



Stellenbosch

**UNIVERSITY
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FACULTY OF LAW

International Conference on

Children's Rights:

Taking Stock, Plugging Gaps and

Leveraging Emerging Opportunities

1 Background

At both the domestic and international levels, the last 30 years of the 20th century witnessed monumental developments in the struggle for and commitment to the human rights of children. Arguably, it was not until the proclamation of 1979 as the International Year of the Child that children began to be considered as persons with rights.¹ Despite the adoption, in the late 1960s and early 1970s, of binding international instruments in which children's rights received partial protection,² '[i]n reality children continued to be perceived as the objects and not subjects of international law long after adults had been accorded subject status. Until 1979, the child's perspective was either absent or assumed to be co-terminus with that of adults'.³ At the regional level, the year 1979 marked the adoption of the Declaration of the Rights and Welfare of the African Child.⁴ Against the background of profound differences between participating countries,⁵ the discussions stretched for a period of 10 years and the Convention on the Rights of the Child (CRC) was finally adopted in 1989.⁶ A year later, the African Charter on the Rights and Welfare of the Child (ACRWC) would also be adopted,⁷ paving way for solid commitments and action on children's rights in Africa.

Although it does not suggest the full enjoyment by children of their rights,⁸ the near-universal ratification of the CRC symbolises the international community's consensus on the nature, scope and content of children's rights. The significance of the CRC and the ACRWC partly lies in the fact that they portray children as holders of rights and impose on State Parties the duty to 'respect and ensure' to every child the rights set forth therein.⁹ Apart from breaking new ground in entrenching rights that are specifically applicable to children, the CRC and ACRWC offer special protection to children *qua* children, not just as members of the family or the societies in which they live. Under both the CRC and the African Children's Charter, the child is portrayed as an independent person entitled to rights emanating not from their

¹ The UN General Assembly, in Commemoration of the 20th Anniversary of the issuance of the 1959 Declaration, designated 1979 as the International Year of the Child.

² See, for instance, the International Bill of Rights consisting of the Universal Declaration of Human Rights G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948) (hereafter the UDHR), the International Covenant on Civil and Political Rights G.A. res. 2200A (XXI), 21 U.N.GAOR Supp. (No.16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976 (hereafter the ICCPR) and the International Covenant of Economic, Social and Cultural Rights G.A. res. 2200A (XXI), 21 U.N.GAOR Supp.(No.16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, *entered into force* Jan. 3, 1976 (hereafter the ICESCR).

³ G Van Bueren 'The historical framework of the international documents on children' in G Van Bueren (ed) *International documents on children* (1993) xv, xv.

⁴ Declaration on the Rights and Welfare of the African Child 1979 OAU Doc.CAB/LEG/24.9/49 (1990), *entered into force* Nov 29, 1999.

⁵ For detailed discussions of these factors, see T Hammarberg 'A Convention for the future' in R Barnen (ed) *Making reality of children's rights: Final Report of the International Conference on the Rights of the Child* (Stockholm, Sweden: Save the Children, 1989) 11, 12; T Hammarberg 'The UN Convention on the Rights of the Child and how to make it work' (1990) 12(1) *Human Rights Quarterly* 97, 98-101; CP Cohen, 'United Nations Convention on the Rights of the Child' (1990) 44 *The Review* 36, 37; J Ruiz-Gimenez 'The human rights of the child' (1993) 50 *The Review* 82, 83; and CP Cohen 'The role of nongovernmental organisations in the drafting of the Convention on the Rights of the Child' (1990) 12(1) *Human Rights Quarterly* 138, 139.

⁶ United Nations Convention on the Rights of the Child, GA Res 44/25, annex, 44 UN GAOR Supp (No 49) 167, UN Doc A/44/49 (1989) *entered into force* 2 September 1990.

⁷ African Charter on the Rights and Welfare of the Child, OAU Doc CAB/LEG/24.9/49 (1990) *entered into force* 29 November 1999.

⁸ See, for example, K Annan *We the Children*, Report to the Children's Summit (2002) 12, observing that '[t]he idea of children's rights, then, may be a beacon guiding the way to the future – but it is also illuminating how many adults neglect their responsibilities towards children and how children are too often the victims of the ugliest and most shameful human activities'.

⁹ See for instance, Article 2(1) of the CRC.

relationships with others, but from their separate personhood as an individual. This means that the child is entitled to assert their rights against other persons, parents and the state.

The separate personhood of the child is reinforced by the fact that both the CRC and ACRWC do not only confer on children rights to special protection, but also protect participation rights; thereby opening the door for children to assert their rights in family, judicial, administrative and other proceedings.¹⁰ Protected in both instruments, the child's rights to be heard and to have their views given due weight in the decision-making process, imply that the child is an individual with agency and should be given an opportunity to express their views in all matters affecting them.¹¹ The CRC and the ACRWC acknowledge that the recognition of children's rights involves more than the charitable provision of goods and services,¹² and should reflect a large measure of commitment on the democratic front.¹³

More importantly, however, international and regional child law has the potential to influence attitudinal, legislative, policy and practical changes at the domestic level. Since the normative standards stipulated therein are applicable to all States Parties, it has the potential to influence the letter and spirit of national constitutions and legislative provisions.¹⁴ In fact, many countries have adopted national constitutions and/or legislation that gives effect to the rights entrenched in international instruments.¹⁵ In addition, treaty monitoring bodies, national human rights institutions and the courts have played their part in interpreting, applying and monitoring state compliance with children's rights to a wide range of contexts.

Today, international cooperation and the extraterritorial application of children's rights have become pressing issues due to ongoing developments and challenges with extraterritorial impacts. These include, among others, the digital environment (including artificial intelligence), human trafficking, armed conflict and climate change. It is worth noting that these challenges and developments stretch the interpretation and application of children's rights and, in some cases, may require the adoption of new legal and policy frameworks. How have courts, national human rights institutions, treaty bodies and government officials fared in interpreting, applying and implementing the CRC and the ACRWC as living documents that require constant change as contexts evolve?

2 Rationale for the Conference

Thirty-five (35) years after the adoption of the CRC and thirty four (34) years after the adoption of the ACRWC, it is fitting for scholars, researchers, judges, legal practitioners, law enforcement officers, civil society actors, social workers, students, development practitioners and other players to reflect on the extent to which children's rights have been or are being realised in different countries. What influence and impacts have these instruments had on the protection and enjoyment of children's rights at the domestic level? To what extent are countries and legal systems guided by the provisions of the CRC and the ACRWC. This

¹⁰ See articles 12 and 7 of the ACRWC.

¹¹ D O'Donnell 'The Convention on the Rights of the Child: A challenge for UNICEF' (1992) 91(2) *Bulletin of Human Rights* 32.

¹² See, for instance General Comment No. 5 'General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)' CRC/GC/2003/5 (2003) (hereafter CRC General Comment 5), para 11.

¹³ See T Hammarberg 'A decade of campaigning for children's rights' 42 and T Hammarberg 'The rights of the child and the industrialised countries' in K Ekberg and PE Mjaavatt (eds) *Children at risk: Selected papers* (Trondheim: Norwegian Centre for Child Research, 1993) 296.

¹⁴ See M Jupp 'The UN Convention on the Rights of the Child: An opportunity for advocates' (1990) 12(1) *Human Rights Quarterly* 130, 135 and AG Mower Jr *The Convention on the Rights of the Child* (1997) 8.

¹⁵ See, for example, the South African Constitution 1996 and the Zimbabwean Constitution, 2013.

practice-oriented dimension of children's rights necessitates an enquiry into both legal and policy implementation gaps and, where possible, 'letting data speak' on the state of children's rights across the continent and the globe.

Furthermore, the conference seeks to create space for participants engage extensively with legislative and court-driven reforms that have taken place in different countries. To what extent, for instance, are countries complying with child rights related decisions of treaty bodies or (sub)regional mechanisms? Since the 1990s, courts in different jurisdictions have grappled with various aspects of children's rights and, in the process, made some landmark judgments that have influenced law and policy reform. They have also made controversial decisions that need to be engaged with, including on the content of children's specific rights, often with far-reaching negative impacts on children. Apart from 'taking stock and plugging implementation gaps', participants will reflect on emerging or enduring challenges to and opportunities for the enjoyment of children's rights. From poverty to conflict, climate change, migration and digital harms, children are at the centre of multiple vulnerabilities. Accordingly, the conference seeks to ensure discussions on whether governments have taken adequate legislative, policy and administrative measures to address these vulnerabilities and transform children's lived realities as required by international and, in some cases, domestic law.

3 Aim and Objectives

This experience and knowledge sharing Conference on Children's Rights aims to create a platform for students, researchers, judges, lawyers, social workers and other practitioners to learn from each other and incorporate into their work, good practices in promoting children's rights. Specifically, the conference aims to:

- ❖ Generate evidence and build knowledge on various issues pertaining to children's rights, including the implementation of existing laws, norms and standards;
- ❖ track down the progress made by governments and the courts in promoting the human rights of children, especially those in situations of vulnerability;
- ❖ enable participants to reflect on the implications of international and regional standards for domestic laws, policies and programmes affecting children;
- ❖ enable participants to share experiences on opportunities, gaps and challenges in the implementation of children's rights; highlighting good practices from experiences in different countries;
- ❖ facilitate networking and post conference collaboration and coordination among practitioners operating in different sectors and contexts; and
- ❖ create multiple pathways for greater dissemination and impact of research, knowledge and evidence on children's rights, including pathways to contribute to law, policy and programmatic reform.

4 Thematic Focus

The conference focusses on children's rights, leaving open the room for papers that have comparative dimensions involving different countries. Participants are therefore free to propose papers that analyse how countries compare to each other and whether national norms, standards and practices measure up to international norms and standards. To this end, the organisers welcome papers in the following thematic areas:

4.1 Children's Rights and the Changing Family

Clearly, the recognition of children as distinct rights holders should not be underestimated as it rejuvenates the idea that children are legal subjects entitled to relative autonomy from parental and state control. Children's rights transform the parent-child-state relationship in ways that recognise the separate identity and individuality of the child. Papers in this category may analyse the way children's rights are challenging and re-configuring the scope and exercise of parental responsibilities and rights. They may also propose solutions to current challenges relating to parenting in the digital environment, especially given that some children – especially digital natives – have acquired more digital literacies than their parents and may use privacy functions to avoid parental mediation of their online experiences.

4.2 The Environment, Climate Change and Children's Rights

Authors may reflect on sustainability concerns arising from environmental hazards and climate change, including its root causes, and how they adversely implicate children's rights and the rights of future generations. Children are adversely impacted by climate-induced internal displacement, inter-country migration and the collapse of public service delivery infrastructure due to cyclones, floods, tsunamis and many others. Of late, children have taken centre stage in climate action to protect the environment from degradation and have 'dragged' governments to treaty monitoring bodies such as the Committee on the Rights of the Child to account for environmental harms. Given that many children are exercising agency and shaping the climate crisis discourse across the world, papers focussing on children as climate citizens are strongly encouraged. There is also evidence that climate change and environmental harms affect boys and girls differently and it may also be worthwhile to consider the gendered nature of such harms.

4.3 Children's Rights in the Digital Sphere

Papers in this group may focus on the potential of the digital environment, the platform economy, AI and data ethics to promote and/or undermine children's rights, including an analysis of the adequacy of applicable legal and policy frameworks. How, for instance, are the development of digital technologies, access to devices (cell phones, laptops, and iPads) and the internet transforming the scope, exercise, interpretation and application of children's rights? How do these developments affect the parent-child-state relationship; access to education; exposure to harmful content and contact with strangers? There are also risks of the 'harvesting' and processing of personal data without the consent of the data subject (child) and/or the parent.¹⁶ This data is often stored, shared and processed to generate targeted adverts based on the child's activities online. Apart from increasing screen time, this may result in addiction, anxiety and depression. In addition, caregivers and companies are now using children to advertise products on multiple platforms, including YouTube; Tik Tok; Instagram and many others. Anecdotal evidence suggests that children's participation in the platform economy has blurred the distinction between the right to play and child labour, thereby creating new forms of exploitation that are not effectively regulated by existing international, regional and national laws and policies.¹⁷

Apart from the risks potentially posed by emerging technologies and access to internet, how can children, caregivers, the State and non-state actors leverage the digital environment to promote the enjoyment of children's rights across the continent and beyond. There is evidence,

¹⁶ O Sibanda, 'Towards a more effective and coordinated response by the African Union on children's privacy online in Africa' (2022) 6 *African Human Rights Yearbook* 154.

¹⁷ See generally Simone van der Hof 'The Child's Right to Protection against Economic Exploitation in the Digital World' 28 (2020) *The International Journal of Children's Rights* 833-859.

already, that the digital environment creates space for children to participate in political, social, educational and information seeking activities, including learning about new things online. Likewise, it creates civic space for children to build social networks and support systems that enable them to develop, thrive and flourish.¹⁸ Besides, some scholars have already demonstrated how AI can be used to ensure that children are safe online by enabling them to have AI guardians that generate prompts to alert children that they are about to have access to harmful content that is neither age-appropriate nor consistent with their evolving capacities.¹⁹ To this end, papers may also discuss how to leverage the digital environment to promote children's rights, including focussing on solutions that address challenges in the digital sphere.

4.4 Business and Children's Rights

Children's rights dictate how countries should regulate and respond to the conduct of non-state actors such as traditional and religious groupings; armed groups, businesses and multi-national companies working within and, in some cases, beyond their territories. Papers in this category may unpack the intersection between children's rights and business, including the conduct of technology companies, internet service providers, multinational companies and the extractive industries. This analysis should be informed by domestic and international laws, focussing on how best to improve regulation and compliance without undermining economic development imperatives.

4.5 Poverty, Child Sensitive Social Policies and Socio-Economic Rights

Submissions in this thematic area may reflect on the extent to which governments have fulfilled their obligations to provide public services and other necessities of life to children. This may require an analysis of economic or social policies, development plans and the use of statistical or other data to measure governments' compliance with their legal obligations. Apart from analysing the state of public service provisioning programmes, papers may also analyse the role of courts in promoting the realisation of socio-economic rights.

4.6 Child Protection

The protection of children from multiple harms is the *raison d'être* of children's rights and child rights instruments. Children across the world are subjected to different harmful practices that include, among others, child marriage, female genital mutilation, virginity testing, human trafficking, abduction for sexual and other purposes (including *Ukhutwala*); recruitment into armed forces or militant groups, worst forms of child labour, breast ironing and many others. Papers in this stream may analyse developments relating to the enactment and enforcement of laws protecting children from harmful practices and court decisions to this end.

4.7 The Child Justice System and Children's Rights

Papers in this stream may analyse the intersection between children's rights and various aspects of the criminal justice system, including the impact of certain guarantees on government responses to crimes committed by children in trouble with the law.

4.8 Gender, Disability and Children in Situations of Vulnerability

¹⁸ GS O'Keeffe, K Clarke-Pearson and Council on Communications and Media, *Clinical Report: The Impact of Social Media on Children, Adolescents, and Families* (2011) 800-804.

¹⁹ Ronny Bogani and Burkhard Schafer, 'Artificial Intelligence and Children's Rights' in M Ienca et al (eds) *The Cambridge Handbook of Information Technology, Life Sciences and Human Rights* (2022) 215-230.

Papers in this category may analyse the manner in which gender, disability and other vulnerabilities impact the enjoyment of children's rights, including the implications of multiple layers of disadvantage for government interventions and development programming to address multiple and intersecting vulnerabilities.

4.9 Institutional Mechanisms for the Realisation of Children's Rights

At the domestic level, governments (through line ministries), national human rights institutions and the courts perform important functions in the advancement, enforcement and realisation of children. At the international, regional and sub-regional levels, the monitoring of children's rights is entrusted to treaty bodies and other special mechanisms, including special rapporteurs and working groups. Papers in this stream may analyse whether the different spheres of government, national human rights institutions and the courts have complied with their obligations to respect, protect, promote interpret and enforce children's rights. They may also analyse the extent to which governments have complied with international state party reporting obligations or child rights related recommendations made by treaty bodies, including the Committee on the Rights of the Child; the African Committee of Experts on the Rights and Welfare of the Child and many others.

Papers that cut across two or more thematic areas and analyse overlapping intersections between themes are strongly encouraged.

5 Methodology, Approach and Scope

Evidently, there is a huge gap between the legal and policy frameworks adopted to protect and promote children's rights, and their actual implementation. Furthermore, there seems to be a general tendency to formulate laws, policies and programmes without adequate consideration of the human, institutional and financial resources required to effectively implement them and achieve the desired outcomes for children. In other words, proposed interventions are rarely costed. Against this backdrop, it is time to analyse the:

- ❖ Bottlenecks hindering the effective implementation of child rights laws, policies and programmes at multiple levels;
- ❖ way governments and comparative jurisdictions have tried to address these bottlenecks and the lessons that can be drawn from these experiences;
- ❖ adequacy of child-sensitive economic and social policy programming and its responsiveness to challenges in the enjoyment of children's rights; and
- ❖ measures that can be adopted to bridge the gap between law and policy, on one hand, and programs and implementation practices, on the other.

Whilst participants are expected to engage critically with international and (sub)regional human rights treaties, domestic laws and policies, available data, court judgments, knowledge resources and other materials on the subject, **they should avoid submissions that constitute mere regurgitations of available literature with no original contribution to the subject.**

6 Expected Outputs and Outcomes

In general terms, the main expected outcome of the conference relates to participants' improved capacity to interpret and apply international and domestic child rights laws, norms and standards; including knowledge of best practices in promoting children's rights. Specifically, the expected outputs and outcomes of the conference include:

- ❖ Increased knowledge generation about and application of child rights norms and standards across multiple sectors designed to protect and benefit children;
- ❖ Improved understanding of existing opportunities, gaps and challenges in the realisation of children's rights and the legislative, policy and programmatic interventions needed to address these gaps and challenges effectively;
- ❖ Better commitment to research and action to ensure the formulation and implementation of laws, policies and programmes on children's rights;
- ❖ Improved networking and post conference programmatic collaboration and coordination among child rights practitioners operating in different sectors;
- ❖ A conference communiqué calling for child rights based/sensitive laws, policies and programmes in across the world; and
- ❖ A special issue on children's rights in a DHET accredited journal or an edited volume of a book published by Lexis Nexis.

7 Format, Venue and Timeline²⁰

This two-day Conference will be held in person at the Faculty of Law, Stellenbosch University, on **10-11 September 2024**. Online participation could be considered by the organisers, if necessary. The key dates are as follows:

- Deadline for the submission of an Abstract: **15 March 2024**.
- Decision for the selection of abstracts: **5 April 2024**.
- Deadline for the submission of the first draft of the paper: **28 June 2024**.
- Deadline for the submission of the second draft of the paper: **08 August 2024**.
- International Conference on Children's Rights: **10-11 September 2024**.
- Deadline for the submission of the final paper for publication: **15 November 2024**.

8 Abstract Guidelines

- Abstracts should be no more than 400 words. Submissions must include the presenter's name, affiliation, contact information, and a short bio (150 words).
- Abstract submission deadline: 15 March 2024.
- Abstract selection finalisation 5 April 2024.
- Submit abstracts to Dr Admark Moyo, admarkm@sun.ac.za, copying Professor Sonia Human, shum@sun.ac.za

²⁰ The organisers reserve the right to extend or change the deadlines and dates indicated in this Call if organisational needs require it. Applicants whose abstracts have been accepted will be duly notified of any changes.