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Children's Health and Human Rights

by Norie Nogami

The child that is hungry must be fed, the child that is sick must be helped, 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 (Eglantyne Jebb/International Save the Children Union, Declaration on the Rights of the Child—Adopted by the League of Nations as the Declaration of Geneva, in 1924).

One of the first international attempts to improve the health of children was by Ms. Eglantyne Jebb, a founder of Save the Children, during the aftermath of the WWI. She drafted the Geneva Declaration of the Rights of the Child, the first international children's rights document adopted by the League of Nations in 1924. Today, in the Convention on the Rights of the Child (1989) we have a more comprehensive and near universal legal instrument for children's rights.

These developments have represented dramatic shifts in the attention of the international community on children's rights. In the Convention on the Rights of the Child states moved to protect the rights of refugee, detained, and otherwise exploited and forgotten children. More recent developments on the children's rights legal instruments are the optional protocols to the Convention on the Rights of the Child prohibiting the use of children in armed conflict, 2000 and the Worst Forms of Child Labor Convention, (International Labour Organization Convention 182) 1999 which targeted such practices as child slavery, sexual exploitation, debt bondage, and trafficking. Clearly, at each stage of development of international children's rights more different groups of children have been recognized to need special attention.

Empirical evidence and a growing literature also indicate that the fight for children's right to health is growing in importance. According to UNICEF, an estimated 12 million children under the age of five die every year, many of easily preventable accidents; approximately 160 million children are severely or moderately malnourished; and an estimated 250 million children are engaged in some form of labour.

Basic Resources

UN Entities

- **United Nations Children's Fund (UNICEF)**
United Nations Children's Fund (UNICEF) is a main International Organization focusing on realization of Child Rights. UNICEF are working on health issues of children such as: immunization against common childhood diseases, prevention against HIV/AIDS, and better nutrition. Its updated activity information and many publications such as "The State of the World's Children" are available at its web site.
- **Committee on the Rights of the Child**
<http://www.unhchr.ch/html/menu2/6/crc/>

Conferences

- **World Declaration on the Survival, Protection and Development of Children**
This declaration was Agreed to at the World Summit for Children on 30 September 1990 <http://www.unicef.org/wsc/declare.htm>
- **Plan of Action for Implementing the World Declaration on the Survival, Protection and Development of Children in the 1990s**
<http://www.unicef.org/wsc/plan.htm>
- **Goals for Children and Development in the 1990s**
<http://www.unicef.org/wsc/goals.htm>
- **U.N. General Assembly's Special Session on Children in 2001. 5-10, May 2002**
<http://www.unicef.org/specialsession/>
This session was convened to review progress since the World Summit for Children in 1990 and re-energize global commitment to children's rights.

Legal Instruments

- **Geneva Declaration on the Rights of the Child 1924**
<http://www.crin.org/resources/infoDetail.asp?ID=1309&flag=legal>
- **Declaration on the Rights of the Child 1959**
<http://www.unhchr.ch/html/menu3/b/25.htm>
- **Convention on the Rights of the Child 1989**
<http://www.unhchr.ch/html/menu2/6/crc/treaties/crc.htm>
- **Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour 1999**
<http://www.ilo.org/public/english/standards/ipecc/ratification/convention/text.htm>
- **Optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict 2000**
<http://www.unhchr.ch/html/menu2/6/crc/treaties/opac.htm>
- **Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography 2000**
<http://www.unhchr.ch/html/menu2/6/crc/treaties/opsc.htm>
- **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 1986**
<http://www.unhchr.ch/html/menu3/b/27.htm>
- **Children's rights legal instruments annotated by UNICEF**
<http://www.unicef.org/crc/crc.htm>

- **Human rights instruments by UNOHCHR**
<http://www.unhchr.ch/html/intlinst.htm>

NGOs

- **Save the Children, USA**
<http://www.savethechildren.org>
Save the Children, USA is one of a major “nonprofit child-assistance organization to make lasting positive change in the lives of children in need.” Its health program has held in over 30 countries, and, its priority program areas include newborn and child health and survival, reproductive health (including family planning, safe motherhood, and adolescent health), HIV/AIDS and school health and nutrition.
- **International Save the Children Alliance**
<http://www.savethechildren.net/alliance/index.html>
The International Save the Children Alliance, an association of 26 independent organizations that provide child-oriented emergency response, development assistance and advocacy of children's rights in more than 100 countries.
- **Children's Defense Fund**
<http://www.childrensdefense.org/>
- **The International Save the Children Alliance**
<http://www.savethechildren.net>
The International Save the Children Alliance, an association of 26 independent organizations that provide child-oriented emergency response, development assistance and advocacy of children's rights in more than 100 countries.

Civil and Political Rights

The section below on sexual exploitation lists texts that provide a broad perspective on how personal security is violated various forums of sexual exploitation. The literatures on Sexual Exploitation, Female Genital Mutilation and Trafficking illustrate how that general approach is brought to bear in these key situations. Juvenile Justice and Corporal Punishment explains how children are treated differently in legal fora, for better or worse.

Sexual Exploitation

Bilyeu, Amy Small. 1999. “Trokosi – The Practice of Sexual Slavery in Ghana: Religious and Cultural Freedom vs. Human Rights.” *Indiana University Indiana International & Comparative Law Review* 9: 457.

Higgins-Thornton, Shawronda. 2003. "Innocence Snatched: A Call for a Multinational Response to Child Abduction that Facilitates Sexual Exploitation." *The Georgia Journal of International and Comparative Law* 31: 619-.

Loyd, Gregory S. 2001. "Child Sexual Exploitation in Costa Rica." *Indiana University Indiana International & Comparative Law Review* 12: 157-181.

Mahler, Karen. 1997. "Global Concern for Children's Rights: The World Congress Against Sexual Exploitation." *International Family Planning Perspectives* 23(2): 79-84.

Mikhail, Susanne Louis B. 2002. "Child marriage and child prostitution: two forms of sexual exploitation." *Gender and Development* 10(1): 43-49.

Abstract: This article highlights some of the similarities between child marriages and child prostitution. Both child marriage and prostitution involve economic transactions, lack of freedom, and the violation of a child's right to consent. This is often exacerbated by social and economic vulnerabilities of children linked to limited life options. In order to capture much of the ongoing discussion and debate taking place in North Africa and the Middle East, this article draws on anecdotal evidence, limited research samples, communication with local actors, and the author's own personal experiences in the region. It also discusses some initiatives undertaken by a range of institutions with the aim of preventing these practices.

Willis, Brian M. and Barry S. Levy. 2002. "Child prostitution: global health burden, research needs, and interventions." *The Lancet* 359(315): 1417-1422.

Abstract: ..In this article we estimate morbidity and mortality among prostituted children, and propose research strategies and interventions to mitigate such health consequences. Our estimates underscore the need for health professionals to collaborate with individuals and organizations that provide direct services to prostituted children...

Female Genital Mutilation

Althaus, Frances A. 1997. "Female Circumcision: Rite of Passage Or Violation of Rights?" *International Family Planning Perspectives* 23(3): 130-133.

Wood, Alexi Nicole. 2001. "A cultural rite of passage or a form of torture: Female genital mutilation from an international law perspective." *Hastings Women's Law Journal* 12: 347.

Abstract: This article adds to the growing literature on FGM by analyzing FGM as a violation of international law, especially the United Nations ban on torture. Section II explores the various types of FGM that are performed, their historical background, the reality of FGM and the various attempts that have been made to help reduce the numbers of procedures performed. Section III examines how international law, covenants and treaties can be used to help protect women from FGM, and also from experiencing the continued agony and repression that accompanies FGM. Finally, this Article concludes by providing proposals for change.

Centre for Human Rights. 1995. Harmful traditional practices affecting the health of women and children. Geneva, Switzerland; New York.

This fact sheet identifies and analyses the background causes of harmful traditional practices, and their consequences for the health of women and the girl child. It also reviews the action taken by United Nations organs and agencies, governments and NGOs to this end.

Cisse, Bernadette Passade. 1997. "International Law Sources Applicable to Female Genital Mutilation: A Guide to Adjudicators of Refugee Claims Based on a Fear of Female Genital Mutilation." *Columbia Journal of Transnational Law* 35: 429.

Abstract: This Comment identifies the factors that U.S. adjudicators should take into account when adjudicating asylum claims by individuals n1 that involve the traditional practice of female genital mutilation (FGM) or what has variously been called excision, female circumcision, or female genital surgery. This Comment discusses the practice of FGM, canvasses international human rights principles applicable to FGM and analyzes refugee status determination, including international protection principles associated with the cessation and exclusion clauses of the 1951 Convention relating to the Status of Refugees. A primary focus of this Comment is on the international protection guidelines issued by the Office of the UNHCR.

Cook, R.J.; B.M. Dickens; and M.F. Fathalla. 2002. "Female genital cutting (mutilation/circumcision): ethical and legal dimensions." *International Journal of Gynecology and Obstetrics* 79(3): 281-287.

Davar, Binaifer A. 1997. "Women: Female Genital Mutilation." *Texas Journal of Women & the Law* 6: 257.

Gruenbaum, Ellen. 2000. *The Female Circumcision Controversy: An Anthropological Perspective*, University of Pennsylvania Press.

Gunning, Isabelle R. 1999. "A Global Feminism at the Local Level: Criminal and Asylum Laws Regarding Female Genital Surgeries." *The Journal of Gender, Race & Justice* 3: 45.

Abstract: This essay is one example of a Critical Race Feminist/Critical Race Theorist exploration of the impact of the implementation of international "law" - or norms through domestic legislation - on women of color at the local level. In the U.S. inconsistencies and hypocrisies are two aspects of the array of reverberations that have been generated by the implementation of the global norm opposing female genital surgeries (FGS) in domestic laws. I will explore these tensions and contradictions in the context of two types of American domestic laws that involve female genital surgeries.

Hughes, Karen. 1995. "The Criminalization of Female Genital Mutilation in the United States." *Journal of Law and Policy* 4: 321.

Abstract: This Note proposes that Congress enact legislation to prohibit the practice of FGM in the United States. Part I describes the origins of and continuing justifications advanced for the practice of FGM, as well as the history of FGM in the US. Part II summarizes the criminalization and treatment of FGM in other Western and African countries. Part III analyzes constitutional and legal issues involved in passing federal legislation criminalizing FGM. Section A argues that Congress has the power to enact federal legislation to prohibit FGM via the Commerce Clause. Sections B and C argue that a federal law prohibiting FGM would not violate the Free Exercise of Religion Clause of the First Amendment or the fundamental right to privacy recognized by the Supreme Court. Section D reasons that if FGM is criminalized in the US, immigrants who practice FGM

should not be exempt from prosecution under a cultural defense or religious exemption. Lastly, Section E analyzes the Federal Prohibition of FGM Act of 1995, authored by Congresswoman Patricia Schroeder, which would make the practice of FGM a federal crime and suggests modification to the proposed bill.

Kelson, Gregory A. 1995. "Granting Political Asylum to Potential Victims of Female Circumcision." *Michigan Journal of Gender & Law* 3: 257.

Abstract: Part I of this article examines two cases. In one case, a U.S. immigration court allowed female circumcision as a defense to deportation. In another case, the Canadian Immigration and Refugee Board granted political asylum after recognizing female circumcision as a form of persecution. Part II assesses the extent of protections currently provided for potential victims of female circumcision under U.S. asylum law and analyzes the factors that a court should consider when making asylum determinations. Part III recommends that gender should be added to the enumerated grounds for persecution under U.S. asylum law. This section provides a hypothetical that demonstrates how claims of asylum based on female circumcision should be analyzed as gender-based persecution.

Maguigan, Holly. 1999. "Will prosecutions for "female genital mutilation" stop the practice in the U.S.?" *Temple Political & Civil Rights Law Review* 8: 391.

Abstract: This essay questions the utility of criminal prosecution, under either the new special statutes or under generally-applicable prohibitions of assault and child abuse, as a device to end the practice. Either choice, of course, exposes those convicted to a range of attendant punishments, significant among which, in this context, are the immigration consequences of convictions. The urge to resort to criminal sanctions, arguably without sufficient attention to the collateral penalties faced by convicted immigrant parents (primarily mothers), is the result of three phenomena: the developing awareness that the practice occurs in the U.S.; a determination to send the social policy message that FGM is not tolerated; and an apparent belief that criminal law will operate as a deterrent to the proscribed activities.

Messito, Carol M. 1997. "Regulating rites: legal responses to female genital mutilation in the West." *The Buffalo Journal of Public Interest Law* 16: 33.

This comment examines the legislative responses to FGM by Western legal systems, with a focus on the new U.S. federal law. Section I examines the substance of U.S. federal law and the factors that influenced its passage. Sections II and III examine regional approaches within the U.S. and the EU. An exploration of potential Constitutional problems with the new U.S. legislation follows in Section IV, focusing on whether the law is an unconstitutional burden on the free exercise of religion and whether it is beyond Congresses' power to regulate this practice. Section V presents the primary arguments against the criminalization of FGM on an international level and examines the potential relevance of these arguments to the domestic law.

Obiora, L. Amede. 1997. "Bridging Society, Culture, and Law: The Issue of Female Circumcision: Bridges and Barricades: Rethinking Polemics and Intransigence in the Campaign Against Female Circumcision." *Case Western Reserve Law Review* 47: 275.

White, Allen E. 2001. "Female Genital Mutilation in America: The Federal Dilemma." *Texas Journal of Women & the Law* 10: 129.

Abstract: This paper explores three possible bases of authority for the federal FGM statute. Part II of this paper examines the historical background of FGM practices and discusses medical and sociological aspects of this ancient custom. Part III provides an overview of the legal response to modern FGM issues in Europe and Africa and of efforts by the international community to address the issue, principally through the United Nations. Part IV begins an examination of the legal response in the United States by state governments and the federal government, focusing on the federal criminal statute proscribing FGM.

Trafficking

Farrior, Stephanie. 1997. "The International Law on Trafficking in Women and Children for Prostitution: Making it Live Up to its Potential." *Harvard Human Rights Journal* 10: 213.

Abstract: This Article provides a survey and analysis of the international tools available to combat trafficking for prostitution. It examines conventions on trafficking and slavery, two International Labor Organization conventions, the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Rights of the Child (CRC). The next section discusses the U.N. Charter-based mechanisms: such as the U.N. Commission on Human Rights, its Sub-Commission, and its Working Group on Contemporary Forms of Slavery. It also describes the "soft law" on trafficking, along with various Plans of Action adopted by U.N. bodies, such as the Program of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography, adopted by the U.N. Commission on Human Rights in 1992.

Fitzpatrick, Joan. 2003. "Trafficking as a Human Rights Violation: the Complex Intersection of Legal Frameworks for Conceptualizing and Combating Trafficking." *Michigan Journal of International Law* 24: 1143.

Inglis, Shelley Case. 2001. "Expanding International and National Protections Against Trafficking For Forced Labor Using A Human Rights Framework." *Buffalo Human Rights Law Review* 7: 55.

Abstract: This article discusses how the current process of redefinition and debate concerning trafficking is working to simultaneously broaden the scope of traditional conceptions of trafficking and bring into focus this phenomenon. Section I of this article will assess the contours of current international legal norms concerning trafficking and forced labor. Section II examines the limitations of these existing protections and contemporary suggestions from international actors for redefining trafficking. Section III reviews the current proposed solutions initiated by governmental, intergovernmental and non-governmental entities to address this considerable human rights problem. Turning to a discussion of the policy implications emerging from these proposed solutions, Section IV analyzes the most controversial aspects of the trafficking issue and highlights ways to expansively re-conceptualize international protections against trafficking. Finally, Section V concludes with a set of recommendations to effectively combat trafficking within a human rights framework.

Potts, LeRoy G., Jr. 2003. "Global Trafficking in Human Beings: Assessing the Success of the United Nations Protocol to Prevent Trafficking in Persons." *George Washington International Law Review* 35: 227.

Abstract: This Note discusses trafficking, especially in relation to the December 2000 Protocol. First, this Note briefly describes trafficking and provides an overview of the global trafficking problem. Second, this Note discusses the major elements of the Protocol, including the role of non-governmental groups in framing the trafficking debate. Finally, this Note suggests ways in which the United Nations (U.N.) and member states should combat trafficking in the aftermath of the signing of the Protocol.

Juvenile Justice and Corporal Punishment

- Carpenter, Robyn. 2000. "Surfacing Children: Limitations of Genocidal Rape Discourse." *Human Rights Quarterly* 22(2): 428-477.
- Hill, Ronald Paul; and Sandi Macan. 1996. "Welfare Reform in the United States: Resulting Consumption Behaviors, Health and Nutrition Outcomes, and Public Policy Solutions." *Human Rights Quarterly* 18(1): 142-159.
- Hirschl, Ran. 2000. "'Negative' Rights vs. 'Positive' Entitlements: A Comparative Study of Judicial Interpretations of Rights in an Emerging Neo-Liberal Economic Order." *Human Rights Quarterly* 22(4): 1060-1098.
- Kramer, Donald T. 1994. Legal Rights of Children. Deerfield, Ill, Clark Boardman Callaghan.
- Levesque, Roger J.R. and Alan J. Tomkins. 1995. "Revisioning Juvenile Justice: Implications of the New Child Protection Movement." *Washington University Journal of Urban and Contemporary Law* 48: 87.

Abstract: This Article examines the soundness of the new family and community based juvenile justice system. Part I examines the punitive zeitgeist that has developed within the juvenile justice system. Part II then examines juveniles' legal rights to in-home services and concludes that while juveniles may not have an affirmative right to in-home services, they do have liberty interests that protect against unnecessary removals from their homes. Part III details the reasons for directing efforts and resources to support family-based services for delinquent youth. This section explores the problems with current out-of-home placements, policy concerns favoring in-home placements, and the cost-benefit effectiveness of in-home placement programs. Part IV then provides an overview of the new family preservation statutes. These statutes highlight the often self-defeating effect of "defamilization" and state legislatures' interests in nonpunitive approaches to children who require state intervention. Finally, Part V concludes that the new child protection movement should not ignore delinquent youth and cautions against creating the type of boilerplate statutes that have historically plagued the juvenile justice system.

- McEntee, Adrienne D. 2003. "The Failure of Domestic and International Mechanisms to Redress the Harmful Effects on Australian Immigration Detention." *Pacific Rim Law & Policy Journal* 12: 263.

Abstract: Australia's Migration Act explicitly permits the government to detain non-citizens seeking entry without visas, including those who request asylum. Detainees wait up to five years for their immigration claims to be processed in detention centers managed by Australasian Correctional Management (ACM), a subsidiary of U.S. corporation Wackenhut Corrections. Arriving asylum-seekers often suffer the lasting effects of torture, threats of death, and other traumatic conditions - effects that are exacerbated by detention conditions. This

Comment emphasizes detention's effects on children, who suffer health and other problems while detained. Detainees, Australian citizens, and overseas commentators are now protesting against the detention policy. The government's response has been unsympathetic and legal challenges have been largely eliminated by Migration Act amendments that have virtually foreclosed judicial review. Further, while international claims are possible under treaties to which Australia is a party, such as the Convention on the Rights of the Child (CRC), they are generally difficult to enforce. Even the Alien Tort Claims Act (ATCA), which grants jurisdiction to U.S. Federal District Courts over international claims by foreign citizens, fails to offer redress for torts endured while in immigration detention, despite a recent development from the Ninth Circuit that further extends the ATCA's reach over multinational corporations. The ATCA remains ineffective because of difficulties in holding the U.S. parent, Wackenhut, liable for the actions of its foreign subsidiary, the detention management firm, ACM.

Mohr, Wanda; Richard J. Gelles; and Ira M. Schwartz. 1999. "Will the Juvenile Court System Survive?: Shackled in the Land of Liberty: No Rights for Children." *The Annals of the American Academy of Political and Social Science* 564(1): 37-55.

Abstract: This article addresses the rights of children in areas of juvenile justice, child welfare, and mental health. Although a large proportion of the juvenile court's business includes child welfare and mental health cases, these important areas are rarely considered by authors concerned with the future of the juvenile court. In mental health, children have few, if any, rights. Yet, they are often subjected to abuse and constraints that would constitute major civil rights violations if they were adults. In child welfare, children have some basic rights, but they are often dependent upon the virtually unbridled discretion of child welfare and other administrative officials. More often than not, the juvenile court plays a perfunctory role in the process and merely rubber-stamps recommendations made by child welfare personnel. The article discusses the implications of these issues and how they should be addressed in the future.

Oren, Laura. 2001. "Righting Child Custody Wrongs: The Children of the "Disappeared" in Argentina." *The Harvard Human Rights Journal* 14: 123.

Pistone, Michele R. 1999. "Justice Delayed Is Justice Denied: A Proposal for Ending the Unnecessary Detention of Asylum Seekers." *Harvard Human Rights Journal* 12: 197.

Abstract: This Article examines how, when, and why the INS detains asylum seekers pending adjudication of their claims. Part I briefly summarizes relevant asylum law and describes the INS's recent attempts to implement a parole system for asylum seekers. Part II describes the conditions under which asylum seekers are detained and the toll that detention takes on them. Part III examines the adverse impact that detention has on the asylum adjudication process, as being in custody severely impedes asylum seekers' ability to present thoroughly their asylum claims. The rationales that the INS has professed in support of its detention policies -- to deter undocumented immigration, to prevent absconding, and to protect the public safety -- are discussed in Part IV. Part V then argues that the force of two of these three rationales, namely, the deterrence and absconding rationales, has been substantially reduced as a result of recent changes to immigration law enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Part VI examines why the INS has failed to appreciate the reduced weight of the deterrence and absconding rationales post-IIRIRA. Finally, the Article concludes with a legislative proposal to create a parole system.

Pollard, Deana. 2003. "Banning Child Corporal Punishment." *Tulane Law Review* 77: 575.

Abstract: This Article will proceed in three Parts. First, a brief history of child corporal punishment and current statistics on its use will be reviewed, including a review of other nations' recent actions banning corporal punishment. Second, scientific data regarding the harms associated with child corporal punishment will be discussed. Finally, the current state of American law supporting child corporal punishment will be analyzed, and it will be shown that the policy justifications for the law have been entirely undermined by recent scientific research. This Article argues that American law should change to protect children and society from the harms scientifically shown to result from child corporal punishment.

Winter, M.; Chris Baerveldt; and J. Kooistra. 1999. "Enabling children: participation as a new perspective on child-health promotion." *Child: Care, Health and Development* 25(1): 15-25.

Abstract: As fellow citizens, all children need a stimulating social environment that helps them develop self-respect and social competence. Developmental research, however, shows that many children do not or cannot fulfill the social, moral or cognitive developmental tasks which are necessary for healthy development. A lack of opportunities for gaining meaningful social experiences can be seen as a major source of psychosocial and behavioral problems in children. On the contrary, active commitment in educational environments such as the school and the neighborhood helps them to get an increasingly better grip on their own lives and health. Moreover, such 'children's participation' appears to have a protective and preventive effect for health-related problems. Therefore, it is argued, that 'enablement', a key-element of both the Ottawa Charter on Health Promotion and the International Convention on the Rights of the Child, should be at the core of every child-health promotion programme.

Young, Wendy. 1999. "U.S. Detention of Women and Children Asylum Seekers: A Violation of Human Rights." *The University of Miami Inter-American Law Review* 30: 577.

Economic, Social, and Cultural Rights

The portion of the literature on health and human rights encompasses a well-developed literature on Child Labor. The sections on Poverty, Poverty, Nutrition and Education all combine to expose the causes and effects of children's participation in the market.

Poverty

Bartell, Ernest J. and Alejandro O'Donnell (eds.). 2001. The Child in Latin America: health, development, and rights. Notre Dame, Ind., University of Notre Dame Press.

Kurz, Demie and Amy Hirsch. 2003. "Welfare Reform and Child Support Policy in the United States." *Social Politics: International Studies in Gender, State and Society* 10(3): 397-412.

In all the debate over the 1996 Personal Responsibility and Work Reconciliation Act in the United States, little attention has been paid to the impact of welfare reform on women's ability to secure child support, a key to bringing single mothers out of poverty. Advocates of welfare reform claim it will reduce women's poverty, but we argue that this legislation actually makes it difficult for poor women to receive adequate child support because the legislation is written to serve the interests of the government, not those of poor women and children. We argue that the

goals of child support policies in the United States must change from punitive attempts to enforce child support orders to the type of child support assurance policies found in other welfare states that guarantee basic benefits for children.

Ramsey, Sarah and Daan Braveman. 1995. "LET THEM STARVE': Government's obligation to children in poverty." *Temple Law Review* 68: 1607.

White, Howard; Jennifer Leavy; and Andrew Masters. 2003. "Comparative Perspectives on Child Poverty: a review of poverty measures." *Journal of Human Development* 4(3): 379-396.

Abstract: Child poverty matters directly because children constitute a large share of the population, and indirectly for future individual and national well-being. Developed country measures of child poverty are dominated by income-poverty, although health and education are often included. But these are not necessarily the most direct measures of the things that matter to children. Moreover, a broader range of factors than material well-being matter for child development; family and community play an important role. The conclusion is that social and psychological variables are an important component of child welfare. Can such a conclusion be extended to developing countries? It might be thought not, since the dictates of a focus on absolute poverty imply concern with fundamentals such as malnutrition, illiteracy and premature death, and the things that cause these outcomes. But such a view is short-sighted. Child development concerns are at least as important in developing countries as developed ones, if less well understood. Hence, approaches to child welfare in developing countries (both measurement and policy) should also adopt a broad-based approach that embraces diverse aspects of the quality of a child's life, including child rights.

Social Services

Cousins, Wendy; Sharon Milner; and Eithne McLaughlin. 2003. "Listening To Children, Speaking For Children: Health and Social Services Complaints and Child Advocacy." *Child Care in Practice* 9(2): 109-116.

Morgan, Kimberly J. 1970- 2001. "A Child of the Sixties: The Great Society, the New Right, and the Politics of Federal Child Care." *Journal of Policy History* 13(2): 215-250.

Moye, Jim; and Roberta Rinker. 2002. "It's a Hard Knock Life: Does the Adoption and Safe Families Act of 1997 Adequately Address Problems in the Child Welfare System?" *Harvard Journal on Legislation* 39: 375.

Abstract: One of the biggest problems with the child welfare system in the U.S. is that there are too many children in foster care for too long a period of time. In response to this concern, Congress enacted the Adoption and Safe Families Act of 1997 ("ASFA"), the primary purpose of which is to facilitate the quicker placement of foster children into permanent homes. The statute's chief vehicle for accomplishing this objective is the requirement that a permanency hearing be held within twelve months of a child's entering the foster care system. In this Essay, Mr. Moye and Ms. Rinker argue that ASFA, far from reforming the child welfare system, has actually exacerbated the problems inherent in the system. In particular, the statute's twelve-month permanency deadline has made it almost impossible for a family that has lost a child to the foster care system to reunify.

Nutrition

Jonsson, U. 1997. "An approach to assess and analyze the health and nutrition situation of children in the perspective of the Convention on the Rights of the Child." *The International Journal of Children's Rights* 5(4): 367-381.

Pande, Rohini. 2003. "Selective Gender Differences in Childhood Nutrition and Immunization in rural India: The Role of Siblings." *Demography* 40(3): 395-418.

Abstract: This article examines the role of the sex composition of surviving older siblings on gender differences in childhood nutrition and immunization, using data from the National Family Health Survey, India (1992-1993). Logit and ordered Logit models were used for severe stunting and immunization, respectively. The results show selective neglect of children with certain sex and birth-order combinations that operate differentially for girls and boys. Both girls and boys who were born after multiple same-sex siblings experience poor outcomes, suggesting that parents want some balance in sex composition. However, the preference for sons persists, and boys who were born after multiple daughters have the best possible outcomes.

Child Labor

Arat, Zehra F. 2002. "Analyzing Child Labor as a Human Rights Issue: Its Causes, Aggravating Policies, and Alternative Proposals." *Human Rights Quarterly* 24(1): 177-204.

Briones, Joshua. 1999. "Paying the price for NAFTA: NAFTA'S effect on women and Children laborers in Mexico." *UCLA Women's Law Journal* 9: 301.

Abstract: Women and children laborers in Mexico are badly mistreated. The North American Agreement on Labor Cooperation (NAALC), one of the two side agreements to the North American Free Trade Agreement (NAFTA), has had little impact on the current domestic labor laws and does little to safeguard against discrimination, inhumane treatment, dismal working conditions, and even the presence of children in the workforce. In this Comment, Joshua Briones discusses the prevalence of women and children in the Mexican labor force. He identifies why and how employers exploit women and children in Mexico. He then proposes that the NAALC is ineffective in stopping the abuse of women and children in Mexico by demonstrating how the NAALC is simply reinforcing existing domestic laws, rather than providing meaningful international oversight. Finally, he presents suggestions to redraft the NAALC to improve the treatment of women and children workers in Mexico.

Budd, P.P. and D.M. Joss 1998. "Social origins and implications of child labor." *Work* 10(3): 279-291.

Abstract: Child labor continues to present a serious health threat to millions of children worldwide. Not all work is detrimental to children, and under carefully controlled conditions can benefit them in terms of physical and intellectual development as well as make positive contributions to their financial status. Unfortunately, most situations where children are used as a labor force are not designed with the health of the laborers as a primary concern. This article will review the current status of child labor, present theories regarding the social, cultural and economic bases of the practice, discuss its health implications and finally, explore possible solutions to this complex problem.

- Bullard, Madeleine Grey. 2001. "Child labor prohibitions are universal, binding, and obligatory LAW: the evolving state of customary international law concerning the unempowered child laborer." *Houston Journal of International Law* 24: 139.
- Compa, Lance. 1995. "Symposium: NAFTA at Age One: A Blueprint for Hemispheric Integration?: The Labor Side Agreement: Going Multilateral: The Evolution of U.S. Hemispheric Labor Rights Policy Under GSP and NAFTA." *Connecticut Journal of International Law* 10: 337.
- Creighton, Breen. 1997. "Combating child labour: the role of International labour standards." *Comparative Labor Law Journal* 18: 362.
- Davidson, Mary Gray. 2001. "The International Labour Organization's Latest Campaign to End Child Labor: Will it Succeed Where Others Have Failed?" *Transnational Law & Contemporary Problems* 11: 203.
- Dennis, Michael J. 1999. "The ILO Convention on the Worst Forms of Child Labor." *The American Journal of International Law* 93(4): 943-948.
- Dennis, Michael J. 2003. "Current Development: Human Rights in 2002: The Annual Sessions of the U.N. Commission on Human Rights and the Economic and Social Council." *The American Society of International Law* 97: 364-386.
- Diller, Janelle M. and David A. Levy. 1997. "Child Labor, Trade and Investment: Toward the Harmonization of International Law." *The American Journal of International Law* 91(4): 663-696.
- Garg, Anjali. 1999. "A child labor social clause: analysis and proposal for action." *New York University School of Law Journal of International Law and Politics* 31: 473.
- Green, Lora A. 2001. "The Global Fight for the Elimination of Child Labor in Pakistan." *Wisconsin International Law Journal* 20: 177.
- Harris-Short, Sonia. 2003. "International Human Rights Law: Imperialist, Inept and Ineffective? Cultural Relativism and the U.N. Convention on the Rights of the Child." *Human Rights Quarterly* 25(1): 130-181.
- Abstract: Against the background of the largely theoretical debate concerning the use and potential abuse of the cultural relativism argument by State elites, this article seeks to explore how, if at all, the cultural relativism argument is actually being deployed in practice by state delegates appearing before the U.N. Committee on the Rights of the Child. Based on the evidence from this analysis, it is contended that "cultural difference" remains a common and formidable argument but that the dynamics of this argument, as played out before the Committee, simply reflect the inherent limitations and fundamental weaknesses of an international legal system founded on a "society of States" in which the voices of the local and particular are effectively silenced.*
- Holland, Tracey 1998. "Human Rights Education for Street and Working Children: Principles and Practice." *Human Rights Quarterly* 20(1): 173-193.
- Howe, Robert Brian; and Katherine Covell. 2003. "Child Poverty in Canada and the Rights of the Child." *Human Rights Quarterly* 25(4): 1067-1087.

Abstract: The purpose of this article is to examine the problem of child poverty in Canada in light of Canada's commitments under the United Nations Convention on the Rights of the Child. By ratifying the Convention in 1991, Canada was obligated to advance the basic economic security rights of children under Article 27. A particular problem, as Canada recognized, was child poverty. In accord with the Convention, Canada took important measures to overcome the problem. However, child poverty has persisted as a serious problem, putting at risk the exercise of children's rights in ways that are more far-reaching than often thought.

Ibrahim, Barbara. 2001. "Book Review: The Female Circumcision Controversy: An Anthropological Perspective, Ellen Gruenbaum." *Studies in Family Planning* 32(2): 186-187.

Khan, Ali. 2001. "The dignity of labor." *Columbia Human Rights Law Review* 32: 289.

Kilkelly, Ursula. 2001. "The Best of Both Worlds for Children's Rights? Interpreting the European Convention on Human Rights in the Light of the U.N. Convention on the Rights of the Child." *Human Rights Quarterly* 23(2): 308-326.

Kilkelly, Ursula. 2003. "Economic exploitation of Children: A European perspective." *Saint Louis University Public Law Review* 22: 321.

Malby, S.J. 2002. "Education and Health: A Role for Private Actors in Meeting Human Rights Obligations?" *The International Journal of Human Rights* 6(3): 1-36.

Abstract: Increasingly, including in developing countries, the private sector impacts significantly on rights to education and the highest attainable standard of health. How, though, can a state ensure that this is a positive impact? And, if a violation of rights does occur, how should culpability be divided between the state and the private sector? The increasing justiciability of economic and social rights, together with moves at the international level to develop a rights-based accountability for private actors, suggests that the sector may soon assume legal responsibilities, in line with the expansion of human rights from its classical concern of action by the state.

Monshipouri, Mahmood. 2001. "Promoting Universal Human Rights: Dilemmas of Integrating Developing Countries." *Yale Human Rights & Development Law Journal* 4: 25.

Morgan, Kimberly J. 2001. "A Child of the Sixties: The Great Society, the New Right, and the Politics of Federal Child Care." *Journal of Policy History* 13(2):215-250.

Odinkalu, Anselm Chidi. 2001. "Analysis of Paralysis or Paralysis by Analysis? Implementing Economic, Social, and Cultural Rights Under the African Charter on Human and Peoples' Rights." *Human Rights Quarterly* 23(2): 327-369.

Okin, Susan Moller. 2003. "Poverty, Well-Being, and Gender: What Counts, Who is Heard?" *Philosophy & Public Affairs* 31(3): 280-316.

Posel, Sherab. 1995. "Kamaiya: Bonded Labor in Western Nepal." *Columbia Human Rights Law Review* 27: 123.

Santoro, Michael A. 2003. "Beyond Codes of Conduct and Monitoring: An Organizational Integrity Approach to Global Labor Practices." *Human Rights Quarterly* 25(2): 407-424.

Abstract: This article analyzes the "best practices" of several companies at the leading edge of the global labor rights movement and offers guidance to companies seeking to enhance the effectiveness of their human rights programs. While leading companies still continue to devote significant resources to monitoring and compliance, the companies following the "organizational integrity" approach are exploring other initiatives designed to prevent rights violations from occurring in the first place and to enable remediation of problems which are uncovered. This article analyzes the three essential components of the organizational integrity approach: (1) Cooperation with NGOs, (2) Training and remediation programs for problems uncovered through monitoring, and (3) Integration of proactive rights-sensitive sourcing policies with overall company strategy.

Satz, Debra. 2003. "Child Labor: A Normative Perspective." *World Bank Economic Review* 17(2): 297-309.

Abstract: Examining child labor through the lenses of weak agency, distributive inequality, and harm suggests that not all work performed by children is equally morally objectionable. Some work, especially work that does not interfere with or undermine their health or education, may allow children to develop skills they need to become well-functioning adults and broaden their future opportunities. Other work, including child prostitution and bonded labor, is unambiguously detrimental to children. Eliminating these forms of child labor should be the highest priority. Blanket bans on all child labor may drive families to choose even worse options for their children, however. Moreover, child labor is often a symptom of other problems? Poverty, inadequate education systems, discrimination within families, ethnic conflicts, inadequately protected human rights, weak democratic institutions? That will not be eliminated by banning child labor.

Scott, Craig. 1999. "Reaching Beyond (Without Abandoning) the Category of "Economic, Social and Cultural Rights"." *Human Rights Quarterly* 21(3): 633-660.

Silk, James J. and Meron Makonnen 2003. "Economic exploitation of children: Ending child labor: A role for international human rights law?." *Saint Louis University Public Law Review* 22: 359.

Smolin, David M. 2000. "Strategic Choices in the International Campaign Against Child Labor." *Human Rights Quarterly* 22(4): 942-987.

The adoption of the 1999 Worst Forms of Child Labor Convention represents a significant strategic shift in the international campaign against child labor. This article analyzes this strategic shift, and proposes refinements and additional methodologies that could guide the movement. Specifically, this article discusses how the Amartya Sen's "entitlement" theory could help to guide the activism of the child labor movement toward greater effectiveness.

Smolin, David M. 1999. "Conflict and ideology in the international campaign against child labour." *Hofstra Labor & Employment Law Journal* 16: 383.

Stone, Adam. 2002. "Human Rights Education and Public Policy in the United States: Mapping the Road Ahead." *Human Rights Quarterly* 24(2): 537-557.

Tucker, Lee 1997. "Child Slaves in Modern India: The Bonded Labor Problem." *Human Rights Quarterly* 19(3): 572-629.

Education

Glanz, Karen; Barbara K. Rimer; and Frances Marcus Lewis (eds.). 2002. Health Behavior and Health Education: Theory, Research, and Practice. San Francisco: Jossey-Bass.

Levesque, Roger J.R. 1997. "The Right to Education in the United States: Beyond the Limits of the Lore and Lure of Law." *Annual Survey of International & Comparative Law Golden Gate University School of Law* 4: 205.

Malby, S.J. 2002. "Education and Health: A Role for Private Actors in Meeting Human Rights Obligations?" *The International Journal of Human Rights* 6(3): 1-36.

Abstract: Increasingly, including in developing countries, the private sector impacts significantly on rights to education and the highest attainable standard of health. How, though, can a state ensure that this is a positive impact? And, if a violation of rights does occur, how should culpability be divided between the state and the private sector? The increasing justiciability of economic and social rights, together with moves at the international level to develop a rights-based accountability for private actors, suggests that the sector may soon assume legal responsibilities, in line with the expansion of human rights from its classical concern of action by the state.

Integrated Approaches

These works comprise thinking on children, health and human rights that are not overtly committed or opposed to an interpretation that depends on either covenant. The first portion of this bears this out through a strong focus on international conventions and law, as well as some general theoretical perspectives. The second highlights how NGOs acted on this mandate.

International Legal Frameworks

Alston, Philip (ed.). 1994. *The best interests of the child: reconciling culture and human rights*. Oxford, Oxford University Press.

This book assesses the impact of the Convention of the Rights of Child, especially Article 3, which requires that policies concerning children should respect the best interests of the child. The first part of the text provides country cases that highlight the tensions between an international commitment and local customs and practice.

Cohen, Cynthia Price. 1997. "The United Nations Convention on the rights of the child: a feminist landmark." *The College of William and Mary William and Mary Journal of Women and the Law* 3: 29-78.

Cohen, Cynthia Price. 1999. "Sixteenth Annual International Law Symposium "Rights of Children in the New Millennium: Implementing the U.N. Convention on the Rights of the Child." *Whittier Law Review* 21: 95.

Cohen, Cynthia Price; Susan M. Kosloske; and Stuart N. Hart. 1996. "Monitoring the United Nations Convention on the Rights of the Child: The Challenge of Information Management." *Human Rights Quarterly* 18(2): 439-471.

Davis, Martha F.; and Roslyn Powell. 2003. "The International Convention on the Rights of the Child: A Catalyst for Innovative Child Care Policies." *Human Rights Quarterly* 25(3): 689-719.

This article analyzes the Convention on the Rights of the Child's impact on childcare in ratifying states, such as Australia, Finland, France and Sweden. It concludes that framing childcare as a human rights concern might enlist new sources of pressure to combat this aspect of the U.S. policy of exceptionalism.

Dillon, Sara. 2003. "Making Legal Regimes for Inter-country Adoption Reflect Human Rights Principles: Transforming The United Nations Convention on The Rights of the Child with THE Hague Convention on Inter-country Adoption." *Boston University International Law Journal* 21: 179-256.

Doek, Jaap E. 2003. "Overview: The Protection of Children's Rights and the United Nations Convention on the Rights of the Child: Achievements and Challenges." *Saint Louis University School of Law* 22: 235-252.

Fijalkowski, Agata; and Malgosia Fitzmaurice (eds.). 2000. The right of the child to a clean environment. Brookfield, Vt.: Ashgate Publishing, Ltd.

This book assesses the right of a child to a clean environment from the point of view of both theory and practice. It has good case studies in many countries.

Freeman, Michael D. (ed.). 2004. Children's Rights. Aldershot, Hants, England: Burlington, VT, Ashgate.

Harris-Short, Sonia. 2003. "International Human Rights Law: Imperialist, Inept and Ineffective? Cultural Relativism and the U.N. Convention on the Rights of the Child." *Human Rights Quarterly* 25 (1):130-181.

Jackson, Rochelle D. 1999. "The War Over Children's Rights: And Justice For All? Equalizing the Rights of Children." *Buffalo Human Rights Law Review* 5: 223.

Abstract: Part I of this article examines the history of the children's rights movement, while Part II examines the Convention on the Rights of the Child. In Part III, I examine the International Covenant on Civil and Political Rights and the International Convention on Economic, Social and Cultural Rights (ICESCR) which have placed an importance on civil and political rights and economic and social rights, respectively. Are children's rights ranked in the United States? If so, what role, if any, does America's refusal to ratify the Convention on the Rights of the Child play in perpetuating such a practice? Is it readily apparent and sanctioned by the judiciary, legislature and perhaps society? These are some of the issues raised in the final part of this article.

Littlewood, Paula C. 1997. "Domestic Child Abuse Under the U.N. Convention on the Rights of the Child: Implications for Children's Rights in four Asian Countries." *Pacific Rim Law & Policy Journal* 6: 411.

Abstract: This Comment first traces the background of children's rights ... and general observations about child abuse and the difficulties encountered when considering the problem across cultural boundaries. ... Second, this Comment analyzes the child abuse statutes and relevant policies of Hong Kong, China, Singapore, and Indonesia to determine if these states are complying with their obligations under Article 19 of the Convention. The third section explores how each country is dealing with the problem of child maltreatment and analyzes whether each state is complying with Article 19 of the Convention. Finally, it concludes with a discussion of how factors such as cultural attitudes, the regulatory strength of a country's government within the familial context, and economic prosperity influence the manner in which these countries address the problem of child abuse.

Saulle, Maria Rita (ed.). 1995. The Rights of the Child: International Instruments. Irvington-on-Hudson, NY: Transnational Publishers, Inc.

Wilkins, Richard G.; Adam Becker; Jeremy Harris; and Donlu Thayer. 2003. "United States and its Participation in the Convention on the Rights of the Child: Why the United States should not Ratify the Convention on the Rights of the Child." *Saint Louis University Public Law Review* 22: 411.

Abstract: We will argue ... against the ratification of the CRC by the United States on two grounds. First, we believe the CRC's newly minted autonomy rights are neither beneficial to children nor harmonious with traditional notions of salutary family life (as expressed, incidentally, in the Preamble to the CRC itself). Second, we have concluded that the CRC's sweeping reconstruction of family life lies beyond Congress' reach.

NGOs

Breen, Claire. 2003. "The Role of NGOs in the Formulation of and Compliance with the Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflict." *Human Rights Quarterly* 25(2): 453-481.

Abstract: This paper highlights the role that NGOs may play in the drafting of human rights standards, with particular reference to the rights of the child regarding children in armed conflict. The travaux préparatoires of the Optional Protocol on Children in Armed Conflict illustrate the role played by NGOs in that process. The drafting of Article 38 of the Convention may have initially been a great disappointment for NGOs, they were subsequently accorded a second shot at drafting appropriate rules combining international humanitarian law with that of the rights of the child-the outcome being the Optional Protocol.

Evans, Judith L. 2001. "Women's rights and children's rights: challenges and opportunities." *Development* 44(2): 7-14.

Abstract: Judith L. Evans introduces the journal's themes looking at the significant linkages between women's rights and children's rights. Evans argues that the two sets of rights together need to be brought forward, looking at the way they are interlinked through two conventions - CRC and CEDAW - developed in the 1990s. She presents some of the challenges and opportunities that a simultaneous focus on women's and children's rights presents in terms of development work.

Fellmeth, Robert C. 2002. Child Rights & Remedies. Atlanta, GA: Clarity Press.

*Abstract: This book provides a comprehensive rights-based analysis of how the U.S. legal system, in both its legal and political dimensions, is affecting American children. It examines the barriers to child-sensitive public policy, and the true legal status of children with regard to poverty, education, health, special needs, child care, child abuse, juvenile crime and detention, reproductive rights, custody and civil liberties. Backing up an extensive legal reference to over 190 leading cases with probing commentaries and the most recent statistics reflecting the socio-economic circumstances of children, *Child Rights & Remedies* serves as a unique tool for all who are concerned about the well-being of the nation's children, and seek politico-legal means to improve.*

- Fitzmaurice, Malgosia. 1999. "The Right of the Child to a Clean Environment." *Southern Illinois University Law Journal* 23: 611.
- Grodin, Michael; and Harlan Lane. 1997. "Ethical Issues in Cochlear Implant Surgery: An Exploration into Disease, Disability, and the Best Interests of the Child." *Kennedy Institute of Ethics Journal* 7(3): 231-251.
- Harris-Short, Sonia. 2003. "International Human Rights Law: Imperialist, Inept and Ineffective? Cultural Relativism and the U.N. Convention on the Rights of the Child." *Human Rights Quarterly* 25(1): 130-181.
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- Hirschl, Ran. 2000. "'Negative' Rights vs. 'Positive' Entitlements: A Comparative Study of Judicial Interpretations of Rights in an Emerging Neo-Liberal Economic Order." *Human Rights Quarterly* 22(4): 1060-1098.
- Leblanc, Lawrence J. 1995. The Convention on the Rights of the Child: United Nations Lawmaking on Human Rights. Lincoln, NE: University of Nebraska Press.
- Mariner, Wendy K. 2003. "Public Health and Law: Past and Future Visions." *Journal of Health Politics, Policy and Law* 28(2): 525-552.
- Pardeck, John T. 2002. Children's rights: policy and practice. New York, Haworth Social Work Practice Press.
- Toebe, Brigit. 1999. "Towards an Improved Understanding of the International Human Right to Health." *Human Rights Quarterly* 21(3): 661-679.
- Van Bueren, Geraldine. 1999. "Combating Child Poverty--Human Rights Approaches." *Human Rights Quarterly* 21(3): 680-706.
- Weiss, Thomas G. and Leon Gordenker (eds.). 1996. NGOs, the UN, and Global Governance. Boulder, CO: Lynne Rienner Publishers.

Weissbrodt, David S., Mayra Gomez, and Bret Thiele. 2000. "An Analysis of the Fifty-first Session of the United Nations Sub-Commission on the Promotion and Protection of Human Rights." *Human Rights Quarterly* 22(3): 788-837.

Willets, Peter (ed.). 1996. The Conscience of the World: The Influence of Non-Governmental Organisations in the U.N. System. Washington DC: The Brookings Institution for the David Davies Memorial Institute of International Studies.

Yamin, Alicia Ely. 1996. "Defining Questions: Situating Issues of Power in the Formulation of a Right to Health under International Law." *Human Rights Quarterly* 18(2): 398-438.