specific genre as they differ from other texts with respect to “their text-external or text-internal properties, i.e. their functional, structural and linguistic features” (p. 96).

In terms of the classification of legal texts, Susan Šarčević’s (1997) uses a bipartite system based on the primary functions of language – regulatory (prescriptive) and informative (descriptive). Šarčević (1997) describes three groups: “1) primarily prescriptive [e.g. laws and

regulations, contracts, treaties and conventions], 2) primarily descriptive but also prescriptive [hybrid texts such as judicial decisions, documents, actions, pleadings, appeals], and 3) purely descriptive [e.g. texts written by legal scholars]" (p. 11). The CRC falls under the first category as it is a normative text, and a regulatory instrument, prescribing a specific course of action that member States ought to conform to when it comes to child rights. Since the foundation of the CRC is the 1959 Declaration, it is also a part of a larger chain built upon situated genres and pre-existing narratives on childhood and children within a variety of discourses that dominated the late 1950s to the late-1980s. Although the structure of the text is generic, the main differences are in its function as an international legal document open to signature and ratification, its content and form (length and division of articles), and its linguistic features that are unique to international legal texts and legal genres with variations based on the category/area of law.

Similar to the previous Declarations, 'the child' is not activated and continues to be categorized and depicted as in need of protection and care, which is dependent on the actions of adults (States/governments, family, parents, guardians, institutions, and organizations). Who holds the power is evident from the first phrase in the preamble: "The States Parties to the present Convention"; it is their voices that are primarily activated as they have agreed to the content of the preamble and the Articles that ensue. Others who are activated include "the peoples of the United Nations" and "the United Nations" who have set the tone for the previous Declarations and the CRC. The form and tone in the Articles become slightly more prescriptive as they emphasize what State Parties "shall" do using modal verbs, performative verbs (e.g., respect, take, ensure, undertake, provide, promote, assure, encourage, use, render, strive, pursue, refrain, endeavour, and seek), and declarative sentences addressing the protection, support, education, and best interests of the child. This further emphasizes and legitimizes the power hierarchy between governments



and adults, adults and children, and governments and children; children within this context have no power but are promised to be given some ‘power’ (where ‘possible’) through participation rights, and in considering their best interests.

The social relations within this text vary indicating the existence of different social hierarchies and social distance. On a macro level, it is between the Commission on Human Rights, the Economic and Social Council, and the General Assembly vis-à-vis member States/State representatives (and to a certain extent specialized agencies and NGOs with consultative status) that made amendments and participated in discussions. On a meso level, in terms of agreements, it is between the General Assembly and States parties who have agreed to recognize, accept, and implement the rights described in the CRC, and between States parties in terms of international cooperation as the last paragraph in the preamble notes (UN General Assembly, 1989). On a micro level, it is an agreement between respective governments of States parties with family, parents, legal guardians, institutions, and organizations who deal with children (albeit the level/details of States parties’ consultations, if any, with their respective societies is not available). This also depends on the level of dissemination, communication, and knowledge. Children, however, continue to be passive actors – missing from drafting process, implementation, and action; they are promised independence within an environment of dependence. The discussions that took place during the drafting process offer essential insights into the CRC’s structure and language *in use*.

### ***The Revised Polish Draft: Feedback***

Upon the rejection of Poland’s draft Convention (7 February 1978; reference document: E/CN.4/L.1366), discussions continued on what should be included. This culminated in a request by the Commission on Human Rights to the Secretary-General during the 34th session (8 March 1978) to transmit the draft Convention with its minor amendments (see Appendix F of draft

Convention; reference document: E/CN.4/L.1366/Rev.2) to the member States, specialized agencies, regional intergovernmental organizations and NGOs with a report to be submitted at the Commission's 35th session (UN Commission on Human Rights, 1978). The aim was to adopt the Convention during the International Year of the Child (1979). One of the major impetuses was the Warsaw Conference on the legal protection of the Rights of the Child (16-19 January 1979) organized by the International Association of Democratic Lawyers, the International Commission of Jurists and the Polish Association of Jurists. At the Conference, a statement of principles for the legal protection of the rights of the child in education, health, recreation, and child labour, as well as two resolutions were adopted; the first resolution was "in support of the early adoption of an international convention on the rights of the child, and the other in support of the implementation of the United Nations Declaration on the Preparation of Societies for Life in Peace" (OHCHR, 2007a, p. 51).

In the first round of discussions on the CRC, the comments ranged from agreement with the draft Convention and proposed amendments to a suggestion for a "convention...drafted precisely and with due regard for the current problems confronting children" (OHCHR, 2007a, p. 68) as opposed to a repetition of the provisions in the 1959 Declaration. In a six-point comment, Bahrain stated that what is needed in a convention "is the means to implement such principles at the level of the United Nations Secretariat as well as at the level of Member States,... [and] to have the said means adjusted to the world's changing and developing circumstances" (UN Commission on Human Rights, 1978, December 27, p. 6). It also addressed the importance of investigating the application of these principles in each member State to better understand children's situations, and their translation into legislation so that they are realistic and not just proclamations.

Other comments included one from the Federal Republic of Germany who emphasized the need for the draft to “be subjected to a thorough, careful and unhurried review” (UN Commission on Human Rights, 1978, December 27, p. 10), and to be “worded in such a way as to leave no possible doubt regarding the legal scope of each regulation” (p. 12). This is essential in moving from a nonbinding Declaration to a binding Convention. With regards to the provisions concerning education contained “in the first sentence of article VI, the first part of article VII, paragraph 2, and the second sentence of article 10 of the draft” (OHCHR, 2007a, p. 279), they noted that parents and not the State bear this responsibility and duty; thus, the points should be removed from the Articles and possibly made in the preamble. Since many were not in agreement, the text on education remained. Norway, on the other hand, suggested that the Convention “deal with children as a group.... By ... [using] ‘children’ and, consequently, ‘they’, ‘them’ and ‘their’, the terms ‘he’, ‘whom’ and ‘his’ could be avoided, and the equal status of the two sexes would appear more clearly” (UN Commission on Human Rights, 1978, December 27, p. 6). While this was taken into consideration, it was not adopted; ‘the child’ and gender specific pronouns remained with the pronoun ‘he’ before ‘she’ throughout the document.

There were a few other suggestions from organizations such as UNESCO that cited the importance of focussing on “the right of the child to cultural development by acknowledging, inter alia, broader rights to education and cultural identity” (OHCHR, 2007a, p. 280). They wanted the preamble to reference UNESCO’s three standard-setting instruments (see UNESCO, n.d.a). WHO also wanted direct reference to their Constitution “concerning the health of the child and the mother” (OHCHR, 2007a, p. 281). The Women’s International Democratic Federation wanted the addition of disarmament (an idea communicated at the tenth special session of the UN), so governments would reduce spending on world arms and allocate more resources for children’s

basic needs with special emphasis on developing countries (OHCHR, 2007a, p. 281). These did not lead to amendments to the preamble, but discussions continued during a series of Working Group meetings that began in 1979 with the Commission on Human Rights establishing an open-ended Working Group that met in 1980 and authorized in 1981 to meet annually until 1988 prior to the Commission's session (for further details, see OHCHR, 2007a). During these sessions, changes to the revised Polish draft took shape. In 1979, in the first session, the first three preambular paragraphs were adopted; the first paragraph was added and the other two were taken from the Polish draft. On 5 October 1979, the Permanent Representation of the Polish People's Republic to the UN in Geneva enclosed a revised draft convention for circulation amongst governments of countries represented in the Commission on Human Rights (see Appendix G of revised Polish convention). It consisted of eight paragraphs in the preamble and 28 Articles. In 1980, in their review, the Working Group used both draft conventions (1978 and 1979), the adopted preamble paragraphs, and "a number of Sub-Commission documents relating to the exploitation of child labour which the Sub-Commission... had recommended be taken into account in drafting the appropriate articles of the convention" (OHCHR, 2007, p. 79).

In 1980, the need for a clear definition of a child was addressed along with the possibility of replacing it with the term "minor" because of its "greater juridical significance" (OHCHR, 2007a, p. 285). This was postponed until a collective agreement was reached on the first article defining the child. With regards to the preamble, the Holy See's representative suggested the addition of "before as well as after birth" in the fifth preambular paragraph as stated in the 1959 Declaration; other delegates also "argued in support of the amendment on the grounds that their national legislation contained provisions protecting the rights of the unborn child from the time of conception" (OHCHR, 2007a, p. 285). At the fourth meeting, a few delegates insisted that having

this addition would deter some States from ratifying it. A compromise text was approved (see Text Box 6) at the fifth meeting but several delegates noted that the proposed amendments by the U.S. including the replacement of the words “as well as legal protection” with “and also requires legal protection” appear to be geared towards legalizing abortion. The representative of the U.S. “insisted that the draft convention must be worded in such a manner that neither proponents nor opponents of abortion can find legal support for their respective positions in the draft convention” (OHCHR, 2007a, p. 286). During the second and final readings, the text was revised with a direct citation of the 1959 Declaration to avoid reopening the abortion debate.

*Text Box 6*

<b>Revised draft convention (5 October 1979), fifth preambular paragraph</b>	<b>Compromise text, adopted in second session (1980), Sixth preambular paragraph</b>	<b>CRC (1989), ninth preambular paragraph</b>
<i>Recognizing</i> that the child due to the needs of his physical and mental development requires particular care and assistance with regard to health, physical, mental, moral and social development as well as legal protection in conditions of freedom, dignity and security,	Recognizing that, as indicated in the Declaration of the Rights of the Child adopted in 1959, the child due to the needs of his physical and mental development requires particular care and assistance with regard to health, physical, mental, moral and social development, and requires legal protection in conditions of freedom, dignity and security,	Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Other comments on the preamble included a proposed insertion of a preambular paragraph by the United Kingdom between the third and fourth paragraphs that stated: “Recalling that in the Universal Declaration of Human Rights, the United Nations had proclaimed that childhood is entitled to special care and assistance,” (OHCHR, 2007a, p. 287). This was adopted and later revised to include a comma following the words “Recalling that,” becoming the fifth preambular paragraph of the CRC (see Appendix H). Another proposed amendment was by Italy who stated that there needs to be a recognition that vulnerable children exist not only in developing countries (OHCHR, 2007a, p. 288). As a result, a drafting group consisting of the Holy See, United Kingdom and Venezuela with collaboration from Argentina and Spain submitted an amended text:

“Recognizing that, in rich as well as in poor countries, there are children living in exceptionally difficult conditions, and that such children need special consideration” (UNHCR, 2007a, p. 288). The proposal was accepted but representatives agreed on replacing the phrase “in rich as well as in poor countries” with “in all countries in the world”. This was adopted becoming a part of the tenth preambular paragraph of the CRC (see Appendix H).

The first reading of the text was adopted on 12 November 1986 (see Appendix G). The working Group requested from the Secretary-General that the document undergo a technical review by the UN Secretariat to: check any overlap and repetition, ensure linguistic consistency and accuracy, and “compare the standards established with those in other widely accepted human rights instruments; and... make recommendations as to how any overlaps or inconsistencies might be corrected in the second reading” (OHCHR, 2007a, p. 290). Some of the comments at this stage included feedback from the Legal Counsel who noted that reference to “Statutes of specialized agencies” in the eighth preambular paragraph, does not “adequately cover all constitutional instruments and other legal documents adopted by the specialized agencies” (OHCHR, 2007a, p. 290). Thus, the Secretariat suggested adding “and relevant instruments” (OHCHR, 2007a, p. 291), which was adopted. The Social Development Division, Centre for Social Development and Humanitarian Affairs mentioned including reference the three resolutions adopted by the General Assembly: the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the UN Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and, the Declaration on the Protection of Women and Children in Emergency and Armed Conflict ( OHCHR, 2007a, p. 290). They were added becoming the basis of the 10th preambular paragraph. UNESCO’s suggestion to the addition of the word “present” to the first

phrase making it: “The States Parties to the present Convention” was approved. However, the following suggestions were not: the addition of the term “equality” to the seventh paragraph, so it would become: “in an atmosphere of happiness, love, equality and understanding”; the removal of the word “brotherhood” from the ninth paragraph (but it was removed in the final adopted text); and, the replacement of the term “family” with “convinced that the different forms of family” (OHCHR, 2007a, p. 291) in the fifth and seventh paragraphs to be reflective of the diverse types of families. This was not approved as categorization of “family” was as important as the categorization of “the child” as that maintains the same tone and alludes to “universality” and “commonality” throughout the text in terms of the allusion of the existence of a universal child with a universal family. UNESCO further noted that emphasis on education was lacking.

The second reading of the approved draft Convention took place from 28 November to 9 December 1988 with the reports adopted on 21-23 February 1989. At the 44th session of the Commission on Human Rights (reference document E/CN.4/1989/48), discussions took place on the report of the Working Group. With regards to the title of the convention, Senegal proposed amending it to: “A draft convention on the protection of the child” (UN Commission on Human Rights, 1988, April 6, p. 8). However, other State representatives such as Netherlands, Norway and Argentina noted that the wording of the proposed title is restrictive; thus, with the removal of word “draft”, it remained as the “Convention on the Rights of the Child”. The first line as suggested by UNESCO and the legal Counsel was adopted along with the first four preambular paragraphs. The fifth paragraph was also adopted with an amendment by the Chairman, Adam Lopatka of Poland, in which “the basic unit of society” was replaced with “the fundamental group of society” (UN Commission on Human Rights, 1988, April 6, p. 9).

The sixth preambular paragraph (which became paragraph 9 in the CRC) took longer to discuss as there were proposed amendments adopted at the first reading from the Federal Republic of Germany with regards to the addition of a direct quotation from the 1959 Declaration and the words “before as well as after birth”, which is also what the Holy See, Ireland, Malta, and the Philippines wanted. “Italy, Venezuela, Senegal, Kuwait, Argentina, Austria, Colombia, Egypt and one non-governmental organization, supported the idea of retaining the concept of the 1959 Declaration of the Rights of the Child in the text of the draft convention” (UN Commission on Human Rights, 1988, April 6, p. 9). They also agreed with the importance of protecting the unborn child. Other State representatives that included Norway, the Netherlands, India, China, the USSR, Denmark, Australia, Sweden, the German Democratic Republic, and Canada, were against this controversial positioning as consensus on the issue amongst States had not been reached. Some also noted that the 1959 Declaration is old and not all its provisions should be incorporated. With no agreement reached, on behalf of the drafting group (Federal Republic of Germany, Ireland, Italy, Netherlands, Poland, Sweden, and the U.S.), Italy submitted a compromise text that references the 1959 Declaration with a direct quotation of its text (UN Commission on Human Rights, 1988, April 6 p. 11; see Text Box 6).

Adding an approved text was intentional as it ended the debate on the paragraph leading to its adoption. The text was then further amended by removing who adopted the Declaration and its adoption date. The drafting group also asked the Chairman to add the following to the ‘travaux préparatoires’ (supplementary means of interpretation): “In adopting this preambular paragraph, the Working Group does not intend to prejudice the interpretation of article 1 or any other provision of the Convention by States Parties” (UN Commission on Human Rights, 1988, April 6, p. 11). The statement was read into the record by the Chairman. The United Kingdom requested



confirmation on 30 November 1988 from the Legal Counsel to whether the addition to the ‘travaux préparatoires’ would be taken into consideration if there were doubts to the interpretation of the first article. The Legal Counsel noted that they have not seen the preambular paragraph, but the addition is legal; however, they do find it “strange that a text is sought to be included in the travaux préparatoires for the purpose of depriving a particular preambular paragraph of its usual purpose, i.e., to form part of the basis for the interpretation of the treaty” (UN Commission on Human Rights, 1988, April 6, p. 11). Thus, recourse is possible only if the those interpreting the provisions find them unclear.

The seventh paragraph (becoming the sixth paragraph) was approved as adopted during the first reading with the addition made by Australia to add “or her” following “his”. The eighth paragraph (becoming paragraph 11) was adopted without changes. The ninth paragraph as proposed by the Social Development Division was adopted becoming paragraph 10. The second addition to the ninth paragraph made by Senegal with regards to the “importance of the traditions and cultural values of each people for the protection and harmonious development of the child” (UN Commission on Human Rights, 1988, April 6, p. 12) was adopted but was later moved to become the 12th paragraph. The 10th paragraph, which became the eighth paragraph was adopted with the suggested addition of the words “and relevant instruments” by the legal Counsel. Senegal, however, entered its reservation to the paragraph as its proposal of adding the words “and collective/community” was not considered; the Chairman noted that since it was “adopted without objection” (UN Commission on Human Rights, 1988, April 6, p. 13), it will not be revised. Paragraph 11, which became the seventh paragraph, was adopted without UNESCO’s proposal to add the words “equality and solidarity” since the U.S. preferred the text without them (see Appendix H for a comparison between the draft conventions and the final CRC).

With regards to Senegal's proposed addition of a paragraph addressing the importance of international cooperation and assistance for developing countries, some States wondered whether the text is a repetition of content in the body of the convention, and the U.S. suggested leaving international assistance to be dealt with by other legal instruments. As there was no consensus, a small drafting group (Senegal, the U.S. Morocco, Canada, Norway, and the Philippines) was set up. Their compromise text was adopted becoming the 13th paragraph. Based on a proposal by Argentina with support from the U.S., the paragraphs were reordered to ensure the connectivity of subjects and a logical chronological sequence. Following the adoption of the preamble, discussions on the Articles took place. Only the four general principles (Article 2, 3, 6 and 12) will be examined with comments from the First reading (1979-1988) and Second reading (1988-1989).

***Comments from the First and Second reading: Article 2***

Article 2 (non-discrimination) of the CRC went through a series of amendments; the initial concept can be found in Articles I and X in the first Polish draft, and the fourth Article in the revised Polish draft (see Appendix H for a comparative look at the different versions of the Article). Australia, Brazil, Norway, and the U.S. submitted proposals that were addressed during discussions by the Working Group in 1981. The U.S. proposed emphasis on the wording "lawfully in its territory" (OHCHR, 2007a, p. 321) to limit rights to children who have legally entered a State or have legal status; this was not accepted by some since the status of parents should not determine the rights of their children. Argentina proposed adding the phrase "'or arising under their legal systems' after the word 'Convention' in the second line of the text of the revised Polish draft" (OHCHR, 2007a, p. 321). Brazil proposed the replacement of the last three lines of the first paragraph with: "... irrespective of these children's or their family's or legal guardian's race, colour, sex, religion, political and other opinion, social origin, property, family status, language,

national origin, educational background, or any other distinction whatever” (OHCHR, 2007a, p. 321). There were also suggestions to align the content with relevant texts from existing UN International instruments such as the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the UNESCO Convention against Discrimination in Education; this was a way to reaffirm the importance and message of these texts and to situate child rights within them.

Based on the understanding that the fifth article of the revised draft convention would be deleted, the U.S. resubmitted a compromise text with three paragraphs, which they further amended following discussions by merging the first two paragraphs and deleting the third along with the words “lawfully” and “economic condition” (OHCHR, 2007a, p. 321). The Byelorussian Soviet Socialist Republic proposed the deletion of the words “discrimination or” from the second line. The representative of Brazil suggested the addition of the phrase “any other distinction whatever” following the words “and birth or” in the fifth line. The representative of the U.S. preferred to keep the word “basis”. The Working Group adopted the first paragraph with the Chairman’s proposed deletion of the phrase: “including any form of discrimination or punishment based on the activities or beliefs of the child’s parents, legal guardians, or other family members” (OHCHR, 2007a, p. 321) from the first paragraph, and its inclusion in a new paragraph (see Text Box 7). For the second paragraph, the U.S. proposed a text that they later withdrew in favor of a revised text from Norway. The text was accepted with a few minor changes; the Byelorussian Soviet Socialist Republic proposed replacing the words “based on” with “on the basis of”. Brazil suggested the addition of the word “status” before the word “activities”. As per the joint proposal by the delegations of Australia and the U.S., the paragraph with its approved amendments became

the second paragraph (see Text Box 7). Although adopted at the first reading, some States' representatives expressed their concerns. In 1984, the United Kingdom noted that parts of the text were not compatible with its immigration laws. It suggested sending the Convention for feedback to all States including those not involved in the Working Group. The Netherlands also agreed citing that the effectiveness of the convention is dependent on its acceptance by as many States as possible. The Federal Republic of Germany shared similar concerns regarding some of the articles and supported the invitation to all States to comment.

*Text Box 7: Article 4 adopted following the first reading*

1. The States Parties to the present Convention shall respect and extend all the rights set forth in this Convention to each child in their territories without distinction of any kind, irrespective of the child's or his parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national or social origin, family status, ethnic origin, cultural beliefs or practices, property, educational attainment, birth, or any other basis whatever.
2. The States Parties to the present Convention shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Further submissions regarding the issue of non-discrimination included a revised proposal from the NGO Ad Hoc Group, who wanted the inclusion of the protection of children born out of wedlock, inheritance rights and maternal and paternal affiliation (OHCHR, 2007a, p. 324). These issues were of great importance as many children were deprived of their rights based on the legal status of their parents, or agreement by their fathers to register them. This was especially difficult for victims of rape whose children could not be registered. In 1986, the International Council of Jewish women submitted an addition to the NGO Ad Hoc Group's proposal to further protect children from the "stigma of illegitimacy"; the proposed addition stated that no record should in any way "be so worded as to cast the stigma of illegitimacy on an individual" (OHCHR, 2007a, p. 325) and that these records remain confidential.

In 1986, the Working Group addressed all the proposals including a previous one made by China in 1984 on the rights of children out of wedlock and another one by Austria (for reference

documents, see OHCHR, 2007a, p. 325). Since the proposed texts were specific, they were rejected; some delegations noted that they felt these rights were already covered in the fourth Article. Others, on the other hand, such as Australia, Japan, the United Kingdom and U.S. stated that the content “was in conflict with their domestic laws of succession.... [and] Algeria, Iraq and Morocco specifically objected to the inclusion...of a provision dealing with children born out of wedlock” (OHCHR, 2007a, p. 326). The German Democratic Republic, Norway and the Netherlands were supportive of China’s proposal with the latter two suggesting a wording edit. Although Finland supported Austria’s proposal, that “[...] States Parties shall ensure that the child has the right to establish maternal and paternal affiliation” (OHCHR, 2007a, p. 325), they suggested the following text replacement : “[...] shall take all appropriate measures to ensure the effective implementation of the child’s right to have maternal and paternal affiliation evidenced or established” (OHCHR, 2007a, p. 326). If put into practice, it would enable mothers to register their children whether under their own family names or their fathers’ names. Following debates, Austria withdrew its proposal. The United Kingdom representative was not in favor of a separate article, so they put forward a simpler reformulation that stated: “[...] shall through national legislation take all effective measures to ensure that a child born out of wedlock shall enjoy the rights set out in this Convention to the same extent as a child born in wedlock” (OHCHR, 2007a, p. 326). Japan voiced its support but suggested the removal of the words “through national legislation”, which was accepted by the United Kingdom. However, there was no consensus on China’s proposal.

Discussions continued as some wanted the article to be more detailed, while others emphasised that such details would infringe on the domestic policies of some States. For example, at the 1987 Working Group session, the Netherlands and Australia submitted a joint amendment proposing the inclusion of reference to non-discrimination based “[...] on the grounds of sex, in

establishing the age of majority” (OHCHR, 2007a, p. 327). At the 1988 Working Group session, a few States representatives requested further clarification since they did not see the need for this specification noting that the first and fourth articles were clear. While this point was deferred to the Second reading, the issue of the right of children born out of wedlock was revisited. The Federal Republic of Germany submitted a nine-point proposal (see OHCHR, 2007a, p. 327), which they withdrew following discussions. Some noted difficulty in coming to consensus as legislation, customs and cultures in this area differ from one country to another.

During the technical review in 1988, UNESCO proposed the addition of the word “disability” to the list in the first paragraph, making it the second instead of the fourth article, and a change in the French draft (see OHCHR, 2007a, p. 329). UNICEF noted that the use of the verb ‘to extend’ should be reconsidered since it “is not used in any of the principal human rights instruments and has not acquired, in any international legal context, any precise technical or general ...[meaning]” (OHCHR, 2007a, p. 330). Moreover, its intended meaning is not elaborated on in the draft convention’s travaux préparatoires. It is therefore an unnecessary addition to the text that denotes a lower level of obligation than the verb “to ensure”, which “implies an affirmative obligation on the part of the State to take whatever measures are necessary to enable individuals to enjoy and exercise the relevant rights” (OHCHR, 2007a, p. 330). It also recommended the addition of the phrase “or subject to their jurisdiction” following the word “territories” in the first paragraph, and the replacement of the pronoun “his” with “a” to ensure gender neutrality. The Secretariat suggested to the Working Group the deletion of the word “legal” before “guardian” (OHCHR, 2007a, p. 330). In reference to discrimination against female children, the Food and Agriculture Organization of the United Nations (FAO) commented that a separate provision should be added on discrimination in food and education. UNESCO also reasserted its

previous comment about the preamble lacking emphasis on equality. These issues were addressed in the Second reading from 1988-1989.

The revised draft of the first paragraph was not agreed upon as some State representatives found that its language differed from other international instruments. Since consensus was not achieved, a small drafting group that consists of China, Italy, Kuwait, Portugal, Senegal, and the USSR under the supervision of Australia was tasked by the Chairman to review it. The second paragraph was also discussed. Mexico's representative proposed the deletion of the words "expressed opinions, or beliefs"; this deletion was not accepted by other State representatives as it would lead to discrimination and punishment of children based on opinions or beliefs. Upon withdrawing his proposal, the representative of Mexico noted "that the Mexican Government would interpret the existing text in accordance with its domestic legislation" (OHCHR, 2007a, p. 332). Venezuela, Colombia, Portugal, the USSR, and China's representatives raised their concerns regarding the translation of the words "legal guardian" into Chinese, French, Russian, and Spanish as they may differ from the intended English meaning; this concern also extended to the Arabic text. Once again consensus was not reached, so the small drafting group was tasked with working on the fourth article (OHCHR, 2007a, p. 333).

During the discussions, Poland enquired about the wording of the second line as it is not inclusive of all children. For example, children of diplomats may be in a territory, but they may not be subject to the jurisdiction of that country. The delegate, thus, recommended replacing "and" with "or" making the sentence "or subject to their jurisdiction". Finland's observer proposed removing reference to territories, which was supported by Australia. The U.S. and the Netherlands preferred the reinstatement of the words "cultural beliefs and practices" that were removed from the first paragraph and questioned the addition of the words "the child" before the words "the

child’s parents”. Australia’s observer noted that reinstating the words “cultural beliefs and practices” would be problematic since many delegates were against them. India’s delegate was not okay with the addition of the word “ensure”. The text with a few changes, specifically those from the technical review, was adopted becoming Article 2 of the CRC (see Text Box 8).

*Text Box 8: Adopted Article 2 of the CRC*

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

The language *in* use in the fifth article from the revised draft convention, which “recognize[s] the right of alien children” (see Appendix G), and discussions during the Working Group sessions provide essential insights into the general perception amongst States regarding individuals (including children) without legal status. Although the intent was to ensure the protection of children, the use of the term “alien” in the text, which as D. Carolina Nunez (2013) notes, “is significantly associated with criminality, invasion, and otherness” (p. 1519), normalizes and legitimizes it. The issue is that such a perception also has social and legal impacts; this is in line with what guest workers and their children experienced across Europe and the West (Castles, 1986); they were criminalized and portrayed as threats to “citizens”. Moreover, the rejection of specific content that extends protection to children born out of wedlock and the female child by States parties is also indicative of how some States view these children resulting in their marginalization and subordination.

***Comments from the First and Second Reading: Article 3***

Article 3 (best interests of the child) of the CRC also went through a series of amendments. The initial idea can be found in Article II of the first Polish draft, and the third article in the revised draft (see Appendix H for a comparative look at the different versions of the Article). Not all States



were satisfied with the content the drafts as well as the adopted final article. For example, in 1987, France and the Federal Republic of Germany proposed the removal of Article II amongst other articles from the draft convention and their placement in the preamble or “in an annexed recommendation of a pedagogical nature” (OHCHR, 2007a, p. 337). On the other hand, several States wanted them to remain but submitted replacement texts/amendments.

In 1981, Australia and the U.S. reintroduced a submission they made in the previous year. The U.S. representative proposed a four-point text emphasizing the importance of taking the best interests of the child into ‘primary consideration’, giving the child the opportunity to be heard in judicial or administrative proceedings, ensuring State support for groups and institutions that work for children, and passing “appropriate legislation, to ensure such protection and care for the child as his status requires” (OHCHR, 2007a, p. 337). Although several States found the article of the revised draft convention more encompassing, they agreed to discuss it. With regards to the first paragraph, the discussion centred on whether an international convention can or should impose obligations on parents and guardians. Some delegations felt that its inclusion would lead to further protection for children. The use of the word “primary” versus “paramount” was also addressed with one speaker noting that while the best interests of the child should be of “primary consideration”, this should not override other emergencies.

Discussion on the second paragraph focused on reference to “all” judicial and administrative proceedings; some speakers noted its importance, while others stated that the opportunity for the child to be heard is already communicated in the seventh article of the revised draft. As for reference to “the age of reason”, an observer of the International Association of Penal Law suggested replacing the phrase with “is capable of forming his own views” (as per the content of article 7 of the revised draft) as that would be easier to determine. Other changes included: the

insertion of the words “shall be provided” following “an opportunity” as suggested by Brazil; the insertion of the phrase “either directly or indirectly through a representative” following the word “heard” as suggested by the Netherlands. There were also proposals to remove the word “independent” and include the following phrase at the end: “in a manner consistent with the procedures followed in the State Party for the application of its legislation” (OHCHR, 2007a, p. 334). The first and second paragraphs were adopted as per Text Box 9.

*Text Box 9: Article 3(1)(2) adopted in the first reading*

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, or administrative authorities, the best interests of the child shall be a primary consideration.
2. In all judicial or administrative proceedings affecting a child that is capable of forming his own views, an opportunity shall be provided for the views of the child to be heard, either directly or indirectly through a representative, as a party to the proceedings, and those views shall be taken into consideration by the competent authorities, in a manner consistent with the procedures followed in the State Party for the application of its legislation.

Discussion on the third paragraph was not as extensive. The Working Group considered Australia’s proposed second paragraph replacement of the third article of the revised draft convention that addressed the States responsibility in ensuring the protection and care of the child through “all necessary legislative and administrative measures”, while “taking into account the rights and responsibilities of his parents and the stage of the child’s development towards full responsibility” (OHCHR, 2007a, p. 340). Australia’s representative noted that the proposal took “into account a basic aim of the Conference on the Legal Protection of the Rights of the Child held in Warsaw on 16-19 January 1979, namely the need to secure the rights of the child through support to the family in need” (OHCHR, 2007a, p. 340). Following a discussion, “legal guardians” were added after the word “parents”. As per the Chairman’s request for a compromise text, the U.S. submitted one that was adopted by consensus (see Text box 10). The fourth paragraph as proposed by the U.S. was also considered with the third paragraph proposed by Australia, which read as follows: “3. The States parties to the present Convention shall ensure competent supervision of persons and institutions directly responsible for the care of children” (OHCHR, 2007a, p. 339).

Norway's representative suggested replacing "persons" with the word "personnel" while the U.S. proposed replacing it with the word "officials" or the phrase "officials and personnel of institutions" (OHCHR, 2007a, p. 340). With the approval of the amendments, the U.S. delegation withdraw its paragraph in support of the Australian revised paragraph.

In 1983, Belgium submitted a proposal to add the following to the third paragraph (addition in italics): "The States parties to the present Convention undertake to ensure the child *the right to physical and moral integrity*" (OHCHR, 2007a, p. 341) followed by "as well as" to link to the rest of the phrase. The International Federation of Human rights, International Federation of Women in Legal Careers, and Pax Romana noted that concept of "the best interests of the child" should be clarified to include "all national and international elements of the personal and family situation of the child" (OHCHR, 2007a, p. 341) in the decision process. Their concern is that when it comes to children with "dual origin", States will "give this concept a purely nationalist content and interpretation" (OHCHR, 2007a, p. 341). In a statement to the Working Group in 1984, the representative of the United Kingdom asserted that his delegation is still conflicted about several articles that were adopted including the first paragraph of the third article, which is problematic in relation to his country's immigration law. He reiterated a previous comment that all States should be given the opportunity to comment before adoption on a full draft convention. The representative of the Federal Republic of Germany agreed with the points made by the United Kingdom. In a comment to the Working Group in 1986, Bangladesh noted that in article 3(2), in the second line "shall" should be substituted with "should" as that denotes its mandatory nature. The text, however, was adopted without this change (see Text Box 10).

*Text Box 10: Article 3(3)(4) adopted in the first reading*

<p>3. The States Parties to the present Convention undertake to ensure the child such protection and care as is necessary for his well-being, taking into account the rights and duties of his parents, legal guardians, or other individuals legally responsible for him, and, to this end, shall take all appropriate legislative and administrative measures.</p>
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4. The States Parties to the present Convention shall ensure competent supervision of officials and personnel of institutions directly responsible for the care of children.

In the technical review of the article, the ILO noted that the Working Group may consider adding the following to the fourth paragraph: “... shall ensure appropriate training, qualifications and competent supervision of ...” (OHCHR, 2007a, p. 342). WHO noted that the third paragraph of the article is similar to the first paragraph of the second article of the WHO Constitution as well as other articles. For the first paragraph, UNICEF addressed that the use of “a primary consideration” implies “a twofold qualification. The word ‘primary’ implies that other considerations, although not deemed primary, may nevertheless be taken into account. The article “a” indicates that there may be several considerations, each of which is primary” (OHCHR, 2007a, p. 344). The wording can thus change to “the primary consideration” to provide a single qualification similar to that found in other International instruments. For the second paragraph, it noted that “forming” is different from “expressing” as young children can “‘form’ views and communicate them in one way or another” (OHCHR, 2007a, p. 344). In terms of gender neutrality, it suggested the addition of “or her”, and replacing “his well-being” with “the child’s well-being”, and “for him” with “for the child” in the third paragraph (OHCHR, 2007a, p. 344). The Secretariat suggested referring to “legislative bodies” in the first paragraph.

At the Second reading (1988-1989), a proposed addition (in italics) came from the Latin American meeting (29 September to 2 October 1988) to the fourth paragraph: “... shall ensure *training and supervision* ...” (OHCHR, 2007a, p. 345). During the discussions, the adopted first paragraph from the First reading along with the suggested revision by UNICEF and the Secretariat were addressed. Observers from Kuwait, Portugal and Australia supported the revised text. The observer from the Netherlands suggested replacing the word “primary” with “paramount”. The issue circulated back to an earlier discussion with regards to the existence of situations “of justice

and of the society at large [that] should be of at least equal, if not greater, importance than the interests of the child” (OHCHR, 2007a, p. 345). What these “situations” are were not noted in the report, so it is difficult to assess if they were ever addressed. Thus, Canada suggested that “a” remain instead of UNICEF’s proposed “the” before primary as that would keep it more general. The U.S., Japan and Argentina agreed with the proposed paragraph, but Finland and the Netherlands preferred the use of “the”. Due to the reservations that some had, and the lack of insistence by delegations on the use of “the”, that part of the text was approved through consensus as adopted in the first reading. The entire first paragraph of the third article was approved with no additional changes made later (OHCHR, 2007a, p. 436).

With regards to the second paragraph, the drafting group that was set-up recommended its deletion from the third article, and as per Finland’s suggestion re-examining its content during discussions on the seventh article of the draft convention. The third paragraph became the second paragraph and was adopted with the recommended changes with regards to gender-neutrality and the addition of “States Parties” (OHCHR, 2007a, p. 347). The fourth paragraph became the third with the incorporated suggestions from the First reading and the ILO. Canada’s observer suggested the addition of “programmes” or “organizations” replacing institutions or alongside them; this was supported by New Zealand. Venezuela’s representative suggested “the idea of technical supervision for children in institutions until they rejoin their families” (OHCHR, 2007a, p. 347), but later withdrew it. India’s representative and Kuwait’s observer preferred the text without revisions. Canada, Norway, and Australia noted that article 3(4) was similar to article 8(4), and should be deleted; however, others disagreed. Thus, the Chairman suggested that the drafting group (Canada, Finland, Morocco, and the USSR), who were also examining the deleted second

paragraph, examine the fourth paragraph. Following discussions, and insistence by some to keep it, it became the third paragraph in a three-paragraph Article (see Appendix D for CRC).

The discussions on this article and the changes to its content demonstrate that although several States representatives, observers or delegations wanted a clearer and more elaborate article, the majority preferred a general one that is open to interpretation. While this article has become a pathway to discussions on what ‘best interests of the child’ mean and the importance of participation rights as well as the possibility of these rights, its vagueness has led to a continuous struggle to translate it into policies and within legal contexts. As Venezuela’s representative noted the phrase “best interests of the child” is subjective leaving it to the judgement/interpretation of individuals, organizations, and institutions, “especially if the convention contained no prior stipulation that the ‘best interests of the child’ were his all-round - in other words, physical, mental, spiritual, moral and social – development” (OHCHR, 2007a, p. 345).

#### ***Comments from the First and Second Reading: Article 6***

Article 6 (right to life, survival and development) of the CRC was not addressed in the first Polish draft. However, the issue was brought up by Barbados who stated that during discussions on a child’s right to life, the following questions should be addressed: “How far should this right go? Does the child include the unborn child, or... foetus? Under specified circumstances, should a foetus be aborted without an offence being committed or at the relevant time was the foetus a human life?” (OHCHR, 2007a, p. 364). The issue was revisited during the First reading and was referred to as article 1 bis (a term used to insert a new article between existing articles). In 1988, India submitted to the Working Group a proposed addition as Article 1 bis or 2 bis stating: “The States Parties to the present Convention undertake to create an environment, within their capacities and constitutional processes, which ensures, to the maximum extent possible, the survival and

healthy development of the child” (UN Commission on Human Rights, 1988, April 6, p. 5). To India’s representative, emphasis on survival and healthy development were essential as children should not be dying from preventable causes and should be able to develop in a healthy manner wherever they come from.

In considering the proposed addition, some government representatives noted “that the concept of survival was not legally defined and one representative expressed the belief that it could even prove harmful to the concept of the right to development” (UN Commission on Human Rights, 1988, April 6, p. 5). Following discussions on definitions of survival and the child’s development as well as rights to address these concepts, several alternative wordings were presented but no agreement was reached. As cited in the UN Commission on Human Rights (1988, April 6) report: “The view was expressed that life and survival were complementary and were not mutually exclusive, and that survival could even mean the diminution of infant mortality” (p. 6). Italy’s representative referenced the right to life in both the Universal Declaration of Human Rights (Article 3) and the International Covenant on Civil and Political Rights (Article 6) insisting that a specific provision is essential.

The Working Group agreed to examine the right to life without reopening the debate on when life begins with the goal of reaching consensus on the meaning of survival. Some viewed the concept as “a more positive connotation than the right to life, it meant the right to have positive steps taken to prolong the life of the child” (UN Commission on Human Rights, 1988, April 6, p. 6), others noted the lack of clarity of the conditions and meaning. As discussions continued, the Chairman-Rapporteur asserted the need to include the right to life in the convention; he stated that the approach “should be positive and... take into account economic, social and cultural conditions” (UN Commission on Human Rights, 1988, April 6, p. 7). A small drafting group (Argentina,

Bulgaria, India, Italy, Norway, UNICEF, and the United Kingdom) was set-up to work on a compromise text (see Text Box 11). Before the adoption of the Working Group’s text, Venezuela’s representative noted that the second paragraph “will diminish the concept of the right to life conferred on all human beings in existing international instruments” (UN Commission on Human Rights, 1988, April 6, p. 7). Although she accepted the Working Group’s decision, she asked that her position be included in the report. The Holy See’s observer stated that life begins from the moment of conception, and those rights need to be respected and protected. There were no comments from the technical review that took place in 1988. During the Second reading (1988-1989), Kuwait proposed the following text amendment for article 1 bis: “[...] shall respect the child’s right to life and, to this end, shall take all constitutional and legal measures needed to guarantee that right” (OHCHR, 2007a, p. 367). Venezuela suggested the merging of article 1 with article 1 bis (see Text Box 11).

*Text Box 11: Article 6*

<b>Working Group proposed text</b>	<b>Venezuela’s proposed text</b>	<b>CRC (1989), Article 6</b>
1. The States Parties to the present Convention recognize that every child has the inherent right to life. 2. States Parties shall ensure, to the maximum extent possible, the survival and development of the child.	1. For the purposes of the present Convention, ‘child’ means every human being up to the age of 18 years unless, under the law of his State, he has attained the age of majority earlier. 2. The States Parties to the present Convention recognize that every child has the inherent right to life. 3. States Parties shall ensure to the maximum extent possible the healthy growth and development of the child.	1. States Parties recognize that every child has the inherent right to life. 2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

In reference to the removal of the word “survival” in Venezuela’s proposed text and its replacement with “growth”, the observer for WHO remarked that this “would be a step backwards from standards already accepted” (OHCHR, 2007a, p. 367). He explained that the term “survival” is different because it not only encompasses growth but “within the United Nations context.... [It] included growth monitoring, oral rehydration and disease control, breastfeeding, immunization,



child spacing, food and female literacy” (OHCHR, 2007a, p. 367). The removal of the word “survival” was thus not accepted by delegates from Australia, Norway, Italy, Sweden, and India. In light of support for the concept, Venezuela’s representative withdrew her amendment but noted that interpretation will be left to local authorities. Following minor amendments (the removal of the words “to the present Convention” from the first paragraph, and commas from the second paragraph), the text became Article 6 of the CRC (see Text Box 11).

Italy’s representative noted that the words ‘survival’ and ‘development’ “in the language of international organizations... had come to acquire the special meaning of ensuring the child’s survival in order to realize the full development of his or her personality, both from the material and spiritual points of view” (OHCHR, 2007a, p. 367). This comment as well as attempts made by States to align the articles with the content/language of different international texts, primarily those passed by the UN, is indicative of their importance. Moreover, the vagueness of this right as well as its weakness in getting States to do more than “recognize” the inherent right to life, has led to debates leading some countries to make formal declarations or reservations “to ensure that the interpretation of Art 6 will not conflict with national abortion and family planning legislation” (Buck, 2005, p. 6). China, for example made a reservation to protect its one child policy.

### ***Comments from the First and Second Reading: Article 12***

Article 12 (respect for the child’s views) as it stands in the CRC was not addressed in the first Polish draft but was in the revised draft as the seventh Article (see Appendix H). The discussion on the content of the article centred on the right of the child to express ‘his’ opinion on matters that concern ‘him’; it began by looking at the second paragraph of the third article submitted by the U.S. in 1980 and resubmitted in 1981 (refer to Comments from the First and Second reading of Article 3). There were also submissions from Australia and Denmark (OHCHR,

2007a, p. 440; see Text Box 12). The Working Group discussed the first line from the revised draft reiterated in the U.S. proposal as well as the use of the term “effectively” and Australia’s suggested first line. A speaker noted that legally speaking, States are not obligated towards children, and that “the child should have a degree of freedom comparable to that enjoyed by an individual under the Covenants and comparable instruments of law” (OHCHR, 2007a, p. 440). The majority also called for the deletion of the list at the end of the seventh article as it was limiting. In response, the U.S. representative proposed the addition of “all” before the word “matters”, thus making a list unnecessary. Canada’s representative suggested the addition of the word “freely” following “opinion”. The compromise text was adopted (OHCHR, 2007a, p. 440; see Text Box 12).

*Text Box 12*

<b>Revised draft convention, Article 7</b>	<b>Australia’s proposed text</b>	<b>Denmark’s proposed text</b>	<b>Compromise text</b>
The States Parties to the present Convention shall enable the child who is capable of forming his own views the right to express his opinion in matters concerning his own person, and in particular, marriage, choice of occupation, medical treatment, education and recreation.	The States parties to the present Convention shall assure to the child the right to express his opinion in matters concerning his own person, and in particular marriage, choice of occupation, medical treatment, education and recreation. In all such matters the wishes of the child shall be given due weight in accordance with his age and maturity.	Parents or other guardians have the right and duty to decide in matters concerning the person of the child. But the child shall, as soon as possible, have an influence in such matters. As the child gets older, the parents or the guardian should give him more and more responsibility for personal matters with the aim of preparing the child for the life of a grown-up.	The States parties to the present Convention shall assure to the child who is capable of forming his own views the right to express his opinion freely in all matters, the wishes of the child being given due weight in accordance with his age and maturity.

A delegation noted that the text should undergo legal examination “to determine whether it might comply with general rules relating to standing in legal and administrative proceedings” (OHCHR, 2007a, p. 440). The representative of the delegation also stated that the best interests of the child who may not be able to form ‘his’ own views needs to be readdressed. In line with the former point, in 1986, Bangladesh submitted a comment to the Working Group stating the difficulty of implementing the article “since it has not been sufficiently crystallized into recognizable legal categories” (OHCHR, 2007a, p. 441). In 1988, the NGO Ad Hoc Group submitted an alternative text to the seventh article that takes “*into account the need to distinguish*

*between freedom of expression, freedom of association, freedom of peaceful assembly and protection of privacy*” (OHCHR, 2007a, p. 441). The first point of the text was similar to the compromise text with the exception of the addition of “or her”, “an” instead of “his” following opinion, and the replacement of the comma with a period following “matters”. However, the second point they added differed from the others as it stated: “2. Every child shall have the right to seek, receive and impart information and ideas, either orally, in writing, in art form or in any other media of the child’s choice” (OHCHR, 2007a, p. 441). The compromise text was adopted during the First reading with discussions to continue during the Second reading.

In 1988, during the technical review of the seventh article, UNICEF recommended being gender neutral by adding “or her” following “his” and replacing “his” in the last line with “the child’s”. In its comments and clarifications, the Secretariat made an important point:

Because article 7 introduces a new restriction on the freedom of expression, namely, that the child be capable of forming his/her own views, there arises a possible conflict with article 7a which itself follows article 19, paragraphs 2 and 3, of the International Covenant on Civil and Political Rights. (OHCHR, 2007a, p. 442)

In considering the above conflict and UNICEF’s remarks, they suggested deleting the article and adding a new third paragraph to article 7a that states: “*(c) The views of the child shall be given due weight in accordance with his or her age and maturity*” (OHCHR, 2007a, p. 442). This was a key point during discussions at the Second reading (1988-1989).

The Working Group discussed the adopted text from the First reading, and a drafting group’s proposal submitted by Finland, which combined the second paragraph of the third article with the adopted and amended text of seventh article (see Text Box 13 with added text in italics). Netherland’s observer noted that the phrase “in accordance with the procedural rules of national

law” (OHCHR, 2007a, p. 442) was not clear and needed elaboration; a replacement text could be “in a manner consistent with the procedural...” (OHCHR, 2007a, p. 442). The delegate from Finland agreed with the change in wording and explained that in cases where international legal assistance was required for a child’s opinion to be heard, “the requesting State’s procedure should also be taken into account” (OHCHR, 2007a, p. 442). Venezuela agreed with the proposal but suggested the replacement of the word “procedural” with “applicable”, which was supported by Norway. The USSR asked for clarification on the phrase “in all matters affecting the child”; Japan noted that they understood it as “affecting the rights of the child” (OHCHR, 2007a, p. 443). The USSR agreed with this interpretation, but others found it problematic because it could affect matters in the convention that do not cover rights but still affect children. There was no further discussion recorded on what these “matters” are. Finland’s observer noted that Japan’s interpretation was acceptable but reiterated that they do not want any major changes to their proposed text. A technical edit (replacing “affecting” with “regarding”) proposed by Italy to help clarify this point by was not adopted. Portugal’s representative found the word “directly” in the second paragraph problematic as it is “a restriction of the child’s own freedom of expression” (OHCHR, 2007a, p. 443); to resolve the issue, Canada’s observer suggested the addition of “or”, which the Chairman later recommended. Finland proposed keeping the first paragraph as introduced with the deletion of “his” in brackets and replacing the words “in accordance” with “in a manner consistent” as per Netherland’s proposal. Although Japan’s representative approved Finland’s proposal with the suggested edits for the first paragraph, the delegations of China, Japan and the USSR expressed their reservations (OHCHR, 2007a, p. 443).

During discussions on the second paragraph, Venezuela withdrew its proposed replacement of the word “procedural” to “applicable” following an objection from Finland’s

observer who noted that it would change the desired meaning. Senegal, on the other hand, noted that since procedural law is part of national law, “the inclusion of the latter was unnecessary” (OHCHR, 2007a, p. 443); the Federal Republic of Germany agreed with this point. India’s delegate suggested changing it to “in accordance with procedure established by law” (OHCHR, 2007a, p. 443), and Italy’s delegation proposed “in a manner consistent with national law” (OHCHR, 2007a, p. 443). In terms of understanding of the meaning of “procedural rules of national law” (OHCHR, 2007a, p. 443), India’s delegation declared that they saw it as having the same meaning as the text “‘procedures followed in the State Party for the application of its legislation’ contained in article 3, paragraph 2, of the draft convention as adopted at first reading’ (OHCHR, 2007a, p. 444); Finland’s observer supported this declaration. With regards to the same issue, Senegal’s delegation stated that the “English expression... should be understood to mean the more generic and precise French term ‘de législation nationale applicable’” (OHCHR, 2007a, p. 444). The observers of Canada and Finland preferred the original text; Article 12 was adopted without the majority of the proposed amendments (see Text Box 13). Following proposals, and a technical review, the articles were reordered (OHCHR, 2007b, p. 901-906), and the CRC in its entirety was adopted in 1989.

### *Text Box 13*

<b>Proposed Text by Finland</b>	<b>UN CRC 1989, Article 12</b>
<p>1. The States Parties to the present Convention shall assure to the child who is capable of forming his <i>or her</i> own views the right to express those views freely in all matters <i>affecting the child</i>, the views of the child being given due weight in accordance with (his) <i>the</i> age and maturity of <i>the</i> child.</p> <p>2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, through a representative or an appropriate body, in accordance with the procedural rules of national law.</p>	<p>1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.</p> <p>2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.</p>

Article 12 was and still is being communicated as an article that emphasises the importance of respecting the views of the child; however, as the discussions from the Working Group show

and the final wording of the text proves, there are many limitations and interpretations on when and how a child gets to be heard. The text intentionally leaves many unanswered questions, primarily, who determines a child's capability and maturity, and how? How is "due weight" given? Are the adults who have been given power over the child capable of making these determinations? Who will ensure that violations do not occur in the process? On the ground, this right is used both as a tool to fight for children to be heard and as a weapon in denying them from being heard because they are deemed incapable of forming their own views or are not considered old enough or mature enough.

### ***Communication***

In terms of communication, during the drafting process, the texts were communicated via a two-way non-mediated and mediated means amongst State members. The first Polish draft and the revised draft convention were shared with the Commission on Human rights and were then disseminated and discussed. The rest of the drafting took place during the Working Group sessions with written and oral submissions accepted at different times; as the reports indicate, the content was adopted via a two-way non-mediated mode during these sessions. The full adoption of the CRC was also done in person; however, ratification and signatures by States Parties varied. The mode the text was disseminated in also varied per country, but diverse modes of communication including print were utilized for both the full draft and the child friendly versions, which were later produced by international organizations including UNICEF and Save the Children. The dissemination and publicity of the Convention also varied. Article 42 clearly states that "States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike" (UN General Assembly, 1989). However, such a form of wide dissemination remains an aspiration rather than a reality.

## **Intertextuality and Assumptions**

There is significant intertextuality and assumptions within the Convention; external relations are incorporated into the text with and without attribution. From the preamble to the principles, the way the content is framed serves three interconnected purposes: 1) reminding States Parties of the agreements that they made as a way to establish common ground and to show that while they are separate, they are also intended to function together within an integrated system; 2) substantiating the work that they have done in the form of this Convention; and 3) creating an international reference guide which sets out civil, political, economic, social and cultural rights of ‘every’ child that is legally-binding on an international front.

The preamble, divided into several separate yet interconnected paragraphs/clauses, begins by identifying in an active present tone who the responsible actors are – “The States Parties” – and their agreement to the “present” Convention indicating time. Each paragraph begins with a present participle and ends with a comma. The first paragraph refers to the principles proclaimed in the Charter of the United Nations (1945), and without directly quoting uses the full first paragraph (except for the word “Whereas”) from the Universal Declaration of Human Rights (1948). The text of the second paragraph is from the first paragraph of the 1959 Declaration with the replacement of “Whereas” with the opening preambular phrase “Bearing in mind that”. This paragraph is originally from the opening paragraph of the of the UN Charter with select words and phrases from that paragraph used in the 1959 Declaration and reused in the Convention. The third paragraph is from the second preamble paragraph of the 1959 Declaration, which has text from the second article of the Universal Declaration of Human Rights; although this content is not directly quoted, it is alluded to by mentioning the source. The changes in this paragraph, such as the replacement of “Whereas” with “Recognizing that”, the addition of “and in the International

Covenants on Human Rights” following “the Universal Declaration of Human Rights”, and the insertion of the words “and agreed” after the word “proclaimed” were the result of aforementioned discussions during Working Group sessions.

Intertextuality in the fourth to sixth paragraphs helps create a connection between family, development, and happiness and their potential as a unit. The fourth paragraph recalls the Universal Declaration of Human Rights’ and the UN proclamation on the “special care and assistance” that “childhood” is “entitled” to. It uses text from Article 25 of the Universal Declaration of Human Rights without directly quoting it. The use of the term “childhood” is intentional as it carries various connotations that are general yet can be specific to each country based on their own interpretation. Reference to motherhood, which was in the original text, was not included. The words were purposefully repositioned to fit in to the new context of ‘child rights’ yet maintaining the spirit of the Universal Declaration of Human Rights. The fifth paragraph expands on Article 16(3) of the Universal Declaration of Human Rights, which states: “The family is the natural and fundamental group unit of society and is entitled to protection by society and the State”. In the CRC’s preamble, the words are repositioned as follows: “Convinced that the family, as the fundamental group of society and the natural environment... should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community” (UN General Assembly, 1989, preamble). Children are added as members of the family vis-à-vis the community; this is essential to establishing consensus and a sense of duty. The sixth paragraph further expands this point by “Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,” (UN General Assembly, 1989). The main



concept and text from this paragraph (with exact words used underlined) are from the sixth principle of the 1959 Declaration.

The seventh preambular paragraph refers to the “ideals” in the UN Charter, and recontextualizes content from the tenth principle of the 1959 Declaration without directly quoting or referencing it, which in turn was an expansion of the last principle of the Geneva Declaration (1924). The eighth preambular paragraph expands upon the fourth paragraph of the 1959 Declaration preamble; it references the Geneva Declaration of the Rights of the Child (1924), the Declaration of the Rights of the Child (1959), the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (specifically noting articles 23 and 24), and the International Covenant on Economic, Social and Cultural Rights (specifically noting article 10). As per the recommendation of States Parties, it also leaves it open with reference to “statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children” (UN General Assembly, 1989, preamble). The underlined part is directly from the fourth preambular paragraph of the 1959 Declaration.

The ninth preambular paragraph is a direct form of intertextuality; it attributes the content used from the third preambular paragraph of the 1959 Declaration through direct quotations and reference to the text. The use of quotation marks was due to the disagreement amongst States on restating the content from the 1959 Declaration as well as the phrase “before as well as after birth”. The tenth preambular paragraph makes reference to existing provisions by listing three international texts (the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children; the UN Standard Minimum Rules for the Administration of Juvenile Justice; and, the Declaration on the Protection of Women and Children in Emergency and Armed Conflict). The other preambular paragraphs do not have any clear intertextuality.

As for the four General principles examined, intertextuality is mostly implied not stated as the preamble set the tone for the content and clearly indicated the source material for the foundation of the CRC. The second Article is from the spirit of the second preambular paragraph and the first principle and a part of the tenth principle of the 1959 Declaration, which were also written with the Universal Declaration of Human Rights as a point of reference (in terms of the list of possible reasons that can cause discrimination). The difference is that it further expands and elaborates on the concept by giving legal grounds and adding two categories: ‘ethnic’, which was used in the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights, and ‘disability’. The third Article expands on the concept of the ‘best interests of the child’ from the second principle of the 1959 Declaration. The sixth Article does not reference any documents, but its content is inspired by the third article of the Universal Declaration of Human Rights, and the sixth article of the International Covenant on Civil and Political Rights as they address the right to life; those are repositioned in the CRC within the context of child rights. The rest of the content examined could be connected to other texts, but since there is no direct or indirect attribution, intertextuality cannot be claimed based on assumptions.

With regards to assumptions, the examined text consists of various assumptions intermixed and embedded to establish common ground and substantiate the presence of universality when it comes to children, their needs, care and protection. However, unlike the previous two non-binding Child Rights Declarations, the Convention uses international legal terminology and structures to denote obligations rather than duties based on value systems. The assumption made is that child rights result in child protection and improvement of the lives of children. This is made throughout the text by creating coherent links in the form of agreed upon former international texts and

provisions in the preamble and existential assumptions triggered by the definite article ‘the’, which begins with the assertion of “the present Convention”. It also includes the use of the demonstrative pronoun ‘that’, which is part of the present participial phrase at the beginning of most of the preambular paragraphs (e.g., “Considering that”). In the Articles “the” is used to further assert the ideas communicated and actions required. Although there were discussions on the use of the term ‘children’ to ensure that the term is inclusive of the different children as opposed to continuous reference to “the child” that denotes a universal child, no changes were made. Thus, “the child” by virtue of the Convention becomes the recipient of these rights. Further existential assumptions are made with regards to the different agreed upon and adopted international instruments. In the select four Articles, ‘that’ is used in Article 2(2) and Article 3(3) following the word “ensure”, and in Article 6 following the word “recognize”. As for the demonstrative pronoun ‘this’, it is used twice in Article 3(2) (“to this end”) and Article 12(2) (“For this purpose”). ‘Those’ is used once in Article 12(1) (“those views”). These existential assumptions serve as affirmations for the need of a Convention that protects the needs of children, and further legitimizes past agreed upon and adopted international texts within the new context.

As for factual assumptions, they are made in the preambular paragraphs since some of the content is similar to that in the 1959 Declaration. For example, there are four proclamations in the preamble (paragraphs 1, 3, 4, and 7) triggered by the verb ‘proclaimed’. In the first paragraph, reference is made to the “principles proclaimed in the Charter”, and in the seventh to “the ideals proclaimed in the Charter”. In the third paragraph, the UN “proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein”, and in the fourth, they “proclaimed that childhood is entitled to special care and assistance”. Moreover, in the second preambular paragraph a reaffirmation of “faith” by the peoples of the UN in the Charter can be seen as a value assumption.

The factual assumption that carried forward from the 1959 Declaration is the perception of the child as physically and mentally ‘immature’ and in need of protection as quoted in the ninth preambular paragraph. Other value assumptions, which are not direct but are integral, include reference to the ‘family’ in the fifth and sixth preambular paragraphs without acknowledging that there are different types of families, and that not everyone has a family whatever the concept may mean. Although recognition is given to members of the extended family and community in Article 5 of the CRC, this is not addressed in the preamble. What is initially perceived as a “natural environment” needed “for the growth and well-being” of children as well as for the “full and harmonious development of his or her personality” appears to be a Eurocentric/Western image of what a family is. The way it is framed implies that without a “family”, a child cannot fully develop. What is unknown is who determines what a family is and how a child develops? These value judgements that are embedded in the text may have been intended to protect children, but they have a profound impact on the (mis)perception of children, particularly those who are orphans or have been abandoned with no family or community to take care of them ultimately impacting the way they are seen and treated.

In the way the CRC unfolds, there is a clear amplification of some voices over others, particularly State representatives/delegations/observers and some NGOs who were present at the Working Group sessions or those who conducted the technical reviews (for a full list of participants per year, see OHCHR, 2007b, p. 933-937). On the surface, it appears that there is a balance between the voices of participants, however, a closer examination of the sessions shows that this is not the case as several countries including the United Kingdom voiced their reservations on a number of approved articles and called for the sharing of the text for feedback with States that were not present. Another area that requires further exploration is whether the voices of some

States through their representatives were amplified more than others (i.e., by adopting their amendments and allowing them to gear discussions); however, it is difficult to make an accurate assessment just from the Working Group reports as there may have been side discussions as well as content that the authors of the reports intentionally or unintentionally excluded.

The voices of children are not included in the text. Although the CRC calls for respect of the views of the child (Article 12), children did not directly participate during the Working Group sessions in which decisions were made. Adam Lopatka, the Chairman/Rapporteur of the Working Group on the draft CRC noted:

It is obvious that the Convention on the Rights of the Child, like any other international human rights treaty, is an accomplishment of the government representatives of all States concerned.... When submitting proposals on the draft, the delegates of a few States referred to opinions held by children and youth organizations active in the countries they represented. (OHCHR, 2007a, p. xli)

While they may have taken part in discussions in their own States, how their opinions were gathered, and the number of children involved per State (if any) is not documented by the UN but only stated based on information attained by States as well as reference to a few instances where children attended but did not participate in the Working Group meetings. For example, a group of Swedish children once submitted a petition “signed by approximately twelve thousand children.... [in] support for the Convention and especially for Sweden’s proposal that children should not be called up for service in the armed forces or involved in armed conflicts” (OHCHR, 2007a, p. xli). Also, schoolchildren from Canada were invited to listen to the debates in a few sessions, and “representatives of several French child and youth organizations displayed an active interest in the work on the draft convention” (OHCHR, 2007a, p. xli). In excluding the voices of children from

the core discussions and keeping certain points vague/open to interpretation, it is clear that ‘the child’ remains a dependent being with rights that can only be attained through the support of adults.

### **Difference**

The CRC, similar to its foundation text (the 1959 Declaration), accentuates differences yet at the same time attempts to bridge them. It does so using a different tone, structure and language that is frequently used by the UN and other agreed upon international declarations and covenants. It also positions the child both as a dependent and an independent with civil, political, and cultural rights. This duality has led to critiques as well as contradictions in understandings. However, what is clear is that the process of the CRC from an idea to its conception and adoption, does not involve children. The structure and content of the text clearly draw a distinction between the child and adult. The child, who is below the age of 18 “unless under the law applicable to the child, majority is attained earlier” (UN General Assembly, 1989, Article 1), is dependent and the receiver of rights. On the other hand, the adults (who differ depending on the right) are the givers of these rights with State Parties responsible for their implementation. The verbs from the four analyzed Articles associated with States’ roles are as follows: respect, ensure, take, undertake, recognize, and assure. Children’s voices and their diverse needs and contexts are missing from the narrative. Not only does the text present a specific perception of “the child” by those in power, but its vagueness results in it being open to interpretation leaving children in the hands of the adult decision makers.

This perception is further amplified through use of “the child”, “a child”, “each child”, and “every child”, which normalizes and brackets children into one implied overarching category – the “universal” child with “universal” needs – to show commonality and achieve consensus. This child, as described in the ninth preambular paragraph based on content from the 1959 Declaration, is physically and mentally “immature”. Although in Articles 5 and 14(2) in addressing parental

rights and duties, the “evolving capacities of the child” are mentioned twice (for further analysis of the concept, see Vardan, 2019), they are not further elaborated on to counter that image. As part of the CRC, this old image is reaffirmed and communicated to State parties, children, and adults. Even when rights address the needs of “the child” in different contexts and with different abilities, those needs are intended to be all similar within that given context, which is not reflective of the diverse realities that exist. Moreover, the insertion of “or her” following “his” resulting from the technical review does not change the original direction of the text as agreed upon by States parties that placed emphasis on the masculine pronoun. With the amendment, the female child appears secondary to the male child as the masculine pronoun always comes before the feminine.

### **Semantic/Grammatical Relations Between Sentences and Clauses**

The language and structure of the CRC is similar to other UN international human rights instruments. It attempts to consider specific rights of ‘the child’ within broader human rights categories subdivided by the UN that include civil and political rights, economic, social and cultural rights. The semantic and grammatical relations between sentences and clauses help bring to the fore these contexts and accentuate the image of the child as dependent, but also introduce the child as an independent “who should be fully prepared to live an individual life in society” (UN General Assembly, 1989, preambular 7). In examining the different relations with the connecting phrase(s) or word(s) associated with them (with textual markers/triggers underlined in some examples), I had to keep in mind that the language *in use* and grammatical construction of legal and international texts differ from other texts and do not follow traditional grammatical rules.

### ***Preamble***

Similar to other international texts, the preamble of the CRC is intended to show reasons for the States Parties entering into the agreement, and the content of the agreement in terms of

rights and duties, which are housed under three parts that consist of different Articles. The preamble begins with: “The States Parties to the present Convention,” and ends with “Have agreed as follows:”; the word “present” is temporal as it denotes a period of time. When combined with the last part, which is also in the present tense, it affirms and introduces the Convention that is agreed upon by States Parties. Each of the preambular paragraphs begins with a present participial phrase (only the fifth has a past participial phrase) with the agent of that verbal activity as the grammatical subject of the sentence; they end with a comma laying the foundation for the justification, direction, and core of the rest of the Convention and the interconnectedness of every aspect of the text. The paragraphs can also be seen as a form of elaboration on reasons for the Convention with implied casual relations. The reason being – the protection of the child; the additives, mostly triggered by the conjunction “and” as well as the elaboration come in the form of agreed upon provisions and international texts.

Unlike the first four paragraphs, the fifth and sixth paragraphs differ in terms of content. The fifth introduces the family and elaborates on them as the “fundamental group of society and the natural environment”. The purpose is clear so are the alluded to consequences “for the growth and well-being of all its members” with “and particularly children” as an additive, the family “should be afforded the necessary protection and assistance”. The reason this is essential is “so that it can fully assume its responsibilities within the community”. The implied causal connection is that without “the necessary protection and assistance” whatever those maybe, the effect will be the inability of the family to “assume its responsibilities” and this would ultimately impact children. This extends in to the sixth paragraph that further elaborates on the matter by emphasising the importance of the family “for the full and harmonious development of his or her personality” with the allusion through elaboration that growth needs to take place “in an atmosphere of



happiness, love and understanding”. This can be seen as a higher-level/global semantic relation without directly addressing the problem but alluding to it through the solution, and the recognitions, affirmations, and proclamations made on select issues in specific texts.

The purpose of the seventh preambular paragraph is “the child should be fully prepared to live an individual life in society”; through additive relations a connection is made to the child’s upbringing “in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity”. The eighth preambular paragraph serves as a reminder of previous Declarations and Covenants and as an additive with “and” as the trigger “in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children”. The ninth preambular, which is mostly a reminder of prior agreement on why the child needs protection, consists of a direct quotation from the Declaration of the Rights of the child; the name of the Declaration is in between bracketing commas indicating that it can be removed without changing the meaning of the content. Similar to the eighth in terms of reminders, the tenth preambular begins by referencing different agreed upon provisions. Through elaborative and additive clauses, the eleventh paragraph addresses the presence of “children living in exceptionally difficult conditions” not just in developing countries, which is not stated, but “in all countries in the world”; this is used as a reason/justification for what follows in an elaborative clause: “and that such children need special consideration”. “[S]uch” is used to make a correlation between “exceptionally difficult conditions” and the need for “special consideration”. The preambular paragraph that follows can be seen as an elaboration itself; it implies that in working on this Convention and in committing to help children around the world, States Parties have taken into account “the importance of the traditions and cultural values of each people”. The last paragraph places emphasis on the importance of

international cooperation, specifically in developing countries as noted through elaboration. It alludes to a correlation between international cooperation and the improvement of “living conditions of children in every country”.

In terms of cohesive relations between sentences, the preamble clearly employs reference relations with the use of the demonstrative pronoun ‘that’ referring back to previous agreements, provisions and international texts; also, through the use of the personal pronoun “it” only once in the fifth preambular in reference to the ‘family’, which is mentioned at the beginning of the sentence. It also uses lexical relations through the use of present participial phrases at the beginning of all the preambular paragraphs (ending with a comma) to signify existing adopted texts/agreements thus creating a predictable linguistic pattern that shows the co-occurrence between words. This in turn results in a textual chain that produces a specific image and direction of the text – the need to protect the child. It further legitimizes the adopted international texts and agreed upon provisions within them to show common ground and consensus.

### *Articles*

As a binding international convention, the Articles are written using the rules of legal international instruments. The four select Articles follow a similar structure, they are all in the present tense, and have clear purposes; they address the responsibilities of the duty bearers – the States Parties – with varying degrees of the level of commitment depending on the action verb used. There are a few additive relations throughout the articles and more elaborations as the clauses are intentionally interconnected and are not meant to be separated. There are more ‘global’ or higher-level semantic relations in the Articles than local relations, but a traditional problem – solution format is not used; the problems are alluded to through the solutions.

In the second Article, both paragraphs begin with States Parties as they address two separate yet interconnected and interrelated forms of discrimination. Article 2(1) indicates the purpose of the right, which is to “respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind”. The rest of the phrase elaborates on what the possible categories that “any kind” may be referring to. Article 2(2) further elaborates on the right to non-discrimination by stating the solution, which is that “States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment”; this is followed by an elaborative clause with the possible list of reasons that may lead to discriminatory practices such as expressed opinions.

The first paragraph of the third Article begins differently; it opens the Article with a universal claim through the prepositional phrase: “In all actions concerning children”; this is then elaborated on as “whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies”. The purpose/solution is considering “the best interests of the child”. The second paragraph continues with the same style as the previous Article and begins with the “States Parties”; the purpose is “protection and care” for the child with the reason being “his or her well-being”. The elaborative relation is the consideration of “the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her”. The other part of the clause that follows, which is paratactically related to the first clause addresses the second part of the solution, which is also a reason as marked by “and, to this end, shall take all appropriate legislative and administrative measures”. The third paragraph, is in line with the previous as it extends and elaborates on the responsibility of States Parties. While it is not clear who the “competent authorities” noted in the text are, the areas in reference to the standards

mentioned are elaborated on as “safety, health, in the number and suitability of their staff, as well as competent supervision”.

Article six consists of two points written in two simple sentences with no interruptions/punctuations other than the period that ends each sentence. In Article 6(1) “States Parties recognize” the “inherent right to life” of every child, which is also the purpose of the Article. The solution is this recognition of the right to life, but the problems that may threaten this right are not addressed. Some critics note that the verb “recognize” is weak (Chapdelaine-Feliciati, 2018) as it does not denote action. The second point extends this responsibility a bit further by using the phrase “shall ensure to the maximum extent possible the survival and development of the child”. Since there are no elaborations, it is not clear how this solution came to be or how it would be delivered.

Article 12 is different in its structure; the purpose is the right of the child to be heard in matters that impact him/her. The solution offered is assuring the child that he/she can freely express their views and providing the child with the opportunity to be heard. Article 12(1) uses two elaborative clauses; the first elaborates on who this child that can be heard is: “the child who is capable of forming his or her own views”, and the second elaborates on the weight given to these views “in accordance with the age and maturity of the child”. Article 12(2) is an elaboration that further expands on the child’s right to be heard “in any judicial and administrative proceedings affecting the child”. This is followed by two elaborations in between bracketing/isolating commas that interrupt the rest of the phrase “..., either directly, or through a representative or an appropriate body”. The separation of both parts signifies a weak interruption to the phrase that if removed does not affect the sentence. The last elaborative clause is connected to the first part of the sentence and is essential to its understanding: “in a manner consistent with the procedural rules of national law”.

In the CRC, the principal duty bearers are the States (governments and bodies of the State). While different in form, content, and language *in use*, particularly in the Articles, reference and lexical relations in the text create a cohesive connection among the sentences and concepts. With the CRC, the goal appears to be establishing universality, indivisibility, interdependence and interrelatedness, specifically of the Articles. The tone is set with the use of the present participle at the beginning of every preambular paragraph and ending with a comma. The majority of the Articles begin with States Parties, and in reference to the child, the definite article ‘the’ is used throughout with exceptions when “every” and “each” are used. “Children” in the plural sense are used five times in the preamble with an additional two as in the titles of specific provisions. In the four general principles, “children” is used twice in Article 3(1)(3). The focus on “the child” denoting the universal child is clear and in line with the earlier Declarations. The definite article ‘the’ is also used throughout to affirm the existence of adopted and agreed upon other international texts and provisions, to emphasize certain concepts such as “the family” and “the best interests of the child” and “needs”. For example, in the sixth Article, the use of the article “a” was discussed several times amongst States as it indicates multiple considerations, whereas “the” limits it to a singular consideration (OHCHR, 2007a, p. 344). Although for the sixth article, it was not changed, in others “the” is used more frequently.

The way the content is textured created a clear lexical chain. There is a predictable pattern and logic of appearance starting from the preamble to the Articles. The preamble begins by showing consensus through a series of previous international agreements and brings to the fore select content from them. The way the narrative unfolds within this framework of an international legal text, tells a story of universal human rights that are inalienable, indivisible, interdependent, and interrelated as are the rights of the child. Unfortunately, the child continues to be depicted in

the image of the child from the 1959 Declaration – as physically and mentally immature. Clearly, the purpose is to establish common ground and further legitimize the need for “special safeguards and care” for ‘the child’. The Articles that follow the preamble unfold in three different parts with part I (Articles 1- 41) addressing provision, protection, and participation rights for children, with parts II (Articles 42-45) and III (Articles 46-54) directly addressing governments and organizations with regards to implementations and processes. Each Article addresses a different issue or set of issues with varying degrees of abstraction depending on the content. For example, from the four Articles examined, three of them (Articles 3, 6 and 12) are highly abstracted leaving them open to interpretation. There appears to be a causal connection between these sets and the order of the Articles, which move from specific in defining the age of the child to situational addressing civil, political, economic, social, and cultural rights. Similar to the 1959 Declaration legitimation is essential; however, its focus is less on the moral (which can be found in some of the preambular paragraphs) and more through authorization, which is clear in the use of intertextuality in the preamble and rationalization by alluding to the benefits of these rights through State, community, or institutionalized action.

### ***Representation of Social Events***

From a representational lens what is given the most prominence throughout the Articles is “the child” who is also “every” and “each” child followed by different categories that address a different need/action. In the preamble, the child who is also represented by “children” and “childhood” is at the core of the issue but prominence is on prior agreements that have led to the Convention. Almost all the preambular paragraphs begin with an active present participle, and in situations where there is a second verb, in most cases, the past is used. Each participial phrase is used to signify a different issue that is separate yet interrelated in its purpose. Thus, creating a

chain, certain verbs are repeated with different ones used when new issues are addressed. For example, the present participle “Considering” appears twice, “Bearing in mind” three times, “Recognizing” five times, “Recalling” twice, and “Taking” only once when addressing the importance of traditions and cultural values. A break in the chain also occurs in the fifth preambular paragraph that uses the past participle “Convinced” in referring to the subject of “the family”. The second verb used is intended to remind the readers/States Parties of what has been agreed upon; the passive verbs used include: proclaimed, reaffirmed, determined, proclaimed, agreed, afforded, brought up, stated, recognized, and indicated. Verbs in the present tense within the preambular paragraphs are a few. In the second “to promote” is used, “assume” in the fifth, the verbal phrase “grow up” in the sixth, and “needs” in the ninth with “need” in the eleventh. The present tense is used in these instances to address purpose of the action noted in the phrase.

In the Articles, the subject is primarily States Parties with slight variations, and the recipient is the child. In Article 3(1), the agent is not mentioned at the beginning of this paragraph as it is intended to be encompassing of “public or private social welfare institutions, courts of law, administrative authorities or legislative bodies” as elaborated on in the paragraph. States Parties are noted in the paragraph that follows. In Article 12(2), the agent is also not mentioned but is in the previous paragraph, so the assumption is that it is a continuation, thus responsibility lies with States Parties. The recipient of these actions/rights is ‘the child’, who is “every” and “each” child. In terms of social relations, the main reasons that are given for the CRC are aforementioned international agreements on the rights of human beings that carried from the previous Child Rights Declarations as well as other texts that were agreed upon.

As for representation of processes, mostly transitive material processes are used within the four examined Articles with the exception of Article 3(1) and Article 12(2) that use intransitive

material processes where the affected and the process are noted. The preamble employs a different structure as the paragraphs are intended to follow each other with the actors stated at the very beginning. As actors in the Articles, States Parties are activated and can be seen as participants with a major grammatical role in the sentences that they are mentioned in. In comparison, the child, who is classified and generically represented, does not play any role in the sentences other than being the beneficiary of the actions. The child is mostly presented as a noun in a singular form with some instances of the use of the plural 'children' (e.g., in some preambular paragraphs and Article 3) with a few instances of the possessive pronouns "his or her" being used in the fifth preambular, Articles 2(1), 3(2), and 12(1). The continuous use of 'the child', although debated, can be seen as a form of creating cohesion through reference relations. Even when the child has an active role, for example, in expressing his/her views and being heard (Article 12), the child can only do so with the permission of the adults rendering these "rights" under the CRC as only attainable if given to them by the adults in their respective States. Within this context, what is accentuated is the power of States Parties, who are at the top of the hierarchy, and the continuous subjection of the child.

Furthermore, the text expands on the relationship between the universal and local, and the national and international through reference to international agreements and different bodies and authorities within the respective States as in Article 3 as well as national law in Article 12. There are other instances in the other Articles that are not examined in this research such as reference to "bilateral and multilateral agreements" in Article 11. The allusion continues from the 1959 Declaration that there is universal consensus that can be locally applied; the difference in the CRC is that the onus falls on the States Parties to ensure its application. There is a clear political, economic, social, and cultural motivation behind the inclusion of certain texts and references and



the exclusion of others. The main motivation appears to be reaching consensus even if the price is the legitimization of past narratives and perception of the child as weak and in need of protection to ensure power hierarchies.

### **Modality and Evaluation**

There are clear markers of modality throughout the text with the use of the modal verb “shall” to indicate future actions in the Articles as a formal way of making a suggestion to what the States Parties’ responsibilities towards the child are. For example, “States Parties shall respect and ensure the rights set forth in the present Convention to each child...” (Article 2). Such statements with deontic modalities that emphasize obligation and necessity (although different in tone from the two Child Rights Declarations) are also linked to evaluation, in which values are realized and consensus is reached. The text places emphasis on highly desirable actions using specific verbs triggered by “shall” in the present tense to show a clear commitment to them. For example, “respect and ensure” (Article 2), “conform” (Article 3); “ensure” (Article 6); “assure” and “be provided” (Article 12). The opposite of these actions is deemed undesirable and in contradiction with the rights of the child as stated in the CRC. While all the aforementioned points signify strong affirmations through the select verbs, the use of indirect speech in Article 6(1) and the verb “recognize” to address the right to life make it weaker than the others. By using “recognize”, the implication is that it is up to States Parties to acknowledge this right. A change in the wording of the sentence to: Every child has the inherent right to life, and States Parties shall respect and ensure this right would show a stronger commitment to it.

### **Concluding Remarks**

Following the passing of the 1959 Declaration, children continued to live in poverty and experience wars, violence, displacement, malnutrition, diseases, as well as lack of access to

education, health, legal services and support due to natural disasters and the economic and political ambitions of their respective countries and others with vested interests. A legally binding international Convention was one way for States to show that despite their differences, they all agree on the need to protect children. On the surface, as the most ratified international human rights treaty, it appears that they have succeeded. However, discussions during Working Group sessions show that not all States were in full agreement with the content but accepted it (some with reservations) to enable its passing with final decisions on interpretation left to States as noted by the United Kingdom and the Federal Republic of Germany.

The way the CRC is textured shows a network of texts that are separate but interrelated in their message; they are repositioned to fit in to the new context of 'child rights' to reaffirm them as well as to justify action for "the child" who is "every" and "each" child. The voices of the States are activated in the process, while children are mere recipients of rights on paper but not necessarily in practice. Even in Article 12, which is considered to be a participation right, that right is only available if the child is deemed capable, and if the child is provided with the opportunity. The conditional "if" is not stated but implied. However, unlike the child rights Declarations, the duty bearers/actors are clearly identified as the States Parties. As this is a Convention that is binding, commitment to it is intended to be high by those that ratify it, but intention and reality tend to differ, especially when there are no legal consequences for violations by States Parties and there is room for (mis)interpretation in many of the Articles including the four general principles analyzed.

## **Chapter 8**

### **Discussion**

I went into this research looking for answers into why children's rights remain an aspiration decades following the passing of the CRC. In search for the reasons, I had to look back to the history of child rights. While I understood the limitations of the CRC as part of the UN's international human rights framework, and its lack of contextualization, I did not know much about the foundation that it was based on. It is through this point of entry that I went on a journey of discovery not only of the language of child rights but the historical perception of children and childhood that contributed to these rights as communicated in three core international child rights texts – the Declaration of Geneva (1924), the Declaration of the Rights of the Child (1959), and the CRC (1989).

Following a simple reading of the texts, I realized that the stories behind the words, the sentences and the structures are essential to understanding the content. Thus, a contextualized, historical, and critical analysis became vital. In using CDA (Fairclough's [2012] interdisciplinary research methodology) informed by sociology of childhood as a research methodology and theoretical approach to read, understand, analyze, critique, and contextualize, child rights texts, the impact of language and power relations in shaping the contemporary perception of children, their childhoods and rights became clearer. What I found surprising throughout the process is the profound impact that the dominant Eurocentric/Western perception of children and childhood has had and continues to have on child rights language and the cyclical progression and regression of these rights. I realized that without an understanding of the multiple historical, political, social, economic, and linguistic layers that make up the CRC and the texts that it is based on, it will be difficult to find ways to make children's rights a reality in Canada or elsewhere. My research

question, thus, became an essential first step: What can be learned from a critical discourse analysis of the three international child rights texts, and what are the implications of this analysis on children's rights in the present day?

What I learned, which I will elaborate on further is that the content of the CRC is from the late 1970s and is based on texts such as the Declaration of Geneva (1924), the Declaration of the Rights of the Child (1959), the first Polish Draft (1978) and the revised Polish Draft (1979) as well as the Charter of the United Nations (1945) and the Universal Human Rights Declaration (1948) amongst other international texts noted in the preamble. The CRC was a collaborative effort amongst members of the Working Group who discussed, amended, proposed, and approved the text. However, similar to the two child rights Declarations, children and their childhoods were categorized and reduced to a singular image – ‘the child’ with his or her childhood; this child continued to be imagined and reimagined in every text ultimately becoming “every” and “each” child negating in the process the different lived experiences of children around the world (see Table 1 for a comparative glimpse into the three child rights texts). While I understand that common ground needed to be established to get consensus and the texts adopted, keeping rights to the bare minimum left children with symbolic rights and rights advocates with weak texts to work with. Language *in* use was and still is at the core of the debates on the applicability and relevance of the CRC. It is through language that I was able to delve into the texts and to think of ways forward so that children's rights can move beyond the symbolic stage.

Table 1: *A comparative glimpse into the three child rights texts*

	<b>The Geneva Declaration of the Rights of the Child (1924)</b>	<b>The Declaration of the Rights of the Child (1959)</b>	<b>UN Convention on the Rights of the Child (1989)</b>
<b>Text content</b>	Preamble and 5 principles	Preamble, operative paragraph and 10 principles	Preamble and 54 Articles
<b>Author(s)</b>	Eglantyne Jebb (with possible edits from Save the Children Union).	States representatives - Members of the Social Commission, the Commission on Human Rights,	Poland (Polish draft and revised draft); Working Group members – States representatives/delegations/

		General Assembly, NGOs with consultative status.	observers and NGOs.
<b>Adopted</b>	League of Nations	UN General Assembly	UN General Assembly
<b>Recipient of actions</b>	The Child	The child	The child
<b>Image(s) of the child</b>	Hungry, sick, backward, delinquent, orphan, waif - in need of protection. <ul style="list-style-type: none"> <li>• Pronoun: its</li> </ul>	Physically and mentally immature in need of protection (special safeguards, “including appropriate legal protection”) and provision (care - child welfare and well-being). <ul style="list-style-type: none"> <li>• Pronouns: he/his himself</li> </ul>	Physically and mentally immature child in need of protection, provision, and participation rights with “best interests of the child” at the core. <ul style="list-style-type: none"> <li>• Represents “every” and “each” child</li> <li>• Pronouns: he/she; his/her; him/her</li> </ul>
<b>Duty Bearers</b>	Individuals - Men and women of all nations;	“Mankind” - parents, men and women as individuals, voluntary organizations, local authorities, and national Governments	States parties
<b>Modality</b>	“must” – moral obligation – necessary action in the present or future within the context of a non-binding Declaration.	“shall” – more formal than “will”; without force; a promise for voluntary future action within the context of a non-binding Declaration.	“shall” – more formal than “will”; without force; a promise for future action within the context of a binding Convention.

## Findings

### *The CRC: A Culmination of Texts and Language in Use*

In working with the three texts separately as “instruments” (see Halliday & Matthiessen, 2004, p. 3) and in applying Fairclough’s second stage of analysis, I examined the linguistic choices in each text (i.e., what was included and excluded, activated, and passivated) in relation to their meaning, function, and contexts, and drew clear differences, similarities, and connections between them. In the process, I was also able to understand who the weaver or weavers are (e.g., one or more individuals, organizations, government[s], NGO[s]), what is being woven together, and the purpose(s) they serve both in the short and long term. What I found is that overall, in the CRC as well as the two child rights Declarations examined, language was clearly used as a strategic tool to achieve specific communicative ends. While the communicative ends of the two nonbinding Declarations differ from a binding Convention by virtue of their international legal standing, the communicated message is similar – children are weak and in need of protection. The Declaration of Geneva emphasizes this need, the 1959 Declaration reemphasizes it adding provision, and the

CRC recontextualizes both and introduces participation to the mix. As Veerman (1992) notes, the CRC elevated children's welfare to "an issue of justice rather than one of charity" (p. 184), and the focus of rights was not only on provision and protection but also participation and the 'best interests of the child' (see Cohen & Naimark, 1991). As aforementioned, the concept of the 'best interests of the child' was introduced in the 1959 Declaration and elevated in the CRC through Article 3 becoming one of the four general principles. However, the elevation of the phrase did not make its meaning and application any clearer as noted by the Working Group members during multiple sessions (OHCHR, 2007a). What has remained constant between the three texts is the need for protection, and the categorization of children as "the child" with a variety of classifications that each text builds on culminating in the CRC's allusion to the existence of the 'universal' child with 'universal' rights.

In the Declaration of Geneva, the structure and content of the text clearly draw a distinction between the child (the dependent and 'becoming') with the adult (the independent and responsible being). Men and women are represented as givers as indicated in the verbs associated with their role (owes, give, declare, accept, duty, fed, nursed, helped, reclaimed, sheltered, succored, put, protected, brought up) not because it is the right of the child but rather the 'right' or 'good' thing to do. Children are depicted at the receiving end and their voices are excluded from the narrative amplifying their difference. The 1959 Declaration also draws a clear distinction; children, are not seen as rights holders or subjects but as 'becomings' in need of protection by adults whether it be their parents, guardians, individuals, NGOs, specialized agencies or the State. In both texts, the principles address a diverse set of events and processes in a highly abstracted manner. The difference, however, is the way the content is textured. The first does it through five principles with the latter expanding them to ten. Moreover, there appears to be a causal connection between

these sets and the order of the principles in each, which move from specific (personal development of the child) to situational, economic, and social that includes protection of the child and service to society) each alluding to different discourses such as developmental psychology, psychiatry, child welfare, child protection, sociology that also interplay with political, social, economic, and cultural interests. The overarching strategy appears to be a moral and social one.

While the Declaration of Geneva placed more emphasis on humanitarian and moral obligations of individuals than a demand for child rights, the 1959 Declaration focussed on child welfare and protection, and presented the ‘saving’ of the child as a ‘universal’ issue that needs to be dealt with by everyone including States through legislations, support, and aid that are based on the ‘best interests of the child’. The idea is that by helping, protecting, supporting, raising, and educating children, the spread of dangerous ideologies and other wars can be prevented, and the spread of liberal and democratic ideas can occur. The goal of the Declaration is clearly stated at the beginning; it is for the child to “have a happy childhood and enjoy for his own good and for the good of society the rights and freedoms herein set forth”. The assumption is that the “universal” standard for “happiness” and the ideal representation of “childhood” are set in the principles. It also affirms that enjoying these “rights and freedoms” is good for both the child and society. With “good” repeated twice indicating a value system that is specific to the authors of the 1959 Declaration but alludes to a common “good” on a universal level. Thus, focus is not on the negative but on the common/shared possibilities that exist to protect the child, which will ultimately benefit society. It also extends the responsibility of the Declaration of Geneva from “men and women of all nations” and “calls upon” (not a strong term for enforcement) “parents,... men and women as individuals, and...voluntary organizations, local authorities and national Governments” to do two things: “recognize these rights and strive for their observance by legislative and other measures”.

Since the document is not legally binding, it can only ask that they recognize and adhere to these rights. Therefore, “shall” was used throughout the principles in reference to what the child “shall” receive as a form of promise and voluntary action; the point being that it is more formal than “will”, and less forceful than “must”, which was also in the principles of the Geneva Convention. This carried through to the CRC with “shall” referring to what States Parties “shall” do. The intention behind the wording is to ensure that States Parties do not feel that they are being forced into something, but that they are willingly entering into this shared “promise” to protect children.

While the 1959 Declaration was not a legally binding document, as Moody (2015) posits, it “entered into the prescriptive normative framework of the United Nations where it acted as the first stage in the process of generating the legally binding treaty [CRC] that completed the international legal instrument on the rights of the child” (p. 26). The impact of child protection discourses from the 1959 Declaration are profoundly felt in the CRC’s preamble and legitimized throughout the Articles by placing power in the hands of adults. The overarching strategy is to establish consensus on the need to protect children vis-à-vis the need for child rights. The language *in use* predominantly emphasizes duties of States. In the process, it attempts to create minimum legal international standards that States Parties would abide by. The way the content is textured helps establish common ground when it comes to an understanding of the needs of a child, while leaving ample room for States to interpret certain elements that may not align with their own boundaries and contexts. It also legitimizes previous agreements and the existence of universality when it comes to human rights and children’s rights. However, unlike the two child rights Declarations, the agents are identified as States Parties, and the actions are activated but circumstances in some rights are abstracted. As discussions of the Working groups indicate (OHCHR, 2007a), abstractions, semantic/grammatical relations between sentences and clauses,



and use of select words were used as a strategic tool to avoid issues, legislations, and definitions that may be in conflict with those of States Parties. The end goal of the intentional broad construction is to achieve global consensus even if that consensus is symbolic. The mere perception of consensus is in itself a powerful tool. As Javier Perez de Cuellar, UN Secretary-General (1982-1991) stated when commenting on the drafting process at the General Assembly Meeting on 20 November 1989:

Unproductive political confrontations were set aside while delegates from countries with different social and economic systems representing the various cultural, ethical and religious approaches to life, worked together with NGOs in a spirit of harmony and mutual respect and with the best interests of the child as their paramount objective. (as cited in Veerman, 1992, p. 182)

However, as discussions during the Working Group sessions show, several issues such as the right to life, abortion rights, the concept of the best interests of the child, and rights of children without legal status to name a few were not easily agreed upon, and where consensus was reached, it was done with reservations by some States Parties. Thus, by intentionally leaving ample room for interpretation to please some States, what appears to have been of paramount objective was not the best interests of the child but the best interests of the States Parties.

This was also a major issue in the principles in the child rights Declarations, and the four Articles analyzed of the CRC. For example, although the non-discrimination categories were expanded on in the CRC in comparison with the other two texts, as Sharon Detrick (1999) notes, the way Article 2(1) is written “indicates that the obligation of non-discrimination applies with respect to all the rights set forth in the CRC. Hence, ... [it] does not provide for an independent right to freedom from discrimination” (p. 72). The implication is that it does not extend beyond

the contents of the text of the CRC, which is problematic. Thus, what needs to be examined is the type of text needed to make this article a clear and independent right to freedom from discrimination; one that would not leave room to (mis)interpretation. Article 3 is even more broad as the “best interests of the child”, a concept adopted from the 1959 Declaration and recontextualized in the CRC, is not clear; this was repeatedly noted by States during the Working Group sessions. Detrick (1999) states that its broadness “will enable cultural considerations to be smuggled by States parties into their implementation of the rights recognised in the CRC” (p. 89). The issue is not that cultural considerations/interpretations are not essential in some cases, but rather that they will be used to override child rights. Claims of actions made in the best interests of the child can range from political, cultural to religious. For example, in the issue of female genital mutilation or cutting (FGM/FC) (also referred to as ‘female circumcision’), some see it as a part of their culture and think that it is in the “best interests” of their children even if it is not (see Asmani & Sheikh Abdi, 2008; Dorkenoo, 1996; Dorkenoo & Elworthy, 1992). Presently, this practice is illegal in many parts of the world, but a lack of education and misinformation has led to its continuation. Another major practice that has gone on for decades and continues to this date is governments taking away children from their parents and communities and claiming that it is in their “best interests”; clear international and domestic/national legislation and legal consequences are essential on such issues, so these practices do not find loopholes to latch on to.

Article 6, which is a crucial part of the CRC addressing the right of the child to life, survival and development is also problematic in its wording; States parties only “recognize” “that every child has the inherent right to life” and “shall ensure to the maximum extent possible the survival and development of the child”. What the “maximum extent possible” means is not clear nor are the factors threatening the child’s life, survival, and development, and who is accountable. The

right to life is not something that should be open to interpretation and merely recognized; it is the responsibility of every State to ensure that children's right to life is protected at all times. One of the reasons why this Article is phrased this way is the debate on when life begins – whether during conception, pregnancy or after birth. Since there was no agreement on this point during the Working Group discussions, the easy route taken was to leave such specific decisions to the States; as the U.S. representative noted when discussing the draft convention, it is important that “neither proponents nor opponents of abortion can find legal support for their respective positions” (OHCHR, 2007a, p. 286).

Article 12 also has linguistic and structural limitations that have resulted in making the right of child to be heard dependent on the views of the adults who will have to determine if the child is “capable of forming his or her own views” and the child's “age and maturity”. Alderson (2000) refers to such rights in the CRC as “halfway-to-autonomy rights” (p. 440). I see them as symbolic promises of an independence embedded in a language and structure of dependence. In order to amplify/extend the meaning of participation and voice, Lansdown (2010) asserts that Article 12 should be looked at alongside other Articles such as Articles 5 and 13 as that “reflects a move away from merely identifying what decisions children are *not* competent to take, to the consideration of how children *can* participate” (Buck, 2005, p. 60). Another core issue with all these child rights texts is that they are for children, but children are often not aware of them.

Unlike the Declarations, the CRC is intended to be communicated to children and adults, but the language used and text structure that is in line with the way the UN writes its international conventions is not easily understood by everyone. The vagueness of the content makes it even more difficult to get a clear meaning of the text. One remedy has been the “child friendly” posters with “child friendly” language translated into multiple UN languages. From my personal findings

introducing these posters to children and adults, they are as confusing as the full texts. As a result, I have heard multiple interpretations of each right by children and adults based on their own value systems, contexts, and understandings. The question that always arises at the end of discussions on the CRC with children is: “where do we find these rights?” By find, they mean how are they translated into action where they live - whether it be through laws, policies, or practices. The answer is that the CRC is not recognized on the ground by all the countries that have signed and ratified it; some have incorporated it into their domestic laws such as Sweden in January 2020, and Scotland in March 2021. What needs to be further examined through country-specific research is the level of effective implementation and knowledge in the countries that do recognize it and have incorporated it into their domestic laws.

Wondering why implementation, dissemination and understanding of children’s rights is a difficult issue was the first step in my critical journey of inquiry. Although the answer is complex and varies from one country to another, my overall findings indicate that the dominant Western/Eurocentric image of ‘the child’ as weak and in need of adult protection as well as the categorization of ‘the child’, which is embedded in child rights discourse, has not only impacted the general perception of children but also policies on national and international levels. A protection-based approach continues to be the foundation of all the systems and policies resulting in the continuous muting of children and regression of their rights. History has shown that this is an intentional systemic approach to ensure the maintenance of power structures within institutions, respective societies, and international relations through the establishment of consensus. Children as independent beings is not something that many adults around the world would accept or agree on as the misconception is that this would lead to a loss of power and chaos. Although this is a

gross misconception and shows lack of understanding of children's rights and what independence denotes, it has become a legitimization tool for the protectionist approach.

### **Language *in* Use and Consensus: (Mis)perception and Power**

Words matter. They are a chief tool of conscious, purposeful expression.... They also communicate much about the user's subconscious perceptions, as well as the subconscious perceptions of the community to which the user belongs. The words we use are evidence of how we think, which, in turn, ultimately determines what we do. (Nunez, 2014, p. 1518)

Language has played and continues to play a major role in the construction of meaning and in our perception of reality. As I set out to investigate the reasons that have rendered the CRC a symbolic text, I found that the language *in* use in reference to 'the child' in all three texts was at the core of the issue. It had led to the creation of different orders of discourse resulting in the progression and regression of children's rights and the legitimisation of social and discursive practices that have contributed to the muting of children. The goal for setting "standards" and achieving "commonality" in terms of language and understanding were clearly stated in a special edition of a UNICEF (2009a) report celebrating 20 years of the Convention:

In effect, the Convention has set the *terms of childhood*, outlining the minimum standards for the treatment, care, survival, development, protection and participation that are due every individual under age 18. Its articles reinforce a common understanding among societies that to fulfil the rights of children it is imperative to protect childhood as a period that is separate from adulthood, to define a time in which children can grow, learn, play and develop. (p. 2)

While the quote acknowledges that the CRC only outlines minimum standards, it claims that it "has set the *terms of childhood*"; this is problematic because instead of dismantling the

Eurocentric/Western image of childhood that was dominant in the 1959 Declaration, it reinforced it and alluded to consensus and universality on the image through the allusion of ‘common’ understanding.

The preservation of the dominant image of ‘the child’ as a weak and dependent being with a universal childhood has been essential in maintaining power relations within and amongst States. As Gramsci (1971) notes, to achieve this, there has to be agreement by the majority. While the pressure exerted by the political society may not have been direct, a collective will has been formed through ‘cultural hegemony’ (Titscher et al., 2000). People have been socialized through discourse on children and childhood in literature, art, policies, and ‘international’ texts, to name a few into accepting, believing, and adopting this collective image. As this research shows, the way this image became embedded into institutions and was delivered to the rest of society varied, but the end goal was the same – children are weak, in need of guidance and protection, and while children and childhood may fall under different categories, their needs are ‘universal’. However, as Gramsci (1971) asserted, ‘Good’ sense using a critical lens can help people stop and think about what they are following and why; this can move them from mere ‘followers’ to intellectual beings seeking to look beyond the “facts” that are handed to them. This is also an integral aspect of CDA and critical theory as Horkheimer notes, a critical intellectual is one who “never ceases to point to the unrealized potential for a more rational and humane society and to the forces hindering the realization of this potential” (Abromeit, 2011, p. 168). Unfortunately, while there are a lot of critical intellectuals and ‘Good’ sense resulting in a plethora of research into children, their different contexts, power relations, and children’s rights, children have remained dependents deemed incapable of making independent decisions. Thus, more work needs to be done to

dismantle these misperceptions and enable children to make decisions, voice their opinions and concerns, and be able to stand up to violations of their rights as human beings and as children.

One wonders why any society would accept this construction when the possibility of change (by not only positioning children as rights holders but making them rights holders in the legal sense within their respective countries) could help reduce if not eliminate many violations against children. Simonsen (2005) notes that “[h]umanitarian as well as strategic considerations motivated the actions taken and the words spoken: the wish to save the children from harm was intertwined with efforts to make them useful in processes of national and political construction (p. 269). As powerful economic and political tools (see Simonsen, 2005; Starns & Parsons, 2003), the positioning of children as weak within a constructed image has become more profitable. This became clear following WWII as specialized agencies, NGOs and international organizations dealing with child welfare began to receive more economic, political, and social power. While there may have been an initial need following the devastations of WWI and WWII, some such as Dr Barnardo’s private charity (Simonsen, 2005) began taking advantage of the system by searching and possibly taking children who had families simply to make profits. This resulted in an increase in the number and scope of these “welfare” organizations both private and public, national, and international. It is important to note that international organizations were “catalysts in institutionalizing and internationalizing the cause of the rights of the child” (Moody, 2015, p. 16). Some also took part in the drafting process of the 1959 Declaration and the CRC. The issue is that by providing funding to so many organizations, children have become a gateway to profit-making under the guise of child protection. This is not the case with all local, national, regional, and international organizations, NGOs, and governmental organizations. In some cases, violations occur as a result of issues with staff recruitment, finding and training qualified employees, and

conducting proper police checks. Violations by NGOs and international organizations on the ground across different countries is something that I have directly witnessed working in the field. Moreover, by indirectly acknowledging the economic dependence of children on adults and their limited to no participation in government processes and policies, children are not always given the opportunity to make decisions on crucial factors that impact their lives. Thus, while they may appear as rights holders in the CRC, in reality they “are not accorded the same self-determination rights as adults” (McGowan, 2012, p. 74).

Appearance of consensus was essential in both the 1959 Declaration and the CRC as clearly indicated through intertextuality in both preambles even when consensus was never reached on certain points. By listing and reaffirming all the international Declarations, Conventions and provisions that were deemed essential during the discussions on the 1959 Declaration and by the Working Group members, NGOs, and international organizations present for the CRC, a narrative of agreement is depicted not only with regards to these documents but in reference to the image of ‘the child’ and ‘childhood’ that they have decided on. This world of affirmations or “facts” as Althusser (1971/2001) refers to them is just an illusion created and perpetuated by ideology to create compliance. In the case of the CRC, this culminates into an overarching notion of ‘universality’ with a universal kind of child and childhood. This is clearly a representation of “*the imaginary relationship of individuals to their real conditions of existence*” (Althusser, 1971/2001, p. 109) to allude to a reality that is not there, but to make it appear as if it is. By making this narrative appear to be a “fact”/the reality of the majority, achieving consensus and compliance becomes easier. When reading the three child rights texts, it is difficult to determine what is real in terms of consensus and what is simply an allusion to reality or guised as reality through language *in use* that has been impacted by verbal and non-verbal social practices, events and relations.



Therefore, the Working Group session reports, archival records such as the meeting minutes with regards to the two Declarations, and other reports such as the UNICEF annual reports leading up to the approval of the CRC and discourses are essential as they offer insights into discussions on content, language, structure, and form as well as (dis)agreements that the actual texts do not show.

Other than a constructed reality built to achieve consensus within States by governments, adults also contribute to the subordination of children. When researching child rights discourse and the understanding of children and childhood, the presence of power and imbalanced power relations are clear. While children may differ from adults in the way they become ‘subjects’ as Foucault (1982) envisages it, they are objectified by others and in the process, they also (similar to adults) eventually objectify themselves to become subjects and directly and indirectly legitimize the power exerted over them. In the two child rights Declarations, the child is clearly the object/recipient of the morally guided actions of adults, which are packaged as rights in their titles. In the CRC, the child is generally perceived to have become a subject of rights. However, following my analysis of the CRC using CDA (by exploring the historical conditions which motivate the conceptualization of ‘the child’ and childhood and the language *in use*), I argue that the child has remained the object of these upgraded rights. However, when the term ‘subject’ is used, it is in line with one of Foucault’s (1982) definitions, which is a “subject to someone else by control and dependence” (p. 781). This is dangerous as lines become blurred when their rights are violated and some assume that it is a natural aspect of being a child and the process of growing up. This internal objectification that stems from lack of knowledge and the processing of external objectification has been and continues to be a tool used by some adults in sexual assault situations as well as in luring children to commit crimes and take part in child pornography whether knowingly or unknowingly. A child once told me that he only found out that he had rights when

his rights were violated, and he went searching for answers. By then, he had already been through a series of traumatic experiences that no human being should go through. Empowering children with their rights and ensuring that these rights are supported by clear legislation, would result in children protecting themselves and recognizing and reporting violations as soon as they happen.

Adults fear the association of power with children; this could be because of their own (mis)understanding of power and experiences of power relations. As Alderson (2000) writes:

When adults believe they must set all the rules which the children must obey, the adults worry that if they let children have a little power they will want more and more, a process it is better not to start. This is especially so, if it is believed that children should not have any power, with fearful visions of powerless but responsible adults, and irresponsible but powerful children. (p. 110)

The assumption is that children are immature and irresponsible and will not know what to do with this power. I have also often heard that in connection to children's rights education in workshops with adults: "if you tell children that they have rights, they will no longer listen to us", and "I would rather focus on their responsibilities". The problem stems from fear as well as what the term 'power' denotes. The word carries so many different and interconnected connotations and imagery that are historical, political, ideological, economic, social, structural, cultural, and religious. Thus, an understanding of the term is crucial to be able to move beyond it as a barrier and to use it as a tool for the way forward. Power can empower; it is not about dividing power but sharing it. A society with shared power can bring real change and rights for children and adults. Without this understanding, as well as a critical reflection on the power relations and struggles of children that have taken place and continue to take place all over the world, it is difficult for children's rights to become a reality and to be accepted by society/social orders.

**The Categorization of Children and Childhood.** Over the centuries, children have been categorized and classified resulting in a culmination of images that have remained to date. The categorization of children and the rendering of childhood as universal and static has become embedded into the fabric of discourse on children and their rights and has found its way into policies, institutions and systems creating a cycle of dependence and power relations. As Veerman (1992) asserts:

How children are viewed in society creates what we call the ‘image of childhood’ in that particular society.... [I]deas concerning the rights of children are dependent on the prevailing image of childhood, and...when that image changes the ideas about the rights of the child also change. (p. 10)

It is thus integral to change the prevailing image of the child for children’s rights to progress. What the CRC has unfortunately done is reassert and legitimize past images and protection discourse by building on old texts.

Child-protection discourse is the most prominent in the 1924 Declaration and continues to have the most impact. Laura Berry (1999) argues that the dominant image of childhood ‘distress’ from the 19th century fictional writing in Britain began to disappear “about the time when child welfare and social work began to emerge as categories with recognizable and defining limits” (p. 164). “With the appearance of the formal apparatus of child welfare, the creative and complex use of the figure of the child victim was no longer so readily available” (p. 165); instead, as Monica Flegel (2009) argues, “the more complex figure of the endangered child was, in part, replaced by the abused child—a figure whose place was ensconced within nascent child-protection discourse” (Flegel, 2009, p. 4). This child-protection discourse was not limited to Britain and has become

embedded and legitimized in child rights discourse on local and global levels through the two declarations and convention.

The changing image of the child as well as the impact of WWI on children brought with it the need for rights specific to children. The Declaration of the Rights of the Child (1924) was the first transnational text intended to get consensus from nations across borders on the ‘shared’ protection of children. It played a pivotal role in the amplification of the archetypal image of the post-WWI child (both local and global) as innocent and weak, and in need of protection, guidance, and assistance. Throughout this short text, the child was both classified as “the child” and passivated as an object (with the use of the possessive pronoun “its” in reference to the child) and a mere recipient of adult actions’ that are morally motivated and ideally done for the child’s benefit. The image depicted was that of child in need, a “hungry” child, a “sick” child, a “backward” child, a “delinquent” child, the “orphan” child, and the “waif”, with men and women as individuals obligated to help the child develop “normally”. What is deemed to be “normal” development is never stated but implied. It is a clear value system that is individual and Eurocentric (given who wrote the text, and who edited and translated it).

This image of the child as ‘weak’ carried through to the Declaration of the Rights of the Child (1959). The main difference is the addition of another layer – that of the child who “guards our future” (OHCHR, 2007a, p. 21) and hence must be protected and educated, and “his development must be neither impeded nor forced into anti-social direction” (OHCHR, 2007a, p. 21). With “anti-social direction” referring to ideologies that would threaten a democratic future as that was the dominant discourse during and after WWII. During the presentation of the draft Declaration on 20 November 1959, Cuevas Cancino, the Rapporteur of the Third Committee made the purpose of the Declaration clear:

The subject of this draft Declaration is children; fundamentally, however, it is directed towards society, towards adults. Its point of departure is the undisputed principle that the child is weak and therefore requires special care and safeguards (third and fourth paragraphs of the preamble and principle 2). Hence the child is incapable of protecting himself, and this draft Declaration therefore embodies an appeal on his behalf. (OHCHR, 2007a, p. 21)

The weak child, who is physically and mentally immature (as noted in the third paragraph of the preamble), which Cancino asserts is an “undisputed principle”, is at the core of this text and was at the heart of discussions leading to the draft Declarations and the final 1959 Declaration. Thus, the foundation and content of the text problematic vis-à-vis the international message shared amongst Member States. The goal may have been protection, but categorization and subordination as history has proven and research has shown do not translate into protection on the ground and empowerment; they lead to further subordination and rights violations of those rendered incapable of speaking up for themselves and classified as weak and immature – lesser beings than an adults. While more focus was placed on the well-being of the child with the goal of helping this child have a “happy childhood”, the child remained classified and passivated. This child was also either referred to as “the child” with a few instances of “children” or using the masculine pronouns ‘he/his’. Value assumptions and moral obligations also remained a part of the narrative without elaboration as to what “normal” and how “childhood” and “happiness” to name a few are determined. What is implied is that what is not acceptable is the opposite of the principles listed. During the period from 1924-1959 as the research reveals, children were seen as “other” due to their circumstances and were categorized as “useless mouths” (Starns & Parsons, 2003) and “war-handicapped” (Brosse, 1950; Simonsen, 2005). This categorization of children, although specific

to that period, demonstrates the way they were perceived and treated by the States that referred to them as such. It was also used as a tool to legitimize the evacuations of these children during WWII; Starns & Parsons (2003) note that it served several political ends – getting rid of children and using their “plight...[to] persuade some of the host countries to enter the war on the side of the allies” (p. 268). Moreover, to pull on the heart strings of the allies, as well as to ensure that the British race was preserved, another sub-category was created – the “best” children. According to the 1940 *Eugenics Review*, a group of select doctors examined children based on their intelligence, health and hereditary background and only selected those that met their criteria to go overseas (Starns & Parsons, 2003, p. 269).

The child of the CRC is a culmination of all the categories of children in the other Declarations; this ‘universal’ child is ‘every’ and ‘each’ child. While the rights are diverse in the sense that they acknowledge the presence of different children such as Indigenous children, children of minorities, children with disabilities, they do not address the different contexts. Children do experience similar situations and injustices, and rights to life, education, health, protection from harm, nationality, and non-discrimination to name a few are all essential. The issue are not the rights as simply stated above, but what is missing from the text, which is clarity as violations of these rights and their application vary depending on the different contexts; it is not a one size fits all. Geographic, political, economic, legislative, social, cultural, and religious factors all come into play and they all differ. Thus, as Kallio and Häkli (2013) state: “In the real world, universal childhood or youth do not exist. Young individuals lead very different kinds of lives depending on their socio-cultural context, geo-economic position, the politico-legal system of their society and other determinants that render them particular” (p. 6). Thus, clear international and domestic legislations that complement each other are integral.

There is political, social, and economic motivation behind categorizing children as “the child” and making their needs appear to be universal/similar. The first being is creating an allusion of common ground and shared understanding of what children need to get States to work together and agree; the second, as clearly indicated in the content of UNICEF’s annual reports, by focussing on general minimum standards, avoiding laying blame or addressing specific issues, States are more willing to cooperate allowing international organizations and NGOs to work on the ground (i.e., in education, food and vaccine dissemination). Third, since the political and economic interests of most States are interconnected, maintaining relations amongst States is integral, and pointing fingers at child rights violations would threaten these relations. What happened as a result is that violations continued and violators were not shamed or called out. For example, while actively discussing child rights, the Canadian government continued to operate church-run residential schools with the last school closing in 1996 in Saskatchewan (Royal Canadian Geographical Society, 2018, para. 1). The removal of “First Nations, Métis and Inuit children..., often against their will, from their families and communities and put[ting] [them] into schools ... [forcing them] to abandon their traditions, cultural practices and languages” (Royal Canadian Geographical Society, 2018, para. 1) is a clear violation of children’s rights and human rights. To this date, Indigenous children (referenced in Articles 17(d), 29.1(d), and 30 of the CRC alongside ethnic, religious, or linguistic minorities), “are severely marginalized. Their rights under the CRC and other human rights treaties are routinely violated, unimplemented, and ignored to a degree not often experienced by other children” (UN Sub-Group on Indigenous Children and Young People, 2006, p. 5).

Moreover, children in China were either killed or forced to live in hiding due to population control. Gender-based violence that included, but was not limited to, female infanticide (see Dalla

et al., 2018), female genital mutilation or cutting, child marriages, period stigma resulting in abuse and isolation also continued to occur around the world with little to no action but with increasing calls for action. As Chapdelaine-Feliciati (2018) noted:

This is particularly problematic in the States parties that do not recognise equal rights for girls and boys under domestic law. Hence the absence of any reference to the girl child and to female infanticide in the CRC, coupled with the precedence attributed to male pronouns, constitutes an important sign which should not be disregarded. (p. 34)

By trying to group all children under one narrative, establishing very basic general standards, and no strict consequences for violations of child rights, the message communicated gets blurred and room for interpretation leads to the continuation of violations and the emergence of new ones. For example, although Article 37 addresses the arbitrary detention of children, to this date children in some countries continue to be arbitrarily detained and subjected to violence in the process. Children with disabilities continue to experience discrimination and limited access to services and education. Children of minorities “whether their status be based upon ethnic, racial, linguistic, national or religious differences – face severe, sometimes, life-threatening problems in almost every part of the world” (Kessler, 1992, p. 5; see Minority Rights Group, 1990). Hunger and malnutrition due to poverty, wars, international sanctions, and blockades have continued with no real action on the ground as countries continue to sell deadly weapons to each other, which are used in these inhumane wars. While some of these issues were addressed on the surface, detailed violations and the intersections between the political, economic, and social elements did not make it into UNICEF’s annual reports and were only alluded to in some of the Articles in the CRC without acknowledgment that at times the violators are the governments signing and ratifying these texts. While the CRC as a text will not and cannot fix these issues, a clear stand on them and



agreement by countries could result in a change in perception and action. However, as it currently stands, their exclusion along with many other issues sends the message that they are not important.

By embedding the notion of a ‘universal’ child with a ‘universal’ image of childhood as signified by the term “the child”, the CRC has (like the other two child rights Declarations) disregarded the different lived experiences of children in its pursuit of achieving consensus and maintaining the power within the States and power relations amongst States Parties. It also promises children some form of independence, for example, in terms of participation and education rights and freedom of thought, but its language *in use* indicates a context of dependence. The contradictions, as well as the lack of clarity, contextualization, and consequences for rights violations, and its weak to non-existent international legal standing leave the CRC open for criticism and make it a symbolic text in most of the countries that have ratified it. A reimagined international children’s rights text would begin by dismantling the depiction of ‘the child’ that represents all children as weak and physically and mentally immature thus in need of protection. What needs to be made clear is that children need rights because of the way most States and societies are structured with a power imbalance making them dependents and easy targets as they have little to no rights on the economic, legal, political, and social fronts. A reimagined text would also have children with their diverse voices and contexts at the heart of these rights, which are clear legislations with clear definitions and examples of historical violations that are not acceptable, severe international consequences for violators, mandatory resources and domestic legislations that ensure the protection of children in each country as well as across borders, and the addition of rights for LGBTQ+ children and gender-neutral pronouns such as ‘they’, ‘them’ and ‘theirs’ for children who do not identify as he or she. Consultations with children under the age of 18 (and older for children with certain disabilities), groups that work with children,

educators, lawyers, policy makers and experts across disciplines in each country would yield a more reflective and elaborate vision of what is needed in a reimagined international children's rights convention to ensure its relevance and applicability. Even if such consultations do not result in a new convention, they would provide insights into what is needed on the ground.

### **Implications for Child Rights Today**

As Quennerstedt et al., 2018 notes: "critical scholarly work addressing inconsistencies and other problematical aspects within the convention is rare" (p. 39). However, even when there are critiques (see Bryson, 2010; Holzscheiter, 2010; Quennerstedt et al., 2018; Tobin, 2015), "the main trajectories within children's rights research remains unaffected, with the UNCRC continuing to be largely accepted and unproblematicized" (Quennerstedt et al., 2018, p. 39). This is problematic as without a full critical and historical examination of the CRC with its foundation texts, it will be difficult to assess its limitations not only on an international level but on a national one (country-specific); thus, children's rights will not progress. What I found difficult during my research was finding critical textual analysis of the Geneva Convention (1924) and the 1959 Declaration that served as the foundation for the CRC as well as the two Polish texts (the draft convention and the revised convention). Without understanding these texts, their contexts, and the language *in use*, I realized that it would be difficult to fully understand the CRC. The findings of this research are thus essential for international and domestic policy, legislation, education, and subsequent research as they offer critical insights into these three separate yet interrelated international texts on child rights. A critical examination of the past and present (mis)perception of children and its impact on child rights discourse vis-à-vis the CRC, can contribute to the development of more realistic, relevant, equitable, and inclusive children's rights policies, laws

and children's rights education curriculum with the goal of making these rights a reality – lived and living.

As the most ratified international human rights treaty, it is highly relied on by children's rights advocates, but the reality on the ground is that it is a symbolic text that has not moved into the action stage in the majority of the States that are party to it. Understanding the foundations of child rights discourse can help in identifying the main problems leading to the continuation of the social wrong (the muting of children and lack of children's rights implementation) and finding solutions to avoid repeating the same mistakes. The CRC is an excellent historical text to teach, analyze and recontextualize/reimagine, but it will not provide children with rights domestically if it is not re-written with clarity, context, and relevance as well as support from domestic legislations. By re-writing, I do not mean further building on old and problematic texts that were specific to a point in time in history, but rather learning from them and starting anew. While this will be difficult, it is essential as continuously building on something that is flawed in its foundation will inevitably come down. Rights need to be relevant, contextual and address the here and now; as the world changes, so do our needs as human beings, and the needs of children and rights must be ready to evolve to meet these needs. This became even clearer in 2020 as COVID-19 began exposing the inequities around the world not only in education but health care and the dependence of countries on each other for resources including vaccines.

There is no reason that in 2021 inequities and children's rights violations continue to exist. Countries around the world should by now have strict legislation against child labour and consequences for violators. Yet, the situation has not improved; children remain employed for long hours, in sometimes dangerous jobs (e.g., in agriculture, factories) and are paid very little wages

(if any) with profits for their employers and companies with ties to developed nations who would not be able to do the same in their own countries. According to World Vision (2021):

Despite some improvements, today 152 million children—nearly 1 in 10—are involved in child labour, with 73 million of those in particularly hazardous work. Half of those in child labour (48 per cent) are under 12 and approximately 71 per cent of all child labour takes place in the agricultural sector.

Approximately 4.3 million girls and boys work in situations of forced labour (involuntary, indentured servitude, or other forms of contemporary slavery). (p. 3)

The consequences are dire as these practices “can negatively impact children’s health and well-being, undermine their education and leave them susceptible to physical, emotional and sexual abuse. Ultimately, this harms the goal of ending poverty and building self-sustaining communities” (World Vision, 2021, p. 3), with COVID-19 “more girls and boys [are being pushed] into child labour under dirty, dangerous and degrading working conditions” (p. 3). The solution is not to merely say that children should not work, as the reality is that some may need to since they may be the only breadwinners of their families, but to ensure that there are legislations both international and domestic that protect children in the workplace as employees, as human beings and as children. With strong legislations, it would be illegal to force children to work, and for those who want to work as heads of their households, employee protection, safe working conditions, and education must be a part of the employee package.

There are also children are trafficked daily, sold, and abused in their countries and on the internet, and others used as child soldiers. Children in some countries continue to be arbitrarily detained and subjected to cruel treatment. Children in Yemen continue to struggle for basic needs due to bombardment and sanctions on their country and their livelihoods. Children displaced by

wars and conflicts continue to struggle to survive whether in the process of escaping or in camps around the world that are not equipped to meet their basic needs. Indigenous children in Canada are still struggling to get clean water, and access to resources and health care. I have also witnessed abuse of the rights of children living in alternative care and orphanages, especially children with disabilities; those who are able to speak, do not because they live in fear of being thrown out onto the streets if they ever express how they feel or address past or ongoing abuses. COVID-19 has also exposed the inequities amongst nations and amongst peoples within nations. Not only did children experience and are still experiencing interruptions to their education, but to services that impact their lives such as healthcare, housing, legal, and access to food. Children need strong international and domestic legislation that protects them; they need to know these laws and be able to access them, and they need to be heard and respected and to become active players and decision makers in their own lives. To be able to move forward on policies and domestic and international legislations and ‘unmute’ the voices of children, it is essential to look back and understand where the social wrong began, and how language *in* use continues to impact the contemporary perception of children, child rights discourse and (in)action.

In terms of education, this research can help introduce a new approach to CRE, one that is critical, historical and contextual. Much of the focus of CRE has been on connecting rights knowledge with citizenship and benefits to society as a whole. As Phillips (2016) notes: “Knowing, understanding and enacting children’s rights provides the instrumental reasons that produce positive consequences, such as children feeling valued and in turn flourishing, causing intergenerational civic engagement to prosper” (p. 41). The notion of “civic” duty is somewhat embedded in the language *in* use in the three texts, especially in the 1959 Declaration and the CRC. However, children’s rights education should not focus only on citizenship education but rather

look at the history of rights to make them lived (experienced) and living (contextualized and adapted to present and emerging needs). Children should be able to learn about the changing perception of ‘children’ and ‘childhood’ through time, see the impact of their categorization, and how rights violations have occurred during different timeframes and in different locations. This has the potential of changing how history is approached and taught.

### **Concluding Remarks**

What the research results show is that for centuries children have been struggling at various rates depending on their contexts, but unlike other minority groups (if we were to view/categorize them as such), they have not been able to fight, organize or stand up for themselves not because they are incapable as beings but because of the multitude of factors/barriers and layers including their contexts and positioning as weak and dependent. In their struggle, the language *in* use has been an integral source of their disparity and the perpetuation of dominance within their respective societies/States as well as in the international arena both in theory and in practice. If we look at language as temporal, dialogic, and consisting of opposing forces that interact with each other, then we can begin to explore how its conditioning through the intersection of multiple factors at a given time and place impacts what we hear and read (Bakhtin, 1981). When we understand that words have meanings that are associated to them prior to their use as well as meanings given to them by the users, we can dismantle dominant images that are wrong and create new words that are relevant and in line with the here and now.

## Chapter 9

### Conclusion

#### Summary

Children have been and continue to be mostly seen as incapable beings and “...are often understood only as dependent and passive recipients of adults’ actions” (Lee, 2001, p. 8). Taking away their lived experiences and diverse narratives tends to render childhood as natural or universal as opposed to contextual (Turmel, 2008). This is problematic as a “sound concept of childhood... emerge[s] from society’s real historical processes – past and ongoing – in which children are an integral part” (Turmel, 2008, p. 6; see also Alanen, 1992). This perception is unfortunately a dominant part of child rights discourse as seen in the three texts analyzed.

As the first transnational text fully referring to the need for the protection of children, the Declaration of Geneva (1924) was a good first step when examined in relation to the time and space where it was written; however, within a larger framework, it can also be considered as a major obstacle to addressing the social wrong – the misperception of children and their continuous ‘muting’. ‘The child’, within the context of the Declaration is not seen as a rights holder but an object of protection awarded to “it” (as ‘its’ is used to refer to the child) by this text to be implemented by individuals/adults. The text clearly excludes the voices of children and their realities, and the assumptions made (as expressed through the language *in use*) are based on the perception of ‘the child’ as weak.

The death of the League of Nations marked the beginning of a new era and approach as Lord Robert Cecil stated at the closing of the Assembly: ‘The League is dead, long live the United Nations!’” (UNOG, n.d., p. 14). The need for a new document that belongs to and reflects the UN’s new approach was thus essential. While this may have been a great step forward, the 1959

Declaration heavily relied on the Geneva Declaration. Most of the States emphasized the importance of a brief and simple text that did not include legal terminology and any specific measures of implementation because those are a part of the responsibilities of the legislative bodies of each member State and should be determined by them. Thus, what carried through to the new Declaration was 'the child' with all the connotations associated with "him"; this child, who was referred to using the pronouns he/him/himself, became the object of protection and provision on a more international level. The same child, with the addition of feminine gender pronouns she/her following the masculine ones, moved to the CRC with participation added to protection and provision. With the elaboration of the number of rights and areas addressed, this child that is somewhat different yet similar is representative of every and each child - the universal child. Abstraction of events, violations and actions continued in the CRC as it was important not to make States Parties feel like they are being told what to do.

While the CRC, guided by both Declarations, other international texts, and their provisions as well as the evolving needs of children as per the time period (from the late 1970s to 1989 when the Convention was adopted), was a step forward as children became recognized rights holders, it was also a step back as it reiterated the vulnerability of children as recognized in the preamble of the 1959 Declaration. The language *in* use reemphasized, although in between quotation marks, that the child is physically and mentally immature. While this is intended to be a justification for rights and not the basis of the Articles, its presence in the preamble cannot be denied, and readers are not asked to disregard it. The lack of clarity is consistent throughout the text and is an intentional strategy to get countries to agree to the content (sign and ratify), and in the process receive/claim consensus. The CRC has become the most ratified international human rights treaty possibly due to the fact that States party to it are not forced to do anything and are free to interpret



the text as they see best for their respective countries as some States noted during their reservations and declarations at the Working Group sessions.

The fact that the majority of States have ratified it is great, and I acknowledge that when these rights, which are interdependent and interrelated, are read together, they offer hope for children – hope of protection not only in a paternalistic manner but in a general one (e.g. from abuse, violence, hatred, and discrimination), as well as hope for semi-independence in terms of identity, thought and being heard in matters that concern them. However, when read separately, as I have intentionally done with the general principles (Articles 2, 3, 6 and 12), the vagueness becomes more clear, and the dependence of children is amplified. For example, the concept of the “best interests of the child” introduced in the 1959 Declaration and recontextualized in the CRC under Article 3, is not clear leaving it to States and adults to determine what these “best interests” are. The same applies to the right to life in Article 6. States Parties only “recognize” this right, but the factors that are in violation of the right to life, survival and development are not clear. As for Article 12(1), which assures participation rights in matters that impact the child, there are many generalities that make it restrictive and open to interpretation such as the dependence of participation on the capability of the child to form his/her own views and giving those views “due weight in accordance with the age and maturity of the child”. Discussions on the language in these Articles during the Working Group sessions show that some States wanted clarity on certain concepts such as the ‘best interests of the child’, types of violations, and concrete measures and processes, but consensus was only reached when the language was deemed neutral by the majority, and the content was not in conflict with their domestic legislations (OHCHR, 2007a; 2007b).

What this research has led me to realize is that the misperception of “the child” that is the basis of all three texts, needs to be dismantled, and international and domestic legislations need to

be re-examined and reimagined within a new image of children as diverse and independent beings with voices, lived experiences, a past, a present and a future. The fact that children need specific rights for them does not mean they are lesser beings but that the world we are living in has led to their marginalization and an imbalance of power. History clearly shows how children were used as tools due to their positioning in society not their abilities as they were participants in wars and key players in keeping the economies of countries going while the men were fighting.

### **Contributions to New Knowledge**

This research contributes to new knowledge by exploring children's rights through a critical and historical context with language at its core. As Bakhtin (1981) emphasizes the importance of understanding that "languages of various epochs and periods of socio-ideological life cohabit with one another.... [E]very day represents another socio-ideological semantic 'state of affairs,' another vocabulary, another accentual system, with its own slogans, its own ways of assigning blame and praise" (p. 291). The CRC as a text can be seen as a cohabitation of these languages coming from multiple texts and discourses; understanding it varies based on everyday representations that differ. By examining the three child rights texts in relation to their past and their connection to the time they were reproduced or produced, and their present with all the different literal and non-literal elements they are made of, an understanding of the complex nature of language and its construction can be achieved. Equipped with the knowledge that language constantly changes based on context, we can begin to make sense of the world that we live in with all its discourses, texts, and structures. Only then can we also begin to recontextualize and reimagine children's rights to make them specific to the needs of diverse children, diverse childhoods with diverse contexts. Rights can only become lived and living if understood, made relevant and applied.

A child is not just a future adult, but a being in the present with lived experiences, opinions and thoughts that should be listened to and taken seriously. This research does not cover the full picture but provides insights into the core foundational problems with the CRC as well as ways to approach CRE. Looking back is essential to be able to move forward. Presently, there is not much research done on CRE; for children's rights educators, the findings of this research are essential as they can help them approach children's rights from a different lens – a historical, critical, and contextual one. For children's rights advocates and critics, the history of child rights, along with a critical examination of language *in* use within the three dominant child rights texts, can help them explore the limitations of these texts and identify the barriers inhibiting the progression of children's rights.

### **Limitations**

As Roxanne Doty (1996) states:

[D]iscourse delineates the terms of intelligibility whereby a particular 'reality' can be known and acted upon. When we speak of a discourse we may be referring to a particular group of texts, but also importantly to the social practices to which those texts are inextricably linked... a discourse is inherently open ended and incomplete... Any fixing of a discourse and the identities that are constructed by it, then, can only ever be of a partial nature. (p. 6)

This denotes that discourse is constructed, ephemeral and incomplete; it changes depending on a multitude of factors that may be explicit and/or implicit. Thus, acknowledging its limitations is essential. I also acknowledge that by limiting my research analysis to three international child rights texts and selecting specific parts of the CRC (the preamble and the four general principles) that I am excluding major documents that address child rights from different countries that may be

stronger in language and scope, as well as providing a narrow view of the CRC. Moreover, the bulk of the literature examined with regards to sociology of childhood, CDA, and child rights is predominantly from a Eurocentric and Western lens and is in English or from translations to English. As a result, the language *in* use can be seen as imported and external to other countries, societies, and cultures. With these limitations in mind, the focus of the research is to contextualize these internationally agreed upon child rights texts, explore the impact of the language *in* use in the dominant literature and in the texts on the perception of children and childhood and on child rights discourse. By examining the past, we can begin to understand the present in which the CRC, a legally binding international convention, has been purposefully neglected. This will help us move forward to see what needs to be done to make children's rights a reality keeping in mind the different contexts of children.

Another limitation lies in the content of the archival texts (i.e., reports, meeting minutes) selected from the League of Nations, UNICEF, the Social Commission, ECOSOC, Commission on Human Rights, the UN Working Group sessions, General Assembly reports, and the more recent OHCHR reports (2007a and b). While they are essential records as they provide insights into the discussions taking place and the drafting processes, they are not comprehensive and limited in terms of scope, direction and diversity of content and voices. The majority of the texts are written records of discussions/deliberations during meetings, and the author(s) of each may have excluded (whether intentionally or unintentionally) some points. In some cases, there are accompanying records of corrections, particularly for meeting minutes, but that is not always the case. In reference to Working Group session reports, as Quennerstedt et al. 2018 notes that at times "the speaker behind a note...is not always explicitly identified...., there is no certainty about how well the reports reflect the discussions.... [and] [s]ome parts of the deliberations are very quickly

brushed over ....., while other parts give detailed accounts” (p. 46). However, since these documents are considered official records and are archived as such, they are essential to examine and as Quennerstedt et al. 2018 writes “it is reasonable to assume that had they reflected the discussions poorly, there would have been objections raised” (p. 46).

Another possible limitation is my positionality in the research. In reference to this, Lemke (1995) states:

Whatever I write is written from a viewpoint within the culture and subcultures to which I belong.... No one sees *the* world as *it is*. We see the worlds our communities teach us how to see, and the worlds we make, always a bit uniquely, within and sometimes just a bit beyond what we've been taught. (p. 4)

Similar to Lemke, I see the world based on my experiences in it. I acknowledge that *who I am* and *what I have experienced* has impacted the lens in which I view and address these issues. I am a Syrian Canadian middle-class female in my early forties. I have travelled considerably and worked across different disciplines involving children where I have witnessed discrimination, neglect, abuse, marginalization, belittling and muting of children's voices, their experiences, and capabilities; these actions do not only take place in developing States but also in developed ones who claim to have the best of 'intentions'. I have seen curriculum and policies created for children and decisions made on their behalf at schools, in courts and in alternative care without their participation or knowledge. Who I am, where I come from, what I have seen, lived and read will inevitably impact how I read the texts and my understanding of the discourses that gave rise to them and are currently giving rise to other discourses and texts. Therefore, CDA as a methodology and a theory is essential to this research as it encompasses and acknowledges the impact of the

cultures and sub-cultures that we each belong to and/or have been influenced by as human beings on how we read, analyze, translate and apply the texts that are all around us.

### **Recommendations for Future Research**

What continues to be ‘problematic’ with the CRC is the lack of implementation, contextualization, research and understanding of its conceptual foundations (Quennerstedt et al., 2018; Tobin, 2013) and relevance, as well as openness to interpretation and misinterpretation. Most States parties have failed to implement many of the rights/minimum standards under the CRC. They have also failed to inform children of their rights domestically and internationally. Moreover, individuals, who become aware of the CRC by chance, through work, education, or a workshop or personal initiative such as educators, parents, social workers, and those working with and for children do not necessarily always understand children’s rights, know how to apply and/or share these rights with children or each other, or even contextualize them to make them relevant to the here and now and to their respective societies and communities.

To be able to move beyond the ‘problematic’ and into action, additional critical research is essential. Based on the research findings, the most important next step is to conduct a full critical discourse analysis on the CRC as well as its optional protocols (Optional Protocol on the involvement of children in armed conflict, the Optional Protocol on the sale of children, child prostitution and child pornography, and the Optional Protocol on a communications procedure) from a legal lens to further identify any problems/limitations. Presently many children’s rights advocates, including myself, are advocating for the CRC to be included in domestic legislation; however, the issue is that if the problems/limitations of Articles in the CRC are not identified, we may be calling to adopt symbolic rights that will not translate into concrete actions on the ground even if adopted into domestic legislation.

Another key area is contextualization on several fronts. I only examined and analyzed the English texts; however, as Bakhtin (1981) notes translations cannot be exact reproductions. It is therefore essential to analyze multiple translations to see how certain words and ideas are presented within different languages. Since language is not “a neutral medium” and is populated by meanings associated with it prior to its use, and by the user’s intention and form(s) of expression (Fairclough, 2012, p. 12), it can provide insights into the perception of the translators and the contexts that these translations were a part of as well as the States Parties themselves who adopted the translations. Moreover, since this research did not address Fairclough’s (2012) third and fourth stages, I would recommend a focussed country-specific research examining child rights texts in the official language of the country selected (if available) on an international and domestic levels and their correlations, if any. It is also essential to explore the image of ‘the child’, children and childhood within each respective country as solutions past the obstacles can only happen if the problems are identified and contextualized.

The area that I am interested in further exploring and seeing future research in is the role of the arts, particularly creative drama in children’s rights education. As an extension of the CRE and creative drama workshops that I have been doing with pre-service teachers and children in Canada, the research that I plan to conduct in the future is a participatory action research with children, teachers, and parents/guardians across several Canadian provinces with the hope of expanding to different countries. The goal is to further explore the role of creative drama as a pedagogical tool for CRE that can bring critical issues to life while keeping in mind children’s diverse lived experiences. Creative drama has the potential of making learning a lived experience in which information is planted and nurtured as one continues his/her/their journey in life ultimately transcending the here and now (Pinar & Grumet, 1976). As Ann Quennerstedt (2012)

states: “[R]ights expressed in international treaties... have to undergo a ‘cultural’ journey when they are put into practice in a certain society. Discourses that govern the perception and organization of...law, family life, or education differ from one country to another” (p. 104). This ‘cultural’ journey can help shed light on how children’s rights are received, contextualized, understood, and possibly recontextualized/reimagined within different societies.

### **Way forward**

As Mayall (2013) states:

There are advantages to all generations and societies if we acquire greater understanding of and respect for children and for childhood... Children, after all, constitute about one-third of humanity, and, across the world, contribute to the economic welfare of families and societies. (p. 2).

Children should not experience abuse, neglect, violence, and exploitation due to wars, natural disasters, displacement, poverty, loss of family, domestic violence, cultural [mis]conceptions, discrimination, racism, and hate, to name a few, but they do. In some cases, children are used as political and economic tools; from displacement to being turned into child soldiers, held hostages in their own countries and denied aid, forced into labour, prostitution, detention centres or a part of the welfare or juvenile justice systems. Presently, on an international level, children’s rights are only symbolic. While the CRC attempts to be an internationally binding text that provides States Parties with minimum standards they should ensure and abide by, it does not successfully do so; this may also be the case with other international human rights instruments, but it should not be accepted. The lack of detailed measures and States’ responsibilities as well as lack of consequences for violations leave room for (mis)interpretation on the ground as well as a lack of implementation. Moreover, what I found surprising while conducting this research is the profound impact that the



language *in* use from the 1920s to the 1950s with regards to the child as being weak and in need of protection has had and continues to have on the existing image of children and their childhoods vis-à-vis the language of rights. With the progression of rights, this should have changed; however, the fact that such a concept remained in the CRC along with the exclusion of the diverse voices of children, and the continuous violations of children's rights around the world show the regression of these rights.

What is needed to move forward? The answer is simple, the activation of the voices of children; as Fairclough (2003) notes when social actors are activated, "their capacity for agentive action, for making things happen, for controlling others and so forth is accentuated" (p. 150). However, when "they are mainly passivated, what is accentuated is their subjection to processes, them being affected by the actions of others, and so forth" (p. 150). By activation, I am not implying that the parents/family/guardians/community cease to exist, I am saying power needs to be shared; children need to participate in society, policies and matters that affect them, and the stigma and misconception of who children are and what their childhoods should look like needs to be corrected, so they can be empowered to protect themselves, others, the environment, and the world that they live in. This can happen if governments with the support of their Ministries of Education, for example, made CRE a mandatory part of the curricula, and created mandatory training by qualified trainers who are also knowledgeable of the laws of their respective countries for anyone who works with and for children. Another Convention with the same international support may not be possible in the near future, but when we teach or speak of children's rights, we need to make sure that we explain what these rights are, where they come from, and make them context specific with support from domestic legislation and resources that include where to go if ones' rights get violated, local support groups, and legal clinics. The possibilities are endless, but

there has to be a will by States to move forward individually and as a collective, especially since virtual violations that span boundaries are on the rise, to make children's rights a present reality.

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## Appendix A

'A Starving Baby' and 'Our Blockade has caused this!' leaflets. (8, April, 1919).


OUR GUARANTEE TO ADVERTISERS  
 Advertisement Rate is based on a guaranteed circulation of 20,000 copies daily. If on a six months' average the circulation does not reach that figure, proportionate rebate will be made.

# DAILY HERALD

TO OUR READERS  
 Only the announcements of private are admitted to our columns. We therefore urge our readers to support our advertisers, answering advertisements mentioning the "Daily Herald."

NO. 1,033 (No. 40.—NEW SERIES). LONDON, FRIDAY, MAY 16, 1919. ONE PENNY


**STARVING BABY**



Thousands have been starved to death since the outbreak of the war. The only way to save the lives of the millions of children who are starving to death is to raise the blockade everywhere.

THE only way to save the lives of the millions of children who are starving to death is to raise the blockade everywhere.

**Our Blockade has caused this!**  
 MILLIONS OF CHILDREN ARE STARVING TO DEATH




THE only way to save the lives of the millions of children who are starving to death is to raise the blockade everywhere.

RAISE THE BLOCKADE EVERYWHERE.

**WHAT DOES BRITAIN STAND FOR?  
 STARVING BABIES  
 TORTURING WOMEN?  
 KILLING THE OLD?**

THESE THINGS ARE BEING DONE TO-DAY  
**IN BRITAIN'S NAME**  
 ALL OVER EUROPE

**MILLIONS ARE DYING  
 OF HUNGER.  
 SHALL IT GO ON?**



THE "FIGHT THE FAMINE" CASE.—The above are the two handbills and the poster which were the subject of yesterday's presentation at the Mansion House. The photograph shows Miss Eglarayne Jebb and Mrs. Gould. A report appears in our news pages.—(Photo "Daily Herald.")

*Daily Herald*, 16 May 1919 (Bianchi & Ludbrook, 2016; Mahood, 2009)



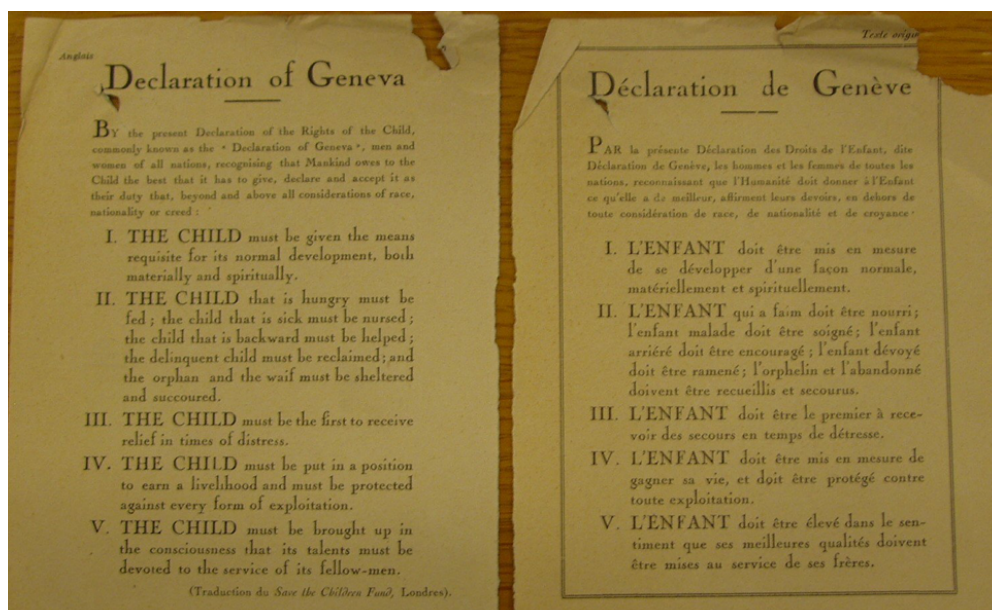
## Appendix B

### Declaration of Geneva Adopted 1924, League of Nations

By the present Declaration of the Rights of the Child, commonly known as "Declaration of Geneva," men and women of all nations, recognizing that mankind owes to the Child the best that it has to give, declare and accept it as their duty that, beyond and above all considerations of race, nationality or creed:

- I. THE CHILD must be given the means requisite for its normal development, both materially and spiritually;
- II. THE CHILD that is hungry must be fed; the child that is sick must be nursed; the child that is backward must be helped; the delinquent child must be reclaimed; and the orphan and the waif must be sheltered and succored;
- III. THE CHILD must be the first to receive relief in times of distress;
- IV. THE CHILD must be put in a position to earn a livelihood, and must be protected against every form of exploitation;
- V. THE CHILD must be brought up in the consciousness that its talents must be devoted to the service of fellow men.

#### English translation by Save the Children Fund from French original text



*Note:* Image retrieved from twitter account of the UN Office at Geneva (UNOG) Library (26 November 2018).



## Appendix C

### Declaration of the Rights of the Child (1959) Proclaimed by General Assembly Resolution 1386(XIV) of 20 November 1959

#### **Preamble**

Whereas the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Whereas the United Nations has, in the Universal Declaration of Human Rights, proclaimed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Whereas the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth,

Whereas the need for such special safeguards has been stated in the Geneva Declaration of the Rights of the Child of 1924, and recognized in the Universal Declaration of Human Rights and in the statutes of specialized agencies and international organizations concerned with the welfare of children,

Whereas mankind owes to the child the best it has to give,

Now therefore,

#### **The General Assembly**

Proclaims this Declaration of the Rights of the Child to the end that he may have a happy childhood and enjoy for his own good and for the good of society the rights and freedoms herein set forth, and calls upon parents, upon men and women as individuals, and upon voluntary organizations, local authorities and national Governments to recognize these rights and strive for their observance by legislative and other measures progressively taken in accordance with the following principles:

#### **Principle 1**

The child shall enjoy all the rights set forth in this Declaration. Every child, without any exception whatsoever, shall be entitled to these rights, without distinction or discrimination on account of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family.

#### **Principle 2**

The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration.

**Principle 3**

The child shall be entitled from his birth to a name and a nationality.

**Principle 4**

The child shall enjoy the benefits of social security. He shall be entitled to grow and develop in health; to this end, special care and protection shall be provided both to him and to his mother, including adequate pre-natal and post-natal care. The child shall have the right to adequate nutrition, housing, recreation and medical services.

**Principle 5**

The child who is physically, mentally or socially handicapped shall be given the special treatment, education and care required by his particular condition.

**Principle 6**

The child, for the full and harmonious development of his personality, needs love and understanding. He shall, wherever possible, grow up in the care and under the responsibility of his parents, and, in any case, in an atmosphere of affection and of moral and material security; a child of tender years shall not, save in exceptional circumstances, be separated from his mother. Society and the public authorities shall have the duty to extend particular care to children without a family and to those without adequate means of support. Payment of State and other assistance towards the maintenance of children of large families is desirable.

**Principle 7**

The child is entitled to receive education, which shall be free and compulsory, at least in the elementary stages. He shall be given an education which will promote his general culture and enable him, on a basis of equal opportunity, to develop his abilities, his individual judgement, and his sense of moral and social responsibility, and to become a useful member of society.

The best interests of the child shall be the guiding principle of those responsible for his education and guidance; that responsibility lies in the first place with his parents.

The child shall have full opportunity for play and recreation, which should be directed to the same purposes as education; society and the public authorities shall endeavor to promote the enjoyment of this right.

**Principle 8**

The child shall in all circumstances be among the first to receive protection and relief.

**Principle 9**

The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be the subject of traffic, in any form.

The child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental or moral development.

**Principle 10**

The child shall be protected from practices which may foster racial, religious and any other form of discrimination. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.

## Appendix D

### The UN Convention on the Rights of the Child (1989)

Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989; entry into force 2 September 1990, in accordance with article 49

#### **Preamble**

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international cooperation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

## **PART I**

### **Article 1**

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

### **Article 2**

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

### **Article 3**

1. In all actions concerning children, whether 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.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities,

particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

#### **Article 4**

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

#### **Article 5**

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

#### **Article 6**

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

#### **Article 7**

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

#### **Article 8**

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

#### **Article 9**

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

#### **Article 10**

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

#### **Article 11**

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

#### **Article 12**

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

#### **Article 13**

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights or reputations of others; or
- (b) For the protection of national security or of public order (ordre public), or of public health or morals.

#### **Article 14**

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

#### **Article 15**

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

#### **Article 16**

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

#### **Article 17**

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.



**Article 18**

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.
3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

**Article 19**

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

**Article 20**

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

**Article 21**

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;
- (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

## **Article 22**

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or nongovernmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

## **Article 23**

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

#### **Article 24**

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
  - (a) To diminish infant and child mortality;
  - (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
  - (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
  - (d) To ensure appropriate pre-natal and post-natal health care for mothers;
  - (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
  - (f) To develop preventive health care, guidance for parents and family planning education and services.
3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.
4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

#### **Article 25**

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

#### **Article 26**

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.
2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

#### **Article 27**

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.
4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

### **Article 28**

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
  - (a) Make primary education compulsory and available free to all;
  - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
  - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
  - (d) Make educational and vocational information and guidance available and accessible to all children;
  - (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

### **Article 29**

1. States Parties agree that the education of the child shall be directed to:
  - (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
  - (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
  - (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

### **Article 30**

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

### **Article 31**

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

### **Article 32**

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

(a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

### **Article 33**

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

### **Article 34**

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

**Article 35**

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

**Article 36**

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

**Article 37**

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

**Article 38**

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

**Article 39**

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or

any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

#### **Article 40**

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional

care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

#### **Article 41**

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of a State party; or
- (b) International law in force for that State.

### **PART II**

#### **Article 42**

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

#### **Article 43**

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.
2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.
3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.
5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.
7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.
8. The Committee shall establish its own rules of procedure.
9. The Committee shall elect its officers for a period of two years.



10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

#### **Article 44**

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights

- (a) Within two years of the entry into force of the Convention for the State Party concerned;
- (b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

#### **Article 45**

In order to foster the effective implementation of the Convention and to encourage international cooperation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

### **PART III**

#### **Article 46**

The present Convention shall be open for signature by all States.

#### **Article 47**

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### **Article 48**

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### **Article 49**

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

#### **Article 50**

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.
2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.
3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

#### **Article 51**

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General

**Article 52**

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

**Article 53**

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

**Article 54**

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations. IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present Convention.

## Appendix E

**Draft Declarations and final  
Declaration of the Rights of the Child (1959)**

TEXT OF THE SOCIAL COMMISSION	TEXT OF THE COMMISSION ON HUMAN RIGHTS	DRAFT DECLARATION OF THE RIGHTS OF THE CHILD	DECLARATION OF THE RIGHTS OF THE CHILD (1959) (final)
<p><i>Preamble</i></p> <p>1. <i>Whereas</i> the United Nations have, in the Charter and in the Universal Declaration of Human Rights, reaffirmed their faith in fundamental human rights, and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,</p> <p>2. <i>Whereas</i> the United Nations have declared that everyone is entitled to all the rights and freedoms set forth in the Universal Declaration of Human Rights, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,</p> <p>3. <i>Whereas</i> Member States have in the Universal Declaration of Human Rights, proclaimed their recognition of the fundamental rights of persons,</p> <p>4. <i>Whereas</i>, as has specifically been stated since 1924 in the Geneva Declaration of the Rights of the Child, mankind owes to the child the best it has to give,</p> <p>5. <i>Whereas</i> the child needs special safeguards by reason of his physical and mental immaturity and his particular legal status,</p> <p style="text-align: center;"><i>Now therefore</i></p>	<p><i>Preamble</i></p> <p><i>Whereas</i> the United Nation have, in the Charter, reaffirmed their faith in fundamental human rights, and in the dignity and worth of the human person, and have determined to promote social progress and better standard of life in larger freedom,</p> <p><i>Whereas</i> the United Nations has, in the Universal Declaration of Human Rights, proclaimed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, color, sex, language, religion, political or social origin, property, birth or other status,</p> <p><i>Whereas</i> the child needs special safeguards, including special legal protection by reason of his physical and mental immaturity,</p> <p><i>Whereas</i> the need for special safeguards has been stated in the Geneva Declaration of the Rights of the Child of 1924, and has again been recognized in Article 25 (2) of the Universal Declaration of Human Rights and in the statutes of specialized agencies and international organizations concerned with the welfare of children,</p> <p><i>Whereas</i> mankind owes to the child the best it has to give,</p> <p style="text-align: center;"><i>Now therefore</i> <i>The General Assembly recognizes and proclaims the essential Rights of the Child</i></p>	<p><u>Preamble</u></p> <p><u>Whereas</u> the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights, and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,</p> <p><u>Whereas</u> the United Nations has, in the Universal Declaration of Human Rights, proclaimed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,</p> <p><u>Whereas</u> the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth,</p> <p><u>Whereas</u> the need for such special safeguards has been stated in the Geneva Declaration of the Rights of the Child of 1924, and recognized in the Universal Declaration of Human Rights and in the statutes of specialized agencies and international organizations concerned with the welfare of children,</p> <p><u>Whereas</u> mankind owes to the child the best it has to give,</p> <p><u>Now therefore,</u> <u>The General Assembly</u> <u>Proclaims</u> this Declaration of the Rights of the Child to the end that he may have a happy childhood and enjoy for his own good and for the good of society the rights and freedoms herein set forth, and calls upon parents, upon men and women</p>	<p><b>Preamble</b></p> <p>Whereas the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,</p> <p>Whereas the United Nations has, in the Universal Declaration of Human Rights, proclaimed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,</p> <p>Whereas the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth,</p> <p>Whereas the need for such special safeguards has been stated in the Geneva Declaration of the Rights of the Child of 1924, and recognized in the Universal Declaration of Human Rights and in the statutes of specialized agencies and international organizations concerned with the welfare of children,</p> <p>Whereas mankind owes to the child the best it has to give,</p> <p>Now therefore, <b>The General Assembly</b> Proclaims this Declaration of the Rights of the Child to the end that he may have a happy childhood and enjoy for his own good and for the good of society the rights and</p>

<p>6. <i>The General Assembly recognizes and proclaims the essential Rights of the Child</i> to the end that he may have a happy childhood and be enabled to grow up to enjoy, for his own good and for the good of society, the fundamental rights and freedoms, particularly those specified in the Universal Declaration of Human Rights, and calls upon men and women as individuals as well as through their local authorities and national Governments to recognize and strive for the observance of those rights through the application of the following principles:</p> <p><i>Principles</i></p> <p>10. The Child shall enjoy all the rights set forth above, irrespective of any consideration of race, colour, sex, language, caste, religion, political or other opinion, national or social origin, property, birth, legitimacy or other status.</p> <p>1. The Child shall be given the means necessary to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity.</p> <p>[No equivalent.]</p> <p>2. The child shall be entitled from his birth to a name and a nationality.</p> <p>3. The child shall enjoy the benefits of social security. He shall be entitled even from before birth to grow and develop in health. He shall have the right to adequate nutrition, housing, recreation and free medical services.</p> <p>4. The child shall be given the opportunity to grow up in economic security, in the care of his own parents wherever possible, and in the family atmosphere of</p>	<p>to the end that he may have a happy childhood and be enabled to grow up to enjoy for his own good and for the good of society, the fundamental rights and freedoms, particularly those specified in the Universal Declaration of Human Rights, and calls upon men and women as individuals as well as upon local authorities and national Governments to recognize these rights and strive for the observance of those rights through the application of the following principles.</p> <p><i>Principles</i></p> <p>1. The child shall enjoy all the rights set forth in this Declaration without distinction or discrimination on account of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of either of his parents. All children whether born in or out of wedlock shall enjoy these rights.</p> <p>2. The child shall be given the means necessary to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity.</p> <p>3. The child shall enjoy special protection by law and by other means. Whenever necessary, opportunities and facilities shall be provided by law to enable him to develop in accordance with the principles of this Declaration. The best interests of the child shall be the paramount consideration in the enactment of such laws.</p> <p>4. The child shall be entitled from his birth to a name and a nationality</p> <p>5. The child shall enjoy the benefits of social security. He shall be entitled to grow and develop in health; to this end, special care and protection shall be provided both to him</p>	<p>as individuals and upon voluntary organizations, local authorities and national Governments to recognize these rights and strive for their observance by legislative and other measures progressively taken in accordance with the following principles:</p> <p><u>Principle 1</u></p> <p>The child shall enjoy all the rights set forth in this Declaration. All children, without any exception whatsoever, shall be entitled to these rights, without distinction or discrimination on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family.</p> <p><u>Principle 2</u></p> <p>The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration.</p> <p><u>Principle 3</u></p> <p>The child shall be entitled from his birth to a name and a nationality.</p> <p><u>Principle 4</u></p> <p>The child shall enjoy the benefits of social security. He shall be entitled to grow and develop in health; to this end special care and protection shall be provided both to him and to his mother, including adequate pre-natal and post-natal care. The child shall have the right to adequate nutrition, housing, recreation and medical services.</p> <p><u>Principle 5</u></p> <p>The child who is physically, mentally or socially handicapped shall be given the special treatment, education and care required by his particular condition.</p> <p><u>Principle 6</u></p>	<p>freedoms herein set forth, and calls upon parents, upon men and women as individuals, and upon voluntary organizations, local authorities and national Governments to recognize these rights and strive for their observance by legislative and other measures progressively taken in accordance with the following principles:</p> <p><b>Principle 1</b></p> <p>The child shall enjoy all the rights set forth in this Declaration. Every child, without any exception whatsoever, shall be entitled to these rights, without distinction or discrimination on account of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family.</p> <p><b>Principle 2</b></p> <p>The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration.</p> <p><b>Principle 3</b></p> <p>The child shall be entitled from his birth to a name and a nationality.</p> <p><b>Principle 4</b></p> <p>The child shall enjoy the benefits of social security. He shall be entitled to grow and develop in health; to this end, special care and protection shall be provided both to him and to his mother, including adequate pre-natal and post-natal care. The child shall have the right to adequate nutrition, housing, recreation and medical services.</p> <p><b>Principle 5</b></p> <p>The child who is physically, mentally or socially</p>
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<p>affection and understanding favourable to the full and harmonious development of his personality.</p> <p>5. The child shall be given an education which will bestow upon him general culture and enable him to develop his abilities and individual judgement and to become a useful member of society. Such education shall be free.</p> <p>6. The child shall in all circumstances be amongst the first to receive protection and relief.</p> <p>9. The child who is physically, mentally or socially handicapped shall be given the special treatment, education and care required by his particular condition.</p> <p>7. The child shall be protected against all forms of neglect, cruelty and exploitation. He shall in no case be caused to engage in any occupation or employment which would prejudice his health or education or interfere with his development.</p> <p>8. The child shall be protected against any practice which may foster racial or national discrimination or hatred. He shall be brought up in consciousness that he will achieve his fullest development and derive greatest satisfaction through devoting his energy and talents to the service of his fellow men, in a spirit of</p>	<p>and to his mother, including adequate pre-natal and post-natal care. The child shall have the right to adequate nutrition, housing, recreation and medical services.</p> <p>6. For the full and harmonious development of his personality, the child needs love and understanding. He shall, save where his best interests require otherwise, grow up in the care of his parents, and a young child shall not, save in exceptional circumstances, be separated from his mother. In any case, opportunity shall be provided to the child to grow up in an atmosphere of affection and moral and material security. Society as well as public authorities shall have the duty to extend particular care to children without a family or those without adequate means of support.</p> <p>7. The child is entitled to receive free and compulsory education, at least in the elementary stages. The education of the child shall be directed to the full development of his personality and the strengthening of respect for human rights and fundamental freedoms; it shall enable him, enjoying the same opportunities as others, to develop his abilities and individual judgement and to become a useful member of society. It shall promote useful understanding, tolerance and friendship among all peoples and racial or religious groups, as well as understanding of the culture both of his own people and of other peoples and of the principles and purposes of the United Nations.</p> <p>The best interests of the child shall be the guiding principle of those responsible for his education and guidance; that responsibility lies in the first place with his parents.</p>	<p>The child, for the full and harmonious development of his personality, needs love and understanding. He shall, wherever possible, grow up in the care and under the responsibility of his parents, and in any case, in an atmosphere of affection and of moral and material security; a child of tender years shall not, save in exceptional circumstances, be separated from his mother. Society and the public authorities shall have the duty to extend particular care to children without a family and to those without adequate means of support. Payment of State and other assistance towards the maintenance of children of large families is desirable.</p> <p><u>Principle 7</u></p> <p>The child is entitled to receive education, which shall be free and compulsory, at least in the elementary stages. He shall be given an education which will promote his general culture and enable him, on a basis of equal opportunity, to develop his abilities, his individual judgement, and his sense of moral and social responsibility, and to become a useful member of society.</p> <p>The best interests of the child shall be the guiding principle of those responsible for his education and guidance; that responsibility lies in the first place with his parents.</p> <p>The child shall have full opportunity for play and recreation, which should be directed to the same purposes as education; society and the public authorities shall endeavor to promote the enjoyment of this right.</p> <p><u>Principle 8</u></p> <p>The child shall in all circumstances be among the first to receive protection and relief.</p> <p><u>Principle 9</u></p> <p>The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be the subject of traffic, in any form.</p>	<p>handicapped shall be given the special treatment, education and care required by his particular condition.</p> <p><b>Principle 6</b></p> <p>The child, for the full and harmonious development of his personality, needs love and understanding. He shall, wherever possible, grow up in the care and under the responsibility of his parents, and, in any case, in an atmosphere of affection and of moral and material security; a child of tender years shall not, save in exceptional circumstances, be separated from his mother. Society and the public authorities shall have the duty to extend particular care to children without a family and to those without adequate means of support. Payment of State and other assistance towards the maintenance of children of large families is desirable.</p> <p><b>Principle 7</b></p> <p>The child is entitled to receive education, which shall be free and compulsory, at least in the elementary stages. He shall be given an education which will promote his general culture and enable him, on a basis of equal opportunity, to develop his abilities, his individual judgement, and his sense of moral and social responsibility, and to become a useful member of society.</p> <p>The best interests of the child shall be the guiding principle of those responsible for his education and guidance; that responsibility lies in the first place with his parents.</p> <p>The child shall have full opportunity for play and recreation, which should be directed to the same purposes as education; society and the public authorities shall endeavor to promote the enjoyment of this right.</p> <p><b>Principle 8</b></p>
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<p>universal brotherhood and peace.</p> <p>The General Assembly calls upon all Governments and peoples to make known the above principles and explain them to parents, educators, doctors, social works and all others who deal directly with children, and to children themselves.</p>	<p>8. The child shall in all circumstances be the first to receive protection and relief.</p> <p>9. The child who is physically, mentally or socially handicapped shall be given the special treatment, education and care required by his particular condition.</p> <p>10. The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be admitted to employment before an appropriate age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental or moral development.</p> <p>11. The child shall be brought up in an atmosphere which will promote understanding, tolerance and friendship among peoples and national, racial and religious groups and aversion for all forms of national, racial or religious discrimination. He shall be protected from practices based on any such discrimination. He shall be brought up in a spirit of peace, friendship and brotherhood among nations in the consciousness that he will achieve his fullest development and derive greatest satisfaction through devoting his energy and talents to the service of his fellow men, in a spirit of universal brotherhood and peace.</p> <p><i>[Deleted.]</i></p>	<p>The child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental or moral development.</p> <p><u>Principle 10</u></p> <p>The child shall be protected from practices which may foster racial, religious and any other form of discrimination. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.</p>	<p>The child shall in all circumstances be among the first to receive protection and relief.</p> <p><b>Principle 9</b></p> <p>The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be the subject of traffic, in any form.</p> <p>The child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental or moral development.</p> <p><b>Principle 10</b></p> <p>The child shall be protected from practices which may foster racial, religious and any other form of discrimination. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.</p>
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## Appendix F

### Draft Convention on the Rights of the Child (1978)

*The States Parties to the present Convention,*

*Bearing in mind* that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

*Recognizing* that the United Nations have, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

*Recognizing also* that the child, by reason of his physical and mental immaturity, needs social safeguards and care, including appropriate legal protection, before as well as after birth,

*Having in mind* that the need for such special safeguards has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the United Nations Declaration of the Rights of the Child of 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in its articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in its article 10) and in the statutes of specialized agencies and international organizations concerned with the welfare of children,

*Proclaiming* that mankind owes to the child the best it has to give, *Have agreed as follows:*

#### ***Article I***

Every child, without any exception whatsoever, shall be entitled to the rights set forth in this Convention, without distinction or discrimination on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family.

#### ***Article II***

The child shall enjoy special protection and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration.

#### ***Article III***

The child shall be entitled from his birth to a name and a nationality.

#### ***Article IV***



The child shall enjoy the benefits of social security. He shall be entitled to grow and develop in health; to this end, special care and protection shall be provided both to him and to his mother, including adequate prenatal and post-natal care. The child shall have the right to adequate nutrition, housing, recreation and medical services.

***Article V***

The child who is physically, mentally or socially handicapped shall be given the special treatment, education and care required by his particular condition.

***Article VI***

The child, for the full and harmonious development of his personality, needs love and understanding. He shall, wherever possible, grow up in the care and under the responsibility of his parents and, in any case, in an atmosphere of affection and of moral and material security; a child of tender years shall not, save in exceptional circumstances, be separated from his mother. Society and the public authorities shall have the duty to extend particular care to children without a family and to those without adequate means of support. Payment of State and other assistance towards the maintenance of children of large families is desirable.

***Article VII***

1. The child is entitled to receive education, which shall be free and compulsory, at least in the elementary stages. He shall be given an education which will promote his general culture and enable him, on a basis of equal opportunity, to develop his abilities, his individual judgement and his sense of moral and social responsibility, and to become a useful member of society.
2. The best interests of the child shall be the guiding principle of those responsible for his education and guidance; that responsibility lies in the first place with his parents.
3. The child shall have full opportunity for play and recreation, which should be directed to the same purposes as education; society and the public authorities shall endeavour to promote the enjoyment of this right.

***Article VIII***

The child shall in all circumstances be among the first to receive protection and relief.

***Article IX***

1. The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be the subject of traffic, in any form.
2. The child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental or moral development.

***Article X***

The child shall be protected from practices which may foster racial, religious or any other form of discrimination. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.

***Article XI***

The States Parties undertake to submit to the Economic and Social Council, through the Secretary-General, periodic reports on the implementation of this Convention. These reports shall be submitted initially one year after the entry into force of the Convention for the State concerned, and thereafter every five years.

***Article XII***

The reports submitted by the States Parties under article XI shall be considered by the Economic and Social Council, which may make general observations and bring them to the attention of the General Assembly.

***Article XIII***

The present Convention is open for signature by all States. Any State which does not sign the Convention before its entry into force may accede to it.

***Article XIV***

1. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
2. Accession shall be effective by the deposit of an instrument of accession with the Secretary-General of the United Nations.

***Article XV***

1. The present Convention shall enter into force six months after the date of the deposit with the Secretary-General of the United Nations of the fifteenth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to it after the deposit of the fifteenth instrument of ratification or instrument of accession, the Convention shall enter into force six months after the date of the deposit of its own instrument of ratification or instrument of accession.

***Article XVI***

Any State Party may denounce the present Convention by a written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

***Article XVII***

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

***Article XVIII***

The Secretary-General of the United Nations shall inform all States of the following particulars:

- (a) Signatures, ratifications and accessions under articles XIII and XIV;
- (b) The date of entry into force of the present Convention under article XV;
- (c) Denunciations under article XVI;
- (d) Notifications under article XVII.

*Article XIX*

1. The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Convention to all States.

## Appendix G

Revised draft convention on the rights of the child

5 October 1979

Reference document: E/CN.4/1349

### *The States Parties to the Convention*

*Considering* that in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

*Bearing in mind* that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

*Recognizing* that the United Nations have, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

*Convinced* that the family, as the basic unit of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

*Recognizing* that the child due to the needs of his physical and mental development requires particular care and assistance with regard to health, physical, mental, moral and social development as well as legal protection in conditions of freedom, dignity and security,

*Recognizing* that the child, for the full and harmonious development of his personality, should grow up in family environment, in an atmosphere of love and understanding,

*Bearing in mind* that the need for extending particular care to the child has been stated in the Geneva Declaration on the Rights of the Child of 1924 and in the Declaration on the Rights of the Child adopted by the United Nations in 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in the articles 2 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in its article 10) and in the statutes of specialized agencies and international organizations concerned with the welfare of children,

*Considering* that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom and brotherhood, and guarantee working mothers a paid leave or a leave granting adequate social security benefits,

*Have agreed as follows:*

***Article 1***

According to the present Convention a child is every human being from the moment of his birth to the age of 18 years unless, under the law of his State, he has attained his age of majority earlier.

***Article 2***

1. The child shall have the right from his birth to a name and a nationality.
2. The States Parties to the present Convention undertake to introduce into their legislation the principle according to which a child shall acquire the nationality of the State in the territory of which he has been born if, at the time of the child's birth, the application of the proper national law would not grant him any nationality whatever.

***Article 3***

1. In all actions concerning children, whether undertaken by their parents, guardians, social or State institutions, and in particular by courts of law and administrative authorities, the best interest of the child shall be the paramount consideration.
2. The States Parties to the present Convention undertake to ensure the child such protection and care as his status requires, taking due account of the various stages of his development in family environment and in social relations, and, to this end, shall take necessary legislative measures.
3. The States Parties to the present Convention shall create special organs called upon to supervise persons and institutions directly responsible for the care of children.

***Article 4***

1. The States Parties to the present Convention shall respect and extend all the rights set forth in this Convention to all children in their territories, irrespective of these children's race, colour, sex, religion, political and other opinion, social origin, property, birth in lawful wedlock or out of wedlock or any other distinction whatever.
2. The States Parties to the present Convention shall undertake appropriate measures individually and within the framework of international cooperation, particularly in the areas of economy, health and education for the implementation of the rights recognized in this Convention.

***Article 5***

The States Parties to the present Convention recognize the right of alien children staying in their territories to enjoy the rights provided for in this Convention.

***Article 6***

The parents shall have the right to specify the place of the child's residence unless, guided by his best interests, a competent State organ is authorized, in accordance with national law, to decide in this matter.

***Article 7***

The States Parties to the present Convention shall enable the child who is capable of forming his own views the right to express his opinion in matters concerning his own person, and in particular, marriage, choice of occupation, medical treatment, education and recreation.

**Article 8**

1. The duty of bringing up the child shall lie equally with both the parents, who, in any case, should be guided by his best interests and, in keeping with their own beliefs and in compliance with the stipulations of article 7, shall prepare him for an individual life.
2. The States Parties to the present Convention shall render all necessary assistance to parents and guardians in the performance of their educational function, and shall undertake measures to organize and ensure the development of institutions of children's care.
3. Children of working mothers shall have the right to frequent the institutions of day care of children until they have completed school age.

**Article 9**

Parents, guardians, State organs and social organizations shall protect the child against any harmful influence that mass media, and in particular the radio, film, television, printed materials and exhibitions, on account of their contents, may exert on his mental and moral development.

**Article 10**

A child of preschool age shall not be separated from his parents, with the exception for cases when such separation is necessary for the child's benefit.

**Article 11**

1. A child deprived of parental care shall be entitled to the protection and assistance provided by the State.
2. The States Parties to the present Convention shall be obliged to provide appropriate educational environment to a child who is deprived of his natural family environment or, on account of his well-being, cannot be brought up in such environment.
3. The States Parties to the present Convention shall undertake measures so as to facilitate adoption of children and create favourable conditions for establishing foster-families.

**Article 12**

1. The States Parties to the present Convention recognize the right of a mentally or physically disabled child to special protection and care, appropriate to his condition and the circumstances of his parents or guardians, and undertake to extend adequate assistance to any such child.
2. A disabled child shall grow up and receive education in conditions possibly most similar to those provided to all other children, aiming at social integration of such a child.

**Article 13**

1. It is recognized that the child shall be entitled to benefit from the highest attainable standard of health care for his physical, mental and moral development, and also, in the case of need, from medical and rehabilitation facilities.
2. The States Parties to the present Convention shall pursue full implementation of this right, and, in particular, shall:
  - (a) take measures to lower the mortality index of babies,
  - (b) provide a generally accessible system of health protection,
  - (c) develop the system of health protection so that medical assistance and care shall be open to all children,

- (d) extend particular care to expectant mothers for a reasonable period of time before and after confinement.

***Article 14***

The States Parties to the present Convention recognize that every child shall have the right to social security benefits, and undertake to introduce appropriate legal and organizational measures for the implementation of this right.

***Article 15***

1. The States Parties to the present Convention recognize the right of every child to a standard of living adequate for his healthy and normal physical, mental and moral development in every phase of the child's development.
2. The parents shall, within their financial possibilities and powers, secure conditions of living necessary for a normal growth of the child.
3. The States Parties to the present Convention shall take appropriate measures to implement this right, particularly with regard to nutrition, clothing and housing, and shall extend the necessary material assistance to parents and other persons bringing up children, with special attention paid to incomplete families and children lacking parental care.

***Article 16***

1. The child shall have the right to education which shall be free and compulsory, at least at elementary school level. The parents and the State shall guarantee the child ample conditions for the realization of this right.
2. The States Parties to the present Convention shall develop various forms of secondary general and vocational education systems, and shall pursue gradual introduction of free education at this level, so as to enable all children to develop their talents and interests on a basis of equal opportunity.

***Article 17***

1. The States Parties to the present Convention recognize that the bringing up and education of the child should promote the full development of his personality, his respect for human rights and fundamental freedoms.
2. The child shall be prepared for an individual life in a free society, in the spirit of understanding, tolerance and friendship among all peoples, ethnic and religious groups and educated in harmony with the principles of peace proclaimed by the United Nations.

***Article 18***

The child shall have full opportunity for recreation and amusement appropriate to his age. The parents and other persons responsible for the care of the child, educational institutions and State organs shall be obliged to implement this right.

***Article 19***

1. The child shall be protected against all forms of discrimination, social exploitation and degradation of his dignity. He shall not be the subject of traffic and exploitation in any form.
2. The States Parties to the present Convention recognize that the child shall not be employed in any form of work harmful to his health or his moral development, or in work dangerous to his life

or which would interfere with his normal growth, and undertake to subject to legal punishment persons violating this law.

3. The States Parties to the present Convention shall comply with the law prohibiting the employment of children before the age of fifteen years.

#### ***Article 20***

1. The child undergoing penal procedure shall have the right to special treatment and privileges.
2. The child shall not be liable to capital punishment. Any other punishment shall be adequate to the particular phase of his development.
3. The penitentiary system shall be aimed at re-education and re-socialization of the sentenced child. It should enable the child to serve the sentence of deprivation or limitation of freedom in a special manner, and in particular, in separation from adult offenders.

#### ***Article 21***

The States Parties to the present Convention shall submit periodical reports on the implementation of this Convention to the Economic and Social Council through the Secretary-General of the United Nations. The first such report shall be submitted three years after its entry into force, and thereafter every five years.

#### ***Article 22***

The reports submitted by the States Parties to the present Convention under article 21 shall be considered by the Economic and Social Council, which may bring its observations and suggestions to the attention of the General Assembly of the United Nations.

#### ***Article 23***

The present Convention is open for signature by all States until...

#### ***Article 24***

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### ***Article 25***

The present Convention shall remain open for accession by any State. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### ***Article 26***

1. The present Convention shall enter into force six months after the date of deposit of the fifteenth instrument of ratification or accession.
2. For each State ratifying or acceding to the present Convention after the deposit of the fifteenth instrument of ratification or accession, the Convention shall enter into force on the..... day after the deposit by such State of its instrument of ratification or accession.

#### ***Article 27***

As depository of the present Convention the Secretary-General of the United Nations shall inform all States:



- (a) of signatures, ratifications and accessions under articles 23, 24 and 25,
- (b) of the date of the entry into force of the present Convention under the article 26.

***Article 28***

1. The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

**Appendix H**  
**Draft Declarations and final**  
**UN CRC (1989): Preamble and Articles**

<b>First Polish draft (1978)</b>	<b>Revised draft convention 5 October 1979</b>	<b>Text adopted at first reading - First to ninth sessions: 1979- 1987</b> Reference document: <i>E/CN.4/1988/WG.1/WP.1/Rev.1</i>	<b>UN CRC 1989 (Final Text)</b>
<p><i>The States Parties to the present Convention,</i></p> <p><i>Bearing in mind</i> that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,</p> <p><i>Recognizing</i> that the United Nations have, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,</p> <p><i>Recognizing also</i> that the child, by reason of his physical and mental immaturity, needs social safeguards and care, including appropriate legal protection, before as well as after birth,</p>	<p><i>The States Parties to the Convention</i></p> <p><i>Considering</i> that in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,</p> <p><i>Bearing in mind</i> that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,</p> <p><i>Recognizing</i> that the United Nations have, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,</p>	<p><u>The States Parties to the present Convention.</u></p> <p><u>Considering</u> that in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,</p> <p><u>Bearing in mind</u> that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,</p> <p><u>Recognizing</u> that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,</p> <p><u>Recalling</u> that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,</p>	<p>The States Parties to the present Convention,</p> <p>Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,</p> <p>Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,</p> <p>Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,</p>

<p><i>Having in mind</i> that the need for such special safeguards has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the United Nations Declaration of the Rights of the Child of 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in its articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in its article 10) and in the statutes of specialized agencies and international organizations</p>	<p><i>Convinced</i> that the family, as the basic unit of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,</p> <p><i>Recognizing</i> that the child due to the needs of his physical and mental development requires particular care and assistance with regard to health, physical, mental, moral and social development as well as legal protection in conditions of freedom, dignity and security,</p> <p><i>Recognizing</i> that the child, for the full and harmonious development of his personality, should grow up in family environment, in an atmosphere of love and understanding,</p> <p><i>Bearing in mind</i> that the need for extending particular care to the child has been stated in the Geneva Declaration on the Rights of the Child of 1924 and in the Declaration on the Rights of the Child adopted by the United Nations in 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in the articles 2 and 24), in the International Covenant on Economic, Social and Cultural Rights</p>	<p><u>Convinced</u> that the family, as the basic unit of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,</p> <p><u>Recognizing</u> that, as indicated in the Declaration of the Rights of the Child adopted in 1959, the child due to the needs of his physical and mental development requires particular care and assistance with regard to health, physical, mental, moral and social development, and requires legal protection in conditions of freedom, dignity and security,</p> <p><u>Recognizing</u> that the child, for the full and harmonious development of his personality, should grow up in family environment, in an atmosphere of love and understanding,</p> <p><u>Bearing in mind</u> that the need for extending particular care to the child has been stated in the Geneva Declaration on the Rights of the Child of 1924 and in the Declaration on the Rights of the Child adopted by the United Nations in 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in the articles 2 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in its article 10) and in the statutes of specialized agencies and international organizations concerned with the welfare of children,</p> <p><u>Considering</u> that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the</p>	<p>Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,</p> <p>Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,</p> <p>Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,</p> <p>Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,</p> <p>Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights</p>
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<p>concerned with the welfare of children,</p> <p><i>Proclaiming</i> that mankind owes to the child the best it has to give,</p> <p><i>Have agreed as follows:</i></p> <p><i>Article 1</i></p> <p>Every child, without any exception whatsoever, shall be entitled to the rights set forth in this Convention, without distinction or discrimination on account</p>	<p>(in particular in its article 10) and in the statutes of specialized agencies and international organizations concerned with the welfare of children,</p> <p><i>Considering</i> that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom and brotherhood, and guarantee working mothers a paid leave or a leave granting adequate social security benefits,</p> <p><i>Have agreed as follows:</i></p> <p><i>Article 4</i></p> <p>1. The States Parties to the present Convention shall</p>	<p>Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom and brotherhood,</p> <p><i>Have agreed as follows:</i></p> <p><u><i>Article 4</i></u></p> <p>1. The States Parties to the present Convention shall respect and extend all the rights set forth in this Convention to each child in their territories without distinction of any kind, irrespective of the child's or his parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national or social origin, family status, ethnic origin, cultural beliefs or practices, property, educational attainment, birth, or any other basis whatever.</p>	<p>(in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,</p> <p>Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",</p> <p>Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,</p> <p>Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child, Recognizing the importance of international cooperation for improving the living conditions of children in every country, in particular in the developing countries,</p> <p><i>Have agreed as follows:</i></p> <p><b>Article 2</b></p>
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<p>of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family.</p> <p><i>Article X</i></p> <p>The child shall be protected from practices which may foster racial, religious or any other form of discrimination. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.</p> <p><i>Article II</i></p> <p>The child shall enjoy special protection and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration.</p>	<p>respect and extend all the rights set forth in this Convention to all children in their territories, irrespective of these children's race, colour, sex, religion, political and other opinion, social origin, property, birth in lawful wedlock or out of wedlock or any other distinction whatever.</p> <p>2. The States Parties to the present Convention shall undertake appropriate measures individually and within the framework of international cooperation, particularly in the areas of economy, health and education for the implementation of the rights recognized in this Convention.</p> <p><i>Article 3</i></p> <p>1. In all actions concerning children, whether undertaken by their parents, guardians, social or State institutions, and in particular by courts of law and administrative authorities, the best interest of the child shall be the paramount consideration.</p> <p>2. The States Parties to the present Convention undertake to ensure the child such protection and care as his status requires, taking due account of the various stages of his development in family environment and in social relations, and, to this end, shall take necessary legislative measures.</p> <p>3. The States Parties to the present Convention shall create special organs called upon to supervise persons and institutions directly responsible for the care of children.</p>	<p>2. The States Parties to the present Convention shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.</p> <p><u>Article 3</u></p> <p>1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, or administrative authorities, the best interests of the child shall be a primary consideration.</p> <p>2. In all judicial or administrative proceedings affecting a child that is capable of forming his own views, an opportunity shall be provided for the views of the child to be heard, either directly or indirectly through a representative, as a party to the proceedings, and those views shall be taken into consideration by the competent authorities, in a manner consistent with the procedures followed in the State Party for the application of its legislation.</p> <p>3. The States Parties to the present Convention undertake to ensure the child such protection and care as is necessary for his well-being, taking into account the rights and duties of his parents, legal guardians, or other individuals legally responsible for him, and, to this end, shall take all appropriate legislative and administrative measures.</p> <p>4. The States Parties to the present Convention shall ensure competent supervision of officials and personnel of institutions directly responsible for the care of children.</p>	<p>1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.</p> <p>2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.</p> <p><b>Article 3</b></p> <p>1. In all actions concerning children, whether 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.</p> <p>2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.</p> <p>3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by</p>
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	<p><i>Article 7</i></p> <p>The States Parties to the present Convention shall enable the child who is capable of forming his own views the right to express his opinion in matters concerning his own person, and in particular, marriage, choice of occupation, medical treatment, education and recreation.</p>	<p>See Article 3(2)</p>	<p>competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.</p> <p><b>Article 6</b></p> <ol style="list-style-type: none"> <li>1. States Parties recognize that every child has the inherent right to life.</li> <li>2. States Parties shall ensure to the maximum extent possible the survival and development of the child.</li> </ol> <p><b>Article 12</b></p> <ol style="list-style-type: none"> <li>1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.</li> <li>2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.</li> </ol>
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