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Children in Extreme Situations
Proceedings from the 1998 Alistair Berkley Memorial Lecture

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About the Alistair Berkley Memorial Lecture Series

The Alistair Berkley Memorial Lecture is a biennial event which addresses theoretical and policy issues at the active interface of law and development. The lecture series was inspired by the life and work of Alistair Berkley, a lawyer and advocate of popular justice for the disadvantaged.

Alistair Berkley was killed in the terrorist bombing of PanAm Flight 103 over Lockerbie, Scotland in December 1988. Alistair studied architecture at Bristol and the Architectural Association. After a period in Bangladesh, he took a law degree at Cambridge and then went to Uganda to teach. He then returned to the United Kingdom and took a LLM at the LSE. When he was killed, he had just completed his first term as a lecturer in law at the Polytechnical Centre of London, now the University of Westminster. His attitude to life was deeply influenced by the time he spent working in Bangladesh and Uganda. These experiences led him to a strong commitment to the pursuit of popular justice, particularly for the disadvantaged.

In memory of their son's commitment to human rights, Jean and Barry Berkley have sponsored this biannual lecture series at the Development Studies Institute.

About the Development Studies Institute (DESTIN)

The Development Studies Institute (DESTIN) is an interdisciplinary enterprise of the London School of Economics, focusing the School's broad academic endowments on social, economic and political development and change in less developed countries and on the relationships between these countries and the more advanced economies within the international economic and political order.

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We are also grateful to the Development Studies Institute for hosting the event [...Tim?]

Finally, we would like to thank Meredith Herzfeld for assisting with the transcribing and copy-editing of some of the papers.

Introduction

The topic of the 1998 Alistair Berkley Memorial Lecture and associated sessions, 'Children in Extreme Situations,' was particularly appropriate because while the impact on children of situations such as famine, armed conflict, large population movements, and the like, is a growing policy concern, there is a lack of consensus among international organisations and national governments on strategies to deal with it. The event raised several issues and debates surrounding the Convention on the Rights of the Child (CRC), the United Nation's role in protecting the human rights of children and the reality and complexity of children in conflict situations.

The conference began with an overview of the history and implications of the CRC by Gerison Lansdown of the Children's Rights Office and Robert Smith of UNICEF. This was followed by a critique of the rights-based approach of the CRC by John Seaman of Save the Children Fund, and later by Christina Toren of Brunel University. Discussion centred around the practicality of enforcing the CRC and the tensions between civil, political, social and economic rights. Dan Seymour of Save the Children Fund insisted that a rights-based approach has value, but faces implementation difficulties on the ground. Jenny Kuper of the London School of Economics argued that the aspirational nature of international humanitarian and human rights law does not negate its importance and should, in fact, strengthen the moral claim of the international community for its observance.

The keynote address by Olara Otunnu, United Nations Special Representative for Children in Armed Conflict, emphasised the growing moral vacuum in conflict due to the collapse of value systems. He advocated a more community-based focus to restore these values complimented by international norms, such as the CRC. Otunnu expressed concern about growing complacency and urged the international community to "reclaim their lost taboos", and no longer "accept as normal the unacceptable".

Whether the Convention is enforceable or whether its primary use is as an advocacy tool was not the only contentious issue. Krijn Peters of Wageningen University questioned the assumed innocence of children, arguing that children have a political identity and often chose to participate in conflict. His suggestion of lowering the voting age to coincide with child soldier limits was met with varied reactions. Andy Mawson of Amnesty International followed with a discussion on whether justice or therapy is appropriate for children who abuse human rights. Jo Boyden of Oxford University and Sara Gibbs of International Ngo for Training and Research Centre (INTRAC) emphasised the need for a more diverse reaction to healing children after conflict, with greater consideration for traditional healing methods such as those practised in Namitxitxi in central-eastern Mozambique. Jean la Fontaine spoke on the victimisation of children and its prevalence within households. A common theme was the issue of giving children a voice and whether we are prepared to listen to it.

The Convention: history and impact

Gerison Lansdown

Introduction

A commitment to promote a world in which the rights of children are universally respected is an ambitious, daunting and long-term challenge. One only need to take a cursory look at the statistics to understand the enormity of that challenge. Millions of the world's children suffer from violent civil or domestic conflict. An estimated 250 million children are workers, a quarter of a million children, some as young as seven, serve as child soldiers, 30 million children are displaced by conflict, one million are victims of sexual exploitation and eight million live on the streets. UNAIDS estimates that by the year 2010, 40 million children in sub-Saharan Africa will be orphaned by AIDS. An estimated 140 million primary school children do not attend school, and each year around 12 million children die mostly from preventable disease. In 1995 an estimated 174 million children under five were malnourished (UNICEF, 1997a).¹

Economic, moral and social imperatives to help children

Beyond the statistics, there are economic as well as moral and social imperatives for governments to give children a high priority, some of which are highlighted in Gulbenkian Foundation report (1997).

First, children are people. As individuals they have equal status with adults as members of the human family. They are not possessions of parents, products of the state or future people. Therefore, governments have a moral responsibility to recognise the human rights of children as citizens within society.

Second, children's healthy development and active citizenship are crucial to the creation of economically successful and democratic societies. Both healthy development and active citizenship rely on explicit commitments from governments to meet their obligations to children to provide education, health care, family support, opportunities for recreation and opportunities for participation.

Third, children are more vulnerable than any other group because of their dependence and developmental state. They are more likely to be affected adversely by poverty, inadequate housing and pollution. Whilst parents have the primary responsibility for meeting their children's needs,

¹ Information presented to the Committee on the Rights of the Child at its General Discussion Day in October 1998 on Children living with HIV/AIDS.

governments also have an obligation to ensure that when those needs cannot be met by parents, they fill the gap.

Fourth, children are more affected by the action or inaction of governments than other groups. They are amongst the heaviest direct users of public services – education, health care, child care and juvenile justice. Almost every area of government policy – defence, environment, housing, planning, policing and transport – impacts directly or indirectly on children.

Fifth, children are uniquely excluded from any form of participation in the political process. They cannot vote, and, traditionally, no other forms of participative democracy have been developed to engage their concerns, views or experiences. The views of children in most countries are almost entirely absent from public or political debate.

Sixth, many societies are undergoing profound economic, social and political change. We just have to look at the devastating collapse of some of the economies of the former Soviet Union as they have sought to introduce market reform, and the sudden economic turmoil in Pacific Rim economies. In the developing world, the imposition of structural adjustment programmes have significantly undermined social welfare programmes with often catastrophic implications for children. In the West we are experiencing major changes to the structure of the family and employment patterns. All these changes invariably have a disproportionate impact on children.

Seventh, there are huge costs associated with failing children. There is a growing body of evidence which suggests that what happens to children in their early years significantly affects their future development and life chances. Investment in education has been shown to have significant cultural and economic implications for both individual and national development. The greatest source of wealth in many less developed countries lies in the untapped capacity of its people.

Accumulated evidence, particularly in Africa, demonstrates that increased investment in education is of critical importance in the struggle for sustainable development. In the US research into the outcomes associated with participation by disadvantaged children and their mothers in a "high quality early years initiative," indicated that the return on the investment was 7 US dollars for every 1 US dollar spent. Children who benefited from the service were less likely to be unemployed, have a criminal record, need psychiatric help, have a teenage pregnancy or earn low wages (Sceinhart and Weikart, 1993).

Legal imperatives to help children²

Despite the shocking testimony to the neglect and abuse of childhood and the visible evidence of the failure of governments throughout the world to respond, the international community has moved slowly

² See Kuper, chapter six in this volume, for more information on children and the law.

to recognise the human rights of children. It is only in the last 20 years, as the development of human rights norms has evolved – and with it the creation of international treaties and guidelines to protect those norms – that we have witnessed a gradual acknowledgement of the need for specific protection for the rights of children. In 1924 the League of Nations endorsed the first Declaration of the Rights of the Child, which had been promoted by the Save the Children International Union. The Declaration addressed the importance of respecting the rights of children to care and protection but made little progress towards acknowledgement of children as social actors and subjects of rights. The charter of the United Nations speaks of promoting and encouraging respect for human rights and fundamental freedoms for all. The Universal Declaration of Human Rights, adopted by the UN General Assembly in 1948, stresses that: "All human beings are born free and equal in dignity and rights". In other words, they do not exclude children but make no explicit reference to their particular vulnerability to human rights violations as a consequence of their status as children. However, at the same time, building on the 1924 Declaration, the General Assembly also adopted a seven-point Declaration on the Rights of the Child. A proposal was accepted almost immediately to draft a more detailed Declaration, which was adopted ten years later. In 1961, two international covenants – the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) – were adopted, completing the International Bill of Rights and providing legal as well as moral obligations to respect everyone's rights.

The focus on children was sharpened in 1979 when Poland made a formal proposal for a children's rights convention on the eve of the International Year of the Child. A working group was formed, and over the next ten years, it expanded and amended the original Polish text to produce a draft which incorporated the civil, political, economic, social and cultural rights of children. On 20 November 1989, the General Assembly unanimously adopted the Convention on the Rights of the Child, which entered into force in September 1990. In the same month, world leaders gathered in New York for the World Summit for Children at which they pledged to make a "solemn commitment" to accord a high priority to children, stating: "The well-being of children requires political action at the highest level. We are determined to take that action" (United Nations, 1990).

In 1993 the World Conference on Human Rights set the end of 1995 as the target for universal ratification of the Convention on the Rights of the Child. By the last day of that year, 185 countries had ratified the Convention.³ By the end of 1997, only two countries – Somalia and the US – had still to ratify. This is a record unprecedented in the history of human rights. Near universal ratification creates a significant global movement for children. Yet, the gulf between formal commitments and practical realities for children's lives is immeasurable, and the challenge to bridge the gap is formidable.

³ Vienna Declaration and Programme of Action, as adopted by the World Conference on Human Rights, 1993.

The scale of that challenge, accompanied by visible evidence of a worsening plight of children in many parts of the world, can lead to cynicism. There are those who argue that the Convention is only a piece of paper with little significance or practical implications. Many countries that have ratified the Convention continue to violate the rights of children with impunity, such as Iraq, Afghanistan, China, Rwanda and many more. The scale of the abuse of children throughout the world continues to increase. For example, more and more children are forced into prostitution or exploitative and dangerous work, or they are forced, often by brutal means, into child soldiers and even perpetrators of horrific violations of human rights themselves. The West, cynics say, has failed to accept responsibility for tackling the ever-widening gulf between rich and poor nations, thus perpetuating the conditions which lead to the abuse of children. Some argue that the imposition of obligations on governments by human rights treaties is increasingly irrelevant in a world where the power of governments is being rapidly eroded by the influence of multi-national companies. These companies are not bound by international human rights norms and cannot be held accountable by the international community. Furthermore, there are no effective sanctions that can be brought to bear against governments who blatantly disregard the rights of children.

All these arguments are valid. The Convention cannot transform the lives of children overnight. But that does not invalidate its significance. Change will only occur when there is a commitment on the part of governments to do so. It will only occur when there is greater awareness of the extent to which children are abused and exploited, and when governments, non-governmental organisations (NGOs) and other organisations working with children begin to recognise that children, like adults, have human rights. These changes inevitably will take time. We just have to look at how long women had to fight for recognition of equal status with men and how far we still have to go to achieve that recognition in most countries. The value and strength of the Convention is that it has, for the first time, created a comprehensive framework of children's rights in an international treaty. The process of constructing those rights provided an unprecedented international forum for exploring the status of children in society, our obligations as adults towards them and the relationship between adults and children's rights. We should not underestimate its importance. We now have a set of principles and standards against which governments can be judged and found wanting. There is international scrutiny of governments on their treatment of children. There is, for the first time, international debate on major issues affecting children – child prostitution, children in armed conflict and child labour. The Convention has highlighted the extent and nature of human rights violations against children. There is a growing understanding of how societies need to change in order to comply with those principles and standards. We have not yet witnessed systematic action to end these abuses but there is a far wider understanding of their existence and a deeper commitment to developing laws, policies and strategies for their abolition. The Convention is not a panacea but rather a tool for protecting and promoting children's rights.

In order to examine how far the Convention has progressed as such a tool, it is necessary to look more closely at the Convention itself; progress in promoting and monitoring implementation of the Convention; and some examples of what the Convention has already achieved for children.

The Convention on the Rights of the Child

The Convention is a comprehensive human rights treaty encompassing civil, political, economic, social and cultural rights, and thus serves to reinforce the indivisibility and interdependent nature of human rights (Pais, 1997). It is the first ever treaty rooted in a coherent, positive and dynamic children's rights philosophy, asserting that children are subjects of rights, and not merely objects of concern or beneficiaries of services. It imposes obligations on governments in three ways: respect for rights, protection of rights and fulfilment of rights.

Respect for rights

States must respect the rights of children, such as their right to practise their own religion or their right to freedom of speech and association. They must respect the rights of children caught up in the criminal justice system and the rights of minorities and refugees. They must respect the rights of children to a nationality and to a knowledge of their identity. In this way, the Convention on the Rights of the Child has much in common with other human rights treaties addressing civil and political rights. An additional and fundamental provision is contained in Article 12, which states that all children capable of expressing a view have the right to express that view and to have it taken seriously in accordance with their age and maturity. In other words, it asserts the right of children to participate as social actors and to contribute to decisions that affect their lives. The old adage that they should be seen and not heard is no longer acceptable. Children are entitled to participate, and the state has an obligation to respect that right (Lansdown, 1996).

Protection of rights

States must take active measures to protect children against the actions of others who might violate or inhibit their rights. Children are entitled to protection from, for example, sexual exploitation, drug abuse, armed conflict and economic exploitation. States must also protect the right of children to family life and provide substitute care for children whose families cannot care for them. These obligations take on a particular significance with respect to children because children lack autonomy. Their lives are heavily circumscribed by the adults who have responsibility for them. The capacity of children to exercise their rights and challenge violations is inevitably limited by their youth and subsequent vulnerability. The Convention therefore imposes specific obligations on governments to secure the rights of children.

Whilst it does not provide children with the freedom to act independently of adult protection and supervision, it does, nevertheless, assert that children are subjects of rights in their own right. For example, Article 5 states that governments must respect the rights and responsibilities of parents to provide appropriate direction and guidance to children, but adds that this guidance must be consistent with the evolving capacities of children and directed towards the exercise by the child of the rights embodied in the Convention (CRO, 1995). States have a responsibility for protecting children whose parents deny or abuse their rights. This debate is most sharply focused in this country over the issue of corporal punishment in the home. The Committee on the Rights of the Child, the international body responsible for monitoring the implementation of the Convention (see below), has consistently argued that all forms of physical punishment are incompatible with Article 19 of the Convention (children have the right to protection from all forms of physical and mental violence, injury or abuse whilst in the care of their parents) and indeed has specifically recommended to the UK that the law be amended to guarantee children this protection. In the UK the law currently permits parents to use "reasonable chastisement" when disciplining their children. The European Court of Human Rights has recently ruled that this provision fails to protect children from inhumane or degrading treatment.⁴ Accordingly, the UK government is now required to amend the law in order to ensure adequate protection against such abuse. The judgement has met with considerable opposition from some organisations which argue that the state has no business interfering with the privacy of the family, and that parents should be left alone to make their own judgements about appropriate disciplinary action.

At the heart of this debate is the fundamental philosophy of the Convention, which demands that children cease to be seen as the property of their parents, and that individual members of families, including children, have rights as individuals and that those rights do not cease to exist when inside the family home. The philosophy is not anti-parent. Indeed, the Convention stresses the importance of families as the fundamental group in society and the natural environment for the growth and well-being of children. However, it also insists that children must be recognised as individual holders of rights. These rights necessarily impose boundaries on the actions of others. It imposes a pro-active responsibility on the part of the state to introduce legislation, backed up with education, monitoring, enforcement mechanisms and complaints procedures, to make these rights a reality.

Fulfilment of rights

The Convention also imposes very clear obligations on governments to take action to secure the rights of children. This necessitates the allocation of resources and services to ensure access to: education on the basis of equality of opportunity for all children; adequate health care; information, culture and the arts; opportunities for recreation; and special services for vulnerable children (those unable to be cared

⁴ Press release from Registrar of the European Court of Human Rights, Judgement in the case of A v UK, 13/11/98.

for by their families, disabled children, refugee children, children whose lives are disrupted by armed conflict or HIV/AIDS). (See below on "What the Convention has achieved for children".)

Promoting and monitoring implementation of the Convention

Ratification of the Convention imposes clear obligations on governments under international law. Beyond ratification, however, it is important that there is independent scrutiny of governments' actions in meeting those obligations. Whilst there is no international court to which individual violations of rights can be taken, the Convention does introduce a reporting mechanism which enables the action of governments to be held up to international scrutiny: the Committee on the Rights of the Child. It is a body of 10 members elected by States parties whose role is to examine the progress made by states in achieving the realisation of their obligations undertaken in the Convention.⁵ Governments are required to report to the Committee, initially two years after ratification and subsequently every five years, on their progress in implementation. The purpose of the reports is to provide the Committee with sufficient information to develop a comprehensive understanding of the implementation of the Convention in every country.

In order to help governments prepare their reports, the Committee has produced guidelines, which set out the nature of information required and impose a thematic structure on the Convention which groups the articles of the Convention into broad themes⁶:

- General measures of implementation;
- Definition of the child;
- General principles;
- Civil rights and freedoms;
- Family environment and alternative care;
- Basic health and welfare;
- Education, leisure and cultural activities; and
- Special measures of protection.

Self evidently, the primary obligation governments undertake upon ratification of the Convention is its implementation. Real change, however, will not come about in children's lives through ad hoc legislative and policy change. Change requires long-term commitment and positive action on the part of governments. Governments need to create effective frameworks to enable them to give *consistent* consideration to the human rights of children. The Committee on the Rights of the Child, by drawing together and lending emphasis to the general measures of implementation, has given particularly effective scrutiny to the actions of governments in implementing the Convention. The relevant

⁵ Article 43, Convention on the Rights of the Child

⁶ General guidelines regarding the form and contents of periodic reports to be submitted by States parties under Article 44, paragraph 1(b) of the Convention CRC/C/58

obligations in the Convention include the duty to: undertake all measures to harmonise legislation and policy with the principles of the Convention (Article 4); publish and make widely available the report with the country, (Article 44.6); and make the Convention widely known to both adults and children (Article 42).

Article 4 states that governments must "undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention". It goes on to add that in respect of economic, social and cultural rights, States parties must undertake such measures to "the maximum extent of available resources". It is important to stress that this wording is not intended to provide an escape clause for poorer countries to evade responsibility for implementing economic and social rights. Rather, the Committee on the Rights of the Child stresses an obligation to take progressive steps towards the realisation of children's rights. Governments should not be passive but should adopt appropriate methods designed to ensure and protect children's rights (Pais, 1997). The Committee has consistently urged governments to establish the necessary structures to give children a higher priority and through which to monitor more effectively the impact of government action or inaction with respect to children's rights (Newell and Hodgkin, 1998). These structures, or general measures of implementation, include recommendations for governments, which are described below.

First, governments should develop a comprehensive national agenda for children based on the principles and standards of the Convention in order to construct a strategy for action which is consistent across government agencies, and which can be monitored for progress.

Second, governments should ensure that all domestic legislation is compatible with the Convention. In the UK, for example, there is a clear distinction between domestic and international law. Only after an Act of Parliament adopts the content of a treaty's provisions does the treaty become part of the domestic legal system, which can then be applied by judges. The Human Rights Act, which just passed through Parliament, incorporated the European Convention on Human Rights into domestic law, but no comparable process of incorporation has taken place with respect to the Convention on the Rights of the Child. Accordingly, there is a need for systematic scrutiny of all relevant legislation in order to identify areas where the law fails to comply with the standards in the Convention, and for legal reform to rectify breaches. Only then will it be possible for children to challenge the government for violations or breaches of rights under international law.

Third, governments can make children's issues more visible by introducing a system of child impact analyses for any proposed legislation or policy in order to scrutinise its potential impact on children. For example, with child nutrition, the most efficient long-term strategy for reducing malnutrition is to increase the income of the poor. However, evidence both in the UK and in developing countries indicates that food purchases increase less than previously thought with increases in income. The

causes of child malnutrition are multivariate. There is some evidence to suggest that when women control family income, expenditure is more likely to be allocated to children. Accordingly, children's rights to survival, health care and adequate nutrition require governments to focus on income levels *and* intra-household income distribution.

Fourth, and relatedly, governments should allocate available resources to the maximum extent for policies for children. This requires that governments analyse budgets to determine the proportion spent on children. Without such information it is not possible to demonstrate what is spent on children and whether that expenditure is appropriate in accordance with children's needs and their numbers in proportion to the total population.

Fifth, sufficient data should be collected on all children. For example, the Convention includes the right to be registered immediately after birth. Comprehensive registration provides governments with accurate information on population size and demographic change, which is essential in the planning of education, health, housing and immunisation programmes. Similarly, there is a need for accurate data on school registration and attendance – disaggregated by sex – in order to develop effective strategies to implement universal rights to education.

Sixth, governments should ensure effective co-ordination of children's policies across government departments, at the local and national level, and with non-governmental organisations (NGOs). In many countries, and the UK is no exception, there is a lack of consistency and collaboration between different government departments responsible for various aspects of children's lives, which results in conflicting agendas, underpinned by different philosophies, and duplication and waste of scarce resources.

Seventh, and crucially, governments should develop permanent mechanisms for monitoring, through the creation of ministries and cabinet committees for children with a responsibility for co-ordination, implementation and evaluation, using the Convention as a framework. Governments should develop independent statutory offices for children, such as children's rights commissioners or ombudsmen, to provide a voice for children's concerns and to monitor the actions of governments with respect to their compliance with the rights embodied in the Convention.

Eighth, governments should provide training on the Convention for all those who work with or for children in order to ensure that professional practice and governmental policy is rooted in the principles of the Convention. This includes teachers, nurses, doctors, magistrates, social workers, nursery nurses, probation officers, prison staff and police.

Finally, governments should raise awareness of the human rights of children amongst children and adults. Rights are meaningless if they are not known or understood. The Convention should be included in school curricula, disseminated through the media, and made available in appropriate forms for mass distribution.

Through the consistent promotion of these measures, the Committee has been both an innovative and influential tool in creating recognition of what is needed to give a focus to children within government. It is important to stress that no overall model for implementing the Convention exists. Given the huge diversity in administrative and legal systems, it would be absurd to seek to define a unique model for effective implementation. However, there is a consistent theme in the Committee's recommendations to governments that children's rights and interests should be at the heart of government policy and action.

What the Convention has achieved for children

In the nine years since the adoption of the Convention by the UN General Assembly, we have witnessed initiatives throughout the world established to realise the rights of children.

Monitoring mechanisms

Prior to 1989, Norway was the only country in the world with an independent ombudsman for children. Most European countries now have some form of institution with an explicit remit to promote and monitor the rights of children: Sweden, Austria, Spain, Portugal, Belgium, Denmark, Germany and Iceland.⁷ Beyond Europe, such bodies exist in Costa Rica, Australia and Canada (UNICEF, 1997b). South Africa is drawing up a National Plan of Action for children with the aim of creating a society in which the "first call of children" has real meaning. Norway has begun a process of disaggregating its national budget in order to identify the proportion of public expenditure devoted to children. Similarly, South Africa is developing a children's budget in order to assess whether the government is delivering on its policy commitments to children. Many countries have also established inter-ministerial committees, national plans of action and annual reports on the "state of children".

Laws for children

The obligation to harmonise domestic law with the principles and standards of the Convention has resulted in many governments introducing wholesale reform. Governments such as South African and Norway have established independent bodies to undertake the necessary scrutiny. Some governments have introduced an entirely new concept, a children's rights statute, as well as special sections in constitutions. Furthermore, legal reform has begun to address long-standing

⁷ See www.unhcr.ch/tbs.doc.nsf for up-to-date information on the status of major international treaties.

discriminations against minority groups, girls and children born out of wedlock. Changing attitudes is a gradual process which will only begin to happen when the principles of the Convention are embedded within domestic law.

Awareness of vulnerable groups of children

It is only since the advent of the Convention that the world has focussed (its) attention on the plight of vulnerable groups of children, such as street children, child prostitutes, children in armed conflict and children in bonded labour. Through the reporting process and subsequent scrutiny by the Committee on the Rights of the Child, states are confronted with the plight of these children in the international arena. New frameworks for international collaboration, legal reform, enhanced monitoring and policies which reflect and incorporate the perspectives of children themselves are being developed in response to many of these issues.

Strengthening child advocacy and the role of civil society

Encouraged by the detailed framework of the Convention, NGOs in over 70 countries have formed national coalitions to produce their own reports to the Committee on the Rights of the Child and to provide a coherent and forceful voice for children at a national level. These coalitions provide an opportunity for NGOs, which have perhaps never previously worked together to develop collaborative strategies for promoting and monitoring the implementation of the Convention. In Ghana, for example, the NGO coalition presented a report to the Committee and is now elaborating a plan of action based on the Committee's recommendations. In Burkina Faso, the coalition is carrying out a study on the perceptions of the rights of children both by adults and children themselves **[(Barnen, ?)]**. In the UK, the Convention served as a catalyst in the establishment the Children's Rights Office (CRO), established to promote the implementation of its principles and standards. The CRO produced a report to the Committee on the Rights of the Child, which was endorsed by over 180 organisations. The CRO has also encouraged nearly 400 organisations to formally adopt the Convention and to use it as a framework for auditing their policies and practice. Many imaginative and effective new structures and policies are being implemented as a consequence of this process. For example, over 70 organisations have joined a campaign for the establishment of a children's rights commissioner.

Listening to children s voices

The insistence of the Convention that children are active players in their own lives, entitled to express their views on all matters of concern to them, and to have those views taken seriously, is perhaps its most radical and profound contribution. Its implementation requires fundamental changes in our *attitudes* towards children, which will invariably take time. However, since 1989, we have witnessed a remarkable shift in attitudes in many countries around the world with a growing recognition not only that it is important in principle to listen to children, but also that it is imperative to do so if national and local

governments, service providers and NGOs are to work effectively in the interests of children. Accordingly, children's parliaments, children's elections, youth councils and self-advocacy programmes are being developed around the world. In the UK, we have seen the creation of Article 12, an organisation run by and for children and young people to promote their right to be heard. In 1997, the CRO worked with the Local Government Information Unit to produce a guide for local authorities on promoting children and young people's participation in local democracy. The CRO identified over 65 initiatives in different authorities designed to enhance opportunities for children to influence local policy. Children were involved in genuinely democratic school councils, anti-poverty strategies, community projects, the design of a children's hospital and community safety schemes (CRO, 1997). Local authorities are now requesting further help in developing strategies for implementing the Convention.

Recognition of violence towards children

Article 19 of the Convention provides children with protection from all forms of physical and mental violence. The Committee has been rigorous in pursuing a child's right to physical and personal integrity, condoning no level of violence towards children. It has stressed that corporal punishment is incompatible with the Convention, commenting that "(the Convention's) provisions were intended to prompt those in authority in each country to find the most effective way in their own societies to break cycles of violence that were often perpetuated from generation to generation under the cover of traditions and customs" [source?]. Gradually, governments are beginning to introduce legal reform to comply with this interpretation of the Convention. Sweden, Austria, Denmark, Finland, Croatia, Norway and Latvia have already introduced legislation banning all forms of corporal punishment. Germany, Ireland, Belgium, Italy and Spain are in the process of doing so.

Conclusion

Children's rights continue to be violated. Governments continue to disregard their obligations to children. Poverty, inequality and violence are endemic and worsening. Certainly, the Convention on the Rights of the Child provides no instant solutions. What it does provide is a philosophy of respect for children backed up by a detailed framework of rights which can be used as the basis for rigorous advocacy on behalf of children both within and outside government. We should not bemoan its failures to transform the world. To do so is the politics of despair. We should use the Convention, promote it, defend it and advocate its full implementation with governments, inter-governmental agencies, NGOs and other service providers. We should begin to work with children themselves to facilitate their opportunities to advocate on their own behalf for the realisation of their rights. Finally, we owe it to the world's children to keep faith in the belief that it is possible to create change and to act on that belief.

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The Convention: possibilities and contradictions

John Seaman

The reality facing children around the world is a far cry from the rights-based approach used by UNICEF and the Convention on the Rights of the Child.

Before proceeding, I will put in some disclaimers. First, this is not an attack on UNICEF. Second, I do not have a problem with rights *per se*. I have worked for most of my professional career for organisations whose programmes are based on a rights-based approach. A rights-based approach has a place; forcing rights at various periods in history has yielded positive results for children. One aspect, which has been covered extensively by Gerison Lansdown above, is securing rights legally through the Committee on the Rights of the Child. The Convention requires States parties to submit reports to the Committee initially two years after ratification and subsequently every five years. According to UNICEF, part of the reporting process includes a “constructed dialogue” with UNICEF and other non-governmental organisations (NGOs). This process can be very valuable and productive. The introduction of children’s views into the legislative process, which the UK government holds as a high priority, is an example of what can be achieved through the Committee. Another example where the legal enforcement of rights has made a positive impact is in the Sudan. Children were sprung from the main jail in Khartoum because it was brought to the attention to the prison governor that the children in the prison were under the age of 15 – and he was quite shocked to discover this. The prison governor immediately arranged for the children to be removed.

In the developing world, however, the above example is an exception. Programmes for children in developing countries tend to be weak. Political systems, for various reasons, are relatively immature even in this modern world with ‘democratisation’ and ‘good governance’. All the instruments of the state are fairly weak, and officials are often very poorly paid. Governments in developing countries have a difficult time imposing change.

The major contradiction in a rights-based approach is with the programming that results from an approach too biased toward rights and not enough toward what I call ‘welfare rights’. For example, what can monitoring the government of Sudan do for the complete absence of health services outside Khartoum, the poor drug supply, the inability of the government to pay doctors and nurses, and the broken-down infrastructure? It seems as though programming for children suddenly started over as if there was no history and no research. It was year zero.

According to a recently-published UNICEF document, “A human rights approach to UNICEF programming for children and women,” programming aspects proceed in four stages (and this extends beyond UNICEF programming).:

1. Set priority problem areas or targets.
2. Identify those individuals and institutions in various countries which have specific obligations to protect children and provide for children's rights. These institutions are of quite a wide range: parents, obviously (not an institutions exactly, but they clearly are the closest to the child); the education system; and regional and national institutions. Clearly, there are some omissions. The document does not mention international institutions, for example.
3. Understand the decision-making process which allocates resources at national, community and household levels, such as household assets and income; human resources – knowledge, skills, time, self-confidence; and extended family and civil society organisations.
4. Take action.

While this sounds like a reasonable plan, I find it slightly utopian. Rights are things for which people fight. The rich will not give up their money voluntarily. And taxes are difficult to collect in developing countries. In Uganda, for example, it would be very difficult to secure redistribution from the great money-makers – and they exist – to the very poorest people. Are they suddenly going to decide to do charitable works or to give all their money to governments for health services? I simply cannot see this. The UNICEF approach looks at ways to secure the voluntary redistribution of resources within a country from the 'haves' to the 'have-nots', whether the haves are the government or richer or more powerful elements. Rights can be taught in schools, and people will then see that money would be better spent on the welfare of somebody else's child.

Regarding health services it is now generally conceded – after a decade of struggle – that the major reason why poor countries have poor health services is because they lack sufficient resources. We can disagree about why countries lack resources, but we should surely allow ourselves to at least bring into the discussion the larger economic picture. Five years ago, we would have blamed the World Bank. For example, one reason for the unequal access to health services is that at one point the World Bank – the modern economic philosophy of the World Bank, IMF, G7 and all the rest – decided to cut state spending for services and to encourage the introduction of user charges in health systems. The effects are variable in different places. In most developing countries, it has led to inadequate access to health services by poor people. For example, in Zimbabwe user charges were introduced. Women find it difficult to afford check-ups, which leads to increased maternal mortality and neonatal mortality – and not by small margins.

The legal side of the causes and effects requires further discussion. For the purposes of this discussion, we have to allow ourselves the possibility that with a rights-based approach, we might lose sight of crucial issues, such as access to basic health care, sanitation, and the like. Rights-based programming curiously seems to exclude the area basic needs. And this is not just for UNICEF

programs. It is a much more general trend, which is discernible through much of the United Nations. UNDP, for example, has picked up quite heavily on rights in various documents. The same underlying logic holds.

Why this sudden change? Is this a return to an intellectual 'year zero'? Suddenly, basic needs has shifted off the agenda. Suddenly we have been asked to believe that the slogan, 'human rights', will bring something that history – and the effort and hundreds and billions of dollars over the last 30 or 40 years – has not.

Many agencies seeking to help children now face major resource dilemmas. In the 1980s there was a logic to international aid. And the logic was the Cold War. The balance of power within the development community mirrored that. The effect was that the larger western NGOs had a peculiarly privileged position. Where governments could not talk to governments, NGOs and the UN, to some extent, acted as intermediaries. Where the media could not gain access to certain countries because they were endlessly suspicious of cameras, NGOs could step in and act as intermediaries, as it were, for the country with a lot of publicity. Everybody knew where they stood.

There has been a very great change in the world order. The World Bank has risen to prominence and power. The UN – each part of it in a different way – faces considerable challenges. UNICEF's income has fallen by a very substantial margin – as has a great number of other organisations. Parts of the UN, I would argue, are in open crisis. Donor dependency is almost total. Development organisations must tread very carefully in order to secure funding.

What will happen if rights-based programming becomes the norm? I argue that it will not work until we allow ourselves the possibility that we will not secure rights in many instances through discussion, but rather through conflict. A rights-based approach runs the risk of distracting attention away from children's needs or 'welfare rights'. Furthermore, political pressure from UN Conventions such as the CRC will be less effective in poorer countries that lack the resources to implement mechanisms to secure rights for children. The majority of children in extreme situations are in poor countries that do not have the means to effectively implement this approach.

UNICEF and the UN Convention on the Rights of the Child

Robert Smith, UNICEF

UNICEF and the Convention. I've spoken on platforms before after John. I won't respond too directly to his talk, but it may be that in the course of what I say that some alternative views will come up, and then, of course, they'll be the opportunity through the discussion session at the end.

I should say to be absolutely frank that UNICEF was very slow to get behind the Convention on the Rights of the Child when it was first a member. As you heard earlier from Gerison in the wake of the International Year of the Child and in the early years of the 1980s. It was really NGOs who were putting their weight behind the early stages of drafting, together with governments whose representatives had the responsibility for the drafting process. And I think that was because, despite all his other many, major qualities, Jim Grant, the ED of UNICEF in the 1980s, he'd launched the child survival and development revolution (CSDR). His priority, which fed itself thought the whole organisation, was to put the whole of UNICEF's weight behind what he saw as an absolute, top priority, and that was bringing down the intolerable numbers of infants and children who were dying unnecessarily, as it was described. So he wanted UNICEF to be associated, against the odds, against economic problems, with a real practical programme, which would have something real to show at the end of the day, and of course, there where the UNICEF/WHO goals of increasing immunisation rates from under five per cent when I started with UNICEF in 1980 to, in the end, approaching 80 per cent at the end of the 1980s. The most phenomenal growth in those rates... equally enormous growth in the knowledge and use of oral rehydration therapy around the world. But these were primary, health oriented goals that took Jim Grant's mind off the early stages of preparation of the Convention. Gradually, however, many advisers around him won out and conviction came that this was something with which UNICEF really should be assisting, and much more strongly. Indeed, by about 1985, UNICEF's shoulder was put to the wheel, and I think it helped enormously. Even in the industrialised countries, we organised a major conference with nearly 200 NGOs in 1988 just as the drafting group was having its penultimate session in Geneva. In the end, UNICEF sent a telegram to Geneva, wishing them well in the final drafting. Apparently it arrived just as they were at loggerheads of some crucial issue, and the chairman read the telegram out, and because they were absolutely at a standstill and everybody roared with laughter. The tension was broken, and they actually moved on with negotiations. UNICEF thought they'd helped to push the process along a little bit, but this was really an NGO initiative.

But the rest is now history, and Gerison covered it extremely comprehensively in her introductory address. There are a few things I should reiterate. We now have 191 out of 193 countries in the world who have ratified the Convention - not just signing up to say they intend to ratify, but who have ratified. This makes it the fastest and most universal of all humanitarian treaties. That is something for all who work for children's rights to be proud of, and it gives us an enormous strength in all the issues we seek to promote in connection with children's rights, and indeed their needs and welfare.

The Convention itself specifically - this was a unique characteristic - actually calls upon UNICEF four times in Article 45 in different ways to give assistance to the Committee on the Rights of the Child, to give assistance to governments if UNICEF's technical or other advice and assistance is called for or needed. That is one of the reasons...Another of the reasons why UNICEF has to take the Convention seriously is that it has an obligation specifically within the Convention itself to give assistance.

Therefore, we cannot turn our backs on it or ignore it. More than almost any other Convention, by the very fact of its near universality, is that it is global, not only in its outreach, but in the very word of the Convention itself, it presents an obligation - a responsibility - to all communities and all governments to all children, wherever they may be, not only in individual country in which a person may be living. And since UNICEF is a global organisation with a global mandate, there is, again, a natural role for UNICEF in helping governments meet their obligations under the Convention. UNICEF, as an intergovernmental organisation, is one of the best-placed organisations to influence government policy and commitment to its children. In addition, to all children, to our own governing body in New York [...] composed of 36 government representatives, but also, as many of you who attended UN, particularly UNICEF board meetings, up to 100 governments will be present at a UNICEF board, not just the 36 members, and they have the right to speak.

Here in the UK we have undertaken an enormous amount in relation to advocacy, and I think this is a part of the picture as well because it's a reflection of a unique characteristic of UNICEF in the UN family, that having, in the industrialised countries, some 37 national committees for UNICEF, we add to the UNICEF presence in 160 developing countries the presence in many of the richer countries in the world, so there is an almost universal presence. There is a role in the industrialised countries in relation to the Convention on the Rights of the Child for UNICEF through its national committees.

Right at the very outset, we developed, with Save the Children Fund, a set of workbooks for schools and handbooks for teachers on the different aspects of the Convention in 1989-90. The Committee on the Rights of the Child, when it was struggling for resources to get itself going, a number of my counterparts in other committees, and our own UK Committee, gave financial assistance in order to enable the Commissioner for Human Rights to take on some additional staff to help do the research which was needed for the various country reports being presented, for which they had far too little in the way of resources. We have, as Gerison mentioned, together with many organisations here, given support from the outset to the Children's Rights Development Unit, as it then was, to the Children's

Rights Office, as it then became, and contributed an international perspective to several reports that have been reports, including the alternative report Gerison mentioned - the Agenda for Children - and advised the foreign office on its statutory report. We produced and disseminated an English version of the Rights of the Child, which was specifically developed for young people, something the government itself hadn't done. We added to what was a government obligation to disseminate information about child rights. UNICEF has created, and not many people may be familiar with this, an extraordinarily comprehensive and very impressive practical handbook on implementation, which is being widely distributed throughout the world and indeed was written by two formidable children's rights advocates from the UK: Peter and Rachel Hodgkin, who at that time, was advisor at National Children's Bureau. But that was produced for UNICEF as a global piece of work, which supported the creation of Article 12 and Children's Rights Office. Our Children in Conflict report, which we produced last year, entitled *A Child Rights Emergency*. And only last Friday, some of you may have been aware, in trying to use our strength in the political and parliamentary field, we took to its second stage something we piloted last year, constituency [surgeries] by MPs with young people who might not have the vote but whose views matter. The eleven pilot schemes were so successful that we got assistance from the Departments of Education and Health, and the National Union of Teachers to role the programme out to all MPs and lots of schools. We reached all schools, and I am delighted to say that only last Friday there were some 270 MPs holding constituency [surgeries] in their constituency exclusively with and for groups of young people. Probably the largest piece of simultaneous cross-party constituency activity that there has ever been, certainly the largest with young people and indeed it will go on. All the political leaders - Tony Blair was actually the first to [hold on] a couple of weeks ago - at least 15 government ministries holding, and the leaders of the major opposition parties as well. This represents a tremendous step forward and something we will repeat next year.

These are just a few examples of giving importance to children's rights and hearing the views of young people that UNICEF has assisted here. But they are symptoms of a deeper commitment by the organisation as a whole. UNICEF's mission statement - I carry it around in my breast pocket because it's rather too long for me to remember - opens with 'UNICEF is mandated by the United Nations General Assembly to advocate for the protection of children's rights...' What the rest says I can leave, but that is the very first reference in UNICEF's mission statement. That is an indication - and this is a relatively new development - of the supremacy or priority that UNICEF as an organisation gives to advocacy of children's rights. We here in the UK have a laminated version by our desks - our mission, our values, or vision, or strategic objectives - that 'the right of all children to develop to their full potential' be beyond...[?]. These are not just words. They are the basis for what UNICEF internationally and we as the UK Committee - and many of our colleagues in other countries have followed this - ... Evidence of the priority we accord to the Convention and to children's rights...the Convention is our guiding frame of reference. John (Seaman) did mention the human rights-based approach that UNICEF has adopted or its programme as each country programme because they are

five-year cycles of work, but as each country programme comes up for renewal, this human rights-based programming approach, which he described very positively is being used. The document he referred to is an executive directive from UNICEF's ED Carol Bellemy. I'll just read you a very short piece out of it to show you the kind of role that UNICEF feels it needs to play and can play at the country level:

UNICEF Programming Perspectives on Rights: UNICEF programmes of co-operation need to influence or convince governments and other actors to make the right choices by avoiding actions and omissions that violate rights.

In other words, every programme, and this is an area where I disagree with John (Seaman) - it's not as though one has dropped everything and started afresh, a 'year zero'. The arrival of the Convention, and the universality of the ratification of the Convention has been a strengthening of all the commitments to programmes that one had before. But it does mean that in programming, everything is measured and assessed as to the degree to which they will meet children's rights or avoid or omit things which will damage children's rights. All institutionalised forms of discrimination and the failure to enforce legislation, therefore, constitutes serious failures on the part of the state. Secondly, the programmes of co-operation need to directly support other actions to help realise the rights of children and women. Thirdly, to empower poor people, and particularly children, to claim their rights, and help families, guardians, care-givers, and all responsible groups and bodies to meet their obligations to children and women.

I won't read anymore from there, but it does go on to mention what I said in passing a moment ago, that there is, therefore, clearly a tremendous advocacy role for UNICEF. UNICEF is an advocate for children according to its mandate. A rights-based approach will entail a greater purpose on advocacy. One way in which the Convention and this rights-based programming approach is probably going to change the face of UNICEF is that, more and more, we will become an advocacy organisation and less and less a supply and delivery organisation. This is quite an important shift for UNICEF, but not only is UNICEF itself saying it, but I am hearing this being urged on UNICEF all the time. It's the influence and authority that UNICEF has as a global organisation. The influence it has working with governments of what people want to see being implemented and applied. The other thing that it (?) mentioned is that empowering poor people, and particularly children, to claim their rights, is the other, I think, exception of the old, traditional UNICEF. While we still go on working with governments, increasingly, the pressure is on, and I know John (Seaman) mentioned some doubts about this, and how much can be achieved. It's an increased pressure on UNICEF to work with civil society, with families and communities, not just with governments at the national level.

The implications of this (rights-based approach) being to change UNICEF's way of operating and style of work quite significantly in the years to come.

Going back to one other thing that I briefly mentioned before is the obligation and responsibility world-wide is where I could take issue with John (Seaman). There isn't a separation between advocacy here or the rich world and its easy-to-get Britain to do xyz or to get the US to do xyz, but not poor countries. Because the obligation is on the whole world for unity towards all..., particularly those who are impoverished, those who are most disadvantaged. So, it's not saying, well, these poor countries don't have the resources. They are not alone, and the obligation is stronger than ever on us to make sure that resources are made more equitably available, between countries, not only within. Though there are encouragements, even within an individual country for resources to be targeted much better to those who are in greater need.

Just to throw in a nice story that I saw recently just talking of an example. I just received this last week from our office in Bolivia. The second report on the second week of Rights of the Child and Adolescence in Bolivia held just two months ago, August-September. One and a half million students took part in the second week, and this is the second year that it's been run. One and a half million students, 80,000 teachers, 12,500 schools, 850,000 families, the President, the First Lady, launched the programme directly. But it involves, in ways that UNICEF did pioneer quite a lot in the 1980s, on the child survival programme, mobilising all sectors of societies, and that's this link with what our future direction has to be ever more. And this requires getting all the media behind it, creating national figures perhaps, even cartoon figures, as focal points for young people in the programme, getting political backing, business backing, mobilising the whole of a society behind the programme. And those numbers I just mentioned, are phenomenal success stories. This is just a recent example, but it could be replicated all over the world. The children themselves, which is something I didn't mention, contributed a very important part. They were in many schools all over the country setting up student councils or renewing student councils. In addition, a marvellous element, through activities, either in-kind materials or through fund raising, have created a fund to provide materials for the poorest, most under-served schools in the country, so there is an enormous element of solidarity where the children, through all these activities, where contributing to a fund, which is going to help other children in their country, who haven't got the resources that others may already have. That's a very positive story that I really wanted you to have in your minds before I finished speaking.

I am an optimist, and I tend always to be really positive in what I say. I'll just mention a few provisors about which one should be aware. First, the Committee on the Rights of the Child, performs, as Gerison described, such an important function as a control mechanism, as an independent body, with considerable credibility through which progress and obstacles to states implementing the Convention on the Rights of the Child are reviewed and assessed. The work of the Committee provides extremely valuable guidance and support to many countries, particularly, I think, poorer countries. The number of ratifications, and the speed with which the whole of the Convention was ratified and came into force, was, of course, unprecedented, and, ironically, has had its downside because no human rights treaty

has inspired such levels of commitment and such. The challenge to a Committee that has only ten members; that only meets three times a year; that can only get through about six reports each time it meets means that all it can do at present is cover 18 reports a year. Every five years a country reports to the Committee, and there are nearly 200 member countries. Therefore, the number of reports far exceeds the capacity of the Committee to deal with them. It is in danger of being seriously swamped by the sheer scale of work. The Committee is already behind. If it loses credibility, its reputation will suffer along with the commitments of governments to meet their obligation to report, and indeed, to undertake the changes in legislation on which they would have to report to the Committee. There has been a proposal to increase the Committee from 10 to 18 members, and to provide more resources, but it still needs 2/3 of all members who are states parties to the Convention in order to come to course. That means about 120, and at the moment, and at the moment only 47 or 48 countries have given their backing. The Committee is a long way from having the power to increase its total membership, and to be able to go on doing the job that it needs to do. It's another task of influence persuasion that UNICEF, with others, needs to follow. The UK has already given its support to this idea so that it's not an actual to which one can easily jump. There are huge numbers of countries still needed (for what?) before the expansion of the Committee can happen. The second and final point that I will say as a concern for UNICEF is its bureaucratic nature. UNICEF is, an organ of the United Nations that works with governments, and is in countries at the invitation of governments. The more UNICEF goes into the human rights field (into sexual exploitation, HIV AIDS, child labour), the more tenuous the ground vis-à-vis companies, commercial interests and government interests. It makes, therefore, the part that UNICEF has to tread in its work in all countries, an infinitely more difficult task. I won't talk of it being 'land-mined', but one does have to watch one's step. There is a terrible tendency in bureaucracies to always take the cautious, safe and easy line. No risks.

UNICEF has to take more risks, however, to move ahead with its current agenda. It is not, however, an easy transition (transformation?) for UNICEF, especially when dealing with controversial and politically sensitive issues. It is a transition I believe UNICEF must take. The balance is between service delivery and rights. UNICEF cannot abandon service delivery all together, or it will be accused of talking and not doing. We have clout with governments because we provide something as well as trying to change policies through advising. We should always remember that despite all the controversial issues, there is also, as Gerison mentioned, nutrition, health provision, education, water and sanitation. The Convention on the Rights of the Child is so comprehensive. These are non-controversial issues. The Convention is not all about difficult issues. It is a mix of difficult issues and unassailable rights. If one keeps the balance of needs and rights, we may be able to tread between the mines until there are no mines left.

Child-focussed medical care in war zones: a survey of the issues

David Southall, Child Advocacy International

Child Advocacy International is an ardent supporter of the UN Convention on the Rights of the Child (CRC). Article Six of the CRC, which addresses a child's right to life and development, is really about the issue of armed conflict. Article 38 states that, during armed conflict, States Parties shall take all measures possible to ensure the protection of affected children. Article 39 also addresses armed conflict, insisting that States Parties take "all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or *armed conflicts*" (CRC, Article 39, emphasis added).

The problem, however, is that many armed conflicts occur *within* states, making it difficult to assign responsibility for providing assistance to children as stipulated in the CRC – and other human rights conventions (see Kuper, chapter 6, in this volume). Furthermore, as John Seaman made clear, poverty is at the root of children's suffering. The world average infant mortality rate is ten times higher than that of the United Kingdom (UK)⁸: 61 per 1,000 births world-wide versus six per 1,000 in the UK (and 165 per 1,000 in Afghanistan). The under-five mortality figures also tell a sad story: one in four children under five die in Afghanistan. Forty-six per cent of the world's population live in countries where the under-five mortality rate is 120 (one in twenty children under five die). For the purposes of this paper, the under-five mortality rate will indicate 'extreme poverty'.

To put this into perspective, I have standardised the number of under-five deaths in the world by the population of the UK, which is 58 million, or one per cent of the world population (roughly 6 billion). In the UK there are 5,411 under-five deaths per year, which amounts to 15 under-five deaths a day. Every year seventy mothers die during pregnancy or delivery in the UK. That is the baseline.

In contrast, if one examines the 46 per cent of the world – roughly half – living in extreme poverty (defined by the under-five mortality rate, as mentioned above), the number of under-five deaths per year per 58 million people (standardised by the UK), is 236,000. This amounts to 647 deaths per day for the same size population as the UK. Can you imagine what would happen if 647 children under the age of five died in the UK every day? Sadly, that is the case in half the world. The number of deaths occurring during delivery per year – maternal mortality – also reveals a sad story. Seventy mothers die

⁸ For purposes of comparison, I use the United Kingdom (UK) as a baseline.

during delivery in the UK per year versus 12,000 in 46 percent of the world (as standardised against the UK). Again, imagine the outcry if 12,000 mothers died every year in the UK from mostly preventable, easily treatable complications during pregnancy. Most under-five deaths are also easily preventable and easily treatable with modern medicine.

These figures are taken from UNICEF data. Obviously there will be some variability in number, but regardless of minor differences, we live in a world of unethical inequality in health care availability.

Ninety per cent of casualties over the last 10 years of armed conflict have been civilian (see table 2). This is very different from previous wars.

The number of psychologically traumatised children is impossible to count, and cannot be undone. Post-traumatic stress counselling and psychological input has little impact on some children and families. Trauma from armed conflict stays in the minds of children for the rest of their lives.

In 1996, there were 31 armed conflicts in the world. Twenty-four of these occurred in countries living in extreme poverty. Prolonged conflicts are taking place in Afghanistan, Sri Lanka, Somalia, and others. Fifty-three countries in Africa have armed conflicts within them. During armed conflicts, most of child deaths are more related to the indirect affects of war rather than direct or injury from weapons (although this varies slightly). Figures for Bosnia are much.

Due to the extreme poverty in so many of these countries – and bearing in mind that so many internal conflicts are often deliberately designed to target certain ethnic or religious factions – there is a deliberate manipulation of food supplies to engender maximum suffering and death. Health professionals, health centres and hospitals are also part of the war game. In situations of extreme poverty, the powerful are usually not the most sympathetic. Deliberate siphoning of the aid to various warring factions feeds the war effort, and prevents the relief of those in extreme poverty.

The situation of unaccompanied children – both refugees and displaced children – is also appalling. Displacement is very traumatic, but cannot be easily measured. Logistics and provisional health care in refugee camps is often problematic. Yet, the sort of health problems that occur in camps – malnutrition, gastro-enteritis, infection, malaria, measles, and the like – have well-known but not always readily available cures.

Sexual abuse is another major issue here, which, like the manipulation of food aid, can also be a deliberate policy of those perpetrating armed conflict, particularly ethnic conflict. This is well documented in Bosnia and in Rwanda. Sexual abuse affects both boys and girls. More subtle forms of child sexual abuse also exist, such as trade for food, shelter and protection. The consequences are well documented: HIV, probably the most serious now, and other sexually transmitted diseases; suicide; delayed suicide – often years later so it does not figure into mortality statistics; and abortion.

One-third of developing countries spend more on arms than education, and two-thirds spend more on arms than health care. And the United States (US) and the UK are the two greatest donors/exporters of arms. There has been quite a lot of discussion about whether the US and the UK should have an ethical foreign policy. Of course we should, but an ethical foreign policy might result in a decrease in the standard of living for people in the UK. There may be 300,000 people out of work who are dependant on the arms industry, which may lead to less money for basic services such as education and health. The question is whether we are willing to experience a period of adjustment. Most politicians do not think so, and thus find ways to justify supplying arms to poverty-stricken countries.

The abuse of children in the UK is also a serious problem despite the US's child protection. In 1989, the Children's Act – like the CRC – was instrumental in raising awareness of the situation of abused children. It asserted that no child should be abused by their parents or caretakers. Yet, there is a significant difference in implementation. In the UK police child protection teams operate under social services. Child protection is led by, if you like, a humanitarian agency – the social services – but implemented, if necessary, by the police.

Child Advocacy International would like to see something similar develop to protect children from armed conflict, because, unfortunately, the reality is that children are not protected, and, in fact, are deliberately targeted. The argument is for an international police force under the auspices of the United Nations because children have a right to be protected from armed conflict.

The role of NGOs in facilitating the implementation of the Convention

Angela Penrose and Dan Seymour

Introduction: Save the Children Fund and the Convention

At Save the Children, we are extremely proud of our heritage as we were founded by Eglantyne Jebb who drew up the first Declaration of the Rights of the Child. She recognised that, to be effective, the practical work of addressing social problems of a voluntary agency such as Save the Children's needed to be complemented by much wider support arising from a heightened awareness of adult obligations towards children. This required mobilising public opinion and enlisting the efforts of political leaders and governments. In 1923 Eglantyne Jebb wrote:

If we wish....to go on working for the children - whose need is indeed so great that it appears to demand a continuance of effort - the only way to do it seems to be to evoke a co-operative effort of the nations to safeguard their children on constructive rather (than) on charitable lines. I believe we should claim certain rights for children and labour for their universal recognition.

The Geneva Declaration was followed as we know by a French version adopted by the League of Nations, the 1959 Declaration of the Rights of the Child and finally the UN Convention which underpins all the work of Save the Children.

I have been asked to speak on Save the Children Fund and the UN Convention on the Rights of the Child, and will try to show how over the last nine years we have sought to implement the UN Convention. In 1996 we developed a Global Programme Strategy which recognises the overarching nature of children's rights in relation to all SCF's programme work. This required all activities of whatever kind to be considered in the light of the key principles of the CRC – and to be integrated in a framework for advancing children's rights in each country where we work.

I should also like to thread through this paper reflections on the role of NGOs in general in the implementation of the Convention. The continuing commitment of NGOs to realising children's rights through the Convention stems in part from their active involvement in the drafting process. The United Kingdom delegate to the Working Group, Michael Longford, has stated that "...the most striking feature of the 1984 meeting was the emergence of the NGOs as a really positive force in the Working Group".

1 An NGO Group including DCI and Radda Barnen, the Swedish Save the Children, co-ordinated the NGO contribution, making the best of the collective expertise and experience, by briefing delegates, preparing written proposals and making presentations in the meetings. It has tentatively identified some fifteen substantive articles or paragraphs for those inclusion in the Convention they were

primarily responsible, a similar number where they had a significant impact on the formulation, form or content, and two for which the NGO proposal was used as the basic draft text by the Working Group 2. (In a statement to the 1989 session of the Commission on Human Rights signed by thirty-two NGOs they summed up their position as follows:

Whilst there will always be some level of discontent, and certain improvements to be made in the quest for perfection, there must be a decision at some point to stop formulation and begin implementation.

Thus to NGOs, as to everyone else ratification was only the beginning. From that point NGOs have taken their role seriously and developed a number of different ways in which they contribute to the implementation of the Convention.

<i>SCF and children's rights</i>
<p>children will demonstrate its firm commitment to the realisation and promotion of children's rights by:</p> <ul style="list-style-type: none"> Working towards a progressive realisation of children's rights through programmes of practical research and advocacy; and Playing an active role in building alliances world-wide to promote, support, and implement children's special emphasis on the role of the Save the Children Alliance in this: <ul style="list-style-type: none"> Developing and promoting training on children's rights to be used with staff, partners, supporters and interested parties: Requiring an analysis of Save the Children's potential to contribute to the promotion, implementation, and reporting of the CRC (taking into account other relevant international and regional legal instruments) in the country in which we work; and Supporting organisations run by children and young people to enable them to defend their own

holding governments to their obligations

Monitoring and reporting

The Convention on the Rights of the Child gives NGOs a role in the monitoring procedures. As 'other competent bodies' they can be invited by the Committee on the Rights of the Child to give 'expert advice'. NGOs seized on this early in the decade, actively encouraged by the Committee. NGOs in co-operation with other representatives of civil society play the part of watch-dog in observing, supporting or criticising the work of governments who are primarily responsible for the implementation of the Convention.

The approach usually depends upon an assessment of the state of children's rights in a country and the best way to work towards an improvement. In most cases NGOs work closely together, often in the form of a national coalition which monitors the government's engagement with the reporting process.

If a government is genuinely committed to implementation of the Convention (for example, by making a thorough assessment of the situation of children and their rights through considering legal reform to bring national law in line with the provisions of the Convention) then such a coalition may well be able to support and assist in this.

If, however the government is half-hearted, then such a coalition can play a powerful role in holding a government accountable to its international obligations. It can increase public awareness of the government's responsibilities in a country and act as an important source of independent information for the general public and the media, as well as the UN Committee. This is a role the CRDU, supported by Save the Children took in the UK when the government made its first report. The then Director of SCF's UK Department took the view that the government's attempts at consultation over its report were perfunctory and tokenistic and refused to respond a press conference was held at which Thomas Hammarberg, then Deputy Chair of the UN Committee, was invited to speak at which he....(he has publicly expressed the view that of all the governments the Committee dealt with the UK Government in 1994 was the most difficult). The publicity which resulted from that press conference reflects a problem we often encounter with the public's understanding of rights.

(OHPS) Press coverage of UK report - January 1994. NGOs including Save the Children will often attend the Committee's pre-sessional hearings to inform the Committee of the situation of children in a particular country and suggest lines of questioning to be pursued by the Committee with government representatives. In some case the BGO coalition will prepare an alternative report to the government's own report, setting out its experience of the state of children's rights.

Using government resources

Governments have committed themselves to the implementation of economic, social and cultural rights 'to the maximum extent of their available resources'. The UN Committee's revised reporting guidelines of 1996 make very clear what information is required of governments when they report including health, welfare and education; budgetary analysis enabling the amount and proportion spent on children to be clearly identified; what measures are being taken to ensure that disparities between regions and groups of children are bridged and that measures are taken to ensure that children, particularly those belonging to disadvantaged groups are protected against the adverse effects of economic policies, including the reduction of budgetary allocations in the social sectors

In our experience governments have not excelled in this and NGOs are increasingly pressing for governments to recognise their responsibilities. Not by being shrill or making unrealistic demands but by pushing for this kind of analysis. NGOs are now collecting their own data and using this to confront governments and economic institutions and suggest alternative approaches. In South Africa, for example, IDASA has recently published extensive research in this area 4

International co-operation

The Convention offers scope - not, as yet full realised - for international co-operation. There are meant to be links between the identification of problems by governments and development assistance. Governments obligations are therefore not restricted to the domestic arena. NGOs have urged their governments to pay attention to children's issues in their international policy. In a submission to the Department for International Development of the UK Government Save the Children focused on children's development and the rights of the child. It therefore welcomed last year's government White Paper which stated that "We shall support international efforts to enhance children's well-being through implementation of the Convention on the Rights of the Child, promoting children's protection and participation alongside the provision of effective and sustainable services".⁵ Save the Children will now be monitoring this substantial commitment and has been invited to engage in discussions on how it will be translated into action.

Legislation

Whereas States comply with their international obligations in a variety of ways and there are core differences in the relationships between domestic and international law, NGOs are increasingly working with governments to find ways in which national legislation can be made more conducive to the realisation of children's rights. In Uganda Save the Children contributed to the establishment of the Child Law Review Committee by the government in 1990 and continued to be represented on the committee which undertook research and advocacy work. Important changes were made in child legislation based on this work including the establishment of the Children's Statue, a progressive piece of legislation passed in 1995. NGOs are also supporting government implementation of the statute at national and district level.

Mechanisms for promoting the rights of the child

Policy towards children usually lacks co-ordination. Gaps exist between Ministries, between various levels of government, or between government and other bodies within the private, public or NGO sectors. Problems of designing suitable frameworks appear to exist in both developed and developing countries. In a number of countries including Zimbabwe, Sri Lanka, Nepal and currently Rwanda, NGOs are involved in developing co-ordinating frameworks at different levels.

Partnership

The Convention has increasingly provided a common framework, based on an acceptance of obligations and a common language based on the Convention's principles and standards. These provide a starting point from which the different actors with responsibilities towards children can take an

issue forward. NGOs such as Save the Children try to identify the pattern of relationships and obligations within a society in order to seek out partners. Thus we work with governments and in communities, with lawyers, with the police, with teachers and with journalists.

Increasingly business seeks partnerships with NGOs as companies source more products internationally and their responsibility - as viewed by themselves and consumers - for being involved in social development issues increases. NGOs are seen as a source of knowledge - an invaluable commodity - and of experience of social and environmental issues. Save the Children works with the sporting goods manufacturers represented by the Sialkot Chamber of Commerce and Industry in the football manufacturing town of Sialkot in Pakistan and their international partner brands represented by the World Federation of Sporting Goods Industry, UNICEF, ILO and local community groups. This example of a broad partnership with different expectations has taught the various players many lessons. The corporate world expects results with specific targets being achieved, such as 25 schools being improved in six months. In contrast, NGOs concentrate more on process and encourage communities to define their targets which can take time. They know for example that the schools will not succeed unless time is taken to form School Management Committees who have ownership of the progress of those schools. Before any action was taken to phase children out of football stitching Save the Children had insisted that the children and their families be consulted on the changes they thought necessary. Business showed frustration at the time required for this first phase but later acknowledged the value of basing the programme on accurate information about the situation on the ground.

Creating a culture of rights

The formal monitoring and reporting process, although vitally important, currently has limitations. NGOs are trying to create a much wider awareness and use of children's rights. By working with politicians, professionals who work with children, parents, children and others to create an understanding of rights, NGOs are working to establish an environment in which children's rights are respected. This currently involves translation of the Convention, the development of training materials and educational materials. There are many examples of working with children so that they develop their own versions of the Convention. Much of this work is now developing from a theoretical base to practical applications, using the rights framework to tackle issues such as HIV/Aids.

CRIN - the Children's Rights Information Network disseminates information on child rights issues and activities internationally among dozens of NGO members. In this way groups learn from each other and share their materials and experience.

Giving children their voice

The UN Convention encourages a positive view of children. It calls in many essential ways for their protection and makes clear where the responsibility for that protection lies. Governments, the international community and NGOs must all be rigorous about our obligations to provide protection.

However, in all its work around the world, Save the Children knows how resilient and responsible children are in many different situations. We also see that diversity in childhood is not an expression of abnormality but of individual difference and of the different cultural and social conditions which apply throughout the world. Getting to the essence of the Convention by recognising that children are not merely passive recipients of experience but active contributors to their own development, and ensuring that the principle of participation enshrined in Article 12 is genuinely adhered to in all aspects of implementation requires new attitudes and new tools.

BGOs have led the way in exploring ways of involving children and giving them a voice. Radda Barnen has supported the development and field testing of practical procedures for more systematically bringing children's views into programme planning and evaluation. These efforts have adapted focus groups techniques based on Participatory Rural Appraisal (PRA) methodology to the challenge of actively hearing and recording children's views. Field tested successfully in different parts of the world, these techniques are now available for use by other organisations. Save the Children UK has developed a planning research methodology designed to capture information necessary to guarantee the best interests of working children who are being removed from their work in manufacturing goods for export.

At times it has seemed worthwhile to ensure that the principle of children's participation is adhered to at international level. In 1996 some Save the Children staff from the Philippines facilitated a group of children from all regions of the world so that they could present their views at the World Congress on Sexual Exploitation in Stockholm. After two days presentations from ministers and politicians their involvement provided a necessary jolt to hundreds of adult participants. The rapporteur, Vittit Muntarbhorn, began the final summing up by saying 'never again must we consider issues of importance to the children without the children'. Nevertheless the Oslo Conference on Child Labour was in danger of going ahead without the representation of children, which is why Save the Children convened a children's forum which ran in parallel to the main conference so that at least some views could be expressed. As plans to carry forward the Oslo recommendations are put into action, Save the Children will be working in several different countries to ensure that children are involved in the planning process.

Priorities for the next decade

NGOs are firmly established as committed partners in the task of implementation. In the next decade they will become even more active in the roles described above.

They will work with UNICEF and others on ways to strengthen and streamline the work of the Committee, pressing for an end to the delays which threaten to discredit the reporting process; they will work at country level in appropriate ways to monitor government implementation. They will find practical ways of getting children's issues taken up in the decentralisation process now well established in many countries.

Whilst we are all aware of how much is still to be done, the Convention has created an unstoppable momentum, and NGOs – large and small – are part of the 'co-operative effort' that was part of Eglantyne Jebb's vision eighty years ago. We see our job as working on the 'how' of realising children's rights.

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Children in armed conflict: the law and its uses

enny Kuper

Introduction

When considering the subject "Children in Armed Conflict: the Law and its Uses" it is tempting, as a lawyer, to remain within a legal framework, and to examine the question: what is the body of law relating to children in armed conflict, and how can it be implemented? However, it may be more interesting to step outside the legal framework and to ask a broader question: that is, what use is international law concerning children in armed conflict? What is it for? What does it do?

Both the narrow and the wider question are worth considering, and this paper aims to briefly address them both. It starts by looking at the more limited and legalistic question, in order to outline the current law and its implementation mechanisms, before going on to question their value. Detailed information on the law and its implementation is beyond the scope of this paper, and in any event such information can be found elsewhere (see particularly Goodwin-Gill and Cohn, 1994; and Kuper, 1997).

The question to be examined first, therefore, is: what are the main rules of international law relating to children in armed conflict, and how can these be implemented?

The narrow question

The law

Different branches of international law are relevant as regards children in armed conflict, particularly human rights and humanitarian law/the law of armed conflict. The applicable principles are found in the text of international treaties, or they can exist as principles of customary law (written or unwritten)⁹, or a combination of both. For the purposes of this paper, the focus is on international humanitarian law, as set out primarily in treaty form.

One of the complexities of international humanitarian law as a whole is that different rules apply, depending on whether the armed conflict is an international armed conflict, a non-international armed

⁹ In international law, customary law principles are fundamental rules (such as the prohibition of torture) that are generally considered binding on all states, regardless of whether, e.g., particular states have ratified treaties enshrining these principles, or whether the principles are even set out in treaty form. For discussion of customary law principles particularly in relation to child civilians in armed conflict, see Kuper, 1997, chapter 5. For information on customary law in general, see e.g. D'Amato, 1971 and Thirlway, 1972.

conflict, or simply a civil disturbance.¹⁰ In recent decades most armed conflicts world-wide have been and continue to be non-international armed conflicts. However, the categorisation of the different types of armed conflict is to some extent subjective, and it can therefore be difficult to achieve consensus as to the applicable law. No international body – not even the UN – is authorised to definitively make a determination on this that is binding on the parties to a conflict. Governments may have a vested interest, for example, in declaring that a conflict in their territories is simply a civil disturbance, and thereby avoiding having to comply with the more stringent standards that would apply if it was accepted as a non-international, or particularly an international, armed conflict.¹¹

As regards the definition of 'children', increasingly they are considered in international law to be, in general, those under 18, in accordance with Article 1 of the 1989 Convention on the Rights of the Child (CRC). However, the 1949 Geneva Conventions and the 1977 Geneva Protocols represent a lower standard in that, with a few exceptions, 15 is the highest age limit employed in these treaties for establishing the entitlements of childhood.

In any event, the relevant humanitarian law rules can be divided into those concerning child civilians, and those concerning child soldiers. As regards child civilians, these include:

- The fundamental principle that children in armed conflict are entitled to special treatment (see particularly Art. 77 (1) of 1977 Geneva Protocol I, and, to a lesser extent, Art. 4(3) of 1977 Geneva Protocol II, both incorporated within Art. 38, 1989 CRC);
- More specific rules stating that children should not be arbitrarily killed, or tortured, or ill-treated in any way, and this includes a prohibition on the sexual abuse of children (see again Art. 77(1) of 1977 Geneva Protocol I; Art. 4(3) of 1977 Geneva Protocol II, and arguably rules in the 1989 CRC, e.g. Arts. 6, 19, 34 and 37);
- The rule that children should be granted priority in receiving necessities such as food and shelter (see the 1924 and 1959 Declarations of the Rights of the Child (Principles 3 and 8 respectively); Art. 23 of 1949 Geneva Convention IV, and Art. 70(1) of 1977 Geneva Protocol I); and
- Children should be kept with their families and communities whenever possible, and given means of identification when separation is unavoidable. Any separation should be for the shortest possible time (see, e.g., Art. 49 of 1949 Geneva Convention IV, Art. 78 of 1977 Geneva Protocol I; Arts. 4(3)(b) and (e) of 1977 Geneva Protocol II and, arguably, rules in the 1989 CRC such as Arts. 10 and 20).

Those, then, are some of the main rules on the treatment of child civilians in situations of armed conflict. Most of them are to be found in the widely-ratified 1949 Geneva Conventions, the 1977 Geneva Protocols, and in the 1989 CRC. These treaties elaborate the rules in some detail in relation to

¹⁰ Thus, among others, the 1949 Geneva Conventions – apart from Article 3 ('Common Article 3') – and the 1977 Geneva Protocol I apply to international armed conflict, while Common Article 3 and the 1977 Geneva Protocol II apply to non-international armed conflict. Human rights law and customary principles can generally apply to all. See e.g. Kuper 1997, pp. 61-62.

¹¹ For example, when Iraq invaded Kuwait in 1990, Iraq did not categorise this as an international armed conflict, but insisted that Kuwait was a province of Iraq and therefore described the invasion as an internal matter (see e.g. Kuper, 1997, p. 177).

international armed conflict, while they contain only key principles in relation to non-international armed conflict.

Before examining the rules on child soldiers, it is worth mentioning some interesting features of the rules regarding child civilians. Perhaps surprisingly, the fundamental principle that children in armed conflict 'shall be the object of special respect' was first stated in the 1977 Geneva Protocols just over 20 years ago. Before that, there were a number of specific rules in the 1949 Geneva Conventions on the treatment of child civilians in armed conflict (including some of those already cited above), but these Conventions did not state the general principle. In fact, the 1949 Geneva Conventions, finalised only 50 years ago, were the first international treaties to specifically provide for children in situations of armed conflict.

Prior to the 1949 Geneva Conventions, the early humanitarian law treaties simply incorporated provision for child civilians within the rules regarding the civilian population generally, and child soldiers were not directly referred to. There was an attempt, in 1939, to adopt an international treaty specifically concerning children involved in armed conflict. However, the outbreak of WW II put an end to this initiative, which was the work of the International Committee of the Red Cross (ICRC) and the International Union for Child Welfare (Pictet, 1958, p. 186; and Singer, 1986, p. 8). Comparing the 1949 Geneva Conventions with the 1989 Convention on the Rights of the Child, it is possible to see how radically the perception of children in international law has changed in 50 years. Whether this shift in perception has had much impact outside of the legal framework is a different question, and one which will be touched on later in this paper.

As regards the international humanitarian law rules on the treatment of child soldiers, these include the following:

- That children under 15 should never be used as combatants (Art. 77(2) 1977 Geneva Protocol I, Art. 4(3) 1977 Geneva Protocol II, and Art. 38(2) 1989 CRC);
- However, when, in contravention of the law, children under 15 do participate in hostilities and are then captured, they are entitled to special treatment in the same way as are child civilians (Art. 77(3) Geneva Protocol I; Art. 4(3)(d) 1977 Geneva Protocol II);
- Children under 15 should never be recruited as soldiers, and this includes voluntary recruitment (Art. 77(2) 1977 Geneva Protocol I; Art. 4(3)(c) 1977 Geneva Protocol II, and Art. 38(3) 1989 CRC);
- When recruiting among persons between the ages of 15 and 18, priority should be given to those who are oldest (Art. 77(2) 1977 Geneva Protocol I and Art. 38(3) 1989 CRC); and
- Children should not be subject to the death penalty for offences related to the conflict which were committed when they were under 18 (Art. 68 1949 GC IV; Art. 77(5) 1977 Geneva Protocol I, and Art. 6(4) 1977 Geneva Protocol II).

Again, these rules are to be found mainly in the 1977 Geneva Protocols, the 1989 CRC, and, to a lesser extent (i.e. only in relation to certain rules regarding the death penalty), in the 1949 Geneva Conventions.

The age at which children should be eligible to become soldiers is currently a very controversial issue. Since 1994 efforts have been underway within the UN to draft an Optional Protocol to the 1989 CRC (see e.g. UN Doc. E/CN.4/1998/102), which may, among other things, raise the relevant age-limit for participation and recruitment from 15 to 18 years. At the time of writing, discussion on this Optional Protocol had reached a stalemate, with governments unable to reach a consensus on a number of issues, and particularly on the age at which children should be able to participate in armed conflict, and be voluntarily recruited¹². However, the recently-concluded Statute of the International Criminal Court does, among other things, specifically make it a war crime to conscript or enlist children under 15 into armed forces, or to use them to participate actively in hostilities (Art. 8(2)(b)(xxvi) and Art. 8(2)(e)(vii)). This prohibition applies to both international and non-international conflict, but again falls short of a ban on the involvement of those under 18. Moreover, a recent ILO Convention, the Convention Concerning the Prohibition and Immediate Elimination of the Worst Forms of Child Labour (ILO Convention No. 182), includes a prohibition on "all forms of slavery or practices similar to slavery, such as ... forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict" (Art. 3(a)). Under this Convention, children are defined as those under 18 (Art. 2). It therefore incorporates a ban on forced recruitment of children under 18. Nonetheless, contrary to the wishes of many NGOs and governments (Barnen, 1999, p. 1), it too fails to comprehensively ban the use of under-18 year olds as soldiers, and the voluntary recruitment of such children.

Finally, one last set of rules are worth mentioning here: rules regarding culpability.

These rules make it clear that government leaders, as well as soldiers and their commanders, may be personally liable for violations of the laws of armed conflict. Once more, many of the relevant rules can be found in the 1949 Geneva Conventions, and in 1977 Geneva Protocol I¹³. Such rules are also set out in the Statutes of war crimes tribunals, including early Tribunals such as the Nuremberg Tribunal, the Tribunals on the former Yugoslavia and on Rwanda, and, most recently, the International Criminal Court.

¹² Many governments and NGOs argued for an age limit of 18 for all activities of child combatants. However, a number of governments with significant international influence, such as the US, argued for lower age limits particularly as regards participation and voluntary recruitment.

¹³ The 1949 Geneva Conventions contain rules concerning 'grave breaches' of their provisions, and oblige States party to these Conventions to ensure such breaches are punished (see e.g. Art. 147 of 1949 GC IV). The 1979 Geneva Protocol I expands the 1949 Geneva Convention definitions of 'grave breaches', and sets out additional measures to address these (see e.g. Arts. 85, 86, 88 and 89).

Implementation

Having considered, above, the main rules of international law on the treatment of children in armed conflict, and staying within the legal framework, it is useful now to consider some of its implementation mechanisms. Again, this will be brief. The question here is: what are the main mechanisms that can be used to enforce, or to encourage compliance with, this body of law?

The starting point will be to look at developments within the UN, resulting from the adoption of the 1989 CRC. Under this Convention the Committee on the Rights of the Child was established, the first Committee members being elected on 27 February 1991. Among other things, the role of the Committee is to regularly receive reports from countries that are party to the 1989 CRC – and almost every country in the world has now ratified this treaty, with the notable exceptions of the US and Somalia (see UN Doc. ST/HR/4/Rev.16 (1998)). The Committee is therefore in a position to examine reports from countries where children are caught up in situations of armed conflict, and it can elicit information from government representatives, and make recommendations about the treatment of children in these situations. The Committee was also responsible for initiating the widely publicised 1996 Machel report on Children in Armed Conflict (UN Doc. A/51/306 (26 Aug. 1996)). Among its many recommendations, this report called for the appointment within the UN of a Special Representative for Children in Armed Conflict, and in 1997 Olara Otunnu was appointed to this position. His office can now act as a focal point within the UN for action on children in armed conflict, and he has already undertaken a number of initiatives, including, inter alia, recent visits to negotiate on behalf of children in Colombia and Sierra Leone.

There are also other bodies connected with the UN that have a role to play as regards children in armed conflict. These include the principal organs of the UN (e.g. the Security Council and the General Assembly) as well as subsidiary bodies within the UN (e.g. the Commission on Human Rights) and others operating under UN auspices (e.g. UNICEF, UNHCR, and the Human Rights Committee). Discussion of these various bodies in this context is, again, beyond the scope of this paper, but can be found elsewhere (Kuper, 1997, p. 138).

Another mechanism for encouraging compliance with this area of international law is through the punishment of those who break the law. For example, regional bodies within Europe, Africa and the Americas, can and do play a role in addressing violations of international law affecting children in armed conflict. Moreover, such violations can be addressed by war crimes tribunals, including the International Criminal Court when it is functioning, or the current Tribunals on Rwanda or the former Yugoslavia. As is the case with most contemporary armed conflicts, those in both Rwanda and the former Yugoslavia spawned innumerable violations that affected children either directly or indirectly. In Rwanda there was also the problem of how to deal with the many children who themselves violated the

law, and who killed, tortured, or sexually abused civilians, including other children. One challenging question here was: how should such children be treated by the criminal justice system? If young children commit war crimes should they be simply reprieved on the grounds that they are children? Or should they be treated in the same way as an adult who commits a war crime? Is there a middle way? In fact in Rwanda attempts were made to find a compromise solution to this dilemma, so that children's cases were generally handled in separate courts, with an emphasis on rehabilitating them, rather than simply punishing them (UNICEF, 1995-1996).

Compliance with the body of law relating to the treatment of children in armed conflict can also be facilitated by disseminating it more widely, and by providing adequate training for military personnel in its basic principles. There have been many recent conflicts in which soldiers have violated these basic principles. For example, there were the cases involving UN peacekeepers in Somalia who were accused of torturing and even killing children in that country (see e.g. *The Independent*, 15 July 1997). UN peacekeepers, and other military personnel, have also been responsible at times for a huge rise in child prostitution in countries such as Cambodia, Liberia and Angola (Machel report, 1996, para.98). Improved training, although it will not stop such violations, may well limit their commission in certain instances, and this, in itself, clearly has some value. There is also an argument for having, in all military operations, personnel who are especially trained and aware of the particular requirements of children, and who are mandated to act and advise on their behalf.

Ultimately it may be that the pertinent body of law should be codified into one statute specifically on children in armed conflict, because at the moment the relevant law is widely scattered in different treaties and customary rules. This adds to its complexity, and makes compliance more difficult. However, codifying it would be a truly mammoth task, requiring difficult decisions on the particular rules to be included, and on the standards to be set. At this stage it therefore seems more appropriate for those concerned with its implementation to focus on improving compliance with the existing law.

Finally, other mechanisms to encourage compliance include the use of sanctions (see below), and, of course, the use of force. Violations of the basic principles of international humanitarian law - including those relating to children - can be a catalyst for military intervention e.g. as authorised by the Security Council under Chapter VII of the Charter of the UN. The use of force is extremely controversial, potentially disastrous, and absolutely an option of last resort. Nonetheless, it may be that in certain instances military intervention is the only mechanism that can put an immediate stop to violations against children and others. For example, the 1991 Gulf War that ended the Iraqi occupation of Kuwait did put an end to the torture and killing of Kuwaitis, many of whom were children, by the Iraqi forces. (Apparently young people in Kuwait were particularly targeted by the Iraqi forces, as young men were often assumed to be participating in the resistance, and girls were sexually abused (Amnesty International, 1990). Clearly the main aim of the 1991 Gulf War was not to put an end to the abuse of

children in Kuwait. However, it had that side-effect, and it is perhaps the only mechanism that could have had that effect, at least in the short term (although this is not to condone the manner in which that war was conducted).

That, then, is a brief summary of the rules of international law regarding children in armed conflict, and of its implementation mechanisms. Leaving behind the legal framework, the wider question can now be considered: i.e. what use is international law concerning children in armed conflict? What is it really for? What does it really do?

The wider question

It is arguable that the body of law relating to children in armed conflict is largely aspirational, that it is simply a set of fine-sounding phrases that have, ultimately, little meaning or use for such children, but that satisfy the conscience of those concerned about human rights. Certainly, if one looks at the statistics regarding children affected by armed conflict in recent years, it seems that the relevant body of law is of very little use¹⁴.

In this respect, the 'Preamble' to the Statute of the International Criminal Court makes interesting reading. It opens with the almost poetic statement: 'conscious that all peoples are united by common bonds, their cultures pieced together in a shared heritage, and concerned that this delicate mosaic may be shattered at any time. . .'. A sceptic could ask: what purpose is served by this flowery language? More importantly, will the International Criminal Court deliver what it promises? Certainly there are concerns that this Court will not live up to expectations, since, among other things, it is hamstrung by certain procedural requirements and limitations on its jurisdiction (see e.g. La-Haye, 1999).

However, even if the law regarding children in armed conflict is largely aspirational, does that invalidate it? Or does the statement of aspirations serve some purpose? Again, it is arguable that there is some value in stating aspirations as long as they are not completely unrealistic, since an apparently idealistic notion can set a standard that may become more achievable as time passes, and can shape future norms. At the time of its adoption (10 December 1948), the Universal Declaration of Human Rights, for example, was a largely aspirational document, and of course in many ways it remains so. Nonetheless, it is generally accepted as now representing customary international law (see e.g. Brownlie, 1995, p. 255), and many subsequent legal treaties that have had a practical impact (including the 1949 Geneva Conventions, the 1977 Geneva Protocols and the 1989 CRC) have built on its basic principles. The UDHR has also been an important component in the socio-legal history that has brought the concept of "human rights" into mainstream international political thinking and parlance.

¹⁴ According to UNICEF, during the decade from 1985-1995 child victims of armed conflict have included ' . . . 2 million killed; 4-5 million disabled; 12 million left homeless; more than 1 million orphaned or separated from their parents; some 10 million psychologically traumatized' (UNICEF, 1996, p.13)

Again, it could be argued, regarding any international legal instruments relating to children, that governments are bound to become party to these, since no country wants to be seen to be anti-child. No matter what the reality is of children's lives in a particular country, children have a symbolic value, they add to the credibility of politicians, and no government wishes to openly admit that children in that country are badly treated. Hence the unprecedented speed and scale of the ratification of the 1989 CRC (see e.g. Kuper, 1997, p. 46). However, does such widespread ratification have any real significance, especially when, for example, countries enter sweeping reservations on ratification - as has happened with the 1989 CRC. In fact some countries have entered reservations to this Convention that render their ratification of it almost meaningless (Kuper, 1997, p. 104).

Again, it may be worth questioning not only the usefulness of international law regarding children in armed conflict, but also whether this body of law, and efforts to implement it, can actually make things worse for children in these situations. Could misguided attempts at intervention actually be counter-productive? Some commentators have argued, for example, that in certain circumstances the delivery of humanitarian aid to civilians in situations of armed conflict has actually resulted in prolonging the conflict, and increasing the human misery involved (Toolis, 1998, p. 20). Could something similar apply to the inappropriate use of, or response to, international law? For example, in a conflict where children have been openly abused, and where efforts are then made to disseminate information regarding legal rules for their protection, such dissemination may not have the desired effect of lessening the abuse. It is quite conceivable that it would, instead, result only in more covert abuse of children, in order to conceal the evidence. Or, to take a less hypothetical example, there are the many instances in which efforts to evacuate children from conflict situations, broadly in accordance with principles of international law, have gone horribly wrong, and resulted in children being permanently removed or lost from their families of origin.¹⁵

And what happens when there is an apparent conflict between different legal principles, one of which is the principle of the special treatment of children? Again, the current situation in Iraq is a case in point. Here the international community has imposed a sanctions regime in order to encourage compliance by Iraq with UN requirements concerning its weapons of mass destruction. However, one of the main effects of this sanctions regime is that the health of Iraqi children has been severely affected (Guardian Weekly, 19-25 August 1999; and UNICEF, 1999, p. 3), although arguably the Iraqi government could have done more to minimise the impact of the sanctions. (Thus there are frequent reports of the wealth of the Iraqi elite, while the majority of the population live in poverty (see e.g. O'Kane, The Guardian, 21 Nov. 1998). However, the question then arises as to whether the sanctions regime, which is indirectly

¹⁵ For information on earlier mass evacuations of children during, e.g. the Spanish Civil War, World War II, and the Greek Civil War, see Boothby, Ressler and Steinbock, 1988, pp.10-133. Regarding more recent events, see e.g. David, 1994, p. 9 on the former Yugoslavia.

causing death and injury to so many children, should be dismantled on children's rights grounds. Alternatively, is there a way of imposing sanctions that is less harmful to children?¹⁶

To return now to the wider question: what is the use of international law concerning children in armed conflict? One possible answer is, simply, retribution. It can be used as a way of punishing those who violate this body of law. However, to what extent does this body of law effectively punish those who violate it? The fact is that only a tiny proportion of the perpetrators – and an even smaller proportion of perpetrators of war crimes against children – are ever punished for their crimes. Is it worth having, and using, the unwieldy sledge-hammer of the law for such insignificant results? There are undoubtedly many different answers to this question, depending, among other things, on whether it is addressed, e.g., to a victim or perpetrator of war crimes, a government official, a lawyer, or a 'person in the street'. From an international law perspective, perhaps, at this point in time, this question can be answered with a cautious 'yes', since the law is currently changing, and there is a greater awareness of the entitlements of children. Also, more use is now being made of international tribunals, including the potential of the International Criminal Court. So, the law may become more effective in this respect, although thus far it has clearly had little impact.

However, a further question can be asked: is retribution necessary? is it useful? is it a culturally biased concept? For example, in a predominantly Buddhist society, such as Cambodia, does the concept of retribution matter in the way it may do in a western Judeo-Christian society? Or is the quest for justice, and the struggle against the impunity of perpetrators, universal?

It could be argued that war-crimes trials concerning children and others, and other such fora, achieve another purpose, that is: reconciliation. But do they do so? Even quasi-judicial bodies set up with the express purpose of achieving reconciliation – such as the South African Truth and Reconciliation Commission – may fail in this task. However, bodies such as that, and war crimes trials, can be cathartic, and they do serve a valuable educational and historic purpose as an archive, a record.

Finally, why not ask children themselves what they think of the laws of armed conflict that are designed for their protection? Children world-wide should, in theory, be familiar with these rules, since all countries that are party to the 1989 CRC have a duty to teach children in their countries about the contents of that convention, including the rules regarding armed conflict (Art. 42, 1989 CRC). It is likely that many children (and indeed many adults!) may see the laws of armed conflict as serving to humanise something, i.e. war, that is essentially inhuman. They may well prefer all efforts to be

¹⁶ See most recently The Hague Agenda for Peace and Justice for the 21st Century, Conference Edition, which includes a proposal to 'Refine the Use of Sanctions' (para. 32).

devoted towards world peace. Ultimately, of course, this is the only real solution, and it has recently been the focus of the 1999 Hague Peace Conference.

But, for many, the unpalatable reality is that world peace seems a long way off, and the task is, therefore, to confront the dilemma of attempting to humanise war, for children as well as for adults. In any event, the quest for world peace, and efforts to set limits on the conduct of war, are not mutually exclusive, but on the contrary can (and do) work in tandem.

In conclusion, it seems that the law regarding children in armed conflict does serve a purpose, or several purposes, but they are much more limited than international lawyers and human rights advocates may like to believe. This body of law is only a tool, and it must be used thoughtfully, and precisely, and strategically, if it is to achieve its goal of better protecting children in armed conflict.

Keynote Address

The Convention and children in situations of armed conflict

Olara Otunnu

Introduction

Our civilisation has achieved breathtaking advances in virtually every field of human endeavour, yet these quantum leaps in human progress coexist easily with a darker side to our civilisation. We have a capacity to inflict and tolerate grave injustice and can destroy entire communities in the quest for power, or in the name of ethnicity, religion or class. A crucial measure of our civilisation must be its human quality and how we treat our fellow human beings. Above all, it has to do with how we treat the most innocent and vulnerable members of our community who represent the future of every society.

We are witnessing an abomination directed against children in the context of armed conflict. The suffering to which children are being exposed is simply staggering. At this moment in approximately 50 countries around the world, children are suffering from the plight of armed conflict, either in the midst of it in ongoing armed conflict situations or in its aftermath. In the course of the last decade, we have seen more than two million children killed, more than one million made orphans, more than six million seriously injured or permanently disabled, more than twelve million made homeless, and more than ten million left with serious emotional and psychological trauma as the result of exposure to violence in the context of war. Increasingly, a large number of children, especially young women, have been made the targets of rape and other forms of sexual abuse and violence as a deliberate instrument of war.

Half the total population of displaced persons in the world are children, both those who are displaced within their national borders – internally displaced – and those who have gone beyond their national borders – refugees proper. Around twelve million are displaced today. It is estimated that about 300,000 young persons under the age of 18 are currently serving as child soldiers in various theatres of conflict. This has gone up, incidentally, from about a quarter of a million barely two and a half years ago. Approximately 800 children are killed or maimed by landmines every month.

War and human casualties are nothing new to the human experience. However, the magnitude of what we are witnessing today attests to a new phenomenon. There has been a qualitative shift in the nature and conduct of warfare. That is not war as we have known it in the modern era. This transformation is marked by several developments and features. Almost all the major armed conflicts in the world today

are internal. They are unfolding within national boundaries and typically are being fought by multiple, semi-autonomous armed groups. These conflicts are characterised by a particular brand of lawlessness, cruelty and chaos. In particular they are defined by the systematic and widespread targeting of civilian populations. In these situations, warring parties routinely ignore international humanitarian law, which has traditionally moderated, if not governed, the conduct of intra- and interstate warfare. These conflicts today tend to be protracted, lasting years, if not decades, often recurring in cycles, thus exposing successive generations of children to horrendous violence. Witness Cambodia, Sierra Leone, Liberia, Afghanistan, Sri Lanka, Sudan, Burundi, Rwanda and others.

Yet children have been compelled to become themselves the instruments of war. Indeed, they have become the weapon of choice, recruited or kidnapped to become child soldiers. Another feature of these conflicts is the proliferation of small weapons that are easily assembled and borne by children. Moreover, the increasingly indiscriminate use of antipersonnel landmines have exacerbated the particular vulnerability of children.

Civil wars are fought among those who know each other well, among enemy brothers and enemy sisters. They pit compatriot against compatriot, neighbour against neighbour. Therefore, a key feature of this struggle is the demonisation of the so-called “enemy community”, the other community— “those people” – often defined in religious, ethnic, racial or regional terms. In the intense and intimate setting of today’s internecine warfare, the village has become the battlefield and civilian populations the primary target. It is against this background that today, an estimated 90 per cent of casualties in on-going conflicts around the world are civilians. This is startling compared to World War One, a particularly bloody war, during which approximately five per cent of the casualties were civilian. But it was soldier-on-soldier violence. In World War Two, especially in the closing years during the aerial bombardment over Europe, the figure went up to over 45 per cent. Still, today the figure has gone up to close to 90 per cent, the vast majority of whom are women and children.

These abominations are due in large measure to a crisis of values manifested at both the national and international level. The traditional limits on the conduct of warfare, by which I mean not just international instruments, but also local taboos and injunctions, are being cast aside. This has given rise to what one might call an “ethical vacuum”, a setting in which international standards are routinely ignored with impunity, and where local value systems that call people to order have lost their sway. To reverse this trend of abomination, we need to take concerted measures at both the international and national levels. We need to address several challenges, highlighting in particular concrete measures of prevention, protection and recovery.

Challenges to address

The gap between international norms and their observance

The first challenge is about the wide gap which presently exists between the existence on the one hand of very impressive international norms and on the other hand, their non-observance on the ground. Over the last 50 years, one of the clear achievements that we can cite, is the fact that the nations of the world have developed a truly impressive repertoire of international humanitarian and human rights instruments. Several of these address the protection and welfare of children. Some of the more pertinent ones are the Convention on the Rights of the Child, the Geneva Conventions and additional protocols and the Convention on the Status of Refugees. In addition we can add to the list the newly adopted statute on the Permanent International Criminal Court. However, the value of these instruments is entirely limited to the extent to which they are applied on the ground. And today the gap between these norms, impressive as they are, and the situation on the ground remains unacceptably wide and growing. To close this gap, we must strengthen these instruments and move from a juridical project to a political project. This will be the biggest challenge: mobilising political pressure to ensure that there is compliance on the ground.

This is the reason why I, as Special Representative for Children in Extreme Situations, have been systematically approaching individual governments in order to make the protection of children and the observance of these instruments a prominent aspect of their domestic and international policy agendas. This is why I have urged the NGO community can strengthen areas which are still weak, in order to fill gaps which exist and to mobilise national coalitions of pressure to influence warring factions on the ground. Monitoring groups must also be formed, both official and informal, whose impact and whose watch can be felt around the world.

The erosion of local value systems

A second challenge concerns the role of local value systems. At a very fundamental level, I believe that perhaps the most damaging loss a society can suffer is the collapse of its own value system. Even in times of war, values matter. In most societies distinctions between acceptable and unacceptable practices are maintained, with taboos and injunctions prohibiting indiscriminate targeting of civilian populations, especially women and children. For example, in Uganda the concept of *lapee* was very strong. Among the Achole people, *lapee* denotes the cleanliness of one's claim, which attracts the blessing of the ancestors in recognition and support of that claim. Before declaring war, the elders would meet and carefully examine the status of their *lapee* to be sure that their community had a deep and well-founded grievance against the other side. If this was established to be the case, war

might be declared, but it was never likely. In order to preserve the original *lapee*, strict injunctions would be issued to regulate the actual conduct of warfare. For example, children, women and the elderly were not attacked. Neither were crops, granary stores or livestock destroyed. For to commit such taboos would be to soil your *lapee* with the consequence that you would forfeit the blessing of the ancestors and thereby risk losing the war itself. Moreover, among the Achole there was always the presumption of co-existence in the post-conflict period. Therefore, in prosecuting a war effort, great care was taken to avoid committing taboos and acts of humiliation that would destroy forever the basis of future co-existence between erstwhile enemy communities.

There are many examples of such value systems in different parts of the world. Yet today, things are falling apart, and the moral centre in many of these societies is no longer holding. In so many conflicts today, anything goes – children, women, the elderly, granary stores, crops, livestock. All have become fair game in the single-minded struggle for power and an attempt not just to prevail but to humiliate, not just to subdue but to annihilate the enemy community altogether. This is the phenomenon of “total war”, and tragically, many societies that have experienced prolonged periods of conflict, have seen their local value systems collapse under its pressure. Societies must, in the first place, create a new sense of ethical rootedness from the deep wellsprings of their own traditions. The mainstay of this effort will be through local, community-based initiatives. In order to nurture this process, it is essential to strengthen the various local institutions and networks that inculcate these values to protect children and promote their welfare. These networks include parents, extended families, elders, teachers and schools. This “ethical renewal” is an essential process if a society caught in the throws of deep moral and political crisis is to recover, rebuild and move forward.

This community-based process must then be integrated with and reinforced by contemporary norms that have been developed at the international level. Part of the challenge we face in this regard is simply to recognise that we have two pillars on which to fasten our claim for the protection and welfare of children and their rights: international norms and local value systems. We need to learn more about the values which have grown within the local soil that promote the interest and welfare of children, where they are broken down, how they might be revived and how the integration process between local values and international norms can take place. There is a whole project of research that needs to be done in that regard.

Initiatives to mitigate suffering of children

A third challenge has to do with taking concrete initiatives to prevent or to mitigate the suffering of children who are caught up in ongoing conflicts. The following are some of the issues around which we should seek to construct concrete initiatives on the ground:

Firstly, improve access to populations in distress. When communities are cut off from the outside world, they are entirely at the mercies of warring parties. That is when they are most vulnerable and when gross abuse and atrocities are likely to occur and multiply. For this reason the international community needs to insist on having access to such communities. Humanitarian agencies and human rights organisations must be given access to populations in distress to provide relief and succour, to bear impartial witness and to draw attention to the national standards and local norms applicable to the conduct of war.

Secondly, focus special attention on the needs of children. Children are the least responsible for the conflicts and yet, they tend to suffer the most. Therefore, the international community must insist that facilities such as schools, hospitals, children's playgrounds and school buses should be considered battle-free zones. It is therefore a positive development that the new statute of the International Criminal Court has now taken up the targeting of schools and hospitals as a war crime.

Thirdly, humanitarian cease-fires. Cease-fires are critical moments when every effort must be made to halt hostilities, even for a limited period of time, in order to facilitate the provisions of various practical measures for children, such as evacuation and inoculation.

Fourthly, recruitment and use of children. There is no question in my mind that children simply have no part in warfare. The international community must insist on this fundamental principle and on the application of the relevant provisions in the various instruments, from the Convention on the Rights of the Child, the Geneva Convention, to more recently, the Statute on the International Criminal Court, which makes the recruitment of children below the age of 15 a war crime.

Fifthly, monitoring the flow of arms. Finally, in the midst of conflict, we must monitor and control more systematically the flow of arms, especially small arms, into theatres of conflict. This is especially true in theatres where there is evidence of systematic abuse and brutalisation of civilian populations, especially children and women.

In my recent visits to Sri Lanka, Sudan, and Kosovo, I tried to construct initiatives around these issues on the ground. The task which now remains is to organise the international community to maximise the chances of those commitments being honoured. How can we organise to monitor better those commitments, especially given the prevalence of non-state actors, who are not parties to international instruments, but who, nevertheless, have agreed and made commitments to abide by the provisions and the principles of those instruments.

It is critical to ensure that these claims for the protection of children are taken seriously by parties in conflict, by both state and non-state actors. One favourable factor is the interdependence of the world

that we live in a central fact of international life. Warring parties in theatres of conflict, both state and non-state actors, depend to a great extent on the goodwill and co-operation of the international community for a number of reasons: arms supplies, diplomatic recognition, political legitimacy and trade, to name a few. None of these things can proceed successfully without the co-operation of the outside world. And no warring parties can prosecute their war effort without that co-operation. In other words, there are important trails that lead in and out of theatres of conflict. The question is how we take full advantage of these linkages by exerting concerted political pressure for the protection of children. Are we prepared – the NGO community, governments, UN agencies – to make concerted effort in that direction?

Post conflict needs

A fourth challenge to which I would like to refer is about how to address the needs of children after conflict has ended. War may be over in one sense, but it is not really over for children for whom the culture of violence has become a normal way of life or whom are left carrying deep scars in their hearts and minds and have lost out altogether on their education and youth. In the aftermath of conflict, we must work to heal these wounds. Healing is important to restore spiritual, emotional and physical health as well as facilitating reintegration into society. Above all healing is crucial to breaking the cycle of violence. Without healing, the victims of today's abuse may become the abusers of tomorrow and transmit hate and violence from this generation to the next. For many of these countries, a critical challenge is how to respond to what they call the "crisis of the young".

The prospect for national recovery depends a great deal on recuperating the young people and restoring to them a sense of renewed hope. That is why I have been urging those who are responsible for planning and constructing post-conflict programs of reconstruction and rehabilitation (the World Bank, the European Union, UNDP and other UN organisations, various bilateral development agencies) to make the needs of children a central concern from the outset, not merely an afterthought. Up until now this has not been the case. In this respect, some of the issues which have to be addressed by national governments, multilateral institutions, and development agencies are the demobilisation and reintegration of child combatants; the reunion, return and resettlement of displaced children and families; programs for mine awareness and rehabilitation for child victims of land mines; programs for physical, psychological and emotional rehabilitation; and provision and rehabilitation of basic medical and educational services, including vocational training

We also need to work out how to ensure that even when the needs of children are recognised, there is concerted response. That the best practices which have been developed elsewhere are being applied and that we design and put into place a system for monitoring. Is the response to the needs of children in post-conflict situations is effective? How can be sure that that response is effective?

The Need for Peace

The fifth challenge is concerning the need for restoring peace and preventing the recurrence of conflict. In my visits to effected countries, I've been greatly moved by the deep and palpable yearning for the restoration of peace on the part of all sectors of populations. Clearly, the primary impetus for peace must come from the warring parties themselves. Lasting peace cannot be imposed from the outside. But without strong encouragement from the international community, as well as assistance from impartial facilitators, a political settlement will often remain an illusive goal. It is for this reason again that I have urged the Security Council, key governments and other actors with influence in various theatres of conflict, to use all their power to facilitate settlements. I can think of no better way to end the suffering of children caught in the throws of conflict.

However, ending a conflict must not mean a return to the *status quo ante* – a return to the conditions that gave rise to conflict in the first place. In order to prevent the recurrence of conflict and to rebuild lasting peace, we must work systematically to transform the distorted relationships that gave rise to conflict in the first place. In too many societies today, we are witnessing a phenomenon in which a centre-periphery relationship exists within countries. We are familiar with this paradigm in the context of international economic relationships, but I am talking about relationships within countries where there are systematic imbalances in the distribution of development resources and political power between different parts and sectors of the same population. This can be horizontal as between different regional, cultural or ethnic groups, or vertical as between different social sectors within the society. To be meaningful, development activities and the distribution of political power must be for the benefit of the people of a country as a whole, not just a section of it. It is essential to foster a sense of common belonging within countries while allowing space for the expression of cultural, religions and regional diversities.

Similarly, I would add that it is critical to build genuine democratic practice and the rule of law because this provides the only non-violent and routine means to mediate competing claims within a society in the long-run. Both international and national actors have a responsibility to take political, economic and social measures that can generate a sense of hope in place of despair, a sense of inclusion and participation instead of exclusion and a sense of belonging instead of alienation.

Other issues to be stressed

Finally, based on work I have been doing as Special Representative for Children in Extreme Situations, there are some observations that I especially want to underscore. Firstly, I believe that non-governmental and civil society organisations have an indispensable role to play in shaping this agenda. Their contribution is crucial in many areas, but, particularly in mobilising the political pressure referred to above: a movement of pressure that can encourage warring parties to comply with existing

standards. Their role is important in building advocacy domestically as well as internationally to build awareness in favour of these instruments and these rights. But their role is important also because, increasingly, many of them have major operational programs on the ground, and they can use those programs to focus more critically on the needs of children. Also the NGO community is important in providing objective, independent and hopefully reliable information on the conditions of children in situations of conflict.

Secondly, I have proposed something I call the “neighbourhood initiative” to deal with cross-border issues. Neighbouring countries are caught up in the throws of conflict, often internal, but with criss-crossing factors. I am especially concerned about the recruitment and abduction of children across borders between Uganda and Sudan, Liberia and Sierra Leone, Sudan and Kenya, Ethiopia and Sudan, and Thailand and Cambodia, just to name a few. I am also concerned with the use of land mines and the flow and use of small arms. Is it possible for us to provide a more local, sub-regional, neighbourhood context in which one can get commitments from both governments and insurgency groups on measures to better protect children? This hinges on a monitoring system that can hold them to those commitments.

Thirdly, the Security Council of the United Nations undertook an unprecedented measure in 1998. As many of you know, the Security Council typically does not like to take up a theme or a general issue. . However, in the month of June, the Security Council accepted my request to hear a briefing on the plight of children and women affected by conflict. A public debate was held, at the end of which the Security Council issued a very strong statement expressing its concern and condemning the various practices that victimise children and women. Our task now is to use that statement as an additional tool of advocacy. Furthermore, we must ensure that the Security Council remains engaged on this issue. It must develop the habit of using the elements contained in the statement issued in June when it comes to making specific decisions on a given country and on a given mandate.

Fourthly, we have the new statute of the International Criminal Court. It is a momentous development. While the Court is not yet in place, everything must be done to expedite and mobilise for signing and ratification. Even before the Court begins to function, we have within the statute strong new elements that can reinforce our efforts at advocacy: elements that make the recruitment and use of children below 15 a war crime; elements that make the targeting of schools and hospitals a war crime; and elements that for the first time make rape and other grave sexual acts of violence a crime against humanity and a war crime. We must use these as important elements in our advocacy work.

During my visits to Kosovo, Sierra Leone, Sri Lanka and Sudan in the course of this past year, I have been able to discuss a number of issues, including the release of children who have been abducted, non-recruitment of children below 17, non-deployment of children below 18 and non-interference with

the flow of humanitarian aid. However, I, as the Special Representative, have no power or authority, unless those who have real influence – governments, NGOs, other actors within the international system – are prepared to use their influence and their lines of communication to reinforce my message and to reinforce the initiatives that have been taken on the ground. In this way, those who have made commitments feel the pressure of the international community.

Finally, let me mention the issue of the raising the age limit for the recruitment of children in hostilities. At the moment the age limit is fifteen. I support very strongly the movement which is underway to seek to raise the age limit to 18, in part because that will conform with the age of majority as provided in the Convention on the Rights of the Child and in many domestic legislation. In my view, however, there is a more practical reason. I have been to many theatres of conflict and seen many child soldiers. In many of these places there are no documents that can attest to the age of a given child. Most of the time one is guessing whether a child is ten or twelve or eleven. When they are asked how old they are, the automatic answer is twenty-one because somebody has primed them that 21 is a safe figure to give. Clearly, the higher the age bracket, the higher the ceiling, the more children we can protect. The lower the ceiling, the fewer children we can protect. Thus, it is important to lift the limit from the present 15 to 18.

However, I want to say equally clearly, that that is woefully insufficient. If all our energies are deployed on that juridical project, it will not be worth very much. We have more ambitious juridical projects which have been accomplished and have gone to the ground and seen no impact. So it is crucial that in tandem with the effort to raise the age limit, we must mobilise a political movement that begins to lean on those who are abusing children. Moreover, another reason is non-compliance with the law. For example, in Sudan, 18 is not an issue because the law “protects” those under 18 from serving as soldiers. But the reality is much different. In Sierra Leone the government agreed to recruit only those who are 18 and above. And yet, in these theatres of conflict, what is happening? Children are being recruited below 18 and even lower. So, again, the issue is whether we have in place a system of collective political pressure and a system of monitoring that can make warring factions feel that their actions towards children and women must improve. I hope that we take this two-track approach of raising the age limit and, at the same time, putting in place – today not tomorrow – a political movement, the weight of which can be felt on the ground.

Conclusion

In conclusion, the most important and pressing challenge today is how to translate the impressive body of international norms and local values into commitments that can make a difference to the fate of children exposed to danger on the ground. This is, above all, a political project, and involves generating concerted political action at both the international and local levels. I believe we can create a

political and social climate which makes the brutalisation and abuse of children an absolute taboo. This can be done. It cannot be business as usual with those who abuse children and women on a systematic basis.

In addition to international norms, we must reclaim our lost taboos. We must reaffirm the moral injunctions which have been eroded from our societies. Another danger is that we may be exposed to so much – on the screens, in the papers, in our various societies – that we shall come to accept as normal a phenomenon that represents the most radical departure, not just from international norms, but from our own local value systems. The danger would then be to accept as normal what is radical shift from anything that has been acceptable to us. So I hope that in the new millennium, we shall agree to make the protection of children one of our main goals, and make it safe for our children, all our children.

Children and social healing

Jo Boyden

Introduction

Especially since 1979, the International Year of the Child, the protection of children confronting adversity has become one of the central priorities of childhood interventions internationally. Advocacy for child war victims, working children and those variously exploited or handicapped has successfully attracted the attention and commitment of legislators, policy-makers, rights activists and practitioners throughout the world. And with the near universal ratification of the UN Convention on the Rights of the Child, there now exists a global framework for the protection and care of children living in extreme situations.

Undoubtedly this emphasis is appropriate: most of us would surely accept that children exposed to misfortune merit the best support the world has to offer. However, the protection of children is an uncertain art, with outcomes that are not always positive and cannot always be predicted. Sometimes implementation shortcomings are due to poor management or lack of expertise, but very often the problem is erroneous conceptualisations of children and childhood due to an absence of valid empirical and theoretical information about children internationally. Given the lack of systematic research and theory in many key childhood issues, policy affecting children in adversity has, by default, become heavily dependent on studies and normative ideas relating to children in North America and Europe. The global power of western models and understandings is evident, but their applicability and utility across cultures and social contexts is highly questionable. Furthermore, policy often adheres quite uncritically to western theoretical paradigms that have been extensively challenged in academic circles. In this paper, I argue that effective policy requires sound theories and sound field research if it is to benefit children. I focus on children affected by armed conflict and other forms of political violence, and begin by considering some of the ideas and assumptions underlying conventional perspectives and then assess the implications of recent research for a revised view of both children and child-centred emergency interventions.

Conceptualising childhood

Policies relating to children affected by armed conflict and other forms of political violence are commonly influenced—whether directly or indirectly—by two separate strands of research, with important implications for the kinds of interventions devised.

The first strand consists of an extensive body of work in several disciplines concerning the nature of children, childhood and child development. In essence, scientific thinking in the 20th century has tended to emphasise that childhood is a natural, distinct phase in the human life cycle, extending from birth through to, and increasingly beyond, adolescence. Since the advent of the UN Convention on the Rights of the Child, the upper age limit for this life phase is commonly accepted as 18 years. The broad understanding is that childhood has its own dynamics, interests and rights, this normally being attributed to the fact that, as immature persons in the process of development, children have different abilities from adults, as well as special emotional, physical, psychological and social needs. Such thinking is explicit in the existence of an international convention dedicated exclusively to children. It is apparent also in statements such as that in a recent draft training document, that "Children and adolescents are not short adults – they are qualitatively different" (International Save the Children Alliance/UNHCR, 1999, p. 3) and by the 'first call for children' policy employed by UNICEF and other agencies in emergency settings (Last, 1994). Because they are in a condition of development and weakness and lack adult insight, children are framed also as dependent, requiring continuous nurturing/nurturing and protection.

Out of this paradigm of vulnerability and dependence emerges the conviction that a 'proper' childhood involves being reared by parents within a family and secluded from the dangers of the adult world (Jenks, 1996; Boyden, 1997). In order to secure these conditions, children are to be kept as much as possible within the home and school, distant from the workplace and from hardship and misfortune. Thus, children are not merely perceived to be different, since modern, western childhood is a mythologised and privileged state. In contrast to adults, children are variously cast as pre-logical, pure and 'natural' beings, innocent of the ways of the world and incompetent in it (Freeman, 1983, p. 7; Hockey and James, 1993). Hence, childhood has become a joyous time free of social and economic responsibility, and marked by learning and play; upon these conditions children's happiness and fulfilment are seen to depend.

These sentimentalised notions of childhood originated in the Romantic and Reform movements in Europe (Cunningham, 1991 & 1993) and received their most concrete expression in the region in the aftermath of the industrial revolution, when they began to radically transform the social integration and treatment of children. Such perspectives have been endorsed and institutionalised in the 20th century by research and practice in the west in eugenics, pedagogy, child psychology and child guidance (Weindling 1994; Woodhead, 1998; Nsamenang and Dawes, 1998). Among these disciplines conceptualisations of child development have generally been informed by an understanding of children as needy and dependent and requiring adult nurture and socialisation through to the late teen years. The broadly accepted scientific wisdom has been that children's competencies are essentially a function of age, this being the core thesis of a body of developmental psychologists whose work (dating

largely from the 1960s and 1970s) has come to dominate international policy in the last few decades. Particularly influential in this regard has been the work of Jean Piaget. Others who have viewed things rather differently and whose ideas have more recently made significant inroads into the academic discourse have had little impact on childhood policies globally.

The predominant hypothesis is that child development is governed by universal psychological and biological structures and marked by fixed stages, Piaget having divided the period from birth to adolescence into four such stages. This kind of stage theory has known origins in the medical works, didactic literature and moral treatises of medieval Europe (Shahar, 1992). Each stage of development is said to be marked by certain defining features and developmental expectations and builds on the accomplishments of the previous stage, development during childhood also being seen to define psychological states and adaptiveness in adulthood. Adherents of stage theories certainly acknowledge the formative role children play in their own development. However, the thrust of the academic work on childhood and child development this century has been the identification of universal biological and psychological factors in child development. Even anthropological and sociological accounts, which tend to give much greater weight to cultural and social influences in child development than to universal structures, have tended to focus on children as the receivers of adult protection, socialisation and training, rather than social agents in their own right (Baker, 1998).

Another feature of child development research has been its emphasis on early childhood, identified as critical as a period of accelerated growth and change and as central to successful adaptation in later life. As a consequence, systematic information on children in the middle and later years of childhood is quite sparse, the emphasis on the first years of life further reinforcing scientific notions of children's vulnerability, immaturity and dependence. At the same time, developmental psychology has stressed a safe, stable family environment – one in which children are protected from upset and receive love, stimulation and continuous nurture– as an essential prerequisite for children's well-being and normal development. This profoundly affects interpretations of children's experiences of and responses to political violence.

The second strand of research underlying emergency policy deals with the nature of human responses to highly stressful events. This discourse has been largely informed by research and therapeutic work conducted in Europe during and in the aftermath of the Second World War and more recently by investigations undertaken in the United States with veterans of the Vietnam War. Research into human suffering normally observes the common sense view of the world, long promoted by the social sciences, as a safe, predictable and nurturing place. Anthropology in particular has advanced numerous theories about the homogeneity and continuity of culture and symmetry, reciprocity and exchange in social relations. Society is portrayed as an integrated, self-equilibrating system in which political violence and other such phenomena of mass destruction are an exception, outside the range

of normal human experience (Allen, 1989; Boyden 1994; Davis 1992; Le Vine, 1999). As a consequence of this view of political violence as a massive and overwhelming catastrophe, researchers, practitioners and policy-makers, unsure about social causes of, and unable to imagine social solutions to, conflict, commonly resort to models that emphasise individual functioning.

Throughout most of the 20th century, emergency interventions with children affected by political violence have reflected the pre-eminence given to the bio-medical model in studies and measures dealing with human suffering. In this model the origin of illness and disease is held to be in the physically bounded body, which, in turn, is understood to function as the receptacle of the mind. Thus, physical and mental health are separated and illness is thought to reside either in the body or the mind, with physical health – especially nutrition, water, sanitation, immunisation and other basic survival needs – receiving overall priority. Psychological and emotional well-being has generally been understood to play a secondary and derivative role, psychological measures being of peripheral concern given pressing survival needs (Myers, 1992). Social and economic matters have received less attention still, these being regarded as the stuff of longer-term development interventions mounted during times of peace. Within the biomedical model, academic and policy attention has centred increasingly on the psychiatric category, Post Traumatic Stress Disorder (PTSD), which despite its profoundly cultural origin, many claim to be the condition that most effectively embodies the global human response to overwhelming traumatic events (Kinzie, et al, 1986; Magwaza, et al., 1993; Nader and Pynoos, 1993).

Recent conflicts (especially in Rwanda, Bosnia and Kosovo), however, have produced a rather different programmatic and research response, in which psycho-social impacts on children have become a source of immense interest and psycho-social interventions abound (Bracken and Petty, 1998). In these measures, the effects on children of violence, separation and loss have been explained largely through medical models using a mix of stage, cognitive, psycho-dynamic and attachment theories, and therapy based either on talking through the experience of stressful events, or medication (Le Vine 1999; Bracken, 1998). The individual as victim and patient has in the main been the focal point for intervention, with just a few agencies working at the community level in an effort to restore social structures and a sense of normalcy.

Prevailing ideas characterising children, childhood and child development and prevailing theories of human suffering have made a significant mark on research and interventions in areas affected by political violence, with many consequences – some subtle and indirect, others far more obvious – for the nature of institutional responses to children in areas of political violence. Here, I highlight **some** of the most significant consequences.

First, since continuity, stability, predictability and security are said to be essential for children's well-being and healthy development, children who experience catastrophic circumstances like mass violence are considered to be at inordinate risk of developmental delay, emotional or psychological impairment, or failed adaptiveness in adulthood. Hence, the programmatic focus on their treatment, rehabilitation and social reintegration.

Second, the view of children as dependent and of limited competencies encourages an understanding of those children exposed to political violence as helpless and traumatised, dependent on adults for their salvation and protection. Children are thus treated as passive victims, as opposed to competent survivors, of conflict with the effect that they are excluded from plans and decisions concerning them (Bracken and Petty, 1998).

Third, orthodox perspectives on the universality of child development and of the human psyche more generally have served to legitimate the notion – promoted especially in the psychiatric literature – that children's responses to catastrophic events observe uniform patterns. These patterns are thought to be determined by underlying biological and psychological imperatives, social and cultural factors being relegated to a secondary role (Kleinman 1987, cited in Parker, 1996, p. 266). Such universalistic explanations of childhood and child suffering coexist with, and are to some extent supported by, a medicalised view of children's responses to adversity which stresses individual pathology over and above structural forces. Hence, the universalising theories and practices of modern medicine are privileged in emergency interventions over social and economic measures and indigenous healing approaches that are regarded as having little credibility and efficacy.

Fifth, an assumption is made that children's needs are best served within the context of the family, which is thought to automatically offer greater stability, support and protection for children than they can themselves provide through their own energy and initiative. Such views prevail despite a lack of qualitative information on child care or family circumstances during periods of political violence and an unfamiliarity with children's own coping strategies.

The diversity of childhood

The proposition that children's development and well-being is determined wholly or even largely by universal conditions and structures needs serious interrogation. Undoubtedly some aspects of childhood are universal, in that unless they experience a major disabling condition, all children gain in strength and stature as they grow to puberty. Certain physical needs (food, fluids, rest and sleep) in particular are indispensable. And certain cognitive processes are sequenced according to underlying neurological development. There are in addition certain commonalities in the acquisition of language and in the way biology and culture interact in the development of children. Beyond this, the physiological experience of suffering undoubtedly has universal characteristics, for, as Melissa Parker (1995, p. 20) notes, human beings have a limited repertoire of responses to catastrophic experiences and a number of responses recur across cultures. Moreover, it should in theory at least be possible to define the broad boundaries "beyond which childhood environments...are likely to have pathological consequences, by any standards, in terms of stunted growth, emotional disturbance, social isolation, and learning disability" (Woodhead, 1998, p. 8).

Nevertheless, claims of universality definitely have their limits. Scientific studies that allege to have discovered a general condition of childhood belie the ethnographic evidence that childhood is an extremely diverse life phase and ignore also that the globalised image of childhood they project is in many respects a normative view. In practice, childhood is not a fixed state defined by an upper age limit of 18 and bound by predetermined developmental stages, but a diverse, shifting category that does follow certain biological sequences, and responds more fundamentally to cultural and social context, as much as to genetic heritage, personal agency and economic and political circumstance. Social constructions of childhood are extremely variable and context-specific. For example, in Bangladesh an individual who goes to school and has no economic or social responsibilities may be termed a 'child' (*shishu*) up to the age of puberty, whereas a boy or girl who works will no longer be referred to as *shishu* even at age 6 (Blanchet, 1996). Such conceptualisations radically affect the way children experience childhood. For instance, gender distinctions are such that in many contexts childhood ends for girls far sooner than it does for boys. In some settings childhood is a profoundly controversial, indeed contested, category. Thus, during the various apartheid regimes in South Africa, young political activists were defined by the authorities as 'youth' to establish their legal culpability, while the activists referred to themselves as 'children' in order to avoid adult penalties (Jean Comaroff, personal communication).

One of the most interesting aspects of recent research with children is that the search for common patterns of growth, development and socialisation has led to increasing appreciation of differences. It is now widely accepted in the scientific community that cognitive capacity and growth is not unitary, and

that children have multiple and varied intelligences that are not merely a function of their age and stage of development (Gardner, 1983). Both biology and culture, working together, generate both differences and commonalities of human development. There are genetic influences for diversity just as there are genetic bases for human similarity, both of which are necessary and both of which mesh with culture to ensure survival of the species (Wilson, 1998). At the present time, genetic research emphasises that individual children achieve the ability to perform various tasks at very different rates according to their genetic make up, and that shared features of the gene pool account for developmental variation as well as similarity.

The significance of genetic attributes is confirmed by studies that reveal temperament and cognitive capacity to be major factors mediating resilience and vulnerability in children confronting high levels of stress. For example, there is some evidence that children who try to actively overcome adversity – by attempting to resolve the problems they face, regulate their emotions, protect their self-esteem and manage their social interactions – are likely to be more resilient than children who passively accept their fate, especially in the long run (Cairns, 1996; Beristain, Valdosedá and Paez, 1996; Garbarino, 1999). The ability to think critically can enhance coping because it facilitates the identification of valid alternatives and solutions to difficulties. It also helps shield children from simplistic interpretations of experience that can be self-defeating and socially destructive in the long term (Garbarino et al., 1991).

Certainly it is important to recognise the practical implications of variation in the patterns of children's native abilities. However, it is the social aspect of child development that most merits the attention of policy makers, for genetic attributes interact with and are moulded by environmental challenges and opportunities, such that the environment for development is fundamental to the actual competencies children develop. Researchers have been examining the ways in which society functions as an indispensable element in the growth of human mind from the very first days of life onward. The modern progenitor of this perspective on child development was Lev Vygotsky, a contemporary and sometime interlocutor of Piaget, who called attention to the essential role of culture as part and parcel of children's cognitive development.

Even Piaget, probing children's inborn capacities and development patterns, all along recognised that caretaker relationships and other environmental factors are of great importance to children's physical and mental growth. What is new in recent decades is the much greater stress being placed on relational factors in child development. According to this view, human beings are co-operative problem solvers and development consists of learning how to deal effectively with the problems of everyday life within a cultural and social context (Rogoff, 1990, p. 11). Moreover, each community tends to define child development in terms of the basic skills required to survive and succeed in that society.

Understanding the goals and skills valued in children's communities is essential for defining developmental endpoints as well as for examining children's cognitive skills . . . Rather than having to explain the fact that development occurs, it is necessary to determine the circumstances in which development takes one course rather than another (Rogoff, 1990, p. 12).

Even the most primary aspects of a child's development are social. As Vygotsky pointed out, the very acquisition of language is an intensely social act that consists of structuring the self through a set of social codes. There is no essential separation between the individual and the social, for one cannot become an individual without becoming social. Consequently, the social construction of human experience is one powerful source of differentiation between children globally in terms of behaviour, thinking, adaptation and, indeed, responses to political violence (Dawes and Donald, 1994; Serpell, 1996; Woodhead, 1998; Super and Harkness, 1986).

Social prescriptions of vulnerability and resilience

Because childhood is to a large extent socially constructed, it follows that children in different social and economic categories are likely to experience very different kinds of childhood, this leading to major discrepancies in their safety and resilience during times of social upheaval and conflict. Many, if not most, children in war zones are in jeopardy not merely through chance but because of who they are, depending to a considerable degree on how they are valued and treated by their families and communities. In fact, political violence often accentuates differences between children in the extent and nature of risk, placing new or increased demands, as well as removing pre-existent protective mechanisms, on certain categories. Recognising power and status differences within childhood is essential therefore for understanding why it is that some children are in peril when others are not and also why children in different categories may learn different coping techniques and susceptibilities.

Family survival strategies in war zones often single children in particular categories out as expendable, whether through abandonment, sale, or militarisation. Such children are commonly expelled from the domestic unit to reduce the economic burden on the family, generate income, or create political alliances that are critical for economic or physical security. For example, in Burma's Shan State, an area exposed to decades of warfare, the eldest member of either sex in the sibling group is at greatest risk of harm, although gendered risks have very different causes. Many families would aim to place an elder son in the military as a safeguard for other family members against extortion, rape, intimidation or theft (Boyden, nd). Hence, eldest sons were often militarised and exposed to intense violence. Younger sons would be sent to the monastery, where they were housed, fed, clothed and protected from conscription. Teenage daughters would be either kept at home, where they replaced the labour of

absent males and were liable also to fulfil the household's forced labour obligations—work that was both arduous and dangerous—or sold to traffickers who traded them into prostitution in Thailand.

Ed Cairns (1996) has assessed the research for links between power and status differences within childhood and children's responses to political violence. His observation is that research in this area is neither very strong nor particularly conclusive, seldom disaggregating effectively between children on the basis of age, ethnicity, class or religion, although specifying gender distinctions more frequently. The psychiatric literature tends to be especially neglectful of social power within childhood. While the psychoanalytic research does address this issue at some length (Parker, 1996), it has failed to provide consistent data addressing the links with variations in children's resilience and vulnerability. That said, studies of the impacts of political violence that do treat gender as a significant variable generally find that at least up to the age of puberty, boys are more likely than girls to be at risk when exposed to a range of stressors (Cairns, 1996). Dawes et al. (1989), though, reveal a more subtle pattern, in which gendered responses to suffering change with age, boys in the youngest age group in this study having more symptomatic behaviour than girls, with the levels appearing very similar during middle childhood and girls presenting more symptoms by adolescence. To the extent that children may be protected by adopting active survival strategies, boys may be more resilient than girls in many settings, simply because society offers them more independence training and encouragement and opportunities to take active control of their lives.

The relationship between social power, exposure to misfortune, and resilience and vulnerability during childhood is critical to the development of effective emergency policies. And yet, despite extensive exploration of gender issues in many longitudinal studies of risk and resilience (for example, Werner and Smith, 1992 & 1998), social power is treated poorly in the research on children affected by political violence. Effort is needed to combat this oversight if emergency assistance is to both support children's sense of self-efficacy and prioritise those most vulnerable.

Social meanings of suffering

I have suggested that most of the research and measures concerning the adverse effects of political violence on children adhere to a biomedical framework. Biomedicine tends to concentrate on the functioning of the individual, perceived as a universalised victim of a specific traumatic experience and bearing a disorder as a consequence of that experience (Le Vine, 1999). This model presents a number of theoretical problems that have major operational impact.

Biomedicine is particularly insensitive to the subjective interpretation of human experience, since by de-contextualising and privileging the individual as representing the psychic unity of humanity, it disallows

society and culture as integral to human development, adaptation and healing (Lock and Schepers-Hughes, 1990, p. 53; Hinton, forthcoming; Parker, 1996; Le Vine, 1999; Ahern & Athley, 1999). Patrick Bracken (1998) has highlighted such shortcomings in the trauma research. He disputes the notion that the meaningful nature of reality is something 'conferred' on it by the schemata running in individual minds and that trauma disrupts the meaning of the world through its impact on these schemata. He argues that meanings are fundamentally a product of the public realm of language and practice, much of which simply cannot be understood by allusion to universal theoretical schema (pp. 49-50). Similarly, Allison James (1998, p. 59) contends that psychological structures are best regarded as constraints on children's actions that must be culturally contextualised. In other words, while there may be a limited repertoire of human responses to crisis determined by the generalised psychic configuration affecting all humans, suffering, grief, healing and loss are all experienced in context and are thereby patterned by the cultural meanings they manifest.

Healing involves making sense of distressing events and experience, assimilating and processing grief, anger or anxiety. While healing may be an intensely personal process, individuals engage with misfortune not as isolated beings, but in socially mediated ways that are shared (Reynolds-White, 1998, also citing to Kleinman and Kleinman, 1991; Bracken, (1998). Most societies have their own approach to healing, depending on their concepts of causality in misfortune, of well-being, power, personhood and social identity (Hinton, forthcoming; Schweder and Bourne, 1982; Parker, 1995 & 1996; Le Vine, 1999; Bracken 1998; Summerfield, 1991 & 1998; Bit, 1991). These notions are not necessarily fixed or shared by all members of the community, but nevertheless, do tend to structure the way people experience and respond to adversity. Therefore, even while children's responses to adversity may not always be the same as adults', such responses cannot be understood without reference to the social, cultural and moral contexts they inhabit.

It follows that an operational focus on ego concerns and the separation of mental and physical functioning is not appropriate in all societies. This is especially true of those societies familiar with more holistic health systems, for these do not logically distinguish body, mind and self, and therefore cannot conceive of illness as being situated in body or mind alone (Schepers-Hughes and Lock, 1989). The synergy of mind and body and congruence of the human, natural and spiritual worlds are pivotal to the experience of suffering in many parts of the world. In such systems, sickness is caused often by the intervention of powerful 'others' – social, natural and supernatural agents – rather than individual pathology:

Social relations are... understood as key contributors to individual health and illness. In short, the body is seen as a unitary, integrated aspect of self and social relations. It is dependent on, and vulnerable to, the feelings, wishes, and actions of others, including spirits and dead ancestors. The body is not understood as a vast complex machine, but rather as a microcosm of the universe (Schepers-Hughes and Lock, 1989, p. 21).

Hence, disease is often portrayed as being caused by the witchcraft of aggrieved ancestors or relatives, or by the malevolent forces of nature, spirits or deities.

As with other philosophies and theories, biomedicine assumes that it objectively describes reality and that this reality is valid everywhere. But discrepancies between the meanings given to suffering in this model and other medical systems raise major concerns about the validity of applying northern therapeutic methods in emergency interventions globally, as several have observed (Bracken & Petty, 1998; Parker, 1996; Perren-Kligler, 1996a and 1996b). Such discrepancies have led some communities, for example Bhutanese refugees in Nepal (Hinton, forthcoming, p. 6), whose ideology denies the centrality of the self, to reject modern medical treatments. Where cultural axioms are less assured, health seeking patterns involve negotiation between alternative therapeutic models and systems. In Cambodia, for example, the preferred treatment is normally that provided by traditional healers, the *kruu Khmer*. But many Khmer find that traditional healers have not been able to give adequate account of the widespread and entrenched violence of the Pol Pot era and so also consult practitioners trained in the bio-medical tradition (Boyden and Gibbs, 1997). As biomedicine is “increasingly being understood as one of many medicines...culturally and historically distinct, specific and far from universal” (Gorden, 1988, p. 20), so northern medical therapies are coming under closer scrutiny in emergency contexts and efforts made to integrate alternative philosophies and approaches.

Similarly, a growing number of agencies are attempting to move away from psycho-social interventions at an individual level and to forge programmes, especially in post-conflict settings, that focus on social reconciliation and healing. This variously entails reinstating services, rebuilding family and community structures and networks, re-establishing productive capacity, developing mechanisms for justice and retribution and other such interventions. These approaches promise greater sustainability and closer social and cultural adaptation than individual therapy. Nevertheless, they often exist in an information vacuum in which ethnographic research and knowledge on pre-conflict society and culture is extremely poor. This commonly leads to stereotyped views of universal social norms, values and dynamics and power structures, thereby undermining often the process of social reconciliation and healing. This suggests a need for far greater ethnographic research during and following conflict.

Children's agency and resilience in situations of adversity

Biomedicine is only one of the operational models coming under scrutiny in emergency contexts internationally. There now exists a body of research that questions orthodox ideas about children as helpless in the face of misfortune and the world as a safe, predictable and peaceful place. In the late 1920s John Dewey (Reynolds-White, 1998) depicted the human condition as inherently precarious and perilous, embodying uncertainty, ambiguity and contingency rather than homogeneity and equilibrium.

Others have stressed also that political violence is continuous with normal social experience and is not necessarily the harbinger of social breakdown and chaos (Colson, 1989; Davis, 1992; Duffield, 1990).

Some doubt has even been cast as to whether children, in order to flourish, really do need enduring security and stability in their social milieu. Infants and young children are inevitably quite dependent on the resourcefulness of elder siblings and adults for their care and safety. Some older children too may lack the competence, ingenuity and resilience to deal with adversity, especially if they have been overwhelmed by multiple stressors, suffer low self-esteem or have experienced humiliation, rejection or abuse. But to generalise about middle childhood and adolescence from the uncontroversial facts of dependence and immaturity in the first years of life is to ignore the resourcefulness of many children in all age groups and the social competencies of those beyond early childhood in particular. Research has spawned new understandings of how cultural values are assembled and sustained by societies and new insights into how children perceive and process discontinuities, inconsistencies, and indeed outright conflicts in their environment. Ideas emphasising the value of stability in the development and well-being of children have given way to a far more dynamic view, which emphasises the active, constructive nature of human development and the dynamic nature of culture. Engagement with their environment involves children interpreting the world about them, making choices, defining their own roles and identities, managing crises, reaching decisions and working collaboratively with others (Save the Children, 1995; Punch, 1998; Baker, 1998; James, Jenks and Prout, 1998; Mayall, 1994 ; Woodhead, 1998; Hutchby and Moran-Ellis, 1998; Waksler, 1994 & 1996).

Studies indicating the dynamic, interactive nature of child development and highlighting children's coping during adversity challenge the assumption that all, or even most, children are helpless in the face of turbulence and strife (Summerfield, 1998). In general, it transpires that children have considerable inner resources for coping with contradiction and that fears of permanent psychosocial stunting by change, confusion and misfortune may be somewhat overblown. Change, contradiction and even crisis are argued to be normal – a healthy part of childhood – and not inherently unnatural or undesirable. "Through interacting with our ambiguous and troublesome surroundings we refine our abilities to imagine, plan, control" (Diggins, 1994, p. 223, quoted in Reynolds-White, 1998). Several researchers have found, for example, that a significant proportion of children exposed to <<<<high levels of>>>> stress remain resilient (Werner & Smith 1992 and 1998; Cairns, 1996), although emphasising that the experience of multiple stressors is likely to have a cumulative effect, in most cases ultimately overwhelming coping capacity. Others (Ressler et al 1992, p. 39) observe that it is seldom that well-adjusted, well-cared for children are suddenly overcome by a single traumatic experience. Growing up in the context of constant change and contradiction can for some children be a potential source of strength, not merely of risk and vulnerability (Turton, Straker and Mooza, 1990, p. 78; Leyens and Mahjoub, 1992; Dawes and Donald 1994; Zwi et al., 1992; Werner, 2000).

A few studies even suggest that children may be especially able to accommodate dissonance and change, and capable of greater personal resilience than adults (Palmer, 1983). Rachel Hinton found that in Bhutanese refugee camps in Nepal children were particularly adept at adjusting to crisis and, through their conscious care-giving strategies, were able to have considerable positive impact on the psychological and emotional worlds of adults (Hinton, forthcoming, p. 17). She cites the example of children who, well beyond normal weaning age, resumed breastfeeding to restore in their mothers a sense of purposefulness and self-worth. Some of the children were able to describe this as a conscious strategy. Arati, a girl of thirteen, for example, remarked: "Sometimes I play at being a child, I am grown up now but my mother likes to have babies and it makes her happy when I sit on her lap and she gives [spoon feeds] me food" (Hinton, forthcoming, p. 17). Indeed, there is considerable anecdotal evidence that in situations of adversity children, both boys and girls, often bear the prime responsibilities within the family, as carers of incapacitated adults or younger siblings, prime earners of family income and so on. This circumstance is of considerable significance in terms of children's wellbeing and development and yet tends to be neglected in both research and practice.

Clearly such insights have major implications for the way the relief community conceptualises and responds to children during political violence and civil strife. While a view of a significant proportion of children as resourceful in many stressful situations definitely does not imply that children should be expected to tolerate adversity, or that a violent environment is propitious for children, it does bring into question the inevitability of catastrophic effects on children of such conditions and circumstances. It also brings to the fore the importance of acknowledging children's own coping efforts and their contributions to family maintenance, protection and survival.

Societal approaches to risk management

It is probable that the notion that children's wellbeing is best safeguarded by separation from the trials and tribulations of the adult world may even in some cases have the practical effect of undermining children's resilience and coping in the context of adversity. It has to be recognised that for many reasons children cannot always rely on the support and nurture of adults during periods of political violence and that they must therefore learn their own strategies for integrating their experiences, overcoming feelings of helplessness, fear, grief and loss and coping in general (Perren-Klingler, 1996). Occasionally children have fewer options than adults, which can be a source of either vulnerability or resilience, but often they have far more simply because societies tend to be less prescriptive about children's tasks and roles. Adults generally take little notice of them, for example, and this can make it possible for children to engage in survival activities that adults are barred from, such as foraging and scavenging in areas controlled by security forces.

But it is not simply a matter of opportunity, for children's ability to cope with misfortune is likely to be influenced by any training they may have received in risk management. Perceptions of hazard and approaches to dealing with it are relative to culture and it is likely that different approaches to child rearing will have different outcomes in terms of the ability of an individual to overcome adversity. While some societies, especially in the industrialised world, seek to protect children by isolating them from sources of risk, elsewhere learning to protect oneself is often regarded as more conducive to children's development.

In many societies children are encouraged to engage in activities that develop physical strength, endurance, confidence, dexterity and self-discipline. Inuit children in Canada, for example, are taught to cope with a dangerous and often unpredictable Arctic environment, continuously tested in all spheres of knowledge and competence relating to the world around them and expected to experiment with uncertainty and danger. They learn that the world is constituted of problems to be solved, the ability to discover those problems, to observe them actively and accurately, and to analyse the implications of exposure to hazardous situations being highly valued (Briggs, 1986, p. 8). Similarly, Somali boys forced into exile as unaccompanied minors were found to be far more resilient than might have been expected (Rousseau et al, 1998). This was attributed to the traditional practice of sending young boys off to learn about nomadic pastoral existence and hence a view of exile as having certain positive attributes. In Japan: "...the encouragement of fear, and eventually courage, seems to be quite an important part of child training. The word for 'danger' (*abunai*) is used a great deal by adults with small children..." (Hendry, 1986, p. 113). In some societies resilience learning is institutionalised in formal rites of passage. For a boy, initiation into adulthood may involve circumcision or a trial of strength (Gilmore, 1990). Thus among the Sambia, Gisu and Mende, boys become men by passing exacting tests of performance in war, survival, economic pursuits and procreativity.

Several researchers have established that child rearing which stresses self-assurance and independence and gives children some experience of responsibility at an early age, such as sibling care taking and income-producing activities promotes well-being, self-efficacy and social skills (Fromm and Maccoby, 1970; Whiting and Whiting, 1975; Aptekar, 1989). This fits broadly with studies, mentioned above, that find those children in conflict zones who actively and creatively engage with their situation and adopt constructive approaches to the management of risk to be the more resilient. Indeed, staying alive – and sometimes even flourishing – during warfare can involve extraordinary ingenuity. In Cambodia during the Pol Pot era it often meant feigning a fictitious personality – pretending to be deaf, dumb, confused or foolish – for people who were 'smart' risked detention, torture or execution (Mollica et al., undated, p. 90).

There is a Cambodian saying, learned in Pol Pot times: 'plant the Kapok tree'. It is a play on the words, '*dem kor*'. The allusion is to deaf mute. The meaning is that you will get further if you pretend to know nothing, hear nothing, say nothing. (Meas with Healy, 1995, p. 30).

Some children even make choices about their own care. Unaccompanied children who had been evacuated from Peru's Ayacucho region, the heart of insurgent territory, chose to live independently in child headed households and earn their income on the streets rather than avail themselves of local relief facilities (Diana Gamarra, personal communication). The latter would have entailed registration and therefore identification as Ayacuchanos which, because it carried the risk of reprisals, the children judged too dangerous. Similarly, street boys in Uganda who were living in army camps refused to leave when given the option by the government relief department, for the soldiers provided them with food, clothing, companionship and other benefits they had not known previously and did not expect to receive on demobilisation.

Sometimes relief interventions become an integral part of children's coping strategies, but not necessarily in ways imagined or intended by relief agencies. Take the case of a Cambodian girl who engaged actively with the 'special needs' status conferred on unaccompanied children by the relief community in order to avail herself of a new identity and related benefits (Boyden and Gibbs, 1995, p. 181). When it became apparent that the Khmer Rouge was about to arrive in their district, the girl was sent by her disabled mother to stay with her grandmother in Thailand. She was age about five or six at this time. She stayed with her grandmother for a while, but discovering there to be no school in the area, later traveled to the Thai-Cambodian border, where her uncle, who was in the army, was working in a refugee camp. When she found that she could not live in the barracks with her uncle, she registered with the camp authorities as an unaccompanied minor, which enabled her to stay in the camp and receive food, clothing and education.

In order to register, the girl had to state that she had been separated from her family. Having listened to some of the other children in the camp talking about their experiences of separation and forced migration, she decided that she would pretend to be the missing sister of one of the unaccompanied boys. Building up a picture of this boy's life, she constructed her own story to fit his. At first the boy denied that she was his sister, but when the authorities interviewed the two children separately their stories concurred, and in time the girl managed to persuade both the officials and the boy that she was indeed his sister. Eventually the two were resettled together in the United States, where the girl maintained the fiction, even participating in ceremonies for their 'dead' parents whilst silently hoping that her own mother was alive.

The evidence that children use their agency in a multitude of constructive and ingenious ways during periods of political violence challenges the validity and effectiveness of emergency interventions that cast all children as passive and helpless in the face of adversity. It suggests also that children are

active in trying to overcome the problems they face and therefore may be better served by assuming, whenever possible, a constructive role in their own protection and at least some degree of responsibility for their own safety.

Children as valid subjects

Interpretations of children as weak and incompetent tend to justify research based on adult opinions about children and policies and interventions that treat children as the objects of adult decisions, rather than social subjects with valid insights and perspectives of their own. In this way, psycho-social assessments of children often rely on adults' views rather than children's own understandings. Typically, adult carers, teachers or others are asked to complete questionnaires quantifying children's exposure to traumatic experiences, such as violence, or separation from or loss of significant others, and/or gauging their responses by mapping pathological behaviours and somatic symptoms (Ahern, and Athey, 1995; Gibbs and Boyden, 1995).

Some might justify resorting to adult knowledge and insight on the grounds that children may be too traumatised to speak of their experiences, too inarticulate to express their true feelings, or give views that appear inconsistent with their experience. Sometimes the concern is that children may not tell the truth. Certainly it is vital to ensure that children are not harmed by intrusive interviews or measures intended to assist them and undoubtedly children do not always express themselves in a consistent, logical manner, but then nor do adults. In fact, it turns out that adults are poor interpreters of children's lives. There are many reasons why adult recollections of childhood may not adequately represent the perspective and feelings of the child who was, not least being that part of human resilience involves blotting out memories, as in the grieving process for example.

The use of pre-coded research instruments, in itself, acts as a barrier to understanding children's responses to political violence. The more refined of such instruments involve some adaptation to ensure cultural fit. Nevertheless, they inevitably invoke a universalist paradigm built on the preconceptions of the researcher. Further, ideas and words used by adult researchers in such instruments may be unintelligible to the research subjects. This applies especially to child informants, who may feel obliged to give answers to please adults, even when they do not understand the question. In any case, children's own concepts, perceptions and understandings are likely to be far more pertinent than those of the researcher. Events and situations that children find important researchers may be completely unaware of, while circumstances that researchers regard as deeply disturbing may be of far less concern to children. This is not to suggest that children are exotic creatures inhabiting their own universe and immune to the kinds of grief and suffering experienced by

adults, but to highlight that their anxieties frequently differ from those of adults and also that adults are often ignorant of what really troubles children.

Sometimes listening to children produces surprising results. Colin McMullin (1999), for example, found that Palestinian war-affected children were not preoccupied by the kinds of ego concerns normally given prominence in psychological research but were anxious about public hygiene and other matters reflecting the collective culture in which they lived. Loss of educational and work opportunities is one of the most distressing experiences for many children exposed to political violence, for such losses removes all sense of continuity with the past and frequently children are all too aware of the extent to which they undermines their future integration into society. Thus, unaccompanied Sudanese boys living in Kenyan refugee camps were anxious that they were no longer able to tend their families' animals, fearing that this would mean a loss of respect in the community (Rädda Barnen, 1994, p. 28). Sometimes it is not just loss and bereavement that cause children to be distressed, so much as the way adults handle these situations. Thus, the young Bangladeshi girl whose father was killed in the war with Pakistan was distressed as much, if not more, by the fact that for two years her mother withheld this information and she learned the truth by accident from a friend whilst at play, as by the actual death itself.

Research that ignores children's perspectives is unlikely to be able to predict the impact of exposure to adversity. For example, of those children who do suffer serious or prolonged psychological or emotional distress in conflict zones, a significant proportion have not experienced a major misfortune but less dramatic circumstances that are more deleterious or unfulfilling than catastrophic (Ressler et al, 1992). Researchers looking for traumatic responses to violence could miss such important subtleties. Sometimes the most devastating situations are those involving insidious hardships and deprivations, such as constant humiliation, social isolation, or poverty related to long term unemployment. Even in terms of the physical impact of conflict, far more children succumb to secondary effects of starvation, exposure and untreated disease than to weapons. The more potent military leaders have long known this, often using psychological and economic warfare as the preferred and more effective option over physical violence. They find that tactics such as strategic hamleting, forced relocation, destruction of food supplies, continuous security checks, interrogation and the reversal of inter-generational power structures effectively destabilise communities and undermine trust and loyalty, making it far easier to manipulate and control civilian populations.

Studies that disregard children's perspectives risk resulting in misplaced interventions that do not address children's real problems or concerns and may even pose a threat to their self-esteem and self-efficacy. For adults to better understand children's problems and needs, they require children to explain and interpret their childhoods: only children can provide real insight into their feelings and experiences. This suggests that we adults need to temper our assumption of childhood irrationality and

adult expertise with some humility. It also implies the need for new research methods and methodologies that are child-centred, and provide psycho-social data that are sensitive to cultural context.

Conclusion

There is a long tradition in areas affected by political violence of child-centred interventions that are built on a universalised construction of childhood as a period of special need and vulnerability. Children are treated as victims, taken out of their social and cultural context and served with specialist measures based on centralised policies and the prior identification of need, physical and, more recently, psychological needs normally predominating over social and economic. Medical science is the professional arena considered most appropriate to the healing of children's suffering and social work, the most effective for the social reintegration and support of children in exceptional situations, especially those separated from their families. In both instances, measures take the form of remedial treatment based on a one-to-one, case-by-case approach.

But the idea of childhood as a decontextualised, universalised and yet (paradoxically) highly individualised construct, is highly problematic. Children in different societies and social categories are raised in different ways and with different expectations. They thrive, and indeed flourish, in widely contrasting conditions and circumstances and have different capacities and needs, to which a universal child protection model – which is based on only one type of childhood – is not sensitive. Understanding that the culture in which children live shapes the way they are perceived and treated, the way they experience childhood, and the actual competencies they develop is an important departure from traditional policy based on universalist values which conceive of growing up as a standardised process, the same for all children.

A universalist paradigm also ignores the diversity of children's responses to adversity and privileges expert medical intervention in the healing of sickness and suffering over measures built on local resources, strategies and understandings. Suffering must not be privatised within therapies, for as Gisela Perren-Klingler (1996, p. 9) forcefully argues, the focus on individual pathology disregards the social and political dimensions of misfortune. The shared search for meaning, the social recognition and validation of distress and common effort towards overcoming adversity and reinstating normalcy are all an essential part of integrating experience and healing in individuals and may be threatened by individualised remedial treatments based on 'expert' scientific skills and knowledge. If policy is to effectively support healing in the context of political violence it must allow that different cultures express and embody and give meaning to distress in different ways. It must be open to integrating alternative systems of health care, situating healing strategies within their social and cultural context, and using

local resources whenever possible. That said, it is vital that social and cultural understandings be founded on systematic social and ethnographic research, using pre-conflict studies where they exist.

While it is important to acknowledge the painful, humiliating and profoundly debilitating experiences that many children suffer during periods of political violence, it has to be recognised that the dominant discourse of sickness, crisis and loss takes away the possibility of acting on one's own situation, which can seriously undermine wellbeing (Burman 1994; Reynolds-White, 1998). Notions of children's passivity and susceptibility also disregard the important emotional, social, economic and political contributions children make to family and community during periods of political violence, as well as trivialising their coping efforts (Freeman, 1983, p. 7).

The perception of the child as vulnerable victim may have powerful emotional appeal for adults, but can in many circumstances be quite detrimental to children since it renders them helpless and incompetent in the face of adult decisions and actions, many of which may not be in children's best interests. It also ignores the possibility that children may have insights and opinions that could be highly appropriate and valid even in extremely complex and difficult situations. If children are to be helped to overcome highly stressful experiences, their views and perspectives need to be treated as a source of learning and strength, not weakness. It should be stressed again that arguing for a view of children as at least potentially resourceful is not to sanction their exposure to adversity, nor to deny that children may be rendered very vulnerable. It is more to question normative ideas about childhood weakness and to consider whether a focus on children's susceptibilities really is the most effective way of supporting self-esteem and self-efficacy. The practical value of an understanding of children as resourceful is that it builds on children's strengths, rather than emphasising their frailty and dependence on adult (often outsider) expertise, which in any case in many settings is simply not forthcoming. Competence and acceptance are central features of well-being in children and adults alike, suggesting that insofar as policy purports to foster children's interests it should try whenever feasible to reinforce the active role of children in their family and community and in all decisions and processes affecting them.

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Children as perpetrators of atrocities

[Transcript of presentation]

Krijn Peters

Young people are the major participants in most war. In the African civil wars of the last twenty years combatants have become increasingly youthful. There are two main adult reactions to this: the first is to stigmatise youth combatants as evil (as “bandits” and “vermin”). The other reaction (regularly expounded by agencies working with children) is to see young fighters as victims.

During extensive research in Sierra Leone over many years, Paul Richards and Krijn Peters talked with many young people who took up arms in the Sierra Leonean conflict. Some of these interviews are already published (Peters & Richards 1998a/ 1998b). Hereafter we present some parts out of these interviews that were also presented at the Alistair Berkley Memorial Lecture and Seminars 1998 at the London School of Economics. The material especially focus on educational problems and political issues. They raise questions to the point if young combatants are presented rightly as either victims or barbarians, or if there is a need to pay respect to their agency.

The first comment is made by a young fighter who joined the Kamajo Militia (a “grass-roots” hunter’s militia) After asking what he wanted the most in his life he is quite clear: education. He, as many other youth combatants, is aware of the value of education and about the corruption when it comes to the distribution of that education.

My first wish is to be educated. Because why? Because of the too much illiteracy, the way our brothers in Sierra Leone don’t know their rights. Because when you are educated, you know your rights. This is the first wish in my life. I admire education above anything. I admire academic education above anything in my life, according to my own desire. Second, after I am educated, I wish to go to the western world. To study...and because when you travel you see changes. And when you are in those areas people are moving faster. When you [go] and you see people, how they move with their lives, how things are going...when you come back to your country, [and] you apply the same method, then you become developed. But some of our brothers...they get money to be educated. But instead of helping the poor they steal the money. They do things that are not beneficial to their country. If I happen to cross to the Western world and go and finish my course, I [must] come with a new improvement to develop the area where we live in the country. If I happen to study much I [will] go to study to serve my country.

Another comment is made by a young boy who joined the government army (RSLMF). It shows very clearly that young people see the war as only temporarily and as soon it is over they want to return to their normal lives.

At that time I smoked, but not drugs like jamba (cannabis). I only smoked cigarettes. I was a student before ever I joined the military force. So when I joined them I did not take their style. I [always] knew that one day I [would] turn back to my family and go back to school. So if I [had] joined them, by the time I [come to re]join my family, it will be too much in [my system].

Often young combatants are readily (and to some extent correctly) viewed as the tools of undemocratic military regimes or brutally unscrupulous “war lords”. However, many under-age combatants choose to fight with their eyes open. Again the young Kamajor fighter is talking, now about the reasons why the war in Sierra Leone started and continues.

Well, according to my own view, [it started and continues] because when the rebels caught some of our brothers and sisters they took them along with them and told them the reason why they are fighting. Because of the past government, the APC government, the way the government maltreated people. No freedom of speech. When you emphasize on your rights, they take you to court or jail you. And the same bad thing with education. Most of the rebels are students, the majority are students.

Question: How do you know?

They write on paper that they drop. After an attack, they write a message and drop it. These are the reasons why they are fighting, they say. The government doesn't give any encouragement to people to get land or to go to school. When you come from poor families, but with talent to be educated, there is no financial support. The government doesn't give a helping hand. They are only bothered about themselves. This was the reason this government made the war to come, according to my own view. When the [rebel] people attacked a place, the paper, the document they leave at that place, when you come and read the document, this [gives] the[ir] reason to fight. The other reason is assistance. If Mister A happens to be in the head-office [top position], and you, Mister Z, you don't know him, there is no political influence between you and him. So when you come with your problem to him, he will not assist you. Only if you are the man who [wishes?] by him, whether his son, his brother's son, or his brother's relation or his wife's sister's relation, or his relatives. But for you as a low man, when you come to that person, to that official in that place, he will not give you any assistance. Because he doesn't know you. This made the war to come.

Question: But are these good reasons to fight?

Yes. But if the rebels had come peacefully, if they hadn't stolen our people, hadn't burnt our villages...if they hadn't done anything that harmed us...but if they had only gone to the government with blood...If they had come trustfully [in a trusting way?] to the government, come and attended to the government [? changed it?], we sure [would] have been glad. Because, according to their view they are fighting for their rights. That was the reason why the war came, the reason why I was against them. They are fighting for their rights, but during their fight for their rights, they go to the villages. They go to [persons] who don't know anything about the government. They go and kill [them] and steal [their] property. That was the reason why I was against them. But if the rebels [had come] down here [to Freetown] to this people...because these are the people who created the war...if the rebels would have come to them, plenty of Sierra Leoneans would have supported them. But because they went and [attacked] the poor, that's why I was against them. Because when you consider the rebels the way they think about [them] in the provinces, it is that they are just armed bandits. They are just thieves.

Interesting in the above comment is how the young man can put himself in place of his enemy and judge the reasons why they are fighting. Hereafter a boy soldier of the government army talks. Fighting almost from the beginning of the conflict he is very loyal to the army but that does not keep him away of criticizing the government.

Let me tell you, I'm not happy about the present government, I'm not happy. Because they are not giving us the right equipment that we should have. We have done so much for this country. They have damaged us, some of us. They give us a bad name. Anywhere we go they say we are the rebels, you know. I don't have much love for the government. That is why I don't love the government, except they change their habit. When they stop saying "a soldier is a rebel." I don't like to hear that word. I feel it in my heart. Because there are some soldiers in the bush, right now, who are suffering. They are suffering, the rebels are attacking them. When they say the soldiers are rebels, it is not true, it's a lie. That's why I don't like this particular government.

Question: Is the government not good to soldiers?

They are not good. If you are not good to me, the one that you want to guide [help] you [in beating the rebels]...in the end I will turn against you. So except God changes their heart...because they are bringing another corruption...because they said that the kamajoisia are better than us... How can the kamajoisia be better than us? Since 1991 the army [has been] fighting these guys, the rebels. And you cannot go from the army to the rebels, because you are a wanted man by the rebels. When the rebels capture a civilian [they have the option to join]. [But] they capture soldiers [only] to kill them. When they capture you, a soldier, they just kill you.

The last comment is made by another government boy soldier. He speaks with feeling about the lack of opportunity for young people in the country after asking what he thinks about the future of Sierra Leone. By saying this he probably raises one of the most important reasons of (increasing) youth conscription and probably also its solution to it .

The future of Sierra Leone? I don't really know where the future is going, because it is just somehow bad, now. I have not seen any improvement. Because one thing [is for] sure, we don't respect kids, we don't respect children. In other countries, the top will know that after them the children will be next. But here they don't really know that. They just work in their own interest, and not in the interest of the children, you know. So I don't really know how the future can be good. Because if they are working in the interest of the children and try to make the children good, I think the future will be good. But if they don't care about the children, it means the future is just dropping. So I think Sierra Leone is indigent. Everybody just has to fight for themselves, you know.

Question: What exactly do you mean when you say that they don't listen to children in Sierra Leone?

They don't listen to children in Sierra Leone...if you want to say something to your father or your mother, they can say "no, don't say anything to me. I was born before you were, so I know everything." But that is not really correct. You might be born before me, but I can see something you cannot. They don't realise that in this country. So what they feel like doing when they are bigger...they think that everything that they think about is the best. And we cannot think about something that is good. They don't even count children, to know what children are really about, you know.

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Children, impunity and justice: some dilemmas from northern Uganda

Andrew Mawson

Introduction

The use of children as soldiers is a growing phenomenon that has become a focus of advocacy and programme intervention by both human rights and humanitarian NGOs (Amnesty International, 1999). Such interventions fall broadly into two strands. The first involves efforts to keep children out of conflict. This is exemplified by campaigning for an optional protocol to the UN Convention on the Rights of the Child that raises the minimum age of recruitment or participation in hostilities to 18 years.¹⁷ The second involves direct intervention to provide assistance to former child soldiers. Many of these programs emphasise the psychosocial needs of children perceived to be victims of war. Their aim is commonly to help children deal with the experience of being soldiers and to reunite or reintegrate them with the communities they are perceived to have been separated from by becoming fighters.

The increasing use of child soldiers is an aspect of the growing numbers of internal wars involving weak states confronting weak armed opposition groups sometimes receiving support from other states. Such conflicts are also generally characterised by the presence of ideologies of race and ethnicity, mobilisation of civilians to fight, large scale violence against civilians and massive levels of forced displacement. One study has estimated that approximately 75 per cent of deaths in many contemporary wars are of civilians (compared to approximately 10 per cent of war deaths being of

¹⁷ The UN Convention on the Rights of the Child sets 15 as the minimum age of recruitment. In 1994, the UN Commission on Human Rights established a working group to draft an optional protocol to the Convention to raise the minimum age of recruitment and participation in hostilities. NGOs, among them Amnesty International, Human Rights Watch, the International Save the Children Fund Alliance, International Federation, *Terre des Hommes*, the Jesuit Refugee Service and the Quaker UN Office (Geneva), have formed the International Coalition to Stop the Use of Child Soldiers, which is campaigning for the minimum age of recruitment to be raised to 18. Some developed countries, led by the US – which is one of only two countries not party to the CRC – and the UK, want to see a lower minimum age and are blocking the committee.

soldiers in conflicts at the beginning of the century). A proportion of these deaths are the result of acts of genocide, murder and other human rights abuses by combatants, some of whom are children.

This paper reflects on some of the dilemmas that can arise when society and the state try to confront atrocities committed by children. In general, little attention has been paid to this. It is based on information collected in four periods of human rights field work in northern Uganda on behalf of Amnesty International (May 1997, July 1997 and May 1998) and the International Council on Human Rights Policy (May 1999).

When confronting human rights abuses, different actors – for example, the civil authorities, the army, NGOs, elders, parents and family members, victims of atrocities and young people themselves – usually have different agendas. In northern Uganda, where there has been a conflict since 1986, in the armed opposition group the Lord's Resistance Army (LRA) has abducted approximately 10,000 children to become soldiers. The issue of how to deal with children who have committed atrocities is a pressing concern highly relevant to the political process of trying to build peace. It involves negotiating a path through conflicting agendas and through differing concepts of who is a child and what constitutes justice. The path taken has significant consequences for the wider administration of justice in the legal sense.

War in northern Uganda

Since August 1986, there has been an extremely violent but relatively localised war in northern Uganda, occurring in the Gulu and Kitgum districts inhabited by the Acholi, and fringing areas of Apac and Lira, inhabited by the Langi. The forces opposed to the Uganda Government in the Acholi parts of Uganda have existed in a variety of forms. Initially, they were largely made up of former government soldiers and politicians who reorganised in Sudan after the overthrow of the military government of Basilio and Tito Okello by the National Resistance Army (NRA) of Yoweri Museveni in early 1986. Armed by the Sudan Government, this movement was known as the Uganda People's Democratic Army (UPDA).

In parallel, a spirit medium called Alice Auma, also known as Lakwena (which can be loosely translated from Luo as messenger), mobilised a group that became known as the Holy Spirit Mobile Forces.¹⁸ Her powers left her in November 1987 and the group was shattered in a series of battles. The UPDA, which failed to create a united leadership, did not last much longer as a fighting force. In 1988 key factions signed a peace accord with the government and most UPDA troops gave themselves up.

¹⁸ The Acholi and Langi are Luo speakers.

Meanwhile, in early 1988 another spirit medium, Joseph Kony, emerged as the main focus of military organisation against the government. Kony joined a UPDA unit in April 1987, which he then rapidly took over (Gersony, 1997). Since then his group has gone through various guises. Initially known as the Lord's Army, Holy Spirit Part Two or Lakwena Part Two, by early 1990 Kony had renamed the force the United Democratic Christian Army. In late 1993, by now receiving military support from the Sudan Government, the group became known as the Lord's Resistance Army (LRA). The Sudan Government supplies the LRA with arms and bases in Sudan where it fights alongside the Sudanese army against the Sudan People's Liberation Army (SPLA), the Sudanese rebel group that exerts loose control over large parts of southern Sudan, including the Uganda border.

With the exception of action in Sudan, military activity is largely limited to just a handful of districts in Uganda. It does not directly affect the south, west or central parts of Uganda, which constitute the most important areas of economic activity for the state and the political heartland of the government. In Gulu and Kitgum, however, it has been extraordinarily destructive. Families and communities have been dislocated and destroyed. In the worst period, between 1996 and early 1999, approximately 400,000 persons, well over 50 per cent of the population of the two districts, were internally displaced. Many moved into approximately 30 ill-prepared camps, but large numbers sought refuge in Gulu, Kitgum and other parts of Uganda. The Acholi were once cattle-keepers but now both Kitgum and Gulu are largely devoid of cattle – looted by Karamojong cattle raiders from the east and, according to many Acholi, occupying NRA soldiers in 1986 and 1987. Trade has diminished and the already limited manufacturing and agricultural processing sector is curtailed; in times of insecurity agricultural activity itself is severely restricted.¹⁹

The deep-seated mistrust of government objectives in relation to the north among Acholi in all sectors of society is important for gaining an understanding of the situation of children in this armed conflict. This is a product of the grave human rights abuses committed by the security forces containing many northern troops, among them Acholi, throughout recent decades of Uganda's history which, particularly between 1980 and 1986. Since 1986, these sentiments have been inflamed by government human rights violations against civilians in the north – particularly between late 1986 and late 1988 and in the summer of 1991 – as well as by the periodic use of mass displacement as a counter-insurgency tactic. Killings and other forms of human rights violation by government forces continue to take place but not on the same scale as in the period 1986 to 1988.²⁰

¹⁹ Between February 1999 and the time of writing (June 1999), there were no LRA incursions from bases in Sudan indicated a relative, if fragile, security throughout the north. Farmers made use of this situation to return to their fields to plant and cultivate. Most families kept some members back in the camps, including children, aware that the moment the LRA crossed the border, insecurity would presumably return.

²⁰ See *Uganda: Breaking the circle: protecting human rights in the northern war zone*, Amnesty International (AI Index: AFR 59/01/99), 17 March 1999.

At the same time, Kony's forces have visited extreme violence on their fellow Acholi civilians in villages all over Gulu and Kitgum districts to a degree that has over-shadowed and obscured government human rights violations. Thousands of villagers have been murdered, raped and tortured, often in the most staggeringly cruel ways. This violence is not random – the LRA controls few resources and no territory and has sought to impose its will through terror. Violence has been used to move people away from roads, extort food, drive people out of camps and punish those suspected of informers. Control of the civilian population is a key objective for both government and rebel forces.

A main priority of the LRA, particularly since 1994, has been their need for troops. In 1994, the Sudanese government increased its supply of small arms, mortars and landmines. The LRA had more weapons than soldiers and needed new recruits quickly. It is from this time that the mass abduction of young people of both sexes began.²¹ Although some people undoubtedly join voluntarily – many more than would ever be prepared to admit it if and when they return from the LRA – since 1994 as many as 80% of fighters have been abducted. Most of them are under the age of 18 and close to 50% are aged between 11 and 16. Girls are often placed into domestic and sexual servitude by the LRA, which makes it more difficult for them to escape; however, approximately 30% of escapees are girls.²²

UNICEF estimates that since 1994 approximately 10,000 children have been abducted. Basing a fighting force on abductees means that the internal composition of the fighting units tends to be fluid. It is difficult to know how many children run away. NGOs in Gulu working on the recovery and reintegration of child soldiers have come into contact with over 5,000 since 1995.²³ It is relatively common for LRA units that cross into Uganda from Sudan to lose as many as 50% of their soldiers through desertion. Many others are killed in combat and so taking people, particularly children, to replenish the ranks is a daily, ongoing practice. In addition, the LRA deals with recaptured escapees with extreme violence, often using new captives to execute in almost ritual ways friends or people from the same village who have tried to escape but failed.

For many villagers in the north of Uganda day to day survival involves steering a careful passage between what to them are two broadly unacceptable alternatives. The government is deeply distrusted for historical reasons, compounded by violence against civilians by soldiers, its creation of internally displaced persons camps and, paradoxically, for the perceived failure to protect people from the LRA.

²¹ See *Uganda: Breaking God's commands: the destruction of childhood by the Lord's Resistance Army*, Amnesty International (AI Index: AFR 59/01/97), 18 September 1997.

²² World Vision Uganda figures presented by Ignatius Oloi to a conference entitled *Challenges to reconciliation and the protection of human rights* in Gulu on 7 July 1997, organised by the Ugandan NGO the Foundation for Human Rights Initiative.

²³ World Vision Uganda and Gulu Support for Children Organisation (GUSCO).

Northerners frequently question why the government has failed to end the war. Does it suit the authorities or the army for the war to continue? At the same time, there is almost no support for military solutions to the conflict because many LRA members killed in conflicts are family members.

On the other hand, the LRA is deeply feared. Even the most bitter of government opponents denounce LRA methods. Few families are untouched by LRA violence. In the words of a man from Kony's home area of Odek, who in April 1998 was ordered back to his fields by the LRA and then rounded up at gunpoint by the UPDF and sent back to a camp:

A people are torn between two deadly orders. The LRA does not want people in the protected camps, while the UPDF does not want anyone in the countryside. We don't know what to do.²⁴

My impression from interviews with villagers, priests, elders, local councillors and other community leaders – and with some civilian government officials – is that, among the Acholi at least, there are very few people who wish to see this war continue. For a wide cross-section of society, a current priority is how to create peace. A key question in this is the relationship between peace and justice. Some people want revenge for things LRA soldiers have done to them or their families. However, others, including almost all intellectuals, want to bury the past as the price of peace.

This is the context of the collective response on the part of the Acholi to children – and adults – who have committed atrocities.

Childhood and responsibility

It is a basic tenet of legal approaches to justice that the failure to punish serious crimes increases the likelihood that similar crimes will be committed in the future. This is perhaps especially true in a war situation where social constraints are reduced and there may be significant pressures – and opportunities – to commit serious crimes. If perpetrators believe they can get away with atrocities, there is little incentive not to commit them. If everyone around me is killing and looting and getting away with it, there is little to stop me doing the same – especially if I am also under great pressure to commit atrocities from my peers or commanders. What is likely to follow, especially in a war situation, is a spiral of violence and brutality.

Although confronting impunity is an article of faith underlying international human rights law and most legal systems around the world, it is clear that in northern Uganda (and probably in many other

²⁴ *The Monitor*, 29 April 1998.

complex internal wars involving non-state actors where there is little likelihood of one side or the other winning an outright military victory) a narrow, deeply problematic, punishment-orientated definition of justice exists. It does not take into account the political and social dynamics of the conflict or of building peace. Who is dispensing justice and who is receiving it? It seems to ignore the pattern of abduction and the use of extreme violence within the LRA to enforce the will of commanders. It does not take into account a fairly widely held Acholi view that their society as a whole is the collective victim of monstrous injustice – long-standing injustice on the part of government and now the additional injustice of LRA terror.

While it would be theoretically possible for the state to charge and try alleged killers and rapists, in northern Uganda it would deepen the widely shared view among Acholi that the government is out to get them. From the state's point of view, it would undermine key elements of its stated counter-insurgency strategy – the effort to lure people out of the LRA and to build positive relations with the civilian population. Since the war began there have been periodic presidential amnesties for persons who give themselves up to the authorities or are captured by them. These have covered waging war against the state, but have not formally extended to serious crimes against the person. An informal amnesty remains in force.

However, pretending atrocities have not been committed is also not an option. It is probably not too far-fetched to suggest that the very existence of the LRA is in part a response to and cause of the long-term brutalizing effects of violence and warfare on Acholi society. This might seem somewhat circular – but this is a war in which the motivations of those voluntarily fighting the government have evolved and changed very considerably over time.

While most civilians appear to want peace, the degree to which people are prepared to subsume their own familial or individual desire for revenge or compensation in order to achieve it is a moot point. There are examples of communal revenge on returnees from the LRA. People who return are often feared because they may be violent and unpredictable or bring with them spiritual contamination, including possession by those they have killed. According to some Acholi, the usual methods of dealing with spirit possession are often overwhelmed by the sheer scale of the violence that has taken place.

At another level, ignoring atrocities could undermine the wider administration of justice. It could become difficult for judicial decisions in relation to other crimes to retain much credibility if far worse situations are just ignored.

In northern Uganda the use of concepts such as child – and, to a degree, the child's best interests – appear to have created some space among government officials, Acholi intellectuals and the wider Acholi community to negotiate a way forward. In national law in Uganda a child is anyone under 18 years of age. This is enshrined in the Children's Statute of 1996 that incorporates into Ugandan law aspects of the Convention on the Rights of the Child and the OAU African Charter on the Rights and Welfare of the Child. However, for rural Acholi the definition of who is a child is less based on achieving a certain chronological age but on factors such as physical maturity, social expectations, peer group seniority and position within the family. Defining who is a child is to a degree a process of negotiation between individuals, family members, peer groups and the wider community in the context of real events, marked, to an extent, by rites of passage.

In the specific context of returnees from the LRA, the authorities and the Acholi community appear to have come to the collective agreement that virtually anyone who has been with the LRA and who gives themselves up or is captured in combat has characteristics that enable them to be defined as a child. Firstly, under the state's legal definition most (but not all) are children in terms of chronological age. Secondly, many *are* children under Acholi notions of what constitutes a child (or at least they were before they became part of the LRA). Thirdly, most (but not all) were abducted. In combination this allows a collective presumption of a degree of lack of responsibility for their actions.

It also means that both wider Acholi society and the authorities are prepared to at least pretend that the proportion of LRA returnees who are much older than 18 (and who were already older than 18 when they became part of the LRA) are also, effectively, children. This proportion is not negligible – between 15-20% of returnees are over 18. Six percent of the 3,000 seen by World Vision between 1995 and 1997 were aged above 29. In other words, they would already have been over 18 in 1986 when the war began.

Having defined LRA returnees as having the characteristics of children, what happens next? All persons who return from the LRA are handed over by the UPDF to two non-governmental organisations – World Vision and the Gulu Support for Children Organisation (GUSCO) – for programs of psychosocial counselling. Returnees are fed and clothed. The NGOs, working with the civilian authorities, trace family members and set in motion reintegration. They also take the returnees through a structured series of sessions where they encourage them to talk about what their experiences.

The psychological health of the returnee is a priority for both organisations. Within the limited resources available to them, counsellors spend quite a lot of time with the most disturbed children. Part of what they do is provide a framework and safe context for the child to admit to things they have done. In part,

returning to the theme of impunity, this can represent a form of confrontation with guilt. This is not, however, one of the aims of the counselling process from the perspective of the NGOs and the process remains a somewhat individualised, if powerful, experience.

Over time, both organisations have realised that working with returnees isolated from the community is not a sufficient or entirely effective way forward. The practical realities of the war mean, however, that working directly in the community is not always possible – both NGOs operate out of buildings in Gulu town where there is a greater degree of safety. Both make an effort to involve family members in the work of the centres. GUSCO in particular encourages other social and spiritual methods of confronting the consequences of having killed – for example, rituals of purification. In the words of the Program Director of GUSCO:

“We are open to traditional beliefs. For example, children may experience the consequences of what they have done through spirit possession. We may be able to identify this is what is happening but it needs the family and community to deal with it. We may offer help, for example by giving money for a goat.”²⁵

However, it is unclear how often these rituals really take place. It is questionable whether the community is really able to deal effectively with the consequences of killing. This is especially true when the killings may have happened in far-flung and distant places, thus ruling out rituals of reconciliation involving the relatives of the victim. This is particularly relevant in periods of serious disruption and dislocation when insecurity has forced large numbers of people into camps. Furthermore, some children have killed many times.

In the end, the sheer number of returnees and the resources available to the two NGOs means that neither is able to give all of the children the kind of systematic attention and follow up that they would like to provide. In fact, perhaps one of the most important functions of the centres is not to be found in their actual programs but in the movement through them in an officially and, to a degree, socially sanctioned rite of passage between the LRA and wider society. After passing through the centres, returnees are accepted by the authorities as genuine (they are, for example, given a passing out note for the local civil and military authorities). Once they have been through the centres they are not, usually, suspected of being LRA soldiers making a temporary visit to the community. Acceptance by the community also appears to be widespread.

This collective fiction of who is a child is not accepted by GUSCO or World Vision. This may be a result of the influence of western child psychologists and the important principles contained in the CRC on the

²⁵ George Omona, interviewed in Gulu on 19 May 1998.

training and ideology of both organisations has been heavily. In part it is the product of empirical experience; both have found that having young former soldiers and older former soldiers together in the centres can cause problems. Sometimes the structures found in the LRA reassert themselves. For example, older former soldiers, some of whom may have been with the LRA for many years, have sometimes sought to reassert their rank. The regime is structured around the activities and needs of children, which can alienate adults who may be more interested in spending time in nearby bars. GUSCO now does not accept anyone that they suspect to be over the age of 18. Staff at World Vision would like to do this, but the failure of the authorities to implement programs for adults has meant that so far they have not found it easy to resist pressure from the UPDF and civil authorities to take any returnee that the army brings along. World Vision tries to transfer adults to a vocational training centre at Kiryandongo in Masindi district as soon as possible.

This points to the dangers of stretching the concept of childhood too far. Arguably, programs of reintegration orientated towards adults could be set up in Gulu and Kitgum. However, the authorities do not appear to want to confront the issue. Perhaps this is because they do not wish to divert resources from other budget lines. Perhaps they doubt they will receive the same kind of NGO and UN support that they are able to mobilise around children. It might also undermine a rare area of agreement between many Acholi and the government, the social consensus that there should be some flexibility on the issue of responsibility for atrocities, by forcing confrontation with the fact that not all perpetrators actually are children. Doing this would involve making a particular criterion – chronological age – the defining characteristic of the status “child”.

Having said this, confronting atrocities through a process of counselling, especially one that draws in people from the wider community, is a step towards addressing impunity. In northern Uganda, making a general truth out of the statistical fact that *most* perpetrators of violence are abducted children by both Acholi and chronological age criteria may be contributing to making a low-key, individualised, non-punishment-orientated approach to confronting atrocities more socially acceptable than in some other situations. It may not, however, be an approach that in the long-term enables the direct victims of violence to feel that justice has been served.

Further, this approach has the unintended side effect of posing dilemmas for how to deal politically with the LRA leadership. Setting up a category of “innocents” (or the “misled”, as President Yoweri Museveni commonly refers to LRA returnees) presupposes a category of people who are knowingly guilty, the “misleaders”. The LRA leadership, especially Kony and a small number of other key commanders, are frequently described by government and the media, especially the foreign media, in demonic terms that render almost unthinkable the notion that ending the war could involve negotiation

with them. In this respect, President Yoweri Museveni may be in the process of shifting government policy. In May 1999 he announced that after consultations with opinion leaders in different parts of Uganda, the government had decided to introduce a bill to parliament to grant amnesty to all returning rebels for all crimes committed.²⁶ The implications of this remain unclear; the precise terms of the bill are not yet known and no parliamentary time has yet been allocated to it.

Looking more widely, the approach also sets up a number of anomalies that seem to cause other problems for the administration of justice in the legal sense. The first is that children and adults who collaborate with the LRA, for example by supplying them with food or information, may face far stiffer punishment in the government courts than LRA members who have killed and raped. The official rationale is that co-operation with the LRA, as opposed to membership, tends to be voluntary. From the perspective of the UPDF:

“It is different with a mature person who knows the effect of war. If such people are encouraging small boys, they should be dealt with like the LRA leaders...If I guide rebels or buy drugs for them, I'm doing it consciously.”²⁷

However, this begs many questions, which are thrown into even sharper relief by the apparent decision to introduce a blanket amnesty. A key one is: how truly voluntary is voluntary? Are villagers who provide support being coerced? Are the villagers who buy drugs doing so to help the survival of close relatives? Perhaps more problematically, many Acholi perceive the discrepancy between not charging killers and charging supporters as unfair.

This paradox appeared to have been recognised in early 1997 when the courts in Gulu began systematically to throw out cases brought by the army against alleged rebel collaborators. The legal basis was the army's failure to collect evidence. Interestingly, the army and the police have not used criminal charges against persons involved in rebel activities to any great extent since 1997. This is quite unlike the approach being followed in the war against the Allied Democratic Forces (ADF) in the west of Uganda, where hundreds of people have been charged with treason. When a rogue Kampala-based security operation arrested 11 men in Gulu in March and April 1998, illegally detained them and, eventually, had them charged with treason, the Resident District Commissioner in Gulu – the President's representative in the district – led the protests.

However, the real danger is that following the amnesty approach closes down legitimate avenues for dealing with serious crime, thereby creating the circumstances in which security officers and the military may find the temptation to resort to extra-legal means difficult to resist.

²⁶ President Yoweri Museveni, Gulu, 13 May 1999.

Indeed, the issue of justice also has to be examined from the point of view of government soldiers stationed in the north. If the enemy can commit atrocities and get away with it, why should comrades be brought to book? There is a big problem of impunity for soldiers who commit serious crimes. Between January 1996 and April 1998, 82 soldiers were charged with serious crimes against the person by the Gulu police. However, only four cases have been brought to court, three leading to convictions and one to an acquittal. In the course of working for Amnesty International, I collected information on approximately the same number of incidents over roughly the same period in which soldiers and police are alleged to have committed murder, rape or assault but in which no arrests have been made.

²⁷ Brigadier Wamala Katumba, commander of the UPDF 4th Division, Gulu, 21 May 1998.

The Uganda Police report they often have difficulty collecting evidence from soldiers. It would be stretching things too far to suggest that the failure to bring the child perpetrators of LRA atrocities to justice in the legal sense is the cause of incidents of abuse by soldiers. However, anecdotal evidence suggests that army officers are mindful of the effect of this apparent double standard on their troops. There is a marked disinclination to pursue the prosecution of soldiers who commit human rights violations while on military operations. This brings us full circle – back to the cycle of violence and the collective Acholi sense of injustice.²⁸

Conclusion

To recapitulate, northern Uganda government and Acholi society, if one can talk in such broad and problematic terms, have apparently found a common interest in an expanded use of concepts of child. Flexibility around whom and what constitutes a child means that people who have committed or been forced to commit atrocities while in the LRA are given sanctuary in a specially constructed moral space. To an extent this functions as a modern form of purification. In part, it is an amnesty and in part it is a form of quasi-religious confrontation with guilt and a form of shriving.

This is a process that raises many questions – which is the point at which this paper ends. Is it significant that the process is taking place through institutions of modernity, NGOs, rather than, apparently, through more Acholi institutions? Does this reflect the scale the capacity of Acholi society to deal with?²⁹ Is this common ground around children and responsibility an interim measure in the current circumstances of war?

²⁸ For a fuller discussion of the administration of justice in Gulu District, see pp 49-63 *Uganda: Breaking the circle: protecting human rights in the northern war zone*, Amnesty International, 17 March 1999.

²⁹ Many Acholi would argue vehemently that this is not the case. There is currently much unity among Acholi intellectuals that “traditional” institutions of conflict resolution have to be invoked if the war is to be brought to an end. The perspective is most clearly laid out in a consultancy report by Dennis Pain, *The Bending of Spears producing consensus for peace and development in Northern Uganda*, commissioned by International Alert and carried out in partnership with the organising committee of the Kacoke Madit, a meeting of Acholi from around the world that convened in London in 1997 and 1998 to discuss ways forward on northern Uganda. Pain’s report has touched a powerful chord among Acholi. The reasons for this – and the merits of the approaches to conflict resolution suggested – deserve further study.

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Sexual abuse inside and outside the home

[Transcript only]

Jean La Fontaine

I should point out also that the locals in the countries concerned attribute the problem of child prostitution to foreign clients. This utterly ignores the much larger population of local clients for these children, projecting outwards and away from themselves, the notion of harm to children.

We use vague terms. The term 'abuse' is used reluctantly because it is too vague. What do we mean? Flashing? Exposure? Rude words? Rape? Sexual abuse is sufficiently vague that it can be very specific and therefore seen to be a rather small problem, or very general, including a wide range of things and therefore make it seem as though everybody has been abused. The problem shrinks or swells according to the import, the meaning we give to these particular words.

For example, there was a great deal of fury in this country when a visitor - a student at one of our universities - applied for a place in secondary school for his wife. She was twelve. They were legitimately married, and he was astonished to be told that a married woman could not be a student. It was perfectly clear from the way in which it was written up that what was bothering the school authorities was the fact not that she was married but that she was possibly, as a twelve year old, having sexual relations. When the young man realised what the problem was and said that he hadn't touched her because she was too young, it didn't make any difference. The whole idea was repugnant. But this was a quite normal practice in many countries where girls are married young, and in other countries, caressing children in parts of their bodies which we consider untouchable, is also quite legitimate and a common practice. So we have to be careful when we're talking about sexual abuse and generalising it to the world at large that we are not riding over the sensitivities, attitudes and behaviours which are considered quite legitimate in other countries.

On the other hand, maybe we should say in all circumstances in all countries, sexual abuse is should be forbidden and prevented. But then if we're talking about such a vague concept, how can we do that? What do we mean by forbidden? There are inconsistencies even in one country between law and morality or popular attitudes. For example, the law itself can be inconclusive. In Britain, a child is someone under 18. But girls are legally able to consent to sexual intercourse at the age of 16. Now, is sex with a 16-year-old the sexual abuse of a child? Is a girl of 16 who sleeps with her boyfriend sexually abused? How do we

then comprehend the notion of 'date rape' as it is understood in the United States? That is to say, forced sexual relations between adolescents or young people who are initiating some sort of relationship. On the other hand, it is quite clear as far as the law is concerned that a girl of 15 that sleeps with her boyfriend is putting him in danger of arrest and punishment.

There are all these inconsistencies. We can look at any newspaper and find incidents discussed in terms of breaking taboos. And many of these cases are used to reinforce popular myths like, for example, that when we are talking about sexual abuse, it is actually a discussion about anticipating growing up. Here we have another vagueness: children. Are we talking about adolescents when we talk about the sexual abuse of children? I'm not. I'm talking about eight-year olds or even three-year olds. As well, we are talking about the whole range of human beings that are immature. And, as I mentioned earlier, we don't like to think of prostitutes as being children. They are merely seen as delinquent, over-sexed girls from children's homes that are out of control.

But what about the very common variation of sexual behaviour in which the woman is expected to pose as a child? There are adult prostitutes whose clientele expect them to dress up as schoolgirls. What about the photographs seen in advertisements which put children into provocative, sexy poses? Is this abuse? Is it encouraging abuse? In this country, we are very ambivalent about the whole notion of sex with children. Although we have this notion of children as innocent and pure, but there are other undercurrents in social life as well.

With that preamble, let me talk about the general prevalence of incidents of sexual abuse in this country. One of the difficulties is, of course, all we can talk about, is the cases which are reported. There is some evidence to suggest that there is a whole range of cases that never see the light of day. Whether they would alter our perception of the frequency of various types of abuse is impossible to know.

We have a difficulty in relating different sorts of data. It was quite surprising to me to realise the different figures that data can have depending on their origin. There are great differences depending on whether the data comes via police reports, which refer to cases which are going to be processed with a view to prosecution; social work reports, which include cases that can never go to prosecution or court because the evidence is not good enough or because there are no witnesses to the crime; or therapeutic institutions that usually deal with children who come from rather serious cases and therefore give a much more alarming view of what happens to them. There have been a number of different attempts, including my own, to estimate how frequent this abuse and exploitation of children is. They all come up against problems of data. I'm not sure that we really need to know precisely how many children are being sexually

exploited in this country or indeed in any other. We know much more about the United States and Britain than we do about almost any other country in this respect, that it happens and not infrequently. It's not something we need to raise a major panic about, but it is enough to give us serious pause about children in this society.

Now, the main point is this: to contrast what happens to children inside and outside their homes. This is why I gave the title I did. Because children in this society are seen as either in the care or protection of their families at home, or in the care and protection of the schools or other institutions that look after them. We feel that children are protected by adults of various sorts. And most of all, they are protected by their parents. I use the term home rather than family because what I'm talking about is the places where children live. And this of course then also means a household which does not consist of the ideal or the paradigmatic mother and father and 2.8 children, but a variety of people who live together and with whom children have a great deal of contact and emotional ties. It's very important to stress that the exploitation of children that happens within the household, within a series of relationships which may also be quite affectionate and loving, so that for the child, the sexual abuse or sexual relationship is encapsulated in a relationship which is very strong. When the relationship is disrupted, it causes great pain.

Most of the research has contrasted the nuclear family with people from outside it, that is to say, the home, the household with what happens outside it. It is commonly talked about as though it's not safe. Children are safe on the streets. You can't let them go to school by themselves. There are all sorts of dangers. What little we have in the way of reliable statistics show that the majority of cases of sexual abuse in this country, anyway, take place within - not outside - the place where the child is thought to be most safe. That is, in the home. The likelihood of this getting to police files or to a court is much less in these cases because what is being disrupted by an action taken is a whole system of social relations. It's not just a question of the child's relations with the perpetrator, which is usually a father or stepfather or other senior man, but with siblings, with mother and with other people in the household. It is this structure which makes the abuse possible and the telling about it impossible.

The household, associated as it is with a family, is the building block of our society. That is to say, it is the fundamental locus of authority and of differentiation according to generation, a most important distinction. Those distinctions put the child in a subordinate position, particularly the girl child, and make it impossible for them to say no, to go against any initiative by an adult, or indeed to talk about it to anyone else, particularly when they have been told not to. This is one of the pressures put on them, not only the sexual exploitation, but also the pressure not to tell about it.

It is accepted in this country that the Englishman's home is his castle. Well, this castle will include children who have been abused and who are invisible to anyone outside. Most people are very reluctant to intervene or to report anything that is going on in somebody else's house. It has to be very serious and there has to be the possibility of anonymity before most of them will do so. Monitoring is extremely difficult. The mythology of natural affection ensures that people believe that parents do not damage their children. Fathers do not have sex with their three-year old daughters. On the other hand, it is also the case that people think of children in terms which almost make them the property of their parents. In fact, I have recorded more than one case in which a man accused of sexually abusing daughter has said, 'well, it's nobody else's business...she's my daughter...I can do what I like with her.' And this, of course, in some respects is true. The position of a man inside his own household is a very authoritative one, and it is only in recent years, relatively speaking, that anyone has considered it legitimate as to what goes on inside the home.

To give children the right not to sexually interfered with is an extremely difficult thing to do because the majority of them are abused in places and within situations which are defined as autonomous, private and domestic, and not for anyone else to interfere with.

What about, then, the other occasions in which children are sexually abused. What is it we think that pedafales are the great danger to our children? We think of them as some people think of predatory lions roaming about our prairie. There's a great deal of public outcry, even including the administration's [...] police stations when local communities think they're a pedafale about to take up residence in their community.

By and large, if one compares the situation in sexual abuse within the household and outside of it, within the household, the victims are younger with greater physical damage, more serious acts, and the sexual abuse tends to last over a longer period of time. Nevertheless, outside the house, children may suffer very greatly from rape or other sexual activities, which treat them as material for exploitation. And there are two kind of ways in which this happens. First of all, there are the people who infiltrate organisations which are designed for the upbringing of children, such as schools, including and especially boarding schools, children's homes and organisations which undertake children's holidays, such as the scouts. The scouts have been notorious for a long time for the possibility of hidden [sexual] activities. These organisations are very vulnerable in that their reputations are very important to their existence and for the reputation their staff, so that anything which is likely to cast any sinister light on their activities is repudiated as strongly as possible. The children are in the care of these authorities have been placed there by other adults from whose cares they were taken, who also have a vested interest in making [b...] that they have done the best

for their children. Between children's organisations and children's caretakers in the home, children's credibility suffers a great deal of damage.

I participated in a piece of monitoring research on the children's help line - Child Line ????. They ran a special line for boarding schools for about six months, and I was invited to help write up the results of this particular exercise. Sexual abuse was not an uncommon complaint. What was interesting that the members of the boarding school association to whom we talked about this argued that the children were simply trying to get their teachers into trouble and that it was malicious falsehood. It was very difficult to convince them that children who do not mention the school that they're at, who do not refer to the name of the teacher concerned are actually not trying to be vindictive. They're trying to get help. What was threatening to these boarding school headmasters was the notion of the reputation of boarding schools in general rather than the possibility of children being abused.

Indeed this is similar in the case of children's homes. The senior social worker who investigated a scandalous situation of abuse in a school in the north, which had gone on for about five years, was forced to write that it was the system of care which had made this possible rather than it had happened despite the system of care because it was impossible in the system for the children, who were the objects of care, to raise their voices in any way.

I have gone into this in considerable detail because I do think, as I've said before, that children participate in their own lives as actors. But their sexual abuse is the case in which there is no way with their experience and knowledge that they can do much to help themselves. Intervention is something which is extremely traumatic. Whatever is done is painful. Where the abuse has happened at home, the children's whole lives must be dismantled - or they are dismantled - by social work intervention, by the courts and by the subsequent imprisonment of the perpetrator if there is a conviction.

Is it any wonder that there ought, in these situations, not to talk about what has happened, to refuse to tell, and to bare it themselves. I think children, in many cases, are well aware of the possible consequences of their telling. They are usually made aware by the perpetrator that if they say anything, the home will be broken up, and it will be their fault. Children are very ready to assume guilt, and, in most cases of this sort, they do think that any result is their fault.

It has been argued by a children's rights organisation in this country that if children have been sexually abused in the home and choose to stay at home regardless, they should be allowed to do so because this would be their right to choose. Should children, then, be given the right to choose to stay in a situation in

which the evidence suggests is going to do them some sort of permanent harm. I don't have any real answer to this except to point out that the reason they have to make this choice is because adults have forced them into a this situation in which a choice has to be made. It is not a choice of their own making. It is something that is forced upon them. Many children will echo a remark made by a child whose opinion was recorded by Lord Justice Elizabeth [insert surname] in her investigation of a large series of cases in the northeast of England. This child said, "I love my father. I just want somebody to make him stop." This is a central dilemma with which one has to cope if one is trying to enforce a notion of children's rights to their own sexual being, their right not to be exploited sexually.

Why am I talking about sexual abuse outside the home. There are a range of different issues which have to be raised. The issue of institutions is probably the most important currently, with a series of scandals about children's homes and the occasional scandal about boarding schools, making it clear that children may be very isolated in these institutions, and unless there is some provision for them to reach outside help, they will [perforce] have to put up with whatever is imposed upon them, either by the regime in general as happened in one particular school (as mentioned above?) or by individuals among the staff.

It is very difficult to enable children to talk. There was a proposal that all such institutions, including boarding schools, should provide a telephone on which children could make private calls to a help line or to anyone else whom they chose to contact. It was very interesting when we did this research for [...] to discover where these telephone lines had been placed in some schools: in the headmaster's study; in the [m...]'s office; and in the main hall where anybody who fancies could hear. In most cases, it made a nonsense of the whole idea of the child's right to privacy and the child's right to talk. What was quite clear was that it was very difficult for the children to talk, even when they did have privacy in a telephone booth.

Opening up institutions so that children have a voice and access to someone who will act on their behalf is one thing. In other cases, children are involved in sexual activities as a form of amelioration of their own situation. There are two sorts I can think of here. The most common in this country is the deprivation of belonging to a one-parent family or a warring, dysfunctional family which is also deprived financially and materially. Such children, particularly boys, who are less supervised than their sisters, are very vulnerable to enticement by men who wish to use them for sexual purposes. The children are offered treats, probably affection they don't get at home, and taken out and made to feel important. In exchange, they are required to give sexual favours. They exchange may seem worthwhile to them and it may indeed be something very similar to the relationship between father and child, which they have not probably known. It is, again, very painful for children to have these relationships broken up. Even more, however, difficult and painful are those children who subsist either on the streets or as 'inmates' in poorly-run children's homes by

prostituting themselves on the streets. We can make a parallel here between the runaways in Nottingham or any northern city, and perhaps some of the child prostitutes in the Third World because what these children are doing are earning. This is an activity they've learned which brings in money which they need either to maintain themselves or to contribute to family income. There is an anthropologist on child prostitutes in [T...], who is convinced that the children are quite voluntarily submitting themselves to prostitution in order to bring home a considerably large sum of money. Those who have foreign clients can expect to bring home far more money than they would ever earn in any other way. And their parents are dependent on this source of income.

This is a much more autonomous involvement, if you like, in sexual relations between adults and children, which appears to justify the notion that in some countries that children are deprived. They are ignorant and coerced - sold like slaves (?). It is an easy matter to condemn this, and to consider that the only way of enforcing children's rights is policing, so to speak, to prevent these activities. On the other hand, if you look at the whole situation in context, you have to recognise that these are hierarchical societies with a great deal of difference between the poverty-stricken level at the bottom and the rather wealthy top level of society and the wealthy outside, who provide the clients for these children. This is a society in which the children have very little freedom of action and indeed the only source of some sense of their own identity comes from the knowledge that they are providing an income for their families. To cut them off from this would be not necessarily to do them a favour.

In this presentation, I have tried to give you some sort of quick jist of the argument in a field report from this particular anthropologist. I am not sure that there aren't some alternatives which could have been provided. What I am trying to show, however, is that society sets [tracks] for some children where those who wish to use them for sexual purposes can get access to them in a way which we will find very hard to prevent. I don't like to take this rather pessimistic line, but I think that those people who talk about children's rights maybe have a rather simplistic attitude to the way in which children have to function in society, to the impediments and difficulties with which they are faced. What I want to do today is to give some sort of indication, perhaps, of how we construct a society which is not child-friendly. Perhaps the notion of children's rights is better re-phrased as an attempt to make societies more child-friendly.

I've given a very scetchy outline because I didn't think you particularly wanted a great deal of information about the sexual abuse of children, but merely to look at the way in which this happens. We think in this society that we look after children. They are looked after first by their natural protectors, the parents with whom they have a biological connection who will make sure that they are careful with their children. In most cases, that actually works, but not in all cases. The close association between parents and children

is also the setting for some individuals to treat their children as though they were chattel or objects with which they can do anything. Secondly, we organise a range of institutions and we pay people to run them to look after children. Some of these children are there because they are being given a specialist education, which other children are there because they are in some respect damaged. One of the more poignant aspects in sexual abuse in some of the children's homes that I have read about is that the children were placed in these homes for rehabilitation after having been sexually abused in their own homes only to be further abused by the owners and staff of the children's home.

Our society organises children once they get outside the household in schools and institutions of various forms. It is, therefore, quite easy for those men (they are mostly men who wish to indulge in sexual relations with children) to get access to children in various situations (note: why - because the situations are known?). Our whole society subordinates children to adults: to their parents, to their relations outside the immediate family, to their teachers, to adults in general. Perhaps one should look with approval on the fact that this respect for adults is waning and seems to have gone very [fast] in Africa in particular. It has consequences we've been hearing about which are very unfortunate. It may, however, also be the means by which children are liberated.

I would also like to point out that mythologies of various sorts and stereotypes hide what is happening and maintains this illusion of benevolent rearing of children to provide the future of our society. Anthropologists are very good at deconstructing mythologies. Therefore, I think anthropologists have a role to play in making the world a better place for children. Perhaps I should then bring a note of caution. If we give children a voice, we may not like what they say. If we offer them the chance to determine their own lives, we might not like what they make of their own lives. But if we offer them a chance to determine their own lives, and we then do not act on it, it will be a double betrayal.