CHILD RIGHTS AND CHILD WELL-BEING

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1. Introduction

Much has been written and debated around the topic of the ‘well-being’ of the child during the past several decades (Camfield, Streuli, and Woodhead, 2009). A clear consensus on ‘what’ defines the well-being of the child and ‘how’ to measure it has yet to be achieved. Agreement is found in that well-being is a multi-dimensional construct, encompassing mental/psychological, material deprivation, physical, social dimensions, as well as subjective feelings about one’s quality of life. Child well-being is about being healthy, free from abuse and exploitation, secure, access to basic needs, growing up in an environment where every child is respected, and generally happy (African Child Policy Forum, 2008). The full and harmonious development of each child is the ultimate goal. The greatest discord is round in the how well-being is measured. Two divides that are often referred to are that of the developmental/child rights perspective and the negative/positive measures approaches (OECD, 2009).

Regardless of what approach one chooses to take, guarantees for the well-being of the child should be considered as a top priority. Factors that undermine the well-being of the child such as poverty

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should no longer be viewed as a development issue but as a human rights issue. The Convention on the Rights of the Child (hereafter referred to CRC), adopted unanimously by the United Nations General Assembly in 1989, offers the highest international norms and standards for the well-being of the child. It is the only human rights treaty that has almost universal ratification, thus meaning that these norms and standards are universally accepted.

2. **Convention on the Rights of the Child**

This year is a landmark year for children, and for all those who work for and with children. On November 20, 1989, the United Nations General Assembly unanimously adopted the Convention on the Rights of the Child, and entered into force on September 2 of 1990. The CRC is the first binding international legal instrument to address the rights of children. It provides the highest level of international standards and guidelines for national and regional implementation. With still two countries that have yet to ratify the Convention (Somalia, and the United States of America), there are currently 193 ratifications.

The CRC was the first comprehensive treaty, containing forty-two detailed provisions enshrining the rights of all persons under the age of eighteen in all areas of their lives; including economic, social and cultural rights, and civil and political rights (Lee, 2009a). Due to the nature of childhood, the CRC also includes special protection measures that protect children from abuse and exploitation and in conflict with the law. The CRC has been supplemented with two Optional Protocols. When a government ratifies a convention and/or the optional protocol(s) it is obligated to fulfil its promise to the provisions. As of 15 September 2009, the Optional Protocol on the sale of children, child prostitution and child pornography (OPSC) had 132 States parties and the Optional Protocol on the involvement of children in armed conflict (OPAC) had 130 States parties (Lee, 2009d).

Twenty years of the Convention on the Rights of the Child have definitely made an important footprint for children and their rights. The major accomplishment is that children have become more
visible. Now there seems to be a certain degree of consensus that children are indeed bearers of rights (Lee, 2009c). Newly amended Constitutions have included provisions for children, even including specific provisions of the Convention to the new Constitution. Children’s right to be heard has been included in legal, and legislation reforms, taking due account of the best interests of the child. In most countries, coordinating mechanisms have been set up as well as independent monitoring mechanisms. One of the most recent developments is the establishment of children’s budgets.

Four general principles are identified by the Committee on the Rights of the Child as fundamental for the realization of all the other rights.

- **Non-discrimination (Article 2):** States parties must ensure that no child within their jurisdiction suffers from discrimination so that every child enjoys her or his rights.

- **Best interests of the child (Article 3):** In decisions that affect children, the best interests of the child must be a primary consideration.

- **Right to life, survival and development (Article 6):** Including mental, emotional, cognitive, social and cultural development and adding a qualitative dimension.

- **Respect for the views of the child (Article 12):** Children have the right to be heard and to have their views taken seriously, in all settings, including judicial or administrative proceedings that affect them. Due weight must be given to the views of children, in accordance to age and maturity.

General Comment No. 12(2009) on Article 12 was recently adopted by the Committee on the Rights of the Child. General Comments are the Committee’s interpretation of a particular right or themes enshrined in the Convention. The aim is to provide guidance to States parties. The overall objective of this General Comment is to support States parties in the effective implementation of article 12. More specifically, it seeks to:
• Strengthen understanding of the meaning of article 12 and its implications for governments, stakeholders, NGO and society at large.

• Elaborate the scope of legislation, policy and practice necessary to achieve full implementation of article 12

• Highlight the positive approaches in implementing article 12 (stemming from the monitoring experience of the Committee)

• Propose basic requirements for appropriate ways to give due weight to children’s views in all matters that affect them.

After 17 years of examining State party reports to the Committee, it became apparent that the ‘evolving capacities’ of the child must also be taken into consideration, as expressed in Article 5 of the CRC. The process of maturation and learning children acquire knowledge is a progressive process, as is acquiring the understanding about their rights. General Comment No. 7 (2005) of the CRC underscores that respecting children’s evolving capacities, taking into account of their interests and views, is crucial for effective implementation of the CRC in general, and realization of children’s rights in particular.


Various commitments and pledges were made by the international community up to now in relation to the rights of the child and the issue of poverty. At the World Summit for Children in 1990, the world pledged universal access to primary education by 2000, yet 130 million or more primary school-aged children were not in school by then. On September 8, 2000, the General Assembly adopted the United Nations Millennium Declaration, and the Millennium Development Goals within the Declaration. One hundred and eighty nine (189) nations committed themselves to achieve these Development Goals by 2015. These Millennium Development Goals (MDGs) recognize that extreme poverty has many dimensions, not only low income, but also vulnerability to disease, exclusion from education, chronic
hunger and under-nutrition, lack of access to basic amenities such as clean water and sanitation, and environmental degradation such as deforestation and land erosion that threaten lives and livelihoods.

On May 2002, the UN General Assembly held a Special Session on Children. It was attended by 69 Summit-level participants and 190 high-level national delegations. They had committed their governments to a time-bound set of specific goals for children and young people, and also agreed on a basic framework to achieving these goals, which were a reflection of and based in the Convention on the Rights of the Child and in part a confirmation of the Millennium Development Goals. They also make it very clear that the Member States of the UN consider the eradication of poverty by a strong call for investment in children a top priority together with their commitment to make the best interests of the child a primary consideration in these and all other actions affecting children. A Plan of Action “Creating a World Fit for Children” was adopted, promising the following:

- Promoting healthy lives
- Providing quality education
- Protecting against abuse exploitation and violence
- Combating HIV/AIDS
- Mobilizing resources
- Follow-up actions and assessment -- including regular monitoring of progress at the national and international levels in the achievement of these goals

More recently, on December 11 of 2007, World Fit for Children + 5 Special Session was held, and the pledges that Heads of States made at the 2002 Special Session were reaffirmed.

The United Nations General Assembly, in its Resolution on Children’s Rights (United Nations, 2006) adopted a definition of child poverty. It provided a definition of child poverty that went beyond the lack of basic goods and money, to include deprivation of access to basic services, shelter, education, participation and protection. In other words, it encompasses much more than the direct result of deprivation of material goods, as often is defined within the context of poverty in general. Poverty
experienced in childhood deprives children from enjoying their rights, “to reach their full potential and to participate as full members of the society”. Child poverty must be understood as the denial of the range of rights laid out in the CRC. What constitutes ‘adequate standard of living’ and ‘highest attainable standard of health’ as laid out in articles 27 and 24 of the CRC respectively, must be defined and put in place according to the various national circumstances, to the ‘maximum extent of available resources and, where needed, within the framework of international cooperation’ as laid out in article 4. General Comment No. 5 (2003) provides detailed guidance on general measures of implementation of the CRC. It endorsed the aims of the 20/20 initiative, to ‘achieve universal access to basic social services of good quality on a sustainable basis, as a shared responsibility of developing and donor States’. Further, it is made clear that in order to assess whether and how States parties are complying with article 4, children must be made visible in budgets, by identifying the proportion of national and other budgets allocated to social sector to children both directly and indirectly.

Unfortunately, in spite of all these commitments and developments, we are still faced with many issues, old and new, and competing priorities. The world is still trying to move out of the economic downturn due to global financial crisis. The effects of this situation on children are yet to unfold. According to the MDG Progress Report (United Nations, 2009), an estimated 55 million to 90 million more people are living in extreme poverty than were anticipated before the current economic crisis. It is of extreme concern that the majority of these individuals are children and women. Furthermore, there is a trans-generational aspect to poverty, contributing to many different negative consequences, including violence, discrimination, exploitation, and disability. Poverty experienced in childhood is different from experiencing poverty as an adult. It threatens and undermines all aspects of childhood: Physical, intellectual, and socio-emotional development. In addition, it prevents children from enjoying equal opportunities, creates social, economic, and gender disparities that ultimately contribute to the vicious cycle of poverty. More importantly, there is a strong gender implication to poverty. The girl child is multiply faced with the effects of poverty.
Almost all of the articles in the CRC, either directly or indirectly, address the issue of poverty (Lee, 2009b). It applies to the right to benefit from social security (article 26) and the right to an adequate standard of living (article 27) and the obligations of States Parties to support and assist parents and other caretakers in the performances of their child rearing responsibilities (articles 18, (2) & (3) and a 27 (3) & (4)). But it also applies for the rights to protection in particular for children with disabilities (article 23), to the highest attainable standard of health (article 24), the right to education, in particular to free primary education (article 28), the right to engage in play and recreational activities and to participate in cultural activities and the art (article 31) and finally the right to be registered immediately after birth (article 7). Many other articles can be mentioned but it is very clear that States Parties in order to fully implement the Convention, the issue of poverty and social exclusion must be tackled head on.

According to UNICEF’S Report Card No.6, Child Poverty in Rich Countries (UNICEF, 2005), higher government spending on family and social benefits is associated with lower child poverty rates. Moreover, poverty rates depend not only on the level of government support but on the manner of its dispensation and on the priorities governing its allocation. Child poverty rates ranged from under 3 percent for countries such as Norway, Denmark, and Finland; to more than 20 percent in countries such as USA and Mexico. This report found that OECD countries spending 10 percent or more of GDP to social transfers had child poverty rates lower than 10 percent. Conversely, countries spending less than 5 percent of GDP had a child poverty rate as high as 15 percent or above. It was suggested that many OECD countries had the potential to reduce child poverty rate below 10 percent without a significant increase in overall spending.

Innocenti Research Centre provided an overview of child-being in rich countries (UNICEF, 2007). In doing so, it proposed six dimensions in defining and measuring child well-being. The CRC guided the development of the dimensions, taking into account some national measures and international measures. With the absence of internationally-agreed upon indicators of child well-being, the CRC is undoubted the ideal source of guidance. The report acknowledges ‘gaps and inadequacies’, however the six dimensions are definitely a significant improvement on international assessment of overall child well-
being. In my view, the challenge for the future lies in how to assess subjective well-being in a manner that captures children’s evolving capacity and include younger children. The six dimensions are:

- Material well-being: Relative income poverty; households without jobs; and reported deprivation.
- Health and safety: Health at 0-1; preventable health services; and safety.
- Educational well-being: School achievement at age 15; beyond basics; and transition to employment.
- Relationships: Family structure; family relationships; and peer relationships.
- Behaviours and risks: Health behaviours; risk behaviours; and experience of violence.
- Subjective well-being: Health; school life; and personal well-being.

4. **Conclusion**

One hundred and ninety-three countries have made a promise to comply with the Convention on the Rights of the Child. It cannot be stressed that ensuring the well-being of the child, in the broadest sense, is not just a moral obligation. It is a legal obligation for States parties to ensure that all children are guaranteed all the rights enshrined in the CRC. I would like to conclude the emphasizing the principle of “First Call for Children” adopted at the World conference on Human Rights in Vienna in 1993. Furthermore, I would like to remind governments the importance that resources, both human and financial, allocated for children, not be compromised as a result of the economic downturn and other competing priorities. This is the only assurance that children will no longer be viewed in the context of ‘to become’ in the future, but in the context of ‘being’ — ‘well-being’ — in the present.
References


