

Research Article

Development of International Regimes for Child Rights

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Abstract: Children are the most valuable assets within any country and the future of any civilization depends upon the way it brings its children through having access to sufficient shelter, clothing, food, and education. Children must be guaranteed a loving and caring environment for their overall development as they are naturally more vulnerable than other groups in society because of their physical, emotional, and psychological immaturity. Children also require stronger protections due to their reliance on adults against any kind of exploitation that could impede their overall development. The international community and institutions are dedicated to children because of all these issues. The objective of this paper is to highlight the UN regimes protecting the rights of children along with its historical background and challenges to their implementation. At the end of the paper some suggestions are incorporated for the effectiveness of child rights regimes. This paper employs a qualitative research methodology to critically examine the child rights regimes under the aegis of UN.

Key Words: Regime, Child Right, Convention, Optional Protocol

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Meaning of Regime:

World regimes are a major source of research interest in international affairs since the formation of the United Nations. At international and each regional level, they are partial international orders that protecting certain sets of issues through taking away the unrestrained dynamics of self centered behavior between states. Regimes ensure that collective benefits are pursued such as enhanced security or welfare, through the promotion of cooperation among states and other state actors on the international level. This is undertaken by introducing shared norms, standards of the correct conduct and increasing the clarity in the relevant field of international affairs.¹

In a broad sense, international regimes are frameworks formed through laws, norms, principles, and decision-making processes that direct and align the expectations of those involved in a particular sector of international relations. Fundamental ideas on facts, causality, and concepts of legitimacy or integrity are referred to as principles that set expectations for proper conduct and define the rights and obligations of participants. Rules shape behavior within the regime by offering specific guidelines or restrictions for behavior. Lastly, decision-making processes include the recognized methods and techniques used to design and carry out group decisions. These procedures work together for foster cooperative behavior in the global system.²

Regimes have significance due to their check on certain kind of anarchic initiatives of nations through global governance. They demonstrate how states frequently have overlapping national interests and are prepared to work together to accomplish



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particular goals. Consequently, regimes are thought to be important in lowering the degree of international conflict between states and promoting international cooperation.³

Regimes are present in every aspect of modern global politics, i.e. security regimes such as the nuclear non-proliferation regime, economic regimes that include the international trade regime, environmental regimes consisting of the international stratospheric ozone layer protection regime, and human rights regimes that include the various UN Conventions on Human Rights.⁴ A regime may be regional, global, bilateral, or multilateral. Additionally, it might be casual and informal or formal and heavily institutionalized.⁵

Regimes integrate human rights into international relations. Human rights are inalienable rights of all humans regardless of their nationality, ethnicity, or membership in any particular social group. These rights enable people to live their lives without fear, harassment, or discrimination and are essential to their total development.⁶ Since children are more vulnerable than any other group in society due to their physical, emotional, and psychological immaturity and dependence on adults, the fundamental human rights that all people enjoy also apply to them. Children therefore require extra protection from any form of exploitation that could impede their personal development and growth.⁷

Concept of Child

The concepts of childhood and a child are linked to the idea of child rights. Different societies and periods may have different approaches to securing children's rights, but they are all critical to the child's well-being and whole development. It was considered that relationships in the society needed to be redefined because of the abrupt changes in its structure. Because children are physically and psychologically immature, they need particular rights to protect them and address their specific needs. This made special rights for children essential. The reformation's emphasis on discipline and an understanding of religion, the humanities, and the sciences helped to establish this safe control over children's natural "depravity." With the rise of "rationality" during the European Enlightenment, it was consolidated. It is argued that childhood became institutionalized as the affective and educational aspects dispersed throughout society after first being limited to upper-class children.⁸

In general life, the term "child" refers to a child or children, particularly those under the age of ten. However the Convention related to the child's right (CRC) consider every individual as child who are under 18 year of age, unless a particular national law acknowledges an earlier age of majority. Other regime, African Charter on Children's Rights and Welfare also define a child as any person younger than eighteen years. A person (boy or girl) less than the age of eighteen is simply referred to as a child. As a result, although though the Convention describe a "child" as anyone older than 18 year old, it permits the setting of minimum age in certain situations, taking into account the child's developing abilities as well as the State's duty to offer special protection.⁹

The most fascinating explanation of childhood was found in Philippe Aries's *Centuries of Childhood*, where he made an argument that the idea of childhood originated in Europe in the seventeenth century. However, Kruithof and Noordman claim that the idea of a child did not exist during the Middle Ages. In the view of Philippe Aries, children were considered "miniature adults" because they dressed, behaved, and spoke similarly to adults, and they participated in the same social activities and jobs. And that

during the fifteenth and seventeenth centuries, the idea of childhood as an individual stage developed in Europe as a result of two main forces. First, there was the affective or "coddling" component, where the youngster became a source of entertainment and relaxation for the adult due to his (sic) sweetness, simplicity, and drollery. Second, "churchmen or gentlemen of the robe ... moralists and pedagogues" served as the inspiration for the educational component.¹⁰

History of Child Right Regimes

The current child rights regimes have their origins in the post-World War I era, when Eglantyne Jebb, cofounder of the Save the Children Fund, developed a Children charter as part of her work with refugee children in the Balkans. There is a notion that rights for children should be asserted and acknowledged by all, and that it is the responsibility of the international community to prioritize these rights in their planning decisions.¹¹

In the previous two centuries, the legal theory for protecting children as legal persons has been evolved. The concept of children's rights has an extensive background. In the middle of the nineteenth century, the child rights movement began.¹² However, a campaign to promote the notion that children's rights differ from adults started in the early 1900s when the European countries adopted laws for the protection of children, as the Belgian Law of 1912. According to Article 15 of this legislation, children "who undertake activities which might lead to crime" may face pre-delinquency, or legal action from the courts. An international effort to protect children and give them status was initially begun by Ealantyn Jebb of England.¹³

The International efforts for adopting the legal initiatives related to the rights of the children began earlier in 1921 when the special committee was established by the League of Nations to handle the problem of child protection. Convention for the Suppression of the Traffic in Women and Children in 1921 and Slavery Convention in 1926 were also drafted and adoted for the same intention. The rights of children acquired international concern in 1924 when the fifth Assembly of the League of Nations adopted the Declaration of the Rights of the Child which is considered to be the first international document to deal with issues of children rights after World War I. It laid a heavy stress on material needs of the children growth and development. This document is important in that it served as a foundation of international norms in the field of children rights hence putting the foundation the rights of children internationally.¹⁴

Child Right Regimes under UN

The United Nations which is the successor of League of Nations, adopted a Universal Declaration of Human Rights in 1948, but it didn't incorporated children's rights. The newly formed United Nations General Assembly approved an updated version of declaration on children's rights. However, a revised Declaration of the Rights of the Child was not ratified by the UN General Assembly until November 20, 1959. The Universal Declaration of Human Rights was first drafted by the UN and adopted in 1948 due to the atrocities of World War II. The 1948 UDHR established a list of human rights that are implicitly applicable to children since they are applicable to all human without any discrimination. There were just two articles that specifically mentioned children.¹⁵

On 20 November 1959, the UN General Assembly adopted the ten-point Declaration on the Rights of the Child in recognition of the reality that children are at risk of a variety of abuses and hazards. This was the first United Nations standard-setting document that

was only concerned with children's rights. The United Nations passed a resolution in December 1976 designating 1979 as the International Year of Children in an effort to raise awareness of the need to defend children's rights. By granting children certain rights through social laws that forbid discrimination, the UN Declaration highlighted the importance of child welfare in all societal contexts. Since 1979 as the International Year of the Child focused heavily on countries collaborating to deal with the inherent needs of children such areas as nutrition, health, education, maternal protection, family care, equal social status and racial and other forms of discrimination. This was a challenge to the international community and to the conscience of the humanity. The other purpose of the declaration was to sensitize the world on the concerns affecting children through the social and economic policies. Among the consequences of the International Year of the Child (IYC) was a proposal by the Polish government to establish a United Nations Convention on the Rights of the Child that would clearly define the universal set of rights that all children in the whole world ought to possess.¹⁶

On November 20, 1989, just thirty years after the Declaration of the Rights of the Child was adopted and ten years after the International Years of Child, the UN General Assembly adopted a Convention on the Rights of the Child through its resolution 44/25. It came into effect in September 1990, less than a year later. The convention is currently approved by 191 nations. So yet, only Somalia and the United States of America have not ratified it. This indicates that it was ratified by nearly everyone, which is remarkable for human rights agreements. Children's fundamental human rights—civil, economic, social, cultural, and political—that allow them to reach their full potential were granted by the CRC. The CRC has a preamble and 54 articles that are divided into three parts.¹⁷ The substantive provisions of the Convention are found in the first part from Articles 1 to 41. All of the unique rights acknowledged in the CRC are covered by the general obligations of state parties found in Articles 1 to 5. Specific rights of children recognized by the CRC are outlined from Articles 6 to 40.¹⁸

The second section of the Convention contains articles 42 to 45 dealing with implementation provisions and mechanism. In relation to these, the Convention basically adopts the standard procedures according to UN human rights treaties and this would entail periodic reporting to a committee of experts by states who become parties to the convention to document improvements made regarding the implementation of the convention. This is as stated in Article 43, a Committee on the Rights of the Child is required to be formed consisting of persons having good moral standing and with professional credentials in the field. Article 44 stipulates that every state party should submit the first reports to the Committee on the Rights of Children two years after the entry into force of the Convention by the state party and every five years thereafter. Article 45 of the Convention on the Rights of the Child does not adhere to other UN human rights conventions which give more resources to its monitoring committee for serve its aim. The Committee has come up with various procedures and practices over the years that assisting the Committee in its work in reviewing the reports of states parties.¹⁹

The CRC (Articles 46 to 54) in part three provides number of final clauses on matters such as signature (Article 46), ratification (Article 47), accession (Article 48), enter into force (Article 49), amendment (Article 50), reservation (Article 51), denunciation (Article 52), the depositary of the CRC (Article 53), and the authentic language of the CRC (Article 54).²⁰

Many UN Conventions has optional protocols that cover the inherent weaknesses of the text of their Conventions. The two optional protocols i.e. on the Sale of Children, Child Prostitution and Pornography and on the Involvement of Children in Armed Conflict are part of the CRC.²¹

To deal with the practice of using children as soldiers, the Convention on the Rights of the Child contains an Optional Protocol on the Involvement of Children in Armed Conflict that establishes a minimum age of recruitment, voluntary enlistment, and direct participation in the hostilities. So many countries of the world have recruited and involved boys and girls as child soldiers. The majority of survivors have prolonged physical injuries and problems with mental stresses and they normally have long-term impacts on losing significant years of socialization as well as schooling. Nevertheless, the overt prohibition allowing children to be recruited or enlisted by the military services as well as participating in combat is relatively new.²²

To achieve and implement the objectives of the Convention on the Rights of the Child specifically, regarding articles 1, 21, 32, 33,34, 35, and 36 all involving matters of child sexual exploitation, the Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography was composed in 2000. This revalidation of the norms concerned in the Convention on the Rights of the Child demonstrates the extent of the attainment of acceptability of the norms within a very short span of eleven years. It motivates the international community to come forward and prevent child trafficking in future.²³

Importance of Child Right Regimes

"The best interest of the child" is the main goal of child rights regimes. The Convention on the Rights of the Child acknowledged children as equal human beings more than any previous international accord. It puts a stop to the long-held belief that children are normal property of their guardians, at least legally. It acknowledged children as human with dignity and having human rights as equal to other.²⁴ These regimes are founded on a priori set of moral rules and human values that recognized the inherent dignity and equal inalienable rights of all members of the human kind as the pillars of world justice, freedom, and peace. Thus, under Child Rights Convention, all children will be entitled to their rights without any form of discrimination subject to race, nationality, color, sex, gender, language, religion, political or other form of opinions, social origin, property, disability, birth and other status or status of their parents or legal guardians. The rights of children established or recognized by the Convention are founded on universal human principles and are equivalent for individuals worldwide. Thus, these regimes recognize the worth of a joyous childhood.²⁵

Children also need special attention and this is another aspect of these regimes. It encourages legislation that conforms to the norms and cultural orientations of different peoples to support children and their proper development. The convention highlights its intention to pursue social development, which will guarantee rise of quality of life and more freedom to individuals in general and children in particular by providing the proactive safeguard against ill practices of economy as well as about other factors that adversely affecting the cause of children. It also throws light on the importance and prospects of international cooperation in promoting and improving the standards of life of children across the world.²⁶

There are four principles under which the United Nations regimes on the rights of children are grounded. First, Article 3 of the 1989 Convention asserts that, in every decision and action that touch on children, the best interests of the child should be primary concern. The idea that the best interests of the child are a concept that changes throughout childhood and the fact that actions driven by best interests may at one point need specific security and at another imply respect for the individual's autonomy is suggested in this provision. The second principle underpinning convention is the duty of states to ensure that the view of the child are given due importance in all the decisions which affect them (Article 12). Thirdly, account must be taken of the evolving capacities of the child (Article 5), introducing once again the notion that childhood is not fixed and the ability of children will increase with the age. Anti discrimination is a fourth pillar of the convention. Article 2 of the convention requires that the state should guarantee all the rights to all children without discrimination. These four principles are also highlight in other articles of convention. These principles also form minimum requirements to judge all legislative and administrative actions of the state for child welfare.²⁷ Additionally, these principles provide a framework to a nations for all actions concerning children's and adolescents.

Regimes of UN help the children with three ways. In the first instance, state parties to the Convention follow it in their national laws and are cited in the courts by judges and attorneys. Secondly, the CRC creates a permanent Committee on the Rights of Child for protective discussion on the rights of the child. Finally, the Convention will also be used by teachers for teaching children regarding their own rights and about the rights of children.²⁸

In addition, analyses of the child right regimes accomplish five goals as Convention on the Rights of Child reveals in their content. It creates new rights under international law for children where no such rights existed, including the child right to preserve his or her identity and the right of indigenous children to practice their own culture(CRC' s Articles 8 and 30). Second, the Convention on the Rights of Child enshrines rights in a global treaty which had until the Convention's adoption only been acknowledges or refine in case law under regional human rights treaties, for example, a child's right to be heard either directly or indirectly in any judicial or administrative proceeding affecting that child, and to have those views taken into account (Article 12). Thirdly, the Convention contains mandatory requirements in areas that were just non-binding suggestions prior to its implementation. These include the rights of children with mental and physical disabilities as well as protections in adoption procedures.²⁹

Fourthly, the Convention also incorporates additional requirements for the protection and safeguard of children. A state has a duty to take effective action to end customs which are harmful to children's health and to offer rehabilitation services neglected, abused, or exploited children. Lastly, the child right regimes establishes a new explicit basis for states to refrain from discriminating against minors when they are exercising their rights under the convention.³⁰

Problematic Issues of Child Right Regime:

Children rights convention has three potentially conflicting ideas that require attention in a mind when the regimes are appreciated. The first comes child autonomy to express his or her opinion and make choices, then comes the assumption that the families are bound by a responsibility of raising and maturing their children, and finally, the

assumption or belief that the state is obliged to offer services that can ensure and enhance the lives of children.

The United Nations, when introduced the Convention on the Rights of Child, it hoped that this global framework would serve as a tool for the protection and welfare of children around the world who continue to be abused. Yet, over 40 years later of the adoption of this Convention, observers recognize that child rights are still trampled on so shamefully. There are many examples of violations of child rights. But whose fault it is? Certainly not the United Nations is responsible for it. Certain theoretical as well as practical considerations inhibit the observance and promotion of child rights. The Convention itself will solve nothing. It is, however a tool that can be effectively used by parents, members of the family, child service professionals and advocates on behalf of any child who suffered an injustice. Its merits lies in the fact that the standards it contains are common to every culture, society and ideology that make up the nations of the world. If any government says that these standards are too high, it runs the risk of abandoning its legitimacy to rule.

Implementation of the rights and welfare of children guaranteed by the convention a reality is the big issue facing by the world community for ensuring a better tomorrow for future generations. Global effort for the promotion of child rights is justified through the implementation of regimes only. Although, the international community has at least reached at wide agreement on what those rights are and what the family, society, and the international community as a whole should do for children. A World Summit for Children in September 1990 adopted a World Declaration on the Survival, Protection, and Development of Children which legally expressing the international community's political commitment. The Committee on the Rights of the Child has done huge amount of work to significantly impact the convention's implementation and the growth of a global body of cases focused on children. Additionally, the convention provides a more sophisticated framework for national organizations and child-focused interest groups to advance their claims for the improvements and reforms in child-related laws and practices. The standards in the Convention are used more often by scholarly commentators to evaluate national and international law and practice. Even though still children rights are violated,

Like other Human rights laws, these regimes are made to be in the service of the child, and a restriction on the license of governments. It follows, therefore, that the strength of the Convention will lie in the support from the states to incorporate the provisions of the child right regimes especially convention in their laws, policies and legal initiatives. The provisions of the Convention can be strengthening in many ways;

Suggestions for the Implementation of Child Right Regimes

In order to implement the provisions of the regimes or convention into concrete actions, there is a need for each country to carry out detailed research studies to find out the nature and extent of child related problems and the actual number of victims. Based on such findings, a programme of action should be formulated to be implemented by relevant Government, institutions, communities and social workers and thereby alleviate the problems faced by disadvantaged and vulnerable children. The control mechanism under the CRC, 1989 needs to be strengthened further by increasing the number of independent experts serving in the Committee. The Submission of reports should be binding for every States parties that ratified or have signed it.

Lead conversations on children's rights at religious places, parent-teacher associations, union meetings, business associations, and clubs—encouraging them to promote the Convention. Join with friends or community members to form a local chapter of a national or international organization advocating for child rights. Ensure that children are aware about the legal provisions that protect them, and educate them about peace, universal brotherhood, and human rights. Take responsibility for a local children's program and help it become more effective. Advocate with local school authorities to include the provisions of Convention on the Rights of the Child in the school curriculum.

It is our responsibility to remain up to date on national and local concerns pertaining to children. The recommendations of the Committee on the Rights of the Child must be legally followed by the state parties since they are part of their obligations under the Convention. Citizens and civil society should remind the governments periodically of what they promised children when they signed the Convention on the Rights of the Child (CRC). It is equally crucial to give children a secure place to talk about their experiences and share knowledge. Encouraging and strengthening child participation in all levels of decision-making is essential to genuinely upholding their rights since it will guarantee that their opinions are not only heard but also have a significant influence on the policies that impact their life

There is an urgent need to strengthen child and youth-led movements that oppose child labour, sexual exploitation, pornography, prostitution, and the recruitment of children. International organizations must be urged to increase their support for programs aimed at eradicating grave violations of child rights. Special attention must also be given to the plight of child-headed households by developing targeted policies and programs that ensure their safety, care, and dignity. Refugee and internally displaced persons camps should be designed with enhanced security measures, particularly to protect women and girls, and must involve women meaningfully in all aspects of camp administration. The governments should introduce national laws outlawing production, use, trade and movement of landmines in their countries immediately to avoid the adverse effects of landmines to children. Moreover, during the time of sanctions, the international community must guarantee humanitarian exemptions that are child-focused, protecting children from the most severe consequences. Parties to armed conflict are obligated to maintain essential health services, clean water supplies, and must prioritize primary health care, especially for children suffering from chronic or acute conditions. Finally, the international community must hold all actors accountable by ensuring that schools and educational facilities are not targeted during conflicts, affirming that education remains a protected and vital right for every child.

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