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# Lex:lead annual scholarship competition **2023**

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## 2023

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# An introduction from the Lex:lead President

**A**fter presenting our first award in 2010, 16 more awards this year saw Lex:lead reach nearly 150 winners as we continue to recognise more and more students. Conducting an essay competition each year on topics of law and development that is open to the world's least developed countries, we have been generously supported throughout by leading law firms and foundations including the International Bar Association (IBA) Foundation, which was the source of our first and some of our most generous grants over the years.

Through its panel of judges, Lex:lead recognised the top essays this year on the question: 'How effective have laws protecting the rights of children been to reduce poverty and support economic development? How could they be improved?' Each year our essay questions juxtapose an area of law with the effect it can have on economic development and the reduction of poverty, challenging our writers to think beyond the texts they learn in their academic environments and apply it to their lived experiences. The results are often thought-provoking insights into the nature of law and how law affects all of our lives, particularly those in developing countries.

Taking a departure from our yearly 'President's Pick', I would like to recognise no less than four essays this year as the essays provided by Benson Bandawe (University of Malawi, Malawi), Freda Ganu (University of Ghana, Ghana) and Ijahra Larry (University of Ghana, Ghana) are 'must reads' in my view, balancing thoughtful research against the exigencies that limit the full application of these important international laws protecting children's rights. A fourth essay that stood out to me that I would encourage reading was submitted by Adisu Hailu Meta (Bahir Dar University, Ethiopia), although many of the essays make solid points and are not to be overlooked in highlighting just a few.

Lex:lead has recognised contributions made to it many times with honorary awards, and this year we recognised the contributions of senior advisory board member Stephen Denyer who passed away in January with an honorary award made to Benson Bandawe (above); an award to the highest ranked female winner made to Freda Ganu in honour of our patron the Honourable Dame Linda Dobbs DBE; and awards recognising the contributions of longstanding Lex:lead judge Carolin Crabbe made to Vanessa Ndhlovu (University of Lusaka, Zambia) and of our outstanding Treasurer Daniella Geller made to Faith Mirembe Ndagire (Law Development Centre, Uganda). The contributions of each of these honorees have been considerable, and we are glad to recognise them in this way.

Happy reading.

**Anne Bodley**

*President/Founder, Lex:lead*



# How effective have laws protecting the rights of children been to reduce poverty and support economic development? How could they be improved?

*Award made in honour of Stephen Denyer*

## Introduction

### Definition of key terms

The United Nations (UN) Convention on the Rights of the Child (CRC), is the overarching human rights instrument dealing with the rights of children, and defines a child as ‘every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier’.<sup>1</sup> The instrument has been ratified by most of the world’s states with the United States a notable exception. With such wide recognition it has been argued that the threshold set is customary international law.<sup>2</sup> Human rights, on the other hand, have been defined as ‘moral principles or norms for certain standards of human behaviour and are regularly protected in municipal and international law’.<sup>3</sup> Poverty, not defined by the CRC, is ‘a human condition characterised by sustained or chronic deprivation of the resources, capabilities, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights’.<sup>4</sup> The last element to be defined is ‘economic development’ which is ‘the process by which the economic well-being and quality of life of a nation, region, local community, or an individual are improved according to targeted goals and objectives’.<sup>5</sup>

This essay takes a human rights approach in evaluating the efficacy of laws as far as reducing poverty and achieving economic development for children is concerned. For the sake of context, the discussion is limited to Europe and Africa. The essay recognises laws aimed at combating child poverty including the CRC, anti-child labour conventions, and municipal laws. Their efficacy is tested against reports on various

initiatives undertaken by various states as well as analysis of various statistical highlights regarding child poverty.

### Analysing the efficacy of law

#### *Economic rights under the CRC*

The CRC mandates all states parties to recognise that ‘every child has the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realisation of this right in accordance with their national law’.<sup>6</sup> Further, states parties are mandated ‘to recognize the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development’.<sup>7</sup> These provisions, though not directly addressing the area of ‘child poverty’, are a good legal basis to combating child poverty as they impose duties on states to ensure they give effect to correlative rights of children.

Human rights scholar Wouter Vandenhoele submits that it is impossible for child rights laws to ignore child poverty as both profoundly affect human dignity. The normative guidance that child rights laws offer cannot be ignored by policies that seek to address child poverty conditions.<sup>8</sup> Thus, human rights constrain permissible actions in poverty reduction policies and their implementation.<sup>9</sup> This human rights approach links law and poverty reduction as the end goal. In short, children have a good launching pad to compel their governments to ensure they are provided for under obligations set in applicable human rights laws, compliance with which should directly reduce poverty rates in the respective states.

Unfortunately, a central challenge with economic rights, as espoused under the CRC, is that they are understood to be only progressively realised.<sup>10</sup> Thus, the realisation

of the rights of children is qualified by resource availability; and to establish the violation of economic, social and cultural rights is cumbersome given the weak general obligation of progressive realisation of these rights.<sup>11</sup> This embedded legal Achilles' heel therefore makes it hard in practice for most states, especially those in Africa, to be held accountable as it is easy to blame the general lack of resources as an excuse in failing to meet the socio-economic needs of children.

### *Child labour*

Another important aspect in assessing the efficacy of laws applicable to reducing child poverty, in addition to achieving economic development, is that of child labour. The UN Sustainable Development Goals (SDGs) include the elimination of child labour as a practical and measurable target for sustainable development.<sup>12</sup> The CRC emphasises the importance of protecting children from 'work that is likely to be hazardous [to] or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development'.<sup>13</sup> Without speaking directly to child poverty and the economic wellbeing of children, this gives a good strategic angle to ensure that children are protected from abuses that can subject them to exploitation. As has been argued, 'child labour has the potential to undermine economic growth through its impact on child development, wages and technology adoption'.<sup>14</sup> Therefore, derivatively, child labour issues have an impact on child poverty as well as on economic development more broadly, making laws on the same relevant to the discussion at hand.

Regrettably, despite the existence of laws protecting against child labour, Edmonds (2014) argues that these laws appear largely to be unenforced.<sup>15</sup> Doepke and Zilibotti (2009) argue that unenforced laws risk undermining demand for real, meaningful regulation.<sup>16</sup> As such, the fact that child labour laws are barely enforced lessens their efficacy in reducing child poverty and supporting economic development. Edmonds laments further that the framework on which child rights regulation is based is too narrow to prevent the deleterious consequence child labour has on economic development.<sup>17</sup> This is worrisome information in assessing the efficacy of laws concerned. In addition, it has been reported that, 'in the past four

years since the year 2000, the world made no substantial progress as far as reducing child labour as the number of children in child labour was recorded to have increased by over [eight] million'.<sup>18</sup> The increase in child poverty levels can presumably be attributed to this at least in part as the more children under the burden of child labour.

### *The child poverty situation on the ground*

As above, social protection is enshrined in the CRC and considered one way which the law can approach the fight against child poverty. However, global statistics show that only 26.4 per cent of all children worldwide have effective social protection coverage.<sup>19</sup> Worse still, effective coverage for children is particularly low in some regions: for example, only 18 per cent in Asia and the Pacific, 15.4 per cent in the Arab States, and dropping to 12.6 per cent in Africa.<sup>20</sup> Records show that prior to the global Covid-19 pandemic, children were more than twice as likely as adults to be living in extreme poverty. The pandemic only worsened the situation, disproportionately affecting children.<sup>21</sup> Few concrete legal initiatives have been put in place to counter this setback. Based on the demographic projections, moreover, it is projected that by 2030, nine out of ten children enduring extreme poverty will live in sub-Saharan Africa.<sup>22</sup> Suffice it to say, such statistics are worrisome and show that the attainment of economic development for children as well as minimising child poverty has not met desired objectives thus far. Of course, it is important to note that there are disparities in terms of how individual states are performing, with some, especially in Europe, making noticeably good progress unlike many countries in Africa which are lagging behind.

### *The situation in Africa*

In an effort to combat child poverty levels in Africa, noting state obligations under the CRC and other relevant legislation, there have been a number of initiatives adopted including cash transfers for the vulnerable. Yet researchers have discovered that, notwithstanding the powerful effects of cash, it is now widely recognised that non-income barriers need to be addressed in conjunction with the alleviation of income constraints to improve children's wellbeing in all its dimensions.<sup>23</sup> In South Africa, for example,



the combination of cash with care was found to be associated with lower HIV-risk behaviour among adolescent girls and boys.<sup>24</sup> Such records are encouraging and show that compliance with the CRC yields positive results. In addition, studies have found that household-targeted government cash transfer programs have contributed to the delayed sexual debut and lower rates of pregnancy among adolescents living in beneficiary households (in Kenya and South Africa, but not in Malawi or Zambia).<sup>25</sup> A delayed sexual debut translates into fewer teen pregnancies, giving youth more opportunity to be better educated and with greater chances to become economically self-reliant. The partial success of such initiatives is encouraging but also highlights the need for new strategies that cover the gaps identified in countries like Malawi and Zambia where it has not been seen to be effective.

Furthermore, there have been significant improvements in mental health reported,<sup>26</sup> and it has been argued that good mental health is an important factor to measure in poverty reduction programming as high levels positively influence levels of self-worth, agency, a sense of empowerment and other pathways to seeing change.<sup>27</sup> This side of the coin propounds that improved mental health leads to improved (reduced) poverty levels. On the other hand, however, it has been submitted that 'the effects alone are insufficient without addressing community and macro-level factors which drive poverty and reduce access to services and opportunity'.<sup>28</sup> The fight against child poverty is multi-faceted and needs concerted efforts from multiple angles to realise meaningful change.

Mozambique provides another example where a social security strategy initiated in 2016 aims to run until 2024.<sup>29</sup> The strategy recognises the need to protect poor and vulnerable members of society.<sup>30</sup> Its goal is to reduce chronic malnutrition levels and to improve children's access to health services, social activities and civil registration. All are important steps to take in combating child poverty. Although this program represents a significant step in the right direction, it is at this stage premature to appraise it as there are as yet no significant results reported.

### *The situation in Europe*

European Union (EU) law provides a legal framework for its institutions to support and

supplement the actions of its Member States to fight the worst effects of child poverty with, Articles 3, 4 and 153 of the Treaty on the Functioning of the European Union (TFEU) of particular note.<sup>31</sup> Contrary to the goals of the laws in place, however, in 2016, about 2.6 million children in the EU were suffering from severe poverty living in low income households with low work intensity and high levels of material deprivation.<sup>32</sup> By 2018, an estimated 26.5 per cent of children in the EU (more than a quarter) were at risk of poverty or social exclusion.<sup>33</sup> It is important to note that the prevalence of poverty varies across the EU, between and within Member States, some EU countries providing high levels of social protection while others lag in this area.<sup>34</sup> As such, child poverty is also a challenge even in the most progressive and wealthiest parts of the world, albeit with disparities between states.

In 2013, the European Commission had adopted, with the European Council's endorsement, a recommendation investing in children, aiming to break the cycle of disadvantage as part of the social investment package that provides Member States with policy guidance on their social investment programs.<sup>35</sup> However, the overall finding of a European Social Policy Network (ESPN) analysis was that the modified progress made in the direction set in the recommendation was insufficient to address the scale of the problem in many countries.<sup>36</sup> This data shows the relative failure of a legal initiative put in place to achieve the reduction of child poverty in Europe.

The best-known monitoring body to engage with child rights within European institutions is the European Court of Human Rights (ECHR).<sup>37</sup> This status notwithstanding, its work with regard to child poverty has unfortunately been limited.<sup>38</sup> The ECHR, in interpreting its mandate, has proven reluctant to engage directly with domestic choices around issues of economic and social policy.<sup>39</sup> Instead, it has preferred to accord states a wide margin with regard to such issues, especially in situations involving decision-making entailing the allocation of scarce resources.<sup>40</sup> However, experience shows that giving such broad discretion should not be expected to help reduce child poverty as states normally prioritise a political agenda ahead of other issues, no matter how pressing. As it stands, the work of the ECHR has ultimately played only a minor role in addressing issues of child poverty, whether

from a child rights perspective or otherwise.<sup>41</sup> This is discouraging and calls for serious review in the approach to be taken now and henceforth.

All in all, in Europe, child poverty-related issues flagged by the committee include high and rising child poverty rates;<sup>42</sup> a systemic failure to allocate the budgetary resources necessary to tackle child poverty issues and its general exclusion from the agenda in light of other national situations;<sup>43</sup> and a lack of condition mechanisms for anti-poverty measures such as strategies, policies or services, despite their prominence in state reports, including at delivery.<sup>44</sup> This is concerning and shows how inefficient the law has been in its quest to reduce child poverty even in Europe.

### Recommendation

Laws can be improved so as to reduce child poverty and ensure economic development, in a number of ways including the following.

First, the views of children should be consulted and taken into consideration when states are developing policies and initiatives aimed at addressing child poverty. With legal bases in the EU Charter of Fundamental Rights and the CRC, both of which establish rights for children to express their views as should be taken into consideration on matters that affect them.<sup>45</sup>

Second, states should allocate a minimum percentage of national resources and of their budgets towards combating child poverty as well as toward economic development. There should be no acceptance of retrogression after progress has been made and no state should be allowed to operate below minimally acceptable standards. 'Naming and shaming' could help compel such states to step up their actions.

Third, there should be periodic state party reports on progress made in combating poverty. This can be embedded within the UN Universal Periodic Review (UPR) where states parties are reviewed by their peers on how they are faring on human rights issues. It is common that states want to look good to their peers; hence such reviews can motivate them to prioritise issues of child rights. It has been suggested elsewhere that the efficacy of state efforts will inevitably depend on a wide range of factors including political willingness, the availability of resources and national capacity.<sup>46</sup> The UPR could therefore help with political will.

Finally, there is a need to strengthen the enforcement mechanisms of laws against child labour since failing in this area directly contributes to child poverty and is counter-productive to the economic development of children.

### Conclusion

It can be concluded that there is a generally low effectiveness of the laws protecting the rights of children as global statistics show a continued increase in child poverty levels, rather than their diminution. This is mainly attributed to a lack of political will and the weakness of the progressive realisation of economic rights. There is a notable difference between Europe, which is better resourced, and Africa, which is trailing behind on many fronts with much higher levels of poverty including child poverty. All in all, there are possible solutions that can arise from instrumentality of laws to make sure there is reduction in child poverty levels.

### Notes

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# How effective have laws protecting the rights of children been to reduce poverty and support economic development? How could they be improved?

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*Award made in honour of Hon Dame Linda Dobbs DBE*

## Introduction

The protection of children’s rights is widely recognised as a fundamental aspect of ethical governance and social advancement. Children, defined as individuals below the legal age of majority, typically 18 years, hold many equivalent rights to those of adults. These include the right to a quality education and to healthcare, to fair treatment, the freedom of expression, a secure living

environment, and being safeguarded from harm. The UN Convention on the Rights of the Child (CRC) is the primary instrument that outlines and safeguards the diverse rights of children. CRC Article 42 mandates that states undertake measures to ensure that both children and parents are well informed about the principles and provisions of the convention. In the global pursuit to foster economic development and to lessen poverty, giving precedence to safeguarding the rights of children is crucial. Recognising them as the future generations, ensuring



the protection of their rights is a substantial investment in global economic progress.

This essay provides an overview of how effective laws protecting the rights of children have been in reducing poverty and promoting economic growth along with constructively suggesting ways to which its application can be improved. To accomplish this objective, this paper will begin by defining the terms economic development, poverty and child rights. Following this, the paper will evaluate laws safeguarding the interests of the child and assess their effectiveness, proposing improvements to these laws in conclusion.

### **Economic development**

Economic development is defined as ‘the process of improving the economic wellbeing and quality of life of a nation, region or local community’.<sup>1</sup> Unlike economic growth, economic development constitutes the overall qualitative improvement in the life of individuals in a country, mostly determined by the Human Development Index. The economic development of countries is measured by the standard of living of the people, their quality of life, living conditions, and an improvement in self-esteem.<sup>2</sup>

Economist Amartya Sen views economic growth as a component of economic development. He distinguishes between the two by highlighting that economic growth focuses on market productivity, while economic development is concerned with enhancing the quality of life and living standards in a growing community.

### **Poverty**

Poverty can be described as a situation where people lack the necessary resources, opportunities, and power to live a decent life and enjoy basic rights such as education, healthcare, employment, and participation in society. It encompasses a range of deprivations, including limited access to essential resources, restricted choices, and diminished security and influence.<sup>3</sup> The experience of poverty affects all aspects of individuals’ lives, including their civic engagement, cultural participation, economic wellbeing, political agency, and their social inclusion. Nearly 700 million people worldwide are estimated to currently experience levels of poverty, subsisting on incomes of \$2.15 per day or less.<sup>4</sup> According to the World Bank, children

are disproportionately affected by extreme poverty, the likelihood twice that of adults. Shockingly, this means that more than half of those living in extreme poverty are children.<sup>5</sup> UNICEF estimates that approximately 333 million children worldwide are enduring conditions of extreme poverty,<sup>6</sup> depriving them of their basic rights such as access to quality education and adequate living conditions including healthcare, shelter, and nutrition. The UN 2007 resolution on the rights of children<sup>7</sup> provides a comprehensive definition of child poverty, stating that children living in poverty are deprived of nutrition, water, sanitation facilities, access to basic healthcare services, shelter, education, participation, and to appropriate protection.<sup>8</sup> The impact of poverty on children is particularly detrimental, hindering their enjoyment of their rights, to reach their full potential, and to actively participate as valued members of society. Poverty has far-reaching consequences, significantly impeding the realisation of children’s basic rights, including access to education, healthcare, and improved living conditions. Moreover, poverty detrimentally affects the social and emotional development of children.<sup>9</sup>

### **Child rights**

Child rights are a distinct set of human rights that apply to individuals below the age of 18, irrespective of race, gender, origin, socio-economic status, language, religion, opinion, or birth status.<sup>10</sup> These rights are therefore universally applicable. The rights of children were officially acknowledged following World War I with the League of Nations’ 1924 adoption of the Geneva Declaration of the Rights of the Child.<sup>11</sup> The UN further solidified recognition of the rights of children in 1959 and in 1989 through adoption of the Declaration of the Rights of the Child<sup>12</sup> and the CRC, respectively. Due to their dependency on adults, children are particularly susceptible to forms of abuse. Recognising this vulnerability, the UN implemented the CRC to safeguard and protect the rights of children. This convention outlines fundamental rights that are to be afforded to children, including the right to protection, life, survival, development, education, and societal participation.

### **Laws protecting the rights of children**



A number of international human rights treaties and domestic legislative frameworks are dedicated to safeguarding the rights of children. Among these conventions are the CRC; the International Covenant on Economic, Social, and Cultural Rights; the European Convention on Human Rights; the International Covenant on Civil and Political Rights (ICCPR); the Declaration of the Rights of the Child 1959; the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse; the Worst Forms of Child Labour Convention (ILO Convention No 182); and the African Charter on the Rights and Welfare of the Child.

Of paramount significance among these legal instruments is the CRC, a comprehensive international treaty articulating the civil, political, social, and cultural rights of children. Functioning as a guiding framework, this convention delineates rights crucial to the development of children, and those states ratifying or incorporating it into their domestic legislation are bound by its provisions. Ratified or acceded to by nearly every country in the world,<sup>13</sup> the convention has assumed the status of customary international law, rendering any violation of its provisions actionable under international law rather than limited to domestic jurisdictions unless analogous provisions also exist at the national level.

In tandem with these international conventions, child labour laws have been implemented globally. The International Convention on the Rights of the Child acknowledges the right of every child to be shielded from economic exploitation and hazardous work that may impede their health, development, or education.<sup>14</sup> The Convention on Economic, Social and Cultural Rights, 1966, reinforces this stance, compelling states parties to implement protective measures for all children without discrimination. Ghana, for example, has enacted its commitment through legislative provisions in its Children's Act, its Human Trafficking Act, its Constitution, and the Human Trafficking Prohibition Legislative Instrument, demonstrating a proactive domestic alignment with international standards. Conversely, the European Union (EU) has played a strong role in supporting implementation of these laws across regions more susceptible to child labour abuses.

Certain international laws further emphasise parental responsibilities in

facilitating children's access to education. Compulsory education laws underscore the child's right to an education, making it a violation for parents who fail to ensure their children's access to educational opportunities. Article 11 of the African Charter on the Rights and Welfare of the Child mandates states parties to provide free and compulsory basic education, to develop secondary education, and to make higher education accessible to all. The international legal framework directs states to ensure that children are cared for properly and protected from violence, abuse, and neglect. The UN Office of Drugs and Crime (UNODC) Global Programme to End Violence against Children champions a human rights and child rights-based approach, underscoring the international community's commitment to upholding fundamental child rights.<sup>15</sup>

In addition, the ICCPR, adopted in 1966, holds that every child has the right to measures of protection necessary for their status as a minor, without discrimination. It mandates universal protection for all children, irrespective of race, colour, sex, language, religion, national or social origin, property, or birth. Supplementing these protections are legal instruments such as the Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography, the Optional Protocol on Children in Armed Conflict, and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. Each of these protocols aims to combat specific forms of exploitation, trafficking, and abuse, contributing to the comprehensive legal shield erected to protect the rights of children on an international scale.

### **The effectiveness of these laws to support economic development and reduce poverty**

Considerable international endeavours have been undertaken by the global community to uphold the rights of children, to alleviate poverty, and to propel economic development. This segment of the discourse seeks to critically evaluate the efficacy of these legal frameworks and to deliberate on inherent shortcomings. The prevalence of child poverty is particularly conspicuous in regions such as Africa, Asia, and select areas of America and Europe. While international treaties aspire to affirm the rights of children

and induce acknowledgment of these rights by state parties, the overarching query pertains to the extent to which these rights are genuinely upheld. It has been posited earlier that the rights of children are interdependent, contingent upon adults for their realisation. Despite the prolific enactment of laws designed to shield children from exploitation and abuse, the veritable effectiveness of these measures remains wanting.

As of 2021, the International Labour Organisation and UNICEF reported an alarming surge in child abuse cases, exemplified by a global escalation in child labour cases to 160 million, a palpable surge of 8.4 million children in the preceding four years.<sup>16</sup> The deleterious impact of the Covid-19 pandemic was seen as a contributing factor, increasing the vulnerability of millions of children to hazardous work, particularly those aged between five and 11 years.<sup>17</sup> Notably, the Sub-Saharan region of Africa bore witness to approximately 16 million children engaged in perilous forms of labour, a sad testament to the enduring reach of poverty and other crises. Paradoxically, extant child labour laws, while ostensibly present, have proven insufficient to mitigating the circumstances compelling children to engage in perilous occupations. Furthermore, by the end of 2022, an estimated nine million children continued to be ensnared in forms of child labour, a disconcerting manifestation exacerbated by repercussions of the pandemic, where parental job losses and school closures saw pernicious effects.<sup>18</sup>

Despite legislative endeavours to prevent and redress child trafficking, contemporary UNICEF reports attest credibly to the widespread persistence of this practice. Instances of child abuse, child labour, and child trafficking compromise a child's entitlement to improved living conditions and education, with deleterious implications for global development and poverty reduction. Children, progenitors of nations, continue to be deprived of foundational qualifications that contribute to economic development through education, whether formal or vocational. The scourge of child trafficking and labour precludes attainment of such qualifications, impeding the pursuit of even basic education.

Laws purporting to protect child rights to quality education and to healthcare have, regrettably, seen steep impediments, rendering them effectively inadequate. Notably, the formidable barrier of poverty

hinders children worldwide from accessing basic education, exemplified by an estimation that in 39 out of 99 countries, fewer than 50 per cent of children from low-income households complete even a primary education.<sup>19</sup> Even in countries where tuition for basic education is ostensibly free, the exigencies of low-income households thwart the ability to provide essential requisites for sustained school attendance. This socio-economic challenge is particularly pronounced in nations like South Sudan, where just seven per cent of children from low-income backgrounds manage to complete their primary education. A broader examination by UNESCO across 133 countries revealed that more than 50 per cent of young people failed to complete secondary school in 58 of these nations, with Niger registering an alarming two per cent.<sup>20</sup> Various factors, including conflict, wars, child marriage, market days, the stigma of age discrepancies, and outbreaks and epidemics, collectively contribute to the alarming attrition rates of children from attending class.

Lastly, the legal safeguards instituted to protect a child's right to healthcare and nutrition prove deficient in ensuring the child's aptitude to bolster the economic growth of a nation. The manifold challenges of protecting child rights underscore a pressing need for recalibration, refinement, and for the augmentation of extant legal frameworks to align more adroitly with the exigencies of socio-economic landscapes.

### **How can these laws be improved?**

To counteract the upward trajectory and enhance the efficacy of extant legislation governing the rights of children, there is a compelling imperative to augment the enforcement mechanisms. Laws protecting the rights of children can be improved by the following.

#### ***Providing accountability measures and stringent monitoring systems***

States should fortify these mechanisms by instituting stringent monitoring systems and exacting accountability measures. Encouraging collaboration between specialised units, advocacy groups, and law enforcement agencies is instrumental in addressing infringements on child rights.

#### ***Investing more in education systems***



To support the right to education for children, states should develop and implement comprehensive compulsory education statutes, emphasising not only accessibility but also the provision of quality education under improved conditions. States are urged to allocate substantial resources for teacher training, enhance school infrastructure, and provide essential resources, particularly in rural and remote areas.

### *Investing and promoting social welfare programs*

Furthermore, directing investments toward social welfare programs tailored to the distinctive needs of impoverished children and their families is imperative. States should also champion and coordinate community-based initiatives targeting families living in poverty to educate them on the need to protect the rights of their children.

### *Ensuring universal access to quality healthcare for children mandates the strengthening of healthcare laws*

This involves strategic investment in healthcare infrastructure, the further training of healthcare professionals, and a concerted emphasis on preventive healthcare measures.

### *Impose strict laws and penalties that protect children against child labour*

In the battle against child labour, states can look to strengthening regulatory frameworks, imposing stricter regulations and penalties. Concurrently, the development of alternative programs and support structures for families at risk of resorting to child labour is imperative. Guaranteeing children access to legal representation and advocacy necessitates the promotion of legal aid services, the establishment of child-friendly court systems, and the training of professionals adept at working with children.

### *Propagating awareness regarding the critical nexus between safeguarding*

### *children's rights and fostering long-term economic development mandates concerted campaigns*

These educational initiatives, aimed at altering societal attitudes and behaviours, can be pivotal in effecting positive change. Integrating child rights considerations into overarching policy frameworks about economic development, poverty alleviation, and social welfare ensures a comprehensive and interconnected approach.

## **Conclusion**

Children represent upcoming generations, constituting the future of our global community. Safeguarding their rights, ensuring access to quality healthcare and education, and shielding them from violations and abuse are critical to moulding them into individuals able to contribute to economic development and poverty reduction. In the absence of robust legal protections, children may lose faith in the systems designed to safeguard them, potentially leading to engagement in detrimental activities. This could perpetuate a cycle of abuse, dropout rates, and exploitation. The implementation of stringent laws, policies, and enforcement mechanisms is indispensable to the protection of children's rights, thereby playing a crucial role in poverty reduction and fostering economic development.

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# How effective have laws protecting the rights of children been to reduce poverty and support economic development? How could they be improved?

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## Introduction

Laws protecting the rights of children have contributed to economic development and the reduction of poverty. Most of the time, protecting the rights of the child has been considered as if it only benefits the child. In reality, however, research tells a different story, that laws protecting the rights of the child also contribute to the reduction of poverty generally and support economic development more broadly. Such contributions can be observed in two ways: both by evaluating international legal instruments enacted to protect the rights of children in promoting economic development and reducing poverty in the

state; and by appreciating the changes brought about from the country's level of compliance with the legal instruments they ratified.

The main purpose of this essay is to investigate the effectiveness of laws protecting the rights of children in promoting economic development and the reduction of poverty. This essay will begin by discussing the relationship between economic development and poverty reduction. After that, it will examine the development of instruments protecting the rights of the child and the adoption and ratification of such laws. The essay will then analyse the relationship between laws that protect the rights of the child and any corresponding economic development examining how effective laws protecting the rights of the child have been in these areas. Finally, this essay will conclude



making recommendations on how such efficacy may be improved.

### **Economic development and reduction of poverty**

Economic development is the result of both economic growth and the improved standards of living standards of the people of the state. Simply incrementing economic growth does not mean that the state's economy is better developed. Economic development and the reduction of poverty are interrelated trends. However, unlike economic development, a major problem with previous attempts to measure poverty globally has been the lack of an agreed definition of poverty.<sup>1</sup> The objectives of improved economic development include reducing the more pernicious limitations of poverty and reducing its effects on the life of the population.<sup>2</sup> Hence, contemporary global discourse on human development considers economic growth as the primary force for poverty reduction, and a lack of growth is usually seen as a main cause of poverty.<sup>3</sup> It can therefore be argued that it is impossible to secure economic development without reducing poverty, which has been an impediment, especially for developing countries in their journey to secure economic development.

### **Background of the development of the rights of the child and the relevant laws**

Prior to the 16th century, there appears to have been little concept of childhood as a unique or distinct period of life.<sup>4</sup> Even up to the first quarter of the 19th century, children were generally viewed as the personal property or extensions of their parents with few or no legal rights.<sup>5</sup> However, after the end of World War I, gradually the rights of the child started to gain attention from the international community.

The rights of the child are now considered fundamental rights which every society should uphold and promote because how the society treats its children may be determinative of the future of the country and its role in the world, either positively (becoming wealthy) or negatively (becoming poor). Considering the pros and cons of protecting the rights of the child for the states and their peoples, international communities have understood the necessity of protecting the rights of children and agreed to

enact international legal instruments for that purpose. Consequently, the rights of the child began to be incorporated in international legal instruments including the UN Convention on the Rights of the Child (CRC), the UN Universal Declaration of Human Rights (UDHR), the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, the African Charter on the Rights and Welfare of the Child (ACRWC), the UN Convention on the Elimination of All Forms of Discrimination against Women, the Declaration of the Rights of the Child (CEDAW), and the International Labor Organization's Recommendation 190: The Worst Forms of Child Labor Recommendation, 1999.

This essay mainly focuses on the efficacy of the CRC in poverty reduction and the support of economic development for the following three reasons: first, it is a binding legal instrument and the first that comes to mind in discussing the rights of children; second, its binding nature facilitates assessing its effectiveness in supporting economic development and the reduction of poverty besides protecting the rights of the child; and third, almost all states have duplicated or have consulted this instrument in enacting domestic laws relevant to the rights of the child.

The CRC was adopted in 1989.<sup>6</sup> By outlining the child's political, civil, social, and economic rights, the CRC is the most comprehensive international convention in this area, and addresses a broad range of rights for children.<sup>7</sup> Despite potentially negative reactions, a large majority of the world's nations have ratified the CRC, signifying that they subscribe to and will defend the rights of the child.<sup>8</sup> It is for these reasons that the author chose to focus predominantly on this instrument. Where other laws are referred to in this essay, the intention is not a comparison with the CRC but to expand the reader's knowledge in this area.

### **The relationship between laws that protect the rights of the child and economic development**

The history of the rights of the child has been shaped by economic, social, cultural and political factors.<sup>9</sup> The states that have ratified laws protecting the rights of the child are bound to invest their resources to the

laws' effective implementation. In recent years, UNICEF reports, such as the State of the World's Children 2000, continue to emphasise the grim truth that poverty denies the most basic rights of women and children as enshrined in the Universal Declaration on Human Rights in the UN Convention on the Rights of the Child.<sup>10</sup>

Economic development is the result of a long process. Similarly, the states have to wait for years to see the results/changes that come through the effective implementation of laws protecting the rights of the child in promoting economic development and reducing poverty. Most of the time, the area of focus is the level of government expenditure in implementing laws that protect the rights of the child. From the perspective of states members, governments are concerned only about budgetary expenditures to implement laws that protect the rights of the child generally viewing such expenditure as a net loss rather than an investment yielding positive results. As a number of legal instruments protecting the rights of the child have been adopted, however, it is important to analyse the role of these legal instruments in promoting economic development and reduction of poverty.

CRC Articles 3, 24, and 28 directly concern the reduction of poverty as they deal with health and the rights of participation and education, all important to producing generations that can actively contribute to their country's economic development and to a correlative reduction in poverty levels. Universal access to basic health services and a quality education is not only a fundamental right but also one of the better paths to poverty reduction and to seeing economic and social development.<sup>11</sup> Numerous studies have shown that participation facilitates integration into economic and social development. The protection of children and the promotion of their wellbeing are closely linked to poverty reduction and the development and wellbeing of their societies.<sup>12</sup> All of these rights are set out in the CRC. Hence, to obtain the said advantages, the only thing required from the states members is to effectively implement this convention.

Investing in early childhood development therefore plays a determinative role in sustainable economic development with a significant social pay-off<sup>13</sup> with children holding the key to breaking future poverty cycles.<sup>14</sup> Hence, protecting the rights of

children today has a high impact not only for current societies, but also for the future socio-economic and political fate of the country. These can be proved by analysing how effective the laws protecting the rights of children have been to reduce poverty and support economic development. This is the aim of the immediate section.

### **How effective have laws protecting the rights of children been to reduce poverty and support economic development?**

To understand how effective laws protecting the rights of children have been in reducing poverty and supporting economic development, we review the contribution of laws protecting the rights of the child to the development of the state and society. The UN Convention on the Rights of the Child has elicited positive results in many countries.<sup>15</sup> Almost all states parties have taken legislative or social measures to meet these requirements and to protect children from violence<sup>16</sup> as otherwise the states lose their resources, economies, and human capital in curing and addressing violence toward children.

By prohibiting society from permitting the forced marriages of children, laws protecting the rights of the child reduce the probability of having large families that have increased difficulty surviving, especially in developing and least developed countries where having many children can exacerbate existing poverty levels. Reducing poverty suggests supporting the economic development of states. In recent years, private sector companies have taken an increased interest in the rights of the child, aiming *inter alia* to clean up their supply chains and improve their images with consumers.<sup>17</sup> This stands to increase the companies' customers which can see profits increase and – by extension – the state's economy develop. Furthermore, legal instruments may reduce poverty and support economic development in different ways. For instance, by prohibiting child labour, the wages of skilled workers may increase as demand for their labour increases. By contrast, a high level of child labour can negatively affect the economic development of the state. In 2020, 160 million children were estimated to be in work accounting for almost one in 10 children worldwide.<sup>18</sup>

The CRC has now been in effect for just over 18 years, and its impact on the now 193 states parties has been impressive.<sup>19</sup> In addition to gains regarding poverty



reduction, lessening violence, and limiting or preventing child labour, there has been progress in other areas as well. For example, progress has been particularly strong in promoting child autonomy, and protecting the human rights of children in general.<sup>20</sup> At the country level, for instance, 30 years after global leaders adopted the CRC, Cambodia has made significant progress on child wellbeing, including in areas of health and education.<sup>21</sup> In contrast, in Afghanistan, implementation of the CRC has largely been ineffective because of poor access to public services suffered in many parts of the country in addition to high uncertainty as to how children will be treated which limits the impact of positive national legislation.<sup>22</sup>

The UN Committee on the Rights of the Child, the treaty body responsible for monitoring the 1989 CRC, recognised at its first meeting in 1991 that its effectiveness would depend on the access it had to relevant information.<sup>23</sup> Where there is insufficient information on the results/changes brought about from implementation of the CRC, it is difficult to assess its efficacy. The treaty is ineffective if it does not change the state's practice.<sup>24</sup> The factors that determine the state's practices are numerous. However, providing a strong mechanism that may collect and distribute information from and to all state members of the CRC may solve this problem and help all stakeholders to assess the developments due to the implementation of this law.

International agencies, governments, and scientists have been slow to catch up with the implications of the CRC, despite 191 governments ratifying it in the 10 years following its adoption.<sup>25</sup> In addition, the Committee cannot enforce its recommendations and must rely on national mechanisms,<sup>26</sup> in which many domestic laws are inherently biased against those living in poverty.<sup>27</sup> Hence, this has been a challenge that hinders full enforcement of the recommendations.

By and large, it can be argued that the effectiveness of the laws supporting economic development and the reduction of poverty is not as much as expected due to factors including a lack of awareness among states members and government officials, a lack of information on the changes brought about after the states ratified the convention, and divergence among stakeholders on vague and controversial terms in the convention,<sup>28</sup> inefficient monitoring,<sup>29</sup> the reluctance of

the Committee to follow up after the states ratify the convention, etc. For instance, in its recent Concluding Observations, the Committee on the Rights of the Child noted that Ethiopia has not yet promulgated the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child in its official law gazette, the Federal Negarit Gazeta.<sup>30</sup> In Ethiopia, in order to have effect, enacted and ratified laws and treaties must still be promulgated in the Gazeta.<sup>31</sup> This indicates that mere ratification of the convention is not enough to ensure the effective implementation of the convention and its contribution to the economic development of the state. All these factors demonstrate how laws protecting the rights of the child have not been effective to reduce poverty and support economic development.

### **How laws that protect the rights of the child could be improved in promoting economic development and reduction of poverty**

This section will make suggestions on how the problems and challenges discussed above could be lessened. The challenges of implementing the stated laws prevent the states from utilising the advantages that may come through the effective implementation of the stated laws including economic development and reduction of poverty. Without addressing the challenges set out in this essay, there will be no information on the effectiveness of laws that protect the rights of the child in promoting economic development and reducing poverty. Further, protecting the rights of the child through different legal instruments targeting their treatment and survival has long-term consequences for the economic development of the states and their societies.

Addressing the problem of a lack of awareness among states members on the role of laws protecting the rights of the child in economic development and the reduction of poverty may minimise the existing problem of getting enough information on the effectiveness of the laws that protect the rights of the child. Considering the child as the next generation that determines the fate of their countries, the states shall comply with the legal instruments introduced to protect the rights of the child. They have to start to think about the advantages of protecting and fulfilling the rights of the child such as in education and social services that may



enhance the capacity of the child to deal with the existing reality of the state and start to think how he or she can contribute to their countries development when they reach the age of adults/labour forces.

## Conclusion

This essay analyses the effectiveness of laws that protect the rights of the child in promoting economic development and reducing poverty. In summary, laws that protect the rights of the child have not been effective in promoting economic development and reducing poverty as discussed above. Even if falling below desired levels, it should be noted that there have been impressive changes that have arisen from the implementation of the stated laws in reducing poverty and promoting economic development. The lack of information hides some of the progress made in economic development and in the reduction of poverty from laws that protect the rights of the child. Therefore, it is right to conclude that laws that protect the rights of the child have not been effective in promoting economic development and reducing poverty.

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## Introduction

With children among the most vulnerable groups in society, poverty has particular effect on them. Improved economic development combats poverty, with the potential to lessen the most severe impacts on afflicted children's lives. Since at least 1990, legislation safeguarding children's rights has increased, with improved economic development a result and, consequently, reduced poverty levels in some areas.<sup>1</sup> This essay will discuss how effective laws protecting the rights of children have been to reduce poverty and support economic development, as well as how could they be improved. To do so, the essay briefly describes poverty reduction and economic development in relation to laws that protect the rights of the child. Finally, the essay presents four possible improvements to laws protecting the rights of children.

## Economic development and poverty reduction in relation to laws protecting the rights of the child

Poverty impacts millions of people globally, marked by deep financial constraints, higher illness levels, a lack of leisure, social stigmatisation, low living standards, and poor food options.<sup>2</sup> Of the millions of people impacted, children are more than twice as likely as adults to live in poverty. Understandably, policy-makers and organisations such as the United Nations and the World Bank prioritise the eradication of poverty worldwide in all its manifestations.<sup>3</sup>

The UN's 2030 Sustainable Development Goals (SDGs) take the rights of children into

account in their aims of alleviating poverty and achieving economic development, supporting education initiatives, the improved provision of health care, and ensuring the general well-being of children the world over. Although reducing poverty through the protection of children's rights is slow, there have been achievements since 1990, following the enactment of laws protecting the rights of the child.<sup>4</sup> The results have shown how laws protecting the rights of the child have been at least partially effective in reducing poverty levels and in supporting economic development. The progress represents a significant contribution to the improved lives of children and their futures.

Economic development is broadly defined as the structural change of an economy via the introduction of more automated and updated technologies to boost labour productivity, a general improvement in skills and education, in jobs, earnings, and ultimately in a population's overall quality of life. Development is an important factor in a country's efforts at poverty reduction as higher development levels generally translate into a greater prevalence of jobs, higher salaries, improved goods and services, and the greater prevalence of cutting-edge technology. Such development is normally supported by infrastructural improvements as well as social, political, and institutional aspects that allow for economic change.<sup>5</sup>

Economic development has significantly improved living conditions in many parts of the world.<sup>6</sup> However, some results from technological change and industrial development can be devastating to the environment which can also see an increase in human rights violations including those of the right to life, to health, and to a healthy environment. A strong connection between economic development and the protection

of rights persists. For instance, the rights of the child and to wellbeing are not just human rights concerns but may also catalyse long-term development by breaking the cycle of poverty and exclusion from one generation to the next, for which economic development is critical. On the other hand, by including the rights of the child in the SDGs, economic growth may be hastened, as a child rights-based strategy increases future development gains.<sup>7</sup>

### **The effectiveness of laws protecting the rights of the child in poverty reduction and in supporting economic development**

Key rights of the child in poverty reduction and economic development are the rights to education, to health, to social security, to protection from child labour (freedom from economic exploitation), and to an adequate standard of living. These rights have been enshrined in the Convention on the Rights of Children,<sup>8</sup> the International Labor Organisation's Worst Forms of Child Labour Convention (No 182),<sup>9</sup> the African Charter on the Rights and Welfare of Children,<sup>10</sup> the Charter of Fundamental Rights of the European Union,<sup>11</sup> the Convention on Regional Arrangements for the Promotion of Children's Welfare in South Asia,<sup>12</sup> the Geneva Declarations on the Rights of Children,<sup>13</sup> and different national laws protecting the rights of children.

Such laws protecting children from child labour and economic exploitation guarantee the child's right to work only from a minimum age<sup>14</sup> which supports their contributions toward poverty reduction and supporting economic development through supporting their rights to receive at least a basic education. These laws have been directly significant in preventing child exploitation, such as trafficking, abuse, and child labour. Moreover, these laws have been implemented to protect children from the abuses of child labour practices, from exploitation, and from other harmful practices like child marriage, which contributes to increased population sizes and the exacerbation of poverty, with such laws shown to be effective in poverty reduction and in supporting economic development. As such, the protections afforded from such laws have enabled children to pursue their educations and thus to contribute more positively to the workforce, supporting broader economic development.

The right to social security, which supports the healthy development of children, has also been set out in the aforementioned legal instruments. Global evidence shows that social protection programs support the realisation of child's rights in a number of ways, with poverty reduction supporting an adequate standard of living for children.<sup>15</sup> Cash transfers and supportive services for instance can help families and their children with greater access to health care, to early childhood services, and to primary and secondary education.<sup>16</sup> Such programs and others enable them to get improved job opportunities and to be financially independent. Laws that recognise the right to the social security of children have been effective in poverty reduction and in supporting economic development if they are effectively designed and implemented at international and national levels. To realise this ambition, countries have designed and implemented social security programs to meet the intended objectives of laws protecting the rights of children. Some European countries, including Bulgaria, Croatia, Serbia and Romania, have shown the potential effectiveness of social security programs in poverty reduction.<sup>18</sup>

The rights to education and to healthcare are critical aspects of child development and important to breaking the poverty cycle.<sup>19</sup> Child rights that provide access to educational opportunities better equip children with the information and skills needed for future career prospects, contributing to their long-term economic stability. Technological developments, powerful enough to change the world, are the result of education and an educated citizenry. Similarly, healthcare provisions within these laws ensure that children grow up more healthy, reducing the burden of disease and better enabling them to become active participants in their economies.<sup>20</sup> Furthermore, different international and national development strategies, such as the SDGs<sup>21</sup> and the Millennium Development Goals<sup>22</sup> see the pressure and influence of these laws protecting the rights of children. In these ways, laws protecting the rights of children have been effective in reducing poverty levels and in supporting economic development to some extent.

Child rights that prioritise access to nutrition, shelter, and to a safe environment are fundamental to nurturing healthy and educated youth. These provisions ensure that



children can develop to their full potential, becoming the driving force behind a nation's growth. For instance, the incorporation of this right under the aforementioned legal instruments has implied a step toward the effectiveness of child's rights. By ensuring children's rights and meeting their basic needs, such laws have contributed to the reduction of poverty and promoted sustainable economic development at the international, regional, and national levels.

One of the most interesting parts of laws protecting the rights of children is that many independently recognise the rights of disabled children and of children living on the street. The incorporation of such rights has had a significant impact on economic development and poverty reduction with the international community taking steps toward the protection of such vulnerable individuals. We have seen improvements for disabled children for instance and the growth of institutions to take care of street children that don't have stable homes. This improvement concerning disabled and street children has enabled them to be a factor in improving economic development rather than a tenet of poverty. Guaranteeing rights to disabled and street children under such laws has been instrumental in reducing their dependence on others and enabling them to be productive and effective ensuring their right to health, to education, to political participation, and to protection from exploitation. Through these steps, laws protecting the rights of children have been effective in reducing poverty and in supporting economic development.

International laws protecting the rights of children moreover apply pressure to states to incorporate these rights into policymaking and into domestic legislation to better enhance their effectiveness. As a result, at the national level, the rights of children have been incorporated into the legislation of different countries. Examples include Ethiopia with its Constitution<sup>23</sup> and other legislative instruments such as the country's family law, uphold the protection of children pursuant to its provisions, looking also to labour law<sup>24</sup> which recognises the rights of children not to work and the essential role such protection plays in poverty reduction and in supporting economic development. In similar ways, other countries too have incorporated these rights into their legislation and taken measures toward the realisation of those rights in their different national policies and their poverty alleviation strategies.

With this, laws protecting the rights of children have been effective in supporting the economic development of the country and play a crucial role in poverty alleviation. The incorporation of such rights into domestic legislation and the measures taken toward realising such rights has given effect to such laws protecting the rights of children in poverty reduction and in supporting economic development. Moreover, such statutes impose an obligation on the state to dedicate and commit to the effective enjoyment of those rights. As such, laws protecting the rights of children have been effective in poverty reduction and supporting economic development, and their effective realisation of the rights of children is crucial in poverty reduction and supporting economic development through cutting the cycle of poverty.

### **How laws that protect children's rights could be improved in promoting economic development and poverty reduction**

Despite the progress made, there remains a great need for improvement in the efficacy of legislation safeguarding children's rights in poverty reduction and economic development. The following points are therefore suggested improvements to legislation safeguarding children's rights and wellbeing.

#### *Legislative improvements*

Thus far, laws protecting the rights of children have not specifically recognised the right of children to protection from poverty or the role of such rights in poverty alleviation and in supporting economic development. I argue therefore that a necessary improvement to laws protecting the rights of children is that such laws should explicitly incorporate both elements since laws establishing the rights of children not only see benefits in and of themselves but contribute more broadly to wider economic development.

#### *Strengthening the enforcement of legislation*

Since 1990, laws protecting the rights of children have been enacted widely throughout the globe. However, the enforcement of the laws has been weak in realising child rights as states have failed to

fully implement such laws from a variety of obstacles. Simply enacting laws has little effect other than providing a legal framework for the rights of the child. As such, examining the limitations of realising such rights through organs overseeing the compliance and implementation of these laws, as well as enhancing enforcement mechanisms, is important in seeing the aims of the laws realised.

### *Comprehensive legislation addressing socio-economic difficulties*

Socio-economic difficulties, such as poor education, societal discrimination, and poverty itself, can hamper the effectiveness of laws protecting the rights of children in tackling poverty and promoting economic development. Effectively addressing such underlying issues through comprehensive legislation and policies can therefore improve the overall effectiveness of laws protecting the rights of children. Addressing these factors in comprehensive legislation followed by effective enforcement improves the effectiveness of these laws.

### *International cooperation*

International collaboration toward poverty reduction and economic development through enhancing laws protecting the rights of children is crucial, since the alleviation of poverty and improvement of economic development is difficult to overcome by a single state. Even if possible to achieve through the actions of a single state, this is not an achievement while the rest of the world is in poverty and suffering low economic development since the issue of poverty is the concern of the entire world. In order to effect laws protecting the rights of children, therefore, international cooperation is mandatory. For instance, we can take as evidence the impact of international financial institutions such as the World Bank and the International Monetary Fund in influencing countries to take measures to alleviate poverty and foster economic development. It is therefore important to harness the cooperation of the international community in seeking to improve the effectiveness of laws adopted that aim to protect the rights of children in poverty reduction and in the support of economic development.

## **Conclusion**

This essay considers laws that protect the rights of children and examines how they have been effective in reducing poverty and supporting economic development through guaranteeing key rights to children that can enable them to contribute to these areas. The rights to education, health, social security, and protection against economic exploitation are among the rights guaranteed by these laws protecting the rights of children. This essay looked at how such laws protecting the rights of children have been effective in poverty reduction and a catalyst for supporting economic development by guaranteeing the aforementioned rights. Finally, the laws protecting the rights of children need to improve their legislation, implementation, in tackling socio-economic difficulty through comprehensive legislation, and international cooperation.

### **Notes**

- 1 'History of child rights' in *Convention on the Rights of the Child*, UNICEF. Available at: [www.unicef.org/child-rights-convention/history-child-rights](http://www.unicef.org/child-rights-convention/history-child-rights). Accessed 25 April 2024.
- 2 'Child poverty', in *Social Policy*, UNICEF. Available at: [www.unicef.org/social-policy/child-poverty](http://www.unicef.org/social-policy/child-poverty). Accessed 25 April 2024. Children are more likely to live in poverty than adults. They're also more vulnerable to its effects.
- 3 'Overview', in *Poverty*, World Bank: [www.worldbank.org/en/topic/poverty/overview](http://www.worldbank.org/en/topic/poverty/overview). Accessed 25 April 2024.
- 4 Nolan, Aoife, 'Poverty and Children's Rights', in Jonathan Todres, and Shani M King (Eds), *The Oxford Handbook of Children's Rights Law*, Oxford Handbooks (2020, online edn, Oxford Academic, 7 May): <https://doi.org/10.1093/oxfordhb/9780190097608.013.21>, accessed 25 April 2024.
- 5 Panth, Prabha Economic Development: Definition, Scope, and Measurement (2020). Available at: [https://doi.org/10.1007/978-3-319-69625-6\\_38-1](https://doi.org/10.1007/978-3-319-69625-6_38-1). Accessed 25 April 2024.
- 6 *Ibid.*
- 7 OHCHR, 'Children's rights and the 2030 Agenda for Sustainable Development'. Available at: [www.ohchr.org/en/children/childrens-rights-and-2030-agenda-sustainable-development](http://www.ohchr.org/en/children/childrens-rights-and-2030-agenda-sustainable-development). Accessed 25 April 2024.
- 8 United Nations Convention on the Rights of the Child, adopted on 20 November 1989, and entered into force on 2 September 1990, Arts 24, 28, 26, 27, 32.
- 9 ILO Worst Forms of Child Labour Convention, 1999 (No 182), Arts 3, 7.
- 10 African Charter on the Rights and Welfare of Children, adopted by the 26th Ordinary Session of the Assembly of Heads of State and Government of the OAU, Addis Ababa, Ethiopia, and July 1990 entered into force on 29 November 1999, Arts 11, 14, and 15.
- 11 Charter of Fundamental Rights of the European Union, Arts 14, 32(1), 34, 35.
- 12 Convention on regional arrangements for promotion of children's welfare in South Asia, Art 4(2), (3)(b).
- 13 Geneva Declaration on the Rights of Children, adopted 26 September 1924, League of Nations. Declarations 1, 2, and 4.
- 14 ILO Minimum Age Convention, 1973 (138). Art 2(3), as an exception, age 14, for least developing country, Art 2(4).



- 15 'The Effectiveness and Impact of Social Protection in support of Children's Wellbeing' (2017), p 1. Available at: [www.unicef.org/eca/reports/effectiveness-and-impact-social-protection-support-childrens-wellbeing](http://www.unicef.org/eca/reports/effectiveness-and-impact-social-protection-support-childrens-wellbeing). Accessed 25 April 2024.
- 16 *Ibid.*
- 18 See, n 7 above, p 2.
- 19 Office of the United Nations High Commissioner for Human Rights, 'Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies', p 38, paras 184–185.
- 20 *Ibid.* p 34, paras 171–174.
- 21 United Nations, 'Goal 4 – Education in the Post-2015 Sustainable Development Agenda', see [www.un.org/en/chronicle/article/goal-4-education-post-2015-](http://www.un.org/en/chronicle/article/goal-4-education-post-2015-sustainable-development-agenda)

- [sustainable-development-agenda](http://www.un.org/en/chronicle/article/goal-4-education-post-2015-sustainable-development-agenda). Accessed 25 April 2024. Further, see also Transforming Our World: UN Sustainable Development (2030 SDG) sets the rights of children as a prerequisite to the realisation of the agenda. Look at targets 1.2, 1.3, 2.1, 2.2, 3.8, 4, 8.5, and 8.6, which set the rights of children in their achievement of the agenda.
- 22 See, n 3 above.
- 23 Federal Democratic Republic of Ethiopia Constitution, Art 36(1)(d) and (2).
- 24 Ethiopian Labor Proclamation Number 1156/2019, pursuant to Art 89(2) and (3), prohibits child labour before fulfillment of the minimum age requirement and guarantees protection against dangerous work for the health of children, respectively.

# How effective have laws protecting the rights of children been to reduce poverty and support economic development? How could they be improved?

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## Introduction

Although the UN Convention on the Rights of the Child (CRC) sets out a global framework for ratifying countries to adopt laws protecting such rights, there are gaps as the framework relates to also achieving the aims of poverty reduction and economic development. African countries are particularly afflicted with significant challenges posed by the limited effects of laws protecting the rights of children vis-à-vis the livelihoods of the countries' citizenry.

In this essay, I argue that the rights of children are not adequately safeguarded under the law, and this consequently poses challenges to poverty reduction and economic development including in Africa, with this essay focusing specifically on Ghana. The essay explores the role of law in protecting the rights of the child and examines the status quo. It examines the legal framework, and the patterns of child exploitation and child labour vis-à-vis the

effectiveness of existing laws in addressing these. It also identifies opportunities for sustainable solutions.

In her foreword to '*Children's Rights in Ghana: Reality or Rhetoric*', Georgina Theodora Wood CJ, (as she then was) urged the group to consider assessing the impact of the group of specialised family courts in Accra set up by the judiciary in a bid to expedite hearing and the disposal of cases that adversely affect child rights.<sup>1</sup> This represents a tacit recognition of the need to measure the extent to which existing laws are enforced and interpreted in Ghana for economic development.

## Economic development

Assessing the effects of laws on economic development requires a fundamental understanding of what economic development entails. Nobel laureate and economist, Amartya Sen explains that economic development may be viewed as a 'process of expanding the real freedoms that people enjoy'. This understanding appears rooted in people's capabilities to enjoy their freedoms as guaranteed by law, and

leans more towards Adam Smith's view that economic development encompasses both natural and established rules. In other words, the ability of all persons to live decent lives is economic development. Former World Bank President Jim Yong Kim encapsulates it as the creation of a world for 'our children' which is not characterised by 'stark inequities' but, rather, 'soaring opportunities'. Therefore, economic development has a bearing on all households and provides them with peace, the freedom from hunger and prevention of diseases, as well as from poverty.

Under Article 36(1) of Ghana's 1992 Constitution, the state is required in all necessary ways 'to ensure that the national economy is managed' to increase the 'rate of economic development' while ensuring the utmost 'welfare, freedom and happiness of every person', as well as to 'provide adequate means of livelihood and suitable employment' together with 'public assistance to the needy'.<sup>2</sup> Thus, economic development is captured as an essential element in the Directive Principles of State under the country's Constitution, and is geared towards manifesting the socio-economic rights of the people.

### **Legal framework**

Before Ghana became the first country to ratify the CRC in 1990, while under military rule, successive regimes were instituted for the protection of children's rights. There was the indigenous family-based childcare system, which predates the Department of Social Welfare (DSW) set up in 1943 by the colonial government. The DSW provided child welfare through residential care and more,<sup>3</sup> and this continued post-independence, albeit on an expanded scale. The Criminal Offences Act of 1960, Act 29, punitively prohibited certain acts against children including abandonment, sexual offences, and exposing children to danger.<sup>4</sup> A new constitution was promulgated in 1992 and took effect in 1993, ushering in a democratic regime under the 4th Republic. Important legal reforms to child rights and welfare followed due to Ghana's commitment to the UN-adopted CRC. This led to a law reform process to blend the national laws with the convention, culminating in the passage of the Children's Act 1998, Act 560.<sup>5</sup> The birth of this legislation ensured the rights of children to protection, development and due care, just like its corresponding Child Rights

Regulation (LI 1705). The 1998 Act merges the civil challenges children face, affirming their rights to protection from various forms of abuse, neglect, and sexual exploitation by adults. It also establishes the right of children to protection against harmful child labour and other customary practices like Trokosi (a form of sexual slavery of girls) and female genital mutilation.<sup>6</sup> As a result, there are specific laws and policies designed to protect the rights of children in Ghana.

### **The role of law in protecting child rights**

The law's role in society includes establishing rules of conduct that protect the rights and freedoms of people, and society from harm, providing a system for all laws to be enforced. While law may be viewed as an instrument for advancing a society's cause, its existence without broad and effective implementation is counter effective. Laws are meant to be obeyed. When not properly enforced, it is virtually impossible to obey them. This is a challenge faced by the Children's Act and aspects of Ghanaian law that deal with the protection of child rights and welfare. Protective legislation, though commendable, has been ineffective in face of the practical aspects of protecting the rights of children.<sup>7</sup>

A universal understanding of childhood that conforms to the concept of universal human rights permeates through cultures globally. The CRC provides an international yardstick to protect the rights of children from economic exploitation and sets a benchmark for their welfare worldwide. Thus, the application of children's rights and welfare in Ghana ought to meet global standards in this regard. In line with such standards, child labour and child exploitation represent fundamental problems that require considerable effort to address and eradicate. And although laws and policies exist to achieve a solution to this problem, attaining consensus on a definition of childhood and child welfare already poses a difficulty under some sources of law in Ghana's legal system. For instance, customary law is not definite on what constitutes a child. As such, although the position of an existing law like the CRC's Article 28(5) which provides that a child is any person below the age of 18,<sup>8</sup> a position echoed by section 1 of the Children's Act 1998, Act 560, which conforms to the global standard, it has not done enough to protect the rights of children from economic exploitation.



The Ghana Statistical Service's report on child labour as detailed in the Ghana Living Standards Survey Round Six (GLSS6) reveals sometimes overwhelming statistics, including the number of persons between the ages of five and 17 who continue in conditions of employment. The survey establishes that an estimated 75.9 per cent of children in Ghana are in some form of employment, with the majority 31.6 per cent being between the ages of eight and 11, 24.3 per cent being between five and seven years old, and the remaining 20 per cent between 15 and 17 years old.<sup>9</sup> This situation persists despite nearly 90 per cent of the country's children being formally in school, about six per cent never having been to school, in violation of Article 25 of the Constitution which provides that basic education shall be compulsory, free, and accessible to all. Pertaining to the best interests of the child, the welfare principle outlined in section 2 of Act 560, as further detailed in other sections of legislation, emphasises the child's right to education. Some of the children tabulated were involved in economic activity while others, comprising a considerable number, were engaged in child labour and hazardous activities, the majority being females. Some children did household chores and were involved in child labour. Many sustained injuries and/or health issues from being exposed to harsh working conditions. The Child Labor Report reveals a contravention of various sections of the Children's Act which provide the minimum age for child employment, light work and hazardous employment as 15, 13 and 18 years respectively. While light work is not harmful to the health or development of the child and does not impede the child's education in any way, hazardous employment poses a danger to the health, safety or morals of a child.<sup>10</sup> Per GLSS6 data, an estimated 70 per cent of children are engaged in child labour, while 40 per cent are involved in hazardous employment, contravening section 87 of the Act which prohibits exploitative child labour and defines it as labour that deprives a child of health, education, or development. It should be noted that, modeled on the CRC, which is seen to be universal, Act 560 and its corresponding laws conflict with certain understandings of child rights in custom, which is a source of law in Ghana.

The Children's Act also provides for a quasi-judicial and child adjudication

body – the Child Panels. The inclusion of a representative from a Traditional Council in a Child Panel indicates a recognition of the role custom plays in implementing laws protecting children's rights. As such, although specific laws exist for the protection of child rights, the disconnect between the notion of the universality of these rights and the customary approach to child upbringing in practice conflict, rendering the existing laws less effective.

### Limits to application of the law

Article 200(3) of the Ghanaian Constitution provides that 'the Police Service shall be equipped and maintained to perform its traditional role of maintaining law and order',<sup>11</sup> narrowing the understanding of what law is and how it is applied. The law is limited to what the police enforce, with a resulting disparity in the resources the state allocates to enforcing the laws protecting the rights of children compared to other areas. Inasmuch as the sovereignty of Ghana resides in its people, whose interests and welfare the powers of government serve according to Article 1 of the Constitution, there is a gap between state and local communities that is reflected in Article 200(3). This gap limits the effectiveness of laws protecting the rights of children as they fail to bridge the gap between customary rights and duties recognised as opposed to universally acclaimed ones.

Ghanaian parents generally perceive their rights to nurture their children as superseding any rights of the child. In other words, the traditional duty of parents to raise children according to traditional norms is a right of children to be brought up in accordance with their cultural traditions. Twum-Danso asserts that children are required to be submissive to parental control without complaint. Parental control consists of general supervision of a child by a parent, and the decisions they make for the children. If a child acts in a contrary manner, challenging parental control, the child is considered wayward and may be subjected to disciplinary measures including forms of corporal punishment.<sup>12</sup> Parents are expected to train their children to attain requisite skills and attitudes to make them become responsible adults according to the indigenous educational approach. Thus, in an agriculture-based society like Ghana, children are taken to the farm at an early



age, and are expected to help with the duties as part of their training to make them responsible adults, as fundamentally required by cultural norms. In fishing communities, children are expected to follow their parents and participate in fishing as part of their upbringing. Not only do parents do this to instill discipline in their children, but it is considered a form of education on earning an income, as well as contributing to a household's income, thereby supporting the parents. It is a norm to socialise children in a manner that is seen as preparing them for life as adults. Such customary norms may conflict with section 87 of the Children's Act, which includes a prohibition on the child going to sea, or working where chemicals and machines are used, highlighting the participation of children in fishing and farming. As a result, there is a hinderance to enforcing the laws that protect the rights of children.

### Improving the situation

American international judge Thomas Buergenthal argues that, in many parts of the world, dissimilarities and preferences in how human rights and in their conceptual nuances are applied together with their meaning exist. He acknowledges that human acceptance of pain, suffering, starvation and oppression may be greater in some parts of the world than others; yet those who suffer cruelty and the abuse of their human rights do not enjoy their suffering any more than others,<sup>13</sup> necessitating improvement where rights are abused.

The protection of child rights under Act 560 may be hindered by cultural values, making it essential to engage local communities in a collaborative effort to properly delimit and uphold child rights. Policy must be shaped within the context of local customs to provide legitimacy for the protection of children's rights nonetheless respecting the norms of custom, and improve opportunities for the effective implementation and enforcement of Act 560.<sup>14</sup> Efforts to promote universal human rights standards may remain artificial and ineffective until they are able to be aligned with, and supported through local cultural, religious and other traditional groups. Children's rights to protection stand a better chance of implementation if they are seen as legitimate within global cultural traditions. Poverty and low household income account too for child exploitation and child labour,

aware that families of limited means exploit every means to sustain the household. Additional income from children augments the income of parents and improves the household's livelihood. As such, improving the effective implementation of laws protecting child rights should factor in cultural and economic gaps to make the CRC more universally acceptable.

Sudanese researcher Abdullahi Ahmed An-Na'im suggests exploring cultural reinterpretation and reconstruction through internal cultural engagements, and discourse among cultures to strengthen the universal legitimacy of children's rights. This will move the universality of these rights from mere notions toward real local acceptance which in turn strengthens the concept of a universal value making it significant to people's lives.<sup>15</sup> Research on child rights must be multidisciplinary both for academic and policy purposes, with an increase in focus on law, compared to the usual social/behavioural focus of research on child rights. As an institution in society and an academic discipline, the law influences child-adult relationships in a great way, and with custom, which is also a source of law, minimising the conflicts between both by seeking mutuality in the understanding of key concepts that address child welfare and interests and crucial.

For laws protecting child rights to be effective there must be an alignment of the law with custom, and a redefinition of concepts to enhance the legitimacy and acceptance of such laws and policies.

### Conclusion

Poverty and low income are undeniable factors that lead to the violation of children's rights to protection. Yet child exploitation and child labour do not solve the problem but instead keep children in an unending cycle of poverty, by depriving them of the education that would better equip them with skills to earn sustainable incomes. It will be impossible to attain economic development if the laws meant to protect the rights of future leaders as children are rightly referred to are not effectively enforced.

### Notes

- 1 *Children's Rights in Ghana: Reality or Rhetoric*, edited by Robert K Ame, De Brenna L. Agbenyega & Nana Araba Apt. 'It is in pursuit of these matters that the Ghanaian Judiciary has set up a cluster of specialised family courts in Accra, dedicated to the expeditious hearing and disposal of cases that impinge on the rights of children', p ix.



- 2 Constitution of the Republic of Ghana (1992), p 36.
- 3 Social work practice in child and family welfare in Ghana by Kwabena Frimpong-Manso and Anastasia Kpei Mawudoku, p 98 (2016 Routledge).
- 4 Appiah, EM (2010, April 7–8). ‘Protecting the rights of children in Ghana: The legal framework and ancillary matters’. Paper presented at the Commonwealth African Regional Law Conference, Abuja, Nigeria. Retrieved December 21, 2023 from <http://www.cepa.org.gh/researchpapers/Protecting69.pdf>.
- 5 Children’s Rights in Ghana: Reality or Rhetoric, edited by Robert K Ame, De Brenna L Agbenyega & Nana Araba ‘Assessing the Progress of the 1998 Children’s Act of Ghana: Achievements, Opportunities and Challenges’, by Twum-Danso, p 1263-136.
- 6 ‘Social work practice in child and family welfare in Ghana’ by Kwabena Frimpong-Manso and Anastasia Kpei Mawudoku, p 98, in *The Handbook of Social Work and Social Development in Africa* (2016 Routledge).
- 7 Assessing the Progress of the 1998 Children’s Act of Ghana: Achievements, Opportunities and Challenges of the First Ten Years.
- 8 Constitution of the Republic Ghana (1992), Art 18(5) ‘For the purposes of this article, ‘child’ means a person below the age of eighteen years’, p 29.
- 9 Ghana Living Standards Survey Round 6 (GLSS6), Child Labor Report, pp 9-13.
- 10 Children’s Act 1998, Act 560.
- 11 Constitution of the Republic Ghana (1992), Art 200, p 133.
- 12 Twum-Danso A, ‘This is how we do it here’: the persistence of the physical punishment of children in Ghana in the face of globalization ideals’, in Imoh AT-D, Ame RK, (eds), *Childhoods at the intersection of the local and the global*. (United Kingdom: Palgrave Macmillan; 2012).
- 13 Johnson, David (1992) ‘Cultural and regional pluralism in the drafting of the UN Convention on the Rights of the Child’, in *The Ideologies of Children’s Rights*, Michael Freeman and Philip Veerman (eds) (Dordrecht, Boston, London: Martinus Nijhoff Publishers).
- 14 See, n 1 above, ‘Assessing the Progress of the 1998 Children’s Act of Ghana: Achievements, Opportunities and Challenges’, by Twum-Danso, p 1263-136.
- 15 An-Na’im, A, and J Hammond (2002) ‘Cultural Transformation and human rights in African societies’, in A A An-Na’im (ed), *Cultural Transformation and Human Rights in Africa* (London/New York: Zed Books).

# How effective have laws protecting the rights of children been to reduce poverty and support economic development? How could they be improved?

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*Award sponsored by Nancy Kaymar Stafford*

## Introduction

*‘There can be no keener revelation of a society’s soul than the way in which it treats its children.’  
– Nelson Mandela, anti-apartheid revolutionary and political leader*

According to the United Nations International Children’s Emergency Fund (UNICEF), in 2023, over 330 million children worldwide were living in conditions of extreme poverty.<sup>1</sup> The relationship between child rights and efforts to reduce poverty is critical, as children are among the most vulnerable groups in society and dependent on adults for necessities.

Prioritising the rights of the child is important in tackling poverty and creating a fair society.

The UN Convention on the Rights of the Child (CRC) establishes *inter alia* the rights of survival, development, protection, and participation for children.<sup>2</sup> Giving effect to such rights not only benefits individual children but helps alleviate poverty levels more generally. Allocating appropriate resources toward children’s education and healthcare can disrupt poverty cycles and better equip children with skills to open up opportunities for their future success. Encouraging active child engagement in decision-making can also help acknowledge their unique needs. Addressing poverty effectively can grant children greater access to essential services, thereby promoting their growth and development.

## The role of laws protecting the rights of children in poverty reduction

Laws protecting the rights of the child can play an important role in poverty reduction generally where they address the unique vulnerabilities and disadvantages of children in impoverished conditions. These laws guarantee access to essential rights such as healthcare, education, and social protection for children from economically disadvantaged backgrounds. Enacting such laws creates a legal structure to address the needs and repercussions of child poverty while also addressing underlying factors that contribute to the perpetuation of poverty and attendant patterns of inequality.

Prioritising the rights of children in poverty alleviation is essential as poverty often perpetuates a cycle of disadvantage that is transmitted across generations. Implementing laws that prioritise the rights of the child can disrupt the perpetuation of poverty within nations, enabling governments to distribute resources and establish specific programs for vulnerable families. Monitoring and enforcing such rights can foster accountability and transparency in poverty reduction efforts.

In addition, the enactment of laws aimed at safeguarding the rights of children plays a critical role in the pursuit of the UN Sustainable Development Goals (SDGs). The first goal of the SDGs is to eradicate poverty in all its manifestations.<sup>3</sup> Legislation that addresses the rights and needs of children is an important step in achieving this objective. Such laws play a fundamental role in attaining Goal 1.<sup>4</sup> Investing in children from low-income backgrounds, with a focus on providing quality educations, healthcare, and levels of social protection, yields benefits not only for the children themselves but also for the broader economy and the social progress of a nation.

### Children's basic needs and welfare

Legislation is essential in protecting the fundamental needs of children, taking steps to ensure their safety and wellbeing. Such laws aim to prevent child abuse, neglect, and exploitation setting requirements for reporting incidents, investigating, and offering social and legal assistance. Such laws usually also focus on education, providing for access to quality educational institutions with trained educators and other

essential resources. They generally prohibit discrimination and try to ensure equal access to educational opportunities for children, regardless of socio-economic status, gender, or disability.

Health and wellbeing are also addressed through regulations mandating immunisation, regular medical check-ups, and parental consent for medical procedures. Mental health services are also addressed, eradicating societal stigma associated with mental health issues.

Fundamental necessities for children include shelter, nourishment, and leisure activities. Laws can mandate safe and adequate housing conditions, facilitate access to essential nutrition, and prioritise an entitlement to engage in play and leisure activities. These laws aim to create environments conducive to children's health and overall development.

### Evaluation of the impact of child rights laws on poverty reduction

Child rights laws have significantly impacted global poverty reduction by safeguarding children's rights and welfare, ensuring their entitlement to essential services like education, healthcare, and social assistance. These laws have enhanced enrolment rates and reduced child labour, paving the way for sustainable development.

Education is a key element of child rights legislation, ensuring that all children receive a minimum level of education regardless of their socio-economic status. Such laws not only develop essential skills but also break the cycle of poverty, enhancing enrollment rates and reducing child labour.

Healthcare and social support are also crucial in mitigating poverty. These laws ensure children have equitable access to high-quality healthcare services, including immunisation, nutrition, and routine check-ups. These laws contribute to disease prevention and management, reducing healthcare expenses for families and society.

Social support mechanisms, such as cash transfers, social assistance programs, and child welfare services, help impoverished families meet their basic needs. Countries like Brazil and Mexico have seen significant reductions in child poverty rates from implementing social assistance programs like Bolsa Familia and Oportunidades.<sup>5</sup>

The impact of laws protecting children's rights on economic development



The implementation of laws aimed at safeguarding the rights of children can yield favourable outcomes for economic development through various means. Sweden ratified the CRC in 1990<sup>6</sup> and implemented legislation and policies to implement its provisions, leading to significant economic benefits including a decline in child poverty rates with increased investment in early childhood education and healthcare. In the United States, the Child Labor Deterrence Act (CLDA) was passed in 1993<sup>7</sup> to prohibit the importation of goods manufactured using child labour, resulting in improved employment prospects for adults and children's working conditions.

The Child and Family Services Act in Canada<sup>8</sup> is a crucial legislative framework that protects the rights and interests of children and families, promoting healthy development and addressing potential risks. The legislation establishes a comprehensive legal framework that governs the provision of child protection and support services, contributing to healthier communities and reducing societal costs.

### **Assessing the effectiveness of existing laws protecting children's rights**

The effectiveness of child protection legislation varies across countries and regions. The International Labor Organization's Convention on the Worst Forms of Child Labour<sup>9</sup> has seen a global decrease in child labour by setting a minimum employment age and prohibiting children below that age from hazardous work settings.

The CRC has achieved near-universal ratification worldwide, establishing children's entitlements and emphasising the importance of protecting them against violence, abuse, and neglect. Governments the world over have implemented legislation and adopted mechanisms to prevent child abuse, to offer support to victims, and to ensure accountability for those responsible. This has resulted in a rise in documented child abuse cases and increased availability of assistance programs for those affected.

Laws ensuring children's entitlement to education have also played a significant role in increasing enrolment rates and enhancing educational achievements. In India, the Right to Education Act provides free and obligatory education for children aged six to 14, leading to a substantial increase in school

enrolment rates, particularly in historically marginalised communities.<sup>10</sup> This initiative has also improved school infrastructure, expanded the teaching workforce, and provided complimentary educational resources and meals, creating a greatly improved educational setting for children.

The efficacy of legislation aimed at safeguarding the rights of children is evident in its ability to effectively mitigate child labour, prevent instances of abuse, and facilitate greater accessibility to education. Nevertheless, it is of utmost importance to consistently assess and enhance such legislation in order to tackle emerging difficulties and guarantee comprehensive safeguarding of respective rights.

### **Proposed improvements to laws protecting children's rights**

Many scholars and practitioners have made suggestions to improve legislation aimed at safeguarding children's rights. These include implementation of more stringent sanctions for instances of child abuse and exploitation, the establishment of comprehensive educational initiatives and awareness campaigns concerning children's rights, mandatory reporting of child abuse cases, the allocation of additional financial resources to agencies responsible for child protection, and the augmentation of support systems available to child victims.

Furthermore, it is imperative that legislation prioritise the provision of equitable opportunities for education, healthcare, and social services to all children, irrespective of their socio-economic status or individual circumstances. It is further imperative for legislation to effectively tackle the issues of cyberbullying and online child exploitation, with a focus on promoting measures that enhance internet safety. Finally, laws pertaining to custody and divorce cases shall place utmost importance on safeguarding the best interest of the child, thereby guaranteeing the fulfillment of their wellbeing and emotional requirements.

### **Conclusion**

In summary, the implementation of child rights laws holds significant importance in the context of poverty alleviation and fostering economic progress. Providing a legal framework is instrumental in guaranteeing children's access to education,

healthcare, and other services. Such frameworks play a pivotal role in disrupting the perpetuation of poverty and fostering economic advancement. Furthermore, such laws serve to safeguard children from the perils of exploitation and abuse, fostering a more secure milieu conducive to their growth and development.

It is nevertheless important to acknowledge that there remains scope for improving the implementation and enforcement of child rights legislation on a global scale. More sustained endeavours are imperative in fortifying legal structures, augmenting mechanisms for holding individuals accountable, and guaranteeing that children have access to the rights guaranteed to them. Achieving this objective involves global cooperation and collaboration among stakeholders, including between governments, non-governmental organisations, and civil society organisations. This collaboration is crucial for the purpose of exchanging knowledge, sharing best practices, and pooling resources.

The implementation of more robust child protection laws holds the promise of generating enduring advantages for society at large. Investing in the wellbeing and development of children is a strategic investment in the future. The likelihood of individuals becoming productive contributors to society, thereby fostering economic growth and social stability, is significantly higher when they are raised in an environment that is both safe and nurturing. In addition, it is crucial to acknowledge that safeguarding the rights of children is not solely a matter of ethical responsibility, but also a legal duty in accordance with

international legislation.

Ensuring the equitable development and wellbeing of all children is a shared societal obligation, whereby we strive to prevent any child from being marginalised or neglected, and instead foster an environment where each child can flourish and reach their full potential.

#### Notes

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- 10 'What Is Right to Education Act (RTE Act)?' (Times of India Blog 15 May 2021): <https://timesofindia.indiatimes.com/readersblog/igoravsharma/what-is-right-to-education-act-rte-act-32034>, accessed 25 April 2024.



# How effective have laws protecting the rights of children been to reduce poverty and support economic development? How could they be improved?

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## Introduction

The relationship between human rights and economic development stems from the need to recognise and protect rights to alleviate poverty. Children are among the most marginalised and vulnerable groups in society. Thus, the recognition and protection of children's rights sets a foundation for the prosperity of future generations. Put differently, children's rights are a strategic sustainable development goal. This essay seeks to discuss how effective laws protecting the rights of the child have been to reduce poverty and support economic development. The essay will first define the terms 'children's rights', 'economic development' and 'poverty reduction'. Second, the essay will assess how effective laws protecting the rights of children have been to reduce poverty and support economic development. Lastly, the essay will give recommendations on what can be done to improve the laws protecting children's rights.

## Definition of key terms

The UN Convention on the Rights of the Child (CRC) defines a child as a person below the age of 18.<sup>1</sup> In this regard, children's rights are entitlements to which persons below the age of 18 years are inherently entitled in order to live a dignified life.

Defining economic development, the term relates to the process of improving the welfare of a people.<sup>2</sup> For instance, economic development focuses on the qualitative aspects of life such as education, health, food and an adequate standard of living. The recognition and protection of such aspects of economic development as the rights of the

child can have a positive impact on achieving economic development and poverty reduction.

Poverty is the deprivation of basic needs from a lack of income.<sup>3</sup> This terminology includes societal exclusion and the lack of a voice to be able to contribute to and participate in development. Poverty reduction refers to measures that can be taken to lift people out of poverty. The recognition and protection of children's rights is a poverty alleviation strategy that ensures that development policies align with children's rights.

## How effective have the laws protecting children's rights been to reduce poverty and support economic development?

The rights of the child have been recognised and protected at international, regional and national levels through multiple instruments.<sup>4</sup> For Instance, at the international level, the UN has recognised and protected children's rights through adoption of the CRC. To supplement this instrument, the African region has enacted the African Charter on the Rights and Welfare of the Child (ACRWC) which addresses issues specific to children in Africa. Furthermore, various states have ratified and domesticated children's rights instruments in their national laws. Zambia for instance has enacted the Children's Code Act that reflects principles of the aforementioned international and regional instruments.

These children's rights instruments outline four general principles for the protection of children's rights and welfare: the principle of the best interests of the child; of non-discrimination; the right to life, to survival and development; and, lastly, the principle of respect for the views of a child.<sup>5</sup> These

principles confer substantive rights which, if implemented, can have a positive impact on economic development and poverty reduction. However, the effectiveness of the aforementioned laws protecting children's rights in reducing poverty and supporting economic development depends greatly on how they are implemented by state parties. Barriers to children's rights in reducing poverty and supporting economic development include the following.

First, the conflict between universal human rights and certain prevailing cultural practices upheld by states parties has had a negative impact on economic development and reducing poverty.<sup>6</sup> Despite being party to child rights instruments, some states still embrace cultural practices harmful to children. Child marriage and female genital mutilation for instance continue to be carried out in some states, with Zambia an example where child marriages are still arranged. Unlike statutory laws on marriage, Zambian customary law allow persons below the age of 18 to be married. This was seen in the Zambian case of *R v Chinjamba*<sup>7</sup> where the accused was charged with the offence of defilement for having married a girl below the age of 16. The court acquitted the accused on the grounds that it is not unlawful for a man to have carnal knowledge of a female to whom he is married regardless of her age. The conflict between statutory and customary law as regards children's rights has exposed children to situations harmful to them personally and that may have a negative impact on economic development and poverty reduction.

India presents another example in this regard. Although the Constitution of India establishes fundamental rights of gender equality and education, Article 25 of its Constitution<sup>8</sup> justifies freedom of religion and in so doing safeguards the religious rights of Muslim communities to discriminate against women. Girls under the age of 18 are consequently discriminated against in various aspects. As such, certain Indian cultural and religious laws have led to gender and income imbalances as well as perpetuating high illiteracy levels that have negatively affected economic development and poverty reduction at least for some.

Second, several states have ratified various human rights instruments including those pertaining to children's rights but have failed to domesticate them into their national laws thereby making the implementation and

enforcement of child rights impossible.<sup>9</sup> In Zambia again for instance, economic, social and cultural rights are not justiciable because they have not been domesticated. It cannot be disputed that the fulfilment of children's rights such as education, health, food and an adequate standard of living has a positive impact on economic development and poverty reduction. Therefore, the non-fulfilment of economic, social and cultural rights of children has a negative impact on development as these rights are cornerstones for achieving economic development and curbing poverty.

Additionally, the scarcity of resources in developing countries has seen children's rights to education, health and food go unmet.<sup>10</sup> These rights are costly as they require resources and income to be fulfilled. States with little available resource to fulfil such rights are necessarily characterised by low levels of education, poor health facilities and prone to hunger, perpetuating conditions of poverty for their children and for future generations.

The CRC moreover only provides for a periodic review of state reports by the Committee on the Rights of a Child as a monitoring or implementation mechanism of children's rights.<sup>11</sup> This mechanism is largely ineffective in ensuring implementation of the rights set out therein as it does not provide for individual actions on violations of children's rights. In addition, some states parties have failed or delayed submitting their periodic reports, further limiting even this level of implementing the instruments. Lastly, the Committee has no punitive measures it can apply to states parties that fail to adhere to the provisions and objectives of the convention, so failures to uphold the instruments' provisions remain unaddressed for all practical purposes.

### **What can be done to improve laws protecting the rights of the child to reduce poverty and support economic development?**

Having assessed and identified barriers to the effectiveness of the rights of the child in reducing poverty and supporting economic development, the following are measures that can be taken in order to enhance the laws protecting children's rights.

First, states parties can ensure that their national laws are in alignment with international instruments protecting



children's rights. States parties are regarded as the primary duty bearers and obliged to undertake all appropriate legislative and administrative measures for the implementation of children's rights.<sup>12</sup> This means that all national laws that are in contravention of children's rights must be amended to reduce poverty and support economic development.

Additionally, states parties are recommended to establish independent national human rights institutions. For instance, countries like Uganda, South Africa and Zambia have established Human Rights Commissions that investigate and report on instances of human rights violations. In Zambia, however, members of the Human Rights Commission are appointed by the President subject to ratification by the National Assembly.<sup>13</sup> Consequently, the Commission is vulnerable to executive and bureaucratic manipulation which makes it difficult for the Commission to practically enforce child rights. There is therefore, in the view of the author, a need to restructure the Commission's appointment and dismissal procedures to depoliticise the work carried out.

Second, children as rights-holders should be transformed from passive recipients of rights to empowered claimants. To achieve this, it should be the duty of states parties to ensure that children (and its citizenry more broadly) are knowledgeable about their rights through educational curricula and awareness campaigns.<sup>14</sup>

Lastly, amendments should be made to the International Monetary Fund (IMF) Articles of Agreement and comparable instruments in other institutions by putting in place a condition that compels states seeking aid to conduct their development strategies in a rights-based manner. If this condition is set, countries who violate children's rights will not be able to benefit from aid programs which will encourage states parties to internalise child's rights norms into their development policies.

## Conclusion

This essay has examined how effective the laws protecting children's rights have been in reducing poverty and supporting economic development. It has found that such laws have been largely ineffective in reducing poverty and supporting economic development arising from implementation barriers such as culture, religion, the non-domestication of children's rights, the lack of independent national human rights institutions and a lack of individual complaint mechanisms at the international level. It has further made recommendations on what can be done to improve the upholding of these rights toward reducing poverty and supporting economic development. In this regard, the essay proposes that states parties ensure that their domestic laws align with child's rights instruments and that (at least in the one instance) they should restructure the appointment and dismissal procedures of the human rights institutions to depoliticise the process and enhance their mandate. The essay further proposes that children as rights-holders should be empowered through educational curricula and awareness campaigns. Lastly, it proposes that aid programs provided through international organisations should be made conditional on the applicant state upholding international human rights obligations.

## Notes

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- 8 Constitution of India, 2021.
- 9 Arjun Sengupta, 'Human Rights and Extreme Poverty'. *Economic and Political Weekly* (2010).
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- 14 Art 2 of the CRC, 1989.



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# How effective have laws protecting the rights of children been to reduce poverty and support economic development? How could they be improved?

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## Introduction

Children are the future of society, accounting for 2.3 billion of the world's 8 billion-strong population.<sup>1</sup> As such, laws designed to protect their safety, security, welfare and development are paramount to ensuring that the society of tomorrow is better than the one today. Realising this, the international community acting both in its national capacities and in conjunction with counterpart countries have worked to develop policies and adopt laws that cater to protect the young.

From a multilateral context, the UN Convention on the Rights of the Child (CRC) emerged as the lead champion of the rights of the child, spanning civil, political, economic, social, and cultural rights to be afforded to children. The CRC now has over 196 ratifications making it among the most widely ratified human rights treaties in history.<sup>2</sup> It is complemented by two optional protocols, namely the Optional Protocol to the CRC on the Sale of Children, Child Prostitution, and Child Pornography 2000 (the Sex Trafficking Protocol), and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (the Child Soldiers Protocol), both of which have achieved the 'purposes of the CRC' as their primary goal.<sup>3</sup> Apart from the CRC, countries have also created other legally binding instruments on child rights among themselves: in 1990, the African Union adopted the African Charter on the Rights and Welfare of the Child; in 1996 the European Union adopted the European Convention on the Exercise of Children's Rights, as examples. There are myriad more treaties in existence that, although

not treaties on children's rights *per se*, also contain provisions further establishing the rights of children.<sup>4</sup> In a national context, many countries have passed legislation that deals with the rights of children including multilateral treaties and other instruments.

## The legal regime and success

The emergence of legally binding instruments in this area of child rights has played a role in reducing poverty and supporting economic development in part as these instruments establish the rights of children and set reciprocal duties for society, presupposing ideals to be met for the lives of children. Key rights include the rights to education, to healthcare and to protection from exploitation arising from which, if honoured, children will learn skills and acquire knowledge to help them break the cycle of poverty, equipped to chase their dreams and achieve a higher standard of living, in effect revamping the wider economy of society at large as well as improving their own fortunes. However, the laws are not without flaws, even if effective to some extent; there remains room for improvement in addressing issues.

Over and above the laws themselves, numerous other considerations must be taken into account to create an improved environment for children to thrive economically.<sup>5</sup>

The right to education is found in almost every law concerning children along with other human rights instruments.<sup>6</sup> Education equips children with the knowledge and skills they need to secure better-paying jobs and more lucrative opportunities.<sup>7</sup> Studies have shown that even a basic schooling sees increased incomes to individuals.<sup>8</sup> Secondary and tertiary educations are further instrumental in equipping people



for more technical functions in society.<sup>9</sup> Critically, education is critical in helping people escape the snares of poverty.<sup>10</sup> On one hand, an educated person is more likely to attract employers and a higher wage; an under-skilled person is far more likely to face unemployment and low wages and the risk of dismissal when they do find work.<sup>11</sup> Some states make it compulsory for children to attend primary school and in many countries a primary education is free to every child. All these measures give the law effect in working to reduce poverty and to see economies thrive.

Laws also recognise the rights of children to be protected from economic exploitation and from performing work likely to be hazardous to them, to interfere with their education, or to be harmful to their health or to their physical, mental, spiritual, moral or social development.<sup>12</sup> The International Labour Organisation's (ILO) Convention No 182 concerning the Worst Forms of Child Labour complements the CRC by specifically addressing the issue of child labour. This legal framework underscores the necessity of eradicating particularly pernicious forms of child labour, including slavery and the use of children in illicit activities. The protection of children from hazardous labour and exploitation helps ensure that they grow up in a healthy and safe environment, promoting their physical and mental well-being.<sup>13</sup> Healthy and educated children are more likely to become productive members of society, positively impacting the economic development of their communities and countries.

### Case law and jurisprudence

Several landmark cases have played a pivotal role in shaping the interpretation and application of laws protecting children's rights. One such case is the 1993 case decided by the Supreme Court of the Philippines, *Minors Oposa v Factoran*.<sup>14</sup> In this case, the Philippine Supreme Court recognised the right of children to a balanced and healthful ecology. The decision emphasised intergenerational responsibility, asserting that the state is a trustee of the environment for future generations. This case demonstrates the evolving nature of child rights, extending beyond traditional domains to now include environmental considerations crucial for sustainable development.

### Challenges

Despite progress, challenges persist in the effective implementation of laws protecting children's rights. Insufficient resources, a widespread lack of awareness and multiple cultural barriers hinder realisation of these rights in many parts of the world. Apart from these general problems, it seems pertinent to point out a few issues of particular importance.

Of concern are the wide disparities between nations regarding the inherent rights of children. Countries adopt different laws on the rights of children and see different treatment of children.<sup>15</sup> This situation will of course be deterred if countries better align their laws on children to the parameters of the CRC; however, although some 196 countries have ratified the CRC, the United States is not among them, citing concerns of ceding its sovereignty over determining the best interests of US children.<sup>16</sup> A Human Rights Watch scorecard assessed 12 state laws across the 50 states of the United States, looking to such issues as child marriage, corporal punishment, child labour, and juvenile justice, and found that the vast majority of US states have abysmal laws in these areas.<sup>17</sup>

Internationally, the CRC has been a significant force in promoting and protecting the rights of children. Ratified by the vast majority of states (196), it is among the most ratified human rights instruments in the world.<sup>18</sup> There nonetheless remain challenges in its implementation. For instance, Amnesty International has highlighted the need for better education about child rights, as ignorance of rights puts children at greater risk of abuse, discrimination, and exploitation.<sup>19</sup>

### A way forward

Generally speaking, to address the challenges identified, the usual measures must not be ignored. First, legal systems must prioritise the allocation of resources to enforce and promote children's rights. Second, emphasis must be placed on securing more ratifications (especially those of the United States and other leading powers) of laws protecting child rights, particularly the CRC.<sup>20</sup> Expanded international cooperation to combat cross-border issues such as child trafficking and exploitation is a further need worthy of greater development.<sup>21</sup> Strengthening the

monitoring and reporting mechanisms of international organisations and encouraging states to actively participate in these processes would bolster the global commitment to protecting children's rights.

Beyond this, this essay intends to suggest bold and innovative ways to get durable and far-reaching solutions. To effectively address the issue of child poverty and to support economic development through the protection of children's rights, a multi-faceted approach is essential. While legal frameworks such as the CRC provide a solid foundation, practical measures and strategies are needed to ensure their effective implementation as explained hereinunder.

### *Child rights reporting and advocacy*

Organisations like Save the Children have effectively supported civil society and children to engage in child rights reporting and advocacy.<sup>22</sup> This approach involves reporting child rights violations to international bodies such as the UN Committee on the Rights of the Child, the UN Human Rights Council, or the African Committee on the Rights of the Child. Recommendations from these accountability mechanisms can then be used to influence governments to improve policies and practices.<sup>23</sup> Advocacy training can build the capacity of children to be candid about the challenges they face towards becoming effective advocates for themselves.<sup>24</sup>

### *Building awareness and education*

Efforts should be made in making sure not only that the public is aware of the rights and needs of children, but that children particularly know their rights. This means children should be availed of training and resources on their rights and how to advocate for themselves.<sup>26</sup> This can include workshops, seminars, or online resources that teach them about their rights, the legal system, and effective advocacy strategies that must be tailored to the levels of children, for example the use of visual aids will liquify solid concepts about children's rights into simpler more engaging ideas.<sup>27</sup> This can also involve discourse between children about their rights through organised group discussions among children, where they can share their experiences, thoughts, and ideas on advocating for their rights. This can help them learn from each other and build a sense of solidarity.<sup>28</sup>

### *Leveraging technology*

Technology can be utilised to raise awareness about child rights, the reporting of violations and fostering child advocacy. Between children regarded as of the digital age, online platforms can be employed to share their stories, connect with others, and to access resources on rights and advocacy strategies. Furthermore, children can be encouraged to take an active role in their use of technology by creating their own content, such as writing stories, making videos, or coding games. This fosters creativity and critical thinking skills and helps children to take an active role in their own development.<sup>29</sup>

### **Conclusion**

In conclusion, while laws protecting the rights of children, as outlined in the CRC and other international instruments, have been instrumental in reducing poverty and supporting economic development, there remains room for improvement. By ratifying the CRC, better harmonising state laws, and promoting education and awareness about child rights, progress can be made in ensuring the effective protection of children's rights and their wellbeing. Furthermore, it is pertinent that legal measures merge with practical strategies such as reporting and advocacy, education and awareness, poverty reduction initiatives, and international cooperation, to achieve a more comprehensive and effective and robust approach to protecting the rights of children and reducing poverty.

### **Notes**

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# How effective have laws protecting the rights of children been to reduce poverty and support economic development? How could they be improved?

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## Introduction

*I believe the children are our future; teach them well and let them lead the way. Show them all the beauty they possess inside – Whitney Houston.*

Children hold a unique position of being autonomous human beings in their own right as well as having vulnerabilities that necessitate extrinsic players to protect their wellbeing. They serve as a link of continuity between the present and the future of any society while their present input also cannot

be overlooked as inconsequential.

From this premise, it is important to put socio-economic and legal considerations in place to allow for the development of the child. As one of its primary considerations, the UN Convention on the Rights of the Child (CRC) holds that the child should be fully enabled to live an individual life in society and brought up in the spirit of its ideals, particularly those of peace, dignity, tolerance, freedom, equality and solidarity.<sup>1</sup>

This essay seeks to explore laws protecting the rights of children and examine their effectiveness in reducing poverty and supporting economic development. It further proposes measures to improve upon the effectiveness of its enforcement and impact.

## Definition of a child

A 'child' is defined as a young person between infancy and puberty who has not yet attained the age of majority.<sup>2</sup> The CRC lends a legal definition of a child as a person below the age of 18.<sup>3</sup> From these, the status of childhood is given to an individual who, as a result of age limitations, has not yet been granted the legal rights and responsibilities that come with adulthood. In many states, the legal definition of a child is age-based and, although there appears to be a near consensus on the range, it may vary across jurisdictions and states. In Japan, for example, the age of majority is 20; in Canada it may be 18 or 19 depending on the province.

There are moreover legal definitions of a child in other contexts. For example, a child may be considered incapable of giving consent in respect of contractual obligations and sexual relations as well as incapable of forming criminal intent. This is to protect the interests of the child as, although it is a given that they are full human beings within their rights, in other respects they are still developing and not yet accorded all rights and obligations of participating in society. It is also important to consider the specific context of children in terms of gender and socio-economic disparities as well as physical disabilities for the purpose of equitable considerations.

## Economic development

Economic development, as distinct from economic growth, combines sustainable growth, structural changes in patterns of production, technological upgrades, social, political and institutional modernisation, and general improvements in human condition.<sup>4</sup> Indian academic Panth Prabha opines that economic development should be accompanied by improvements in infrastructure as well as social, political and institutional factors to facilitate transformation of the economy.<sup>5</sup>

## The relationship between children's rights and economic development

The process of achieving economic development is both multi-dimensional and non-linear. It entails dynamic change not only in production patterns and the use of technology but also across social, political and economic institutions as well as in

patterns of human development.<sup>6</sup>

The human factor thus serves as an undetermined variable in economic development whose impact on the latter is contingent on the quality of input it receives. Thus, any evolution or contribution to the economic development of a society depends on human resources and capital. There is an increasing awareness that enhancing the position of children is intrinsically connected to a broader process of developing economies and societies. Thus, investing in children is not only the right thing to do for their own survival and quality of life; it is also important to creating and sustaining broad-based economic growth.<sup>7</sup>

There is a symbiotic relationship between children's rights and that of economic development; protecting and investing in the wellbeing and the rights of children is an investment into the future workforce and outcomes of a society. A society that protects the rights of its children is more likely to have sustained economic development and improved quality of life.

## Existing laws protecting the rights of children

The concept of child rights is relatively recent vis-à-vis the broader area of human rights. Initial considerations of establishing specific children's rights were focused primarily on the protection of rights beyond those accorded to adults.<sup>8</sup> It was not until the late 20th century and the first years of the 21st century that there was increased global interest in the rights of the child.<sup>9</sup> The strength of this interest is evidenced by the fact the CRC has become one of the world's most ratified human rights treaties with over 190 ratifications, Somalia and the United States two notable exceptions.<sup>10</sup>

The CRC was adopted on 20 November 1989 by the UN General Assembly and is the first legally binding international instrument to incorporate the full range of human rights, civil, cultural, economic, political and social rights.<sup>11</sup> As core principles, the CRC highlights the principles of non-discrimination, the best interests of the child, the right to life, survival and development and of considering the views of the child.<sup>12</sup> These principles are in line with the Millennium Development Goals that aim to eradicate poverty, to end hunger and to attain universal primary education and gender equity.

The convention recognises the inherent,



equal and inalienable rights of children as citizens of the world and ensures their maximum survival and development.<sup>13</sup> This is inspired by the Universal Declaration of Human Rights (UDHR). Specific provisions ensuring the socio-economic, political and cultural rights of children are set out in the convention, including the right to education,<sup>14</sup> to health,<sup>15</sup> to freedom from violence<sup>16</sup> and exploitation<sup>17</sup>, and the protection of children with disabilities.<sup>18</sup>

The CRC further contains a number of unique rights – set out in optional protocols which states may elect to adopt including the Optional Protocol on the Involvement of Children in Armed Conflict, the Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography, and the Optional Protocol on Communications Procedure.

### How effective have these laws been?

Having established the link between the rights of the child and economic development, this essay further seeks to examine how these laws have been effective in reducing poverty and supporting economic development along with how they can be improved.

### Contribution to human capital development

Human capital entails the knowledge, skills, and abilities of workers. Overall, an economy tends to grow when it invests in the development of its people. The term ‘human capital’ means education, health and other human capacities that can increase productivity (Todaro 1990). Todaro reveals that human capital covers sectors of education and health; as such, in terms of human capital, the focus is on the education and health sectors.

A composite indicator, the Human Capital Index (HCI), gives equal weight to three indicators: to per capita GDP, to health (including child survival rates, stunting, and adult survival rates), and to the quantity and quality of schooling (expected years of school and learning outcomes).<sup>19</sup> This index is valuable in extending the economic concept of welfare as well as bringing focus to its individual components.<sup>20</sup>

Laws that safeguard the rights of children including their rights to life, education and healthcare, develop human capital

in society. Human capital begins early in life as the foundational skills of social and emotional regulation, numeracy and literacy interactions and eventually the broader skill-set needed to navigate one’s life course and within the society.<sup>21</sup> Testament to the role of human capital in Ethiopia’s economic growth, for example, government spending on health and education, specifically elementary and secondary school enrolment levels, has had a significant impact on the country’s economic growth as well as had a significant and positive effect on real per capita Gross Domestic Product (GDP).<sup>22</sup> Ghana, as another example, has made deliberate efforts to invest in health and education over the last 60 years. This has resulted in substantial economic growth and human capital outcomes, as well as, since 1983, favourable growth in per capita GDP. Several educational and health policies and programs including Free Compulsory Universal Basic Education (FCUBE) as mandated under Article 25 of the 1993 Constitution of Ghana and the National Health Insurance Scheme (NHIS) may explain improvements in human capital over the years and account for Ghana’s higher HCI scores in education in recent years.<sup>23</sup>

### Social stability and protection

Laws that establish social protection mechanisms for children can help alleviate poverty *inter alia* by providing direct support to families (and by extension, to children) in need.<sup>24</sup> Under UNICEF’s definition, child-sensitive social protection refers to public policy instruments aimed at ‘maximising opportunities and developmental outcomes for children that consider the different dimensions of children’s well-being’. Such programs focus on addressing the inherent social disadvantages, risks and vulnerabilities into which children may be born as well as those they may acquire later in childhood.<sup>25</sup>

Economic hardship and poverty can be important drivers of violence against children especially as regards child labour, child trafficking, sexual exploitation and child marriage. Social protection by preventing and reducing economic and social vulnerabilities to poverty and deprivation can play a significant role in supporting families and providing appropriate care and protection to children.<sup>26</sup>

Laws prohibiting child labour practices help to protect children from exploitation

and can contribute to breaking the cycle of poverty. Where laws are enforced in protecting children from working under unsafe and exploitative conditions, it empowers them with the socio-economic advantages and opportunities like education and skill development and this reduces inequality which in turn influences sustainable and inclusive economic growth.

### **Foreign aid and investment**

Laws protecting the rights of children can also attract foreign aid and investment that better enable the effective implementation of the laws. The UN Committee on the Rights of the Child's 2016 General Comment on Public Spending to Realise Children's Rights, for example, gives guidance to state and non-state actors on how to realise the rights of children in a sustainable way.<sup>27</sup>

There is an awareness that active and direct enforcement is needed in the protection of children's rights that does not happen automatically. As such, children's rights have been integrated into international relations and foreign policies. There are also a number of global organisations that ensure and promote state compliance of children's rights.<sup>28</sup> Such organisations designate funds to key players including non-governmental organisations (NGOs), communities and state governments to advance the implementation of child rights, programmes and policies. Compliance by states entails financial and economic input which contributes to economic development.<sup>29</sup>

### **Future economic considerations**

Children serve as the link of continuity between current and future states of affairs. Thus, protecting and safeguarding children's interests and rights is a key investment. As mentioned earlier, enhancing the position of children is recognised as connected to the broader process of developing economies and societies as the childhood experience is crucial to the adults we become and our impact on society. Ensuring that children grow up in supportive and nurturing environments helps ensure that the children grow into well-adjusted and responsible citizens who can positively contribute to economic development.

### **The way forward**

This essay proposes that, to improve upon the rights of children, especially for the purposes of economic development and the reduction of poverty, consideration must be given to ensuring the effectiveness of enforcement and implementation procedures. In this regard, gaps compromising the efficiency of the implementation of these laws must be addressed.

### **Enforcement and implementation**

The effectiveness of laws depends on compliance with them by key players and stakeholders. First, children should not be treated as merely objects of these laws but also as stakeholders in the collective outcomes of such laws. Policymakers need to treat children as social agents rather than solely as beneficiaries, and as members of families and communities and not as individuals in isolation. This implies an awareness of children's needs, along with their potential roles and relationships in context.<sup>30</sup>

Laws must be designed and implemented within a framework of understanding how the basic socio-economic unit, that is, the family, functions. Such understanding can shape the quality and range of services to be provided or improve opportunities for engaging in productive activities for a larger network of players.<sup>31</sup> This essentially improves enforcement outcomes and compliance.

### **Access to justice**

Children must have access to justice when their rights are violated. This is essential to ensure their rights and interests are protected, especially to avoid or remedy instances of violations and exploitation. However, due to their dependent status, children are most vulnerable when they interact with the justice system, as victims, witnesses and offenders or in some cases objects of contention. There is also the tendency of children living in poverty to be exposed to miscarriage of justice and additional risk of exploitation.<sup>32</sup>

These factors mean that children are fairly limited in their engagement with the justice system. The legal system must provide children the means to obtain quick, effective and fair responses to protect their rights, resolve disputes, and provide control mechanisms to check the abuse of power.



This must be available through a transparent, efficient and accountable process.<sup>33</sup>

## Conclusion

In spite of the unassuming position children hold as citizens of the world, their impact cannot be viewed as inconsequential and their participation and contributions indirectly and directly have an impact on economic development and on society. This essay has sought to establish the link between laws protecting children’s rights and that of economic development. The impact of laws on economic development cannot be understated, yet considerations towards these laws must be made to ensure the effective protection of children’s rights as a moral and obligation as well as a means to ensure efficient economic developments for the sake of posterity.

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# How effective have laws protecting the rights of children been to reduce poverty and support economic development? How could they be improved?

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## **The efficacy of laws protecting children's rights in reducing poverty and in supporting economic development**

The rights of children have become a significant field of study in past decades, following the 1989 adoption of the UN Convention on the Rights of the Child (CRC).<sup>1</sup> Recognising its importance, other international and regional instruments have followed including the African Charter on the Rights and Welfare of the Child. These instruments aim at protecting the fundamental human rights of children.<sup>2</sup> The impact of these laws however goes beyond the immediate protection of children as they also play a role in addressing poverty more generally and in supporting economic development. The instruments' importance notwithstanding, there remains more to be done to achieve this.

This paper outlines to what lengths human rights instruments generally and Zambia's legislation in particular protect child rights in reducing poverty and in supporting economic development. To achieve this objective, the paper focuses on the CRC at an international level, on the African Charter on the Rights and Welfare of the Child at a regional level, and on local Zambian legislation pertaining to child rights. Following this analysis, the paper recommends how these instruments can be improved as regards the goal of poverty reduction and supporting economic development while remaining focused on their primary purposes of protecting the rights of children. This shall be addressed on an international, regional and national level respectively.

Internationally, the CRC plays a significant role in the protection of children's rights.<sup>3</sup> The Convention provides the most comprehensive legal and policy framework for the protection of children and upholding their human rights. It sets out a well-developed catalogue of civil, political, economic, social and cultural rights already recognised in existing international human rights instruments.<sup>4</sup> It enshrines four overarching principles that confer substantive rights in and of themselves. These are also meant to help with interpretation of the Convention as a whole. They are further meant to guide national programs of implementation.

The CRC has a direct impact on poverty reduction by addressing root causes of intergenerational poverty. Intergenerational poverty is a situation in which children who grow up in families with incomes below the poverty line remain poor.<sup>5</sup> The CRC tries to address the issue of poverty reduction and supporting economic development in several of its provisions. These provisions include providing access to education, healthcare, nutrition, and social services, which are seen as important components of poverty alleviation. For instance, CRC Article 27 safeguards the right of every child to a standard of living adequate to the child's physical, mental, spiritual, moral and social development.<sup>6</sup> This requires governments to put measures in place that are aimed at implementing and realising the said standard of living for every child. This provision of the CRC thereby aids in the poverty reduction of states parties.

Another right guaranteed by the CRC that aids in poverty reduction and economic development is set out in Article 24 which provides that a child shall enjoy the highest attainable standard of health and access to



facilities for the treatment of illness and rehabilitation of health, and that states parties shall strive to ensure that no child is deprived of his or her right to such health care services. States that implement this article will in so doing ensure that children who cannot afford access to proper healthcare facilities because of poverty will nonetheless be accorded such services. Additionally, the Convention will encourage the state to construct health facilities to implement Article 24, alleviating some of the more pernicious aspects of poverty as a result and supporting economic development.

While these provisions do not explicitly mention poverty reduction or economic development, they do emphasise the importance of ensuring that children have access to the resources and conditions necessary for their wellbeing, which is closely linked. By ensuring that children have access to adequate standards of living, healthcare, and social services, countries are also contributing to poverty reduction and economic development in the long term.

In the African region, the African Charter on the Rights and Welfare of the Child (ACRWC) contains provisions that pertain to poverty reduction and economic development. For instance, as with Article 24 of the CRC, Article 14 of the ACRWC upholds the importance of supporting the child's health and his or her access to health services. It provides, *inter alia*, that states party to the ACRWC ensure the provision of necessary medical assistance and healthcare to all children, with an emphasis on the provision of basic healthcare, ensuring the provision of adequate nutrition and safe drinking water, combating disease and malnutrition within the framework of primary healthcare. As above, implementation of this provision will support poverty alleviation. A UN Report on poverty indicated that one of the effects of poverty is that of limited access to basic needs such as primary health services.<sup>7</sup> The provision of primary health care and appropriate technology effective to its provision would therefore not only aid in poverty alleviation but also, tangentially, to greater economic development.

One of the major poverty-alleviating and economic development provisions of the ACRWC is Article 11. This article provides that every child has the right to education. The article, under clause 3 paragraph (a), emphasises that states party to the ACRWC

shall take all appropriate measures with a view to achieving the full realisation of this right and shall, in particular, provide free and compulsory basic education. Research at UNESCO has shown that world poverty would be more than halved if all adults were able to complete secondary school.<sup>8</sup> It further provides that, if all adults in low-income countries had just basic reading skills, almost 171 million people could escape extreme poverty. It is apparent from the above that the more states that implement ACRWC Article 11, the more poverty alleviation and economic development is realised.

These provisions in the ACRWC, among others, highlight the importance of addressing poverty and promoting economic development in ensuring the rights and wellbeing of children in Africa and worldwide.

In Zambia, the Children's Code Act was enacted in 2022, domesticating the CRC.<sup>9</sup> As such, it contains the same provisions as the CRC and aids in poverty reduction and in economic development in line with the tenets of the CRC.

### **How laws protecting children's rights in reducing poverty and in supporting economic development can be improved**

Despite the generally positive impact of laws protecting children's rights, challenges persist in their implementation. On an international level, for instance, the enforcement of such rights by dualist states is limited as such states require international law to be domesticated before having effect in their country. The CRC's reach in addressing poverty reduction and supporting economic development is therefore limited in these states until such time as its substance is adopted. It is therefore important that there be greater encouragement for the Convention to be domesticated by states parties in order to increase its impact on poverty reduction and economic development. This is the same as regards the ACRWC.

The aforementioned rights are predominantly economic, social and cultural rights. It follows that such rights are progressively realised, where they are realised in effect. A state party to the instrument commits to implement these rights to the extent of its available resources. In this regard, if more financial aid is provided to states with limited available resources to

implement these rights, it follows that there stands to be a higher and more effective realisation of these laws guaranteeing such rights, thereby aiding in poverty alleviation and economic development.

### Conclusion

In conclusion, laws protecting the rights of children can play a strong role in reducing poverty and supporting economic development. Laws guaranteeing such rights, such as rights to education, healthcare, social development, and others, aid in breaking the cycle of poverty and nurturing a skilled, healthy, and productive workforce. Additionally, the above has underscored some of the ways in which these laws can be improved to ensure a better way of reducing poverty and supporting economic development.

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# How effective have laws protecting the rights of children been to reduce poverty and support economic development? How could they be improved?

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### Introduction

*'The ultimate test of a moral society is the kind of world that it leaves to its children' – Dietrich Bonhoeffer, German Theologian and Anti-Nazi Teacher*

Children are among the most vulnerable populations worldwide. This vulnerability stems from their reliance on other individuals for their survival. Their vulnerability is compounded by the fact that their lives hinge on their early formative years. As children grow into adults with the potential to effect change or to hinder growth, it

becomes a matter of importance to ensure the protection of their fundamental rights. This essay thus examines the effectiveness of laws that exist to protect children's rights and to uphold their potential impact on poverty reduction and economic development, suggesting improvements to these laws to spur economic growth.

### Child rights

*'A child, like all other human beings, has inalienable rights' – Lucretia Mott, American Social Reformer*

'Children's rights' refers to specialised human rights that apply to individuals below



the age of 18.<sup>1</sup> The creation of a distinct legal framework to govern children's rights is critical as, despite their dependency on their parents, children are in fact not the property of these parents but are instead independent human beings with inherent rights that must be recognised to help them reach their potential.<sup>2</sup> In line with this, the United Nations has, in the Universal Declaration of Human Rights, proclaimed that children are entitled to special care and to assistance.

## Poverty

*'As long as poverty, injustice and gross inequality exist in our world, none of us can truly rest'* - Nelson Mandela, Former President of South Africa

According to the United Nations, poverty is fundamentally characterised by the lack of choice and opportunity, with the lack of even a basic capacity to participate in society. Poverty means insecurity, powerlessness and the exclusion of individuals, households and communities; it often means being vulnerable to violence. It implies living in marginal or fragile environments often without ready access to clean water or to adequate levels of sanitation.<sup>3</sup> A 2023 study that examined data across 110 countries found that, among the world's 6.1 billion inhabitants, fully 1.1 billion people face multidimensional poverty, grappling with limited access to money, education and basic infrastructure. Within this 1.1 billion, approximately 566 million (more than half) are children.<sup>4</sup> Notwithstanding strides made by the international community as a whole and by individual nations to address global poverty levels and disempowerment, poverty remains the greatest primary obstacle hindering economic development in our world today.

## Economic development

*'As we are pursuing economic growth and economic development, we have to make sure it happens with and by and for everyone. That everyone gets opportunity.'* - Betsy Hodges, American Politician

Economic development refers to the process by which the overall health, wellbeing and academic level of the general population of a nation improves, as well as seeing improvement in technological advancements to which they have access. In essence, it concerns the qualitative improvement in the lives of a country's citizens.<sup>5</sup>

## Measuring the effectiveness of a law

*'It is a very easy thing to devise good laws; the difficulty is to make them effective'* - Lord Bolingbroke, English Philosopher and Politician

In the realm of international law, the effectiveness of law deals with the efficacy (observance) of laws, as opposed to the validity (binding force) of those laws.<sup>6</sup> In accordance with Hans Kelson's pure theory of law, a law could be deemed effective if, in practice, it was generally obeyed. Thus, a law is considered effective when the subjects of those laws actually comply with its provisions such that the objectives of the law are achieved.

## Laws protecting the rights of children

*'Children, after all, are not just adults-in-the-making. They are people whose current needs and rights and experiences must be taken seriously'* - Alfie Kohn, American Author and Lecturer

Given the significant role children play in the ultimate development of any society, there has been extensive adoption of laws on child protection, with the UN Convention on the Rights of the Child (the CRC) among the most widely ratified treaties in international law.<sup>7</sup>

### The CRC

The CRC is underpinned by four core principles: the child's freedom from non-discrimination;<sup>8</sup> the child's right to have his or her best interests upheld as the primary consideration in all decisions concerning him or her;<sup>9</sup> the right of the child to survival and to healthy development;<sup>10</sup> and the right of the child to have his or her views considered in taking decisions on matters concerning him or her. The CRC has been of great effect in that it has served as a guiding document for governments, policy actors and civil organisations working to develop policies and programs aimed at safeguarding the rights of children.

### The International Covenant on Economic, Social and Cultural Rights (ICESCR)

The International Covenant on Economic, Social and Cultural Rights (the ICESCR) highlights the importance of providing special protection to families as they carry out their responsibilities of nurturing and

educating their children. The law mandates that nation states and establishments with the power to influence laws and carry out law enforcement give priority to laws that offer special protection to children, affording protection from all forms of economic and social exploitation.<sup>11</sup> This underscores the guiding principles that should steer decision-making on passing child protection laws.

### ***The International Covenant on Civil and Political Rights (ICCPR)***

The International Covenant on Civil and Political Rights (the ICCPR), within its focus on civil and political rights, affirms the importance of protecting the family unit to create conditions for the positive development of children. It imposes a duty on states to protect children from broken homes and underscores the need to protect children from discrimination by the family, from society and the state.<sup>12</sup>

The World Conference on Human Rights' 1993 Vienna Declaration and Programme of Action describes these child protection laws as universal, indivisible, interdependent and interrelated, emphasising their significance and the consequent need for complete adherence by states.

### **How these laws have contributed to poverty reduction and economic development**

*'If we nurture the dreams of children, the world will be blessed. If we destroy them, the world is doomed!'*  
– Wess Stafford, Former President of Compassion International

### ***Protection of children against violence, injury or abuse***

International law gives an obligation to states to protect children within their territories from all forms of physical, mental or sexual abuse under parental care.<sup>13</sup> Violence can cause enduring trauma and has the added disadvantage of raising adults who may perpetuate the practice.

India, for instance, witnessed a surge in violence against children in recent years, prompting enactment of the 2012 Protection of Children from Sexual Offences Act and the 2015 Juvenile Justice Act. These instruments aim to protect young people from child abuse and establishes committees convened to address child safety concerns and to

prescribe penalties for offenders. Children in India are now better shielded from violence, fostering their improved physical and mental wellbeing. Such improved stability has contributed to better nurturing a more skilled workforce vital for driving economic development. As a result, India's economy saw poverty reduce by 14.97 per cent between 2015 and 2021, and, as of 2023, has one of the highest economic growth rates among G20 countries.<sup>14</sup>

### ***Protection of the child's right to an adequate standard of living***

Ensuring the child's right to an adequate standard of living involves providing children with the conditions necessary for their social, physical, moral and mental development to the extent possible.<sup>15</sup> Finnish law mandates that parents and guardians afford children the appropriate care and affection they need, an education tailored to the child's abilities, a safe environment conducive to their physical and emotional wellbeing, and other conditions essential to their positive growth.<sup>16</sup>

As a state that prides itself as being family-friendly, and remains highly committed to the child's welfare, Finland has reaped enormous benefits. The country's economy, reliant on services, manufacturing and the refining sectors, thrives due to its commitment to nurturing human capital from an early age.<sup>17</sup> In 2022, Finland recorded a GDP of €269bn which marked an €18bn increase from the previous year.<sup>18</sup> Finland remains the sixth-best performing country in the world and has enjoyed steady economic development as a result.

### ***The right to education***

Education remains a determinant of a country's economic growth. Advanced economies typically have high literacy rates, while less developed countries struggle in these areas. China, for example, is renowned for its commitment to childhood education with the government providing free compulsory education from elementary to high school levels.<sup>19</sup> China prioritises structural reform and is reported to have allocated a substantial 3.95 trillion yuan (about €503 billion) on public education in 2022, with a view to investing in human capital.<sup>20</sup> It is therefore no surprise that China ranked as the second largest world economy in 2023, and remains one of the fastest developing countries around the world.



### *Protection of the right of the child to enjoyment of the highest attainable standard of health*

Good health is fundamental if children are to benefit from other rights. Given its critical place in a child's wellbeing, healthcare holds significant importance among global economies. Sweden is a lead country in offering quality and accessible healthcare, financed through public taxes. This commitment leads to a healthy population that actively contributes to advancing Sweden's economic objectives. In the 2023 IMD World Competitiveness Ranking, Sweden ranked eighth. Evidently, this can be largely attributed to the vitality of its human resources.

#### **How these laws can be improved**

##### *Strengthening state agencies working to implement child protection laws*

Governments can improve existing laws by integrating child-rights protection initiatives into national economic growth strategies and reinforcing coordination mechanisms among agencies working to protect against child violence at both governmental and regional levels. To ensure the efficient working of these agencies, increased budget should be allocated to these efforts. Implementing tracking systems to monitor expenditures promotes accountability and prevents misappropriation. Additionally, establishing key performance indicators and periodic reporting requirements at the governmental level would prove useful in assessing the efficiency of child protection efforts.

##### *Promoting redress of child right violations through the court system*

While it is worth acknowledging that the UN Committee on the Rights of Children allows children to submit complaints on violations of their rights, states should show a greater commitment to creating child-friendly institutions accessible to children who perceive a violation of their fundamental rights. Upon proof of violations, victims should receive commensurate compensation from the perpetrators and, where necessary, be given access to rehabilitation programs. Publicising these court systems is important to inform children of available remedies and to demonstrate potential consequences as a deterrent measure.

### *Cooperating with relevant international initiatives*

Under the UN Charter, states are to collaborate with each other at the international level to achieve their international human rights objectives.<sup>21</sup> The UN Sustainable Development Goal 1 aims to eradicate world poverty by 2030, highlighting the urgent need for a concerted effort to address children's rights violations that hinder economic development. To combat violations within their territories, states should partner agencies such as the UN International Children's Emergency Fund to access the necessary technical support. International donor agencies offering financial aid should specify portions of aid that recipient states are to dedicate to child protection efforts, in order to enhance international oversight in this endeavour.

##### *Creating private institutions tasked to ensure compliance with child protection laws*

In most developing countries, particularly those in Sub-Saharan Africa, governmental institutions are weak and struggle to fulfil their duties effectively.<sup>22</sup> To ensure child protection in such states, responsibilities should be assigned relating to respecting, protecting and fulfilling child rights to non-governmental organisations, businesses and private societies. Private sector organisations should take on specific roles in child protection, to complement the inefficiencies of state agencies. To boost the effectiveness of such measures, however, states must institute strict monitoring requirements and provide compliance metrics for periodic review of these institutions' effectiveness.

#### **Conclusion**

A society that fails its children will have huge costs to bear. Protecting children's rights is thus important as children represent future human capital needed for a state's economic progress. While efforts made under international and municipal law to protect rights are commendable, their effectiveness hinges on the extent to which children actually receive the protections offered by these laws. Children need far greater protection than is afforded to them today. With laws existing at the international and state level, whether or not these

obligations have extraterritorial protections to safeguard against violations by overseas businesses remains a matter that needs urgent clarification. Until that is addressed, initiatives such as strengthening state child protection agencies, encouraging privatisation of child protection efforts, prioritising international cooperation and promoting justiciability of violations is a good starting place in addressing developmental challenges flowing from children's rights violations.

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# How effective have laws protecting the rights of children been to reduce poverty and support economic development? How could they be improved?

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## Introduction

Poverty has distinct manifestations, rendering a single, unified definition challenging. For this essay, however, poverty means destitution that withholds opportunities and the bare necessities for life from people.<sup>1</sup> The most effective means to reduce poverty and to raise living standards is economic growth. This is the conclusion of widespread

research, and pivotal to achieving the UN Millennium Development Goals.<sup>2</sup> From this, the effectiveness of laws promoting economic growth serves as a platform critical in the fight against poverty by protecting the rights of vulnerable groups, especially, for the focus of this paper, those of children. This essay explores how effective laws protecting the rights of children have been in reducing poverty and supporting economic development as well as how they could be improved.



## Children and their right to education

Both important international human rights instruments and, from these, domestic laws, have come to recognise children's rights to education. The UN's 1989 Convention on the Rights of the Child (the CRC) sets the right to education for children, with states party required to ensure the provision of at least a free primary education for its citizens while also supporting the availability of a quality secondary education.<sup>3</sup> With Malawi as an example of states party, the Constitution echoes these international instruments in upholding education as a fundamental right for all individuals.<sup>4</sup> Under the Constitution, the state is required to prioritise the welfare and progress of the Malawian people by enacting policies that allocate resources to the education sector.<sup>5</sup> These initiatives provide every citizen with free and mandatory primary education, directly combating illiteracy rates, working to improve access to higher education and opportunities for continuous learning opportunities.<sup>6</sup>

With a general perception worldwide that education is key to success (and, important to this paper, to escaping poverty), laws protecting children's rights to education are critical. Ensuring a child's right to an education is a pivotal means to achieve poverty reduction and support economic growth as it prepares future generations to earn a living and to actively contribute to society, a critical investment in building a skilled workforce and creating a more prosperous future for the country. As it is, education is an essential element in economic progress as it equips people with the skills necessary for their employment, thereby reducing poverty levels by providing economic opportunities.<sup>7</sup> Countries with low literacy rates often have deeper and more entrenched poverty. The illiterate are far less likely to be able to secure good job opportunities, putting escape from the strictures of poverty further out of reach. Conversely, countries with high literacy levels tend to see better access to quality employment, with lower poverty levels and improved general economic prospects. Education, as an accumulation of knowledge and abilities, best harnesses the productivity of individuals, improving economic development.<sup>8</sup> As such, laws safeguarding the right to education play a significant role in shaping a brighter economic landscape for generations to come.

The existence of laws upholding children's rights to education does not mean the right is always upheld. Among the ways in which the rights of the child to education remains unmet is discrimination in educational institutions. Article 1 of the UN Educational, Scientific and Cultural Organisation (UNESCO) Convention Against Discrimination in Education defines 'discrimination' as any act based on race, colour, sex, language, religion, or political opinion, that, *inter alia*, aims to undermine equality in education.<sup>9</sup> The definition specifies denying a person his or her right to education.<sup>10</sup> Discrimination in Malawian educational institutions has been seen in cases such as *Ex parte Mbewe and CHREAA*.<sup>11</sup> The 2023 case saw Rastafarian children denied education because they wore dreadlocks, a characteristic of their religious identity. The defendants' refusal to enrol Rastafarian children in their schools, citing a policy against dreadlocks, raised concerns about infringement of the children's right to an education based on discriminatory criteria. The case presents one example of how discriminatory practices can present hurdles to enjoyment of the right, the existence of the laws notwithstanding.

## Child labour laws

Child labour laws serve as essential tools in society in protecting children and guaranteeing their wellbeing. In combating issues of child labour, international agreements such as the International Labour Organisation (ILO)'s Conventions Nos 138 and 182 hold that states must respect, promote, and realise the abolition of child labour, even if they have not ratified the Conventions in question.<sup>12</sup> Similarly, countries have also adopted legislation to prohibit and restrict the employment of children. As a country, Malawi addresses the issue of child labour practices through its Employment Act which has strict regulations against child labour.<sup>13</sup> The legislation prohibits any person under age 14 from working in public or private sectors, or engaging in hazardous work endangering their health, safety, education, or development. The Act gives the Minister, in consultation with relevant national organisations, the authority to designate occupations or activities deemed potentially harmful, to further safeguard young persons from detrimental work environments or



practices. Such laws are a crucial framework in collectively enforcing age restrictions, prohibiting hazardous work, and empowering authorities to safeguard children, ensuring global and national commitments to eradicate child labour and protect children's wellbeing.

The effectiveness of child labour laws not only concerns society as a pure issue of rights but addresses economic issues more broadly. As it is, the engagement of children in labour activities does not necessarily require them to have the appropriate skills for the job, fostering the rapid increase in unskilled labour. With unskilled labour, where child labour predominates, competition wars result in lower wages when a high number of people are prepared to take any rate offered.<sup>14</sup> This perpetuates poverty since child labour lowers salaries, which further limits competitive opportunities and exacerbates poor households' financial deprivation. The adoption of skill-intensive technology is also hampered by the overwhelming majority of low-wage, unskilled labour, impeding economic growth.<sup>15</sup> Upholding child labour laws in prohibiting their employment may serve to foster economic growth. By restricting the employment of children, such laws play a role in encouraging adoption of skill-intensive technologies, fostering a more skilled labour force, and promoting economic growth in distinct sectors.

The implementation of laws safeguarding against child labour practices is not without its weaknesses. Child labour levels are often higher in remote areas especially where farming is exercised extensively. For instance, UN research has pointed to ongoing child labour issues in the tobacco industry in Malawi. According to the research, the remote locations of tobacco farms limit the effective reach of child labour laws with over 300,000 children typically involved in levels of manual labour.<sup>16</sup> The prevalence of child labour in remote areas, such as in Malawi's tobacco industry, reflects a systemic challenge. Children working in the tobacco industry are denied enjoyment of their right to education, inhibiting their ability to develop skills and deepening levels of poverty. As previously observed, child labourers also adversely affect the labour market by increasing the number of unskilled workers and ultimately impeding economic growth.

### Alternatives in improving the effectiveness of the laws

To eliminate discrimination, an obstacle encountered in enforcing laws protecting children's rights to education, governments and other authorities should enforce policies that promote equality and that outlaw discriminatory practices present in educational institutions. This can be realised by raising awareness about the adverse impacts of discrimination, engaging in sensitisation programs for educational administrators, enhancing a culture of diversity and acceptance. Professionals working with children need to understand the right to non-discrimination and the implications of any legislation or policies related to this.<sup>17</sup> In the *Ex parte Mbeve and CHREAA*<sup>18</sup> case, for instance, such awareness could work to inform stakeholders in the education sector about religious freedom, sensitising them to religious differences. This knowledge may prompt a reconsideration of school policies that inadvertently discriminate against students based on religious or cultural practices, ensuring fair and equal treatment for all children. Ultimately, fostering a culture of acceptance and understanding within educational institutions can prevent similar instances of discrimination and uphold a child's right to education, irrespective of their background or beliefs.

Combating the challenges that restrict application of child labour laws demands an holistic approach, with enacting initiatives aimed at improving rural livelihoods and incomes a key solution, aware that many children engaged in labour are unpaid family workers in such settings.<sup>19</sup> As witnessed in distinct rural areas, children are often unpaid family labourers in rural farming communities, assisting with daily farm chores without financial compensation. Children that help their families with agricultural tasks, such as planting and harvesting crops or caring for livestock, may be essential to the family's financial viability as the families do not share the burden of employing those suitable for the work owing to the family's financial constraints. By ensuring fair prices for agricultural produce and improving the viability of family enterprises, families can reduce dependence on child labour.<sup>20</sup> In the context of tobacco farms, where remote locations exacerbate child labour issues, empowering families economically



is important. Sustainable agricultural practices, fair trade initiatives, and support for small family farms can significantly assist in breaking the cycle of child labour by providing alternative means of income. This approach aligns with the perception that economic stability is essential in eliminating the root causes of child labour, establishing an environment where families are not compelled to rely on their children's unpaid work for economic survival.<sup>21</sup>

## Conclusion

In a nutshell, laws safeguarding children's rights to education and combating child labour are important instruments in the battle against poverty and for economic development. Despite their effectiveness, limitations such as discrimination and economic pressures persist. To enhance their impact, a comprehensive approach involving inclusive education policies and economic empowerment initiatives is essential. By addressing these challenges collectively, societies can nurture educated, skilled, and empowered future generations, enhancing sustainable development and breaking the cycle of poverty.

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# How effective have laws protecting the rights of children been to reduce poverty and support economic development? How could they be improved?

*Award sponsored by Travers Smith*

## Introduction

Child rights have gained in importance over the years, with a majority of countries supporting their recognition and

enforcement. The 1989 UN Convention on the Rights of the Child (CRC) is a key instrument in this area. It is a legally binding international agreement defining age parameters and setting out civil, political, economic, social and cultural rights for all children. The CRC seeks to protect young

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persons from harm, to provide for their growth and development, and to empower them for full participation in society. The CRC is one of the most widely ratified human rights treaties, testament to the significance of children's rights and the need for them to be protected. This essay analyses the effectiveness of how laws protecting children's rights have helped in poverty reduction and how more generally they support economic development. Lastly, the essay will suggest ways in which such laws can be improved.

According to CRC Article 1, a 'child' is defined as human beings below the age of 18.<sup>1</sup> That is to say, every human being up to the age of 18 is protected by the provisions of the CRC. The only predicate requirement to its enforcement is that countries must ratify the Convention giving its assent to being bound by its provisions. In ratifying, the country assumes an obligation to take appropriate legislative, administrative, budgetary, judicial and other measures to ensure the full realisation of children's rights within its borders.

Poverty, according to the UN, goes deeper than just the lack of income and productive resources to ensure a sustainable livelihood; it is a situation characterised by the severe deprivation of basic human needs such as limited access to food, clothing, and shelter as well as education, healthcare, and other necessities. Poverty typically extends to a lack of security, to engrained powerlessness and the exclusion of individuals, their households and even communities from social integration. Children in particular are among the most vulnerable groups in society and can face exploitation and suffer educational gaps from poverty. The adoption of the CRC was a watershed commitment made by world leaders to all children in the world to recognise, protect and promote their rights.

It is important to fully understand the definition of economic development for this paper. The UN defines 'economic development' as the wider process by which a country improves the general economic, political, and social wellbeing of its people. It involves increasing the availability of goods and services, creating jobs, and improving living standards. The UN also emphasises that economic development should be sustainable, meaning that development should not come at the expense of future generations.

## The effectiveness of laws

A major contribution in which laws protecting the rights of children have helped in poverty reduction and in supporting economic development is through better empowering the poor. Such laws have, for example, provided for a basic right to education to be made available to all without discrimination. This right aims at the full development and dignity of each person which in turn enhances the ability of each person to achieve an adequate standard of living and to effectively participate in society. Where a child is given an opportunity to acquire a quality education, the benefits go beyond just acquiring knowledge. A quality education also imparts and develops skills relevant to real life situations. As such, empowering a child by providing them with an education is a critical aid in reducing poverty levels and improving economic development including in the following ways: first, providing an education to a population helps in the protection of other human rights; second, an educated society is critical to the country's economic growth and development.

Two principles governing the CRC are non-discrimination and equality of persons. There is little doubt that the poor are frequently marginalised and may, in many cases, experience social exclusion, discrimination and inequality. Poverty can arise from a combination of economic deprivation and social-cultural factors such as ethnicity, colour, religion, hierarchy and gender. Discrimination in and of itself may cause poverty by depriving groups of access to resources whether because of their race, religion, geographical distance or other reasons leaving them with little to sustain their lives let alone develop them meaningfully.<sup>2</sup> Laws protecting children's rights have acted as an important tool to lift children all over the world out of poverty, including by seeking to eliminate discrimination against them. CRC Article 2 provides that states party to the Convention shall respect and ensure that the rights set out are granted to each child in their state without discrimination irrespective of the child's race, colour, sex, language, religion, political or other opinion.<sup>3</sup> Child rights are to be upheld on an equal basis without discrimination. These laws put an obligation on the duty bearer to try to eliminate discrimination in policy-setting and



with other measures they take in fulfilling children's rights. The laws do not guarantee that children will succeed at the same rate as each other as people have different abilities; but that the opportunities will be presented at an equal level.

Child rights laws have helped in raising awareness of the effects of some practices on a child's wellbeing. One example is that of child marriage, involving any formal or informal marriage between a child under the age of 18 and an adult or, in other cases, even to another child. Marriage can be profoundly damaging to a child's life as well as, more broadly, to a country's development. Marriage effectively ends a person's childhood years and introduces them to experiences for which they may not yet be ready. Married children tend to live in isolation and to participate less in society. Early marriages can deprive children of their human rights such as their rights to education, health, safety and participation. They can perpetuate conditions of poverty with affected children being robbed of their rights to grow and learn in a safe environment and to realise their full potential. Without basic educational tools, children are disempowered, especially in developing countries with limited economic opportunities. Child marriages are likely not to end the circle of poverty for them or their future generation.

The CRC also introduces the principle of the best interests of the child. The Convention emphasises that a child's best interest is of paramount importance in decisions affecting the child. From this early marriage is often not in a child's best interest given the limitations to the child's welfare and personal development normally attendant on becoming married at a young age. Laws have recognised the challenges and the effects such practices have on children and have strived to act as a tool for change. States party to the Convention have raised issues of the limitations of child marriage including in remote areas. Policies such as Zambia's re-entry policy for girls who fall pregnant in or out of marriage are allowed back to school is an example of states party's adopting means to uphold the Convention's aims.

Even living in poverty may itself be a violation of a person's human rights. For instruments to provide for social, economic and cultural rights for all persons, the lack of essential food, social security, education

and healthcare can be in violation of important provisions. As such, the laws adopted have stood as tools for protection and social change. They have fostered change in human interactions which cut across social institutions, behaviours and cultures. In prior eras when people laws in this area were less well developed and people had limited information about children's rights, certain practices and acts detrimental to a child's wellbeing were regarded to be normal and permissible. In many African households for example, children may be made to work in farms and to contribute to the family's income. In some parts of Africa female genital mutilation is still seen as a normal or upheld as a traditional practice. Both such practices would arguably be a limitation to a child's wellbeing and hinder their full development, many times perpetuating the children to live in poverty. Laws protecting child rights have acted as a protective measure against practices that cause harm to children. Such laws have recognised that children have a right to survival and to development, to protection from abuse and neglect, to protection from sexual exploitation, freedom from torture and the deprivation of liberty. These laws have contributed and helped in influencing how people think and increased the need to protect children from harmful practices. In cases where there is a consequence for acts that violate children's rights people are more inclined to refrain from such acts.

### **How laws protecting child rights and encouraging economic development can be improved**

Laws protecting the rights of children have without doubt played a role in reducing poverty and supporting economic development yet there is still a lot of room for improvement. A country's lack of resources or finances should not be used as an excuse for its failure to uphold the rights of the child. Many developing countries use the lack of available resources as a defence for their failure to promote and respect children's rights. Countries should be encouraged however to include upholding human rights in their budgets. The formulation, approval, execution and auditing of the national budget should reflect human rights principles. Another way is by strengthening the implementation and enforcement of laws that protect children's rights such as

by making all children's rights justiciable in order to strengthen their enforcement. When children's rights are made to be legally enforceable through the court system, it gives room for proper redress in cases of their violation. Making these rights justiciable will help in holding states accountable for actions or in actions to the international community.

Adopting these steps will in turn help with the better realisation of children's rights by the duty holder, expanded where such laws are comprehensive enough to cover all aspects of a child's life extending to health, education and appropriate levels of nutrition. Additionally, laws should be specific in identifying different groups of children with specific needs such as children with disabilities or those living in war-torn countries. Different groups of children will have different needs so it is important to take into consideration these differences when laws are being made. Children should also be involved in developing and implementing these laws. This will improve the quality and legitimacy of these laws and better ensure that the laws reflect real interests of specific

groups of children. These laws are made to protect children so it is important that they reflect their views and ideas.

### Conclusion

In summary, laws protecting children's rights have been relatively effective in poverty reduction by setting standards to empower the poor, eliminate discrimination, raise awareness on challenges faced and have acted as a tool for social change. However, more could be done to maximise the effectiveness of these laws as outlined herein and the world is on the path of continuous improvement through future laws being adopted for yet greater sensitisation. It remains the collective responsibility of every individual to realise these important principles.

### Notes

- 1 See, The United Nations Convention on the Rights of the Child.
- 2 UN Committee on Economic, Social and Cultural Rights, *Opit.* at note 5, para 11.
- 3 See, The United Nations Convention on the Rights of the Child.

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# How effective have laws protecting the rights of children been to reduce poverty and support economic development? How could they be improved?

*Award sponsored by Travers Smith*

### Introduction

The relationship between child rights, poverty, and economic development is largely interdependent. Protecting the rights of children is critical to fostering social progress, reducing inequality, and promoting sustainable economic development. Laws protecting children's rights have shown positive impact in reducing poverty and supporting economic development. Ensuring a child's access to quality education through legislation, for instance, promotes human capital development, enabling children to

acquire the skills and knowledge necessary for their future economic participation. Similarly, laws against child labour contribute to poverty reduction by eliminating exploitative work and ensuring children receive education and proper healthcare. Yet despite their positive impact, laws protecting children's rights face challenges in implementation and enforcement.

This essay explores the effectiveness of laws aimed at safeguarding children's rights in addressing poverty and in supporting economic development. It also examines potential improvements to enhance their impact.



## **The nexus between child rights, poverty, and economic development**

The nexus between child rights, poverty, and economic development is a complex and interconnected issue.<sup>1</sup> There is substantial evidence to suggest that child rights, poverty reduction, and economic development are mutually reinforcing in that upholding the rights of the child fosters the reduction of poverty and improved development.<sup>2</sup>

Child rights refer to the entitlements and protections afforded to children based on the UN Convention on the Rights of the Child (CRC) along with other international human rights standards.<sup>3</sup> These rights include, but are not limited to, the rights to survival, to development, to protection, and to participation. Ensuring the fulfillment of child rights is crucial for the overall wellbeing and development of children.

Poverty, on the other hand, is a multidimensional concept that encompasses more than just income or material deprivation.<sup>4</sup> It is often characterised by insufficient, limited access to basic necessities such as food, clean water, healthcare, education, and shelter. Poverty can have severe consequences for children as it severely limits their opportunities, can expose them to exploitation and abuse, and hampers their physical, cognitive, and emotional development.

Economic development refers to sustained increases in economic growth and improvements in living standards. When economies grow and living conditions improve, it creates a favourable environment for poverty reduction and the realisation of child rights. Economic development can provide opportunities for income generation, employment, and social protection, vital for lifting families out of poverty and improving the wellbeing of children.

The relationship between child rights, poverty, and economic development is cyclical and interdependent.<sup>5</sup> On the one hand, poverty can hinder the full realisation of a child's rights. Children from impoverished homes for example are more likely to suffer malnutrition, to lack access to quality education, and to be exposed to hazardous working conditions. Such factors can perpetuate poverty by limiting children's potential and thereby their future prospects. Conversely, taking steps to fulfil child rights and investing in their wellbeing can contribute to poverty reduction and to

economic development. Children who have access to quality education, to healthcare, and to social protection are more likely to grow into productive and economically active adults. Investing in children's development can lead to a more educated and skilled workforce, increased productivity, and improved economic outcomes in the long run.<sup>6</sup>

Addressing the rights of children and poverty together moreover can have a multiplier effect on development. For instance, interventions that focus on reducing child mortality, improving nutrition, and enhancing access to education can yield significant social and economic benefits. Healthy and educated children are more likely to break the cycle of poverty, to contribute positively to a country's economic development, and to actively participate in society.<sup>7</sup>

## **How effective have laws protecting the rights of children been to reduce poverty and support economic development?**

Laws protecting children's rights have seen positive impact in reducing poverty and supporting economic development across countries.<sup>8</sup> Access to quality education through legislation promotes human capital development, for example, enabling children to acquire the skills and knowledge necessary for their future economic participation. Additionally, laws against child labour contribute to poverty reduction by prohibiting exploitative work and ensuring children receive education and proper health care.<sup>9</sup>

In Bangladesh, the Bangladesh Education Act of 1990 made primary education free and compulsory for all children within its borders.<sup>10</sup> This legislation increased school enrolment and greatly improved literacy rates, reducing poverty and contributing to economic development. Similar success stories can be found in countries such as Brazil where legislation providing cash transfers to poor families, contingent on a child's school attendance, significantly reduced poverty rates and improved economic indicators.

Despite their positive impact, laws protecting children's rights face challenges and limitations in their implementation and enforcement.<sup>11</sup> In some regions, inadequate resources, weak institutional capacities, and cultural barriers hinder the effective implementation of these laws. Socio-

economic disparities further exacerbate the challenge of ensuring equal protection for all children, particularly those from marginalised communities who lack access to legal remedies and essential services.

Laws protecting the rights of children have proven to be effective in reducing poverty and supporting economic development.<sup>12</sup> By focusing on education, eradicating child labour, ensuring health and wellbeing, providing social protection, addressing discrimination, and promoting a long-term economic impact, such laws foster an environment that nurtures children's potential and helps to break the cycle of poverty. However, sustained effort is required to strengthen the implementation and enforcement of these laws, as well as addressing new challenges that arise in an ever-changing world. By prioritising children's rights and investing in their wellbeing, societies can lay a solid foundation for sustainable economic development and create a brighter future for all.

Poverty is a complex and multifaceted issue that has far-reaching consequences for societies as a whole. In the pursuit of building a more equitable, inclusive, and prosperous societies, addressing poverty is paramount. By alleviating poverty and implementing laws protecting the rights of children, societies can create an environment conducive to reducing disparities, enhancing inclusivity, and fostering economic development.

### **How could laws protecting children's rights be improved?**

Laws protecting the rights of children can be improved in several ways to enhance their effectiveness and ensure better outcomes for children. Below are some strategies that can be implemented.

#### ***Strengthening legal frameworks***

Comprehensive legislation should include clear definitions, legal remedies, and strong enforcement mechanisms.<sup>13</sup> It is imperative that child rights legislation align with international conventions, national constitutions, and other relevant legal instruments.

#### ***Ratifying and implementing international conventions***

Countries should ratify and implement international conventions such as the CRC.<sup>14</sup>

This treaty sets out a broad range of rights for children and provides a solid foundation for legislative efforts to protect children's rights.

#### ***Addressing legal loopholes***

Laws should be reviewed to identify and address loopholes that may inadvertently undermine children's rights. This could involve a thorough examination of existing legislation and making necessary amendments to ensure comprehensive protection for children.

#### ***Enhanced protection against violence and abuse***

Legislation should prioritise the prevention of child abuse and violence in all forms, including physical, sexual, and emotional abuse. Laws should promote early reporting, investigation, and prosecution of offenders, while also providing appropriate support and rehabilitation for child victims.

#### ***Investing in implementation and enforcement***

Governments should establish robust monitoring mechanisms to ensure the effective implementation of child rights laws.<sup>15</sup> This may involve creating specialised bodies, such as ombudsmen or commissions for children's rights, to oversee the implementation, receive complaints, and investigate violations. Additionally, governments should strengthen enforcement mechanisms to hold violators accountable and provide timely and appropriate remedies for children whose rights have been infringed upon.<sup>16</sup>

#### ***Promoting awareness and education***

Public awareness campaigns and education programs can empower children, families, and communities about child rights. Investing in education and awareness raises consciousness about the value of protecting children's rights and highlights the role of these rights in poverty reduction and economic development.

#### ***Enhancing coordination and collaboration***

Multi-sectoral collaboration between government agencies, non-governmental organisations and international organisations



is essential for comprehensive child rights implementation.<sup>17</sup> Cooperation ensures coordinated efforts and the sharing of expertise and resources. Governments should also collaborate with international organisations, regional bodies, and other countries to share best practices, experiences, and expertise in the field of child rights. International cooperation can help strengthen legal frameworks, address cross-border challenges, and leverage resources and support for the effective implementation of child rights laws.<sup>18</sup>

### *Monitoring and evaluation*

Establishing mechanisms for monitoring progress, evaluating impact, and conducting research is critical. Regular evaluation helps identify gaps and challenges in child rights implementation, facilitating evidence-based policy and law reform. This ensures accountability and provides an opportunity to identify areas for improvement.

### *Participation of children*

Governments should actively promote and facilitate the meaningful participation of children in matters that affect them.<sup>19</sup> This includes providing platforms for children's participation in decision-making processes, consulting them on policy development, and involving them in monitoring and evaluation activities. Ensuring that children's voices are heard and respected strengthens the effectiveness and relevance of child rights laws.

### *Adequate resource allocation*

Governments should allocate sufficient financial and human resources to implement and enforce child rights laws effectively. This includes investing in areas such as education, healthcare, child protection services, and social welfare programs to ensure that children's rights are adequately supported and protected.

### *Capacity building*

Governments, judicial systems, and relevant institutions should invest in capacity-building initiatives to enhance the knowledge and skills of professionals working in the field of child rights.<sup>20</sup> This includes training judges, lawyers, social workers, and law enforcement personnel on child rights issues, child-

sensitive approaches, and best practices in child protection.

### *Strengthening support for children in conflict and crisis situations*

Laws should prioritise the protection and support of children affected by armed conflict, displacement, and humanitarian crises.<sup>21</sup> This includes measures to prevent the recruitment of children into armed forces, ensure access to education and health-care in emergency situations, and provide psychosocial support for trauma-affected children.

### *The integration of children's rights into business practices*

Laws should encourage responsible business practices that prioritise children's rights. This includes holding businesses accountable for their impact on children throughout operations and supply chains. Legislation can require companies to conduct due diligence to identify and address child rights risks and establish mechanisms for remedy and accountability.

### *Strengthening accountability and remedies*

Laws should establish mechanisms for accountability and remedies when children's rights are violated.<sup>22</sup> This includes providing accessible and child-friendly complaint mechanisms, ensuring effective investigations, and providing appropriate redress and support for affected children.

### *Case study*

In Costa Rica, the Children and Adolescents Code of 1998 consolidated child rights legislation, emphasising the rights to education, health, and protection from violence. This legislation, coupled with investment in education and healthcare systems, helped Costa Rica achieve social development, poverty reduction, and economic growth.

Similarly, in the state of Kerala, India, the state government's focus on child rights and social welfare resulted in significant improvements in child health, education, and protection. The implementation of maternal and child health programs, quality education initiatives, and legal measures



against child labour contributed to poverty reduction and economic development.

### Conclusion and recommendations

In conclusion, laws protecting the rights of children have the potential to play a significant role in reducing poverty and supporting economic development. While they may not directly address economic issues, they create an enabling environment for children's wellbeing, education, and overall development, which can have long-term economic benefits. By ensuring access to education, promoting health and nutrition, regulating child labour, providing social protection, and safeguarding children from abuse and exploitation, such laws contribute to breaking the cycle of poverty and enhancing economic prospects.

The effectiveness of such laws however depends on their implementation and enforcement. To improve their impact, a number of measures can be considered. First, adequate resources and infrastructure are needed to support the implementation of these laws, including investment in education, healthcare, and social protection programs. Additionally, monitoring mechanisms should be strengthened to ensure compliance and address any gaps or challenges that arise. Public awareness campaigns can also help promote understanding and support for children's rights, leading to increased compliance and accountability.

An holistic approach is moreover necessary to address the root causes of poverty and inequality. Laws protecting children's rights should be complemented by broader socio-economic policies that address issues such as income inequality, access to quality healthcare and education, and job creation. By adopting an integrated approach, governments and policymakers can maximise the impact of child rights laws on poverty reduction and economic development.

In general, while laws protecting the rights of children have shown promise in reducing poverty and supporting economic development, sustained effort is needed to improve their effectiveness. By addressing implementation challenges, allocating sufficient resources, strengthening monitoring mechanisms, and adopting a comprehensive approach, societies can create

a more favourable environment for children's wellbeing, break the cycle of poverty, and foster sustainable economic growth.

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# How effective have laws protecting the rights of children been to reduce poverty and support economic development? How could they be improved?

## *Award made in honour of Carolin Crabbe*

Implementing laws to protect the rights of children, reduce poverty and support economic development has presented steep challenges globally as poverty remains entrenched in many regions in the world, hampering efforts at economic development. Notwithstanding near-universal support for child rights laws, their implementation has lagged. Many laws implemented duly provide access to education, protection from abuse, violence, healthcare, discrimination and child labour; yet in practice the protected practices continue suggesting an ongoing need for greater attention to enforcing the rights.

The UN Convention on the Rights of the Child (CRC)<sup>1</sup> is an example of an international agreement formulated to protect children's rights that has been adopted and domesticated by most countries worldwide. The CRC looks to the provision of healthcare, education, upholding the best interests of the child, the protection of disabled children and other important rights. Despite its aims, however, the instrument is not without its limitations. Education, for example, has proved to be a controversial issue, including the concern that a state could prevent parents from educating their children in accordance with their religious beliefs.<sup>2</sup> Underlying factors suggest that the CRC seeks to outlaw the authority of parents on their children and conflict

with the religious beliefs of some nations. Further, the Convention does not prioritise the rights it protects: a careful reading of the treaty reveals internal conflicts between provisions.<sup>3</sup> Inasmuch as laws have been created identifying issues, states nonetheless draft their implementing laws in a manner that may yet disadvantage children and perpetuate poverty levels in the particular state. The presence of such inherent conflicts between provisions also limits states' capacities with the result that not all rights can be realised immediately or in the near term. Alternatively, rights could be realised progressively and subject to the availability of resources in the particular states until full realisation is achieved.

Therefore, it is suggested that to address these concerns and reduce poverty levels and improve economic development state compliance should be proscriptively evaluated. This evaluation may be conducted by an independent body of individuals well versed in what is required by the states party, and who may hold a state to account and require it to adhere to international standards of a child's interests. Monitoring bodies may employ peer reviews in this evaluation looking to have states monitor fellow states in carrying out such reviews. This can be done through periodic reports and holding regular meetings set up to confer with each other on ways in which improve their sustainability and enhance their economies. Through such dialogue states may learn means of improving

their economies and raising revenue from each other, what weakens an economy, and how best to uphold laws particularly those in relation to children. Such collaboration and engagement can also be encouraged not only at the international level but at the state level as well. Lawmakers, community organisations and affected individuals could work collaboratively to develop and implement laws that effectively address the root causes of child poverty. Community involvement can also help in tailoring the laws to best fit the needs and circumstances of specific populations.

Another means of improving laws on protecting children's rights and supporting economic development is that policymakers and lawmakers can offer support in formulating legislation. This entails that legislation involve an holistic approach to tackling economic, social and healthcare challenges impacting children and families living in poverty. This may include access to affordable housing, healthcare, nutrition assistance, education, and childcare supporters. Ramcharan (formerly an Acting UN High Commissioner for Human Rights) however writes as follows:

'However, in drafting such policies states must take into account international agreements that are ratified concerning the best interests of the children and their rights, which serve to remind them that as a minimum they should avoid policies and practices that make it more difficult for the government to conform to treaty obligations it owes to individuals and groups within its jurisdiction. Moreover, these groups should help their government realize its international treaty obligations.'<sup>4</sup>

An important aspect in dealing with any rights is that of accountability. Former President of Ireland and High Commissioner for Human Rights Mary Robinson recently argued that 'The defining attribute of human rights in development is the idea of accountability [...] All partners in the development process local, national, regional and international must accept higher levels of accountability'.<sup>5</sup> As properly identified in the international sphere, mechanisms have been adopted that comprise a framework engineered to prevent the misuse of authority exercised by those entrusted with ensuring that human rights are protected and it is thus on this basis that leaders, non-governmental organisations, governments and institutions

tasked with the responsibility must be made accountable in the manner in which they handle international children's rights and laws relating to poverty reduction. To put this suggestion into greater perspective, Bertrand Ramcharan further stated that:

'While duty-holders must determine for themselves which mechanisms of accountability are most appropriate in their particular case, all mechanisms must be accessible, transparent and effective. There is an important difference between judicial and non-judicial mechanisms of accountability. In the context of poverty reduction strategies, international human rights law requires effective mechanisms of accountability, but it does not require judicial mechanisms of accountability. In other words, while there is a binding legal obligation to establish accountability mechanisms, they need not necessarily involve the courts. Broadly speaking, there are four categories of accountability mechanisms: judicial, quasi-judicial, administrative and political. In relation to a particular jurisdiction, there will be a range of accountability mechanisms regarding its national poverty reduction strategy. Just as the forms of accountability mechanisms will vary from one jurisdiction to another, so will the appropriate mix of mechanisms. In most jurisdictions, however, there will be examples from each of the four categories of accountability mechanisms. Regarding accountability and poverty reduction strategies, there are three key questions. First, in relation to a particular duty-holder, are there accessible, transparent and effective mechanisms of accountability? Second, looking at the jurisdiction as a whole, are there accessible, transparent and effective mechanisms of accountability within that jurisdiction? Third, are the mechanisms of accountability accessible to the poor?''<sup>6</sup>

What Ramcharan seems to suggest is that there is more than one means of holding dutyholders accountable besides the judicial process, and such means may be more effective as it is common knowledge that court proceedings are often lengthy sometimes to the frustration of the issue needing resolution. Other forms of accountability may be more effectively



employed.

Inclusivity is a further aspect often mentioned with the suggestion that an effective means to involve affected children globally is by promulgating legislation affecting them. This can be done through giving children, their legal guardians or childcare supports a voice such as through an annual community outreach that would basically include surveys of how children's rights are being promoted, whether they have adequate access to healthcare and social welfare as well as access to good education. This may be conducted in a manner similar to how ballots are lodged giving them options to select areas that can be improved; for example, where healthcare is provided in principle but is not accessible due to an insufficient number of hospitals in the country, the hospitals are under-staffed which may lead to long wait-times to get access to the healthcare facility, or the appropriate medicines are not available. Such outreach can highlight areas that require attention and provide a means to work on weaknesses.

To realise children's rights and reduce the effects of poverty afflicting them governments should prioritise social protection programmes. Government budgets for social protection are limited in most regions, and there is a lack of human resources needed to run effective social protection programmes. Social services are limited or unavailable, especially in rural areas. Families who do not receive enough support to keep children with disabilities at home are more likely to place them in institutions. Those who should benefit from social protection face barriers such as bureaucratic processes and lack of information about entitlements and programmes.

Social protection benefits and services have remained fragmented and siloed, translating into children and families not receiving the integrated support they

need to overcome multiple challenges and vulnerabilities. To improve on this, states should develop special services aimed at providing the most vulnerable children and families with the extra support and care they need. This includes day care and respite for the families of children with disabilities, family support and counselling, and support to help children leaving care to make the transition to an independent life. An effective social protection system integrates such services with cash benefits and tailored case management to provide a strong support system for vulnerable families and children.<sup>7</sup>

## Conclusion

In conclusion, poverty still inhibits countries around the world and limits the full realisation of children's rights, such that more needs to be done for states to give practical effect to upholding children's rights and in reducing poverty through the suggested methods such as peer review, inclusivity, accountability mechanisms and social protection.

## Notes

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# How effective have laws protecting the rights of children been to reduce poverty and support economic development? How could they be improved?

*Award made in honour of Daniella Geller*

*'The opposite of poverty is not wealth. The opposite of poverty is justice.'*<sup>1</sup>

## Introduction

This essay paper endeavors to critically examine the legal framework establishing and upholding the rights of children and its effectiveness in reducing poverty and supporting economic development. It will point out that there have been important developments in the protection of children's rights, starting with the 1948 Universal Declaration of Human Rights (UDHR)<sup>2</sup> that recognised poverty as a human rights concern as affirmed by the UN General Assembly and its Commission on Human Rights<sup>3,4</sup>. This essay will provide insight into how child protection laws contribute to poverty reduction and thus impact economic development along with how they can be improved.

## Who is a child and the evolution of children rights

Every human being below the age of 18 is considered a child.<sup>5</sup> Historically, adults were the only persons in society with rights and children were treated paternally. It has been argued that children cannot be responsible for their own welfare as they lack capacity to understand their present and future interests.<sup>6</sup> Showing an evolution over time, different philosophers like John Locke, Thomas Hobbes and John Rawls justified that children are a class of beings who are entitled to rights.<sup>7</sup>

The 1924 Geneva Declaration of the Rights of the Child<sup>8</sup> was adopted by the 5th Assembly of the League of Nations,<sup>9</sup> followed by the 1959 Declaration on the Rights of the

Child, the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, each legal instrument important but non-binding. In 1989, the UN General Assembly adopted the landmark Convention on the Rights of the Child (CRC) which established rights for children under international law, both in its text and that of its three optional protocols: the Optional Protocol on the Involvement of Children in Armed Conflict; the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography; and the Optional Protocol to the CRC on a Communications Procedure.

Following the CRC, in 1979 the Organisation of the African Union (OAU) adopted its Declaration on the Rights and Welfare of the Child. In 1987, the African Network for the Prevention and Protection against Child Abuse and Neglect (ANPPCAN) proposed a further treaty for children's protection specific to the African continent. This was supported by African countries following concerns that only four African countries – Egypt, Senegal, Morocco and Algeria – had participated in drafting the CRC and that a treaty to benefit African children was needed since earlier instruments were limited in their application to children who found themselves under colonial rule or under apartheid, and had not delineated responsibilities for children, among other issues.<sup>10</sup>

## The nexus between children's rights, poverty and economic development

To draw a nexus between child rights, poverty and economic development, it is important to understand what poverty and economic development mean.

According to the UN Committee on



Economic, Social and Cultural Rights<sup>11</sup>, poverty was defined in the International Bill of Rights as: 'a human condition characterised by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights'. Those who are poverty stricken frequently lack access to essentials of life like healthcare, healthy food, safe housing, and clean water.<sup>12</sup>

Economic development generally means improving the standard of living of people. According to Todaro and Smith, economic development can be perceived as both a physical reality and as a state of mind in which society has secured the means to live a better life through a combination of social, economic, and institutional processes. Todaro and Smith further state that these three goals should figure in societies' development agenda: to improve standards of living by creating more jobs, providing better education, and exhibiting greater attention to cultural and environmental concerns, in addition to higher incomes; to expand access to and distribution of necessities of life such as food, shelter, health care and security; and finally to increase the variety of economic and social activities available to individuals and nations thus liberating them from servitude and dependence not only on other people and nation states, but also on forces of ignorance and human misery.<sup>13</sup>

Williams LA and others state that to better understand poverty and its root causes and the 10 million annual premature child deaths, the legal and institutional structures that perpetuate income and wealth inequalities in the society cannot be overlooked.<sup>14</sup> Finally, to better understand the nexus between child rights and poverty, CRC Articles 26 (the right to social security benefits) and 27 (the right to an adequate standard of living) are instructive. Children have the right to assistance from the government, which is responsible for enacting laws and establishing policies that support a reasonable quality of life and providing access to social security services, thereby reducing poverty and thus impacting economic development.<sup>15</sup>

## **The effectiveness of laws protecting the rights of children in reducing poverty and supporting economic development**

This part focuses on the international framework on protection of the rights of children and its effectiveness in reducing poverty and supporting economic development.

The CRC, as the primary international law on children rights, outlines five core principles as follows: the right to life, to survival and to development; the right to non-discrimination; the right to the best interests of the child; the right to respect of the views of the child; and the right to an adequate standard of living and social security. As the Convention<sup>16</sup> does not expressly provide for a human right to freedom from poverty, the link must be made by pointing to the severe deprivation of essential human needs characteristic of poverty to show that poverty is in fact captured.<sup>17</sup>

The African Charter on the Rights and Welfare of the Child (ACRWC) is another instrument promulgated in its case to give effect to the rights of children on the African continent. Both of these laws have been instrumental in protecting the rights of children, and their effectiveness in reducing poverty and supporting economic development is discussed below.

### *Improved access to education*

Both the CRC<sup>18</sup> and the ACRWC<sup>19</sup> provide for the right to education for every child. Education is a cornerstone to eradicating poverty and to fostering economic development. It is pivotal in contributing to economic efficiency and social development which are key drivers in the value of any labour force and which raises the poor from poverty thus seeing an improved standard of living.<sup>20</sup> For example, in 1997, the Ugandan government launched the Universal Primary Education (UPE) program aimed at providing free education for all children in Uganda.

### *Clean and healthy environments*

CRC Article 24<sup>21</sup> obligates states to provide children within their borders with a clean environment. Environmental hazards in cities generally affect the poor disproportionately including children in such poor physical environments. Adoption of the CRC forced

governments to implement strategies to reduce inequalities by reducing poverty and improving economic activities in the area in order to foster improved economic development.<sup>22</sup>

### *Improving the standard of living*

Under CRC Article 27, states party to the Convention recognise that upholding a child's right to a higher standard of living is a means of enabling children to have benefit from the physical, mental, spiritual, moral and social development to which they are entitled. States are nonetheless obliged under CRC Article 27 to take appropriate steps to help those charged with the responsibility of ensuring that the right is fulfilled and, where needed, the state shall provide aid in addition to introducing programs taking into consideration the needs of the child such as nutrition, clothing, and housing.<sup>23</sup>

### *Improved health care services*

CRC Article 7 and ACRWC Article 6 each state that a child shall be registered immediately after being born, shall have the right to a name, to a nationality, and to be cared for by his or her parents. These rights are instrumental in realising other rights such as to education, to nutrition and to health care services. Registration at birth provides the state with essential information which helps in effective design, plan and implementation of government social and economic policies concerning children, thus impacting economic development.<sup>24</sup>

### *Eliminating child labour and exploitation*

Laws prohibiting child labour<sup>25</sup> have helped to reduce the number of children working in environments that may be dangerous and exploitative. Where upheld, children are able to attend school and to develop the skills they need for future employment and development of their skills. With Uganda a further example, its comprehensive child protection laws like the Uganda Employment Act of 2006 as amended, section 32 provides that children below the age of 12 are not supposed to be employed, although a child aged between 14 and 17 shall be eligible to work under the supervision of an adult – this helps to safeguard against child labour, creating a safer and more stable environment for children to grow up in. This attracts business and investment which can boost economic growth hence development.

It is noteworthy that the majority of countries worldwide are signatories to the CRC with just a few exceptions including Somalia, South Sudan and the United States, which shows that there is a general agreement on the rights of children. Further, adoption of a rights-based strategy will increase child survival hence reducing poverty and this can be achieved by prioritising some rights over others.

### **Recommendations for improving the effectiveness of child protection laws**

States should adopt a rights-based approach<sup>26</sup> when implementing laws that protect child rights as these laws create legal obligations for states party to these statutes, considered to embody universal values and to provide a normative framework of obligations that have the legal power to hold governments accountable for their failures to implement provisions. Rights-based language used during the formulation of these laws helps in directing policy. This helps shift the focus from the personal failures of the 'poor' to the failure of macro-economic structures and policies implemented by nation states and international bodies (including the World Trade Organization, World Bank, International Monetary Fund, and others) to eradicate poverty. Hence, child poverty is now referred to as a 'violation of rights' rather than a 'social problem' in this context hence impacting economic development.<sup>27</sup>

#### *Inter alia:*

- Governments should be sanctioned for not implementing the views of children. According to Morgan,<sup>28</sup> children's views are essential when developing and implementing policies and programs that affect them from which sanctions should be applied to states that neglect this.
- Increasing the availability and quality of child protection services ensures a sufficient number of qualified social workers. Where other professionals are also able to support children and their families, this can help ensure that the requisite services are provided to all children, irrespective of their background or income.
- Child protection laws need to be supported by policies that are well thought out to curb the evils of inequality and poverty considering instances where children lack education and employment opportunities.
- Improving coordination and good relations between government agencies and civil society organisations can be done through



elections and the creation of different committees and development programs concerning the welfare of children where children's matters are discussed and solutions are offered.

- Ensuring that children are availed of opportunities to participate in the decision-making processes that affect their lives can be improved by inviting children to different programs and avenues where they express their views and issues concerning them as well as election of representative bodies led by children to tackle issues that affect their livelihood.

National child protection laws need to be in alignment with international human rights instruments. This is exercised by respecting the rights of children as fully endowed in the different laws and international instruments such as the right to live free from violence and exploitation, the right to be heard, and the right to be taken care of among many other rights.

## Conclusion

In conclusion, child protection laws create a foundation for reducing poverty by ensuring that children have easy access to essential services like healthcare, education, food, and protection from harm each of which has an impact on economic development. Finally, governments are legally bound to promote, protect and fulfill children's rights when child poverty is recognised as a denial of children's human rights.

### Notes

- 1 Child Participant in FRA symposium 'Is Europe doing enough to protect fundamental Rights?' Brussels, 28 June 2017.
- 2 The Preamble to the 1948 Universal Declaration of Human Rights (UDHR), and the common Preamble to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights emphasize the importance of 'freedom from want'.
- 3 See General Assembly resolution 55/106 of 4 December 2000 and Commission on Human Rights resolution 2001/31 of 23 April 2001.
- 4 United Nations Committee on Economic, Social and Cultural Rights, 'Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights: Poverty and the International Covenant on Economic, Social and Cultural Rights' Statement adopted on 13 May 2001, E/C 12 2001/10.
- 5 See Art 1 of the CRC and Art 2 of the African Charter on the Rights and Welfare of the Child (ACRWC).
- 6 Victor L Worsfold, 'A Philosophical Justification for Children's Rights', Harvard Educational Review Vol 44, February 1974.
- 7 *Ibid.*
- 8 1924 Declaration of the Rights of the Child was known as the Declaration of Geneva which proclaimed that

- 'mankind owes to the child the best it has to give'.
- 9 Kaime, Thoko, 'The Foundations of Rights in the African Charter on the Rights and Welfare of the Child: A Historical and Philosophical Account', *African Journal of Legal Studies* 3.1 (2009): 120-136 at: <https://doi.org/10.1163/221097312X13397499737029>, accessed 27 April 2024.
  - 10 Victor L Worsfold, see n 6, above.
  - 11 United Nations Committee on Economic, Social and Cultural Rights, 'Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights: Poverty and the International Covenant on Economic, Social and Cultural Rights' Statement adopted on May 2001, E/C 12 2001/10.
  - 12 James Chen, 'What's Poverty? Meaning, Causes, and How to measure', 11 December 2023 (updated 19 April 2024): [www.investopedia.com/terms/p/poverty.asp](http://www.investopedia.com/terms/p/poverty.asp), accessed 27 April 2024.
  - 13 Michael P Todaro & Stephen C Smith, *Economic Development* (12th edn, Pearson).
  - 14 Lucy Williams, Asbjørn Kjønestad, and Peter Robson (Eds), *Law and Poverty: The Legal System and Poverty Reduction* (London; New York: Zed Books, 2003): <https://searchworks.stanford.edu/view/5584786>, accessed 27 April 2024.
  - 15 Arigatou International, 'The Convention on the Rights of the Child', Blog, 16 October 2019: <https://endingchildpoverty.org/the-convention-on-the-rights-of-the-child> accessed 27 April 2024.
  - 16 UN Convention on the Rights of the Child.
  - 17 See, n 15, above.
  - 18 Art 28 of the CRC.
  - 19 Art 11 of the ACRWC.
  - 20 Omoniyi MBI (PhD), 'The Role of Education in Poverty Alleviation and Economic Development: a Theoretical Perspective and Counselling Implication', *British Journal of Arts and Social Sciences*, Vol 15 No II (2013): <https://ucanapplies3.ap-south-1.amazonaws.com/RGU/notifications/Syllabus/UG%20HONS%20CBCS/EDUCATION.pdf>, accessed 27 April 2024.
  - 21 Art 24 of the CRC.
  - 22 Geraldine Van Bueren, 'Combating Child Poverty – Human Rights Approaches', *Human Rights Quarterly* 21(3), 680-706, 1999: [www.jstor.org/stable/762670](http://www.jstor.org/stable/762670), accessed 27 April 2024.
  - 23 *Ibid.*, pp 687–688.
  - 24 *Ibid.*
  - 25 This is covered under Arts 32 and 16 of the CRC and the ACRWC respectively.
  - 26 A human rights-based approach is a conceptual framework for the process of human development that is normatively based on international human rights standards focused on promoting and protecting human rights. The five core principles of HRBA are universality, indivisibility, equality and non-discrimination and accountability which guide the United Nations development cooperation with focus on developing capacities of both 'duty bearers' to meet their obligations and 'right-holders' to claim their rights.
  - 27 Pemberton S, Gordon D, Nandy S, Pantazis C, Townsend P (2007) 'Child Rights and Child Poverty: Can the International Framework of Children's Rights Be Used to Improve Child Survival Rates?' *PLoS Med* 4(10): e307: <https://doi.org/10.1371/journal.pmed.0040307>, accessed 27 April 2024.
  - 28 International Policy Centre for Inclusive Growth, 'Social protection: meeting children's rights and needs', *Policy in Focus*, Vol 15, Issue no 3, December 2018: [https://ipcig.org/pub/eng/PIF43\\_Social\\_protection\\_meeting\\_children\\_s\\_rights\\_and\\_needs.pdf](https://ipcig.org/pub/eng/PIF43_Social_protection_meeting_children_s_rights_and_needs.pdf) > accessed 27 April 2024.