Joseph Zajda
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Discourses of Globalisation, Ideology, and Human Rights

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Volume 28

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Discourses of Globalisation, Ideology, and Human Rights

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Foreword

A major aim of *Discourses of Globalisation, Ideology, and Human Rights*, which is the 28th volume in the 36-volume book series G*lobalisation, Comparative Education and Policy Research*, edited by Joseph Zajda and Yvonne Vissing, is to present a global overview of selected scholarly research on global and comparative trends in dominant discourses of globalisation, ideology, education and policy reforms in comparative education research. It provides an easily accessible, practical yet scholarly source of information about the international concern in the field of globalisation, ideology, human rights education and policy reforms. Above all, the book offers the latest findings on discourses surrounding on-going human rights education and policy reforms.

The book explores conceptual frameworks and methodological approaches applicable in the research covering globalisation, ideology, human rights education and policy reforms. Using a number of diverse paradigms, ranging from critical theory to globalisation, the authors, by focusing on globalisation, ideology, human rights education and social justice, attempt to examine critically recent trends in education policies and their impact on schooling.

More than ever before, there is a need to understand and analyse both the intended and the unintended effects of globalisation and forces of globalisation on nations, organisations, communities, educational institutions and individuals around the world. This is particularly relevant to the evolving and constantly changing notions of nation states, national identity and citizenship education globally. Current global and comparative research demonstrates a rapidly changing world where citizens are experiencing a growing sense of alienation, uncertainty and loss of moral purpose.

The book contributes, in a very scholarly way, to a more holistic understanding of globalisation, ideology, human rights education and policy reforms. The book is both rigorous and scholarly and is likely to have profound and wide-ranging implications for the future of education policy and reforms globally.

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Joseph Zajda, BA (Hons), MA, MEd, PhD, FACE, co-ordinates and lectures in graduate courses – MTeach courses: EDFX522, EDSS503 and EDFD546 – in the Faculty of Education and Arts at the Australian Catholic University (Melbourne Campus). He specialises in globalisation and education policy reforms, social justice, history education, human rights education and values education. He has written and edited 48 books and over 150 book chapters and articles in the areas of globalisation and education policy, higher education, history textbooks, and curriculum reforms. Recent publications include: Zajda, J. (Ed). (2021) *3rd International handbook of globalisation, education and policy research.* Dordrecht: Springer; Zajda, J. (Ed). (2020). Globalisation, Ideology and Education Reforms: *Emerging Paradigms.* Dordrecht: Springer; Zajda, J. (Ed). (2020). Human Rights Education Globally. Dordrecht: Springer; **Zajda**, J (Ed.). (2020). *Globalisation, Ideology and Neo-Liberal Higher Education Reform.* Dordrecht: Springer; Zajda, J. & Rust, V. (2021). *Globalisation and comparative education*. Dordrecht: Springer; Zajda, J. & Majhanovich, S. (Eds.) (2021). *Globalisation, cultural identity and nation-building: The changing paradigms*. Dordrecht: Springer; Zajda, J. (2019) (Ed.). *Globalisation, ideology and politics of education reforms.* Dordrecht: Springer; Zajda, J. (2018). *Globalisation and education reforms: Paradigms and ideologies.* Dordrecht: Springer; Zajda, J. (2017). *Globalisation and National Identity in History Textbooks: The Russian Federation*. Dordrecht: Springer; Zajda, Tsyrlina-Spady & Lovorn (2017) (Eds.). *Globalisation and Historiography of National Leaders: Symbolic Representations in School Textbooks.* Dordrecht: Springer; Zajda & Ozdowski (2017). (Eds.), *Globalisation and Human Rights Education* Dordrecht: Springer; Zajda & Rust (Eds) (2016). *Globalisation and Higher Education Reforms.* Dordrecht: Springer; editor and author of the *Second International Handbook on Globalisation, Education and Policy Research*. Springer, 2015. http://www.springer.com/education+%26+language/book/978-94-017-9492-3; Zajda, J. (2014). The Russian Revolution. In G. Ritzer & J. M. Ryan (Eds.), *The Wiley-Blackwell Encyclopedia of Globalization Online*; Zajda, J. (2014); Zajda, J. (2014). Ideology. In D. Phillips (Ed.), *Encyclopedia of Educational Theory and Philosophy*. Thousand Oaks: Sage; Zajda, J. (2014). Values Education. In D. Phillips (Ed.), *Encyclopedia*

of Educational Theory and Philosophy. Thousand Oaks: Sage; Zajda, J. (2014); Values Education. In D. Phillips (Ed.), *Encyclopedia of Educational Theory and Philosophy*. Thousand Oaks: Sage; Zajda, J (2008). *Schooling the New Russians*. Melbourne: James Nicholas Publishers.

He is the editor of the **36-volume** book series Globalisation and Comparative Education (Springer, 2013 & 2024).

He edits the following journals:

http://www.jamesnicholaspublishers.com.au/journals/ct/ Editor, *Curriculum and Teaching*, volume 36, 2022

http://www.jamesnicholaspublishers.com.au/journals/es/ Editor, *Education and Society*, volume 39, 2022

http://www.jamesnicholaspublishers.com.au/journals/wse/ Editor, *World Studies in Education,* volume 22, 2022

His works are found in 445 publications in 4 languages and some 11,210 university library holdings globally.

He is the recipient of the 2012 **Excellence in Research Award**, the Faculty of Education, the Australian Catholic University. The award recognises the high quality of research activities, and particularly celebrates sustained research that has had a substantive impact nationally and internationally. He was also a recipient of the **Australian Awards for University Teaching** in 2011 (Citation for Outstanding Contributions to Student Learning, **for an innovative, influential and sustained contribution to teacher education through scholarship and publication).** He received the Vice Chancellor's **Excellence in Teaching Award,** at the Australian Catholic University (Melbourne Campus). He was awarded an ARC Discovery Grant (with Monash University) for 2011–2015 for a comparative analysis of history national curriculum implementation in Russia and Australia ($315,000). Elected as **Fellow** of the Australian College of Educators (June 2013).

Completed (with Professor Fred Dervin, University of Helsinki) the UNESCO report: *Governance in education: Diversity and effectiveness. BRICS countries*. Paris: UNESCO (2021).

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Preface

Discourses of Globalisation, Ideology, and Human Rights, which is **volume 28** in the 36-volume book series Globalisation, Comparative Education and Policy Research, edited by Joseph Zajda and Yvonne Vissing, presents a global overview of the nexus between globalisation, ideologies and human rights education and resultant implication for equity, democracy and social justice. Globalisation and competitive market forces have generated a massive growth in the knowledge industries that are having profound effects on society and higher educational institutions. One of the effects of globalisation is that the education sector is compelled to embrace the corporate ethos of efficiency, performance and profit-driven managerialism. As such, new entrepreneurial educational institutions in the global culture succumb to the economic gains offered by the neoliberal ideology and governance defined fundamentally by economic factors. Both governments and educational institutions, in their quest for global competitiveness, excellence, quality and accountability in education, increasingly turn to international and comparative education data analysis. All of them agree that the major goal of education is to enhance the individual's social and economic prospects, which can only be achieved by providing quality education for *all*. Clearly, these new phenomena of globalisation have in different ways affected the current developments in education and policy around the world. First, globalisation of policy, trade and finance has some profound implications for education and reform implementation. On the one hand, the periodic economic crises (e.g. the 1980s, the financial crisis of 2007–2008, also known as the Global Financial Crisis or GEC in 2008), coupled with the prioritised policies of the International Monetary Fund (IMF) and the World Bank (e.g. SAPs), have seriously affected some developing nations and transitional economies in delivering quality education for all.

Second, the policies of the Organisation for Economic Co-operation and Development (OECD), the UNESCO, the World Trade Organization (WTO) and the General Agreement on Trade in Services (GATS) operate as powerful forces, which, as supranational organisations, shape and influence education and policy By examining some of the major education reforms and policy developments and merging paradigms in a global culture, particularly in the light of recent shifts in

education reforms and policy research, this volume provides a comprehensive picture of the intersecting and diverse discourses of globalisation, education and global competition-driven reforms. The impact of globalisation on human rights education, education policy and reforms is a strategically significant issue for us all. This volume, as a sourcebook of ideas for researchers, practitioners and policymakers in globalisation, human rights education and education policy reforms, provides a timely overview of the current changes in education reforms both locally and globally.

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Editorial by Series Editors

Volume 28 is a further publication in the Springer Series of books on Globalisation, Comparative Education and Policy Research, edited by Joseph Zajda

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The book explores the ambivalent and problematic relationship between the state, globalisation and human rights education reforms discourses. Using a number of diverse paradigms, ranging from critical theory to globalisation, the authors, by focusing on globalisation, ideology and human rights education reforms, attempt to examine critically recent trends in the political, social, economic and educational constructs affecting the nature of human rights education reforms.

When discussing the politics of human rights education reforms, and role of the state, and dominant ideologies defining policy priorities, we need to go beyond the technicist and business-oriented model of education, which focuses on accountability, efficiency and performance indicators. Why? Because, apart from the dominant human capital and rate of return, driving efficiency, profit and performance indicators, there are other forces at work as well. From the macro-social perspective, the world of business, while real and dominant, is only one dimension of the complex social, cultural and economic world system. At the macro-societal level, we need to consider the teleological goal of education reforms. Are we reforming education systems to improve the quality of learning and teaching, academic achievement, and excellence, and do we hope to change our societies, creating the 'good society'?

At the level of critical discourse analysis, we need to consider dominant ideologies defining the nature and the extent of political and economic power, domination, control, the existing social stratification, and the unequal distribution of socially and economically valued commodities, both locally and globally. They all have profound influences on the directions of education and policy reforms. Many scholars have argued that education systems and education reforms are creating, reproducing, and consolidating social and economic inequality (Carnoy & Rothstein, 2003; McLaren & Farahmandpur, 2005; Zajda, 2015a; Milanovic, 2016; Zajda, 2021).

The book offers a synthesis of current research findings on globalisation and education reforms, with reference to major paradigms and ideology. The book analyses the shifts in methodological approaches to globalisation, education reforms, paradigms, and their impact on education policy and pedagogy. The book critiques globalisation, policy and education reforms and suggests the emergence of new economic and political dimensions of cultural imperialism. Such hegemonic shifts in ideology and policy are likely to have significant economic and cultural implications for national education systems, reforms and policy implementations. The book also evaluates discourses of globalisation, cultural imperialism, global citizenship, human rights education and neo-liberal ideology. It is suggested there is a need to continue to analyse critically the new challenges confronting the global village in the provision of authentic democracy, equality, social justice and cross-cultural values that genuinely promote a transformative pedagogy. There is also a need to focus on the crucial issues at the centre of current and on-going education reforms, namely global citizenship, human rights education, social justice and access to quality education for all, if genuine culture of learning, and transformation, characterised by wisdom, compassion and intercultural understanding, is to become a reality, rather than policy rhetoric.

In addressing the topic globalisation, ideology and politics of human rights education reforms, some authors, like Zajda and Vissing, analyse the on-going trends in human rights education reforms for equity and social justice. They critique and evaluate a neo-liberal and neoconservative education policy, meta-ideological hegemony and paradigm shifts in human rights education, and resultant globalisation processes impacting on human rights education and policy reforms, through a human rights framework and social justice.

The authors focus on major and dominant discourses defining huma rights education reforms: *globalisation*, *social change*, *democracy* and *ideology*. These are among the most critical and significant dimensions defining and contextualising the processes surrounding the politics of human rights education reforms globally. Furthermore, the perception of globalisation as dynamic and multi-faceted processes clearly necessitates a multiple-perspectives approach in the study of human rights education reforms. In this book, the authors, who come from diverse backgrounds and regions, attempt insightfully to provide a worldview of current developments in research concerning human rights education reforms

both locally and globally. The book contributes, in a very scholarly way, to a more holistic understanding of the nexus between globalisation, ideology and human rights education reforms.

We thank the anonymous international reviewers, who have reviewed and assessed the proposal for the continuation of the series (volumes 25–36), and other anonymous reviewers, who reviewed the chapters in the final manuscript.

Contents

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Chapter 1
Globalisation, Ideology, and Human Rights

Joseph Zajda (iD) **and Yvonne Vissing**

Globalisation, Ideology, and Human Rights: Introduction

Globalisation and Education Reforms

Globalisation has become a significant construct in education and policy discourses. A number of social theorists (Appadurai, 1990; Giddens, 1990; Rust, 1991; Robertson, 1992; Paulston, 1997; Zajda & Rust, 2021) argued that globalisation was one of the outcomes of modernity, which was characterised by the nexus of new structural political, economic, cultural, and technological developments (Appadurai, 1996; Robertson & Khondker, 1998; Wallerstein, 1998; Giddens, 2000; Zajda, 2021). Globalisation, according to Ampuja (2021), is now the 'most important keyword' of the global triumph of neoliberal capitalism. He argues that these concepts have become 'dominant in the social sciences, to the point of establishing a new theoretical orthodoxy that we can define as globalisation theory' (Ampuja, 2021). Consequently, globalisation has also acquired a new meta-ideology that carries strong elements of Western ideologies (Daun, 2021).

The term 'globalisation' is a complex, and constantly evolving construct, as well as a euphemism, concealing numerous contested meanings, ranging from Wallerstein's (1979, 1980, 1989) ambitious 'world-systems' model, to Giddens' (1990) notion of 'time-space distantiation' highlighting the 'disembeddedness' of social relations – their effective removal from the immediacies of local contexts,

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and Castells' (1989, 2000) perception of globalisation as way of networking, proposing that the power of flows of capital, technology, and information, constitutes the fundamental morphology of an emerging 'network society' (Castells, 2000). Furthermore, globalisation, by means of ICT, became a powerful new mode in the transfer of capital, labour production, consumption, and consumerist culture, resulting in significant quantitative and qualitative change, affecting major organizations, governance, and individuals.

Globalisation has become a significant construct in education and policy discourses. A number of social theorists (Appadurai, 1990; Giddens, 1990; Robertson, 1992; Paulston, 1997) argued that globalisation was one of the outcomes of modernity, which was characterised by the nexus of new structural political, economic, cultural, and technological developments (Appadurai, 1996; Robertson & Khondker, 1998; Zajda, 2021). Globalisation, according to Ampuja (2021), is now the 'most important keyword' of the global triumph of neoliberal capitalism. He argues that these concepts have become 'dominant in the social sciences, to the point of establishing a new theoretical orthodoxy that we can define as globalisation theory' (Ampuja, 2021). Consequently, globalisation has also acquired a new meta-ideology that carries strong elements of Western ideologies (Daun, 2021).

Since the 1980s, globalisation, marketisation and academic standards driven reforms around the world have resulted in structural, ideological and qualitative changes in education and policy (OECD, 2020; Zajda, 2020a). They included an increasing focus on the UNESCO's concepts of knowledge society, the lifelong learning for all (a 'cradle-to-grave' vision of learning) representing the lifelong learning paradigm and the "knowledge economy" and the global culture. In their quest for excellence, quality and accountability in education, governments increasingly turn to international and comparative education data analysis. All agree that the major goal of education is to enhance the individual's social and economic prospects. This can only be achieved by providing quality education for *all*. Students' academic achievement is now regularly monitored and measured within the 'internationally agreed framework' of the OECD's Programme for International Student Assessment (PISA). This was done in response to the growing demand for international comparisons of educational outcomes (Zajda, 2020c). To measure levels of academic performance in the global culture, the OECD, in co-operation with UNESCO, is using *World Education Indicators* (WEI) programme, covering a broad range of comparative indicators, which report on the resource invested in education and their returns to individuals.

On the surface, we see the influence of globalisation in the foods we eat, music we listen to, news we view, and places we travel. The ramifications of globalisation are huge and may be conceptualized with different foci. For instance, the World Health Organization's (2021) definition of globalisation emphasizes interconnectedness and interdependence of peoples and countries as well as the opening of international borders to increasingly fast flows of goods, services, finance, people and ideas, and changes in institutions and policies at national and international levels that facilitate or promote such flows. In geography, globalisation is defined as the progressive processes of economic, social, cultural, technological, and institutional

relationship exchanges between societies and individuals around the world (Youmatter, 2021). The term globalisation used by economists describe growing interdependence of the world's economies, cultures, and populations, brought about by cross-border trade in goods and services, technology, and flows of investment, people, and information (PIIE, 2021). Financial globalisation refers to the rise of international financial exchanges and monetary exchanges, like the stock market. Political globalisation focuses on governmental and nongovernment organizations working together on an international level. Cultural globalisation concerns interpenetration of beliefs, principles and customs as a supra-cultural emerges. Technological globalisation occurs through electronic communication dissemination, while ecological globalisation focuses on people's understanding of the Earth as a single global entity where air, water, and climate link all peoples of the planet into a singularity (Youmatter, 2021). Authors in the book have selected different dimensions of globalism to explore in their chapters.

Sometimes globalisation is regarded as beneficial to the peoples of the world; sometimes it is associated with a series of negative outcomes. For instance, an economic-market definition of globalism advocates for a consumerist, neoliberal, free-market world. While this ideology is embraced by many powerful individuals who claim it transmits democracy and benefits everyone, it may also reinforce inequality and be politically motivated (Steger, 2013). While globalisation appears inevitable, its implications on humanity may vary depending upon how one views different aspects of it. This variation adds to the richness of the debate on it, especially as it impacts human rights. Therefore, how it is viewed and what aspect of globalisation authors emphasize will combine to help us to have a more comprehensive vision of its relationship to human rights.

Ideology as a Construct

The term ***ideology*** refers to a system of ideas and beliefs that is dominant within a group or society, and which affects most if not every sphere of social interaction and organisation within it: political, economic, scientific, educational, and cultural (Zajda, 2014). The origins of the concept ideology can be traced to eighteenth-century French philosophical thought. The term *idéologie* (ideology) was coined by the French philosopher Destutt de Tracy (1795), to define ideas that were to be used in clarifying and improving public debate – in particular, he wanted to provide the necessary rational foundation for the critique of the dominant intellectual and political traditions that defined his era. He created the term by combining Greek 'idea' (form) and 'logos' (knowledge). the concept of ideology is closely connected with power, with domination, control and justification of a political system. It should be apparent that educational institutions play a significant role in promulgating a society's dominant ideology (see the work of Michael Apple) – and under some circumstances in fostering awareness and generating resistance, the work of Paulo Freire is a good example here.

The core sense of the term is quite apparent in Marxist and neo-Marxist writings where, from a class-conflict and structural-functionalist perspective, 'ideology' refers to a core set of ideas and values which consolidates and legitimates the existing political and economic system and relations between social classes. The main function of the ideas constituting the ideology is to maintain the *status quo* of the economically, socially and politically stratified society (Zajda, 2014).

Overall, an ideology is a system of dominant ideas and ideals that may form political, economic, or social theory and policy. It is a set of values, ideas or beliefs of a group or individual that characterize a particular viewpoint. Mannheim (1936) viewed ideologies as thought systems that serve to defend a particular social order, and often express the interests of its dominant or ruling group. Conflict and Marxist theorists expanded the definition to include oppression and exploitation (Cole, 2019). Ideology is part of our social construction of reality. As Kumar (2006) notes, the study of ideology focuses on the distinction between appearance and reality, between error and truth, between a necessarily distorted subjective consciousness and an objective world. Ideology as a concept can be seen as a lens through which a person views the world. Sociologically speaking, it refers to the sum total of a person's values, beliefs, assumptions, and expectations that exist in society, within groups and between people, which shapes our thoughts, actions, and interactions. It ultimately impacts the types of social structures that we create and influences what trajectories society at large pursues (Cole, 2019).

Major Human Rights Discourses

Human rights are defined by the United Nations (2021) to be rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and others. Everyone is entitled to these rights, without discrimination (Vissing, 2021). Human rights are embodied in treaties, conventions, protocols and statutes outlining how states should undertake commitments to each other and their citizens (Vissing, 2019). The Universal Declaration of Human Rights (UDHR), signed in 1948 after World War II has become the basis of human rights policies treaties such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC), and the International Covenant on Civil and Political Rights (ICCPR) are fundamental (Frezzo, 2015).

Human rights can be considered to be an ideology because they offer an account of the existing order, a world-view, meaning they propose moral boundaries of the world as some think it should be. Human rights advance a model of a desired future, a vision of what a good society should look like and explain how to bring about that desired social change. Understanding human rights as an ideology helps researchers overcome blind spots that arise from narrowly defining human rights as a struggle

over rights. Human rights offer a set of ideas that provide the basis for organized political action, which may be intended to preserve, modify or overthrow the existing system of power, just as do other ideologies (David, 2018; Heywood, 2003; Murphy, 1972; Mutua, 1996; Vissing, 2020). As David (2018) observes, understanding human rights as an ideology offers us the analytical tools to systematically evaluate the evolution of the Western-led global institutionalization of values and norms. By understanding human rights through the prisms of the institutionalization of organizational and doctrine power, we may advance our understanding of how human rights are internalized across different socio-political strata.

Neier (2012) argues that human rights have become the major ideology of our time. From the days of the Magna Carta and the Universal Declaration of Human Rights, society has developed a large array of human rights treaties. International law emerged to help enforce the protection of human rights (Vissing & Williams, 2018; Vissing, 2021). But some scholars of international believe that human rights law is not really law because there is no global sovereign to enforce its compliance. Moreover, Neier finds that international law purports to regulate the behavior of citizens, which can only be done by an individual state. As example, the United States has not ratified most human rights treaties because it recognizes no authority higher than the Constitution. But scholars like Teitel (2011) assert that international human rights law is "humanity's law." Henkin (1968) finds that the beneficiaries of human rights law are different from those of international trade law or international arms control law: they are not the other states which are parties to the treaty, but individual lives that are at stake. This creates a paradoxical relationship between international human rights and sovereignty (Neier, 2012).

In many ways, the argument for human rights may be similar to that of global social justice, a hot issue in International Political Theory (IPT). Steger et al. (2013) examine ideological claims and policy proposals of the transnational justice movement and single out the core ideology of the global justice movement (GJM) as fundamental in understanding human rights advocacy. Justice globalism envisages a global civil society with fair relationships and environmental safeguards. They identify seven key values: transformative change, participatory democracy, equality of access to resources and opportunities, social justice, universal rights, global solidarity and sustainability they feel are fundamental to the ideology of justice globalism.

Evaluation

Human rights education is essential to maintaining democracy, equality, freedom, and the full realization of human rights. It contributes significantly to promoting equality, respect for human dignity, preventing discrimination and enhancing participation in democratic processes. It reflects societal standards that need to be learned by each generation and transferred to the next. The United Nations produced two important policy documents on human rights in 1966: *The International*

Covenant on Civil and Political Rights (*ICCPR*) (1966), and *the International Covenant on Economic, Social and Cultural Rights* (drafted in 1954 and signed in 1966). The later declared that all humans have the rights to health, food and employment. In addition, the United Nations' (2015) *Millennium Development Goals Report* focused on *poverty eradication* as the greatest *global challenge* facing the world, and economic *rights*, such as food, health, and *education (*United Nations, 2015). Its first goal was to 'Eradicate extreme poverty and hunger' (p. 14). However, what is also missing in the discourse of human rights education is the politics of human rights. It has to be accepted that *human rights policy documents* are not neutral, but are inherently *political* in their origin, development and application (Zajda, 2020a).

Despite the seemingly egalitarian spirit of the reforms for human rights education, equality and social justice in education and, in view of the market forces dictating privatisation, decentralisation and marketisation in educational institutions, ambivalent legacies of the past, and unresolved critical education and policy issues, pertaining to social justice, continue, by and large, to remain the same, and are still on the policy agenda (Zajda, 2015). There is a need to consider issues in human rights and social justice with reference to all citizens globally, including indigenous people. According to the UNICEF data, there are an estimated 300 million indigenous people worldwide, roughly 5% of the world's population. Despite this significant presence, national schooling systems have 'ignored, minimized, or ridiculed their histories pre- and post-Western contact, as well as their cultural contributions toward social and environmental sustainability' (Arenas et al., 2009).

Some researchers have argued that human rights and social justice are difficult to achieve in a society where social inequality debate is dormant. The difficulty of attaining social justice in the global economy was explained by Rikowski (2000), who argued that sustainable social justice is impossible on the basis of social stratification globally. The challenge we face today is one of addressing equity and fairness in the global community. The full promotion of economic, social and cultural rights will demand a deep political, social and cultural change in many nations globally (Zajda, 2021).

The future will depend as well on our ability to make human rights education relevant beyond the spheres of law, political institutions, or international relations. Human rights education must be explored and understood by all active citizens, irrespective of ideology, race, ethnicity, gender, or religion (Vissing, 2021). The effects of globalisation compel us to address issues of democracy, economic and social equity, the rule of law, and meaningful participation in real and authentic decision-making process (Zajda, 2020a). In the *re-envisioning* of the human rights education, as a social action platform for social justice, peace and tolerance, we need to re-examine:

- current evidence concerning the nexus between social justice, cultural transferability and human rights
- competing and contested democracy models
- language issues in cross-cultural research, intercultural dialogue and education

- issues of race and ethnicity in the discourses surrounding regional and global cultures
- the unresolved tensions between religion, politics, and values education
- gender research in the global culture
- citizenship education and life-long learning
- globalisation, economic and social change and the implications for equity, access and democracy (Zajda, 2020b).

Conclusion

Effective human rights education has the potential to create a more equitable, just, tolerant, peaceful society for all in the global culture. But it will remain a mere hollow policy rhetoric, or 'magic words', unless we debate more vigorously social, cultural, political and economic inequality in the global culture, within the legal framework of human rights education discourses, grounded in the *Universal Declaration of Human Rights*, and the *Millennium Development Goals Report*. We need to critique the existing status quo of stratified societies and nations, neoliberal politico-economic imperatives, repressive political systems, and forces of globalisation, which have affected all levels of society and culture, reinforcing cultural, political, and economic social stratification. This has serious implications for a genuine and empowering human rights education and social justice in schools in the future. Human rights education will need to become an integral part of progressive and critical pedagogies for social justice, equality and pluralist democracy.

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Chapter 2
Viewpoints on Human Rights from the Global South

Greg Carroll

> The Earth provides enough to satisfy every man's need, but not for every man's greed (Schumacher, 1973, p. 29).

> How we think about something makes a difference, not only at the level of theory, but in terms of practice as well (Apple, 1992, p. 779).

Viewpoints on Human Rights from the Global South: Introduction

Human Rights much like the terms Peace or Education, is something that is both readily accessible and on examination deeply impenetrable. Other than a surface familiarity, like the afore mentioned terms, as soon as we scratch the surface who are we affording care to? As stated by a former British Defense Minister that though he was a vegetarian and concerned about the ways that animals were killed, was "curiously not concerned at all" about foreigners being killed by the weapons supplied by his government in East Timor (Pilger & Munro, 1994, sec. 52:40–53:32). It would seem we have a distance dimension to our Human Rights concerns, or to put it another way we have a theory praxis gap with regards to Human Rights, with the two major driving factors for the consideration of human rights (or lack thereof) being *distance* and *desire*. The further removed from site of action the less likely for real concern with 'what is happening over there', so while I can be appalled and moved to tears by the goings on in my own community, I can blithely scroll through my news feed at the ongoing repression being enacted by this or that junta half the world away. Or by the destruction of a rain forest, that I have never heard of as long

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as the palm oil that goes into a multitude of products I use can be obtained cheaply. With respect to *desire*, it is inversely proportional to the level of concern shown at a materials extraction/production. If I am desirous of a certain object, do I really concern myself with the providence of the minerals that are needed to satisfy my desire? The blood diamonds that make up our jewelry, or conflict minerals that provide vital components for smartphones, I can pretend that I don't know or don't really care; I have my shiny object of desire.

While the term Resource Curse provides a shorthand way of describing the material riches of a country, it does carry with it a sense of blame the victim. The implication being it is 'that' countries issue, and by extension, it is 'that' country's fault. Use of the term 'curse' serves to deflect responsibility. The term curse hides the fact that is the Global North that bears the responsibility for the issues of countries such as that of Liberia and Timor-Leste. Their riches at different phases and at different times, being Natural Rubber, Diamonds, and Oil and Gas respectively. The reality of a bounty of natural riches, far from being a curse is more of a 'target'.

What are the drivers of a human rights concern (or lack thereof): Globalization, Imperialism, Colonialism? Should they be construed as different names for the same broad phenomenon; broadly that of the exploitation of the periphery for the benefit of those in positions of mercantile, political, theocratic or autocratic privilege. Examining the human rights data with regards to Liberia and Timor-Leste differing waves of colonialism and imperialism and their negative impacts can be seen. Each country, rather than benefiting from the movement of international capital have in important aspects been robbed and left impoverished for the benefit of the few, typically those in the North.

When we consider that we have had Human Rights as outlined by the United Nations Universal Declaration on Human Rights (1948) for over 70 years, one could be forgiven for thinking that it is clearly established and known globally. That, however, would be a mistake; while we could be said to have a long history of "human rights" knowledge, the praxis of human rights holds a much spottier and shorter record.

In Timor-Leste it was Indonesia who used the pretext of 'helping out a brother' to launch an invasion. This was no helping out a brother, the best equivalent that can be made would be the settler colonialism of German *Lebensraum*. The Indonesian invasion started on December 7th 1975, a date important to note as the then President of Indonesia, Suharto had just finished an official two day visit from the then President of the United States, Gerald Ford and his Secretary of State, Henry Kissinger in which they gave Suharto the green light to invade, despite knowing that what was being done was illegal, and that the use of American provided arms was in contravention to the US Constitution. Essentially they asked Suharto to postpone the invasion until Ford and Kissinger were back on American soil so that, as stated by Kissinger, there would be "less chance of people talking in an unauthorized

way"[1] The resultant human rights abuses that continued for the next 25 years resulted in the deaths during the 1975–1999 period of between 90,800 and 202,600; this out of a 1999 population of 823,386 (CAVR, 2005; de Acolhimento, 2008). Or to put it another way, approximately one quarter of the population.

In Liberia it was American slave owners through the actions of the Society for the Colonization of Free People of Color in America, who impacted the trajectory of history in West Africa. Through the repatriation of some 15,000 freed and free-born African Americans and 3198 Afro-Caribbeans to the coast of West Africa (Shick et al., 1980). It is worth being reminding that:

> the West won the world not by the superiority of its ideas or values or religion […] but rather by its superiority in applying organized violence. Westerners often forget this fact; non-Westerners never do (Huntington, 2011, p. 51).

Though this is written from the perspective of the Global South the reality is that a fundamental understanding of Human Rights does not really – functionally – exist in either the Global South or North. The globalization of ideas has been commodified to the globalization of products their creation and flows. Where you can have companies that start in one area of the Global North and spread pandemic wise throughout geographically disperse countries and regions, seeking the lowest cost of production. With respect to both Liberia and Timor-Leste, the expansion of export cash crops, such as rubber, coffee and palm oil, being a good case in point as none of these crops are indigenous to where they are currently being grown.

While in many respects the histories of Liberia and Timor-Leste are quite distinct; it is perhaps as a consequence of their differences that we are able to discern common themes. The Portuguese reached the coast of what is now known as the enclave of Oecussi sometime around the year 1515 (GOL, 2008), and around 1556 a group of Dominican Friars established a missionary in the area and started converting the Timorese to Catholicism. Colonialization more formally began in 1642 with a Portuguese military expedition aimed at weakening the power of the local *Liurai* (kings). It was not, however, until 1702 that the country officially became a Portuguese colony. That said, colonial control was largely limited to the areas around the capital Dili and as soon as you moved into the mountainous regions above Dili the local *Liurai* maintained a level of control (Jannisa, 2019; Schwarz, 1994). For the Portuguese in Timor it was the sandalwood trade that provided a source of wealth for the colonial powers, while in Liberia it was natural rubber. As these resources dwindled, either as a commodity or as a need; Timor's appeal became that of land to expand into (Indonesia expansion), and its exploitation in terms of oil and gas (Timor Gap), (Chaudhry, 2006; Sforza, 1998; Stepan, 1990; Suter, 1993) and to a much lesser extent coffee and palm oil. For Liberia while there continues to be a market (abet smaller) for natural rubber, the illegal diamond trade (blood diamonds) made infamous through the trial and conviction of Liberian

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[1] Excerpt from declassified conversation between Suharto, Ford and Kissinger on the tarmac at Yogyakarta: source National Security Archives: George Washington University. http://www.gwu.edu/~nsarchiv/

President Charles Taylor for his role in the conflict in Sierra Leone, and a growing palm oil industry. Potentially adding to Liberia's woes, the recent discovery of oil and gas reserves as potential drivers for human rights abuses.

In the case of Liberia, its creation began not as an act of benevolence but rather as a means of removing an unwanted sector of society, a sector of society that had been given its "freedom" but whom it was feared would "stir up troubles". Hence The Society for the Colonization of Free People of Color in America (later the American Colonization Society (ACS)) was founded in 1816 with the express purpose of encouraging and supporting the migration of Free African Americans 'back' to the continent of Africa. While the ACS initially received support from some abolitionists it was primarily slave owners who were concerned that the growing number of free African Americans would help their slaves to escape, or worse rebel (Power-Greene, 2014; Tschan, 1923).

In both instances and though for different reasons it was indigenous forces: the Topasses in Portuguese Timor (Jannisa, 2019, pp. 45–62) and the Liberian Frontier Forces (Akingbade, 1994; Nevin, 2011; Rainey, 1996, 2002) responding to globalized pressures, in an example of Freireian logic, learned that to be powerful is to oppress and consequently sought to oppress the mountainous regions (Timor) and hinterland (Liberia). Liberia declared its independence in 1847, and six months later Joseph Jenkins Roberts, a wealthy free-born Virginian African American was elected the country's first President and began a tradition where Americo-Liberians constituted the ruling class and ran the country up until April 1980 when a Master Sargent in the Armed Forces of Liberia staged a violent coup and installed himself as the first native Liberian to assume the presidency (Samuel Doe was a member of the ethnic Krahn group). Following the same oppressor logic, Doe's favoritism towards Krahn's led to civil war and in December 1989 rebels entered from the Ivory Coast and in less than a year Doe was captured and murdered and another Americo-Liberian (Charles Taylor), one of the warlords who fought Doe, became President. In deed in the history of Liberia only two presidents have not claimed or have Americo-Liberian ancestry. Samuel Doe, an ethnic Krahn and the current president and world famous footballer George Weah who is a member of the Kru ethnic group.

The history of the island of Timor is one of colonial push and pull. The whole island of Timor was once 'controlled by the Portuguese. Originally, they landed in and operated out of what is now known as Oecussi at around 1515, however, commercial exploitation of resources did not happen until much later, when the Portuguese moved the main administrative center to Dili, which occurred in 1711. The Dutch and Portuguese fought for control of the island, which was resolved in 1859 with the signing of the Treaty of Lisbon after which the island was divided into Portuguese Timor (East Timor, Timor-Leste, in Portuguese, as it is now known, or Timor Lorosae, in the main indigenous language Tetum) and Dutch Timor until 1949 and then after as Indonesian Timor or West Timor, (Timor Barat in Indonesian). The Portuguese essentially walked away from their colonial outpost in 1975 as a result of their own Carnation Revolution on April 25 1974. The Timorese declared

independence from Portugal on November 28th 1975 and as stated earlier was invaded 9 days later by Indonesia.

Both counties have had periods of conflict and attendant human rights abuses and in an effort to confront their past and move to a just and equitable post-conflict future they have enacted Truth and Reconciliation Commissions (TRCs). TRC's have a relatively long and (in a number of celebrated cases successful) history.[2]

Timor-Leste's, Commission for Reception, Truth and Reconciliation (CAVR, 2005) report titled Chega! Meaning *stop* or *enough* in Portuguese covered the years from 1974 to 1999 and delivered its report in 2005. The Liberian Truth and Reconciliation Commission (http://www.trcofliberia.org/reports/final-report.html) or TRC covered the years 1979–2003, with the final report released in July of 2009. In both cases the recommendations of the respective commissions have not been meaningfully enacted upon. In deed most of the main actors in both countries continue to enjoy impunity and in numerous cases subsequently or continue to hold positions of power within the governments of Timor-Leste, Indonesia and Liberia (Drexler, 2010; Weah, 2012). It should be remembered that in Liberia, President Charles Taylor was prosecuted and found guilty not for anything he did in Liberia. This despite the TRC report finding that he and his warlords and subsequent government were responsible for approximately 40% of all deaths during Liberia's civil wars. Taylor was prosecuted, found guilty and sentenced to 50 years in prison for prolonging and profiting from the conflict in Sierra Leone, though his participation in the Blood Diamond Trade (Keith, 2012; Marchuk, 2009) The same, however, could not be said for his son Charles "Chuckie" Taylor Jnr. Chuckie has the distinction of being the only American citizen (he was born in Worcester, MA) to have been tried and convicted of war crimes. He is currently serving a 99 year sentence at a SuperMax prison in Pensacola Florida for his part in leading his fathers 'Anti-Terror Unit' – also known as the Small Boys Unit, for its use of child soldiers (Brownlee, 2010; Keppler et al., 2008).

The summary of findings from the Liberian Truth and Reconciliation commission report state:

> The conflict in Liberia has its origin in the history and founding of the modern Liberian State. 2. The major root causes of the conflict are attributable to poverty, greed, corruption, limited access to education, economic, social, civil and political inequalities; identity conflict, land tenure and distribution, etc. 3. All factions to the Liberian conflict committed, and are responsible for the commission of egregious domestic law violations, and violations of international criminal law, international human rights law and international humanitarian law, including war crimes violations. 4. All factions engaged in armed conflict, violated, degraded, abused and denigrated, committed sexual and gender based violence against women including rape, sexual slavery, forced marriages, and other dehumanizing forms of violations (TRC Liberia 2008).

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[2] The United States Institute of Peace maintains a comprehensive list of Truth Commissions and Commissions of Inquiry: see https://www.usip.org/publications/2011/03/truth-commission-digital-collection

So other than the Taylors, where are the prosecutions? Even though there were clearly documented cases of Human Rights abuses virtually all main offenders were not tried. In the case Joshua Milton Blahyi, who during the first Liberian Civil war went by the nom de guerre, General Butt Naked, was not recommended for prosecution despite confessing under oath to the TRC that he was responsible for the death of not less than 20,000 persons (Weah, 2012).

With respect to Timor-Leste, Human Rights abuses were a factor from the earliest days of Portuguese engagement with Timor:

> Portugal forcibly introduced cash crops such as coffee to Timor and sought to consolidate its colonial administration through the imposition of taxes and forced labour, resulting in a series of revolts by Timorese. The colonial tactic of divide and rule was used to divide and weaken traditional leadership of the Timorese (CAVR, 2005, sec. 3.2.8).

The Commission [CAVR] identified three important impacts of the Portuguese colonisation of Timor-Leste. First, the colonisers' tactics of playing social groups against each other kept indigenous political alliances weak. This restricted development of the unity that is required for nation building. Second, no self-governing tradition was developed. Most East Timorese existed in subjugation to a feudal system. Third, the Portuguese colonial regime did not develop or institutionalise democratic and human rights values, though traditional cultural values already existed and the Church inculcated religious values. Thus the political activity that emerged in 1974–75 was subject to extensive distortion and manipulation …These factors all contributed to Indonesia being able to invade Timor-Leste in 1975 with minimal international protest. (CAVR, 2005, sec. 3.2.11).

In treatment of those in the global south the Portuguese viewed the Timorese as objects and in deed access to education during the Portuguese period was limited with only some of the children of the *Liurai* (local kings) gaining limited access to elementary education. The aim of which was to impress on the Timorese that they were lucky to have their colonial masters; "the influences which educate some into masters, educate others into slaves" (Dewey, 1916, p. 84). Further during Indonesian occupation where the Portuguese language was banned as the language of the resistance group Fretilin and Bahasa – the Indonesian language was taught and expected despite there being no heritage of the language previously in East Timor. We had "the explicit use of education as a propaganda tool, rather than to meet basic learning needs, [which] restricted children's development and future opportunities" (CAVR, 2004, 07.9–3). Education, rather than being used as a means to develop potential was instead used for other less noble ends.

> The Commission's [CARV's] own research and secondary sources show that for years at a time, children in the camps received either no education at all or a thoroughly inadequate one. In internment camps in Lautem and Liquiça Districts, there were no schools at all from the time of the invasion until 1982–83. In another camp, at Uma Metan (Alas, Manufahi), the military set up a "school", that was ostensibly for the teaching of Indonesian but in fact became a notorious rape centre (CAVR, 2004, 07.9–22).

So with respect to development while next to nothing was done during the hundreds of years of Portuguese colonial rule, what Nobel Peace Prize winner, and

former President and Prime Minister of Timor-Leste, Jose Ramos Horta described as 'benign neglect'. The situation was arguably different during Indonesian occupation, rather than development it was more akin to Hitler's use of the Autobahn, in that it provided the ability to swiftly move troops to carry out *Anschluss* or union with Austria at the beginning of World War II. While there were very few paved roads during the Portuguese era (largely confined to the main roads in the capital Dili) the Indonesians did build paved roads, though it was only the infrastructure of occupation. The road between the main centers of Dili and Baucau was only slightly wider than the width of one troop carrier, (troops only need to travel quickly in one direction).

> there is merit to the claim that Indonesia implemented programmes that led to development in the territory in this period. However, a close assessment of these programmes indicates that there was an emphasis on the infrastructure of occupation, particularly road construction and administration buildings (CAVR, 2004, 03-108-9).

As a result, when Indonesia were forced to leave Timor-Leste after losing their attempts to intimidate the Timorese into voting for special autonomy in the UN sponsored independence vote (August 30, 1999), the Indonesian Military (Tentara Nasional Indonesia, or TNI) enacted a scorched earth campaign to take anything of value back to Jakarta or to burn down or blow up what they couldn't remove.

While much as been written about the impact of Globalization as if it was a somewhat recent phenomenon, I would argue (Carroll, 2014), as have others (Amin-Khan, 2012; Appadurai, 1996; Beck, 2000; Burbules, 2000; Chilcote, 2002; Chossudovsky, 1997; Deckard, 2009; Holton, 1998; James & Steger, 2021; Jomo, 2001; Martin, 2018; Pangestu, 2001; Waters, 1995) that in many respects there is nothing new about globalization, the differences are of degree not kind. Where once information flow traveled at the speed of a square rigger and took months to years to be disseminated, today information and capital can be transmitted almost instantaneously around the globe.

Another way to frame both the histories of Liberia and Timor-Leste would be that regions that fall into the categories of *distance* and *desire* fail to register human rights concerns and further as stated by Veltmeyer:

> both development and globalization can be understood as imperialism – as different facts of the same dynamics arising out of a project of world domination and longstanding efforts of the united states to establish its hegemony (2005, p. 89).

While the US does bear responsibility, it is only a part of the global hegemon; global capital, being the driving force and enabling (promoting/pushing) multinational companies into new frontiers, Columbus-like in the search for riches. In the case of Liberia this harks back to the 99 year lease given to Firestone Natural Rubber Corporation in 1926 for one million acres (anywhere of the companies choosing) for 6 cents an acre. This was on top of a $5 million US loan given in exchange for complete authority over the Government of Liberia's revenues until the loan was repaid. The loan was finally repaid in 1952 with the effective interest rate of 17% (Rosenau et al., 2009, p. 17).

Natural resources have driven human rights concerns around the globe and natural resources have played such a role (and continue to do so) in both Timor-Leste and Liberia. Originally it was sandalwood in Timor (Jannisa, 2019) and natural rubber in the case of Liberia (Dalton, 1965; Mower, 1947). The more recent driver being oil and gas in the case of Timor-Leste and the willingness of Western governments (in particular Australia) to be bought off by Indonesia with their excising part of the Timorese continental shelf (Chaudhry, 2006; Stepan, 1990), recently it has been coffee (Grenfell, 2005; Khamis, 2015). While in Liberia it was blood diamonds (Ellis, 1999; Marchuk, 2009; Orogun, 2003), and now for both it is the extremely lucrative and environmentally destructive Palm Oil Industry (Evans & Griffiths, 2013; Gilfoy, 2015). Control and profit from these resources has shaped the ground on which the peoples of both countries have benefited, though largely denied the fruits of their own lands, while multinational companies have made (and continue to make) trillions of dollars.

From the earliest of times a (the) major driving force for exploration has been the discovery of riches; be they knowledge or resources. From the time of the Conquistadors to today it is the drive for riches that have motivated North South interactions and though it has been given different names *development* or *aid* the reality is that global flows have predominately been in one direction and have benefitted only a select few. Yes, these flows speciate when they arrive at new locations, that said, the flow of capital tends to be more of a one-way street with the driving force primarily the fetishizing of *wants* over *needs*.

> Globalization … [is] a cover term for a world of disjunctive flows – [that] produces problems that manifest themselves in intensely local forms but have contexts that are anything but local (Appadurai, 2000, p. 6).

It is therefore useful to think about globalization, rather than a single or monolithic entity but rather to think of it as a flow of ideas and the engine of these ideas being capital. In this respect it is hardly surprising that the major battle fields for these ideas happens in the realm of compulsory and post-compulsory education. It is in this area that we can see the creation of fictions the recent US Republican party's preoccupation with 'the big lie' of election fraud or the attack on the New York Times 1619 Project's as "the politically correct editors of the debunked 1619 Project" (Cotton, 2020). In other words the control of ideas or in the dictum of Francis Bacon "knowledge itself is power", it is also the control over the production of knowledge and what is considered as valuable, the "market place of ideas" that we see the expropriation of labour and resources from the global south. The question that needs to be asked if globalization is spreading knowledge, what else is it spreading; and at what cost. "I know what modern capital does to poor and colored peoples. I know what European imperialism has done to Asia and Africa" (Du Bois, 1933, p. 684).

Long before the term Globalization was coined by Theodore Levitt in a 1983 Harvard Business Review, Liberia was facing the negative effects of globalization in its dealings with the United States and its attempts to avoid colonization by France and Britain. It would seem that we cannot really separate globalization from

colonialism, nor can we separate these phenomena from Human Rights abuses. Today the ubiquitous reach of Information and Communication Technologies (ICT's) can result in an event being broadcast worldwide instantaneously. It is important that in seeking to understand the nexus between ICTs and global capital we are hopefully beginning to see a lessening of the impact of *distance* if not of *desire.*

Does there need to be a stronger body that oversees the movement of global capital, is there a mechanism that can provide teeth to already existing bodies? We do have the organizations, the World Court, the United Nations, but until all participants are equal we are faced with the rule of the few outweighing the safety of the many. The current retreat to tribalism and nativism, as evidenced by the recently completed Brexit fiasco, or the Trump presidency's stoking fears of migrants on the boarder. By design or default, out of sight is to a large extent out of mind, for the general population and while this has primarily been the case for the histories of Liberia and Timor-Leste, we do well to remember that directly and indirectly the North has benefited from them:

> The local Firestone bank was to act as financial agent. The loan charges, including interest on the bonds, amortization expenses, and salaries of fiscal officers, in 1928 absorbed 20 percent of the total revenue of Liberia; in 1929, 26 percent; in 1930, 32 percent; in 1931, 54.9 percent; and for 1932, according to an official statement, "nearly the whole revenue intake of the government" (Du Bois, 1933 pp. 685–6).

With respect to the development of rubber tree growth, harvesting, and the profits to be made:

> it will take about five years for the whole plantation to reach its full output. If the crop is estimated at 400 pounds per acre, the exports will amount to about 9,000 tons. The price of rubber at New York is at present about 5 ½ cents per pound. But even assuming a price of 20 cents per pound? which in present circumstances seems impossible to attain in five years? the crop would fetch $4,032,000, of which the Liberian Republic would receive 1 percent, or $40,320. In addition, Firestone pays a rental of 6 cents per acre, which gives $3,000. The Republic of Liberia thus receives from Firestone $43,320, an amount which is not sufficient even to pay the official responsible for the service of the loan, $53,650. If the contributions to be paid by Firestone are reckoned on the basis of the present price of 5 1/2 cents per pound for rubber, the amount is only $13,188 instead of $43,320 (Du Bois, 1933 p. 690).

Given this reality, while Firestone and the US government were profiting, the Government and peoples of Liberia were paying for the privilege of being exploited. If the notion that globalization is the flow of ideas and capital then the flows are all in one direction.

While Du Bois clearly saw that it was not just the Global North that was at fault the underlying theme is as relevant today as it was when DuBois wrote, that of White Supremacy.

> Liberia is not faultless. She lacks training, experience and thrift. But her chief crime is to be black and poor in a rich, white world; and in precisely that portion of the world where color is ruthlessly exploited as a foundation for American and European wealth. The success of Liberia as a Negro republic would be a blow to the whole colonial slave labor system (Du Bois, 1933 p. 695).

So while Human Rights as an abstract concept is something that we can all broadly support, the competing claim of western white male hegemony still has the power to block our moral growth. We are currently in a battle, and yes that term is appropriate. Anybody who witnessed (and we all did) the white angry mob that was happy to attack their 'blue lives matter' brothers on January 6th 2021, in an attempt to subvert democracy, should be in no illusion about the power of toxicity white masculinity.

Human rights is (or should be) a fairly straight forward concept. We all feel comfortable with some level of concern/consideration for others. The issue becomes when the "other" is far removed from us or if we are in direct competition for resources. Liberia and Timor-Leste are just two cases that highlight the challenges to a functional human rights for all; *distance* and *desire*. In these cases the othering, mental gymnastics that we go through to rationalize that 'those' people aren't really worthy of concern, being inferior. A further case in point being the ongoing refugee crisis that the world has been part of; and will only get worse as climate change displaces more and more of the human population. Though according to the 1951 Refugee convention and its 1967 Protocol, climate refugees are not eligible for "consideration" under this convention and protocol, however, "by 2050 the number of climate change refugees may dwarf the number of traditional refugees—that is, those entitled to protection under the 1951 Refugee Convention and its 1967 Protocol" (Docherty & Giannini, 2009, p. 349).

On one hand we can say that Human Rights is an easily understood concept, its praxis on the ground is something else. In virtually all our dealings around the globe, particularly with capital markets, the aim of said markets is to achieve a competitive advantage. In all areas the aim is to minimize costs and maximize profits. Such a move should really be seen as a race to the bottom. Back to *distance* and *desire*, the further away the less concern, the greater the desire the more willing not to see. The automotive industry in North America is a perfect case in point, the push for fuel efficiency standards should have been an easy sell. More fuel efficient cars and trucks, however, means less profits for the oil industry, therefore anything that could potentially harm corporate America's bottom line is to be attacked. It is not as if we haven't known. Increases in Carbon Dioxide "attributable to … agricultural, industrial and domestic activities" were noted in the 1960s in the scientific journal *Tellus* (Keeling, 1960, p. 201). We can however go back even further to a Swedish scientist, Nobel Prize winner and founder of Physical Chemistry, Svante August Arrhenius who published his findings on the 'influence of carbonic acid in the air upon temperatures on the ground (Arrhenius, 1896). It is not as if we haven't been warned, it is a matter that we have constantly been fed a steady diet of distraction and misinformation, by those who stand to benefit in the short term and damn the consequences to our children and grandchildren.

The current Corona virus pandemic is another chance to learn – or willfully let ourselves be deceived. While there are those that can claim "I don't see it" or "I don't believe" with respect to climate change, doing the same with the current pandemic can and all too frequently does have more immediate deleterious repercussions. With respect to pandemics, in a globalized world the ability to maintain a

distance stance breaks down. The global flow of goods, services and travel mean that a virus that jumps the species barrier (as has been confirmed the case with the 2014 Ebola outbreak Castillo-Chavez et al., 2015) can and does spread far too easily. Should we care that patient zero was a two year old boy who ate bush meat? Should we be concerned that at the start of the Ebola crisis Liberia only had 57 doctors in the whole country (Baize et al., 2014)? The same cannot be said with regards to Covid-19; for the purposes of my argument it is irrelevant the providence of the virus. It started at a large population center that is intimately connected to the world through goods, services and travel, the consequences have and continue to be devastating. This pandemic provides the perfect example of how using *distance* and *desire* to deny Human Rights concerns ultimately doesn't work and that the denial of human rights for some, challenges my own personal human rights.

Taking a line from Tandon:

> At the end of the day, we need a truly heterogeneous, pluralistic global society that is based on the shared values of our civilisation, and the shared fruits of the historical development of the productive forces of science, technology and human ingenuity. Only on this basis can we build a global society that is free from want, exploitation, insecurity and injustice (2008, p. 133).

The question remains will we as a species be willing to place some limits on our behavior for the benefit of all? Or do we remain trapped in the 'tragedy of the commons'(Hardin, 1968). While a heterogeneous, pluralistic global society based on shared values would go a long way towards creating a just community of nations, creating an awareness of the need does not equate to generating actions on the ground. So while we can optimistically talk about what shifts are needed, the reality as pointed out long before by Niebuhr is that:

> Most of the social scientists are such unqualified rationalists that they seem to imagine that men of power will immediately check their exactions and pretensions in society, as soon as they have been apprised by the social scientists that their action and attitudes are anti-social (Niebuhr, 1960, p. xviii).

As long as there are riches to be made and frameworks to be exploited there will always be men (as yes, it is typically/mostly men) who believe that it is their right to take. Though Niebuhr wrote *Moral Man and Immoral Society: a study in ethics and politics* prior to World War II, the productive forces and communication he spoke of bear no resemblance to the marvels of communication technology we take for granted today. His challenge, however, remains the same, that as a species we have developed commerce to even greater heights, heights that have created greater interdependence, yet we still have not been able to generate the same level of concern for each other.

> While rapid means of communication have increased the breadth of knowledge about world affairs among citizens of various nations, and the general advance of education has ostensibly promoted the capacity to think rationally and justly upon the inevitable conflicts of interest between nations, there is nevertheless little hope of arriving at a perceptible increase of international morality through the growth of intelligence and the perfection of means of communication. The development of international commerce, the increased economic interdependence among nations and the whole apparatus of a technological civilisation,

increase the problems and issues between nations much more rapidly than the intelligence to solve them can be created (Niebuhr, 1960, p. 85).

There is no question, human rights are, in many senses simple and straight forward. It is as Niebuhr contends a lack of intellect, though I would add there also a willingness to place personal desires above that of others. In a globalized world we have globalized the wants of the few over the globalized needs of the many. Being admitted to the "human" club affords you status and privilege. Yet we still denial access, in the 1930s it was the Jews, Roma, Homosexuals, Africans, who were deemed not "fully" human enough or defective so as to not warrant care. We learned (did we really) at our peril the costs of such denial. If we are to buy the Enlightenment Project, where is the progress? In many parts of the world today we are still seeing a rise in tribalism and an "othering", a blaming and exploitation. It doesn't matter if there are sweatshops in the south or if the Uighurs are picking cotton for us in China. It is the Industrial complex that creates producers and consumers. Being admitted into the consumer class grants you greater access to Human Rights. This therefore is the problem, the crisis is with the Western Consumer class.

One would assume that experiencing oppression or witnessing it would prompt a reflective attitude towards power differentials and a desire to change the dynamic, instead it runs into the *distance desire* dilemma. The dynamic doesn't change, it flips. In a world where to be powerful is to exploit, the lessons learned have more to do with the pursuit of power to oppress, not as Freire would put it – humanization (1993). If Globalization has a silver lining it is that the current treatment of systems / regions of the world as less than or less worthy of concern, has been laid bare as a morally bankrupt frame of reference, long has the West viewed the rest as not worthy of concern, it was over there and as long as I have my goods and services then what is the worry. Such a blasé attitude highlights Niebuhr's point about our lack of intellectual growth. While it is perhaps too much to hope for an expansion of our moral thinking, Climate Change and the Covide-19 pandemic can and should be a wakeup call for us all. While I might not care, for 'them', if I care for myself then I am forced to care for them. While this might not be the great moral awakening that Niebuhr had hoped for, it is at least a start. Regardless of my motivation, these catastrophes not only signify a need for consideration for all, they highlight the self-defeating nature of the conservative right-wing backlash. Denial of Human Rights in the Global South or a 'it's not my concern' may provide a comforting fairytales. Falsely believing that the Global North is inoculated by geography or wealth, from 'those' people and 'their' troubles. Climate Change and Covid-19 provide the inconvenient truth that the world is a system and we can't build walls high enough to protect those who deny the fundamental humanity of all. In a futile attempt at convincing ourselves that it isn't our crisis or that it is our right to continue a globalization of wants, at the expense of those who only seek a globalization of needs. The fundamental truth, however we get there, is that we are all sisters and brothers and we can either choose to live together as a common family for all, or we can die as fools, and it will not be from old age.

There have been concerted efforts to in both Timor-Leste and Liberia to recover from their conflict histories, and build a framework for human rights considerations, however, the failure of their Truth and Reconciliation efforts are not totally of their own making. In both instances the geo-political forces seem assured that account-ability is never reached. While Timor-Leste had the added impetus of seeking to reach the Millennium Development Goals, the reality of coming late to the party and the United Nations desire to proclaim early victory hides a darker truth:

> Timor Leste and the international community both need to be commended on the efforts that they have put into pushing the development of the world's newest democracy and to the promotion of the human values inherent in the Millennium Development Goals, however, unless the terms of reference for the Millennium Development Goals are broadened to include a major focus on the section of the population in the 15 to 35 year bracket then his-tory will look back on the Millennium Development Goals not as an enlightened piece of international public policy but rather a cynical numbers counting exercise that enabled those in the more developed countries to assuage their guilt over the plight of so many in the lesser developed world (Carroll & Kupczyk-Romanczuk, 2007, p. 80).

We still have a ways to go, taken within the context of globalization, colonialism and imperialism set the seeds for corruption, and for a disregard to human rights. When what is seen in the global south is a disregard for life and that the notion of justice is a rich man's justice then following Freire, to be powerful is to be like and to be like is to oppress (1993). Is it any wonder that in the dynamic where riches are being made but little of it stays, supports or develops the local of where it is gener-ated; the so-called 'resource curse'(Davis & Tilton, 2005; Frankel, 2011; Tiba & Frikha, 2019). How do we balance the "globalization of wants" with a countries own internal needs; more broadly how to we achieve a "globalization of needs" how do we pay reparations to those of the global south who have enriched those in the global north and how do we move beyond a globalization of wants, and live com-fortably within a globalization of needs.

Our current consumer society like the processes of globalization are nothing new, these tendencies have always been in evidence. What is new is the degree, what took months and years for new ideas and technology to spread now happens almost instantaneously. That connection comes at a price; the need for raw materials has fueled industries and what were once out of sight/out of mind are now more easily brought to the world's attention. It would seem though in many cases, as a general statement, the world doesn't really care. There are still many places in the world were big business can operate largely out of sight and mind. The original natural rubber plantations in Liberia were (and still are) to be found in Harbel, Margibi county, now a short drive from the Robertsfield International Airport. The same can't be said for the Palm Oil plantations found in the counties of Sinoe, Grand Kru, Maryland and River Gee. There is no direct route from the capital city of Monrovia to any of these counties and the travel typically takes days (in the dry season) and impossible during the wet. The only reliable access is via light plane or access through the ports of Greenville and Harper (in the counties of Sinoe and Maryland respectively). Though the main worldwide production of Palm Oil takes place in Indonesia and Malaysia, with the demand for Palm Oil set to double by 2030 and

triple by 2050 it is easy to see that this demand for cash crops will increase the burden on impoverished countries such as Liberia and the demand for greater acreage, currently at 500,000 acres[3] will only increase.

Conclusion

While there will always be a demand for cheap raw materials and labor, there will also be a tendency to 'cut corners' and as we have seen around the world (and not just Liberia and Timor-Leste), the more remote those locations, the more likely are the systems rife with abuse. In deed it will not be until consumers and markets truly see the world as one system, where my cheap consumer goods or products are the cause of somebody else's misery. Moving forwards we are situated in a global community that while aware of the finite nature of our globe and with the increasing spread and saturation of ICT's the ability to connect with almost anybody on the planet, at any time, in an instant. Being an optimist I would like to think that one of the lessons we can learn from the Covid-19 pandemic is that there is no *us* and *them* there is only *us.* There is no *other,* we do not live on an island, and despite some of our lesser-politicians, we can either choose to live together as one or die separately as fools.

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[3] https://www.devex.com/organizations/golden-veroleum-liberia-47929

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Chapter 3
Historical, Contemporary, and Future Issues on the Nexus of Globalisation, Human Rights, and Education

Andrew Swindell and Joseph Wright

Globalisation and Human Rights

Theodore Levitt, a former Harvard Business School professor, is widely credited as the first to use the term 'globalisation' in 1985, which at the time, he used to describe a mostly economic phenomena regarding increasingly interconnected global markets and finance institutions (Stromquist, 2002). However, according to the Oxford dictionary, the word 'globalisation' was already employed in 1930. The term was widely used by economists and sociologists in the 1960s. Furthermore, Marhall McLuhan, a Canadian professor of English at the University of Toronto, who analysed the media and introduced the term the 'medium is the message', also coined the term 'global village' (Zajda & Majhanovich, 2021). Since then, the term has come to have a variety of meanings, stretching beyond economics, to include social, cultural, political and environmental realms of society to name a few. There is no universally agreed upon singular definition of globalisation while its usage has become popular everywhere from informal conversations to academic debate. Given this wide range of uses and meanings, it is beyond the scope of this chapter to devote time to all of these definitions. Instead, we briefly distinguish one conceptualization of globalisation as a *multidirectional process* and situate it over *time* in order to frame further discussion of human rights and education.

One of the most cited definitions put forth by Held et al. (1999) who argue that globalisation does not float alone in the ether, but rather can be understood as a set of multidirectional processes that increasingly and unevenly connect people, places, and societies together at a global scale. Held et al. (1999) further argue that the specific processes that account for these interconnections include a stretching of social relations across space, an intensification of multilateral and multicontinental

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flows and networks of interaction, the increasing interpenetration of economic and social practices, and finally the emergence of a global institutional infrastructure. Within this framing, globalisation is not a singular and always increasing phenomena but rather a set of processes that can increase or decrease, occur from multiple directions simultaneously, and have implications on how global, national, and local social, cultural, economic, and political power and norms arise and change over time.

To help distinguish how scholars assess the direction and impact these processes, Held et al. (1999) describe three broad categories of globalisation: (1) the *hyperglobalists* whose argument is rooted in economics and perhaps closest to the colloquial use of globalisation, where global trade and interconnectedness is resulting in the world moving towards one unified political, economic, and even cultural system where nation-states and the local become significantly less important than the new global order (2), the *skeptics* who use strong, and perhaps underestimated, national and regional based economic activity to argue essentially the opposite and view nation-states and smaller regions as still the most important political, economic, and cultural actors, and (3) the *transformationalists* who accept that globalization is the dominant political, economic, and cultural 'force', though the "direction of this 'shake-out' remains uncertain, since globalization is conceived as an essentially contingent historical process" (Held et al., 1999, p. 7). In other words, this uncertain "shake-out" is exhibited by how global powerhouses like the United States (US), China, India, and European Union (EU) rise and fall in terms of the power they exert over other countries, people, and societies, and the transformationalists' perspective helps see these as continually in flux and the resulting direction from which power is exerted as unclear and unpredictable.

The second element of globalisation that requires attention is *time.* It is tempting to be biased by recent history alone and consider globalisation a new phenomenon that has come to exist only with the advent of technologies like the internet or air travel. However, we argue that from the broad perspective where globalisation is ultimately just a set of processes related to connecting people and societies at a global scale, globalisation has in fact been happening for thousands of years and more importantly, changes hands in terms of where power rests. In other words, countries, societies, and civilizations rise and fall, and so too does their influence on these globalising processes. The ancient silk road is often considered one of the first examples of economic and social globalisation given the multi-continental distance it covered and the effects it had on increasing global connections and trade. Beyond the economic impact, even the maps and literature that were exchanged in these ancient times can be considered a type of globalisation given the effect they have on spreading ideas that shaped transcontinental culture, society, and markets. After the silk road established a tangible connection between people in distant places, and perhaps more importantly a hunger for more, more distinctive eras of globalisation became apparent, particularly with the advent of specific technologies. Oceanic exploration during the fifteenth to eighteenth century was characterized by European colonialism (e.g. Britain, France, Spain, Portugal) which was followed by the industrial revolution in the nineteenth century (globalisation 1.0, power concentrated in Britain and France), post-World War II global institutions and air travel

(globalisation 2.0, power concentrated in USSR and USA), the rapid increase brought about by the internet in the 1990s–2000s (globalisation 3.0, power concentrated in USA, EU), the rise of China and social media companies (globalisation 4.0, power concentrated in China, EU, USA), and the current pandemi era we find ourselves in now (globalisation 5.0) (Gao, 2018; Vanham, 2019). While this chapter primarily focuses on the process of globalisation since the 1940s, this analysis is important in that it places globalisation in historical context and illuminates the changing nature of where power to impact globalising processes is held and exerted changes (e.g. a shift from the US in globalisation 3.0 to China in 4.0). This changing nature of power within globalisation has significant impacts on the intersection of the future of education, human rights, and globalisation. These eras are summarized in Table 3.1 below.

Human Rights

McCorquodale and Fairbrother (1999) suggest that, "human rights are both a part of globalisation and separate from globalisation" (p. 740). Globalisation and human rights share this dynamic relationship, which becomes important for tracing the intersections and evolution of the two—especially as we think about directions for the future. Human rights have strong roots in globalisation 2.0 as is exhibited by the post World-War II creation of global political institutions like that United Nations (UN), as well as the establishment of global social and political norms like the 1948 UN declaration of human rights that provides the foundation of human rights discourse to this day; however, one should not read the subsequent eras of globalisation as progressive or inevitable. Events like the 2020–2021 COVID-19 pandemic or the rise of populism and nationalism from 2016 and into the early 2020s suggest that economic, social, and political globalisation can retract and shift, and so can the promotion and acceptance of human rights. However, reaching a comprehensive understanding of this dynamic interplay between rights and globalisation remains elusive and complex. This chapter is one attempt to begin dissecting these dynamics, especially as we think about possible future directions of education. Even in the face of ambiguity about these nuances, one thing is clear—certain elements of globalisation are not neutral in regards to human rights. Military conflict, economic exploitation, and environmental degradation are just a few examples of how certain elements of globalisation lack any awareness of human rights and the current conceptualisation of our basic social contract as global citizens often places economics above most social and cultural responsibility (Polanyi, 2001).

In regards to education, globalisation, and human rights, there are three main questions raised in this chapter (1) Who enforces human rights such as education? (2) Who defines what are the minimum standards of human rights such as education? and (3) What role can education play in shaping the dynamic between rights and globalisation as we look to the future? The rest of this chapter will be spent

Table 3.1 Eras of globalisation (Gao, 2018; Vanham, 2019)

Era	Ancient Silk Road	European Colonialism	Globalisation 1.0	Globalisation 2.0	Globalisation 3.0	Globalisation 4.0	Globalisation 5.0
Time	200 BCE–1400s	1400s–1700s	1800s–1945	1945–1989	1989–2010	2010–2020	2020–?
Leading Countries	N/A	Portugal, Spain, France, Britain, Belgium	Britain, France	USA and USSR	USA	China, EU, USA	?
Influence	Land Trade	Oceanic Exploration	Industrial Revolution, Train and Ships	UN, Air Travel, Shipping Containers	Internet, NAFTA	Social Media, Big Data	Pandemic

exploring the first two questions before attempting to address the last question in the conclusion.

Accountability and Remedy

The lack of accountability and remedy for human rights violations has always been a significant criticism of a rights paradigm, and the right to education is no exception (Brysk, 2002). While human rights treaties are often articulated at the multinational level, very few are enforced at the same. Rather, most international human rights treaties require national incorporation, which is the lynchpin for realising human rights at the personal level (Kilkelly, 2019). Incorporation is contextually driven and as such, comes in various forms including direct, where the treaty becomes part of national law; indirect, where there are some legal obligations which encourage incorporation; partial, where aspects of the human rights treaty are incorporated into law; and full, where the human rights treaty becomes national law (Hoffman & Stern, 2020). One question that remains to be answered is the degree to which globalisation has influenced these various incorporation processes. Given that incorporation is a state level decision, it might suggest that globalisation plays less of a role in shaping human rights treaty incorporation, with domestic politics playing a more prominent role. For example, while the US has ratified some UN treaties and declarations that call for a right to education, they have failed to incorporate a right to education at the national level (Robinson, 2019).

However, one cannot ignore the reality that increasingly universal social norms surrounding human rights, tolerance, and justice do play an important role in providing political and social pressure both within and across countries (Brysk, 2002). Globalisation complements and at times can exacerbate this political and social pressure by providing a much larger sense of rights and duties. The 2020 social justice movements that began with the murder of George Floyd went global at a scale that is hard to comprehend without grasping the global impact of technology like social media that allows people on every continent to instantaneously share and consume the same information. The time-space compression that has come about with these technologies and a part of every era of globalisation may indeed play a key role in helping to provide some level of accountability and remedy. But one can hardly build a legal system of rights around social and political pressure—legal systems of remedy are not needed by the majority. The test of a rights effectiveness is based on how minorities are treated. In the case of education, this largely falls under the principles of quality and inclusion.

Quality and Inclusive Education from a Human Rights Perspective

While there stands a human right to education and a concerted global effort has been made to bring it about, what is less clear is what counts as "education" and for whom. These questions were raised with the Education for All (EFA) framework in 1990 and later with the implementation of the Millennium Development Goals (MDGs) in 2000 in which a call for all children to receive a primary education was largely realised (United Nations, 1990, 2000, 2015a). Yet evidence suggests that the quality of that education was mediocre, especially for the most vulnerable. The 2015 Sustainable Development Goals (SDGs) attempted to rectify this by calling for "quality education" and setting proficiency standards (United Nations, 2015b).

What has become increasingly normalized within the SDGs call for a "right to education" is to talk of a right to *quality* education. This shift has been matched by data systems and tracking that seek to add elements of quality, like relevance and linking education to specific career related skills, into monitoring and evaluation of primary and secondary education systems globally. This helpful shift in parlance has signaled a new social acceptance and awareness that a right to education has to have a qualitative element to it for that right to be realized. One cannot separate this helpful advancement of the right of education from social and political pressure within and amongst countries as related to socio-political globalisation, which played some role in advancing these norms. However, this still leaves a major question, regardless if a country or global institutions like UNESCO accepts this wide definition of a right to education, what legal remedies and accountability does a person have to ensure that they can access education that is of high quality and relevant to their unique local and global context. As suggested previously, this is especially important for minority and vulnerable groups such as students with disabilities.

In addition to quality, inclusive education for all is also uniquely tied to globalisation and human rights. By definition, human rights should be inclusive, in that they are accessible by all persons without discrimination (United Nations, 1948). However, here, like with accountability and remedy, we see that expectations are far from realized. Inclusive education continues to be a struggle for many individuals to realize and for the system to deliver—especially in the cases of the most marginalized groups who experience issues like segregation, education delivered in a second or third language, and outright discrimination. This brings into question the effectiveness of human rights as a mechanism for ensuring equal access to education. However, in recent eras of increasing globalisation, while incorporation and remedy are far from realized, shifting norms around inclusive education have seen progress. Calls for inclusive education have found their way into several documents including the SDGs and increasingly are finding their way into data systems and budgets. Like quality education, inclusive education is also benefiting from the increasingly globalised norms around a right for education for all.

The Nexus of Education

Accountability and remedy, as well as quality and inclusive education are unique challenges that face the human right to education in an ever increasingly globalised world. To further understand these dynamics, several pertinent issues related to globalisation, human rights, and education are explored below.

Multilateral Institutions and Decolonisation

Multilateral institutions, human rights, and globalisation are intimately connected. The United Nations, and its auxiliary organizations, have their founding largely in human rights principles and have gained prominence through treaties and alignment that is a result of increasing political, economic, and western-centric sociocultural global interconnectedness (United Nations, 1948). The work of the United Nations Educational, Scientific, and Cultural Organization (UNESCO), as well as other organizations like the United Nations Children's Fund (UNICEF) and United Nations High Commissioner for Refugees (UNHCR), have taken the human right to education as a central focus of their missions and have sought to advance the right to education for all globally. While seemingly positive, a more critical lens can be helpful in interrogating the issues of power underlying these processes.

We must first critically examine the role that a rights-based philosophy tied to globalisation has played in perpetuating western-centric political and economic paradigms at the expense of other cultures and peoples. As Sinha (1981) suggested in their article about non-western perspectives on human rights, "The contemporary movement for human rights has a western imprint. Although called universal, it is the result of Western European history and a product of Western axiological tradition" (p. 76). Similarly, in their article on children's rights as a western-centric paradigm, Elizabeth Faulkner and Conrad Nyamutata (2020) both highlight the colonial legacy, western-paradigm of childhood, and power dynamics that were associated with the Convention on the Rights of the Child. While they are not necessarily arguing against the merit of those rights, they do highlight the problematic universal assumption of human rights. This concern should cause significant reflection; especially in recognition of the problematic history of colonisation that continues to extend into intellectual, political, and social philosophies. As found at the intersection of socio-economic and political globalisation, human rights and education create contested spaces between power and culture that have yet to be resolved, with some calling for a further decolonisation of the rights-based agenda (Faulkner & Nyamutata, 2020; Sinha, 1981). Within this mindset of contested spaces within rights, culture, and power, we must question the role of multilateral organizations that rely on funding from generally Western countries and, to a more limited extent, corporate-related foundations. While not explicit, the role of funding could place donor countries in positions with greater "soft" power to control narratives,

agendas, and programs. We argue that at worst, this may represent a form of neo-colonialism, even if it is implemented with good intentions, or at least a lack of inclusivity surrounding who is able to impact the rights agenda for education.

However, there might be new vision and hope arising for multilateral organizations to decolonize their work as they expand and reimagine what the right to education might be by drawing on more and historically underrepresented voices. For example, UNESCO's Futures of Education project is fore sighting what the future of education might be by 2050 (UNESCO, 2021). Some of the ideas are fundamentally transformative as they rethink how "knowledge and learning can shape the future of humanity and the planet" (UNESCO, 2021, p. 17). The structure of the project has included millions of individuals taking surveys, participating in focus groups, and submitting comments and artwork. The work also seeks to rethink four specific areas, (1) human and planetary sustainability, (2) knowledge production, access, and governance, (3) citizenship and participation, and (4) work and economic security.

The results of this process will be finalized in November of 2021; however, the process itself is worth noting in that it is providing a fundamental rethinking of what the right to education should look like and how it should be implemented and realised in the face of various globalisations (economic, social, political, etc.) and their discontents. This type of imagining holds promise, however, it could also be just another example of multilateral rhetoric that is relatively disconnected from structural realities at the international, national, and local levels and lacks sincere incorporation. Additionally, decolonizing the right to education, by which we mean increasing localized control and autonomy over education systems and curriculum especially around issues of language and representation in formerly colonized countries in the face of continued socio-political globalisation, remains a major challenge that cannot be easily ignored in the face of the current structure of multilateral organisations (Faulkner & Nyamutata, 2020).

International Education and Migration

Perhaps the defining characteristic, and most distinctly *human* element, of globalisation is mobility and increased international migration. The global movement of goods and services, though powerful representations of globalisation, are less tangible than actual people who decide to up and move to a new country and send their children to a new school. Before discussing the role of education in migration today, though, it is useful to provide a brief overview of the scale and direction of migration today for context. The number of international migrants (i.e. people who change the country of their usual residence) is estimated to be about 272 million people which represents approximately 3.5% of the total global population. This number has been steadily increasing since the 1970s, though it is interesting to note that the vast majority of people (96.5%) actually live in their country of origin. Given the scale of migration today, it is also tempting to think that we now live in an age of

unprecedented international migration, though scholars like De Haas (2005) note that this sentiment may actually be a myth given that even in the early twentieth century, international migrants represented roughly the same global percentage (2.5–3%).

As we mentioned, work opportunities are the largest cited reason for international migration, though education also plays a key role. One way to conceptualize migration is through push factors (i.e. events that cause people to move like conflict or natural disaster) and pull factors (i.e. work or education opportunities in a new place that are attractive for migrants), some of which can be human rights affirming, and some of which can be violations of basic human rights. It is an imperfect dichotomy, but helpful in the context of education which can be understood as both. In other words, education both influences and is influenced by migration. For example, higher education rates largely enable migration whereby migration rates for emigrants with a college degree are three times higher than those with only a high school diploma and nearly five times more than people with a primary education. Given the importance that a college degree in particular can have on allowing international migration, it is interesting to also note that immigrants are generally more likely to be educated than the native population of their destination country, with immigrants in Canada, for example, being nearly 20% more likely to have a college degree than their Canadian peers. While educated adults may be more able to migrate, children are of course less able given their age, though this does not mean that education is not a factor in international migration patterns for children. The share of first- and second-generation students has steadily increased to 12.5% in OECD countries, while 20% of fifteen-year-old students in the same grouping of countries are either immigrants themselves or have immigrant backgrounds. The story of education for immigrants and their children, though, is not entirely positive. Undocumented migrants and first- or second-generation children who face barriers like language or unequal wealth compared to natives, tend to lag behind their native peers in educational attainment and can do so for generations. Clearly the right to quality and inclusive education is not being realized by all, with some migrants being left more vulnerable to seeing that right realized (UNESCO, 2019).

Education for im/migrant children is also by no means homogenous and difficult to track for a variety of reasons. Given that children (under the age of 18), are much less able to make international migration decisions for themselves, international students at the tertiary level make an interesting and more concrete case study for how globalisation has impacted the ability for people to access quality and inclusive education at the university level. Despite deep seeded inequalities in accessing international tertiary education, which we will discuss in the next section, one of the benefits of an increasingly connected world with greater mobility can be found in international tertiary student migration patterns. International student enrollment in the United States was close to nothing in 1960 and has steadily increased over the past 60 years to well over 1 million students today (Open Doors, 2020). Globally, the number of college students studying abroad more than doubled from 2.1 million in 2001 to 5.3 million in 2019 (Project Atlas, 2019). These are clear indicators that college students are more mobile now than ever, which is a direct result of countries

opening visa and border policies in the recent era of increased globalisation. Economic globalisation has also made international travel faster, cheaper, and more readily available. Similar to general migration, the United States is far and away the leading destination country for these students, while China and India are also top in sending students abroad (Project Atlas, 2020).

Of course, the 2020–2021 COVID-19 pandemic had a noticeable impact on college level international students that may even echo a larger trend in how globalisation is shaking out. Enrollment of these students dropped globally as borders were closed and travel restrictions were implemented to curb the spread of COVID-19. This was felt perhaps the most in the United States where total enrollment dropped by 16% in the Fall of 2020 and new enrollment dropped 43% for the same time (Martel, 2021). These sharp declines were due in large part to decreased enrollment from Chinese nationals which may be a result of factors other than COVID-19, like Trump-era visa restrictiveness and improving higher education opportunities in mainland China. As Held et al. (1999) noted, the direction of the globalisation *shake out* is yet to be determined, and the dominance of the United States in higher education may be yielding to advancements in China who have been steadily investing in their own domestic system for decades (Swindell, 2020). There is even evidence now that some Chinese firms may prefer graduates with a Chinese diploma (Chen, 2020) which echoes the larger trend in Chinese economic growth and influence on the processes that are fundamental to globalisation.

Private Schooling, Curriculum, and Education in Context of Neoliberal Economic Globalisation

One characteristic of the drive for people to access global work and educational opportunities beyond their country of origin has been an increased global emphasis on English language and Western ideologies on pedagogy and schooling. As the global labor market has expanded, so too has demand for education that provides the skills, knowledge, and credentials to access better paying jobs in the global marketplace. Neoliberal policies in particular, like the promotion of structural adjustment and government austerity by the World Bank and trade liberalization by the WTO, have had immense impact on education. Testing regimes like the Organization for Economic Cooperation and Development's (OECD) Program for International Student Assessment (PISA) have also played a role in this by promoting global education standards with an emphasis on workplace skills. In their analysis of the education and globalisation Spring (2008) notes that these developments have led to "uniformity of global curriculum, instruction, and testing …educational plans tied to the knowledge economy and human capital development…[and] a push for global privatization of educational services, in particular in higher education and the sale of information services and books by multinational corporations" (p. 352). The number of international schools, most if not all of which are private,

that use these materials and exist within this framework have more than quadrupled since 2000 (Bunnell, 2021) and their impact demands further analysis. This leaves one to question if this process is furthering or hindering the human rights project of quality education for all.

Cambridge International Examinations (CIE) and Curriculum, International Baccalaureate, Pearson and the College Board are just a few examples of private organizations and companies that have an immense impact on the global education arena. In their critique of the CIE *Thinking Skills* curriculum, Lim (2012) notes how these organizations can spread politically and class biased versions of western centric notions of critical thinking is and ought to be that are often framed in terms of western labor markets and rationality. Needless to say, like most of the content of this section, these can be beneficial for those who are critically aware and in search of this type of education while also representing how education can serve as a promoting economic interests. More broadly, international schools and curricula can indeed promote beneficial cross-cultural exchange and learning, but must be done so with preparation, local input, and adaptations to the context to avoid dependent and uncritical relationships (Ledger, 2016, p. 36).

Like the providers of other globally branded products, schools offering international education must provide a reliable service throughout the world. This is supported by the quality assurance conferred by participation in such curriculum and assessment organizations as the IBO, Cambridge International Examinations (CIE) and the US-based College Board, and through accreditation by various US-based accrediting agencies and by international schools organizations such as the European Council of International Schools (ECIS). Murphy (1998) proposes that being found worthy of accreditation by experienced colleagues is a source of satisfaction to schools, and that 'peripatetic parents are becoming familiar with the process of accreditation and are beginning to feel that placing their children in an unexamined school is a risk they do not wish to take' (p. 223). To reference Held's framing of hyperglobalist globalisation, it is easy to see how schooling that is directed mostly by western private organizations has increased homogenization of education, perhaps for the worse and in violation of basic human rights.

Indeed, questions must be asked from a human rights perspective that focuses on universal access to quality and inclusive education, surrounding exactly who benefits from the universalist global spread of western and privatized education. Class based segregation and unequal access to these opportunities are clear (Dvir et al., 2018), while some scholars have articulated that a new "transnational capitalist class (TCC) is being created by these developments (Cambridge & Thompson, 2004, p. 170). In other words, the access created by the spread of privatized (and often for-profit) schooling and curriculum publishers will only be for the TCC thus perpetuating global inequality. The other side of this argument, though, is similar to many others in the favor of hyperglobalist proponents. Educational materials are incredibly time consuming and expensive to create, so the availability cannot be entirely negative. Moreover, to argue that teachers, parents, and schools that have chosen to use these is not in their best interest presupposes that they lack their own agency and that academics on the other side of the world know better. We do not

claim to be the authority, but rather are shining light on a trend, the full effects of which simply are not known.

We also want to comment on these same neoliberal tendencies and their relation to human rights in education generally. As private education and the curricula discussed above suggest, the right to education remains the challenge that economic globalisation brings in defining what that education should be and for whom. While rights technically should preclude any other justification for investment in access to quality education, one must also recognize that most states fail to deliver on these rights unless there is strong economic justification to do so. Often this justification for investment in education is closely associated with increasing human capital and skills that results in economic returns to a domestic economy. The natural push back from a human rights perspective is that the right to education should be more than the right to become a cog in the machine of capitalism—humans are simply more than their economic ends. Rather, humans should be valued for their humanity, their ability to think and reason and as independent agents in their communities. While proponents of both sides rarely argue to such dogmatic extremes, the practical implications of both sides are important as we think about the future of education in an economically globalising world. The right to education must ultimately seek to accomplish both ends—good jobs and realized agency and autonomy.

Forced Migration and Education in Emergencies

People from emergency contexts and those of forced international and internal migration most likely lack the access to the type of schooling and materials described above. Estimates project that even pre-pandemic, nearly 170 million people were in need of humanitarian assistance or protection (UNOCHA, 2019) while global emergencies resulting from persecution, conflict, violence, human rights violations and climate/natural disasters have caused more than 80 million people, half of whom are under 18, to flee their homes, which represents the highest level of forced displacement since the Second World War (UNHCR, 2020). Forced migration is often a result of emergencies, and 127 million children living in these contexts were out of school globally at the end of 2019 (INEE, 2020). It is beyond the scope of this chapter to assess to what degree specific elements of globalisation can be identified as causes of forced displacement. Instead, we will discuss the state of education for children that have been displaced, like refugees now living half a world away from their homes, or who are unable to leave but still lacking access to an education that might satisfy their basic human needs as articulated in several human rights treaties.

While Sustainable Development Goal 4 (SDG4) calls for sustainable access to inclusive and quality education for all people by 2030, global education systems have fallen short in achieving this lofty goal thus far, particularly for forcibly displaced migrants and people living in emergency settings (UNESCO, 2018, 2019). Refugees are five times more likely to be out of school than peers while Internally Displaced People (IDPs) also have limited access to education (IDMC, 2019). More

generally, access to education was also found to be severely reduced in conflict areas globally (Burde et al., 2017) and in countries affected by civil conflict like Liberia, Mozambique, Sudan, and Guatemala (Lai & Thyne, 2007). In this sense, violations of human rights to safety and security also compound with other rights like education.

The quality and inclusiveness of education in areas affected by emergencies is also severely lacking compared to places unaffected by such challenges. Levels of literacy, numeracy, and educational attainment are all in places affected by emergencies (INEE, 2020). Longitudinal studies of educational attainment for people affected by the Rwandan genocide (La Mattina, 2018) and conflict in Tajikistan (Shemyakina, 2011) and Pakistan (Ullah et al., 2017) all found similar results of lower secondary attainment for people affected by conflict. Though data reporting specifically on the quality of education in conflict affected areas is limited globally, issues like finding qualified teachers, limiting class sizes, accessing proper learning materials, and creating adequate learning infrastructure were all found to be negatively impacted in these spaces (UNESCO, 2019). Finally, underrepresented groups, like ethnic minorities, face barriers like language and discrimination which limit their ability to be meaningfully included in classrooms in emergency and post-emergency settings (Awada et al., 2018).

Conflict has clearly been shown to negatively affect education systems and delivery thus violating the right to education, but the results have been mixed with regard to education's reciprocal effects on conflict. Bush and Saltarelli (2001) proposed the 'two faces of education' concept to explain how education can have either negative or positive effects on conflict. That is, they found that schooling can actually promote conflict when textbooks, history lessons, and rhetoric are used to promote nationalism or an 'us vs. them' attitude in children, thus propagating the surrounding conflict. This equally, we argue, is a violation of human rights, as it does not lead towards a more justice and equitable society. Conversely, education with the specific goal of building peace was found to do just that, and actually help to decrease violence over time (Bush & Saltarelli, 2001). Similar positive or negative outcomes, depending on the type of education delivered, have been found in various settings globally, thus reinforcing the idea that access to education is not enough to end conflict, but creative and peace-based pedagogy must be employed in a purposeful manner for positive educational outcomes that decrease conflict (Richards & Bekele, 2011).

It is important to also understand that emergency settings differ if people are able to flee to another country or are unable and thus remain within a national border. Indeed, forcibly displaced people are generally understood as either those who were able to cross an international boundary as refugees/asylum seekers, or Internally Displaced Persons (IDPs) who were unable or unwilling to leave their home country. The educational challenges and hardships faced by IDPs are comparable to refugees, if not worse regarding access, enrollment, quality, and educational attainment. However, the focus on IDPs receives less financial aid and media coverage than refugees and education in particular is often low on the list of priorities for IDPs generally. One explanation for why refugees are more visible to Western media and

governments in particular is that when they cross an international border, they are eligible for protection under the 1951 refugee convention and are supported by a dedicated UN agency, the United Nations High Commissioner for Refugees, compared to IDPs who are largely dependent on the whim of their national government (IDMC, 2019; UNESCO, 2019) which impacts how IDPs are counted and ultimately able to realize their right to quality and inclusive education.

Perhaps the largest impact emergencies have on education is depleting resources needed for sustainable access to quality and inclusive education as demanded by a rights framing. Schools in emergency contexts have been shown to consistently lack the human and financial resources needed to operate and maintain adequate schooling in a sustainable manner. Despite these challenges, international focus has traditionally been on other aspects of humanitarian responses like health and food security. Of course, these are incredibly important in emergency contexts, though attention and funding for education on the whole has suffered as a result and not improved, perhaps, as much as it could have in recent memory. Ultimately, more resources and outlets are needed to create truly sustainable systems for providing access to quality and inclusive education in emergency contexts that fulfil basic human needs.

Health, Nutrition, and Safety

The relationship between rights, education, globalisation, and health help us understand the importance of looking at rights holistically and not in isolation from each other. The school has always been a site for promoting the overall health and wellbeing of children and the realization of their rights (Mukamana & Johri, 2016). It is also critical for setting a foundation for lifelong health development (Halfon et al., 2014). For many children globally, school has become the primary place where they receive nutrition, vaccinations, and is usually a site free from violence and child labor, all foundations of the human rights of children (United Nations, 1989).

However, the connection with globalisation goes both ways. This was made clear with the 2020–2021 COVID-19 pandemic in which most schools around the world were shut down for an extended period of time, it was argued, to protect health and wellbeing. During this time, many children, especially the most vulnerable, lost out on their right to education, despite the best attempts of teachers and others to sustain learning (Engzell et al., 2021). Some might argue that the right to health and wellbeing superseded the right to education in this instance. This certainly includes respecting the right of health for teachers, administrators and others. But the connection between rights, education and globalisation extended even further and shared deeper interactions. Despite a right to health and wellbeing, without schools as an essential infrastructure in realizing that right, child marriages increased, rates of child labor increased, vaccination rates fell, and rates of child malutrition grew (UNICEF, 2020). In short, for a child to realize their right to quality, inclusive

education they must also be healthy, have adequate nutrition, and be safe; and conversely, they also must be educated to have a better chance of being healthy for the entirety of their life.

However, we should also acknowledge that the relationship between health, nutrition and safety is still evolving. With ever increasing connections in transportation and trade, isolated public health events can quickly become global education catastrophes, as has been made abundantly clear by the COVID-19 pandemic. Additionally, increasing concerns over teenage mental and emotional health related to digital interconnectivity, global economic pressures, and climate change are largely being handled by schools globally (Azzopardi et al., 2019; Shackleton et al., 2016; Shirk et al., 2009). The trend appears to be that academics and practitioners are calling upon rights to be realized holistically and not in isolation, often resulting in increased pressure on health and education systems. More and more we are recognizing that the right to education, health, nutrition, and safety cannot be separated from each other, but rather, they should be seen and advanced as bundles of rights that require the school setting as rights enabling infrastructure. In this sense, we recognize the unique role that physical and social infrastructure play in realizing human rights in a globalising world.

Given these interconnections, what is needed next is a fundamental rethink about how health and education system can promote wellbeing collectively in the future. It will not be enough for siloed and independent funding streams to operate as they are now if we are to overcome the health and education challenges presented by existencial and global threats like climate change and inequality. Education challenges are now health challenges and health challenges are education challenges, and this reality requires transformative systems level thinking.

Technology and the Digital Environment

The growing digital interconnectedness of the world is often identified as a key component of globalisation. Given the rise of technology within education, it is clear that this may be a new development resulting in a greater connection between globalisation and education. This is further exacerbated by technology companies who are key players in scaling educational technology across the world. However, this leaves one to question the location of human rights within this larger conversation.

UNICEF's general comment on the rights of children within the digital environment provides one potential framing of some of the most salient issues (Committee on the Rights of the Child, 2021). Rather than focus exclusively on rights to safety, which can bring a sense of paternalism, Committee on the Rights of the Child's General Comment 25 (2021) emphasises that the digital space should be a place where children should have equal access and opportunities to be heard and have those views taken seriously. The proponents of this second framing still emphasize the need for safety and security within the digital space; however, concerns about

equal access to the internet and hardware are of equal importance. Often, this discussion harkens back to issues around quality and inclusive education. In today's educational environment, learning to use and have access to digital resources is an important aspect of quality education. However, ensuring that marginalized individuals have access to that digital environment is an issue of inclusivity. For example, ensuring that students in rural areas have the same access to education in the digital environment is critical to pursuing equity in education globally. More frameworks will be needed that focus on the digital divide and human rights rather than focus primarily on paternalistic approaches to digital safety. Education should be an empowering experience, especially within a globalizing context and while safeguarding is important, so should be other aspects of human rights such as voice and participation.

As a final word of caution, while access to the internet and hardware is a component of quality education, educators and policy makers should not equate technology with quality (Selwyn, 2016). Simply giving students access to technology without teaching them how to use it and providing them the tools necessary to be empowered in the digital world would still fail the "quality" standard of education and thus be a violation of their human rights.

Climate Change

One of the most pressing questions facing the intersection of education, globalisation and human rights is and will continue to be climate change. From heatwaves to monsoons and wildfires to blizzards, the changes to weather patterns are having significant impacts on education, especially for the most vulnerable. Early evidence suggests that students will experience less years of schooling overall as temperatures increase, especially around the global tropics (Randell & Gray, 2019). The mechanism of impact can include school buildings destroyed by extreme weather events, school closures due to excessive rainfall, or other weather events that hinder access (Randell, 2019). Even in developed countries, schools often lack the infrastructure to support learning and education in the face of hotter or colder days. Additional concerns arise from climate induced health concerns, such as asthma, which limit school attendance. In addition to these direct implications, indirect mechanisms include food and water shortages, climate change related violence, and climate-induced conflict leading to forced migration. These disruptions often result in not only lost days, but also increases in human rights violations that often accompany emergencies like child labor and child marriage which can signal a permanent end to formal schooling (Randell, 2019).

Efforts by children and youth, based on human rights framing, are currently underway to demand action. Education is one of many solutions put forward in the lawsuit raised by several youth around the world against their countries under Article 5 of the Third Optional Protocol to the United Nations Convention on the Rights of the Child (Sacchi et al., 2019). They suggest that the impact of climate

change on education is a fundamental violation of their right to education, as well as a host of other human rights. Like with public health, it becomes difficult to separate the right to education in the face of climate change from other basic human rights. The right to a sustainable environment is foundational for realizing the right to education. Additionally, education will be pivotal in preparing future generations to live more sustainably with the environment.

Within UNESCOs Future of Education project, mentioned previously, significant effort has been made to try and capture how a right to education, as well as the role of education generally, shifts as we approach a world dramatically altered by humans. The work of Affrica Taylor et al. is visionary in promoting a word where education is no longer a tool that promotes human exceptionalism that views the earth as an object to be manipulated by humans, and instead promotes an education that, "plays a pivotal role in radically reconfiguring our place and agency within this interdependent world" (p. 1). In this sense, these authors move beyond education as a promotion of justice and instead look at education beyond a humanist framing and towards a framing in which the planet and humans are one and education seeks to bring about a sustainable end for both (Common Worlds Research Collective, 2020).

However, if climate action efforts have taught us anything over the last two decades, we must fully recognize that these actions must be taken collectively, and not in isolation. Only a collective redefinition of a right to education and a right to a sustainable future can have enough staying power to fundamentally shift the paradigm towards one where we can move beyond the needs for human rights and into planetary solidarity.

Futures of Education and Human Rights in an Increasingly Globalised World

Children's rights expert, Gerison Lansdown, has called for a shift in how we think about rights, especially for children. In her recent work on rights by design, Lansdown (2021) calls for a world where rights become fundamental to how we create and design systems, programs, and policies. As we look to the future of globalisation, education, and human rights, we advocate for a world in which we design a holistic approach to rights *into and even from* the education system itself. This is in sharp contrast to the current systems design which privileges neoliberal economic policies and western ideologies. Given the increasing economic, cultural, environmental, and political global connections between societies we detailed above, a truly global perspective for education is necessary. To finish our analysis, we now turn to what the future of human rights and education might be in an increasingly globalised world.

The Futures of Education Project, as well as Global Citizen Education (GCE) provide guiding "rights by design" principles, as mentioned earlier, that can help shape the future of education we want to see. While the Futures of Education Project

was discussed previously, we spend time here reflecting on the role that GCE might play as a framework for the future of education. GCE has gained significant popularity amongst academics, human rights advocates, and educators over the past several decades. There are many types of GCE, and UNESCO (2018) provides a useful working definition for GCE generally as education as a "form of civic learning that involves students' active participation in projects that address global issues of a social, political, economic, or environmental nature". Clearly, GCE seeks to accomplish a lot, and to better understand the specifics of how and what dimensions are included, Oxley and Morris (2013) created a framework of GCE that is based on the two broad categories of cosmopolitanism and advocacy which are outlined in Table 3.2 below.

It will take a combination of these various forms of GCE to both conceptualize and achieve human rights in the future. For example, the universalist idea that there are certain morals and ethics that are truly global fits with the cosmopolitan framing of GCE. However, actually helping equip students with the skills and knowledge to decide what these look like in their own context and the ability to realize them is would better map to advocacy GCE. Moreover, these distinct elements of GCE, like environmental and moral citizenship, if taught at global scale could help usher in the next generation of leaders and human rights activists that are able to inform the

Table 3.2 Models of global citizenship education by type (Oxley & Morris, 2013 as cited in Goren & Yemini, 2017, p. 171)

Cosmopolitan GCE (Universalist)	1. *political global citizenship*, which focuses on the changing relations between states and individuals or other polities	2. *moral global citizenship*, which focuses on ideas such as human rights and empathy	3. *economic global citizenship*, which focuses on power relations, forms of capital, the work force, and international development	4. *cultural global citizenship*, which emphasizes symbols and cultural structures that divide or unite members of different societies and considers the globalization of different cultural forms
Advocacy GCE (Relativist)	1. *social global citizenship* focuses on ideas such as global civil society and advocacy for the 'people's voice' even when those people are abroad in other parts of the world	2. *critical global citizenship* focuses on inequality and oppression, critiquing the role current power relations and economic agendas play in these issues through a post-colonial agenda	3. *environmental global citizenship* encourages advocating for environmental sustainability and preservation through striving to change the negative impacts of humanity on the environment; and finally	4. *spiritual global citizenship* concentrates on connections between humans based on spiritual aspects including religion.

future human rights agenda from multiple global contexts. Thus, the human rights agenda can be seen as both being incorporated into education while potentially drawing from future students.

Regardless of the typology, GCE is based on the premise that globalisation has increased to a point, perhaps of no return, where people from distant lands are intrinsically connected to one another and education must adapt for this new reality. In their vision for future theoretical and pedagogical futures for GCE, prominent GCE scholar Carlos Torres (2017) argued that:

> Furthering global citizenship education requires principles of human rights, liberty and equality for all, including the 'rights of hospitality' in the Kantian sense, a formidable and pressing need in this challenging age of global migration...global citizenship as being marked by an understanding of global ties, relations and connections, and a commitment to the collective good. We assume that furthering Global Citizenship Education is one of the most powerful tools we have to interrupt inequality in this growingly unequal global world (p. 148).

Torres (2017) goes on to explicate some specific ends for GCE such as leading to a refocus on a new learning strategies globally, helping raise voices of the oppressed, recasting the goal of education from cognitive skills to more humanistic ends (i.e. spiritual, moral, peace, artistic) and rigorous dialogue on ending global injustices like climate change and forced migration (p. 149). Even more, GCE presents an opportunity to switch the global focus from competition to cooperation and compassion, which is an absolute necessity if a new brand of human rights remedies are to be created and specific actors actually held accountable.

Conclusion

As the above demonstrates, this chapter is particularly concerned not only with the relationship between globalisation and human rights, but specifically, the role of education, which further complicates these dynamics. We argue that education is both a human right and also plays a role in socializing norms around rights. In this sense it sits both *within* rights but is also as an *external force*, shaping the development of rights. Similarly, education sits *within* globalisation, as one of its many facets, it also sits *outside* of globalisation as it shapes socio-cultural, political, and economic globalising processes. In this sense, the dynamics between rights and globalisation is both mediated and moderated by education; while at the same time, these processes shape education (Olssen et al., 2004). It is almost impossible to adequately dissect these complexities; however, asking a few basic questions can help guide the discussion, especially around the most salient and pertinent issues facing an increasingly interconnected world.

In many ways, education has always been a mirror of and motor for human society; both reflecting and directing humanity forward. We now stand at a pivotal juncture where education can serve to reinforce and proliferate the problems brought about by neoliberal economic globalisation or be used as a tool to help provide an

alternative path forward with frameworks like GCE. It is these fundamental principles above that help us begin to imagine quality, education for all as a rights affirming, and environmentally sustainable project. One in which increased economic, social, and political interconnectedness does not have to lead to increased exploitation of people and the earth, but rather, leads towards greater respect and common good. However, the last few decades have demonstrated that this future is not easy to achieve or inevitable. We must actively work alongside all levels of governance to ensure this future. To do so we must adopt rights by design principles that are holistic and break down silos between education, health, economics, and the environment. We must move towards greater emphasis on sustainability, equity, and wellbeing. Finally, we must seek to advance Global Citizenship Education as a foundational framework that promotes a future in which we can all thrive.

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Chapter 4
Migrant and Refugee Children in Europe: A New Perspective

José Noronha Rodrigues

Introduction

When we approach any issue involving children, for example at the criminal, family, social, educational, and/or migration level, as well as all other topics related to children, we must analyze these issues from a different perspective and with sensitivity. The primary aim should be to safeguard and protect the most basic human rights and, in particular, the child, an invisible victim who is exploited and often unable to express his anguish, fears, needs, weaknesses, and insecurities. The child is by her very nature is a fragile, singular being with specific needs, secure in her insecurity and distinctive way of thinking, adventurous in her naivety, and courageous in her fragility, regardless of ancestry, gender, race, language, territory of origin, religion, education, economic situation, and social condition.

The concept of the child and the general awareness of his fragilities have evolved in time and space and, simultaneously, several international, European, and national legal instruments have been progressively adopted, whether of *hard law* or *soft law*, to safeguard the most elementary rights of the child. Therefore, when analyzing the issue of migrants and refugees in Europe and particularly the issue of migrant and/or refugee children, we must necessarily refocus our discourse and analysis on children as extremely sensitive beings.

The globalization of atrocities and violations of the most basic human rights has led to an exponential increase in the number of migrant and refugee children in the European Union. It is necessary to find uniform policies within the European Union for action, intervention, aid, and support for these victims who are exploited, mistreated, and often abandoned and neglected by member states. To this end, one of the basic principles to consider when adopting these uniform policies is the best

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interests of the child, simply because they are children. In adopting such policies to safeguard the best interests of the child, we believe the European ombudsperson for children has a key role to play. That is what we address in this chapter.

The Conceptual and Legal Evolution of Children in Time and Space

When addressing the issue of childhood and/or migrant children or refugees in Europe, we must restrict our analysis to the conceptual evolution of the child in time and space as well as to the progressive legal consecration of their rights in international, European, and/or national instruments. In fact, as Lígia Cláudia Gonçalves Monteiro stated, *"[t]he current democratic societies, bathed by the ideals of equality and freedom, are the result of a long process, both cultural and political, which began to identify in law the different human beings, affirming their belonging to a common world. This includes childhood [and the child in all his fullness]. (…) Despite an extensive trajectory, this period of human development ended up seeing its status as a subject of rights, a "same", a citizen in the world and of the world recognized during the twentieth century"* (Monteiro, 2006, p. 5).

When we talk about childhood and/or children, we can find several interpretations and/or definitions depending on the scientific area we analyze. However, the word childhood refers essentially to the first period of human life, the first years, and comes from the Latin *infante*, which means *"one who is not able to speak, without eloquence, very childlike"* (Machado, 1997, p. 291). Thus, the history of the rights of childhood or children can be distinguished into three phases:

(a) In ancient times, the child was subjected to the absolute power of the "family power" that could dispose of the children as they saw fit, subjecting them to exploitation and mistreatment. In fact, as Reis says, *"children are referred to late in the history of the concept of child, as they were not seen as an integral part of humanity. (…) In this context, it is not surprising that the baby and the child have only been recognized much later, more specifically at the time of the Renaissance, being until then either completely ignored, or else the target of all sorts of abuse and mistreatment, among which stands out the abandonment to which they were left"* (Reis, 2009, p. 9);

(b) In the middle ages, the child was seen as a productive being, a mere object with utilitarian functions for society and the family economy, that could be sold or abandoned, since it was parental property. In fact, babies and children, being too fragile and unable to share the adult world, did not count, being considered *"a nothing or almost nothing insignificant"* (Badinter, 1985, p. 79);

(c) During the enlightenment, the child began to appear as a minor and an incapable being who needs protection and support for survival. At this point, the child was recognized as a person and a citizen (Monteiro, 2006, p. 2). In fact, the eighteenth century was the turning point regarding children's rights, since par-

ents started to adopt a kinder and more sensitive approach towards their children, but the right to childhood had not yet been properly conquered, since children were still seen more as things than people. However, in the eighteenth century, a series of fundamental changes took place in the relationship between adults and the world of the younger ones (Reis, 2009, p. 11).

Truly, the history of childhood, or rather the history of the relationship of adults with the world of children and babies, is marked by meetings and mismatches, closeness and distance, which perhaps means that *"at all moments in history we have always seen the world at the height of our eyes, and we did not always imagine that others – the children, for instance – saw it higher or from another point of view that, in relation to ours, would give us light"* (Reis, 2009, p. 13; Sá, 1999, p. 23).

However, the concept of childhood and of the child as a subject of law and with rights only began to gain importance in the nineteenth century and extended through the progressive adoption of several international, European, and/or national instruments, either of hard law or soft law, particularly from 1924. The last stage of legislative consecration, that is, the national one, will restrict the analysis to the instruments adopted in Portugal. In this way, we can subdivide this legislative consecration regarding the rights of the child into three levels of analysis: (A) the international level, (B) the European Union level, and (C) the national level (Portugal).

(A) At the international level:

The first international instrument was the Geneva Declaration on the Rights of the Child in 1924, and progressively others have emerged, as we will now analyze and list.

(I) Geneva Declaration of the Rights of the Child, 1924.

As highlighted by Paulo Lins e Silva, in 1923, *"the League of Nations created the "Committee for the Protection of Children", which is why states were no longer considered the sole sovereign in matters related to children's rights"* (Silva, 2015, p. 2). As a result, 1 year later, the Geneva Declaration of the Rights of the Child of 1924 was adopted within the defunct League of Nations by the non-governmental organization, the Council of the International Union for the Protection of Children (Save the Children International Union).[1]

This Geneva Declaration, although a soft law instrument, was truly the "first normative instrument of international scope to directly and specifically address issues related to children and adolescents" (Silva, 2015, p. 1). Thus, it stipulates the following: *"men and women of all nations, recognizing that mankind owes to the Child the best that it has to give, declare and accept it as their duty that beyond and above all considerations of race, nationality or creed: – The child must be given the means requisite for its normal development, both materially and spiritually; – The child that is hungry must be fed; the child that is sick must be nursed; the child that is backward must be helped; the delinquent child must be reclaímed; the orphan and*

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[1] Adopted 26 September, 1924, League of Nations.

the waif must be sheltered and succored; – the child must be the first to receive relief in times of distress; – The child must be put in a position to earn a livelihood and must be protected against every form of exploitation; – The child must be brought up in the consciousness that its talents must be devoted to the service of fellow men." (UN Documents – Geneva Declaration of the Rights of the Child, 1924).

However, this declaration did not have the desired impact on the full international recognition of children's rights, since it was not binding on states, since it was soft law. In fact, as stated by Alston Philip, *"[the] Geneva Declaration of the Rights of the Child, adopted in 1924 by the Assembly of the League, was not cast in terms of state obligation but of duties declared and accepted by "men and women of all nations" and according to which "the child must be given the means requisite for its normal development, both materially and spiritually"* (Alston, 1986).

(II) Inter-American Children's Institute, 1927.

On June 9, 1927, during the IV Panamerican Congress on Children's Issues, ten countries (Argentina, Bolívia, Brazil, Cuba, Chile, Ecuador, the United States of America, Peru, Uruguay, and Venezuela) signed the Charter of the Inter-American Children's Institute (Charter of the Inter-American Children's Institute, 1927). They also adopted Statutes of the Inter-American Children's Institute between May 13 and 15, 2002 (The Statutes of the Inter-American Children's Institute, 2002). This Institute *"is a Specialized Organization of the Organization of American States, in charge of promoting the study of the areas of motherhood, children, adolescents, the family, and the community in the Americas and the adoption of the corresponding integral protection measures."*[2] The Institute's primary goals are "*to promote and to cooperate with the governments of the member states in the establishment and carrying out of activities contributing to adequate overall development of minors, as well as constant improvement of standards of living, particularly of families"*.[3]

However, this Institute has several functions:

– *To stimulate and promote the development of an alert awareness by all the people of the American States with respect to all the problems related to motherhood, children, adolescents, the family, and the community; to awaken or increase a sense of social responsability towards these problems; and to channel this feeling towards the carrying out of activities intended to solved them by the means within their reach.*
– *To collaborate with the national administrations of the American countries, their institutions and representatives, and with the organs of the Organization of American States and other international institutions that may contribute, directly or indirectly, to the improvement of future generations by means of activities foreseen in theses Statutes.*
– *To promote, with the cooperation of the government of national and international organizations: (1) Research on the nature, magnitude, seriousness, and*

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[2] See Article 1 of the Statues of the Inter-American Children's Institute.

[3] See Article 3 of the Statues of the Inter-American Children's Institute.

importance of the various problems affecting motherhood, adolescence, the family, and the community in the Americas; (2) Determination of the most effective methods and procedures to solve them, and dissemination of information on these methods and procedures in the American States; (3) Regular and advanced training or technical and administrative personnel to take part in the various activities concerned with protection and welfare of children.

– *To stimulate and assist the governments of the member states to establish, expand, and improve the institutions and services designed for the protection and welfare of mothers, children, adolescents, the family, and the community, particularly in the suburban and rural regions and to provide them with the advisory services, technical assistance, and cooperation that they may request or accept.*[4]

Essentially, this Institute aims to safeguard the rights of children and to support member states in adopting legislative policies and social measures that place the child at the center of their priorities.

(III) United Nations International Children's Emergency Fund, 1946.

This United Nations Children's Fund, also known as UNICEF, was created in 1946 after World War II and promotes the rights and well-being of children and adolescents in 190 countries and territories. In fact, according to several authors, UNICEF is *"an international political articulator that organizes a hybrid field of interests in the name of defending the human rights of children and adolescents, having in the family a privileged medicalization instrument, in terms of a neoliberal economic and political rationality, to govern individual behaviors and, in a totalizing way, to manage the population"* (Lemos et al., 2013). In 1953, UNICEF became a permanent body at the UN and expanded its competence to serve children around the world.

UNICEF is a non-partisan organisation that is governed by the United Nations Convention on the Rights of the Child, and therefore, it encompasses and tries to protect all children without discrimination in terms of race, colour, sex, language, religion, and political or other opinion. These efforts are focused on promoting equal rights for girls and women and supporting their full participation in political, social, and economic development in the communities in which they live as well as safeguarding the right to survival, education, health care, adequate nutrition, access to water, and protection. It is a United Nations humanitarian agency funded exclusively by voluntary contributions from governments, foundations, businesses, and individual donors.

Truly, UNICEF is mandated by the United Nations General Assembly to promote and defend the rights of children, save their lives, and help them realize their full potential to build a better world. Indeed, as Henry Labouisse, former UNICEF executive director (1965–1979) said, "the well-being of children today is inseparably linked to the peace of tomorrow's world (Labouisse, 1965, p.1).

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[4] See Article 5 of the Statues of the Inter-American Children's Institute.

(IV) Universal Declaration of Human Rights (UDHR), 1948.

Two years after UNICEF's creation, on December 10, 1948, the UN General Assembly approved the Universal Declaration of Human Rights.[5] This declaration is a legal instrument of *soft law*; i.e., without legal force, as stated by Antoon de Baets. *"[There] is perhaps no text with a broader impact on our lives than the 1948 Universal Declaration of Human Rights (UDHR)"* (Baets, 2009, p. 86). Indeed, it represents a significant advancement in individual human rights and freedoms, as it stipulates in its very first article, *"[a]ll human beings are born free and equal in dignity and rights. Endowed with reason and conscience, they should act towards one another in a spirit of brotherhood"* (Leão et al., 2019, p. 22).

It should, however, be emphasized that this declaration does not focus specifically on children's rights, but on human rights as a whole, and as such, by stating the civil, political, economic, social, and cultural rights of all human beings, it naturally includes children. However, Article 25.2 stipulates some specific rights related to children: "[m]aternity and childhood are entitled to special care and assistance. All children born in or out of wedlock shall enjoy the same social protection" (Leão et al., 2019, p. 162). Article 26 (1), (2), and (3) outlines others, such as *"[e]very human being has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. (...) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance, and friendship among all nations and racial or religious groups, and shall support the activities of the United Nations for the maintenance of peace. (...). Parents shall have priority of right in the choice of the kind of instruction which shall be given to their children"* (Leão et al., 2019, p. 168).

Thus, as Leão et al., argue, *"special reference to maternity and childhood, particularly vulnerable phases of life, needing special protection and assistance. Human beings are premature beings: they are born unfinished. For this reason, they need an essential period of learning, which is embodied in childhood, and which will play an essential role in the being's future. In view of this scientific truth, it is up to the state to guarantee and establish the essential environment and conditions."* (Leão et al., 2019, p. 166).

(V) Declaration of the Rights of the Child, 1959.

The Declaration of the Rights of the Child, 1959,[6] establishes through ten principles the basic rights of every child: Principle I – The right to equality, without distinction on account of race, religion, or national origin; Principle II – The right to special protection for the child's physical, mental and social development; Principle III – The right to a name and a nationality; Principle IV – The right to adequate

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[5] Adopted and proclaimed by Resolution 217 A (III) of the United Nations General Assembly on December 10, 1948.

[6] Adopted 20 November 1959, by all 78 Member States of the United Nations General Assembly in Resolution 1386 (XIV).

nutrition, housing and medical services; Principle V – The right to special education and treatment when a child is physically or mentally handicapped; Principle VI – The right to understanding and love from parents and society; Principle VII – The right to recreational activities and free education; Principle VIII – The right to be among the first to receive relief in all circumstances; Principle IX – The right to protection against all forms of neglect, cruelty and exploitation; Principle X – The right to be brought up in a spirit of understanding, tolerance, friendship among peoples, and universal brotherhood (Declaration of the Rights of the Child, 1959).

However, and although all the rights enshrined in this 1959 declaration are important for safeguarding the most elementary rights of the child, we must highlight three of these principles, since they are directly related to the issue of migrant and/or refugee children. Thus, Principle 1 stipulates that *"[every] child, without any exception whatsoever, shall be entitled to these rights, without distinction or discrimination on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family"* (Declaration of the Rights of the Child, 1959). We all know that many of the migrant or refugee children who arrive in Europe are not of the same race, color, language, and/or religion as the citizens of the European Union. Among other reasons, they cannot be harmed mainly because they are children. In fact, Principle 2 states, *"[the] child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration"* (*Idem*). Therefore, regardless of the reasons or the way in which migrant and/or refugee children enter the European Union, they must, as Principle 8 stipulates, *"[the] child shall in all circumstances be among the first to receive protection and relief "* (*Ibidem*).

(VI) International Covenant on Civil and Political Rights, 1966.

The International Covenant on Civil and Political Rights, 1966,[7] recognizes *"the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, (…) that these rights derive from the inherent dignity of the human person, (…) the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social, and cultural rights, (…) the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms"* (International Covenant on Civil and Political Rights, 1966).

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[7] Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with Article 49.

However, children's rights are specifically stated in Articles 23.1 and 2 *"[the] family is the natural and fundamental group unit of society and is entitled to protection by society and the State. [...] In the case of dissolution, provision shall be made for the necessary protection of any children."* Furthermore, Article 24 says, *"1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as required by his status as a minor, on the part of his family, society and the State. 2. Every child shall be registered immediately after birth and shall have a name. 3. Every child has the right to acquire a nationality"* (International Covenant on Civil and Political Rights, 1966).

(VII) American Convention on Human Rights "Pact of San Jose, Costa Rica", 1969.

The American Convention on Human Rights, also known as the Pact of San José de Costa Rica,[8] establishes in its preamble three fundamental ideas regarding the safeguarding of human rights, which should be emphasized, implemented, and reaffirmed every day when dealing with migrant and refugee cases, regardless of whether they are children. Thus, this *"[reaffirms] their intention to consolidate in this hemisphere, within the framework of democratic institutions, a system of personal liberty and social justice based on respect for the essential rights of man; [recognizes] that the essential rights of man are not derived from one's being a national of a certain state, but are based upon attributes of the human personality, and that they therefore justify international protection in the form of a convention reinforcing or complementing the protection provided by the domestic law of the American states. In accordance with the Universal Declaration of Human Rights, the ideal of free men enjoying freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy his economic, social, and cultural rights, as well as his civil and political rights"* (American Convention on Human Rights, 1969).

However, in Articles 4.1 (Right to Life) and 19 (Rights of the Child), this Convention specifically enshrines some rights for children: "[every] person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life." In addition, "[every] minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the state." Here, we can see that the family, society, and the state must treat children as children and adopt specific protection measures given their vulnerabilities. The child, being a child, deserves favorable treatment from all stakeholders.

(VIII) United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), 1980.

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[8] Signed at the Inter-American Specialized Conference on Human Rights, San Jose, Costa Rica, November 22, 1969.

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"),[9] were approved at the preparatory meetings for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders. They set fundamental guidelines and uniform minimum rules for the administration of juvenile justice; specifically, they guide the signatory states in dealing with juvenile offenders, clarify their rights, and stipulate basic procedural guarantees.

In fact, *"these fundamental guidelines of general character refer to social policy as a whole and aim to promote the well-being of young people as much as possible, which will minimize the need for intervention by the juvenile justice system and, on the other hand, will reduce the damage often caused by any intervention. These measures for the protection of young people, before they move on to delinquency, are essential policy imperatives to avoid the need for the application of these Rules"* (Ministério Público, 1985, p.2).

On the other hand, the uniform minimum rules established for the administration of juvenile justice are deliberately formulated so as to be applicable in different legal systems and to set minimum standards for the treatment of juvenile offenders, whatever the definition of juvenile and in all systems dealing with juvenile offenders. The rules shall always be applied impartially and without distinction of any kind, in particular regarding race, color, sex, language, religion, political or other opinion, national or social origin, economic condition, birth, or other status (Ministério Público, 1985, p.3).

Thus, we have minimum rules for the administration of juvenile justice regarding the age of criminal responsibility, the objectives of juvenile justice, the scope of discretion (those who exercise discretion shall be specially qualified or trained to exercise it judiciously and in accordance with their functions and mandates) (United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985, p.4), the rights of juveniles, the protection of private life, and the protection clause. In addition to these minimum rules, some principles and rights are fixed, namely the presumption of innocence, the right to be informed of the charges, the right not to answer or to remain silent, the right to legal assistance, the right to the presence of parents or guardians, the right to present evidence and to appeal the decision to a higher authority, and the right to privacy and to image preservation, among many others.

These Beijing Rules are fundamental, mainly because many times migrants and refugees, regardless of whether they are children or not, are treated by member states as mere criminals invading their territory.

(IX) Convention on the Rights of the Child, 1989.

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[9] Adopted by General Assembly resolution 40/33 of 29 November 1985.

The Convention on the Rights of the Child[10] is an international legal instrument of *hard law*, which vehemently consecrated all rights and achievements, meanwhile, i tis instituted on behalf of the child. In fact, the preamble of the Convention states the following: *"[recognizing] that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status;[recalling] that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance;[convinced] that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community; [recognizing] that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding;[considering] that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality, and solidarity"* (United Nations Human Rights, 2021).

Thus, as argued by Victor Hugo Albernaz Júnior and Paulo Roberto Vaz Ferreira, the Convention on the Rights of the Child set *"as a goal to encourage member countries to implement the full and harmonious development of the personality of their children, encouraging their growth in a family environment, in a climate of happiness, love, and understanding, preparing them fully to live an individual life in society and to be educated in the spirit of the ideals proclaimed in the Charter of the United Nations, in a spirit of peace, dignity, tolerance, freedom, equality and solidarity. It was inspired by the international standards that preceded it and with the purpose of particularizing them due to the subject of law that it targets – the child – as well as developing them from the creation of mechanisms for enforceability and monitoring of these principles and standards"* (Júnior & Ferreira, 2011).

The convention consists of 54 articles, which can be divided into four categories of rights: "1. the rights to survival (e.g. the right to adequate care); 2. the rights related to development (e.g. the right to education); 3. the rights related to protection (e.g. the right to be protected from exploitation); 4. the rights to participation (e.g. the right to express one's opinion) (UNICEF – The Convention on the Rights of the Child, 2004), and Article 1 defines the concept of child: *"every human being below the age of 18 years, unless, under the law applicable to the child, majority is attained earlier"* (UNICEF for every child. Convention on the Rights of the Child, 2021). It establishes a set of fundamental rights for the child: non-discrimination, the best interests of the child, the implementation of these rights by the States;

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[10]Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990, in accordance with article 49.

guidance of the child and the evolution of his or her capacities; survival and development; name and nationality; identity protection; separation from the country; family reunification; unlawful removal and retention, the child's opinion; freedom of expression; freedom of thought, conscience, and religion; freedom of association; protection of private life; access to appropriate information; parental responsibility; protection from abuse and neglect, protection of children deprived of a family environment; adoption; protection of refugee children and the special protection children with disabilities; health and medical services; periodic review of placement; social security; standard of living; educational goals; protection of children from minority or indigenous populations; leisure, recreational, and cultural activities; children's work; protection from drug use and trafficking, sexual exploitation, sale, trafficking and abduction, other forms of exploitation, torture, and deprivation of liberty; protection from armed conflict; recovery and reintegration; administration of juvenile justice; and application of the standard most favorable to the child.

All of these rights enshrined in the Convention portray the atrocities that children are victims of on a daily basis, so it is necessary to strengthen their rights for protection in these areas. In addition, we cannot forget that the Convention on the Rights of the Child also includes Optional Protocols on the Sale of Children, Child Prostitution and Child Pornography (entered into force 18 January 2020), on the Involvement of Children in Armed Conflict (entered into force 12 February 2002), and on a Communications Procedure (entered into force 14 April 2014). All in all, we commend this huge step taken by the international community in drafting a *hard law* instrument.

(X) World Declaration on the Survival, Protection and Development of Children, 1990.

The 1990 World Declaration on the Survival, Protection, and Development of Children was a commitment made during the World Summit for Children, held on September 28–29, 1990, at the United Nations. At that time, the Plan of Action for the 1990s was also adopted, where world leaders committed themselves *"to improve the health of children and mothers, combat malnutrition and illiteracy, and eradicate the diseases that kill millions of children every year. (...) [Their goal was] to give every child a better future. The child is innocent, vulnerable, and dependent. He is also curious, active, and full of hope. His universe should be one of joy and peace, of play, of learning and growth. Their future should be shaped by harmony and cooperation. His development should proceed as he broadens his perspectives and acquires new experiences"* (World Declaration on the Survival, Protection and Development of the Child, 1990).

Article 20 of this Declaration describes ten fundamental points to be developed by the signatory countries for the protection of children and the improvement of their living conditions:

1. *We will work to promote the ratification and implementation of the Convention on the Rights of the Child as soon as possible. Programs should be launched around the world to encourage the dissemination of information about chil-*

dren's rights, taking into account the diverse cultural and social values of different countries;

2. *We will work toward a consistent effort of action at the national and international levels for improved child health, the promotion of prenatal care, and the reduction of child mortality in all countries and among all peoples. We will promote the provision of clean water to all communities for all their children and universal access to basic sanitation;*

3. *We will work for improved conditions for child growth and development through measures to eradicate hunger, malnutrition, and starvation, thus minimizing the tragic suffering of millions of children in a world that has the means to feed all its citizens;*

4. *We will work to strengthen the role and status of women. We will promote responsible family planning, birth spacing, breastfeeding, and risk-free motherhood;*

5. *We will work to enhance the role of the family as the caregiver of the child, support the efforts of parents, other caregivers, and communities to support children from early childhood through adolescence. We also recognize the special needs of children who are separated from their families;*

6. *We will work for programs that reduce illiteracy and ensure educational opportunities for all children, regardless of background and gender, that prepare children for productive work and lifelong learning opportunities, i.e., vocational education, and that enable children to grow to adulthood in a supportive and protective cultural and social context;*

7. *We will work to improve the living conditions of millions of children abroad, the orphans and street children and children of migrant workers, refugee children and victims of natural and man-made disasters, the disabled and abused, and the socially marginalized and exploited. Refugee children need to be helped to find new roots. We will work for special protection for working children and for the abolition of illegal child labor. We will do our best to ensure that children do not become victims of the scourge of illicit drugs;*

8. *We will work hard to protect the child from the scourge of war, and we will take measures to prevent further armed conflict in order to guarantee him/her everywhere a peaceful and secure future. We will promote the values of peace, understanding, and dialogue in early childhood education. The essential needs of the child and his or her family must be protected, even during war and in areas affected by violence. We ask that periods of tranquility and corridors of peace be observed to benefit children where war and violence still persist;*

9. *We will work for common measures to protect the environment at all levels so that all children can have a safer and healthier future;*

10. *We will work for a global fight against poverty that brings immediate benefits for the welfare of children. The vulnerability and special needs of children in developing countries, and in particular in the least developed countries, deserve priority. But growth and development need to be promoted in all Nations, through national action and international cooperation. This requires the transfer of adequate additional resources to developing countries, as well as better*

terms of trade, further trade liberalization, and measures to reduce debt. It also implies structural adjustment measures that promote world economic growth, particularly in developing countries, while ensuring the well-being of the most vulnerable sectors of the population, particularly children" (World Declaration on the Survival, Protection and Development of Children, 1990).

This declaration is important to achieve the goal to safeguard the most elementary rights of children, mainly because, as Nilton Kasctin dos Santos argued, it talks about the "principle of immediate priority", making it clear, therefore, that the (integral) protection of childhood must be, besides being a priority, urgent and fast (Santos, 2002, p. 240).

(XI) United Nations Guidelines for the Prevention of Juvenile Delinquency –
   Riyadh Guidelines, 1990.

The United Nations Guidelines for the Prevention of Juvenile Delinquency, also called the 1990 Riyadh Guidelines, were adopted in December 1990 at the 8th United Nations Congress (UN Doc. No. A/Conf. 157/24 (Part I), 1990). These are soft law "norms," yet they set the United Nations Guiding Principles for the Prevention of Juvenile Delinquency (Riyadh Guiding Principles)[11] by stipulating that, *"1. [a] the prevention of juvenile delinquency is an essential part of crime prevention in society. By engaging in lawful and socially useful activities and adopting a humanistic orientation towards society and life, young people can develop non-criminal attitudes. 2. Successful prevention of juvenile delinquency requires efforts on the part of society as a whole to ensure the harmonious development of adolescents, with respect and promotion of their personality, from the earliest age. 3. For the purposes of interpreting these Guiding Principles, a child-centered orientation should be followed. Young people should play an active and cooperative role within society and should not be regarded as mere objects of socialization and control measures"* (United Nations Guiding Principles for the Prevention of Juvenile Delinquency [Riyadh Guiding Principles], 1990).

As effectively described by Amorim Dutra, the fundamental principles are: *(1) "Prevent juvenile delinquency as an essential part of crime prevention in society; (2) Provide investments aimed at the well-being of children and adolescentes; (3) Implement political and progressive measures to prevent delinquency; and (4) Develop community-based services and programs for the prevention of juvenile delinquency"* (Dutra, 2006, p. 32). Thus, in practice, these guidelines have contributed to the consolidation, respect, and affirmation of the rights of the child in the prevention of juvenile delinquency.

(XII) United Nations Standard Minimum Rules for the Protection of Juveniles
   Deprived of their Liberty, 1990.

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[11]Adopted and proclaimed by the United Nations General Assembly in its resolution 45/112, December 14, 1990.

These United Nations Standard Minimum Rules for the Protection of Juveniles Deprived of their Liberty were adopted at the Eighth United Nations Congress, established by Resolution 45/113 of December 1990, and set out exceptional measures regarding the imprisonment of juvenile offenders: *"[t]he juvenile justice system should uphold the rights and safety of juveniles and promote their physical and mental well-being. Imprisonment should only be used as a measure of last resort [...] and be for the shortest possible duration, and should be limited to exceptional cases. The duration of the sanction should be determined by the judicial authority, without excluding the possibility of early release. [...] The Rules are intended to establish a set of minimum standards accepted by the United Nations for the protection of juveniles deprived of their liberty in any form, compatible with human rights and fundamental freedoms, and designed to combat the harmful effects of all types of detention and to promote integration into society."* (United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990).[12]

In this context, it should also be noted that this law defines youth as anyone under the age of 18. The age limit below which a child should not be allowed to be deprived of liberty should be fixed by law. It also defines deprivation of liberty as any form of detention or imprisonment, or the placement of a person in a public or private facility from which he or she cannot leave of his or her own free will by order of any judicial, administrative, or other public authority (United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990, pp. 2–3).[13]

It is interesting to note that in addition to dealing with the Rules for juveniles deprived of their liberty, there is a concern with re(insertion), in that it stipulates that deprivation of liberty must be carried out in conditions and circumstances that ensure respect for the human rights of juveniles; that they must not be deprived of civil, economic, political, social or cultural rights that they enjoy under domestic, or international law; and that are compatible with the deprivation of liberty. In practice, they should benefit from measures designed to assist their return to society, family life, education, or employment after release (United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990, pp. 8–9).[14]

This is a very useful tool for migrant and refugee children, as many of these children are treated as criminals and arbitrarily detained in reception centers.

(XIII) X Ibero-American Summit of Heads of State and Government – Declaration of Panama – "United for childhood and adolescence, the basis of justice and equity in the new millennium", 2000.

The Heads of State and Government of the 21 Ibero-American countries, met in Panama City, Republic of Panama, on November 17 and 18, 2000. These leaders were convinced that, in order to achieve sustainable human development,

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[12] See point 1 to 3 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990.

[13] See points 11(a) and (b).

[14] See points 38 to 46.

democratic consolidation, equity, and social justice, and based on the principles of universality, indivisibility, and interdependence of human rights, it is of strategic importance to devote special attention to children and adolescents, and they decided once again to examine together the situation of children and adolescents in order to promote programs and actions to ensure respect for their rights, their well-being, and their integral development (10th Ibero-American Summit of Heads of State and Government – Declaration of Panama, 2000).[15]

This declaration has as its strategic orientation the recognition and fundamental importance of children and adolescents as subjects of rights in our societies and the regulatory and normative role of the State in the elaboration and execution of social policies for their benefit and as a guarantee of their rights. In this way, in paragraphs a) to n) of point 9, the statement proposes several actions or programs in order to promote development with equity and social justice: ensure the exercise of the right of children to be registered at birth; ensure respect for linguistic, ethnic, cultural, and gender equity diversity, which support human and individual development; ensure access to free and compulsory early childhood education and basic education; promote the use of information technology in teaching-learning processes, including open and distance education; promote the free flow of information and communication among educational institutions; strengthen food security programs in each country; extend social security systems to as many families as possible; adopt urgent measures for research, prevention, treatment, and control of HIV/AIDS; incorporate sex education programs into educational systems, both school and non-school; give high priority to the problem of homelessness; implement national strategies and programs directed at children and adolescents in adverse social conditions and at-risk situations; foster the adoption of measures directed at children and adolescents with disabilities; and promote sports and the healthy and creative use of free time by children and adolescents (Iberoamerican Summit of Heads of State and Government – Declaration of Panama, 2000).

In conclusion, in the words of Mauro Ferrandin, *"the initiative of the countries that formulated the Panama Declaration is praiseworthy, not only for protecting the rights of children and adolescents with promising policies (without instantaneous and transitory effect), but also, and mainly, for safeguarding the socioeconomic welfare of future generations"* (Ferrandin, 2009, p. 32).

(XIV) Council of Europe Strategy on the Rights of the Child, 2016–2021.

The five priority areas for securing the rights of the child in this, the Council of Europe's strategy on the rights of the child, are: I) Equal opportunity for all children; II) Participation of all children; III) A life free from violence for all children; IV) Child-friendly justice for all children; and V) Children's rights in the digital environment. These areas are based on four general principles, namely non-discrimination; the best interests of the child; respect for the right to life, survival,

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[15] See point 1 of the X Ibero-American Summit of Heads of State and Government – Declaration of Panama.

and development; and finally the right to be heard in decisions concerning them (Council of Europe Strategy on the Rights of the Child, 2016–2021).

(B) At the European Union level:

The EU Charter of Fundamental Rights was proclaimed on December 7, 2000, on the sidelines of the European Council meeting in Nice, and was subsequently published in the C series of the Official Journal of the European Communities.[16] As Sophie Perez Fernandes states, *"the Charter of Fundamental Rights of the European Union is the most recent face of this acquired jusfundamental heritage. By reaffirming in a single catalog the civil, political, social, and economic rights of EU citizens, of persons resident or based in EU territory, or affected by its actions, the [Charter] makes the importance of these rights and their function in the EU legal system more visible: an objective function, as a control standard for the actions of the authorities entrusted with the exercise of public power in the EU, and above all, a subjective function, to protect the rights of individuals whose situation falls within the scope of [European Union law]. In addition to consolidating the EU's jusfundamental acquis into a comprehensive catalog of fundamental rights protected by the EU legal order, the [Charter] dictates the modus operandi of the EU's internormative and dynamic system of jusfundamental protection. From an evolutionary point of view, the [Charter] is both the point of arrival and the point of departure of the EU system of fundamental rights protection"* (Fernandes, 2017, p.6).

The Charter of Fundamental Rights is divided into seven chapters: Chapter I (Dignity), Chapter II (Freedoms), Chapter III (Equality), Chapter IV (Solidarity), Chapter V (Citizenship), Chapter VI (Justice), and Chapter VII (General Provisions). However, on the Rights of the Child, the Charter of Fundamental Rights is inspired by the Convention on the Rights of the Child and enshrines some general rights, including the right to attend free compulsory education (Article 14, paragraph 2), the prohibition of discrimination on grounds of age (Article 21), and the prohibition of exploitation of child labor (Article 32). It specifically dedicates Article 24 to the rights of children, in which it states: *"1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity. 2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration. 3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests"* (Charter of Fundamental Rights of the European Union, 2000, pp. 13–14).

With the entry into force of the Treaty of Lisbon in 2009, the Charter of Fundamental Rights ceases to be an annex to the Treaty of Nice and gains the same legal value as the Treaty of Lisbon, thus enabling the promotion of the rights of the child by making the protection of the rights of the child an objective (Article 2 (3)

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[16] JO C 364 de 18.12.2000.

TEU) and by highlighting the protection of the rights of the child as a fundamental aspect of the EU's external policy (Article 2 (5) TEU), (Treaty of Lisbon, 2007, pp. 11). Naturally, as a result of this, many other secondary legal instruments have been adopted over time within the European Union.

The Charter does indeed give greater visibility to rights as well as enhances legal certainty and security, but it does not per se confer a policy of promoting fundamental rights. However, the gains in visibility and legal certainty should not be minimized, since effective legal protection also implies that, only by knowing our rights can we effectively enforce them, and this naturally applies to the rights of the child (Leão, 2006, p. 75).

II) Council Recommendation on the creation of a child guarantee 2021.

If we analyze points 15 and 16 of this recommendation, we quickly realize its intent and objective. Thus, *"[t]he aim of this Recommendation is to prevent and combat social exclusion by ensuring access to a range of essential services for children in need, incorporating a gender perspective in order to take into account the different situations of girls and boys, combating child poverty and promoting equal opportunities. Children in need are people under the age of 18 who are at risk of poverty or social exclusion. These are children living in households at risk of poverty, or suffering from severe material and social deprivation, or with very low work intensity. In order to ensure effective access or effective and free access to essential services, Member States should, in accordance with national circumstances and approaches, organise and provide such services or ensure adequate provision for parents or guardians of children in need to be able to afford the costs or charges for such services. Particular attention is needed to avoid that possible associated costs constitute an obstacle for children in need in low-income families to full access to essential services"* (Council Recommendation on establishing a European Children's Guarantee, 2021, p. 6).

Essentially, like so many other instruments, this strategy proposes a set of actions in seven key areas: (I) Participation in political and democratic life; (II) Socioeconomic inclusion, health, and education; (III) Combating violence against children and ensuring the protection of children; (IV) Child-friendly justice; (V) Digital and information society; (VI) The global dimension; and (VII) Incorporating a child's perspective in all EU actions (EUROCID, 2021).

In fact, we believe that this last action of incorporating the child's perspective in all the actions of the EU is the most important, because we have to adopt policies and measures that take into account the peculiar characteristics of children.

(C) At the National level – Portugal:

In the Portuguese legal system, we have several legal instruments that address the issue of minors. For example, the Portuguese Civil Code defines a minor in Article 122 as all those who have not yet reached the age of eighteen. In Article 123, it speaks of the incapacity of minors, in Article 124 of the suppression of the incapacity of minors, in Article 126 of the deceit of the minor, in Article 127 of the exceptions to the incapacity of minors, in Article 128 of the duty of obedience to the

parents, and in Article 129 of the end of the incapacity of minors. From article 1796 to 1972, it discusses filiation, paternal power, and other related issues. The Constitution of the Portuguese Republic of 1974, with the various revisions, addresses family, marriage, and filiation in Article 36, Family in Article 67, Childhood in Article 69,[17] and Youth in Article 70[18] (Constitution of the Portuguese's Republic, 1974).

The Portuguese Penal Code[19] has several articles regarding crimes against children: Infanticide – Article 136, Exhibition or abandonment – Article 138; Female genital mutilation – Article 144-A; Domestic violence – Article 152; Forced marriage – Article 154-B; Trafficking in persons – Article 160; Sexual abuse of person incapable of resistance – Article 165; Sexual abuse of children – Article 171; Sexual abuse of dependent minors – Article 173; Recourse to prostitution of minors – Article 174; Lenocination of minors – Article 175; Pornography of minors – Article 176; Solicitation of minors for sexual purposes – Article 176A; Inhibition of parental power and prohibition of the exercise of functions – Article 179; and Violation of the obligation of maintenance – Article 250.

Finally, the Law for the Protection of Children and Youngsters in Danger, 1999,[20] establishes a set of principles through which the best interest of the child is the central axis of action, whenever the legal representative or the de facto custodian of the child endangers his or her safety, health, training, education, or development or when this danger results from an action or omission of a third party or the child or young person himself or herself, which the latter does not oppose in an appropriate manner to remove it. Finally, we have the Educational Guardianship Law,[21] for use when a minor between the ages of 12 and 16 commits an act qualified by law as a crime.

In short, Portuguese legal instruments regarding the protection of children's rights have been inspired by international and European legal instruments, which is why I repeatedly state that it is not for lack of legal instruments that children are not protected; it is essentially for lack of awareness that children need other treatment appropriate to their age.

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[17] See Article 69 (Childhood) of Constitution of the Portuguese's Republic, 1974 *"(1) Children have the protection of society and the State, with a view to their full development, especially against all forms of abandonment, discrimination and oppression and against the abusive exercise of authority in the family and in other institutions. (2) The State ensures special protection to children who are orphans, abandoned or otherwise deprived of a normal family environment. (3) The work of minors of school age is prohibited under the law".*

[18] See article 70 (Youth) of Constitution of the Portuguese's Republic, 1974 *"(1) Young people shall enjoy special protection for the realization of their economic, social and cultural rights, namely:(a) In education, vocational training and culture; (b) In access to their first job, at work and in social security; (c) In access to housing; (d) In physical education and sport; (e) In the enjoyment of leisure time".*

[19] See Portuguese Decree-Law No 48/95, Official Gazette, No 63/1995, Series I-A of 1995-03-15.

[20] The Law for the Protection of Children and Youngsters in Danger was adopted by Law n° 147/99, September 1st.

[21] The Educational Guardianship Law was adopted by Law 166/99, of September 14.

Migrant and Refugee Children in Europe – Causes and Consequences

Before addressing the issue of migrant and refugee children in Europe, it is important to analyze the evolution of asylum applications in the European Union over time. In this way, if we analyze the statistics of the European Union body, Eurostat, regarding the number of asylum applications, we verify that there was a decrease in 2020, essentially due to COVID-19. "Between 2008 and 2012 there was a gradual increase in the number of asylum applications within the EU, after which the number of asylum seekers rose at a more rapid pace, with 400,500 applications in 2013, 594,200 in 2014, and around 1.3 million in 2015. In 2016, the number levelled off at around 1.2 million. In 2017, the number of asylum applications market a significant decrease of 44.5% in comparison with 2016 and continued a downward path also in 2018. In 2019, the number of asylum seekers climbed to 698,800, up by 11.7% compared to 2018. In 2020, 471,300 asylum applicants applied for international protection in the EU Member States; it was down by 32.6% compared with 2019. This decrease can be attributed to the COVID-19 pandemic and the related travel restrictions implemented by the EU Member States" (Eurostat Statistics Explained. Number of asylum applicants, 2021).

On the other hand, it is convenient to underline that one third of refugees and migrants who have arrived in Europe are children. Refugee and migrant children – some travelling with their families, some alone – risk everything, even their own lives, in search of a better life. Millions of uprooted families flee their homes to escape conflict, persecution, and poverty in countries including Syria, Afghanistan, Iraq, Somalia, and Sudan. When children and young people feel that they have no choices, have no sense of a future, and face no safe and legal alternatives for migration available to them, uprooted children will take matters into their own hands, facing even greater risks of exploitation at the hands of people smugglers and traffickers (UNICEF for every child, 2017).

As mentioned by Afshan Khan, Regional Director for UNICEF in Europe and Central Asia, *"[there] are far more reasons that push children to leave their homes and fewer pull factors that lure them to Europe. But for those who do aim to come to Europe, the allure is the chance to further their education, find respect for their rights and get ahead in life. Once they reach Europe, their expectations are sadly shattered"* (Afshan Khan, UNICEF for every child, 2017).

All children on the move are vulnerable to abuse and other grave forms of violence during and after their journeys. However, little is known regarding how many migrant and refugee children reach Europe, the main causes of these long journeys, and the main consequences that these children themselves suffer in their journey in search of a new world, a world that is safer and in principle respectful of the most basic rights of children.

We intend to pursue answers to these questions using Eurostat statistics. In fact, in addition to defining an unaccompanied minor as "a person less than 18 years old who arrives on the territory of na EU Member State not accompanied by an adult

responsible for the minor or a minor who is left unaccompanied after having entered the territory of a Member State" (Eurostat Statistics Explained, Applications by unaccompanied minors, 2021), this provides us with the necessary figures to better understand the breadth of this issue. *"In 2020, there were 13,600 applications in the EU from unaccompanied minors; 9.6% of all minors were unaccompanied. In the majority of EU Member States, in 2020 the share of minors that was unaccompanied was less than 50%. Only five Member States recorded higher rates: Portugal (50.0%), Slovakia (56.3%), Romania (62.2%), Bulgaria, and Slovenia (71, 0% for both)"* (Eurostat Statistics Explained. Applications by unaccompanied minors, 2021).

On the other hand, if we analyze the ages and genders of first-time applicants, we can see that "More than three quarters (78.7%) of the first-time asylum seekers in the EU in 2020 were less than 35 years old; those in the age range 18-34 years accounted for slightly less than half (47.7%) of the total number of first-time applicants, while almost one-third (31.0%) of the total number of first-time applicants were minors aged less than 18 years. This age distribution of first-time asylum applicants was common in almost all of the EU Member States, with the largest share of applicants being those aged 18–34. However, there were a few exception to this pattern: Germany, Croatia, and Sweden reported a higher proportion of asylum applicants less than 18 years old; Estonia reported a higher proportion of asylum applicants aged 35–64; and in Hungary, a higher proportion of applications were observed from asylum seekers less than 18 years old and those aged 35–64.

The distribution of first-time asylum applicants by sex shows that more men (63.8%) than women (36.1%) sought asylum; an unknown category accounted for the remaining 0.1%. Among the youngest age group (0–13 years), males accounted for 51.2% of the total number of applicants in 2020. Greater differences were observed for asylum applicants who were 14–17 or 18–34 years old, in which 71.7% and 71.8%, respectively, of first-time applicants were male, with this share dropping back to 59.2% for the age group 35–64. Across the EU, female applicants outnumbered male applicants in 2020 for asylum applicants aged 65 and over, although this group was relatively small, accounting for just 0.8% (0.5% females and 0.3% males) of the total number of first-time applicants" (Eurostat Statistics Explained. Age and gender of first-time applicants, 2021).

After analyzing the numbers, what are the main causes that lead people, and in particular children, to undertake these long journeys and what are the main consequences for them in this crossing. In fact, *"[in] 1951, most of the refugees were Europeans. Today, most come from Africa and Asia. Today, refugee movements are increasingly taking the form of mass exoduses, unlike the individual escapes of the past. Eighty per cent of refugees today are women and children. The causes of the exoduses have also multiplied, now including natural or ecological disasters and extreme poverty. (…) [However, there is] a clear relationship between the refugee problem and the question of human rights. Human rights violations are not only one of the main causes of mass exoduses, but they also rule out the option of voluntary repatriation for as long as they occur. Violations of minority rights and ethnic conflicts are increasingly at the root of both mass exoduses and internal displacement"* (United Nations. Human Rights and Refugees, 2002, pp. 4–5).

What are the main consequences that these migrant and refugee children are confronted with after the mass exodus in search of better living conditions? The consequences can be diverse. They can: (a) be subject to restrictive measures by member states denying them access to safe territories; (b) be held in detention or forcibly sent to areas where their life, freedom, and safety are threatened; (c) be attacked by armed groups or recruited by armed forces and forced to fight on the side of one of the warring factions (United Nations, Human Rights and Refugees, 2002, p. 5); and (d) be victims of shipwreck, rape, discrimination, racism, intolerance, xenophobia, hunger, and all other atrocities to the most basic human dignity.

However, and despite all these damaging and offending consequences for human dignity, it is nevertheless an undeniable fact that migrant and refugee children will continue to arrive in Europe/European Union in search of better living conditions and protection for their lives. It is up to the European Union to find solutions and adopt uniform procedures for the treatment of these children, mainly because they are vulnerable children.

Networking of Institutional Actors to Support Migrant and Refugee Children Based on the Best Interests of the Child

The main institutional actors involved in following up on cases concerning migrant, refugee, and/or unaccompanied minors are several and have various designations and/or functions depending on the European Union Member State. However, in general, all European Union member states have common bodies and/or institutions for border control and border crossing, as well as for the promotion and protection of the rights of children, refugees, migrants, and borders. In this way, we will focus this analysis on the bodies and institutions in Portugal in order to extrapolate a uniform idea for the entire European Union with regard to this theme. Thus, the main bodies and/or institutions existing in Portugal in this area are as follows:

(a) The Foreigners and Border Services (SEF), currently in Portugal renamed Foreigners and Asylum Services (SEA)[22] *"is a security service integrated in the Ministry of Internal Administration (MAI) which, in the framework of internal security policy, has the mission to ensure the control of people at borders, foreigners in national territory, the prevention and combat of criminality related to illegal immigration and trafficking in human beings, manage the travel and identification documents of foreigners and proceed to the instruction of asylum application processes, in safeguarding internal security and individual rights and freedoms in the global context of the migratory reality."* (Foreigners and Borders Service [SEF], 2021).

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[22] Resolution of the Council of Ministers No. 43/2021, Official Gazette No. 72/2021, Series I of 2021-04-14.

It should be noted that, while SEF was a criminal police body, this new SEA body is no longer a police body and now has only administrative competences, such as dealing with passports, visas, residence permits, and refugee status, although it remains under the Ministry of Internal Affairs (SIC Notices, SEF will be extinct and will be called Foreigners and Asylum Service [SEA], 2021). Naturally, each European Union member state has its own border control and surveillance force, with its own designations, but integrated into the European Border and Cost Guard Agency, also known as FRONTEX.[23] However, it should be emphasized that, with this change in designation from (SEF) to (SEA), the intention was to give a more humanistic and less bureaucratic approach to migration issues.

(b) The Portuguese Refugee Council (CPR), a non-governmental organization that plays a key role in the area of asylum and refugees and, in the particular case of unaccompanied minors, in following up on asylum requests, in the legal representation of their interests, in welcoming and ensuring the application of the law, as well as in accessing the rights foreseen therein (Foreigners and Border Services (SEF), Reception, Return and Integration of Unaccompanied Minors in Portugal. European Migration Network, 2008, p. 2).

CPR's mission is to defend and promote the right to asylum in Portugal, in accordance with international, European, and national human rights and refugee law. To this end, it provides direct and free, independent, and impartial support, carried out by various departments specifically targeted at the applicants and beneficiaries of international protection, with the objectives of ensuring access to international protection and empowering this population for integration, respectively, through initial and transitional reception, advocacy (legal support) and through information, awareness, and training activities, contributing to a more informed and receptive society to refugees (Portuguese Council for Refugees, 2021). Naturally, each Member State of the European Union also has governmental and non-governmental organizations that support refugees.

(c) The Family and Juvenile Courts, which promote the protection rights of children and youth at risk, which includes unaccompanied minors who are abandoned or left to their own devices (Foreigners and Border Services [SEF], and Reception, Return, and Integration of Unaccompanied Minors in Portugal, European Migration Network, 2008, p. 3). Naturally, each member state of the European Union has in its legal system and institutions for the promotion and protection of children and young people at risk.

(d) The Commissions for the Protection of Children and Young People at Risk (CPCJRs), composed of multidisciplinary teams, run on a county basis, promote the rights of children and young people and warn about situations that may affect their safety, health, training and education, or full development

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[23] Adopted by Regulation (EU) 2019/1896 of 13 November 2019 on the European Border and Coast Guard (OJ L 295, 14.11.2019, p. 1) in turn repealed Regulations (EU) No 1052/2013 and (EU) 2016/1624.

(Foreigners and Border Services (SEF), Reception, Return and Integration of Unaccompanied Minors in Portugal. European Migration Network, 2008, p. 3). Once again, all European Union member states have in their legal system identical or similar institutions and/or bodies for the promotion and protection of children's rights.

(e) The European Network of Ombudspersons for Children (ENOC) is a not-for-profit association of independent children's rights institutions (ICRIs). Its mandate is to facilitate the promotion and protection of the rights of children, as formulated in the UN Convention on the Rights of the Child (European Network of Ombudspersons for Children (ENOC), 2021). In 2018, these items were adopted by the 24th General Assembly on 18 November 2020, the revised ENOC Statutes. Its objectives are: "to promote and safeguard children's rights and to work on strategies for the fullest possible implementation of the UN Convention on the Rights of the Child; to serve as a forum of colleagues for the exchange of information, capacity building, and professional support among the members; to promote the establishment of independent children's rights institutions (ICRIs) in countries worldwide and offer support to such initiatives and to maintain an overview of other activities around the world and share more broadly beyond ENOC; to stimulate contacts and support with and among other ICRIs worldwide and their networks; to ensure, through advocacy and policy work, that relevant European-wide bodies place child rights at the centre of their activities, legislation and policies, and adopt-a-child rights approach to their work; and to promote the active participation of children and young people in the decision-making processes, legislation, and policies concerning them. ENOC aims to implement such active engagement with and participation of children and young people in every aspect of ENOC's work and decision-making, including *inter alia* through consultations, engagement, and other activities and to initiate and coordinate strategic interventions on policy and litigation affecting children's rights agreed by at least two-thirds of full members of ENOC" (The European Netwok of Ombudspersons for Children, Statutes as amended November, 2020).[24]

However, all of these organizations and institutions should be governed by some guiding principles, not least because migrant and refugee and/or unaccompanied children are, above all, children subject to a variety of dangers and risks. Indeed, the Convention on the Rights of the Child 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"* (Convention on the Rights of the Child, 1989).[25] On the other hand, the definition of a refugee is found in the 1951 Geneva Convention relating to the Status of Refugees and in the New York Protocol of January 31, 1967, supplementary to the Convention relating to the Status of Refugees, concluded in Geneva on July 28, 1951. Thus, we must distinguish between refugee and migrant. Refugees

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[24] See 2.1 to 2.7. of the article 2 (Objectives of ENOC).

[25] See article 1 Convention of the Right of the Child (1989).

are *"persons who have escaped from armed conflict or persecution. Their situation is often so dangerous and intolerable that they must cross international borders to seek safety in nearby countries, and then become an internationally recognized 'refugee' with access to assistance from States, UNHCR, and other organizations. They are recognized as such precisely because it is too dangerous for them to return to their country, and they need asylum somewhere else. For these people, the denial of an asylum can have vital consequences"* (UNHCR, Refugee or Migrant?, 2015). On the other hand, migrants choose to move not because of a direct threat of persecution or death, but primarily to improve their lives in search of work or education, for family reunion, or for other reasons. Unlike refugees, who cannot return home, migrants continue to receive protection from their government" (UNHCR, Refugee or Migrant?, 2015).

Having made this distinction between refugee and migrant children, it is important to highlight and underline the principles and procedures that member states should adopt or follow when dealing with this vulnerable public. Thus, we are of the opinion that all institutional actors involved in following up on cases concerning migrant children, refugees, and/or unaccompanied minors, namely the Foreigners and Borders Services (SEF), Foreigners and Asylum Services (SEA), the Portuguese Refugee Council (CPR) the Family and Juvenile Courts, the Commissions for the Protection of Children and Youngsters at Risk (CPCJRs), and the European Children's Ombudsman should be governed first and foremost, whenever dealing with these cases, by mandatorily safeguarding the principle of the best interest of the child and conjugating this principle with all others.

Therefore, mainly because we are dealing with children, regardless of being refugee, migrant, and/or unaccompanied minors, all of these organizations and institutions for the support and protection of children in the various Member States of the European Union, as well as the European Network of Ombudsmen for Children (ENOC), should collaborate and network in order to improve the respect for the rights of children and defend the interests and needs of these same children. Thus, as established in the Portuguese Law for the Protection of Children and Young People in Danger, all bodies and institutions should base their actions and/or intervention, as far as minors are concerned, on the following uniform guiding principles:

(a) Superior interest of the child – the interests and rights of the minor must be given priority, without prejudice to the consideration due to other legitimate interests within the plurality of interests in the concrete case. Thus, as stated by Almiro Rodrigues, "the best interest of the child must be understood as the right of the minor to healthy and normal development on a physical, intellectual, moral, spiritual, and social level, in conditions of freedom and dignity" (Rodrigues, 1985, pp. 18-19). We must also not forget that the child should be taken into account in all matters relating to the child. In this context, it is also important to remember, as Maria Clara Sottomayor pointed out, that "the interest of the minor is a vague and generic concept used by the legislator in order to allow the judge some discretion, common sense and creativity, whose content must be determined in each concrete case (Sottomayor, 2003, pp. 36-37); (b) Privacy – respect for intimacy, image, and reserve of their private life; (c) Early Intervention – to solve the problem as soon as

it is known. In this case, these aspects have to do with a timely decision and the due procedural celerity, with the efficacy of the decision, which the interests of the minor advise and demand; (d) Minimum Intervention – the intervention shall be made exclusively by the competent entities and institutions. In addition, one must take the steps that are strictly necessary and indispensable for the effective protection of the minor and his or her rights; (e) Proportionality and current – the intervention should be the necessary and adequate to the specific situation. In fact, the measures proposed and decided upon must be necessary and appropriate to the minor's situation at the time of the decision and must only interfere in the lives of the minor and his or her family to the extent strictly necessary; (f) Parental responsibility – the parents should assume their duties with the child or young person during the intervention; (g) Primacy of the continuity of the deep psychological relationships – the intervention should respect and preserve the affective relationships; (h) Prevalence of the family – prevalence to the measures that integrate the children or youths in the family or promote the adoption; (i) Obligation of information – the child or youth, the parents, or the legal representatives have the right to be informed; (j) Obligatory hearing and participation – the child or youth, the parents, or the legal representatives have the right to be heard and to participate; and (k) Subsidiarity – the intervention should be carried out by the entities with competence in children or youth matters, the commissions of protection of children and youths and, lastly, the courts (Law for the Protection of Children and Youngsters in Danger, 1999).

Final Considerations

When we discuss children and their rights, it doesn't matter if they are migrant children, refugee children, and/or unaccompanied children. What really matters is a clear understanding that, no matter what legal, social, or cultural qualification we may give to children, they are vulnerable, sensitive, fragile, and unable to autonomously safeguard and protect their own interests, needs, physical integrity, and safety. The State, the European Union, and the organizations and/or institutions supporting and protecting the most elementary rights of the child play a fundamental role in raising awareness and defending the most elementary rights of the child. A number of international, European, and/or national legal instruments, both *hard law* and *soft law*, have been developed to safeguard the rights of the child. Unfortunately, it's not for lack of legislation that the rights of the child are not respected, but because the men and women who apply this legislation forget that they were once children, with dreams and needs of their own, with courage in their fragility, with imagination without borders and with the purity and sincerity of their hearts. Unfortunately, the men who apply the migration laws tend to distinguish their children from other children, simply because some of them came from distant lands, with a different color, ethnicity, language, or culture.

Conclusion

We need to adopt a top priority strategy, a green line applicable to all Member States in matters relating to children, regardless of whether they are migrants, refugees, or unaccompanied minors. It is necessary to create a rapid multidisciplinary team, or rather, a European multidisciplinary border patrol force to support minors, consisting of psychologists, sociologists, social workers, lawyers, military personnel, doctors and other areas of social intervention so that, in coordination with the other European Union Member States, we can detect early all migrant children, refugees, and/or unaccompanied minors who arrive in the European Union. All actions must be based on the uncompromising defense of the best interests of the child, because what we do now with the children, they will do later with society. Protected children become more balanced, thoughtful adults who also respect human rights. Children are the hope for the future, the smile of the world, and the joy of life, regardless of whether they are migrant children, refugee children, and/or unaccompanied minors.

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Chapter 5
Extremism vs. Human Rights: How Ideology Is Built, Nurtured, and Transforms Societies

Yvonne Vissing

How Extremist Ideology Is Built, Nurtured, and Transforms Societies

Extremist attitudes and actions have long existed but are taking on new dimensions in contemporary global society. Ideologically, extremists were once thought to be isolated renegades or religious fanatics in far off places, but today it is much harder to determine who is an extremist because extremists could be home-grown, government leaders or belong to mainstream groups which present themselves as legitimate alternatives to authorities. The very nature of what extremism is, and who extremists are, have changed.

In this chapter, ideological underpinnings of both globalism and extremism are explored in relation to human rights (Zajda, 2020; Zajda & Vissing, 2021). Globalism has been both a cause of, and a buffer to, extremism. Global social changes such as the coronavirus pandemic have contributed to the rise of extremism. Electronic communications and social media have also contributed to the rise of extremism. Particular emphasis is given to how youth are targets of extremists who encourage them to grow violent attitudes and actions. The chapter assumes that extremism poses significant threats to societies and that extremism can be curtailed. Extremism can be understood as an unanticipated off-shoot of globalism. It is explored from a variety of theoretical perspectives. As a diverse, learned process that develops over time in certain stages, its presence is impacted by both macro factors and micro interactions (Jensen et al., 2018). Since extremism is socially constructed, alternatives to it could also be constructed; if extremism is learned, then rights-respecting attitudes and actions can also be learned. How extremism is addressed will determine how its presence, or eradication, can transform societies into communities of

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fear and hate or peace and tolerance. Understanding how extremist ideology is cultivated and disseminated is essential in preventing it.

What Is Extremism?

Extremism is traditionally defined as a form of deviant behavior in which a person or group seeks to exert power to impose their views upon others in a manner not conducive to what is defined in human rights treaties, such as the Universal Declaration of Human Rights (UDHR), Convention on the Rights of the Child (CRC), International Convention on Elimination of All Forms of Racial Discrimination (ICERD), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), or the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). These human rights treaties define ways in which humans should treat one another; extremism is then a violent violation of these treatments.

Extremism has undergone a metamorphosis. Since the September 11, 2001 (9/11) terrorist attacks in the United States, Western countries have come to see terrorism as a high-priority security threat. Previously they had viewed violent extremism principally as an external threat-committed on or against one's homeland by individuals who have migrated or traveled from a foreign country. But an acceleration of violent extremism from people who have been born in or spent considerable time as a resident of the target country has shifted their attention to "homegrown violent extremism" (HVE) (Borum & Patterson, 2019). The term extremist was often associated with groups such as the Islamic State in Iraq and Syria, or ISIS. But the term is being redefined by the US Federal Bureau of Investigation, which finds that racial and nationalistic extremism has become a global threat that puts it on the same footing as ISIS (Boboltz, 2020). Increased demographic diversity has contributed to an increase of violent extremist attitudes and actions among young people (Jones, 2018); far-right attacks in Europe, jumped 43% between 2016 and 2017 (Jones, 2018). The US FBI director states that domestic extremism is metastasizing; the number of white supremacists arrested in 2020 nearly tripled since 2017, and the agency currently has more than 2000 domestic terrorism investigations underway, double the amount it had in 2019 (Visser, 2020).

Extremism used to refer to holding of extreme political or religious views but now it has other connotations. With the introduction of violence in political, religious and public domains, an extremist is one who holds extreme views, especially one who advocates illegal, violent, or other extreme action (Murad & Murad, 2018). The "extremist" label is now vaguer and more politically charged today than it has ever been. It is also more subject to misuse. Extremism is a diverse process with different pathways and mechanisms operating for different people at different points of time in different contexts, meriting a complex understanding of its various forms

(Borum, 2011). The study of extremism, especially violent extremism, has entered a new phase. This results that both scholars and policy makers must reconsider new and continuing practical and ethical challenges (Berger, 2019).

Due to a rise of domestic extremists, hate-groups and domestic terrorists in the US there are over 6000 hate and extremist groups identified (Byman, 2021; Chermak et al., 2011; Felbab-Brown, 2021). A report by the National Consortium for the Study of Terrorism found that extremist groups were likely to be online and promote ideological recruitment materials through networking opportunities. Use of online forums, standard as well as those on the dark web, are used as important extremist recruitment and mobilization tools (Costello & Hawdon, 2018; Dean et al., 2012; González-Bailón et al., 2011; Hodge & Hallgrimsdottir, 2019; Holt et al., 2016; Post, 2015; van Eerten et al., 2017). The increased amount and severity of far-right extremist violence rhetoric on social media has generated public concern about the spread of radicalization (Davey & Ebner, 2019; Simi & Bubolz, 2017; Winter, 2019).

Extremism is now referred to as an international and domestic public health issue (Allam, 2019; Bonn, 2019; Sanir et al., 2017; Weine & Eisenman, 2016; Youngblood, 2020). The National Consortium for the Study of Terrorism reported that violence was highest in two groups – one that had charismatic leaders like Hitler who could gear up recruits, and the other were lone-wolfs in which individuals or small cohesive groups engage in acts of violence independent of any leader or network (Capellan, 2015). These latter leaderless resistant extremists appear common by white supremacist organizations whose members tend to be male. Right-wing extremism in the United States appears to be growing. The number of terrorist attacks by far-right perpetrators, white supremacists and Neo-Nazis rose over the past decade, more than quadrupling between 2016 and 2017. Pipe bombs and the October 2018, synagogue attack in Pittsburgh are symptomatic of this trend. U.S. federal and local agencies have doubled-down to counter this threat (Jones, 2018).

Youngblood (2020) observes that the far-right movement in the is the most deadly form of domestic extremism in the United States (Piazza, 2017; Simi & Bubolz, 2017). Ideologically, many of these groups advocate for the use of violence to create an idealized future favoring a particular group. This could be to support, or oppose, a particular race, religion, nationality, ethnicity, gender, political group, lifestyle, or individual trait. In 2018 far right movements were responsible for 98% of extremist murders (Anti-Defamation League Center on Extremism, 2019).

The rise of anti-immigrant, white supremacy groups who have grievances about their economic condition or directions of social change hold political resentments which have morphed into anti-government movements (McVeigh et al., 2014; Piazza, 2017). Right-wing armed groups in the US include white supremacist, anti-immigrant, anti-federal-government, pro-gun-ownership, and survivalist groups who envision a coming civil war in the United States. So-called accelerationists include groups such as the Proud Boys, Boogaloo Bois, Threepercenters, Oath Keepers, Patriot Prayer, Civilian Defense Force, Light Foot Militia, American Contingency, and People's Rights seek advance it (ACLED, 2020; Felbab-Brown, 2021). These armed groups engage in hybrid tactics. They train for urban and rural

combat while also mixing public relations, propaganda works, and 'security opera-tions' via both online and physical social platforms to engage those outside the militia sphere. There is an increasing narrative that groups are organizing to 'sup-plement' the work of law enforcement or to place themselves in a narrowly defined 'public protection' role in parallel with police departments of a given locale (ACLED, 2020). Designating white supremacy groups as international terrorist organizations would be a way to curtail their power; viewing these groups as legiti-mate with credible forums will only enhance their escalation and mobilization (Byman, 2021).

Many definitions of extremism have been predicated on the idea that extremists are situated on the fringes of society and enjoy few mainstream supports. Some allege that extremists are psychologically disturbed while others find that extremists do not have mental disorders and believe themselves to be rational in their decisions to pursue activities and hold attitudes that get defined as extreme (DeFoster & Swalve, 2018; Misiak et al., 2019). But extremists may be neither fringe members nor mentally ill. In fact, their movements and leaders may enjoy widespread popular support or political power. This problem extends around the globe, from European countries with extremist parties seated in parliaments, to the military-led violence perpetrated against Rohingya and other groups in Myanmar, a rising right-wing movement in India, the presence of jihadist and extremist Islamist political move-ments and insurgencies in the Middle East and Africa, or Proud Boys and Q'anon in the United States. Extremism may manifest in different forms depending based on location, situation, labeling by those in power, and the capabilities of extremist actors (Berger, 2019).

The term "extremist" has been co-opted by groups from government leaders to radical fringe movements. For instance, Russian law defines extremism as opposition to the state while China has used extremism as a pretext for creating detention camps of Uyghur Muslims. In current United States politics, agenda-setters may define people on political right, left, or center to be extremists. The ability to apply the word "extremist" to certain individuals or groups empowers governments or individuals to take extraordinary action against "other". This results in human rights abuses as one group seeks to label others as extreme and dangerous. It sets up the possibility that extremist groups can profess that they are acting with human rights interests of specific groups that they exploit. Extremists may argue that their rights should be prioritized over the rights of other groups – or that other groups are not entitled to rights. This opens the door for extremists to promote their violent actions as within the purview of their own rights (Steiner & Alston, 2000). As Berger (2019) points out, within the term "extremist" is the assumption that they are violent – but in fact not all extremists are violent (Berger, 2019), at least in the physical sense. But they may be verbally or ideologically violent and plant the seeds for the escalation of physical violence later. Extremism, therefore, is not just a violent act but a pro-gression of human responses along a continuum. This point will be elaborated upon in more detail later in this chapter.

In this chapter, extremism is defined to consist of attitudes and actions that target a group of people thought to be deserving of hate-filled thoughts, disparaging words and violent behaviors designed to harm entire groups or individuals in those groups. Extremism is conceptualized to consist of a spectrum of attitudes and actions that starts with embracing negative stereotypes and biases that can lead to prejudicial attitudes and ultimately violent behavior (Vissing, 2021). Extremists stereotype groups to create prejudicial thoughts and oppressive actions. They may target groups property or things that are of symbolic value to them. This extremism is intentional and consists of some element of violence or ill-intent.

Globalism Underpinnings of Extremism

Globalism and extremism are odd bedfellows. There has been a rise of extremism alongside of rise of globalism, despite globalism promoting a "one-world" orientation. The move towards globalism has been an inevitable outgrowth of transformations in travel, communications, business, culture, and immigration. We are able to fly anywhere in the world in a few hours. We can communicate with people on the other side of the early in seconds through phone or electronic mediums. Multinational corporations have financial holdings that far surpass that of many nations and their operations, employees and clients are not geographically bound. As people travel for work or recreation, they may choose to live in other countries or marry or have children with people from different locales, backgrounds and traditions. All of these factors influence our attitudes about other people. Viewing ourselves to be global citizens, as well as citizens of a particular country, is now commonplace (Starkey, 2017; Vissing, 2020). Considering universal issues that people everyone share, such as the environment, climate change, poverty, or war, shifts the way people regard what is going on around the world.

Ideologically, the perception of who is "us" and who is "them" is impacted in both positive and negative ways through the escalation of globalism. There is considerable debate over the question of whether or not globalization is good for human rights. Two opposing views of globalization and its relationship to human rights have emerged: some see the two topics as mutually reinforcing and positive in improving human well-being, while others view globalization as posing new threats not adequately governed by existing international human rights law (Shelton, 2002; Vissing & Williams, 2018).

One view is that globalization enhances human rights, leading to economic benefits and consequent political freedoms. The positive contributions of globalization have even led to the proposal that it be accepted as a new human right (Shelton, 2002; Vissing, 2019). Opponents of globalization see it as a threat to human rights in several ways. It sees local decision-making and democratic participation undermined as multinational companies, the World Bank, other major organizations set economic and social policies. Unrestricted market forces threaten economic, social, and cultural rights such as the right to health, especially when structural adjustment

policies reduce public expenditures for health and education. As power and wealth are accumulated by multinational companies there may be increased unemployment, poverty, and marginalization of vulnerable groups in local areas communities (Kinley, 2009).

Scholars like Steger (2005) view globalism as the dominant ideology of our time, while others like Michael Freeden argue that globalization denotes not an ideology but a range of processes nesting under one rather unwieldly epithet (Freeden, 1996; Steger, 2005). While globalization has enhanced the ability of civil society to function across borders and promote human rights, other actors have gained power and violated human rights in unforeseen ways (Shelton, 2020). Unanswered questions about whether globalism is an ideology or not, and to what extent globalization is good for human rights and to what extent human rights are good for globalization are salient ones that add to the complexity of its impact.

Pendelton (1998) discusses the right to globalization as a new human right. He argues that national allegiance and globalization cannot stand together. Globalization, he states, entails the right to international security, to trade across national borders, to non-partisan dispute settlements across borders, freedom of movement across borders, and the right to hold dual or multiple papers of nationality. Thus, national allegiance and self-sacrifice is regarded as outdated, an anachronism and simply wrong. He defines globalization as the tendency for persons, corporations and institutions to expand past the confines of a nation toward participation in and identification with a world community. He tracks our ideology of "the other" back in time to when our family and clan were the primary units that mattered – anyone external to it could be a threat, enemy, or food. As villages grew with homogenous members, they became fortified states and kingdoms with armies to protect them from potential outside invaders who could threaten their wellbeing. Giving only to those who are like "us" and limiting contact with and participation of "them" resulted. Owing a higher allegiance to nationals than foreigners is inherent in the concept of what it means to be a patriot. Pendelton alleges that national allegiance today is wrong because it is a form of racism and increases oppression, external threats and war. He regards patriotism as a form of exclusive interest in members of one's own national group that gives little moral weight to the interests of others. This, he sees, as antithetical in a globalized world.

While globalization's benefits are celebrated by many people and organizations, its problems and negative effects are becoming more apparent (Reddy, 2008). Globalism may have led to improved incomes, education, health and physical wellbeing for many people, but have increased oppression of millions as a consequence of the leverage that international capital has over government policies and the rights of workers. Income increases have not been universally distributed; globalism is accused of being responsible for a growing gap between the haves and have nots, both within and between countries (Honey, 2004; McCorquodale & Fairbrother, 1999). Globalization has a negative impact particularly on economic, social and cultural rights. These rights are guaranteed by the Universal Declaration of Human Rights (UDHR), Article 27, and in the International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 15. El Hassani (2015) alleges that civil and

political rights have been given higher priority than economic, social, and cultural rights. Moreover, globalization tends to fragment global cultural communities which tend to integrate some groups while excluding others. Globalization tends to intensify excluding certain groups like marginalized persons and those who are vulnerable to losing their cultural heritage. For instance, in order to access the right to work, some groups may be able to do so only at the price of abandonment of cultural identity, particularly language and specific lifestyles (El Hassani, 2015).

Globalism and the Impact on Democracy

Democracy's stability across the world is concerning. While there had been a movement towards nations developing democratic governments, there has been an encroachment of authoritarian governments again in recent years. Democracy and the advancement of human rights are related; conversely, authoritarian regimes and violent extremism are related. As of 2018, there are currently fifty nations with a dictator or authoritarian regime ruling the country to this day. Europe is home to one dictatorship, three can be found in Latin America and South America; there are eight dictatorships in Asia, seven in and twelve spanning from Africa's northern parts into the Middle East (World Population Review 2018).

The University of Maerz et al. (2020) analyzed different types of democracies in their report and found that 99 countries or 55% of nations are democracies with the trend of autocratization growing. One-third of the world's population living in countries undergoing autocratization, surging from 415 million in 2016 to 2.3 billion in 2018. The number of liberal democracies declined from 44 in 2008 to 39 in 2018. They report that 24 countries are now in what they call a third wave of autocratization. These countries include Brazil, India, Bulgaria, Hungry, Poland, Serbia and the United States.

Human Rights Watch (2022) notes that current days are dark ones for the protection of human rights, even within countries deemed democratic. They state that today's would-be autocrats typically emerge from democratic settings. A two-step strategy for undermining democracy is employed, where they first scapegoat and demonize vulnerable minorities to build popular support and then weaken checks and balances on government controls needed to preserve human rights and the rule of law, such as an independent judiciary, a free media, and vigorous civic groups. They observe that even the world's established democracies have shown themselves vulnerable to this demagoguery and manipulation.

Autocrats tend to dislike scrutiny and retreat from the defense of human rights, both within and beyond their borders. Political leaders violate human rights because they see advantages like maintaining their grip on power, padding their bank accounts, and rewarding their cronies. Such activities can be manipulated through political relationships with global industries, multinational corporations and the military industrial complex (Human Rights Watch, 2022). The economic power of globalization could set the stage for human rights – but politics, money,

globalization and extremism are intertwined. As Addison (2004) observes, poverty pushes people to consider extreme actions in order to survive. Poverty makes it challenging to sustain democracy in low-income nations or populations. When incomes are low and poverty is high, people may resort to violence as a livelihood. When they do, democratic principles are undermined and gross violations of human rights occur. Individuals have been found to support authoritarian governments over democratic ones if it improves their standard of living. In short, economic development is crucial for supporting democratization and human rights, while perceived or actual economic deprivation may give rise to authoritarianism and extremism (Addison, 2004).

Despite rhetoric to the contrary, the global economy is not working well for poor countries or poor people. Increased trade, finance and technology are key elements of the globalization process that are not accessible for many groups and their lack may result in deterioration of human development indicators such as health, education, and employment. Economic distress fuels desperate searches for survival that may result in a host of human rights violations – and nurtures attitudes and actions that are extreme. The promotion of either human rights or extremism cannot be viewed in isolation from the wider economic situation in which people live (Addison, 2004). When globalization benefits only the upper echelon of society and fails to address the struggles of those who do not have access to fundamental necessities of food, shelter, education, healthcare, and income, globalization sets the stage for extremism and dictatorships and autocratic governments.

Globalization has challenged states to comply with human rights obligations, particularly around economic, social, cultural, and security rights, trade union freedoms, right to work which have disproportionately impacted minority groups, The right for equality and socio-economic rights, when unequally shared, strains both individuals and nations. People who are suffering may not accept new or liberal ideas which are often part of globalization. They may rebel against them and those who they believe are responsible for their oppression as a result. Conversely, if globalization actually benefits all, the result would likely be greater support for both democracy and human rights. Human dignity is reinforced through human rights and attacked through extremism in all its forms (Arfat, 2013; Shelton, 2002). While globalism may be related to extremism, not everyone in oppressed groups becomes an extremist. What then are explanations for why someone may accept extremist views and engage in extremist actions?

Why Are People Extremists?

There are many different theories about why people may become extremists, and our understanding of why people engage in extremist actions has changed across time. At its fundamental level, extremism will be understood as a form of deviant behavior that fulfills the agenda for one individual or group of people while it is harmful and opposed by another individual or group of people. In the following

section, main theories of deviant behavior will be explored with respect to extremism. These include:

Stratification's Contribution to the Rise of Extremism

The rise of globalism to increase money and productivity starts back at the beginning of the previous century, under the Spirit of Capitalism and the Protestant Ethic (Weber, 1901). The Protestant faith predominated in Europe and North America and people wanted to know if they were going to be "saved" and go to heaven. Capitalism was becoming the dominant economic system, and people observed there were disparities between those who were rich and those who were poor. Max Weber (1901) observed that a common assumption held that wealthy people must be blessed by God, and those who were poor or destitute must have been punished by God for some reason. Since there was no way to know for certain if one was going to heaven, people looked at each other's economic wellbeing as an indicator. Capitalism provided a way for people to gain economic standing, which became a proxy measure for being saved by God. The more wealth that people could accumulate, the better they felt about themselves. Conversely, the less wealth that people had, the more they were disparaged for not being blessed or good.

Fast forward this line of thinking. Rich people became regarded as better than poor people in the social stratification system. Over time money, goodness and godliness became intertwined and this has been the justification of blaming people who are poor for their misery (Harrington, 1981; Ryan, 1976; Vissing et al., 2020). Similarly, developed, rich countries have become portrayed as "better" or superior to less developed or poor ones, and globalism has played into dichotomy. Globalism has made national boundaries more permeable. It is within economically stratified groups that extremism could be born.

In times of economic distress, people look for someone to blame. Stratification theories hold that the people who are lower-middle-class are often those with the most to lose if the lower classes are able to improve their lot in life. Hovering towards the lower end of the stratification ladder, if people lose what they have, they will then be at the bottom. Therefore, this group of people feels more threatened by the advancement of the lower classes (Manstead, 2018). There is an emotional insultation felt when one is not at the bottom; they can say to themselves that at least they are not as poor as others – and inherently there is the assumption that they are better than those who are at the bottom.

During the 2008 economic recession in the US, many middle-class people found themselves losing their jobs, going into bankruptcy and finding themselves hungry and homeless (Frasquilho et al., 2015). This reality challenged the assumption that poor people were to be blamed for their poverty, or that they had been smited by God. There have been public attempts to provide a certain amount of aid to ease people's financial burdens, but in recent years there has been an increase of number of people who are poor, a shrinking middle class, and a tiny but much richer group

of people at the top of the stratification ladder. The amount of money gained by the top 1% of the population has been extraordinary, with the top fifth of the population holding more assets than the other four-fifths of the population combined (Kent, 2020; Rutstein, 2004; Schaeffer, 2020). Under the COVID pandemic, the rich have gotten even richer while the poor and middle classes have continued to suffer disproportionately, especially those who are nonwhite (Choe, 2021; Kristof, 2021).

As race and ethnic diversity have increased, as women have become commonplace in the workforce, and as immigrants have arrived, the position of white, middle class males has become threatened (Doyle, 2021; Gillan, 2017; Gilborn, 2010). In the US and other developed nations, middle and lower-middle class white men may feel themselves to be at more risk of losing their precarious position on the social stratification ladder when others advance. This is a paucity-view of economics, where there isn't enough for everyone, so one must compete to seize one's share. Mutz (2018) observed that the 2016 presidential election turned towards Donald Trump and a conservative political constituency primarily because middle and lower middle-class people were worried about losing their status. They may have enough money economically, but were concerned that they could lose their social position and emotional status if women, nonwhite people, and immigrants (aka "others") gained access to upward mobility. Maintaining dominance, feeling threatened, and viewing governmental support for the "others" as a danger to their social positions became fuel for the rise of hate speech, discrimination, oppression, and ultimately extremist views.

Differential Association Theory

Another potential explanation for the rise of extremism comes out of the differential association theory. Edwin Sutherland (1939) proposed that criminal or deviant behavior is learned through interactions with others – especially people in one's intimate personal groups. These intimate groups include family, friends, peers, and significant others or those whose opinions and importance to us are of primary importance. It is through these interpersonal groups that people learn to define certain people as good or bad, or certain behaviors to be favorable and acceptable or unfavorable and unacceptable. Deviant, or extremist, views are learned, as are attitudes, motivations, and techniques for engaging in extremist behaviors.

Sutherland alleged that interaction factors impact a youth's acceptance of deviant attitudes and actions. These include frequency of contact, priority of the person's importance, intensity of the communication and relationship, and the duration of the relationship. In short, if someone has a brief, one-shot communication with someone who they barely know, that person's extremist views may not be incorporated as readily as when a youth is with someone important to them who expounds extremist views as good, and they are with them day after day for extended periods of time. The greater the frequency and duration of contact with someone promoting deviant behavior, and the more important that person is to the youth and the more intense
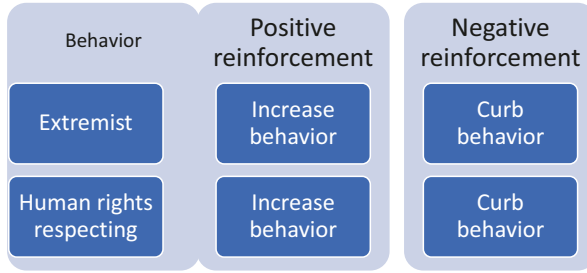
their relationship, the more likely it is that extremist views will be accepted and acted upon. Specific motives, drives, rationalizations and attitudes for extremism are thus learned and fulfill personal needs the same way as non-deviant (or non-extremist) views are learned.

Social media relationships with strangers can fulfill many of the same functions that Sutherland outlines. People who are online regularly may develop relationships, information, reinforcements, and learn about ideas and actions in which they can participate. The "dark web" and online relationships with extremist people and groups may now take precedence over face-to-face contacts (Chang, 2015; Darden, 2019a, b; Digital Citizens Alliance, 2021; University of Washington, 2017).

Operant Conditioning or Differential Reinforcement Theory

In an expansion of Sutherland's work, Burgess and Akers (1966) argued that deviant (or extremist) behavior is learned through imitating or modeling significant other's behaviors. They agreed that learning deviant, or extremist, behaviors were shaped through operant conditioning of positive or negative reinforcements. Operant conditioning has been promoted by psychologists like B.F. Skinner (1963) or Pavlov (Clark, 2004). Classical conditioning assumes that people learn through associations between stimuli and responses. The premise is that deviant (or extremist), or rights-respectful behavior, are learned through everyday situations in which people receive positive or negative feedback to either continue or curtail their behavior patterns. People whose opinions of us matter, or those who hold power over resources that we need or want, are those whose reinforcements matter the most to us and have the greatest influence over our behavioral choices. Over time, we respond to stimuli in a predictable way. We may generalize our perceptions and actions to similar situations as a result, so that in the case of extremism, people who were not hurting us could be associated with people who once did, and we react towards them as if they were going to harm us. This generalization is relevant because someone can "hate" a certain type of person that they were taught to fear, even though that person may not have any intention of harming at all.

In short, if we are receiving positive reinforcement for extremist behavior, we are likely to continue being extremist because there are significant rewards, especially when they come from significant others. On the other hand, if when we engage in extremist attitudes or actions we receive negative reinforcements from significant others, this is likely to curb further extremist behaviors. Similarly, when we engage in respectful behavior towards others and receive positive feedback for doing so, we are likely to continue such behavior. But if we receive negative feedback for being respectful, we may be more inclined to see respectful behavior as weak, "sissy" or not powerful or desirable choices if our significant others make fun of us for acting "nice", as shown in Fig. 5.1. When the reinforcements we receive are confusing, contradictory or ambivalent, this leaves a youth in limbo, not sure which way to act.

Behavior	Positive reinforcement	Negative reinforcement
Extremist	Increase behavior	Curb behavior
Human rights respecting	Increase behavior	Curb behavior

Fig. 5.1 Relationship between reinforcements and behavior

This means that the role of significant others is of major importance in creating and supporting either extremist or respectful behavior – or curtailing extremism or curbing one's desire to choose respectful behavior. Given that many behaviors are not firmly embedded into extreme or respect, and that the reactions that others give us may be neither positive nor negative, there is a great deal of opportunity for a youth to be swayed in one direction or another over time. The reinforcement trends will enliven the opportunity for certain behaviors to continue.

Research suggests that radicalized individuals are destabilized by various environmental (or endemic) factors, exposed to extremist ideology, and subsequently reinforced by members of their community. As such, the spread of radicalization may proceed through a social contagion process, in which extremist ideologies behave like complex contagions that require multiple exposures for adoption. The results indicate that patterns of far-right radicalization in the United States are consistent with a complex contagion process, in which reinforcement is required for transmission. Both social media usage and group membership enhance the spread of extremist ideology, suggesting that online and physical organizing remain primary recruitment tools of the far-right movement. In addition, factors such as poverty increase the probability of radicalization (Cherif et al., 2009; Ferrara, 2017; Green et al., 1998; Kwon & Cabrera, 2019; Majumder, 2017; Midlarsky et al., 1980; Youngblood, 2020).

Differential Identification Theory

Glaser (1960) found that in the creation of deviant, or in our case extremist behavior, learning extremism can occur not just when we are in contact with significant others on an ongoing basis, as Sutherland argued, but it can occur by identifying with other reference groups of people that we may not even know. Youth may identify with a sports figure, celebrity, movie star, virtual character online, or someone they read about. In these cases, the youth may never have had any contact with that person. Online blogs and communication programs allow people to develop intimate relationships with others whom they have never met. Glaser observed that it

was possible for youth to develop relationships with imaginary or fictitious characters. The key element in his theory was that youth identifies themselves to be similar to the otherwise unknown character, figure or person and models their attitudes, appearance, and actions to be similar to them. When this occurs with people who have intolerant attitudes or embrace violent actions, they may choose to imitate them and even long to be accepted by them.

This can be seen in the 2014 case of two Wisconsin 12-year-old girls who lured their friend, Payton Leutner, into the woods and stabbed her 19 times in order to appease a fictional character called Slender Man. They almost killed her in order to please Slender Man and keep this online made-up figure from allegedly killing their families. Therefore, it is entirely possible that youth who go online and are groomed by people on extremist sites and to regard them as an influential reference group.

This approach is similar to George Herbert Mead's role-playing leading to role-taking. People may "try on" different behaviors to see if they "fit". If they receive supportive reinforcements they are more likely to continue the behavior compared with receiving negative reinforcements. Over time people may incorporate extremist behaviors into their persona and they may come to actually believe ideas that they once just "toyed" with.

Bandura's Theory of Social Learning and Imitation

Bandura (Bandura et al., 1961) alleged that people learn attitudes and behaviors by observing what others say and do. Young people mimic what others do. In studies where children who had observed adults acting in aggressive and violent ways, the children then acted similarly when given the opportunity. Psychologically, this is a form of conditioning and has important implications for the influence of social media, movies, video games, and the learning of extremism as acceptable.

Neutralization Theory

This theory, promoted by Sykes and Matza (1957), alleges that people who engage in deviant behavior may not initially be committed to either extremist or conformist ideologies. Youth, especially, may drift between criminal and conventional actions. They may be partially committed to the conventional social order and justify their support of the conventional order through the use of extremist behaviors. This means that they may rationalize, or neutralize, their actions by coming up with excuses that include denying responsibility for their actions and denying that people were hurt by their behaviors. Extremists may perceive themselves as avengers and anyone who was injured (victims) deserved it which justified retaliation against perceived wrong-doing. Extremists may shift the focus of attention away from their

actions and condemn the condemners or those who disapprove of what they think or do. They may use a defense of necessity, implying that extremists should not feel shame or gift by doing something immoral as long as their behavior is perceived to be necessary.

When a youth engages in behavior that can be defined as "neutral" or "ambivalent", neither extreme or respectful, they have not made a commitment to one type of action or belief system or the other. Sykes and Matza (1957) observe that youth are often caught between worlds, struggling with conformity and non-conformity, adhering to norms and rejecting norms to explore nontraditional or socially unacceptable behaviors. They note that young people are connected with family but grow to have relationships with different subcultures and groups that are all vying for their commitment. As a result, youth often drift back and forth between worlds until they receive enough pressure or desire to run towards one direction or the other. Because of their ambivalence, they may experience feelings of confusion or guilt, and seek to justify or rationalize their misbehaviors through techniques of neutralization such as denial of responsibility, denial of injury, denial of victim, condemnation of the condemners, and appeal to higher loyalties.

Control Theories

There are a wide variety of approaches under this theoretical umbrella that attempt to explain why someone may violate norms and choose deviant or extreme actions. Reiss (1951) claimed that deviance was a consequence of weak egos or superego controls, that the family was responsible for keeping a member in check, and that punishments were necessary in order to ensure right action. Nye (1958) identified three primary mechanisms of control, which included informal control through social interactions; direct control, which included ridicule, jail, or restricting one's chances to engage in criminal activity; and indirect control, which includes attachments people have that predispose them to please others. Walter Reckless (1950) coined containment theory to emphasize the importance of both inner and outer containments, or internal and external controls that will push or pull people towards antisocial behavior. These pushes and pulls, internally and externally, are at the heart of promoting or resisting engagement in extremist behavior. Hirschi (1969) reported that social bonding and attachment led to one following conventional or deviant/extremist actions. Affectionate bonds with significant others led to commitment to others, belief what they stand for, and involvement in particular types of activities, activities that could be rights-respecting or extreme. When people have low self-control they may have lower internal controls that could nurture extremist views.

Conflict Theories

In this family of theories, the notion is that people engage in deviant or extreme actions because of constraints on their behavior that they believe is not in their best interests. Functionalist theorists hold that society has to have rules that everyone obeys in order for society to move forward and that people must be held accountable to following them while conflict theorists noted that behaviors labeled as deviant or extreme may be necessary to bring a society into balance when rules are contrary to the interests of others. Marx and Engles (1848) stated that class consciousness bound people together and there was a natural tendency for the proletariats, or underdogs of society, to overthrow the ruling classes or those in power. C. Wright Mills (1956) identified that there was a powerful group of elites who promoted their interests through social institutions and structures. These individuals created social structures and distribution of resources and powers that were unequal, oppressing the majority of people in society.

Conflict and unequal distribution of resources and power are universally found around the world, even in democratic, human-rights-respecting nations. Systemic inequality breeds anger, which often results in violence. Violent extremism is seen as fundamentally a symptom of failures of social systems (Zinchenko, 2014), a failure of governance (Glazzard & Zeuthen, 2016), alienation of out-group members in which the number of extremists grows with increasing conflict between groups (Alizadeh et al., 2014), interpersonal communication conflict (Burton, 1969), lack of socio-economic opportunities, marginalization, discrimination and prolonged unresolved conflict between groups (UNODC, 2018), racism, sexism, and essentially opposition to any group defined as "the other" who is perceived to violate some preconceived assumptions about the way things are supposed to be. Groups vie for resources, but also the power to define who, or what, is legitimate.

Conflict and Labeling Theory Compatibility

Extremists, from the aforementioned point of view, can be labeled as crusaders for what is good and right, or as dangerous people who are to be curtailed by whatever means necessary. Who is considered to be an extremist all depends upon who is doing the labeling. As Becker (1967) observes, labels depend upon whose side you are on. This notion reinforces what Berger (2019) and Borum (2011) referenced earlier – that who is considered to be an extremist today is vague, unclear, and depends upon situations and the definitions employed. And definitions are seldom static and usually subjective (Vissing et al., 2020).

Rise of Extremism During COVID-19

The United States Institute of Peace found the COVID-19 pandemic is spawning the growth of violent extremism, especially in fragile states and conflict zones (Aryaeinejad & McGann, 2020). They find that poor service delivery, limited institutional capacity, weak health infrastructures, security sector abuses, and predatory elites have long existed, but COVID-19 is exacerbating these and other potential drivers of violent extremism. Entrepreneurs, criminals and corrupt entities are taking advantage of people's fear, uncertainty, and desperate need for services and trusted information. Globally, non-state and violent extremist groups have shifted their messaging and actions about hygienic best practices like mask wearing or use of vaccines or services. This may reflect extremists coming in to protest hygienic actions when faced with limited access to resources, or promote a skewed view of human rights (such as it is my right not to wear a mask or expose others to the virus when I am sick). Extremists may step in to address a void of resources, like access to healthcare of clean water, or to promote strategies that will not help individuals – but will support the agendas, or finances, of extremists who are seizing the pandemic as an opportunity to serve their own interests. Perceived legitimacy is one of the greatest currencies for any extremist group. If governments or the scientific community are not adequately addressing the rise of COVID-19, it provides opportunities for extremists to promote their own self-serving agendas. This is especially true when people are suffering ill health, increased financial stress, evictions, and declining opportunities in employment or education.

Extremists rely upon community support to conduct its operations. COVID-19 be used for recruitment by extremists because violent extremist actors are likely to take advantage of and instrumentalize instability to further their own narratives and achieve their goals. Central to COVID-19 is fear and restrictions in where we can go and what we can do. Extremists are inclined to mobilize people's uncertainty, fear, and resentments. As people have been locked-down and share smaller social networks, lack of exposure to other points of view, thought and everyday realities, makes it really hard to discern fact from fiction and can leave people more susceptible to narratives that present easy or superficially comforting solutions to otherwise incredibly complex issues like COVID-19. Authors of the report note that this is particularly troubling in light of the narratives, conspiracy theories and misinformation being distributed amongst violent extremist groups that contextualize the crisis in racial or ethnic battles, and "us" versus "them" mentalities. Placing blame for the crisis on certain groups serve to justify oppression on others, false narratives, and increased violence against perceived perpetrators of the problem (Aryaeinejad & McGann, 2020).

There are other's significant concerns that the politicization of the pandemic has given fuel for the development of extremists to take hold of public sentiments through aggressive means. Operations of governmental and legislative activities have been impacted, government leaders have become ill, elections and political events have been postponed (Ang, 2020; Lipscy, 2020; Stasavage, 2020). There

have been widespread disagreements about how states respond to the virus, an increased distrust of government and scientific communities, and the relationships with other countries (Druckman et al., 2021).

COVID-19 response can be understood by the concept of authoritarian backsliding. Authoritarian backsliding a gradual decline of democracy with a class of strategies that include perceived infringement of individual rights, the freedom of expression to question the health, efficiency and sustainability of democratic systems, manipulating votes or violating civil liberties (Dresden & Howard, 2016; Waldner & Lust, 2018). Aryaeinejad and McGann (2020) anticipate that the threat of violent extremism could have significant impacts beyond the pandemic itself. This is due in part to further marginalization of different communities and increased hate speech that might lead to radicalization, which could lead to violence. Establishing supports for all peoples to get through the pandemic successfully is important not just for their health, but for curtailing the underpinnings of extremism.

Selected Theory for This Chapter

Extremism is traditionally viewed as a radical, fanatical fundamental, political or religious ideology that can be far-left or far-right in orientation. Those acting in extremist ways may appear to be obsessed and sure their position is correct, unwilling to compromise, and tend to demonize "the other" that they oppose (Wintrobe, 2006). Extremism, like mass shootings or bombings, are often looked at as an outcome rather than a process. But shootings or bombings are just the end-point of a lengthy trajectory of socialization and reinforcements. Interventions that focus more on the macro and micro process by which extremist attitudes are learned and supported have front-end benefit in preventing back-end violence.   The previous theories all point to similar factors that contribute to the rise of extremism. These include unstable governments that fail to deliver services and equality to the entirety of the population. When people suffer or perceive they are deprived in comparison to others, it engenders resentment and anger that nurtures hatred toward groups or individuals whom they feel are responsible for their inequality. When the courts, criminal justice systems and laws show preferential treatment for some groups while oppressing others, when education systems do not promote human rights and human dignity, and when extremist groups exist that provide counter realities, either by coercion or force, extremist view grow.
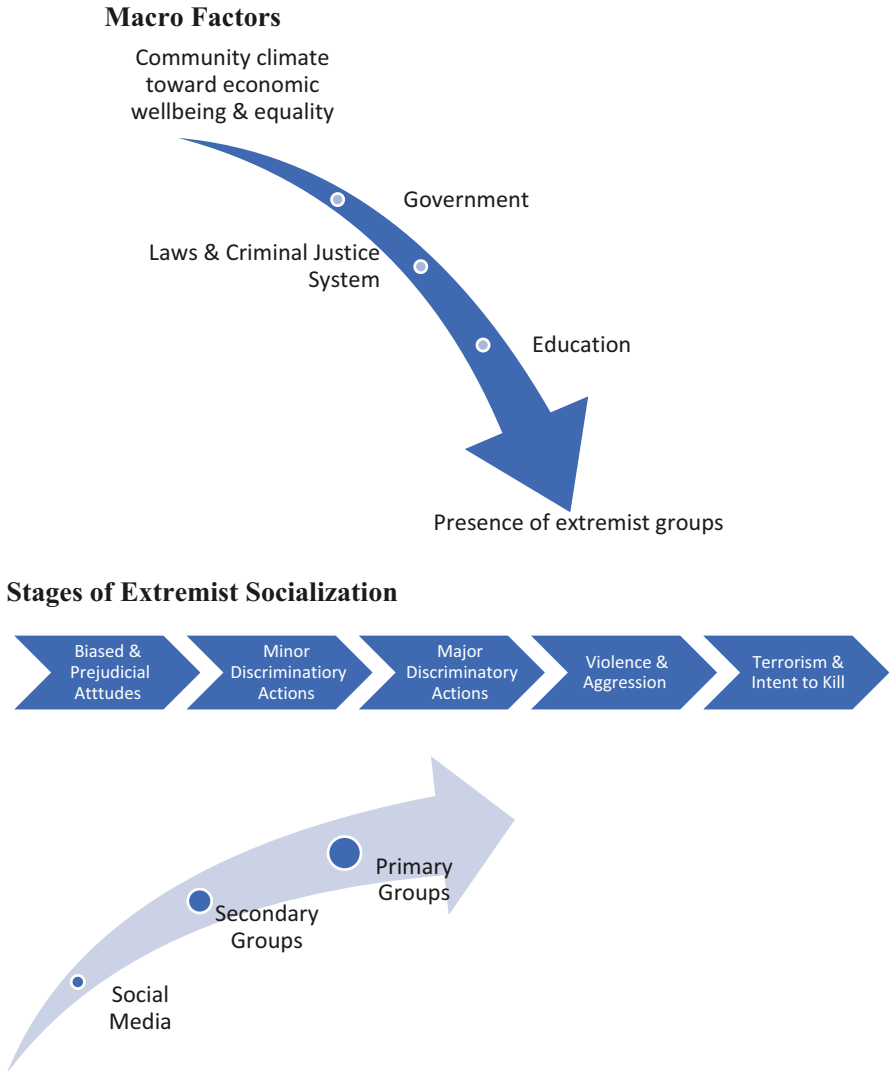
Add in interaction influences from primary and secondary groups, and those from social media and online groups. Virtually all the theories discuss how contact with others can pull someone towards extremist attitudes and actions, or how they can given negative reinforcements that dissuade people away from extremism. Historically primary groups consisted of family and friends while secondary groups were people such as peers, teachers, work-colleagues, and neighbors. Tansformation of online communication, with its increased use and importance during COVID-19 lock-downs, has made contacts with people we don't know much more important.

People tend to gravitate online with people in clustered social networks and lack feedback from others who might express divergent perspectives. This insular type of communication found in online communications may push people who may be strangers or secondary group members into the primary influencers category (Holt et al., 2016; Post, 2015; Youngblood, 2020).

The radicalization that may occur through social media increases the tendency to engage in extreme attitudes and action (Costello & Hawdon, 2018; Holt et al., 2016; Lowe, 2019; Ottoni et al., 2018). Social media platforms in the dark-web or traditional ones like Facebook and Twitter provide extremist groups with access to information, events and networks of like-minded persons (Bertram, 2016; Wu, 2015). (Blackbourn et al., 2019; Hodge & Hallgrimsdottir, 2019). It is important to remember that extremism is likely not caused by psychopathology (Misiak et al., 2019; Post, 2015; Webber & Kruglanski, 2017). It is the result of interactions between macro and micro factors in which extremist ideology is reinforced (Becker, 2019; Jasko et al., 2017; Jensen et al., 2018; Webber & Kruglanski, 2017). As Gordon Allport (1954) noted, intergroup contact plays an important role in creating or reducing prejudice. He contended that contact combined with other social factors can push someone towards, away from, extreme harmful behavior. With impact from macro and micro factors, far-right radicalization can spread through populations like a complex contagion (Youngblood, 2020). Figure 5.2 illustrates key points along the spectrum from intolerant attitudes to extreme violence.

Extremism starts with *prejudice*, which is a pre-judgment that reflects a notion of "that's how those people are" as reality. Prejudice categorizes some groups as positive and better than others, while negative stereotypes portray others in ways that are disparaging. While it is almost impossible to escape being exposed to stereotypes and having some degree of prejudice, those prone to extremism accept harsh views of "the other". As Robert Kennedy (1964) is credited for saying, "What is objectionable, what is dangerous about extremists is not that they are extreme, but that they are intolerant. The evil is not what they say about their cause, but what they say about their opponents". In order to counter violent extremism, it is therefore necessary to critically assess how young people come to embrace biased, distorted thinking of others in the first place.

Laird Wilcox's typology of extremism (1987) fits into the Fig. 5.1 behavior spectrum. He alleges that extremists engage in character assassination, question someone's qualifications, make fun of someone's looks, personality or mental health. They employ negative labels and resort to epithets that disparage others, making sweeping false generalizations. They discount the importance or use of facts, exaggerate information, rely on double-standards, and rely on inadequate proof for making assertions that place others in a negative light. Black-and-white thinkers, people who disagree with their views or challenge them, are viewed as evil, bad, immoral, or dishonest people who are wrong. Seeing themselves as having moral superiority, their attempts to quash critics may be intense, as they are perceived to be enemies that must be stopped. Extremists feel a need to "win" or be "right", thus may deliberately lie, distort, slander, defame, promote misinformation or undertake violence in "special cases" even over minor interpersonal slights because it is deemed

Macro Factors

Community climate
toward economic
wellbeing & equality

Government

Laws & Criminal Justice
System

Education

Presence of extremist groups

Stages of Extremist Socialization

| Biased & Prejudicial Attitudes | Minor Discriminatiory Actions | Major Discriminatory Actions | Violence & Aggression | Terrorism & Intent to Kill |

Primary
Groups

Secondary
Groups

Social
Media

Fig. 5.2 Factors influencing rise of extremism or rights respect

necessary to protect their "good cause" and reputation. Extremists are prone to conform to group-think, which makes social media and associations with like-minded people dangerous – but group-think also could be used to promote pro-social attitudes and behaviors as well (Janis, 1972). Thus interpersonal and relational interventions may be best suited to disrupt these kinds of hostile thinking patterns and replace them with pro-social groups that support respectful values, attitudes, and actions (Vissing, 2021).

Replication of experienced behaviors is considered vital in the social construction of reality (James & Prout, 1990). Research on child abuse finds that use of violence against children is often learned and transmitted from one generation to another as both normative and appropriate (Straus, 2017). Research on bullying indicates that children who became bullies were often themselves the targets of bullying and aggression (Coloroso, 2009). The words that children hear and actions they observe about how to refer to and treat others may have major long-term consequences.

In the spectrum used here, youth may engage in minor discriminatory actions, such as verbal abuse or setting people up to be embarrassed or inconvenienced. If there are sufficient social and organizational supports to curtail these actions, extremism might be circumvented. However, if youth receive positive reinforcement for engaging in these discriminatory actions, they obtain incentives for engaging in more severe types of discrimination. Feeling emboldened through positive responses from others for discriminating, there may be heightened encouragement for more intense aggression and violence. The willingness to terrorize others and to engage in violent extremism is nurtured and can escalate unless interventions are implemented (Coloroso, 2009). And as Fig. 5.2 illustrates, there are many different points of intervention that could turn the tide away from extremism. At the end of the spectrum when violence is greatest, criminal justice interventions may be effective. But long before they are necessary, other diversion strategies, especially at the individual and organizational level, may be effective to prevent more harmful actions that constitute terrorism (Vissing, 2021).

Ideological Shifts in Addressing Extremism

The changing nature of extremism gives rise to consideration about strategies on how to stop it. Both a proactive and reactive stance are necessary.

Criminal Justice Response

A variety of criminal justice approaches have been implemented to prevent the rise of extremism. Criminal justice intervention is an absolute necessity. From a reactive position, police intervention has historically been the major way that extremism has been addressed. Police identify trends and prevent extremism from occurring. They look for evidence of potential extremist events, break-up or manage an extremist activity, investigate its occurrence, and seek court action to punish perpetrators. When extremism occurs, police are called upon to make arrests and stop the insurgence and violence.

Extremists are subject to punishment. Retribution theorists claim that individuals are rational beings, capable of making informed decisions, and therefore rule

breaking is a rational, conscious decision so punishment that fits the crime is appropriate. The theory of incapacitation, or social protection, assumes the state has a duty to protect the public from future harms and that such protection can be afforded through some form of incarceration or incapacitation. It prevents future crime by disabling or restricting the extremist's liberty, their movements or ability to commit a further wrong and may include the death penalty, imprisonment, curfews, house arrest, electronic monitoring and disqualification from engaging in certain activities. Deterrence justifies imposing punishments on extremists in order to deter the rise of further extremists and violent activity, thus protecting the community and giving the public a greater sense of safety and security. Rehabilitation may be an option for some people who engage in extremism, since research indicates that some who engage in extremist may also have conventional beliefs that could be harnessed to so they are not inclined to engage in extremism again. A reparation approach would require that extremists make amends to victims to repair the wrong that they have done. Sklair (2009) observes that attempts to fight "the war on terror" has not been overly effective, especially dealing with domestic terrorists. Targeting sanctions to impact the leaders of terrorist or extremist organizations could reduce the spread of extremist ideology and actions.

A host of anti-extremist and anti-terrorist think-tanks and criminal justice centers have emerged around the world to collect data on the new nature of extremism and how best to prevent violent actions. Certainly, the criminal justice community and professionals have undoubtedly warded off untold number of extremist acts and have identified extremists to intercept them before they could do harm (Gill et al., 2017; Pezzella, 2017; US Department of Homeland Security, 2019). People and organizations have become safer and more secure because of their actions. But as the January 6, 2021 extremist invasion of the United States capitol illustrates, criminal justice prevention, anticipation, and interception may not always be successful.

A criminal justice approach is not the only one to be used to counter violent extremism, or to off-set extremist ideologies when they are minor and exploratory. The public good may be well-served by focusing on ways to prevent the spread of extremist ideology in the first instance. The value of preventive partnerships with a variety of organizations within all countries to prevent extremism cannot be overstated (Sklair, 2009).

Public Health Approach

Extremism is a public health problem. As such, it requires a public health response. This includes primary, secondary and tertiary prevention at both the macro and micro levels. Countering violent extremism may be the goal, but there are many points of intervention that occur during the extremist grooming process that could fend off the escalation of extremist ideology. Community partnerships involving people in pro-social activities facilitate networking and role-modeling of healthy, rights-respecting behaviors. People who are looking to create social bonds and

identities could be intercepted and directed into positive acts of service and connection instead of extremist networks and pursuits (Ellis & Abdi, 2017; Gunaratna et al., 2013; Hoffman et al., 2018; Sanir et al., 2017; Southern Poverty Law Center, 2017; United Nations Development Programme, 2016; Weine & Eisenman, 2016). A public health model can prevent violent extremism through promoting inclusive development, tolerance and respect for diversity as people search for meaning (Frankl, 1962).

Human Rights Education Approach

It is clear that extremist ideas are spread through social media, through people's informal primary and secondary networks, role-modeled in the family and supported by governments or social institutions (Zajda & Vissing, 2021). To illustrate, consider the case of one young man I worked with. He was in his late teens and living in a dormitory attending university, where he was also on an athletic team. He was taken under-wing by older males he lived and played with. They'd hang out, go places, share stories and experiences, drink alcohol, party, and became what would appear to be friends. His associates started making disparaging comments about others in the form of jokes, comments that were sexist, racist, with religious biases and demeaning towards certain groups. Stereotypes turned into prejudices that turned into discrimination, and ultimately towards oppression and violence.

> I didn't know I was being tested. Now that I look at what they were doing, they baited me by saying bad things about groups. If I laughed, they took it as a sign that they could go further. If I felt pressured to fit in and said mean things about others, this gave them the green-light to go further. The more they felt that I might be one of them and think like they did, the more they trusted me and opened up with more extreme things. They pressured me harder. I didn't realize they were setting me up and pressuring me all the time before. It was subtle, strategic, methodological. I was alone, away from home, family and old friends, and I wanted to be accepted by these guys. Then one night, a small group of them took me aside and told me that they were [a white supremacist group that advocated violence against certain groups of people]. It was like a light bulb went on. Here I was at college, and I didn't expect to be recruited into a cult. They had learned a lot about me by that time. I was scared. I didn't see a way out. So, I transferred schools and changed my online profiles so they wouldn't find me. That's how these groups work. I was lucky to see what was happening and get out before they got me hooked.

Authoritarian ideologies or extremist ideas may be taught in religious organizations or schools in either autocratic or democratic countries (Delbrück, 1992). Sometimes part of a formal curriculum, sometimes autocratic or extremist views may be informal or extra-curricular. The pressure to conform to these views may be overt, covert, subtle, and presented as a matter of right, goodness, necessity, normalcy, or the way things are.

Human rights education can be a buffer to extremism. But as Halvorsen (1990) observes, human rights must be comprehensive and consistent in order to be effective; an inconsistent approach to human right to education could be more harmful

than beneficial in terms of application and implementation. Just as students today are encouraged to develop computer literacy to identify what is legitimate information versus untrue and danger material, students also could benefit from understanding how indoctrination of racist, bigoted, authoritarian, and extremist views occur. Students are being taught how to protect themselves from identity theft and how not to be scammed by businesses who are trying to exploit them for profit, students also need to learn how not to be scammed or maneuvered into extremist ideologies, actions and group involvement. But one has to be very careful since laws, policies and practices about what can be taught can be manipulated. Politicians or authoritarian dictators can lead populations in certain directions (Lee, 2019). Having supportive human rights education oversight is therefore critically important.

Children are not born bigoted extremists. They learn extremist attitudes and action through a process of interaction with others. It is in this interaction, whether in-person, online, or through reading/viewing extremist behavior, that they learn the values, ideologies, attitudes and actions promoting extremism. Through contact with others, in person or online, they receive positive and negative reinforcements that lead them either towards the cultivation of embedded and aggressive extremism, or the eradication of extremist behaviors. Young people can be duped into believing authoritarian or extremist ideology, and may be sometimes forcibly recruited, into extremist groups or actions (Darden, 2019). Youth are vulnerable developmentally, which makes them prime targets for extremist manipulation and mobilization. It is natural for people in that age category to be looking to discover their identity and a network which will give them a sense of belonging and purpose (Jasko et al., 2017; Zajda & Majhanovich, 2021). This means that civic groups that are human rights focused can fulfill that need – but so can extremist groups.

Learning ideologies about human nature and how we are to treat one another occurs slowly over time as young people are socialized What is said to children impacts their perception of reality, of good-bad, right-wrong, and sets them on a course of how they believe they are to behave. Impacting their minds early is a strategy used by consumer organizations to encourage children to become brand-loyal early, it is a strategy used by extremist groups to view the world and groups of people in particularized ways, and it is a strategy that can be effectively used to promote a human rights/anti-extremist view as well.

Conclusion

This chapter examined and critiqued how extremism transformed globally and how domestic terrorism is fueled by supremacy ideologies that justify the superiority of some groups and oppression of others. Extremism may be inadvertently supported through the rise of globalism. Globalism is typically viewed from an economic vantage point where goods and services cross national boundary lines, but globalism also exchanges ideas and values. Sklair (2009) argued that tackling the globalization of human rights seriously means eliminating the ideological distinction that

exists between civil and political rights on the one hand, and economic and social rights on the other. Doing this systematically undermines the three central claims of capitalist globalization – namely, that global corporations are the most efficient and equitable form of production, distribution and exchange; that the transnational capitalist class organizes communities and the global order in the best interests of everyone; and that the culture-ideology of consumerism will satisfy our real needs. Economic wealth and political power go together. The people who are benefitting the most from globalized wealth and power are not distributing wealth and power among all peoples. A stratification system of inequality prevails as globalization undermines human rights accesses of people. The rise of domestic extremists who strive to protect their access to wealth, prestige and power now flows into the political and governmental arenas. The elite's protection of forms of human rights that benefit them may be seen as protection of human rights in general, but there are different types of human rights and globalism is not protecting them all. There are civil, political, economic, cultural, and social rights, and rights unique to certain geographic, demographic, or indigenous groups. Learning to protect the human rights of each group is a challenge that those advocating for globalism to address, for it is a worthy consideration in the prevention of violence and the protection of citizens.

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Chapter 6
A Victim-Group's Approach to Human Rights Education in Colombia

Tracy Holland

Introduction

Colombia has been convulsed by a violent civil war that lasted decades. The war precipitated a number of human rights atrocities that have killed and displaced a large number of people throughout the country. The survivors, many of them women, have found themselves marginalized and postponed within a system structured to perpetuate injustice and inequality. At the same time, the end of the war has brought change, and Colombia is also known for its ambitious transitional-justice mechanisms and its Constitutional Court judgments, many of them designed to move the nation farther down the road leading to long-lasting peace. Colombia has, indeed, been called "an international showcase for integrating lessons learned regarding local meanings of just and victim participation" (de Waardt & Sanne Weber, 2019, p. 210).

On the ground the situation is more nuanced, and many victims groups feel frustrated and convinced that progressive policies, judgments, and laws emanating from the Colombian government constitute not much more than a "a smokescreen of democracy" (Perez Casas, 2019). Other researchers in human rights education have argued that Colombia has used human rights laws and transitional justice mechanisms to present an image of peace and stability that helps to legitimize the government while shifting attention away from the latter's inability to combat vast social inequalities and to keep structural and physical violence from being perpetrated against marginalized groups.

Social movements around the world frame their struggles and demands, at least partly, through the language of human rights (Zajda & Vissing, 2021). This can also be said about Latin America. More specifically in Colombia, where grassroots

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groups are confronting the injustices leveled against them by the Colombian government and decades of civil war through, in part, engaging the language of human rights to advance and defend their causes and to educate their children so they will continue the struggle in the future. Such groups not just in Colombia but worldwide who look at the long-term sustainability of their causes see education, and HRE in particular, as an investment in their ability to participate in justice and reconciliation mechanisms as well as in national political processes. Even when human rights protection fails, individuals whose rights have been violated can still be empowered through HRE (Zajda, 2020).

The Colombian government's approach to human rights education has many of the characteristics typical of a "declarationist" intervention (Keet, 2018). Keet along with HRE scholar Michael Zemblayas have been especially critical of what the *declarationist* approach to HRE, which is built upon "the almost dogmatic belief that all human rights truths are generated and consummated within human rights instruments such as declarations, conventions and covenants." Keet has argued that such instruments' all but hegemonic grip on the truths has stymied the political imagination, making it almost impossible for people to visualize and implement alternative forms of politics.

In many cases local grassroots organizations seek to offer a different approach to government-sanctioned HRE. For victims groups this alternative HRE model is vital. Rejecting the declarationist approach to HRE also means denouncing the status quo that model seeks to reinforce. This status quo approach, which has also been called "legalistic" or "mainstream", fails to engage victims, and validates a certain type of knowledge, often that of the institutional or technical expert, while discounting those closer to cultural, indigenous, and community values of the most affected by the violence (Coysh, 2014). Thus, as Keet (2012) has put it, "manufactured" HRE efforts, often undertaken by governments, are unlikely to bring "different understandings of equality, freedom, justice and emancipation," those being the potential drivers of social transformation which are especially important for victims groups (Keet, 2012, p. 7).

This study explores the multi-generational commitment of one organization, ANUPAR,[1] that identifies as a victims group designated by the Colombian government. ANUPAR seeks to educate its members about human rights and to pass on this education to their children and future generations. This organization's experience with HRE is indistinguishable from its commitment to gaining social justice for women. The women who founded ANUPAR first use HRE to "wake themselves up" and then to fight for others, and now they are adamant about providing the next generation with that same two-pronged weapon. Given both Colombia's recurring pattern of violence perpetrated against women and subsequent impunity, and its

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[1] The real name of the group will be withheld for reasons of security.

current highly unstable political climate, the women are under no illusion that in the absence of activist struggle the state will ever guarantee the rights of all citizens; hence the need for them to remain vigilant and to claim their rights, even at the risk of their lives, and to educate each new generation.

HRE researcher Andre Keet wants us to see in HRE an 'an alternative pedagogical language that is more than a regurgitation of international, regional and national human rights provisions' and a conceptual space (Keet, 2018, p. 60) that "is 'anti-disciplinarian' (Foucault 1994) and is best implemented through 'political action." This chapter argues that human rights education can and should be deployed in emancipatory political projects today, but that reaching such a conclusion requires us to go beyond narrow, formalistic, and overly juridical concepts of what human rights are, and stress the centrality of social and political struggle in the formulation and defense of human rights. The chapter also suggests that HRE by grassroots organizations may do a better job than state run initiatives. The state's HRE interventions in schools inevitably frame the political response as well as the healing process of the communities affected. Like any political process, however, it is conditioned by the changing needs and perceptions of the electorate, and it demands results that fit electoral timelines. This results in abundant short-term interventions that seek to reap political rewards but make no consideration for longer term needs.

In Colombia the children of victims groups have learned about human rights in school, which means that they were also exposed to government-sponsored HRE. Many people particularly those who have been victims of government action or inactions, do not want to leave their children's education about and for human rights up to a government that they do not trust. They argue that the government's HRE is not justice-oriented but, rather, subtly seeks to preserve the status quo. This puts at risk the ability of the young generation to use their own experience as a means of empowerment and mobilization. This is of great concern for victims groups who view their stories of a violent past as important for all students of human rights, but most especially for the victims' children.

Generational change puts the survival of a hard-earned and sophisticated human rights-based activism at risk, in the same way that language survival is at risk when children are not taught the language of their parents and grandparents. As with the loss of their native tongue, a loss of their history of struggle and displacement would entail the loss of much of their cultural heritage. Indeed, as times goes by, the stories of the armed conflict and the women's activism that have shaped their lives start to fade. The women of ANUPAR cannot afford to leave their fate to the public schools.

ANUPAR's HRE (2000–2010)[2]

In the 1990s, when the Colombian conflict forced a large number of women and their families to flee their violence-ridden villages in the Montes de María and Magdalena regions of Colombia, many of them established themselves in shanty-towns on the outskirts of the larger, comparatively safer city of Cartagena. Eventually, one of these communities grew into a full-fledged neighborhood called Barrio El Pozón. Continuing growth, fueled by ever growing numbers of internally displaced peoples, gradually made life in El Pozón more and more difficult for the women.

The women responded by organizing, and in 1998 they founded a victims' group, ANUPAR, which has since been fighting to protect women from violence, insecurity, and a state whose actions they do not trust. By 2000, the women had begun to learn about their legal and human rights, and to work with other civil society groups to secure government assistance in the shape of health insurance, income support, and psycho-social assistance for displaced families. ANUPAR was also influential in the national political scene; they played an important role furthering the ongoing civil society movement, and their activism helped the Colombian Peace and Justice Act pass in 2005, the Gender Equality Law 1257 of 2008, and, finally, the Victims' Law of 2011.

In 2001 ANUPAR held their first human-rights workshop in a city near Cartagena where many of the women eventually settled, which was attended by 109 women. Over the years lawyers and human rights educators traveled from Bogota and other places to give workshops on such topics as women's rights, national and international human rights law, leadership, and policy-advocacy skills. In those early years "the HRE workshops helped explain [to the women] the origin of the violations, their consequences, and the imperative to act." The goal of HRE on the individual level was to bring the women "a deeper understanding of the injustices and

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[2] This paper's observations were made over the course of about a decade of following ANUPAR's HRE efforts, and over the course of four field trips – the first of them in 2010, and the subsequent in 2017, 2018 and 2019– with the research questions and the concerns qualitative field-based methodology which Graeme Rodgers (2004: 1) has dubbed –"hanging out," a kind of shorthand, he says, for participatory approaches is characterized by interactions, conversations, and the study of artifacts and documents, but also embracing the researchers' "patience, time and personal interest in the lives of the people among whom we conduct our research." During the research trips in 2017 and 2018, the author observed or participated in HRE workshops and field trips in various capacities, among them being those of curriculum-developer, facilitator, and note-taker, and conducted formal interviews and engaged in informal conversations with members of the ANUPAR Joven and ANUPAR. In addition to the interviews and other observational data, this study also draws upon a series of documents that have paralleled ANUPAR's historical development, including the women's involvement in the various phases of the reparations process. The paper also has drawn upon email exchanges, plus some conversations conducted via SKYPE, with ANUPAR representatives who had hosted the research field trips and who provided the author with feedback on the observations that had made over the course of them. The research on the implementation of the reparations was done remotely by studying the Facebook posts of the various events as well as some written observations made by people who witnessed the events first hand.

distortions produced by a history of discrimination, violence, and impunity." (Lemaitre et al., 2012). One of the five women interviewed for a 2010 study funded by United States Institute of Peace,[3] recalled that when she first arrived at the League in 2000:

> I didn't even have the right to declare displacement, because I didn't even know what displacement was. I came here through Doris and the team. They helped me and explained to me that I was displaced, and then I began to know about … my rights and what I could do, and the things I could access. As a woman, I had things taken away from me and I had the right to claim them and to be recognized. And we, all of us, also have the right to truth and reparations. (interview with ANUPAR founding member in Turbaco 2010)

Another ANUPAR member speaks about the impact of the early HRE on her and her fellow members:

> I started to learn about so many things that I was entitled to and that I could do, and that as a displaced person and as a woman had been taken away from me. We are all entitled to our rights, justice, and reparations, and when one begins to recognize all those things to which one has a right and that were taken away, one is motivated to have those rights recognized…. In that way we started to regain stability in our lives. (interview with ANUPAR founding member in Turbaco, 2010)

One interesting moment in ANUPAR's educational development came in 2005 when the Inter-American Commission on Human Rights (IACHR) agreed to hear a case brought against the Colombian state by several victims' groups. From 2006 to 2009 the women documented and compiled 159 *testimonios* which spoke to their members' experiences of displacement and violence. Soon the HRE workshops became the spaces in which the women wrote testimonies and shared them with each other. Through this process of creating and discussing these written testimonials the women acquired a deeper knowledge of both their own and others' experiences, and thereby solidified the bonds that now serve as a foundation for the organization.

It is certain that for many of the women the knowledge of the formal human-rights treaties and of specific rights that they as victims of a conflict are entitled to has represented simply "a foot in the door," opening them up to all sorts of broader learning. "HRE is, after all, education," notes HRE scholar Upendra Baxi (1994, p. 19), and the women of ANUPAR, would be the first to agree with that assertion. For most of the founding women the HRE programming was not the only education they had ever received but it definitely was the most advanced, taking them up to a higher, more critical and analytical level. For some who had left school after only one or two years, HRE did indeed prove to be education after all in a rather literal sense. Even those who have left ANUPAR look back warmly on the HRE they received there, and they told us they have grown because of it. To no small extent it was their sense of having been helped by HRE that fueled their determination to not

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leave it to the schools or the mass media to teach the next generation what or how to think about human rights.

For the women of ANUPAR, the knowledge about rights guaranteed to women who have been victims of violence and displacement is a discourse of power, pregnant with the possibility of change and indeed embodying the act of change itself. They see in HRE a tool that can be used to ensure that the next generation will build on their successes and continue to defend themselves in the face of future human rights abuses. Most importantly, they have developed a an HRE that is "rooted in people's everyday experiences, aspirations, concerns and needs rather than abstract and intangible concepts (Coysh, 2014, pp. 110–111) for themselves and their descendants, and even all future generations. In 2010 ANUPAR got the go-ahead from the government, via the letter, The Right to Petition and Participate in the Collective Reparations Program, to submit a request for reparations for the violence and displacement they had suffered during the armed conflict. It is not surprising that HRE funded projects topped their list.

ANUPAR Joven's HRE (2017–2019)

Workshops and a Field Trip

In May 2005 ANUPAR created an organization formed especially for and with their adolescent children called ANUPAR Joven. Until about 2005–2010 it operated a series of workshops, participatory action-research endeavors, theater workshops, and conferences, and forged strategic alliances with other organizations. Operating in the four communities of Cartagena, Turbaco, San Jacinto, and El Carmen de Bolívar, it helped young people to gain visibility in their communities and to continue their mothers' human rights struggles. As the young members started to have their own families and to leave their hometowns in order to work in Colombia's larger cities, the ANUPAR Joven lapsed into a period of inactivity. It was reactivated only in 2017 when the women of ANUPAR decided to prioritize the training of the next (and third) generation of human-rights advocates.

The rebirth of ANUPAR Joven in 2017 was marked by the issuing of a call for project proposals for a HRE program that was to be tailored specifically to the needs of the new third generation of young people. This led ANUPAR's executive leadership to approve and fund the Youth Leadership Training and Human Rights workshop series, which consisted of monthly workshops held in the three communities of Turbaco, San Jacinto, and El Carmen del Bolivar. Workshops were developed in each community by a small team comprised of the ANUPAR Joven coordinator, local professionals, and visiting academics and students. The resulting workshops delved into such topics as Introduction to Human Rights; Environmental Justice and

Human Rights; Communication Strategies for Human Rights Advocacy; Peace, Justice, and Human Rights in Colombia; Community-building and Human Rights.[4]

While there were plenty of inspirational moments during these workshops, it was the less inspired ones that motivated the facilitators to think more deeply about the HRE workshops. Near the end of the San Jacinto workshop, for instance, when the educators went around the room and asked the students to tell them what they had learned, the students gave what they considered the "correct" answers, which sounded all too much like the scripted and programmed sound-bytes about HR that they had picked up from television or radio, or in their schools. Such responses took everyone off topic, in that the group had not addressed those issues during the workshop. Another weakness observed by the educators and discussed in the debriefing sessions held at the end of each day's workshop what Baxi would call "the generality weakness," for when students were asked to pinpoint the most pressing problems in human rights they usually responded by alluding to bullying and stereotyping at school, to drug addiction taking its toll in their communities, and to air and water pollution. While these are significant social problems, the educators had been hoping to hear the students give some concrete examples. It was difficult for them to think specifically, or to say exactly how these issues affect them personally, or relate to their own conceptions of human rights.

The day after the workshop in El Carmen an opportunity presented itself to leave the confines of the classroom space by taking a field trip that would focus the students' attention on the de-rightsification and the dehumanization that many of ANUPAR's founding women had first-hand knowledge of. The more specific purpose of the trip was to make the students vividly aware of the violent events that had led to their mothers' displacements, thereby giving them an opportunity to steep themselves in the past and in non-normative human rights learning. The trip's organizer was one of the founding members of ANUPAR in El Carmen de Bolívar. This person had arranged for the group to meet with Dolores[5] a survivor of the massacre and also a friend and a supporter of ANUPAR.

Dolores told her story, and some of it is paraphrased here so as to contextualize the later claims and to place the young people's experiences and outlooks in a long-view context stretching back to those of their mothers or in some cases grandmothers. but also because it parallels the history of several of the women before they joined ANUPAR. Dolores began by telling the students about the murder of the town's schoolteacher in the weeks leading up to the 2002 massacre in which number were shot down in the basketball court. At that time the paramilitaries had blocked all food from entering the town. When one of these men came to town the teacher bitterly decried their situation, saying that her students were no longer attending school because they had nothing to eat. She was shot for saying this. Then, on one

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[4] In Turbaco and San Jacinto the ages of the Youth League's members ranged from 8 to 15 years. In Carmen the range went a bit higher– from 13 to 25, with many of the members falling into the 18–25 age group. These were the youngest children of the founders and even some of their grandchildren.

[5] Names used throughout are pseudonyms

of the days leading up to the massacre, a drone flew over the town, dropping leaflets which said that the fiesta they were celebrating that day would be the last any of them attended. The paramilitary's occupation of Salado lasted for four days. The students listened, awestruck, as Dolores told them that her mother, a community leader, was taken from their home and shot in front of her younger brother.

Dolores concluded her remarks by talking about the implementation of a reparations program that was corrupt and did not include what the victims had asked for, even though it was created in the name of human rights. For instance, the people of El Salado had requested the construction of a single, simple monument to commemorate the dead; instead the government built a cultural center right in the middle of town that the people did not want and that would end up being closed for much of the time because they did not have the funds to keep it open. Then too, the survivors of the massacre had asked the authorities to have their deceased friends and relatives buried alongside their relatives in the town's cemetery located near the entryway to the town, but the government instead buried them in a tiny parcel of land next to the basketball court where the killing had happened. In an incredible show of both devotion and resistance, the victims dug up the remains and moved them to family burial plots within the cemetery.[6]

Dolores' story went on for hours, in part because the students asked questions and voiced concerns that she showed no restraint in responding to. At the end of the visit the young people in the group thanked her and acknowledged the pain she must be feeling, having relived the tragedy by speaking about it. Juan, one of the students in the group, expressed his gratitude and said that listening to Dolores' story had brought to life everything the group had talked about in the HRE workshop held on the previous day, including such concepts as human dignity, truth, justice, memory, peace, and reparations.

HRE Through Reparations for Future Generations (2018–2019)

As Baxi has said each new generation enters the realm of HRE from a distinct vantage point, and programs must be adapted to meet the challenges they face. The women had come to recognize that progress toward gaining justice for victims, and even the very existence of their organization, was being intimately tied to the ability to educate themselves and the next generation. They saw in the reparations an opportunity to set up HRE opportunities adapted for future generations, knowing that victims' struggles for human rights never end. In September 2018 ANUPAR received notification from the government that their reparation requests, outlined in

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[6] On El Salado, please see Sánchez, G. 2009. 'La Masacre de El Salado: Esa Guerra No Era Nuestra. Miembros Del Grupo de Memoria Histórica and Uribe, M., Salcedo, N., Correa, A., Barragán, A., David, J. & Yuda, M. 2009. 'Memoria Tiempos Guerra Baja. http://www.centrodememoriahistorica.gov.co/descargas/informes2009/memoria_tiempos_guerra_baja.pdf.

their Comprehensive Collective Repair Plan, had been approved. The officials of ANUPAR listed, in their funding request for what they saw as being HRE-related reparations, textbook revisions, memorials, a dance performance, a photography exhibit, and an inter-generational symposium. The women had waited for years for these reparations to materialize, and suddenly they had just two months in which to implement their reparations-funded projects.

The first two reparations, which saw the light in November 2018 were a photography exhibit and a dance, both of which premiered at Cartagena's historic museum during an event designed to commemorate ANUPAR's struggle and to celebrate its ongoing human rights activism. The photography exhibit contained portraits of ANUPAR's members engaged in various activities, from meetings to marches, and seen in both their homes and community spaces. The dance was choreographed by a Colombian artist working in close collaboration with the women.

Three months later, March of 2019, another reparations-funded event was held a ceremony focused on the unveiling of a stone statue in The City of Women neighborhood of Turbaco. The statue depicts a mother and child both of whom were present at the ceremony. Invited guests as well as members of ANUPAR and ANUPAR Joven also were on hand as these words carved into the statue's pedestal were revealed: "Let not our voices be silenced over time." During the part of the ceremony which the program called *I Come to Deliver My Voice,* the survivors came up to the podium one by one and handed their testimonies to the delegates attending the event, who proceeded to read them aloud to the crowd of about one hundred people.

With the reparations, ANUPAR's HRE education work turned a corner, as it allowed the women to create educational opportunities for future generations that would prepare them to engage in their own social, political, and cultural struggles. It allowed them to breathe a bit easier knowing that their stories would not be forgotten. According to Elizabeth Jelin, whose work helps us to see the role that memory can and should play in HRE, in Latin America "Beyond specific demands and goals in the realm of politics, one of the most important aspects of the human-rights movement's cause is its struggle 'against forgetfulness' and for the construction of memory." (Jelin, 1994, p. 49). The problem as she sees it is that people never even have the chance to "forget" what they have never really absorbed in the first place, or when they minimize or outright reject what they have received and fail to pass it onward. Thus it is incumbent upon the generation that tentatively possesses the past to convey it to the next one.

Analysis: What Can We Learn from a Victims-Centered HRE

ANUPAR has used education to give women not just a better knowledge of their human rights and thereby greater legal protections, but also the leadership, advocacy skills that have allowed the organization to advocate for broader social changes that respect women. Through HRE they have sought to cement their gains and to enhance their long-term sustainability in the face of adversity. Thus, it presents an

example that illustrates an HRE that builds on the needs, aspirations, and desires of a grassroots organization.

ANUPAR's experience with HRE is indistinguishable from its commitment to gaining social justice for women. Keet wants us to see in HRE an "an alternative pedagogical language that is more than a regurgitation of international, regional and national human rights provisions," and a conceptual space (Keet, 2015, p. 60) that "is 'anti-disciplinarian' (Foucault 1994) and is best implemented through 'political action." While the paper does argue that HRE must be to seen to have a non-disciplinarian nature, it has examined HRE through its content and method – two identifiable areas for HRE scholars. Two themes emerge above all others: the need for an HRE whose content privileges lived experience over formal HR law, and secondly, an HRE where human rights ideas are transmitted through stories.

On Content: Decentered HRE

Keet and Zembylas (2018) have spoken about a decentered form of HRE, which "repositions" or "renews" learning about human rights by moving it away from the normative framework toward a more experiential one. This call for a decentered sort of HRE signals a move away from an adherence to formal doctrine and toward what learners believe to be important human-rights topics that conform to their lived experience. If the center of most HRE is found in the human-rights articles, declarations, conventions, and laws, and if the decentered sort of HRE is all about lived experience, then we can see that although the former is present in the initial education the women received, over time it becomes less prominent as the learners slowly being transformed into teachers of human rights, draw upon their own experiences and insights.

The women's marked preference for experience over law became especially noticeable when they first began to develop HRE for their children. Dolores, who said she had stopped sharing her story with the public, and Dona Lucy, who had never visited El Salado, both knew that young people craved an account of human rights that was real, part of that was through the experience of a field trip. They knew the students would need to find education interesting and relevant in order to overcome the bland, abstract, almost rote HRE they had been exposed to in school, but they also had to compete for their time. Thanks to the women's successful struggles in those regards, the opportunities for their children were much greater now: they had soccer games, youth-ministry events, and other extracurricular activities, not to mention their studies to keep them busy and inspired. Both Dolores and Dona Lucy respected the young people's decision not to attend the HRE workshops, but at the same time they feared that the young people would never learn what they need to know about the past. A decentered, experience-based HRE would be more likely to both attract them and to give them that needed long view of the struggle for human rights.

The young people themselves demanded a decentered education, even inside the HRE workshops that they attended. In Carmen this became obvious during the workshop for the older students already seemed to know about human rights, remaining listless until they had a chance to talk about reparations, jobs, and violence in the context of human-rights violations. They swiftly moved the discussion away from this or that human-rights article to a searing critique of government, reparations, and the peace process. Their main real-world concern was that although they had studied hard and had earned academic credentials, they still couldn't find jobs because they lacked the requisite political and social connections. They complained both that the government was unresponsive to poor people's needs and that many of the conditions that caused or exacerbated their vulnerability still existed. They insisted that the government was not interested in helping them, and that if it were left up to the government there would never be peace, justice, and respect for human rights.

In the course of the final discussion that the Carmen group had on reparations, the skepticism was almost palpable when it came to the proposed inclusion of victims in the ongoing Colombian peace process, and the respect that purportedly would be paid to their rights in the process. One student said he would not wait for the government to ensure their human rights. The consensus message of the group was instead "Peace and conflict begin with you," an idea that seems to have emanated from the church to which many of the students belonged and indicated a refusal to recognize the state's commitment to human rights. These workshops served to confirm Keet's argument (2015) that HRE has to be subversive, even in relation to its own content claims, and that its renewal can proceed only on the basis of the incessant human-rights critiques**.**

The field trip to El Salado was a prime example of a decentered approach to HRE for it forcibly impressed upon the students the inadequacy of any HRE that does not include the voices of the victims of violence. As the students learned that day, most of what had happened in El Salado, as told by Dolores, a survivor of the massacre, plays havoc with any reasonable notion of what it means to be human, and thereby comes close to making a mockery of formal human-rights standards. It should come as no surprise, therefore, that the most important lessons the students likely learned that day had little to do with human-rights norms and laws. Rather, the real life-lessons included: the actions that should and should not be taken in the face of a death threat; the routes one should and should not take while trying to escape; the various homemade ways of preserving dead bodies and of burying loved ones; and perhaps most importantly of all, at least in times of relative non-crisis, how best to navigate the corrupt and poorly administered government reparations program.

A decentered HRE, as exemplified by the experience in El Salado, which is one that prioritizes practice over theory and reality over rhetoric, also underscored for the students the importance of truth. They quickly perceived that those who have suffered the most must be allowed to tell their stories, for not just the story itself but the story-teller as well, in relation to her or his audience, is what constitutes the truth. While the students had all learned about the right to reparations as codified in international and Colombian law, the field trip allowed them, by listening to what

Dolores had to say, to learn about the dissatisfaction of the people with the reparations process. Her take on it was so much more critical than was the official story purveyed through government infomercials and U.N. sources that their eyes were opened, or at least opened even wider. That radical disjunction made the students aware that human rights live in a context of truth and die, or at least wither, in a context of falsehood. Thus, if they had not made this trip which gave them a decentered experience of HRE, the young people in the group might never have gained access to the victims' understanding of human rights and to their keen, almost raw awareness of how easily and how savagely they can be stripped away.

A decentering toward human experience and away from the formal representation of human rights in declarations and laws gave the students of this study the opportunity to learn some harsh lessons about the past but also to be exposed to some promising new realities. For instance, the trip to El Salado brought the students face to face with the horrors of the past but also with a new model of sustainable living. Dolores, and her husband Cristian, and their three children were building a solar-powered farm on land they had inherited as part of a family estate and on a pension-money inheritance left to Dolores. Before the group left the farm, Cristian took them on a quick tour that revealed the first beans they had planted, now ripe for picking, a pen housing two large pigs, and a newly constructed coop for their chickens. The couple told the students that the farm was meant to serve as a model to be emulated by others who had returned to El Salado after the massacre as part of the government's repatriation program of 2013. Their goal was yes, a self-help-based lifestyle but one that also, Dolores assured the students, was redolent of "environmental sustainability, social entrepreneurship," and, she very deliberately added, "human rights."

The reparation-funded projects, the dance, photo exhibit, and monument, are more manifestations of decentered human rights education because they were born out of the women's hard-earned knowledge of human-rights laws and activism. The experiences the women went through when their rights were violated, when they became aware of their rights, and when they came together to defend their rights are all present within those three manifestations. Indeed, they are scattering seeds for the human-rights education that they know their descendants will one day need as much as they did. While the relation of those seeds to formal human-rights laws and doctrines is not yet known, what we can see is how reparations can be a means of giving young people not mere facts but rather a vivid understanding of them in the lived context of human experience. Through HRE-related reparations, memories are kept alive, experience is attached. Formal human-rights law has its place, especially when it comes to helping victims come to grips with what they have been through, but lived experience stories is a better teacher, especially for those who have not experienced rights-violations themselves or whose strictly school-taught knowledge of human rights has made them critical of or ambivalent about them.

On Method: Storytelling and Historical Memory

Story-telling approaches to HRE have for the women of ANUPAR been important from the beginning of their journey, when they began to record their testimonies, up until the invited guests read these stories almost twenty years later at the unveiling of their monument in Turbaco. At the beginning the stories gave them a chance to speak of the personal experiences that they thought nobody else shared, and that they never knew were linked to any formal human-rights laws and treaties and thus deserving of repair. These women whose voices had been silenced by various kinds of oppression began, in many cases for the first time in their lives, to articulate the violations of their human rights and then to watch as their narratives were validated by becoming part of the broader national and even international discourse on human rights. Twenty years later at the unveiling of the monument those stories were given their chance to teach the next generation "the pain" but also "the resilience to the victimizing facts," to quote Gloria who spoke that day. She ended her remarks thus: "We want the whole country to listen to us; we want women who have not dared to speak to speak because by doing so, our hearts heal."

As for not daring to speak, that fearful silence also was something that HRE had addressed all along. For the fact was that despite all their years of activism and of sharing their stories with others through the media to foreigners, the women had never shared their stories with their offspring. Bellino (2014) came upon a similar phenomenon in the course of doing her research on the conflict in Guatemala. She observed that young people across that country learn about that nation's experiences of social and political violence more often through "silences, evasions, and contestations" than via coherent narratives. Understandably, those who have experienced trauma try to shield their children by building walls of silence around them and around the issues, but the sheer speaking up has a way of penetrating previously impenetrable homes, communities, and classrooms. The organizer of the trip to El Salado, Doña Lucy had said, "The stories are best forgotten because they are too painful to remember." She explained that for many years she had avoided going to El Salado because she had wanted to forget, but that now it was time to tell the stories of the past because the young people needed to hear them.

The impetus to tell their own stories now in their HRE workshops and field trips also comes out of their frustration at hearing their stories told by others and in ways that they often don't agree with. Dolores is another great example here, for she began by telling the students that normally she no longer relates the story because people come and take it without benefiting the people of her town of El Salado, but that she felt impelled to share it with the young people in the group. Dolores, in the tradition of the constructive storyteller (Senehi, 2002), chose to relate those events and details which she knew would highlight the lessons she thought the students should learn. In other words, she was selective, and her selection and framing came from her desire to make a point about the present and future as they are seen from a victim's perspective on human rights.

As the members of ANUPAR began to think about the future of their organiza-
tion and the ongoing need for their children and grandchildren to defend and protect
rights, they became more and more interested in historical memory and in how best
to convey the past to a generation that has had no first-hand experience of human
rights violations, at least of the most extreme and violent sort. The smallest children
who were in attendance when the dance was performed at the Cartagena Historic
Museum are the grandchildren of ANUPAR's founders. The women of ANUPAR
received their HRE before and during the enactment of the Colombian Victims Law,
whereas the young people's education occurred at least ten years after the passage
of that law in 2018. Thus the women were learning about human-rights laws at a
time when they were not recognized as being victims of Colombia's conflict, while
the young people had gained recognition of their victim status and had learned
about their right to receive reparations and to be rights-bearers. The latter are a post-
memory generation, but also in many ways post-human rights, because they have
not had to struggle to gain their human rights as their mothers have.

The powerful learning potential associated with acts of 'memory-retrieval' is
critical to build connections with the generation that has not experienced the process
firsthand; the 'postmemory generation' (Hirsh et al., 2012). This is important
because each new generation enters HRE from a distinct vantage-point. Through the
efforts of ANUPAR they have been exposed to the stories of their mothers' struggles
and the direct experience of listening to survivors. The challenge does not end there.
Their own children (the grandchildren of ANUPAR's women) will also likely inherit
a complex and difficult environment. An active human rights movement is funda-
mental to building peace, but such a movement can only succeed if each succeeding
generation is taught about rights – and not just taught 'about' rights but led to 'feel'
and 'experience' their importance to the movement. That is no easy task, for whereas
the founding women of ANUPAR made the connection between knowledge of
human rights and their ongoing struggle to protect themselves from violence, the
new generation lacks such immediate connection.

The stories are now passed along through the dance, photographs, and monu-
ments. These are all meant to serve as the official public records of ANUPAR's
story, being available to posterity to transform the facts of the women's displace-
ment and the formation of ANUPAR into a deeper, cultural knowledge of human
rights that tomorrow's people can avail themselves of:

> The dance begins with the dancers– young children, adolescents, and their mothers– enter-
> ing the room with small quick steps. They then lower themselves to the floor where they
> crawl on their hands and feet. After this they form groups that reflect various aspects of the
> armed conflict's pain. One group huddles around a child on the floor, assuming various
> positions of mourning. Another group poses together with their arms uplifted, as if asking
> for help or pleading for their lives. In a second part of the dance a young mother, holding
> her baby, eventually rises to her feet and walks around, deftly navigating the chaos on the
> floor. Slowly she begins to help the other dancers rise to their feet. Each one who rises,
> helps another one to her feet. The music shifts from being slow and stately to more upbeat
> as the dancers begin to tear off the newspaper dresses that had covered them, leaving just
> their black clothing. They hold hands and begin to dance in unison, taking steps first for-
> ward and then back. In the third part, an adolescent girl and two small children enter the

room and walk to its center. They are dressed in white, and the children are holding a heart that has been cut out of red fabric. The children repeat the steps taken by others in the second part, first forward and then back, dancing at the front and the center of the stage. The performance is brought to an end when the adult dancers move closer together and huddle around the young people in a protective manner. (Berryhill, personal communication, 2019)

Artistic testimonies such as the dance have powerful potential to bring learners together, "socially and culturally sharing a traumatic experience," and they thereby make at least possible an "intergenerational expansion of the we." The stories in whatever form they took helped the young people to identify with victim's suffering but also gave them a chance to reinterpret and re-signify what has been passed along to them so that they can later pass it along to others.

Another use of the reparation funds that had not yet been enacted at the time of this research in date would be to foster an "intergenerational dialogue," another storytelling event. The women would talk not just about their struggles of the past but also would include other stories relating to their families, their children's early experiences, the origins of those children's names, their favorite toys, and other memories the women had of their offspring's lives. This idea had emerged from the HRE workshops held in San Jacinto in the previous year. At that workshop, as an ice-breaker the facilitators had asked the young students in the group to share with the others the origins of their names. One of the women who was in attendance that day, representing ANUPAR, stepped in when it was her child's time to speak and told the group that she had named her child after a well-known singer whom she had loved at the time. Other name-origin stories were not so light-hearted. Another adult, also from ANUPAR, jumped in to tell the story of a student in the group who was her nephew. She said he had been named after his father who had died on the day he was born, and she went on to movingly tell the group about the life of that man. This exercise served as a reminder of the impact the conflict had had on all lives but it also made the ANUPAR representatives who were present that day mindful of the learning potential and other benefits of childhood stories, not just stories of war but also of the happier moments and events as a means of contextualizing the egregious human-rights violations perpetuated at the time of conflict and displacement.

Final Thoughts: HRE's Return to Its Violent Roots

Back in 1994, Baxi wrote that the HRE field was burdened by both a rights-weariness in the North: "an ethical stance which doubts whether the liberal traditions of individual rights can be the privileged bearers of human transformation…." and, in the South, a rights-*wariness* in the sense that people "perceive an immense duality, and even duplicity, in the endless propagation of human rights languages" (Baxi, 1994). However, Keet (2018) also argued that given HRE's ties to international institutions; it cannot escape the "imprisonment" of human rights within the colonial and neo-liberal arrangements. In his 2007 doctoral dissertation 'Human Rights Education or

Human Rights in Education: A Conceptual Analysis' he argued that in South Africa and other places around the world, the HRE emancipatory project was moribund (Baxi, 2007, p. 22). This critique has persistently plagued HRE, showing up in the form of much scholarly debate. Baxi (1994), however, also acknowledged the special connection that victims have to human rights. He writes that human rights cultures:

> have long been in the making by the praxis of victims of violations, regardless of the mode of formulation of human rights standards and instruments. (Baxi, 1994, p. 1)

And while the construction of a global HRE discourse has meant the subjugation of particular types of knowledge, with historical forms of knowledges being buried or at least masked (Coysh, 2014, p. 89), Baxi (1994) argued that:

> the experience of outrage, and judgment about, flagrant and massive violations of human rights antedates rights-enunciations, and survives their well-manicured formulations. (Baxi, 1994, p. 5)

Situated right at the heart of ANUPAR's work, HRE has outlived the formal declarations, the disciplinary approaches to human rights, being transformed through the women's activism into a vibrant world replete with experiences and stories. This study has explored how it is that HRE is deeply rooted in victims' struggles. None of this came easy. The women received constant threats from paramilitary groups, and they were exposed to rape and to having their children forcibly recruited as child soldiers. A member of ANUPAR recounts:

> They told us that they were going to 'disappear' us … As we were forming as a group, gaining consciousness, and empowering ourselves about our rights … we became a stone in their shoes.

That stone took the form of many actions taken in response to the corruption they witnessed close to home and elsewhere in Colombia. Paradoxically, these threats and hardships drew the women together, allowing them to grow and perfect their organizational and survival skills. The story of ANUPAR is one of critical engagement and struggle in response to these adverse conditions. They were not political actors until the war came to their communities. They did not know about international human rights standards or educating themselves about human rights until violence entered their lives. Thus, no study of HRE within the context of human rights struggles for justice for victims and marginalized people, especially within the violent context of Colombia, would be complete if it failed to take note of the inherent dangers of human rights education work. It is important to end with this note: HRE's ongoing survival and renewal in Colombia has entailed, and doubtless will continue to entail emotional harm, revictimization, frustration, humiliation, and loss. The findings presented in these pages have grown out of the risks that many people have undergone in order to make human rights education work possible.

Conclusion

In Colombia, as above demonstrates, especially given the growing attacks on grass-roots leaders, the open discussion of such 'leftist' notions as human rights continues to be stigmatized. In the year 2016 and 2017 alone an estimated 283 social-movement leaders were killed, and it is still very dangerous to be the leader of a social organization in Colombia today. The history of ANUPAR's human-rights work is a history of the women's finding ways to create relatively safe spaces within which to do this work even while always living in fear. Side by side with the inspiring journey described in this paper is another: how the workshops had to move from one location to another, how the educators were threatened, how the vehicles that transported the women from place to place had to be driven by armed guards, how the women themselves had their lives threatened or even taken, and how numerous acts of destruction and arson were inflicted up their sacred places.

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Chapter 7
Discovering Unintentional Messaging About Children's Rights in Children's Literature to Advance Understanding of Children's Rights

Melissa M. Juchniewicz

Introduction

Literature for children is arguably the most powerful tool for educating and engaging the newest world citizens, as it fosters foundational values and beliefs in readers and listeners. Sometimes still dismissed as uncomplicated entertainment, children's literature is now more widely understood as a unique literature form. In picture book creation, through author choice of words and artists selection of pictures, children develop formative values and beliefs about what people are like and how the world works. In any cultural setting picture books are vehicles that provide children with an understanding of their rights as well as their responsibilities. Messages within texts about children's rights, as articulated in the articles of the U.N. Convention on the Rights of the Child, are analyzed in this chapter from a longitudinal perspective to show the shift towards advancing an understanding of human rights.

Historical Foundations of Children's Rights in Children's Literature

The scholarship of children's literature has developed steadily since Jacob and Wilhelm Grimm, linguists from Germany, explored folklore as a means to better understand language. To support their studies, they transcribed some of the traditional German tales and in 1812 published a collection, and then found them to be considered the domain of children. Throughout the nineteenth and twentieth

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centuries, as the field of children's literature grew to ultimately be considered a unique genre, scholarship, too, has become both more broad and more focused. Scholarship specifically about children's rights in children's literature is nascent; probably the best example is the Columbia Law Review article and subsequent book by Johnathan Todres and Sarah Higinbotham, *Human Rights in Children's Literature*, which states, " … important research questions … merit further exploration in order to develop a body of scholarship on children's rights and children's literature, and to realize the full potential of children's literature as a vehicle for facilitating the development of children into rights-bearing citizens who contribute to their communities" (Todres & Higinbotham, 2016).

Lessons and Commands

Storytelling

Explicit and implicit messages about children's rights and cultural responsibilities in children's literature have changed over time. For centuries, most stories told to children reinforced messages that children are unimportant, incompetent, and powerless, and need only adopt the values, behaviors, and beliefs of adults. There were some exceptions, such as children as tricksters, but tricksters were more often depicted as animals that served as stand-ins for children, and that depiction is presently challenged, as child-as-animal is another way of diminishing identity. Overall, stories carried clear messages that children did *not* have rights, and the purpose of story was to impart a lesson that generally asserted the idea that children must change to fit into an adult world.

Nevertheless, messages were clear that not only did children *not* have rights, but also that adults and their needs were superior, and lessons generally conveyed ideas about punishment for not recognizing that. Before literacy was viewed as valuable, the function of stories in the form of folklore was often entertainment, which was not intended for children; however, an overarching theme in traditional stories was and still is the less powerful overcoming the more powerful, whether through cleverness or magic, which is certainly the appeal to children, the most powerless of all. The other main function of stories was transmission of values which decidedly did not include the rights of children but served to guide children to emulate adulthood.

Early Books

Certainly, books have always taught lessons, but underlying *messages* have nearly always been conflicting or serve only to reinforce existing ideas about power. When literature for children moved from traditional storytelling to books, those books

were overwhelmingly didactic, with some exceptions such as "chapbooks" or cheap books in the sixteenth century, which featured stories, frequently illustrated, for the lower classes. Much later, a backlash against didacticism in children's books was initiated in 1865 with the publication of Lewis Carroll's *Alice's Adventures in Wonderland*, which recognized that children have imaginations, and that books can simply be delightful in the absence of a moral lesson.

As the concept of childhood gained favor over the seventeenth and eighteenth centuries, and children were thus being seen as assets, their acquisition of literacy became valuable as well. There is some disagreement about what should be considered the earliest text for children, for example, the *Orbis Sensualium Pictus* (Illustrated World of the Senses), first published in Nuremburg in 1658 by the Czech John Comenius, is often pointed to as the first non-fiction picturebook, while *Les Contes de ma mère l'Oye* (tales of Mother Goose) by Charles Perrault in 1697 fixed in print stories that previously existed only in the oral tradition. The *Orbis Pictus* is strictly informational, but in the second person voice, which implies a relationship between book and reader. The relationship suggests the child is an "empty vessel" into which knowledge is poured, a characterization of children challenged since the progressive movement. The Perrault book transcribes fairy tales which perpetuate ideas about children's relative powerlessness; in traditional folklore, children are often abandoned and left to starve, or they have adult responsibilities thrust upon them. In the eighteenth century, didactic books for children, often intended to frighten them into morality, existed alongside Rousseau's theories about stages of moral development, although in the mid-1700s John Newbery published books for children meant strictly to appeal to them.

Influences on the Present

Newbery recognized that children's interests differ. A publisher, he observed not only that those interests varied, but that children did have some influence over the adults who were with them, and that adults were willing to spend money on them. Literacy was gradually acquiring respect in the 300 years since Gutenberg's invention, and with the wider availability of printed material, and a growing middle class who were eager to move up their station, saw schools as an asset to that end. Newbery observed that adults were willing to spend money on children; he wrote many books under a variety of names and marketed those books on the lower shelves of his shop for easy access by children. Still, however, it was universally accepted that children should be seen but not heard. Despite new ways of perceiving children as more than a homogeneous block, children's voices did not enter into this notion. Although children could be categorized, they were not being considered as individuals. Nevertheless, Newbery's breakthrough practices were an important turning point, which is one reason, in modern times, the best children's literature is recognized with the Newbery Medal, created in 1922 and the first award for children's literature. Newbery sought to appeal to children rather than to command them,

which is also an underlying reason for the cynicism about children's books always necessarily having a "lesson" or "moral." To this day, in the field we are more concerned with a book's *message* rather than a *lesson* or *moral*. This encourages the active reading that we see as an important skill, and this interchange of ideas based on experiences can show how children's literature can be a "springboard" for discussion with children about their rights.

The Invention of Childhood

The notion of children having rights at all is recent, as the conception of children as simply small adults, or as wild things whose wills had to be broken, held firm until the last century. The concept of childhood as a distinct social structure and psychological condition did not exist before the sixteenth century, and it was still centuries before the idea of childhood took hold as a universal understanding. Childhood was eventually accepted as a stage of human life; indeed, an understanding of childhood continues to evolve.

The Changing Dominance of a Class System

The "Golden Age"

Prior to the nineteenth century, depending upon the class a person was born into, a child spent their first roughly 7 years preparing to take their predestined place in society, and then took that place. Children were not valued beyond, perhaps, the affection within a family. According to social class, they might be seen as burdens or assets in a world with rigid class distinctions. The year 1865 was an important turning point not only for the end of the American Civil War, but also for improved techniques in picture book art, and, importantly, the publication of Lewis Caroll's *Alice's Adventures in Wonderland*, which ushered in the "Golden Age of Children's Literature" and asserted that children do have imaginations. The idea of rights for children was essentially a non-issue, beyond a call for ending child abuse and hunger through works by Charles Dickins. With few exceptions, prior to the start of this first "Golden Age" of children's literature to which Alice opened the door, literature for children was strictly didactic. Strides towards a different understanding of childhood began to take place as a middle class took form. That understanding was influenced in the nineteenth century by, for example, the visible affection Queen Victoria showed to her children, which upper classes sought to emulate in England, and the United States and other European countries followed suit. The "Golden Age" depiction of children in realistic fiction and fantasy, outside of domestic stories for girls and adventure stories for boys, was an idealized world of

softness and safety; the child was considered the "angel in the house" who was seen but not heard.

Challenging Child Labor

Meanwhile, there was a drumbeat of objection to child labor in the lower classes, where children worked in mines, factories, and on farms. Although most child laborers were illiterate and unlikely to be read to, a trend during the "Golden Age" period showed non-human boys striving to be real boys, such as Peter Pan and Pinocchio, and girls lost or abandoned, such as Dorothy in Baum's (1902) *The Wizard of Oz.* Both of these tropes saw children learning to navigate the world on their own, nonetheless, their ultimate goal was to be the adults that had abandoned them. In response to the conditions under which lower-class children worked, the children's rights movements of the 1800s led to the Declaration of the Rights of the Child in 1924 in Geneva, the precursor for the present CRC. The 1920s also saw the progressive movement gain ground through John Dewey's open advocacy of children's rights in education. In addition, children's rooms in libraries were being designated more frequently, and the American Library Association (ALA) began the system of awards for children's books with the Newbery Award in 1922.

Evolution of Childhood and Children's Literature

As protections and rights for children became widespread in the twentieth century, children's literature evolved alongside. Art in picture books improved in design as well as technology from the time Randolph Caldecott, Kate Greenaway, and other artists in the mid-nineteenth century demonstrated that children's literature provided a vehicle for high quality and highly respected art; in 1937 the ALA established the Caldecott Medal to recognize the best picturebook art in the name of Randolph Caldecott.

In the twentieth century, picture books gradually gained stature in literature as a genre. A.A. Milne's *Winnie the Pooh* is often considered the book that closed the door to the "Golden Age" era, which ended in the early 1920s, because the chapters, which were initially published in Punch, a humor magazine for adults, was reviewed as an adult book. As picture books briefly waned at the close of the "Golden Age," intermediate fiction gained popularity, and was frequently published in series with predictable plots. Intermediate fiction, or chapter books, were widely available to children and the absence of parents or any adult in these stories gave the main character autonomy, despite often being characterized as the adult figure in the story. For example, the Hardy Boys books, first published in 1927, featured boys, and the Nancy Drew books first published in 1930, featured a girl, but the "solving

mysteries" formulas of the books were the same. In these books and others patterned after them, parental figures were absent, there was no guiding adult; the adults in the books were frequently villains. This formula was successful and set a trend; the Hardy Boys books listed Franklin W. Dixon as author and the Nancy Drew books listed Carolyn Keene as author, but these were pseudonyms for a great number of writers who would churn out hundreds of these unchallenging books.

Maturing of Picture Books

Meanwhile, picture books were transforming from the "Golden Age" styles to a wider variety of styles, and still carried messages that supported the relative powerlessness of children. Still, in the 1930s children's rooms in libraries had become common as places that were safe and inviting for children to interact with books. Librarianship for children's literature was becoming increasingly consequential; in the 1930s, librarian Augusta Baker responded to the call from Black parents who wanted books that portrayed Black characters in a respectful way, by compiling lists of books that parents could confidently share with their children. Creating such lists became practice for many librarians in majority Black areas such as Chicago's south side, where librarian Charlemae Rollins went beyond the lists and for decades was a powerful advocate for better representation of Black children in picture books.

Picture Books in the Western World

Every corner of the world produces picture books for children. In this chapter, the focus will be on the analysis of children's picture books in the United States. Picture books framing the world from a Western world view have tended to set a standard for how children are to behave and perceive the world. Books from non-Western cultures have been strategically and methodologically excluded from analysis in this chapter, with no intention of diminishing their importance and contributions to the field. Rather, the parameters for this study focus on the impact of human rights messages conveyed to children in Western, specifically American, picture books, and how they have ideologically changed across time as the world has become more globalized.

Critical Analysis

With a focus on picture books from the twentieth and twenty-first centuries, a system of critical analysis may reveal messages that can be conveyed through words and pictures. There may not be an explicit theme of explaining or advancing human

rights within the covers of a book, but there are many ways messages are provided, whether or not it is an author's intent. In twenty-first century children's literature, themes of equity, justice, and empowerment are often direct and intended. As the articles in Part II of the CRC can be roughly divided into articles on *provision,* such as food, housing, education, and healthcare, *protection*, for example from violence and abuse, and *participation,* books referencing provision or protection are increasingly available in libraries and bookstores; the latter, participation, must also be understood as the child's knowledge of their rights (e.g., Article 42). Critical analyses of "good" children's literature from any point in the twentieth and twenty-first centuries can reveal indirect or implicit messages leading to a reader's or listener's understanding of children's rights as well as children's responsibilities. An absence of any evidence of acknowledgement of children's rights in a book is a message, too. Conversation with caring adults can inspire these messages to emerge, if these caring adults employ a variety of strategies for interpretation.

Contemporary Children's Literature

Picture books have matured in quality during the twenty-first century and are often stunningly beautiful, as they must continually compete with electronic media for children's attention. Picture books have a unique capability of capturing attention because of the intimate or safe setting in which children often encounter them. Today, picture books are not only celebrated as "art galleries" of illustrations, but the content is also widely considered literature as consequential as any genre, whether contemporary or classic. Good picture books lend themselves well to critical analysis by employing strategies that were once the domain of literature intended for adult audiences. In literary theory, basic strategies can provide a variety of "lenses" through which literature can be interpreted for a better understanding of its strength or weakness towards its purpose, which is particularly important for the literature provided to children, in order to examine the nature of the stories we are telling and the messages we are sending.

Critical Strategies for Interpretation

What, in fact, are the stories we are telling? How can we interpret the messages stories carry and send? No matter the selected text, addressing these questions is possible but requires an active role for the reader. Children can learn to take active roles as readers with guidance and modeling in order to explore questions within and beyond the text. Children are already active meaning-makers, and with "close attention to the aesthetic and material aspects of picture books" (Arizpe, 2021) as well as a maturing sense of present society and history, they can meet the demands

of critical praxis, which is threefold and includes self-reflection, reflective action, and collective reflective action.

It is not uncommon to use critical strategies to provide various approaches to these ends. For example, a *historical* strategy considers the time period during which the book was written and in what ways that influenced the book's creation. On the other hand, a *new historicist* strategy looks at a book through a present-day framework often leading to a challenge of its suitability for present-day audiences. Not surprisingly these two strategies can be at odds; a much-publicized example is American Library Association's name change of a prestigious award, from the Laura Ingalls Wilder Award to the Children's Literature Legacy Award, in response to racial insensitivity regarding Native Americans and African Americans in Wilder's books. Wilder's best-known book, *Little House on the Prairie*, chronicled her life on the American prairie in the 1870s and was published in 1935. In this case, and similar to a historical strategy, a *biographical* strategy considers the life of the author and how those life experiences influenced the creation of the book, which is another lens through which to look for meaning. Other strategies include *psychological*, which is concerned with the motives and impulses of the characters themselves, mythological, which discerns universal symbols and story patterns such as the hero's journey as defined in Joseph Campbell's *Hero with A Thousand Faces* (1949), and the *formalist* strategy, which considers the form and the craft of the book's composition; indeed, this was the primary way a book was evaluated until the mid-twentieth century. Since then, critics are gradually finding more value using lenses of class, gender, critical race theory (CRT), feminism, ecology, and other methods to analyze, interpret, and qualify texts.

Children's Rights as a Critical Strategy

Our charge now is to cultivate a wide familiarity with the Articles in the CRC, so that teachers, librarians, parental figures, and community members understand how to view children's books through a lens of children's rights and understand the importance of doing so. Moreover, better understanding of the articles will promote an examination of texts as vehicles for opening the door to an understanding of children's rights. In order to inspire the articulation of children's rights as a critical strategy for interpretation of texts, alongside well-established and recently emerging strategies for interpreting texts, it will be useful to demonstrate what this might look like in practice. A small sampling of Caldecott-winning picture books from the twentieth and twenty-first centuries can be used as examples; the Caldecott is one of the top awards in children's literature and is specific to picturebook art, so winners will undoubtably be *good* picture books. In this way we might provide guidelines for evaluating any book, whether it is selected by parents, teachers, community members, school boards, church groups, or, most importantly, by children themselves.

Book Selection

There has been much written about picturebook selection, and book lists of every category abound in easy access with search engines, to find books that explicitly feature topics of social justice and children's rights. For example, the American organization We Need Diverse Books stays current with lists which can be found at https://diversebooks.org/resources-for-race-equity-and-inclusion/?mc_cid=b9161d01bd&mc_eid=65681435e4. The Canadian Children's Book Centre provides carefully curated book lists about children's rights and social justice at https://bookcentre.ca/resources/themed-book-lists/books-on-human-rights. Perhaps the best example is the website of the Children's Legal Rights Centre in Wales, which features a page listing examples of children's books and how they can be used to learn the law: https://childrenslegalcentre.wales/reading-my-rights-learn-about-the-law-through-literature/.

   In some settings, however, it is valuable to have techniques to use with a book that has been selected by a child, rather than selecting a book for the child. Given the opportunity, children often select books to read or listen to which are not adults' first choices for them. This can be evidenced by the discrepancy between winners for the many children's choice awards and awards for books chosen by adult groups. Therefore, adults should be prepared to use a lens of children's rights when introducing or sharing any literature with children.

Critique in Practice

Below is a chart providing a model for ways to view books through different lenses. For purposes of discerning what picture books can communicate about children's rights, we are considering them in non-emergency contexts, in other words, we are not offering ideas about book use for children who have recently experienced trauma. Arguably any book can have bibliotherapeutic uses when presented to a traumatized child by a professional or caring adult. In addition, we are considering story books rather than concept books. The selection here is limited to top award-winners to ensure quality books as deemed by experts. The books are not explicitly intended to reference children's rights. There are many ways to examine a book; the range utilized here includes those that are among the most frequently used to do so. These critiques are very brief – a full chapter-length discussion of each strategy employed with each book could easily be developed – but for purposes of illustrating the critical strategies as examples of how a children's rights lens can be employed to determine the value of a book for this purpose, the descriptions are highly abbreviated.

	Historical	Biographical	Psychological	Marxist (class)	Feminist	Children's Rights
Make Way for Ducklings (1942)	Great depression has ended; looking for a home	Author worked in Boston as a muralist and observed scene	Story anthropomophises natural instincts to protect family	Background depicts well-dressed people at ease, working people active	Father deserts mother to seek the unknown while mother tends to eggs	Ducklings depicted in a straight line behind mother, no choice in decision of where to live
The Snowy Day (1962)	Civil rights movement is underway, post-war prosperity receding	European immigrant criticized for depicting black family	Child wants to preserve what he has found	Urban setting, older boys depicted as dangerous	Mother stereotyped as "mammy" in dress and caretaking	Child is free to explore on his own, imagination is depicted positively
Owl Moon (1987)	Reganism, income-motivation, growth of electronic technology	Revered folklorist and folklore scholar, grew up in isolated area	Child has to run to keep up with father in the night: fear	Isolated agrarian setting, antenna to connect the outside world	No female presence, child had been waiting for adventure with father	Child has a voice of his own, brief mention of brothers, mirrors father
The Hello Goodbye Window (2006)	Post- 9/11, gun violence, class divisions sharper	Architect, academic, early children's lit. Success in 1960s	Child has strong bond with grandparents, is ambivalent about parents	Large house, parents working and leave child in care of grandparents	Grandfather involved in kitchen activities, grandmother isn't playful	Strong message of protection in dangerous outside world
Wolf in the Snow (2017)	Social media predominant, populism and isolationist ideologies	Lifelong artist, lived simply, this is his breakthrough book	Child strongly motivated to protect wolf despite danger	Entire community aids in search for child, rural setting, no diversity	Child's instincts may be interpreted as maternal	Child has agency in decision to face danger then is found and protected

Picture Books for Teaching

The tension between picture books as entertainment and picture books as vehicles for learning, harkening back to the "Golden Age" era, persisted. Moreover, there was the divergence of learning explicit lessons, and learning values, the latter usually accomplished through anthropomorphized animal characters. Some picture books allowed children to draw their own conclusions about a book's purpose, although in reality, parents and teachers usually prompted children to understand by way of widely accepted themes or messages. For example, in Leo Lionni's *Swimmy,* a little fish is abandoned by its family, finds beauty in its world, and is rejected by others, until it invents a way for the group to defeat the threatening big fish. In her article "Fish Stories: Teaching Children's Literature In A Postmodern World," Karen Coats (2001) sees this as an example of how children's books can be as intellectually demanding as writings for adult audiences, describing the problems with providing children an acceptable message such as 'the act of banding together is heroic,' whereas a clear message about the tragedy of forsaking individuality and experiencing rejection can make this a heartbreaking book for some children.

Teaching Reading with Bias

In the 1930s a new way of teaching reading to children was initiated. Although the focus in this chapter is on trade books, it is useful to look at the *textbooks* in the Dick and Jane series. From 1930 to 1965, American children learned reading with these books, as well as other series patterned after them. The reading theory with these books was whole-word, which is still widely considered the best method, but it was the illustrations that were troublesome as the century progressed. The white, middle-class, suburban family was not reflective of many children's families, theoretically dismissing a child's culture, homelife, language, beliefs, traditions, and community as outside of the "typical" American dream. In addition, the books featured both Dick and Jane emulating the parent of their sex, and Dick was portrayed as more active, adventurous, and decisive than Jane, reinforcing gender stereotypes. Use of authentic literature, or trade books, is the preferred method of teaching reading today, but basal systems still exist. Basal systems such as Dick and Jane have been called a "classroom in a box" because they contain not only the books but also workbooks, tests, displays, and activities based on the books, with no differentiation to recognize the individual child.

This homogenized learning system was successful for learning to read; it was not concerned with learning to think. Reader-response theory, first introduced in the 1930s by Louise Rosenblatt (though not widely recognized until the 1960s) essentially suggests that meaning in text is an interaction between the reader and the text. The theory indicates that a reader's schema determines the reader's understanding, and schema can be expanded through both experiences and wide reading.

Connections are required for any learning or understanding to take place, and connections can be established with text that is encountered, as well as with life events. Experiences, in terms of life events and experience with texts, can lead readers to individualized interpretations of meaning, and an imposition of theme or meaning by parent or teacher deprives children of the active reading required to learn about values, rights, and responsibilities. Numerous learning theories have validated the efficacy of children constructing their own knowledge, over knowledge being imposed upon them, for deep learning to take place.

Teaching About Childhood and Culture

By mid-century, creating picture books was becoming a goal, rather than an avocation, for writers and artists to display their artistic talents, and sometimes to express their own ideas about society. Children's literature was now frequently a reflection on society, and sometimes a means to inaugurate new ideas, sending strong messages, positive and negative, about children and childhood. The 1940s through 1960s have been considered a second golden age of children's literature because so many classics – those books that have stood the test of time – come from that period. These classic books, in particular, require a critical and objective eye for messages about children's rights, as they are widely foundational. If negative or absent messages about children's rights are discerned, these books should not be rejected, they should be springboards for discussion with children about what their rights are.

However, in the absence of that parent, teacher, librarian, or other caring adult engaging a reader or listener, a limited schema could persist. If ideas are not introduced through picture books, children may never have access to some ideas. The "reward and punish" system of learning, which includes prizes, grades, and penalizing, is perhaps the most common practice in teaching, discouraging a child from understanding their rights. It implies that children are "incapable of self-motivation and in need of help from a more powerful 'other'" (Wlodkowski & Ginsberg, 1995) which can also diminish curiosity, initiation of thought and behavior, and making meaning from experience.

One of the most consequential voices in advocacy of children was Bruno Bettelheim. Bettelheim advocated treating children with respect and perceived children as individuals who do things for a reason and deserve to be heard. Released from Dachau in the 1940s, Bettelheim suggested that there is a door between children and adults: from the outside, anybody who wants to can get in, but from the inside, the door is never open and the children can never run out. He insisted children need a safe place and pointed out where society had failed children. His hallmark work, *The Uses of Enchantment: The Meaning and Importance of Fairy Tales* (1976), defended fairy tales and other traditional literature for children that was coming under fire by some groups who considered it damaging to children (just as adults did for 200 years), by positing that children benefit from being led into frightening and disturbing places with the knowledge that all will end "happily ever after"

and that they will return to safety; in this way, Bettelheim said, children can rehearse emotions such as fear and loss in a safe place, and thus be better prepared for these experiences in adulthood.

Trends

As scholarship of children's literature progressed, the civil rights movement and other social movements were gaining ground, and good picture books often reflected the society by which they were produced, and changes were occurring continually in that period of the 1950s and 1960s. With the best intentions, trends in children's literature have sometimes been rejected soon after they emerged. Other trends have been developed and built upon, and still other trends are responses to consequential world events. Until 1960s picture books mostly perpetuated the status quo, including the myth of the melting pot. Recognizing the problems with that metaphor, such as new citizens not wanting to lose their culture, and, in particular, the uselessness of the metaphor for Black Americans, new ways of thinking surfaced about how to best transmit values to children through literature.

Colorblindness

From the 1960s, and in some settings even to this day, colorblindness was considered a positive way to view the world, and children's books promoted the idea. Essentially, colorblindness said that "we are all the same" and that we should see beyond skin color. This metaphor was problematic in many ways, not the least of which was the truth that young children do indeed recognize differences and are curious about them. From there a straight line can be drawn to the insincerity of the idea. Not only was it insincere on the part of mostly white people who were saying they could not see differences, but it was offensive to Black people who perceived the fundamentally dismissive nature of the idea.

Power Movements

Although society in America and elsewhere was experiencing more robust calls for social justice, children's literature in some ways ignored these movements. Books suggesting Martin Luther King's civil disobedience were mostly representational, and little explicit attention was given to the Black Power movement and other social movements that were patterned after both of these avenues toward equality, such as for Native Americans, Chicano and Hispanic Americans, and gay people, although coded messages could be found in some children's books, such as Fitzhugh's

Harriet the Spy. Still, children were not considered an oppressed group that needed voice just as other groups did. Children's literature overwhelmingly did not acknowledge Power movements, for example, the 1968 book *Corduroy* featured a black mother and child, Lisa, who were in no *other* way different from a white mother and child shopping in a toy store might be, with no acknowledgement of the civil unrest in the world surrounding the book's publication that year. However, in the subsequent book *A Pocket for Corduroy* published in 1978, Lisa's mother has transformed into a strong, stylish woman with natural hair, big earrings, and chic clothing, better reflective of the time. In the 1970s as the women's movement, or second wave feminist movement, was demanding change, some children's books such as this were beginning to respond in illustrations and story.

Salad Bowl

By the 1980s, the trend was not just to acknowledge differences but to celebrate differences. "America the great salad bowl" was a nod to the old "melting pot" version of society. This metaphor was mainly used with children's literature, and the decade saw a sharp rise in books that featured this celebration of differences. There were new kinds of books with better representation of all readers, and new authors were invited into the field via awards such as the Coretta Scott King awards. Problems persisted, such as the percentage of picture books with white main characters still being extremely lopsided (and it still is). Libraries and bookstores were designating certain shelves and areas for such "salad bowl" books, segregating them, and defeating the purpose.

Protection

In response to school shootings and 9/11, the late 1990s saw books with themes of protection. Bullying was seen as the root cause of school violence and other social ills, and many books emerged on the topic of bullying. Some were not useful for communicating realistic situations to children, such as books that showed victim and bully becoming friends or victim overcoming bully by fighting fire with fire. These two trends were aspirational on the part of adults, as they portrayed the problem being solved without adult protection, in opposition to the CRC's articles advocating protection. The books that are now viewed as most useful on the topic are those that portray the victim character as finding and asserting their own strength and self-esteem, and also those books featuring children as bystanders responsibly disrupting the situation.

Activism

Moving into the twenty-first century, children's books continue to inspire children to discover their own agency. Ultimately, they convey the message to children hat they are the architects of their own futures, individually and collectively. Picture books are increasingly aesthetically beautiful, as technology for tactile qualities and color reproduction improve, and they still must meet the challenge of competing with electronic media. Non-fiction picture books are trending in the twenty-first century, generally in the form of biographies. The majority of the biographies portray the subject of the biography in their childhood, modeling the kinds of behaviors that are more recently considered valuable, such as following a curiosity or asserting individuality. These are steps toward more visible examples of children having and knowing their rights.

Qualifying Picture Books

Criteria for Evaluation

A reference to what is deemed "good" children's literature may seem highly subjective; however, there are widely accepted criteria for this designation. The three basic criteria, in the order in which a book is encountered, are its format, illustrations, and finally content. A good picture book is the fulfillment of an artistic vision, which is often shared among those who create it and those who market it. Rather than using two words, "picture" and "book", the term "picture book" is growing in usage, to signal the interdependence of picture and story in a *good* book (Nikolajeva & Scott, 2000). Those who share the artistic vision show concern for every decision and each minute detail, in the interest of advancing the purpose of the book.

The format, for instance, refers not only to size and shape, but also paper quality, tactile elements, and, importantly, the endpapers. Endpapers, the paper glued to the inside of the book cover and its facing page, may feature art that sets the mood for the story, but even in the absence of art, just as the absence of an explicit message can be the message itself, the selected plain color is an important consideration in the fulfillment of the artistic vision. This is an example of the intentionality of every aspect of the picture book as an object.

With regards to illustration, unlike books intended for older readers, illustrations in a picture book are not decorative; they are essential to the intent of the book through choices about what they depict, colors and media, as well as their capacity to lead to the turn of page. In addition, they must be integral to the book's purpose. The content of a picture book may be a story, which is identified when there is a conflict that is resolved; or a concept book, which does not have the basic literary structure of situation-conflict-resolution but presents a concept clearly and unambiguously. Though it is rare, some good picture books do both these things; an

example is Eric Carle's *The Very Hungry Caterpillar* (1969), which is also praised for its collage medium as a brilliant aspect and reflection of the storytelling while at the same time clearly messaging the promise of beauty within. Most books, however, do one or the other, tell a story or provide a concept clearly and unambiguously. Books with intended and direct messaging about a topic such as children's rights are frequently concept books. Two outstanding examples of books that introduce children to the articles of the CRC are *I Have the Right to Be a Child* by Alain Serres and Aureila Fronty (2009, English translation 2012) and *For Every Child: The U.N. Convention on the Rights of the Child in Words and Pictures*, with text adapted by Caroline Castle (2001), both of which specifically reference the Articles of the UNCRC. Storybooks, on the other hand, would be more likely to provide implicit messaging, often requiring conversation with adults to look below the surface. An example of this would be *After the Fall: How Humpty Dumpty Got Back Up Again* by Dan Santat (2017). All of these meet the expectations of a *good* picture book as defined.

Proactivity and Further Study

A sense of history is valuable in the analysis of children's literature. We have come to where we are through many obstacles, and it is worth knowing something about that journey to appreciate the power of sharing a book with a child. We can reimagine "classics" even if their message is in conflict with efforts to introduce children to the law about their rights, by looking for messages beyond the surface. Criteria for good picture books has evolved; the expectation is not only that illustrations are aesthetically beautiful and integral to the storytelling, but also that pictures and content convey a message that will be useful to the child. We can also reimagine books and stories that came before, to promote good discussion and new ways of looking at things. There are also ways to initiate changes right now.

For example, a comprehensive book list can be devised, with recommendations for books that will be useful to promote an understanding of children's rights. Several excellent lists exist, and we have the technology to create a compilation in a database for open use. In addition, some picture books currently feature endpages with ideas for use in the classroom; along with or instead of this could be ideas for use with an introduction to or discussion of children's rights. Marketers who create books could require or create backmatter to share ideas and resources. In reprints of classic books with blatant flouting of children's rights, backmatter could feature an index of code words, and "disclaimers" could be included with classic books, translating coded illustrations, and explaining mismatch of text and pictures. Although there will be objections this, as making changes to classic books could be considered censorship, this practice has precedent in classic books with racist or objectionable content.

A book may exclude a group or use stereotypes to represent a group. It may promote the "single story" bias by presenting only one interpretation of an issue or by

glossing over unpleasant aspects. We can look at what is in books that may be counterproductive or confusing, and have discussions with children about their rights. If children are asked to point out such elements, they will begin to be active readers with the means to evaluate books on their own for messages about their rights. We can look at a book and see what is there to explicitly introduce children to the law about their rights. We can look at what is not there, and learn from that, too. We can also challenge messages in books children might select on their own, or books that have been selected for them by schools or organizations whose ideas are not in accord with the articles of the CRC. What is there, in the content and in illustration, can stimulate conversation; what is not there can do the same, and just as effectively. "Why didn't the character ask for what they wanted?" or "Are the adults in the story listening to the children in the story?" are examples of questions that can elicit important discussions.

Many children do not have a caring adult, such as a parental figure, teacher, or librarian, available to them for discussion; other children have adults who care but don't have the skills or the time for discussion, and other children's situations may altogether preclude opportunities for discussion. Still, all readers and listeners are receiving messages from books about their rights, whether those messages are explicit or not, and children are capable of being active in their interpretation of messages, both intentional and unintentional. Longitudinal analysis of children's literature from a cross-cultural perspective is recommended for future study to determine how human rights are portrayed. In the creation of a global world of peace and justice, children's picture books play a vital, even if traditionally unrecognized role.

Conclusion

As the world has become globalized, with demographic trends increasing bi-racial, multi-cultural children, immigration, travel, and media that shows what's going on in other parts of the world in real-time, children's realities have changed from the early twentieth century. Picture books are changing as well. Racist, sexist, and culturally biased children's books are no longer deemed acceptable. Gone are the days of *Little Black Sambo* or *Dick, Jane and Sally* being considered mainstream children's literature. The pictures selected, the words chosen, and the scrutiny by publishers and children's literary organizations have shifted towards the creation of books that are much more honorable towards the dissemination of rights-respecting messages. Children's books can be voices. Children may not yet have the words they need to express their feelings, ask questions, seek explanation, or describe their discoveries. Thus, a child can think they are the only one who has these feelings, questions, confusion, or new understandings. Books can not only give voice to such things but can also demonstrate that the child is not alone in experiencing them. An important prevailing metaphor regarding children's literature is the idea of "books as mirrors, windows, and sliding glass doors" (Bishop, 1990). Indeed, books can be

windows into cultural settings different from the reader's or listener's, as well as "sliding glass doors" to enter into such settings. Books can also be mirrors in which readers can see themselves. A book that is provided to or selected by a child can in this way plant seeds of understanding regarding their rights and generate a sense of self-esteem; it can also support or challenge prevailing beliefs and attitudes. However, if children see no reflection of themselves in books, this can lead to the opposite of self-esteem. Books can interfere with open-mindedness and curiosity. They can promote faulty ideas and perpetuate negativity. An adult with knowledge about using books to initiate conversations about children's rights can do so with any book, whether that book is promoted by another adult or group or selected by the child.

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Chapter 8
The Multidisciplinary, Interdisciplinary, and International Global Policy Outlook of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography

Tanya Herring

What Role Does the General Comments of Human Rights Instruments Have in the Community Structure of the Asylum-Seeking Refugee Child?: Introduction

The Asylum-Seeking Child in Vulnerable Situations

Child law, in the international context, provides provisions for children displaced across borders that unquestionably is designed to protect children in vulnerable situations. International research supports the premise that policy and practice on relocation encounters a phenomena of precarious child detention, abduction, trafficking-in-persons (Palermo Trafficking Protocol, article 3),[1] and a myriad of child-specific exploitations[2] (Save the Children, 2006; UN General Assembly Report, 2019). The Oxford Handbook of Refugee and Forced Migration links the trafficking of children to both in-country and cross-border migrations (Gil Loescher,

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[1] For a comprehensive and legally accurate definition of trafficking please see Art. 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (Trafficking in Persons Protocol), which supplements the UN Convention against Transnational Organized Crime (A/RES/55/25 of 15 Nov 2000).

[2] Children are often trafficked for child-specific forms of exploitation, such as illegal adoption, child labour, child prostitution, child pornography, and forced recruitment into armed forces or groups. Other forms of exploitation to which children are often exposed include domestic service, agricultural work, mining, forced and early marriage, and begging. It is important to note that any recruitment, transfer, harbouring or receipt of children for the purpose of exploitation is considered a form of trafficking regardless of the means used.

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2014). A host of global literature expands the discourse of migration to examine the long-term physical and psychological outcomes of cross border and internally displaced children's (IDP) adverse childhood experiences (ACE) from detention and trafficking, as well as the proffered remedies to address social structures that impact and target ethnic groups (Jeremiah et al., 2017; National Work Group for Sexually Exploited Children, 2008). This research investigates the seldom studied role of General Comments across human rights instruments and State obligations. It proposes furtherance of a State's positive obligation to the Committee on the Protection of the Rights of all Migrant Workers and Members of their Families (CMW), and the UNCRC Committee's Joint General Comment 4 (2017) and 23 (2017); and UNCRC Committee General Comments 6 (2005) and 14 (2013) to close protection gaps in international community structures for the accompanied and unaccompanied asylum-seeking refugee child.

Human Rights Instruments and the General Comments

General comments are also referenced as 'general recommendations' expand over a large spectrum of human rights themes constituting a cover a range of topics that constitute explanations, clarity, or interpretations of substantive as clarification or an interpretation of substantive provisions of the respective treaty. The focal principles of general comments center on the right to life. The general comments outline the treaty interpretation on the basic subsistence such as food, shelter, and is inclusive of issues surrounding violence against vulnerable persons, the rights of minorities and the disabled, and the continuing emergence of the general comments focus on the right to life, food, and encompasses a range of evolving issues of violence against vulnerable persons, rights of the disabled and minorities, among other emerging human rights matters (International Human Rights Instruments, 2008; OHCHR Human Rights Treaty Bodies – General Comments, 2021).

The CRC Committee expound its general comments with the intent to provide clarity on the normative context and content of the specific rights as indicated under the Convention on the Rights of the Child, the thematic content pertinent to the CRC, which is also inclusive of implementation guidance and measures for compliance. Unlike other human rights instruments' general comments, the CRC Committee General comments provide an authoritative interpretation to States Parties on expectations for implementation and the carrying out of obligations.[3] The full and consolidated listing of the CRC Committee's general comments has been published on the Office of the High Commissioner United Nations Human Rights (OHCHR.org) or on the Child Rights International Network (CRIN) at: http://www.crin.org/resources/infoDetail.asp?ID=8043&flag=report. The CRIN's report also

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[3] Child Rights net provides a fact sheet in English, French, and Spanish at: Child Rights Net – Legal Updates on Child Rights Law.

includes General comment No. 16 (2013) on States Parties obligation regarding business sector on children's rights. Article 43 of the CRC sets out the authority and provisions of the Committee on the Rights of the Child. Collectively with arts 44 and 45, art 43 are part of the provisions for international monitoring:

> CRC Committee, *Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States Parties under article 44, para 1(b), of the Convention on the Rights of the Child* (3 March 2015) CRC/C/58/Rev.3 Rule 77*; CRC Committee, General guidelines regarding the form and content of initial reports to be submitted by State Parties under article 44, para 1(a) of the Convention* (30 October 1991) CRC/C/5.
>
> CRC Committee, *Revised guidelines regarding initial reports to be submitted by States Parties under article 12, para 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography* (3 November 2006) CRC/C/OPSC/2*; CRC Committee, Revised guidelines regarding initial reports to be submitted by States Parties under article 8, para 1, of the Optional Protocol to the Convention on the Rights of the Child on Involvement of children in armed conflict* (19 October 2007) CRC/C/OPAC/2.

The reporting structure is detailed under Art 44 in the form of eight clusters under four themes, 'factors and difficulties encountered', 'progress achieved', 'implementation priorities', and 'specific goals'. The standard reporting procedures for periodic reports, the States Parties have a requirement to submit a report and written replies to what is identified as a 'list of issues' (CRC art 44).[4]

Convention on the Rights of the Child, Article 22

CRC art 22 affirms the States' obligation for the best interest principle, under CRC art 3, affirms protection and care of refugee children by providing implementation guidance with CRC Committee *General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin*. CRC Committee *General comment 14* adds further clarity to member State protection responsibilities as it explains that a child in circumstances and situations of vulnerability may not be the same from one child to the other.[5] Author Kristen Sandberg (2015, 2018) explains that one child's situation may not be the same as another child's vulnerable situation – 'each child is unique, and each situation must be assessed according to the child's uniqueness'. The CRC further obliges State parties to identify particular groups/subgroups of children as vulnerable for the purposes of implementing special measures for these groups, CRC Committee *General comment 14*.

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[4] CRC Committee, *Working methods for the participation of children in the reporting process of the Committee on the Rights of the Child* (16 October 2014) CRC/C/66/2 para 8 and 15–28.

[5] UNCRC, General comment No 14 on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration (art 3, para 1), 62nd session, UN Doc CRC/C/GC/14 (2013) ('General comment No 14') [76].

CRC art 22 outlines the State obligation to child refugees or children, who are seeking refugee status in their respective territory under the positive obligations under international human rights and humanitarian law. The three primary elements of art 22:

1. adequate protection and humanitarian assistance
2. cooperation with organisations linked to the UN when providing protection and assistance;
3. and, the establishment of an adequate environment of care for children, either by reunification with their family or by finding alternative state protection.

The child protection and assistance declaration are required to take place according to the relative domestic and international law. Accordingly, art 22 refers to the 2018 Global Compact for Migration[6] as being guided by art 1, the best interest principle as an international protection for asylum seeking and refugee children to all children in the jurisdiction of a State Party that lack citizenship or migration status (Pobjoy, 2015). Following art 3.1's guidance Global Compact for Migration (2018) states are called on to provide:

> accurate, timely, accessible, and transparent information on migration-related aspects for and between states, communities and migrants at all stages of migration'… 'child-sensitive and gender-responsive support and counseling' and information (para 19, c, d)

Gaps in the State obligations to international protection of an asylum-seeking child has judicial references discussed further within the text, *I.A.M. v Denmark*, No 3/2016, 25 January 2018. The case and others related under Art 22.1 does not draw a distinction between accompanied and unaccompanied children, therefore, the provisions of assistance and rendering of protection does not vary. However, there is an exception, whereas para 2 avers accommodation for the unaccompanied child and children separated from family. The CRC Committee recognizes the heightened vulnerability of the unaccompanied child and includes legal empowerment/access to justice in processing of decisions in its General comment 6; whereas states are obliged to provide an adequate standard of living as well as material assistance and support 'with regard to nutrition, clothing and housing'.[7]

CRC Art 22 provides a definition of a refugee. CRC Committee GC 6 refers to the 1951 Refugee Convention but indicates that the refugee status may be based upon child-specific forms of persecution that incorporates the CRC ruling of I.A.M. v Denmark where the assessment includes persecution of kin, under-age recruitment; tracking of children for prostitution; and sexual exploitation or subjection to female genital mutilation'.[8] Non-refoulment is addressed under CRC art 22.1, which refers to the enjoyment of rights not only in the CRC but also in other

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[6] Global Compact for Safe, Orderly and Regular Migration (2018) Global Compact for Safe, Orderly and Regular Migration para 19(c) and (d).

[7] CRC General comment 6: Treatment of unaccompanied and separated children outside their country-of-origin para 68.

[8] *CRC Committee, General comment 6: Treatment of unaccompanied and separated children outside their country of origin*, para 74.

international human rights or humanitarian instruments to which the states are parties. Embraced within art 22 are substantive references to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Non-refoulment is a central tenet of international law content and the Refugee Convention prohibits States Parties from expelling or returning:

> a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of particular social group or political opinion.

Prominently used as an authoritative interpretation under CRC Committee's GC 22, which provides States Parties guidance in the application of the fundamental children's rights principles, or often referred to as general principles of non-discrimination, best interests, participation, and the right to life, survival, and development (CMW and CRC Committee Joint General Comment 4/23, para 45–46). Each are also designating of non-refoulment to be a fundamental principle of the human rights of children in the context of migration (CRC Committee General comment 6).

The content of protection and assistance for asylum-seeking and refugee children have been litigated in regional human rights systems and added clarity to the obligatory protection and assistance. Precedent setting cases at the EctHR has referenced CRC art 22 on State obligations for humanitarian assistance and protections whether a child is alone or accompanied by his or her parents (*Popov v France* 2012).[9]

Joint Stakeholders: Human Rights Committees and Treaty Bodies

The global community, as responsible stakeholders, has a bottom-up and top-down tenet role in forming structures that protect the human rights of unaccompanied asylum-seeking children. On the international human rights platform, Human Rights Committees are comprised of global representatives, who serve as appointed independent experts guiding the monitoring and implementation of the ten human rights treaty bodies[10] that bind State parties. The Office of the High Commissioner for Human Rights (OHCHR) described these treaty bodies as:

[9] *Popov v France* (Application nos. 39,472/07 and 39,474/07) Judgment (European Court of Human Rights (EctHR) 2012 para 91.

[10] According to the United Nations Human Rights Office of the High Commissioner, as of 2021, there are ten human rights treaty bodies that monitor implementation of the core international human rights treaties:

- Committee on the Elimination of Racial Discrimination (CERD)
- Committee on Economic, Social and Cultural Rights (CESCR)
- Human Rights Committee (CCPR)
- Committee on the Elimination of Discrimination against Women (CEDAW)

…nine of these treaty bodies monitor implementation of the core international human rights treaties while the tenth treaty body, the Subcommittee on Prevention of Torture, established under the Optional Protocol to the Convention against Torture, monitors places of detention in States parties to the Optional Protocol (OHCHR, 2021).

Simply stated, these appointed independent experts emerge from a host of professions that reflect the State parties and serve as vital stakeholders of their community. These experts are keenly aware of critical human rights issues and render their expertise within the scope, functions, and implementation of core international human rights treaties. Hence, the effete of these treaties is highly contingent upon implementation goals and expectations set by State leadership from the top for social change across both natural and human endogenous factors. Analogously, the bottom up is indicative of the treaty implementation and its application in contrast of endogenous to exogenous factors, which include migration (the shifting flow of people), economic shifts pushed by migration, and the government rules and decisions imposed by the treaty at the State level (Kaufman, 2004). Sociological scholars working in endogenous and exogenous factors argue that there are a multitude of thresholds that influence outcomes, change, and adaptation of government policies to control, anchor, or organize the implementation of human rights instruments (Swidler, 1986, 2001).

At the international top-level, the Human Rights Council operates as a separate entity from the OHCHR. The Human Rights Council has separate mandates derived by the General Assembly,[11] a principal organ of the United Nations (UN),[12] whose powers, functions, and composition are set out in Chapter IV of the United Nations Charter.[13] Nonetheless, the OHCHR renders the substantive support for the Human Rights Council sessions and the subsequent follow-up deliberations. In summary, the Human Rights Council forum's principal mandate is 'to prevent abuses,

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- Committee against Torture (CAT)
- Committee on the Rights of the Child (CRC)
- Committee on Migrant Workers (CMW)
- Subcommittee on Prevention of Torture (SPT)
- Committee on the Rights of Persons with Disabilities (CRPD)
- Committee on Enforced Disappearances (CED)

[11] The only body in which all UN members are represented, the General Assembly exercises deliberative, supervisory, financial, and elective functions relating to any matter within the scope of the UN Charter.

[12] The United Nations has six principal organs: The General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice, and the Secretariat.

[13] United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI; The Charter was signed at San Francisco on 26 June 1945. The amendments included here are: Amendments to Articles 23, 27 and 61, 557 UNTS 143, adopted by the General Assembly Resolutions 1991A and B (XVIII) of 17 December 1963, entered into force on 31 August 1965 for all Members; − Amendment to Article 109, 638 UNTS 308, adopted by the General Assembly Resolution 2101 (XX) of 20 December 1965, entered into force on 12 June 1968 for all Members; Amendment to Article 61, 892 UNTS 119, adopted by the General Assembly Resolution 2847 (XXVI) of 20 December 1971, entered into force on 24 September 1973 for all Members.

inequity, and discrimination, protecting the most vulnerable, while exposing perpetrators' (UNHR, 2021). Hence, Special Procedures is characterized as an established mechanism of the Human Rights Council and can take the shape of a workgroup or a special rapporteur (an individual) (UNHR, 2021). The outcomes of Special Procedures result in the examination, monitoring, advising, and submission of public reports that focus on human rights situations in identified territories, countries, and concern worldwide thematic mandates. As of 1 August 2017, there are 44 thematic mandates with 12 country mandates, which includes a mandate for 'Ending immigration detention of children and providing adequate care and reception of them' (UNHR, 2021; UN General Assembly 20 July, 2020, A/75/183).

This chapter links the international community structure with endogenous and exogenous factors to explain the State obligation, compliance, roles, or gaps in the roles of protecting accompanied and unaccompanied asylum-seeking children. Communities are people, functioning amongst a problem of social changes, which is a constant in the central foci of sociological 'why' inquiries and 'how can the behaviors change (Maheshwari, 2016). The consensus of literature is expressed to describe social change, where change is law and places great emphasis on foundations to migratory resistance of anyone, including children, due to geographical conditions, the composition of ideologies and diffusions of communities. The content then conducts an analogy of community structures through the lens of international law. Beginning with State obligations to the Children's Rights Convention (CRC),[14] article 22, precedent setting children's rights' case law, and binding instruments to include:

   (a) the Committee on the Protection of the Rights of all Migrant Workers and Members of their Families (CMW) and the UNCRC Committee's Joint General Comment 4 (2017) and 23 (2017)[15];

      • (*Joint General comment No 4 and 23: State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination, and return*);

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[14] UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3; The Convention on the Rights of the Child was adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989. It entered into force on 2 September 1990, in accordance with article 49.

[15] UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, 16 November 2017, CMW/C/GC/4-CRC/C/GC/23.

(b) UNCRC Committee General Comments 6 (2005)[16]

  • (*General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin*) and 14 (2013)[17] (*General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration*); and,

(c) the 20 July 2020 A/75/183 mandate focused on the immigration detention of children.

The Obligation

The commitment to fulfil the positive obligations set out in treaties is underpinned by the 1965 Vienna Convention on the Law of Treaties.[18] Around the world, community structures and processes rely heavily upon the preventions and protections for the refugee child and the respective States compliance, where article 1(b) VCLT provides the defining role of ratification and accession as an international act of being bound by a treaty, articles 11–17.[19] To guide the implementation and contextual interpretation of a treaty, VCLT article 3(3) further sets out the highly authoritative

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[16] UN Committee on the Rights of the Child (CRC), General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, 1 September 2005, CRC/GC/2005/6.

[17] UN Committee on the Rights of the Child (CRC), General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), 29 May 2013, CRC/C/GC/14.

[18] Rantsev v. Cyprus and Russia, Application no. 25965/04, Council of Europe: European Court of Human Rights, 7 January 2010.

[19] VCLT, article 11–17:

• Article 11
  Means of expressing consent to be bound by a treaty
  The consent of a State to be bound by a treaty may be expressed by signature, exchange of instruments constituting a treaty, ratification, acceptance, approval or accession, or by any other means if so agreed.
• Article 12
  Consent to be bound by a treaty expressed by signature

1. The consent of a State to be bound by a treaty is expressed by the signature of its representative when: the treaty provides that signature shall have that effect; it is otherwise established that the negotiating States were agreed that signature should have that effect; or the intention of the State to give that effect to the signature appears from the full powers of its representative or was expressed during the negotiation.
2. For the purposes of paragraph 1: the initialling of a text constitutes a signature of the treaty when it is established that the negotiating States so agreed; the signature ad referendum of a treaty by a representative, if confirmed by his State, constitutes a full signature of the treaty.

• Article 13
  Consent to be bound by a treaty expressed by an exchange of instruments constituting a treaty
  The consent of States to be bound by a treaty constituted by instruments exchanged between them is expressed by that exchange when: the instruments provide that their exchange shall have that

character of General Comments/recommendations where it notes that the treaty needs continuous contextual interpretation. The United Nations Convention on the Rights of a Child (CRC),[20] article 43, establishes the role and authority of the Committee to set out the rules of procedure, the continuous, and contextual interpretation of the CRC. Whereas Article 45 clarifies that the UNCRC is a treaty amongst states, and that 45(c)(d) obliges States parties to grant the Committee the power to make suggestions, general recommendations, establish reporting obligations, and the implementation of the CRC.

The CRC's thematic areas in health, migration, and best interest continue to be globally remarkable issues of human rights committee's General Comments and State party implementation guidance, specifically General Comment 4,[21] 6,[22] and

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effect; or it is otherwise established that those States were agreed that the exchange of instruments should have that effect.

- Article 14
  Consent to be bound by a treaty expressed by ratification, acceptance or approval

1. The consent of a State to be bound by a treaty is expressed by ratification when the treaty provides for such consent to be expressed by means of ratification; it is otherwise established that the negotiating States were agreed that ratification should be required; the representative of the State has signed the treaty subject to ratification; or the intention of the State to sign the treaty subject to ratification appears from the full powers of its representative or was expressed during the negotiation.
2. The consent of a State to be bound by a treaty is expressed by acceptance or approval under conditions similar to those which apply to ratification.

- Article 15
  Consent to be bound by a treaty expressed by accession The consent of a State to be bound by a treaty is expressed by accession when: the treaty provides that such consent may be expressed by that State by means of accession; it is otherwise established that the negotiating States were agreed that such consent may be expressed by that State by means of accession; or all the parties have subsequently agreed that such consent may be expressed by that State by means of accession.
- Article 16
  Exchange or deposit of instruments of ratification, acceptance, approval, or accession Unless the treaty otherwise provides, instruments of ratification, acceptance, approval or accession establish the consent of a State to be bound by a treaty upon: their exchange between the contracting States; their deposit with the depositary; or their notification to the contracting States or to the depositary, if so agreed.
- Article 17

  Consent to be bound by part of a treaty and choice of differing provisions

1. Without prejudice to articles 19 to 23, the consent of a State to be bound by part of a treaty is effective only if the treaty so permits or the other contracting States so agree.

[20] The Convention on the Rights of the Child was adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989. It entered into force on 2 September 1990, in accordance with article 49.

[21] UN Committee on the Rights of the Child (CRC), General comment No. 4 (2003): Adolescent Health and Development in the Context of the Convention on the Rights of the Child, 1 July 2003, CRC/GC/2003/4.

[22] UN Committee on the Rights of the Child (CRC), General comment No. 4 (2003): Adolescent Health and Development in the Context of the Convention on the Rights of the Child, 1 July 2003,

23, each detailed further in the chapter to exclaim the critical survival issues of health, migration, and best interest. Whether State parties heed their respective positive obligations by respecting, protecting, and fulfilling the rights of the CRC, inclusive of the adjoined General comments, is contingent upon the shall endeavor spectrum of the positive obligation. Response to the shall endeavor may have adverse impact upon the unaccompanied or accompanied asylum-seeking refugee child. The chapter's investigation evaluates divergence in the varying layers of the community's application of the CRC Committee general comments and the CRC Article 22 in relation to an asylum-seeking child, the case of *I.A.M. v Denmark* (2018),[23] to include the standards set by *Rantsev v Cyprus'* 2010[24] European Court of Human Rights case to guide future strategies for actionable change. Both cases will be discussed in more detail further in the text.

The Dichotomy of the Positive Obligation, *Shall Endeavor*

Compliance with human rights treaty obligations is troublesome in that the language translates into questionable compliance (O'Flaherty & O'Brien, 2007; Oette, 2018). Could treaty language and interpretation be the root cause? International communities are consistently competing with cultural challenges, social structures, and social equalities within the scope of natural and human endogenous factors (Kaufman, 2004). A potential root-case influencing component is the language of 'shall endeavor' in treaty interpretation. Legal theorist Richard Gardiner (2008) and Serge Sur (1974), among others, support the concept that there is not any component of the law of treaties where the text-writer approaches more vicariously than the interpretation[25] (ILC, 1966).

To gain a better understanding of endeavor, a review of the Vienna Convention on the Law of Treaties is silent on the interpretation of endeavor, but commercial contract case law serves as a guide (Fachiri, 1929). Actions of State parties in response to their human rights obligations can be compared to commercial contract law, which inserts a qualification that parties are concurring to 'try' to achieve the particular obligation. However, this brings into question the lengths a party, or in this case the member-States to the CRC Convention and its instruments, will pursue in 'trying' to achieve the obligation, refer to Fig. 8.1. It is clear from the commercial contract case law that there is a spectrum of endeavors, with 'best endeavors at one

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CRC/GC/2003/4.

[23] *I.A.M. (on behalf of K.Y.M.) v Denmark*, communication No. 3/2016, CRC/C/77/D/3/2016, UN Committee on the Rights of the Child (CRC), 25 January 2018.

[24] *Rantsev v. Cyprus and Russia, Application no. 25965/04*, Council of Europe: European Court of Human Rights, 7 January 2010.

[25] Report of the ILC on the Work of its 18th -Session: Draft Articles on the Law of Treaties with Commentaries (A/6309/Rev1), vol. II. Extract from the Yearbook of the International Law Commission.
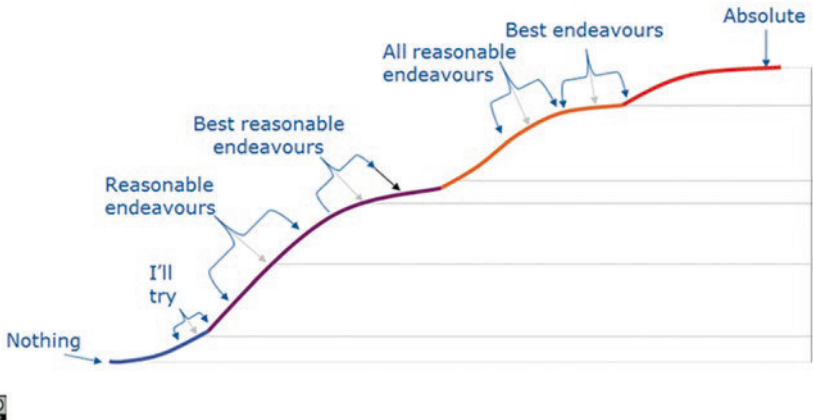
Fig. 8.1 Spectrum of reasonable endeavors

end and 'nothing' at the other. An example can be found in the civil law case of *Jet2. com v Blackpool Airports*, 2012,[26] where best endeavors had to be used even if the airport endured a commercial loss.

A further interpretation can be made those circumstances have a key role when the issue of enforceability arises in determining a breach, as illustrated in the civil case of *Astor Management AG and others v Atalaya Mining PLC*.[27] Similarly, in *Phillips Petroleum Co UK Ltd v Enron Europe Limited, Court of Appeal (Civil Division)*,[28] where the court raised the question on the lengths a party must exercise in 'trying to achieve that obligation'. When placed in juxtaposition to the States' obligation further clarity can be obtained from the European Court of Human Rights ruling in *Rantsev v Cyprus and Russia,* paras 64–65; paras. 264–268, where State positive obligations denote:

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[26] *Jet2.com Limited w Blackpool Airport Limited* [2012] EWCA Civ 417, The Court of Appeal has ruled in favour of Jet2.com in a case concerning the construction of a 15 year old agreement relating to the use of Blackpool Airport by a low cost carrier; Blackpool Airport Limited ('BAL'), 95% owned by Balfour Beatty plc, had argued unsuccessfully before HHJ Mackie QC at trial that it was not obliged to keep Blackpool Airport open to accommodate Jet2.com's schedules beyond its promulgated opening hours. BAL had contended that the provisions of the agreement that obliged it to cooperate and use best endeavours to promote Jet2.com's low-cost services from Blackpool Airport and use all *reasonable endeavours* to provide a cost base that would facilitate Jet2.com's low-cost pricing did not require it to sacrifice its own commercial interests. BAL renewed that argument on appeal, namely that *best and all reasonable endeavours* entitled it to consider its own commercial interests before those of Jet2.com

[27] *Astor Management Ag and Another V Atalaya Mining Plc and Others*, [2017] 1 Lloyd's Rep. 476.

[28] *Phillips Petroleum Co UK Ltd v Enron Europe Limited*, Court of Appeal (Civil Division), [1997] CLC 329.

(a) Enactment of appropriate legislation,
(b) Introduction of review procedures for the operation of certain businesses known to be a cover for human trafficking,
(c) Establishment of punishments commensurate to the nature of the crime of trafficking,
(d) Introduction of measures to discourage demand,
(e) Assurance of the training of law enforcement for the identification of trafficking victims and for building trust amongst victims and law enforcement,
 (f) Encouragement of research, information campaigns, awareness law enforcement, and
(g) Vigorous investigation of allegations of human trafficking.

Plotting an obligator's endeavor spectrum on the graph, Fig. 8.1 reflects the categorical performance of the endeavor clause of the positive obligation.

Note, Fig. 8.1, The spectrum of 'shall endeavors' is charted on the graph to assess the State's actions and omissions of its treaty obligations.[29]

Absolute/Best Endeavors to the Positive Obligation

Absolute obligation entails the State's complete fulfilment of the obligation. An example of absolute can be found in two court rulings.[30] First, in referring to *Siliadin v France*,[31] where States are under an obligation to 'adopt laws to combat trafficking and to strengthen policies and programmes to combat trafficking', where the question could arise of 'shall endeavor', *Siliadin v France*. The second tier would encompass the courts' ruling of *Rantsev v Cyprus and Russia* where a States' obligation for absolute compliance would be met.

However, the term 'best endeavors' has been highly judicially scrutinized, as in the case of *IBM United Kingdom Ltd v Rockware Glass Ltd*[32] where it is judged by

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[29] Graphic adopted from Ashurst Business Services LLC for educational purposes only.

[30] 'States are required to' are used, the reference is to a mandatory provision. Otherwise, the language used in the legislative guide is 'required to consider', which means that States are strongly asked to seriously consider adopting a certain measure and make a genuine effort to see whether it would be compatible with their legal system.

[31] *Siliadin v. France*, 73,316/01, Council of Europe: European Court of Human Rights, 26 July 2005

[32] This case is cited by: Cited – Overseas Buyers v Granadex ([1980] 2 Lloyd's Rep 608); The court considered the meaning of a promise by one party to use its best endeavours. Held: Mustill J said: 'it was argued that the arbitrators can be seen to have misdirected themselves as to the law to be applied. Cited – Rhodia International Holdings Ltd. Rhodia UK Ltd. v Huntsman International Llc ComC (Bailii, [2007] EWHC 292 (Comm), Times 06-Apr-07, [2007] 2 Lloyds' Reports 325); The parties contracted for the sale of a chemical surfactants business. The claimant had contracted to use reasonable endeavours to obtain the consent of a third party for the assignment of a contract to supply energy to the business. The defendant. Cited – EDI Central Ltd. v National Car Parks Ltd. SCS (Bailii, [2010] ScotCS CSOH – 141). Cited – R and D Construction Group Ltd. v Hallam Land Management Ltd. SCS (Bailii, [2010] ScotCS CSIH – 96, 2011 GWD 2-85, 2011 SLT 326).

standards of reasonableness. Wherein, the ruling conveys that the term 'best endeavors' has the most tangible of the 'endeavors' formulations. Usually, the best endeavor obligation, in contract law, is demonstrated through the obligor taking all reasonable steps, or steps that are within their power to take. 'Best endeavors' obligation and 'absolute' appear to align with the mandatory measures and are reflected at the far-right peak of the spectrum as illustrated in Fig. 8.1 (reading right to left – absolute red sections through to all reasonable endeavors, orange lined sections of the spectrum).

Best Reasonable Endeavors/All Reasonable Endeavors/ Reasonable Endeavors to the Obligation

The endeavor is 'less stringent' than the application of best endeavors where the party takes on one reasonable course of action, but not all courses of action available to meet the obligation.[33] Referring to the realm of contract law again, all reasonable endeavors is frequently adopted as a compromise between best endeavors and reasonable endeavors. In the case of *Rhodia International Holdings Ltd and another v Huntsman International LLC*, the court ruled that 'an obligation to use reasonable endeavors was less stringent than one to use best endeavors. The commercial court held:

> 'There might be a number of reasonable courses which could be taken in a given situation to achieve a particular aim. An obligation to use reasonable endeavors to achieve the aim probably only required a party to take one reasonable course, whereas an obligation to use best endeavors probably required a party to take all the reasonable courses she could. In that context, it might well be that an obligation to use all reasonable endeavors' (Rhodia International Holdings Ltd and another v Huntsman International LLC [2007] EWHC 292).

In that context, an interpretation can be made that an obligation to use 'all reasonable endeavors' equates with using 'best endeavors'. In contrast, if the same obligation instrument uses 'both expressions', which is often seen in treaty instruments, for different obligations, then based upon *Rhodia International Holdings Ltd and another v Huntsman International LLC*'s ruling, it could be presumed an intention was to impose a different standard. The reasonable endeavor aligns with measures that indicate States have the latitude to consider absolute compliance or

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Cited – Dhanani v Crasnianski ComC (Bailii, [2011] EWHC 926 (Comm)) The parties disputed the terms of a contract between them under which the defendant was to provide substantial sums for the claimant to invest.

[33] *Rhodia International Holdings Ltd*. *Rhodia UK Ltd v Huntsman International Llc*: ComC 21 Feb 2007. References: [2007] EWHC 292 (Comm); where the court summarised by a judge in *Rhodia International v Huntsman* summarised it nicely when he explained that an obligation to use reasonable endeavours probably only requires a party to take one reasonable course, not all of them, whereas an obligation to use best endeavours probably requires a party to take all the reasonable courses he can.

'endeavor' to comply287. In the case of *Rantsev v Cyprus and Russia* the court ruled that Cyprus' legislation had prohibited trafficking and sexual exploitation. However, the Ombudsman criticized Cyprus' implementation in prohibiting trafficking and sexual exploitation of a child, but ruled the laws were satisfactory. Moreover, the Council of Europe Commissioner found Cyprus' laws as 'suitable'. On Figure 1's graph, and the concerns expressed regarding implementation in *Rantsev v Cyprus and Russia,* Cyprus would likely fit on the graph between 'best reasonable endeavors' and 'reasonable endeavors'.

'I'll Try' to 'Nothing' Obligation

The 'I'll try' endeavors present the most difficult posture of the three categories. There is a high degree of disagreement and uncertainty as to where reasonable endeavors is plotted on the graph and 'I'll try'. Circumstances and the difference of opinion weigh heavily in the determination between 'reasonable endeavors', 'I'll try', and 'nothing'. An example could easily be the Cyprus legislation situation. On one hand, Cyprus was criticised, but in totality, Cyprus did fulfil the 'reasonable endeavors' of the obligation.

Yet, the AIRE Centre voiced extreme concern as to what can be best described as the 'reasonable endeavors' by Cyprus was insufficient. The case notations reflect that AIRE Centre cited the wording to 'consider' or 'endeavors' to introduce certain measures was hortatory and often lacked practical and effective rights for the protection of victims. AIRE Centre's posture would place the States' 'reasonable endeavors' closer to the 'I'll try' or possibly to 'nothing' plot on the graph and viewed as non-compliant by the court with the treaty obligation. Consequently, determining whether a State breached an obligation is contingent upon the circumstances, situation, and case law.

The Due Diligence Obligation Standard

Examining the case of *Rantsev c Cyprus and Russia* as it cites *Larissis et al v Greece,*[34] international law makes clear that States are under a legal obligation to investigate and prosecute trafficking with due diligence, imposing a positive duty as in the case of *Larissis et al v Greece* and *Rantsev c Cyprus and Russia.* Due diligence obligations are obligations that are one of conduct or means, thus leaving some discretion for the state in practice (ILA, 2014). This discretion explains why the record of compliance with these obligations is not highly satisfactory. For many

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[34] *Larissis et al v Greece*, Apps nos140/1996/759/958–960 Council of Europe: European Court of Human Rights, 24 February 1998.

years, international human rights law has been thought to not be serious and is often referred to as 'soft law' (Guzman, 2010).[35]

Considering trafficking of children, the state's duty is to combat not only trafficking, but also the demand for the services of human trafficking. States are obliged to combat child human trafficking and exploitation that hinder human rights within its jurisdiction through the States' criminal laws.[36] There are a range and latitude of measures that states can adopt to combat human trafficking of asylum-seeking children, accompanied or unaccompanied. The international obligations on states are frequently stated in general terms. Subsequently, parties to a legal instrument are permitted to adopt measures that are best suited to their respective national legal systems.

In contradiction, multiple cases before the Inter-American Court of Human Rights, European Court of Human Rights, and the UN Human Rights Committee shine a different light on how States are being held in violation of their international legal obligations to human rights.[37] In *Rantsev* v *Cyprus and Russia*, in relation to trafficking, the European Court of Human Rights identified an obligation on State parties to investigate cases of trafficking. The Court placed emphasis on the requirements for investigations to entail the full spectrum of the trafficking allegation through to the recruitment and exploitation (*Rantsev v Cyprus and Russia*). The court's ruling for the States' positive obligation for investigation was to be 'full and effective' (*Rantsev v Cyprus and Russia, para 307, p 76*).

The positive obligation extended to the various States potentially involved in human trafficking—States of destination, States of transit, and States of origin (*Rantsev v Cyprus and Russia, para 389, p. 71*). The same court ruling obliged States to 'take such steps as are necessary and available in order to secure relevant evidence' regardless of where the investigation leads in or outside of the territory. The court ruled that:

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[35] International agreements come in a multitude of forms. Some have dispute resolution while others do not, monitoring provisions vary from significant to nonexistent, and some are highly detailed while others are frustratingly vague; For example, the International Covenant on Civil and Political Rights (ICCPR) provides for the submission of reports by the parties when so requested by the Human Rights Committee ('the Committee'), and the Committee is authorized to review and comment on these reports. See International Covenant on Civil and Political Rights, art 40(1)(b)(4), Dec. 16, 1966, 999 U.N.T.S. 171. The Genocide Convention, on the other hand, does not provide for any formal monitoring system. See Convention on the Prevention and Punishment of the Crime of Genocide, Jan. 12, 1951, 78 U.N.T.S. 277.

[36] The prohibition against exploitation of children is a general prohibition under human rights law: The 1989 UN Convention on the Rights of the Child, 1577 UNTS 3, arts 34–37(a); the 2000 UN Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, G.A. Res. 54/263, Annex II, 54 U.N. GAOR supp (no 49) at 6, U.N. Doc. A/54/49, vol III (2000), arts 3(1)(b) and (2).

[37] For state-party compliance with the European Convention on Human Rights, see Christian Tomuschat, Quo Vadis, 'Argentoratum? The Success Story of the European Convention on Human Rights - and a Few Dark Stains' (1992) 13 Hum. RTS. L. J. 401; For state-party compliance with the American Convention on Human Rights, see Annual Reports of the Inter-American Court of Human Rights.

…in addition to the obligation to conduct a domestic investigation within the respective territory, member States are also subjected to a duty in cross-border trafficking cases to cooperate effectively with the relevant authorities of other States concerned in the investigation of events which occurred outside their territories' (*Velásquez Rodríguez v Honduras* 1988).[38]

The European Union was integrally involved in the decision on *Velásquez-Rodriquez,*[39] in 1988, which brought the due diligence doctrine to the forefront for acts by private entities. States responsibility to prevent breaches of international obligations has been discussed in several legal decisions. In Chile, *Question of the Fate of Missing and Disappeared Persons,* led by Judge Abdoulaye Dieye in Senegal, 1979, was the actual pioneer due diligence case (UN Doc A/34/583/Add.1 (1979), paras 172–175). Yet, the *Velásquez-Rodriquez,* the most memorable case, paved legal ground, and the case is often referenced as the Commission alleged that Honduras, violated 'art 4 —Right to Life, art 5 —Right to Humane Treatment, and art 7 —Right to Personal Liberty, and in relation to art 1(1) — Obligation to Respect Rights. The monumental impact to States' responsibility to due diligence can be attributed to the outcomes of *Velásquez-Rodriquez* (1988)[40] case where the court ruled:

…the state's failure to **prevent** the disappearance, to investigate it, and to **punish** the perpetrators was a violation of the obligation in the Inter-American Convention to "ensure" the full exercise of rights and freedoms in the Convention, including the right to life'.[41]

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[38] Velásquez Rodríguez v Honduras, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) no 4, 147(g)(i) (July 29, 1988); the first case decided by the Inter-American Court of Human Rights. The Velásquez Rodríguez case, together with the Godínez Cruz, Fairén Garbi, and Solís Corrales cases, all considered by the Court around the same time, form a trio of landmark cases targeting forced disappearance practices by the Honduran government during the early 1980s.

[39] Velásquez Rodríguez v Honduras, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) no 4, 147(g)(i) (July 29, 1988); the first case decided by the Inter-American Court of Human Rights. The Velásquez Rodríguez case, together with the Godínez Cruz, Fairén Garbi, and Solís Corrales cases, all considered by the Court around the same time, form a trio of landmark cases targeting forced disappearance practices by the Honduran government during the early 1980s

[40] *Velásquez Rodríguez v Honduras*, Velásquez Rodríguez Case, Inter-Am.Ct.H.R. (Ser. C) no 4 (1988), Inter-American Court of Human Rights (IACrtHR), 29 July 1988.

[41] American Court of Human Rights (IACrtHR), 29 July 1988; Loy. L.A. Int'l & Comp. L. Rev. [vol 36:1913]; Inter-American Court decision of Velasquez Rodríguez, in 1988; The case notes: 'The judgment on compensatory damages delivered by the Inter-American Court of Human Rights (hereinafter 'the Inter-American Court' or 'the Court') on July 21, 1989 in the Velásquez Rodríguez Case, in which it established at seven hundred and fifty thousand lempiras the compensatory damages that the State of Honduras (hereinafter 'Honduras') must pay to the next of kin of Mr. Angel Manfredo Velásquez-Rodríguez and decided that the Court would supervise 'execution of payment of [this] compensation … and that only after it was settled [would] the case be closed.'; No Pecuniary damages; The Court ordered the State to pay $93,750 to Ms. Emma Guzmán Urbina de Velásquez, the wife of Mr. Velásquez Rodríguez, for psychological damage and loss of income from losing her husband; The Court ordered the State to pay $281,250 dollars to the three children of Mr. Velásquez Rodríguez: Héctor Ricardo, Herling Lizzett, and Nadia Waleska Velásquez, for psychological harm due to the forced disappearance of their father, and for loss of income from

A comparison of the Convention on the Rights of the Child can be made to the General comment on the International Covenant on Civil and Political Rights' (ICCPR)[42] torture prohibition, where it states:

> It is the duty of the State Party to afford everyone protection through legislative and other measures as may be necessary against the acts prohibited by art 7, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity (UNHRC, 2021, CPR GC 20).

Research findings imply that asylum-seeking children are forced to engage in a multitude of low-range remunerative activities as well as petty crime, substance abuse, and prostitution. The UN Human Rights Committee (HRC) also indicates that whether the trafficking is internal or cross-border, the crime is inextricably connected to the involuntary or deceitful movement of people to achieve the end-object sexual, labor, child marriage, organ removal, or a multitude of other forms of exploitation (CCPR General comment no. 20).[43] Guidance for States can also be found in the UN Doc. A/RES/63/156, GA Res. 63/156, 'Trafficking in Women and Girls', where it outlines:

> States have an obligation to exercise due diligence to prevent, investigate, and punish perpetrators of trafficking in persons, and to rescue victims as well as provide for their protection, and that not doing so violates and impairs or nullifies the enjoyment of the human rights and fundamental freedoms of the victims.[44]

There have been minimal cases to address where the State has been responsible for failure to provide due diligence. Also, there are two cases in Austria that have a correlation to the Rohingya critical case where the court emphasizes the 'State should have known' but failed to exercise due diligence. The first is in the case of *Goekce v Austria*,[45] where the State was found accountable for failure to provide

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losing their father as a provider; $375,000 in costs and expenses; each cost by the State was directed to commence within 90-days and five consecutive months thereafter'.

[42] The aim of the provisions of article 7 of the International Covenant on Civil and Political Rights is to protect both the dignity and the physical and mental integrity of the individual.

[43] UN Human Rights Committee (HRC), CCPR General comment no 20; art 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment), 10 March 1992

[44] UN Doc. A/RES/63/156, 'Trafficking in Women and Girls' GA Res. 63/156 (30 January 2009).

[45] *Goekce v Austria*, *Sahide Goekce (deceased) v Austria,* Comm. 5/2005, U.N. Doc. A/62/38, at 432 (2007), Committee on the Elimination of Discrimination against Women, 2007, CEDAW, domestic and intimate partner violence, international law; Sahide Goekce's husband shot and killed her in front of their two daughters in 2002. Police reports show that the law enforcement failed to respond in a timely fashion to the dispute that resulted in Ms. Goekce's death. The complaint to the Committee on behalf of the decedent stated that Austria's Federal Act for the Protection against Violence within the Family provides ineffective protection for victims of repeated, severe spousal abuse and that women are disproportionately affected by the State's failure to prosecute and take seriously reports of domestic violence. The Committee found that although Austria has established a comprehensive model to address domestic violence, it is necessary for State actors to investigate reports of this crime with due diligence to effectively provide redress and protection. The Committee concluded that the police knew or should have known that Ms. Goekce was in serious danger and were therefore accountable for failing to exercise due diligence in protecting her.

protection and exercise due diligence by actions of its organs (the police department and State prosecutor) in the instances of domestic violence and diminishing the importance of violence against women. Notably, in each application of the theory of a States' responsibility for vicarious liability, three principles are consistent: a) *respondent superior* (let the principal be liable), b) *Quifacit per alium facit per se* (he who acts through another does it himself), and c) socialization of compensation.[46] In the Optional Protocol for the sale of children, art 9(3), States 'shall' 'ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible.

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[46] *Rudul Shah v State of Bihar, (1983) 4 SCC 141; State of Andhra Pradesh v Challa Ramkrishna Reddy, (2000) 5 SCC 712; D K Basu v State of West Bengal, (1997) 1 SCC 416.*

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Chapter 9
Social Progress, Globalization, and the Development of Mental Health: A Human Right Perspective

Christopher G. Hudson

Social Progress, Globalization, and the Development of Mental Health as a Human Right: Introduction

Mental health as a human right has emerged out a fundamentally transformed understanding of mental illness. It is one that departs from traditional deficit models in which service needs are seen as discretionary, and is instead based on the values of interdependency, human dignity, and entitlement. Central to it is the recognition that mental health requires the shared responsibilities of communities, and as such is most effectively addressed by a community mental health service strategy that is undergirded by the guarantee of human rights. Mental health is not a right that, as of yet, is widely recognized, but is one that has been developing alongside a range of other human rights, particularly the right to health care. It is one of several rights that have emerged as a part of several long-term societal changes involving social progress, globalization, and social development initiatives, including the global mental health movement. This chapter will, therefore, explore what such rights practically mean, and explore their roots in the context of globalization and the global mental health movement.

Social Progress

Central to globalization and the development of mental health rights is the notion of social progress (Hudson, 2020). This is an idea that has for many years been both extolled and demeaned, and in both cases it has served as an organizing ideal. The

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sociologist Robert Nesbit concluded that, 'No single idea has been more important than … the Idea of Progress in Western civilization for three thousand years' (1980). It represents one of several competing perspectives on history and social change. These can be broadly categorized as involving (i) a continuous period of stasis or the variant of cyclical change; (ii) degeneration from a golden age; (iii) random processes involving both degeneration and development; or (iv) sustained and continuous social development. While ideas of social progress were once rarely held, since the Enlightenment they have come to dominate, and at that time, they were idealized and seen to include a range of social changes. The term progress is believed to have originated from the Latin term progressus, derived from progrĕdi, meaning "to walk forth, to advance" (Coccia & Belleto, 2018). Teodor Shanin (1997) epitomizes the concept as consisting of "a movement from badness to goodness and from mindlessness to knowledge, which gave this message its ethical promise, its optimism and its reformist 'punch'" (Shanin, 1997).

An alternative definition, which eschews the use of concepts of happiness, mental health, and quality of life is that of Gunther Stent (1978) who argues for a notion that highlights the 'will to power', or progress as the achievement of control of external events and the environment. Those who seek to characterize its breadth typically list its essential dimensions as advancements in science, technology, economic growth, energy, and democratization" (Coccia & Bellitto, 2018). Alternatively, Nathaniel Keohane (1982) breaks social progress down into four components: increased human knowledge about the world, increased human power over the world, increased human virtue deriving from this knowledge, and sometimes increased happiness as a consequence of the preceding. Often it has not been seen as involving human flourishing, and particularly, the enhancement of mental health.

As pervasive as the belief in social progress had become by the start of the twentieth century, a range of events in the first half of the century, most notably the two world wars, led to a widespread questioning and rejection of the progress narrative. Many critics have questioned the reality of social progress, but more often they have cast doubt on its effects on broadly improving the human condition. Specifically, many have wondered whether a narrow technological conception of progress could translate into greater human happiness and mental well-being. Other critics have focused on unintended effects, for example, social fragmentation and higher suicide rates in developed societies. The environmental movement highlighted issues of sustainability, whether economic growth can continue in the face of finite natural resources. Others have emphasized the amorality of its inherent materialism and a weakening of the individual (Horkheimer & Adorno, 1947). Still others have argued that the progress narrative is too often used by repressive regimes and social classes for their legitimization and perpetuation (Nisbet, 1980). Finally, some have complained about its linearity and assumed inevitability (Farrenkopf, 1993).

In recent decades, particularly since the early 1990s, there has developed a widespread reexamination and questioning of what many have concluded has been an excessively pessimistic assessment of social progress as reflected in the various critiques advanced over much of the twentieth Century. This trend has attributed to the publication of Francis Fukuyama's *The End of History and the Last Man* (1992)

which argued that with the demise of communism, history may have entered its final phase. Others have more optimistically seen the end of communism as the end of ideological deadlock, freeing both private and public resources for social development. In recent decades the United Nations has formulated and monitored the world's accomplishment of a variety of millennium social development goals, such as the worldwide reduction of extreme poverty and progress with enhancing mental health. The increasing availability of both data pertinent to international social development, as well as advances in computational hardware and analytical software involving techniques such as 'data mining', has fueled an expanded popular, theoretical, and empirical literature that has reexamined and sought to resurrect social progress, both current and past.

As a result there have been proliferations of books that count the many ways that progress has been occurring. Each of these focus on somewhat different trends, with a range of explanatory frameworks used. For example, Richard Baldwin (2016) focuses on the dramatic economic catchup that the developing nations have achieved in recent years relative to those considered to be developed, a phenomenon now known as the 'great convergence'. Close to twenty such books have appeared in English since the publication in 2000 of *It's Getting Better All the Time: 100 Greatest Trends of the Last 100 Years* by Stephen Moore and Julian Simon (2000). These include books by Nobel laureates which highlight the positive developments featured in their titles – *Progress* (Norberg, 2017), *The Progress Paradox* (Easterbrook, 2004), *Infinite Progress* (Reese 2013), *The Infinite Resource* (Ramez, 2013), *The Rational Optimist* (Ridley, 2010), *The Case for Rational Optimism* (Robinson, 2017), *Utopia for Realists* (Bregman, 2017), *Mass Flourishing* (Phelps 2013)*, Abundance* (Diamandis & Kotler, 2012), *The Improving State of the World* (Goklany, 2007), *Getting Better* (Kenny, 2012)*, The End of Doom* (Bailey, 2015), *The Moral Arc* (Shermer, 2015), *The Big Ratchet* (DeFries, 2014), *The Great Escape* lain (Deaton, 2013), *The Great Surge* (Radelet, 2015)*, The Great Convergence* (Baldwin, 2016). Two of the most significant such works are Hans Rosling's *Factfulness. Ten Reasons We're Wrong About the World – and Why Things Are Better Than You Think* (2018) and Steven Pinker's *Enlightenment Now: The Case for Reason, Science, Humanism, and Progress* (2018). Both of these works provide details on scores of trends ranging from poverty reduction, birth control, education, political organization, violence, culture, and health and mental health, much of which is derived from United Nations statistical sources. In both cases, the authors document their conclusions that social progress has been dramatic and pervasive, encompassing most fields of interest over extended time spans, though not without select gaps.

The constellation of trends that have been cited by Pinker, Rosling, and other researchers represents a substantial body of evidence that the world continues to see ongoing social development, but with some important exceptions. Most notable are the inadequate responses to climate change and to evidence of rising economic inequality, both of which could, when extrapolated decades into the future, undo many of the positive trends covered. In addition, both the critics and promoters of the social progress narrative, have paid scant attention to its quality of life,

subjective well-being, and mental health dimensions, however, this also has been changing in recent years. Furthermore, the new embrace of the social progress narrative has largely ignored the complexities introduced by globalization, an essential context for the development of mental health rights, two subjects to which we will now turn.

Globalization

The term globalization refers to a set of loosely linked international trends, all of which have involved the development of increasing interdependencies among societies; both economic and social (see Hudson, 2010; Zajda & Vissing, 2021; Zajda, 2021). Globalization is not new as there have been several earlier versions of it, for example, during the onset of the industrial revolution and during the progressive era (Baldwin, 2016). According to the Oxford dictionary, the word 'globalisation' was first employed in 1930. It was widely used by economists, sociologists and policy analysts in the 1960s. Furthermore, Marshall McLuhan, a Canadian professor of English at the University of Toronto, who analysed the media and used the term 'the medium is the message' in his cutting-edge book *Understanding Media: The Extensions of Man*, published in 1964. He also coined the term 'global village' (Zajda & Majhanovich, 2021).

However, its newest rendition since the demise of the Cold War, at the beginning of the 1990s, has been one of the most dramatic. The earlier trends involving deindustrialization, servicetization, and the development of the information economy have increasingly come to be thought of as a part of globalization. Globalization is a broad and controversial set of trends. Specifically, it is regarded as including one or more of the developments that are outlined in Table 9.1.

A variety of driving forces behind globalization have been cited, with the most common being technological innovation, democratization, and the spread of neoliberal trade ideologies, leading to deregulation, including lowered costs of manufacturing and trade due to increasing automation, ease of travel, communication, and shipping. Numerous theories have been advanced as to how such conditions have operated. Perhaps most notable is that of Richard Baldwin (2016) who suggests that globalization has been driven by the progressive separation of production and consumption, which has been enabled by the falling costs of moving goods, people, and ideas brought about by deregulation and advancing technology. This has led to greater economic specialization across geographic regions, not only moving production of goods to developing nations, but concentration of research, development, and high-end professional activities in select cities in the developed world, in what has come to be referred to as "spiky globalization" (2008).

Deindustrialization has come to be supplemented with servicetization, the development of the service economy, mainly in developed nations, but increasingly manifested as growing middle classes in developing nations such as India and China (see Hudson, 1998). Technology, especially computerization and automation, has

Table 9.1 The globalization mega-trend: major themes and sub-trends

Growing economic and social interdependency: The once largely independent economies of the various nations have grown increasingly interdependent due to the increasing ease of free trade, brought about by laissez-faire trade treaties, deregulation, improved transportation and communications, and new finance mechanisms
Increased economic specialization: Because of the enhanced interdependencies, the economies of various nations and regions are becoming more specialized. With a wider and more competitive economies, corporate survival has forced many companies to narrow their focus, and to outsource many tasks to other localities, companies, or individuals
Proliferation of multinational and transnational corporations: Although most organizations are still rooted in particular nations, this is increasingly less so. As of 2018, there were estimated to be 60,000 multinational corporations, with nearly one-half million affiliates (CIA)
Reduction of trade barriers and deregulation: For several decades now, a major trend has been to encourage trade and free market competition through the minimization of trade barriers, such as duties and tariffs, often through the use of regional trade agreements, as well as deregulation in other sectors, such as environmental protection
Resource fluidity: The above trends have been associated with an increased fluidity of capital investments, as well as other resources, including labor. It has been noted that "the elements of globalization—greater and freer flow of information, capital, goods, services, people, and the diffusion of power to non-state actors of all kinds—will challenge the authority of virtually all governments. At the same time, globalization creates demands for increased international cooperation on transnational issues." While this his made economies more responsive to changing local conditions, it has introduced a new dimension of social instability
Privatization and outsourcing: Whereas national governments have increasingly sought to delegate, often through contracting, a variety of responsibilities to private companies, private companies in turn have sought to outsource their work to other organizations and individuals, often to gain greater control over the performance of this work, as well as for minimizing overhead and fringe benefit social costs. Outsourcing has been both local, but increasingly it is international, for example, many customer service jobs in information technology are being outsourced to South Asia. Both these trends have manifested through commodification, marketization, and the corporatization of much economic activity. In health care and the human services, there have been recurrent efforts to redefine many services as commodities to be aggressively marketed
Deterritorialization: Given the increasing interdependencies and the enhanced role of both market forces, as well as international regulatory bodies, many observers have noted a reduction in the power of national governments
Westernization and cultural homogenization: Some commentators argue that increasing economic interdependencies, as well as western imperialistic tendencies, have brought with it the indiscriminate spread of western culture. However, there has been considerable debate about the extent of this process, with many in second and third world nations insisting that social development, linked with globalization, need and should not mean westernization and the eclipse of local culture

Source: Adapted from: Hudson (2010). *Complex Systems and Human Behavior*, Lyceum Books

led to considerable pressures placed on employment opportunities for working classes, particularly those minimally educated, contributing to homelessness.

Globalization has elicited much controversy given its breadth and multiple outcomes, both positive and negative. It has been pointed out that the same time globalization has lifted billions out of the most extreme forms of poverty in the developing world, the lower middle classes in developed nations have suffered considerable

economic and social hardship, including unemployment, demoralization, substance abuse, and increased suicide rates. This phenomenon has been identified by the economist Branko Milanović (2016) who introduced an "elephant graph" of changing economic inequality, that shows the bulk of humanity gaining (the elephant's body), as well as the richest of the rich (the raised tip of the trunk), a smaller group of working classes in developed nations facing substantial economic stress (the trunk). At the same time that there has been improving economic conditions, there has been rising inequality with many adversely affected populations.

Globalization, thus, has represented some of the complex and diverse outcomes of the most recent generation of social progress, modernization, and specifically social development. The array of ongoing changes represents a mixture of those that are naturally occurring as a result of minimally regulated competition, as well as some intentional and planned policies aimed at facilitating social and economic development. Several of these have originated from the policies of multi-national organizations such as the World Bank, the International Monetary Fund, and the European Union.

While the notion of social development has been in use since the 1920s when it was first introduced in Africa as a literacy campaign, in subsequent years it had been promoted by U.N. agencies that worked in close cooperation with centralized governmental agencies in the developing world that implemented a statist approach, one that fell by the wayside by the 1970s (Mia, 2008). As these governments faced massive cutbacks, social development came to be pursued more so through bottom-up community organization and entrepreneurial strategies by non-government organizations (NGOs). However, since the turn of the century, there have been efforts to integrate the traditional statist with the community and entrepreneurial strategies. For example, James Midgely (1997) has advocated for a balanced integration of the three approaches in what he termed an "institutional strategy". Such commentators on social development have focused on moving the field to be less reliant on economic and infrastructure development – whether planned or laissez-faire – however, they have only gradually come to advocate for a more balanced inclusion of quality of life initiatives, including the development of health and mental health care.

Emergence of Global Mental Health

In parallel with social development initiatives, developments in mental health have only gradually become a global movement. Beginning in the 1950s in the U.S. and later in Europe, the spread of psychiatric deinstitutionalization has increasingly been supplemented with the development of community mental health services. Over the last 20 years, upwards of 45.1% of the world's nations have come to participate in these trends (Hudson, 2016). At the same time the World Health Organization (WHO) has developed its mental health program, focusing on global research, consultation, advocacy, and training. Its efforts have included the publication of the *Mental Health Atlas* (2001, 2005, 2014, 2017), dissemination of the

WHO Assessment Instrument for Mental Health Systems (WHO-AIMS), and the launching of the Mental Health Gap Action Programme (mhGAP), and the Movement for Global Mental Health in 2008 (see WHO, 2010).

Since the dissemination of its *Mental Health Atlas*, WHO has continued to refine its data collection instrument on national mental health systems, and this is now known as the Assessment Instrument for Mental Health Systems (WHO-AIMS 2.2). It covers the six domains included in the *Atlas* – policy and legislative framework; mental health services; mental health in primary care; human resources; education of the public at large; and monitoring and research – and is designed to facilitate cross-country comparisons. As much as this initiative represents an important advance in the study of national mental health systems, critiques in the literature have emphasized several limitations, most notably the neglect of the politics of mental health policy development, underestimation of the role of culture in mental health care utilization, and questionable measurement validity (Hamid et al., 2008).

The accumulating body of research on world mental health, both the epidemiological data from the World Mental Health Initiative, as well as the *Mental Health Atlas* and the WHO-AIMS instrument, have led to a decision by WHO, in October of 2008, to launch an advocacy initiative, known as the Mental Health Gap Action Programme (mhGAP). This effort, based on the idea that "There is no health without mental health", aims to recruit international donors to help scale up services for mental, neurological, and substance use disorders, particularly in countries with low and middle incomes (WHO, 2018). The program emphasizes that with proper care, psychosocial assistance, and medication, many millions could be treated for depression, schizophrenia, and epilepsy, prevented from suicide, and led to lead normal lives, even with minimal resources.

The global expansion of the community mental health movement, supported by the various initiatives of WHO and other international organizations, has paralleled other critical trends in mental health. A critical part of community mental health has been the recovery movement, involving widespread advocacy on the part of mental health consumers aimed at introducing a more realistic acceptance of the possibilities of recovery and community integration into the approaches of mental health providers. This has included a rejection of the notion of the chronicity of mental illness and the associated marginalization of mental health patients and ex-patients, sometimes referred to as 'psychiatric survivors'. At the same time, the positive psychology movement has spread and come to complement more traditional approaches such as the cognitive, behavioral, and psychoanalytic psychology, as well as neuropsychology. Positive psychology specifically is concerned with enhancing high-end levels of psychological functioning, including creativity, problem solving, wisdom, and self-actualization. While work on improving services – whether inpatient or community oriented – for the most severely mentally ill, suffering from conditions such as schizophrenia and bipolar disorder, continue to be of critical importance, increasing efforts are being made to develop such services within the context of a balanced service system that includes needed services for those with lesser disabilities. A key value informing these efforts has involved the normalization of services, involving community integration that minimizes stigmatization. All of these efforts

have increasingly sought to enhance the quality of life and subjective well-being, based on the recognition that mental health is a shared characteristic of communities and not only one of discrete individuals.

Impact of Globalization on Mental Health

Globalization has typically been hypothesized as having an upstream, or early and indirect effect on mental health, and as such, there is limited solid data on its specific impact. Most of the research results have stimulated somewhat speculative interpretation of components of this possible relationship to make the required connections. Based on research findings that globalization is associated with increased economic inequality, some researchers have sought to link inequality with declining mental health. Most notably, Pickett, James, and Wilkinson (2006) demonstrated a strong linear associated between income inequality and rates of mental illness. More recently, the author (Hudson & Doogan, 2019) demonstrated a moderately strong correlation between inequality and the prevalence of mental disability in the United States' three thousand counties using two stage least squares regression with instrumental variables. Nonetheless, this relationship is controversial (Bhavsar, 2008). While Subramanian and Kawachi (2004, p. 89) do report better health and lower mortality in egalitarian societies, Deaton and Lubotsky (2003, p. 1147) found no evidence to support such an association. It is believed that greater levels of relative inequality clearly aggravate the negative effects of absolute poverty, partly through more insidious personal comparisons that characterize more unequal societies.

A particularly pertinent line of research has investigated the impact of globalization on labor markets, often using micro economic data. For instance, Autor et al. (2013) explore the effect of growing Chinese import competition between 1990 and 2007 in the U.S. They report that rising imports led to higher unemployment, diminished labor force participation, and lower wages in affected local labor markets. McManus and Schaur (2016) explore how the extent of international trade affects occupational safety in US manufacturing companies. Using Chinese import growth in 1996–2007 as a shock of competition, they reported that import competition increased work place injuries, especially at small companies that are most affected by foreign imports.

In an earlier national study in the U.S. of disparate rates of homelessness throughout the nation's counties, Hudson (1998) estimated a structural equation model – an "interdependency model of homelessness" – that showed that both deindustrialization and servicetization had powerful impacts on such rates, mainly through their impact on unemployment and the decreasing reliance on labor which disproportionately has affected those with minimal levels of education.

Two well-known features of globalization – employment fluidity and migration – have been implicated in increasing rates of mental illness. Research in China by Li (2006, pp. 5–13) has documented identifiable effects of globalization on the

mental health of migrants, this was based on qualitative interviews with internal Chinese migrants in Beijing. Global migration has been associated with large migrant populations, ones that face pressures to adapt to the culture of their host community (Schwartz et al., 2010). The acculturation processes, particularly involving those in the first generation, are well known to be easily subverted and contributory to mental illness. Nonetheless, research on the impact of migration is inconclusive, failing to show definitive impacts on income inequality in the U.S (Putnam, 2020).

Several commentators have written about the potentially negative effects of the global mental health movement, especially in the global south (Fermando, 2014; Roberts, 2020; Sharma, 2016). The concern is that western medical models are being indiscriminately promoted in developing nations, and indigenous healing practices are being displaced. Part of this concern involves an over-reliance on psychopharmacology. WHO research has documented remarkable low rates of community mental health services and mental health practitioners in most developing nations (see WHO *Mental Health Atlas*, 2006–2017), and thus, there has been a concerted initiative to focus on the training and support of primary medical practitioners, typically through information and training on the use of psychotropics.

One of the few empirical studies that has specifically examined the impact of globalization on rates of mental illness in a multi-national study is that conducted by Maria Cervini and Vallacinencio (2019). Published as a working paper in *Economix*, this study examined the various correlations between both economic and social indices of globalization with rates of anxiety and depression, using data on mental disability from the Global Burden of Disease project, for 67 nations for the 1990–2016 period. They found that, on the aggregate country level, that the relationship depended on the particular dimension of globalization examined. Specifically, they reported that the results were driven by social globalization which was strongly and positively related to mental distress, but unexpectedly, this was not true for economic globalization. They also researched the differences between emerging and advanced countries, and found that higher globalization is associated with greater rates of mental problems in the advanced countries. This was not the case in developing nations. In these nations, higher economic globalization is correlated with lower anxiety and depression, suppressing the negative impact of social globalization. In the advanced countries, in turn, there is no effect of economic globalization; we only observe that higher social globalization is associated with greater mental problems. These results appear to be consistent with the 'elephant graph' interpretation proposed by Milanović (2016) that emphasized by negative impacts on economic inequality of the working classes in the developed world. This study, however, should be considered as far from definitive, given the lack of statistical controls, proper weighting for population, and in general, problems of potential endogeneity.

Human Rights in Mental Health

The recognition of human rights has historically been a fragile one, dependent on its endorsement by ruling powers, public consensus, and their enactment in national and international laws. Although historically many rights have been rooted in religious beliefs, the development of most rights has been a function of an evolving social consensus since the Enlightenment, essentially, a social contract among increasingly widening groups with recognized societal standing. Many of the earliest declarations of human rights, such as the Magna Carta [1215], The English Bill of Rights [1689], the French Declaration on the Rights of Man and Citizen [1789], and the U.S. Bill of Rights [1791] were necessarily framed in very general terms to enable their adoption. For instance, the U.S. Declaration of Independence [1776] that promulgated "the right to life, liberty, and the pursuit of happiness" has left considerable latitude for interpretation, yet has been a powerful source of derivative rights, such as that of privacy. Because human rights are seen as social obligations directed at individuals, resistance to their adoption has been considerable with many exceptions and qualifications advanced for any possible right.

Many proposed rights, such as those involving health and mental health, have frequently been rejected because such health issues are often seen as primarily individual responsibilities rather than social obligations. Nonetheless, the adoption of some rights, including those involving mental health, have been progressively but slowly realized in limited instances and jurisdictions. Some rights of mental patients, such as participation in decision making in matters of treatment, are much better established, but still debated (see Szumkler & Bach, 2015). Yet others, such as the right to treatment and the right to mental health itself (Trestman, 2018), remain poorly defined and thus have infrequently been enacted into law. The remainder of this chapter will explore the ongoing struggles in the development of mental health rights, particularly those for mental health services and mental health itself, beginning with the Universal Declaration of Human Rights (UDHR) (United Nations, 1948), in the context of the global mental health movement alongside the broader globalization developments.

The contemporary history of mental health as a human right begins with the UDHR, enacted by 56 member states of the United Nations on Dec. 10, 1948. The atrocities of two world wars and the subsequent rebuilding created an urgency for the establishment and protection of fundamental rights that transcend national boundaries. This document, sometimes referred to as the international Magna Carta, established that how a government treats its citizens is a matter of international concern, and not simply a domestic issue. It declares that, "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." (Article 1). The declaration enumerates 30 rights, falling into five categories: Economic, social, cultural, civil, and political. Under its Article 25, the UDHR establishes that:

> Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary

social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control (Article 25).

Although the field of mental health has enjoyed little visibility during the immediate post-war period, the recognition of the right for health care and social services has provided the foundation of the subsequent recognition of mental health rights. References to and further elaboration of health and mental health rights have been included in a range of treaties and other documents since the passage of the UDHR. As the United Nations and its constituent organizations, such as the World Health Organization (WHO), have developed these rights, an increasing number of nations have subsequently adopted some version of them. These include conventions aimed at preventing and prohibiting abuses like torture and genocide and the protection of vulnerable populations, such as refugees (Convention Relating to the Status of Refugees, 1951), women (Convention on the Elimination of All Forms of Discrimination against Women, 1979), and children (Convention on the Rights of the Child, 1989).

Of particular importance are two treaties designed for the goal of enforcing the UDHR. These treaties were signed initially in 1966 by 74 signatories, and effective as of 1976, and by 2021, 170 nations had adopted them. One of these is the International Covenant on Civil and Political Rights (ICCPR) which focuses on the right to life, freedom of speech, religion, and voting. The other one, more important for health and mental health, is the International Covenant on Economic, Social and Cultural Rights (ICESCR) that is concerned with rights to food, education, health, and shelter. A common theme of both treaties is the prohibition of discrimination. Part 3, Article 12, of the ICESCR establishes the right of everyone to the "enjoyment of the highest attainable standard of physical and mental health". It goes on to enumerate several steps required for achieving the full realization of this right shall that include:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
(b) The improvement of all aspects of environmental and industrial hygiene;
(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

These are considered "illustrative, non-exhaustive examples", rather than a complete statement of the parties' obligations. The right to health is regarded an inclusive right that applies not only to timely and appropriate health care, but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions.

Beginning in the 1990s, the right to health care was further defined and extended, sometimes to include mental health. The Convention on the Rights of the Child (1990) states that the parties to the convention recognize the right of the child to the highest attainable standard of health. In the following year, the U.N. General

Assembly adopted *The Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care (MI Principles)* which made explicit the rights of persons with mental illness in 1991. And shortly thereafter, the General Assembly also adopted *Standard Rules on the Equalization of Opportunities for Persons with Disabilities*.

In 2000, the Committee on Economic, Social and Cultural Rights, which oversees the ICESCR, published *General Comment 14*, a document that provides a detailed interpretation of the ICESCR. It explains that "[t]he right to health is not to be understood as a right to be *healthy*" and that [t]he right to health contains both freedoms and entitlements." The entitlements include the right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health. It mentions mental health several times, for instance, it states that member states recognize "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

Comment 14 was followed up with the Convention on the Rights of Persons with Disabilities (CRPD) in 2006. This convention affirmed the right to the highest attainable standard of health, including access to habilitation and rehabilitation services and inclusion in the community for persons with both physical and mental disabilities. Given the continuing Conventions and their varying interpretations, it was not unexpected that in 2013, the World Health Organization would include mental health as a global health priority in its comprehensive mental health action plan.

Since the early 1980s, several regional organizations have included health and mental health rights in their founding documents, all of which serve to extend the Universal Declaration of Human Rights. For instance, in 1981, the African Charter on Human and People's Rights declared that, "every individual shall have the right to enjoy the best attainable state of physical and mental health." Similarly, Muslim states created their own Charter of Human and People's Rights (1981). Other regional organizations in Europe, the Americas, and Asia have also incorporated the right to health and mental health into key documents.

It is clear that a range of declarations, treaties, conventions, and statements of principals have advanced the right to health care, and mental health care in international law, progress with individual nations has also been continuing. A 2013 study (Heymann et al., 2013) found that only a minority of U.N. member states guarantee the rights to public health (14%), medical care (38%) and overall health (36%) in their constitutions in 2011. Furthermore, free medical care was constitutionally protected in only 9% of the countries examined. Thirteen percent (13%) of nations' constitutions guaranteed children's right to health or medical care, 6% did so for persons with disabilities, and 5% for the elderly and the same for the socio-economically disadvantaged. Examples of nations that have established a right to health include Brazil and South Africa (Gable & Gostin, 2009).

Considerably less information is available on the extent that the world's nations specifically guarantee mental health care, often included as part of a nation's health care provisions. WHO reports, through its *Mental Health Atlas* (2017) that 43% of countries do not have any mental health legislation. Legislation, itself, provides no

guarantees of such care. One of the few countries that has recently come to explicitly include guarantees of mental health care in its constitution is India (Kelly et al., 2020). India commenced what is effectively the world's largest experiment in rights-based health care with its Mental Healthcare Act of 2017, which took effect on May 29, 2018, granting a legally binding right to mental health care to the nation's population of over 1.3 billion people (Nagaraja & Math, 2008). Specifically, the legislation declares that, "every person shall have a right to access mental health care and treatment from mental health services run or funded by the appropriate Government." The legislation aims to eliminate all discrimination of any description in the implementation of this right.

In contrast, there are 86 countries whose constitutions do not guarantee its citizens health protection, of which the United States is a noted example (UCLA, 2013). Although both health and mental health care in the United States is provided to the majority of its population through its multi-payer system of healthcare, both types of care remain largely and legally discretionary and subject to resource availability, with few exceptions. Rather than being understood as universal rights, health and mental health care are instead regarded in the United States as entitlements, dependent on a variety of conditions such as citizenship, age, poverty status, and contributions to public or private insurance plans. The nation's Patient Protection and Affordable Care Act, enacted by the Obama Administration in 2012, provides care for 89.1% of its population as of 2019 through its efforts to orchestrate a variety of public a private insurance plans using its multi-payer strategy (Tolbert et al., 2020). Exceptions to the largely discretionary provisions under this plan, include those who are involuntarily psychiatrically committed and incarcerated for whom health and mental health care is treated as a constitutional right rather than a discretionary benefit or qualified entitlement. The right of committed mental patients to treatment was established in the 1970s on the basis of the idea that it was unconstitutional to restrict mental patient's liberties unless an appropriate quid-pro-quo involving needed services is offered when a person's liberties are restricted (Wyatt vs. Stickney, 1973, Ala.). In recent years, a range of legal cases have attempted, with limited success, to extend such a right. One which has achieved limited success is the Olmstead Act (1999) which seeks to guarantee mental health care in the community for voluntary patients on the basis of the Americans with Disabilities Act of 1990.

Discussion

Success in establishing mental health as a right has been slow and still incomplete, lagging substantially behind general health care. Mental health has been described by Paul Hunt, the former United Nationals Special Rapporteur on the Right to Health, as "among the most grossly neglected elements of the right to health" (Gable & Gostin, 2009). Reasons for this are many and these include common myths about

mental illness, economic and political considerations, and insufficient development of treatments and other interventions for mental illness.

Most myths regarding mental health revolve around the stigma of mental disorders. One account cites the myth of incompetency, involving the false assumption that persons with mental disabilities cannot competently make decisions or grant consent. A common myth is that of the dangerousness of mentally ill persons, notwithstanding data indicating that the vast majority of persons so afflicted are no more dangerous than the general population. Many view mental illness through a moral lens, believing that persons become mentally ill due to unwise and immoral personal choices. Resistance to providing care for the mentally ill, or at least substantially limiting it more so than medical care, has arisen out of the view that mental illness is often hopeless and represents an unfillable blackhole in respect to an insatiable demand for services. And finally, both the pain invoked in people who witness others suffering from mental disabilities is sometimes accompanied with the attitude, 'out of sight, out of mind', involving the community exclusion of mentally ill and the isolation of many mentally ill patients in mental hospitals and more recently, in nursing homes and jails.

Such myths serve to undermine the development of a shared understanding of social responsibilities for the mentally ill, and thus a recognition of the rights of the mentally ill. There are a variety of rights which have come to be accepted by many providers, but these are highly qualified by the condition of any individual in question. In institutions, these include discrete rights, such as the right to make calls, to have visitors, to be treated with respect and dignity, for explanations of care provided, the right to uncensored private communication, informed consent, and privacy. In nations with mental health codes, patients often have the right to consent to and refuse treatment unless strict criteria are present, such as dangerousness to self or others, a substantial mental disorder, and the availability of a no less restrictive alternative in the community. Depending on the nation, they may have the right to due process and judicial review if any such right is declined. Unfortunately, too often such review is in name only, given negative presumptions regarding the decision-making capabilities of most individuals proposed for psychiatric commitment.

Thus, the right to refuse mental health care remains a critical issue, one side of the coin of mental health rights, the other side of the coin being the right to mental health care, and even mental health itself (see Szmukler, 2019). Traditionally, the right to mental health care has been viewed as contingent on the professional judgment of providers regarding the need and availability of treatments, as well as the prognosis and willingness of the potential patient to be engaged, and invest the requisite time and resources into the treatment process, whether inpatient or outpatient. Such conditions have generally obscured any considerations of a right to mental health care.

Among calls for mental health rights, there is a hierarchy among these rights, based on how they are understood and defined. At the most basic level are those discrete rights of mental patients mentioned above, such as the right to be treated with respect and dignity, privacy, to consult with an attorney, and the like. These

tend to be based on local statutes, and are variously interpreted by caretaking professionals. In some countries they are also defined by case law, and professional practices.

In some cases, such as in many western European nations and India, the right to mental health care has been established, at least officially. This can, of course mean many things, but on the whole, it refers to a basic standard of care involving permissible selections from a menu or basket of services, that the professionals involved can decide to offer and is subject to appeal if refused. A critical issue is cost reimbursement; unless there is some guarantee of reimbursement when the patient cannot afford the services, any such declared right remains an empty one.

Mental health rights may also include the idea that people have a right to the requisite conditions for mental health. One author suggests that "it could mean a right to conditions that protect health in the population" such as civil and political rights and access to population-based personal health care services (Kinney, 2001). Another commentator, critical of any absolute right to mental health, argues that mental health rights include rights of access to a range of "protective environmental services, prevention and health promotion and therapeutic services as well as related actions in sanitation, environmental engineering, housing and social welfare." (Leary, 1994). Such views emphasize the interdependency of the range of human rights and services. The recent motto of the WHO mental health program, "No health without mental health" (2018), echos this perspective.

A closely related conceptualization of the right to mental health involves the notion that people have a right to the 'highest attainable standard" of mental health. This approach was first introduced in the preamble to Constitution of the World Health Organization in 1946, and subsequently reaffirmed by the ICESCR in 1966 which declared "the right of everyone to the … highest attainable standard of physical and mental health." This was followed by Comment 14, in 2020, which explained that the entitlement to mental health "includes the right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health." Whether this standard, as well as that involving the conditions of mental health, is stronger or weaker than the right to mental health care is debatable, especially given its lack of definition. On one hand, it is more encompassing and aspirational as it includes mental health care, as well as many related social conditions requisite for well-being, but on the other hand, it is undefined, and thus, hardly enforceable. While the right to mental health clearly requires not only the right to services when need is demonstrated, but also a range of other conditions – income, food, housing, medical care, sanitation, social justice – the challenges of enforcing the guarantee of such conditions remains daunting.

The right to mental health itself, thus, is yet to be fully defined and realized. This right was first introduced in 1978 when the Hague Academy of International Law and the United Nations University organized a multi-disciplinary workshop on The Right to Health as a Human Right with participants from the fields of law, medicine, economics and international organizations. It established the phrase "right to health" within the context of international human rights and drew attention to sources of the right. This phrase is, at a minimum, regarded as a shorthand expression used to

emphasize the link of health status to issues of dignity, non-discrimination, justice, and participation. The expression has had its critics who complain that it is obviously absurd "to presume that government or international organizations or individuals must guarantee a person's good health" (Leary, 1994). Likewise, the ICESCR states that "[t]he right to health is not to be understood as a right to be *healthy.*" For this reason, this interpretation is generally not used in respect to either the right to health or mental health. Rather, most commentators regard the right to health and mental health as established short-hand terms for some combination of the right to mental health services, and the social conditions required for achieving the highest attainable standard of mental health.

Continued development of a social consensus around the right to mental health arguably requires further clarification of its meaning. As long as it remains nebulous, especially if it includes a hint of absurdity, there are unlimited opportunities for naysayers. If it does not literally refer to a guarantee of mental health, then by this 'shorthand expression' do we mean the guarantee of some minimum level of services? A level of services, along with an array of social protections for guarding against the well-known threats to mental health such as lack of income, housing, food, and social justice? Framing mental health in terms of individual rights is clearly needed. It has been pointed out by Ronald Dworkin (1977) that rights essentially trump the language of social goals, and as such, they immediately take priority over various discretionary social goals, that is "a special importance, status, priority, is implied in categorizing something as a right." In fact, at the same time that the language of mental health rights has been advanced, the promotion of mental health and well-being as also achieved a new status. Mental health is increasingly referred to as a type of "mental capital", placing it on par with social and economic capital. Furthermore, it has been included as one the goals under "ensuring healthy lives and promotion of well-being for all at all ages' in the UN's Sustainable Development Goals (SDGs) (WHO, 2020). Despite the inclusion of mental health in the SDGs, the single indicator that they use for evaluating a country's progress is the suicide mortality rate.

Partly because of their ambiguities, resistance to the rights of the mentally ill is substantial. This are rooted, in large part, in discrimination and stigma, in those myths cited earlier, particularly the notion that the mentally ill are especially dangerous, that it is a moral rather than a public health issues, and that service demand is regarded as a blackhole requiring special restrictions moreso than those that ordinary medical care is subject to. Resistance to mental health service provision, especially that involving community services, is also subject to considerable resource competition, especially with groups more favorably viewed, such as children, older adults, the medically ill.

For these reasons there is a continuing need for advocacy for such rights, especially for mental health care. This is much more easily defined as an understandable and achievable right, more so than any guarantee of mental health. It includes both services and supports, not only for the seriously mentally ill with persistent conditions, but also those with acute conditions. Care is inclusive of both services and a variety of other supports, such as housing and food. Furthermore, determining a

required minimum standard of service provision, a menu or basket of services that must be available when needed, is not only feasible, but often done. With considerable work having been accomplished in identifying best practices, and especially empirically-based services, there is a recognized knowledge base available for this task, though considerable work is still required in this respect.

Conclusion

Both the idealization and the questioning of the notion of social progress has inevitably contributed to a diversity of approaches as to how social development can best be facilitated. These have ranged from highly centralized top-down approaches to neo-liberal laissez-faire strategies of deregulation. The latter, which has come to be widely promoted since the demise of communism, along with continued technological innovation, has driven globalization, the most recent rendition of social progress and modernization. Globalization, as a loosely interconnected set of economic, social, and cultural trends, has had a diversity of positive and negative impacts, most notably the widening of economic inequalities, involving both the lifting of many out of extreme poverty in the developing world, and economic and social stagnation among the working classes of developed nations. Although the full impact of such changes is yet to be fully documented in respect to patterns of global mental health, preliminary indicators suggest that the mixed economic effects of globalization have had equally mixed effects on the mental health of the various populations involved, ones that represent its winners and losers. Very importantly, the growing international interdependencies and the social dimensions of globalization are contributing to psychiatric deinstitutionalization and the growth of community mental health on a worldwide basis, with some evidence of displacement of indigenous support systems and healing practices in the developing world. All of these changes, as well as the overall development of human rights law, have set the stage for and enabled the continued implementation of the right to mental health, one which is most practically understood as the right to mental health care, including the requisite social and health conditions, and the attainment of the highest possible standard of mental health.

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Chapter 10
The Importance of Rights-Based Intervention: Clinical Sociology

Jan Marie Fritz

Introduction

When one is a consultant to organizations, it becomes increasingly clear that it is important for both the consultant and the client to be very clear about the principles involved in a proposed intervention and to have this discussion as soon as possible. For instance, when the client or consultant thinks the proposed work involves community involvement in all phases of the work, it is important to know this at the start of the work. If one is talking about developing a peace agreement, all parties need to understand if they are talking about peace (quiet, calm, without violence) or a peace that is considered to be a just peace (a calm and violence-free period that is inclusive and fair). One of the easier ways to make some basic principles very clear is to incorporate important points in the definition of the field. This chapter examines the idea of rights-based intervention; discusses why rights are included in the definition of the field of clinical sociology as well as in explanations of the work being undertaken; and provides examples of rights-based interventions by clinical sociologists.

Rights-Based Intervention

Rights-based intervention is based on human rights standards (often international ones) and aims to both promote and protect all people so that they can live with dignity, freedom, equality, justice and peace. These human rights standards or principles affect the design, implementation, monitoring and assessment of policies and

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practices. Many fields – such as business, social work, psychology, development, public policy and health care – have an interest in or focus on intervention (for assessment, service delivery and possible changes).[1] Generally the "official" definitions of these fields do not describe their interventions as rights-based, but the idea of rights-based intervention has been discussed and/or incorporated in the work in many of the fields for a number of years.[2]

Human rights became a global topic after the United Nations adopted the Universal Declaration of Human Rights (UDHR) in 1948. The UDHR, the International Covenant on Civil and Political Rights (1966) and its two Optional Protocols along with the International Covenant on Economic, Social and Cultural Rights (1966) form the International Bill of Rights.[3] In 1993 the UN held the World Conference on Human Rights and applying human rights principles "became a cornerstone of UN reform efforts" in 1997 (United Nations Population Fund, 2014). In 2003, organizations and agencies took part in the World Conference on Human Rights. The conference fostered a common understanding of a rights-based approach and resulted in a document, the Vienna Declaration and Programme of Action (UN Human Rights Office of the High Commissioner, 1993). Some international development organizations and agencies, beginning in the early to mid-1990s, moved rather quickly to emphasize a human rights approach.[4] However, according to the United Nations Population Fund (2014):

> Before 1997, most UN development agencies pursued a 'basic needs' approach: They identified basic requirements of beneficiaries and either supported initiatives to improve service delivery or advocated for their fulfillment. UNFPA and its partners now work to fulfill the rights of people, rather than the needs of beneficiaries. It's an important distinction, because an unfulfilled need leads to dissatisfaction, while a right that is not respected leads to a violation. Redress or reparation can be legally and legitimately claimed. A human rights-based approach also seeks to reinforce the capacities of duty bearers (usually governments) to respect, protect and guarantee these rights.

The United Nations Population Fund (2014) has identified the following good practices as basic to a human rights-based approach in relation to development:

– Programmes identify the realization of human rights as ultimate goals of development.
– People are recognized as key actors in their own development, rather than passive recipients of commodities and services.
– Participation is both a means and a goal.
– Strategies are empowering not disempowering.
– Both outcomes and processes are monitored and evaluated.

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[1] See, for instance, Esquivel, 2017; Koehler, 2017; Allison-Hope & Hodge, 2018; Patel, 2019; Burkholder et al., 2019; McPherson, 2020 and Cosgrove et al., 2021.

[2] See, for instance, Goldhagen et al., 2020.

[3] The two covenants entered into force in 1977.

[4] Miller and Redhead (2019) Rights-based approaches' first emerged within the development sector, before transcending to wider areas.

– Progammes focus on marginalized and excluded groups.
– The development process is locally owned.
– Programmes aim to reduce disparities and empower those left behind.
– Situation analysis is used to identify immediate, underlying and root causes of development problems.
– Analysis includes all stakeholders, including the capacities of the state as the main

There is still little consensus over exactly when the precise concept of 'rights-based approaches' emerged, however, it is easy to trace various international development agencies' explicit talk of an integration of rights within development practice in the post-Cold war period of the early 1990s, with momentum building around the 1995 Copenhagen Summit on Social Development. According to Miller and Redhead (2019) Rights-based approaches first emerged within the development sector, before transcending to wider areas. There is still little consensus over exactly when the precise concept of 'rights-based approaches' emerged, however, it is easy to trace various international development agencies' explicit talk of an integration of rights within development practice in the post-Cold war period of the early 1990s (with momentum building around the 1995 Copenhagen Summit on Social Development).

Social work is one of the fields that also has shown interest in a human-rights approach to its work. There is, for instance, a book series that focuses on rights-based approaches to social work.[5] Shirley Gatenio (2015, p. vii), the editor of that series and the co-editor of the *Journal of Human Rights and Social Work*, has written:

> Rights-based social work shifts the focus from human needs to human rights and calls on social workers and the populations they work with to actively participate in decision making processes of the state so that the state can better serve the interests of the population.

While calling for a rights-based approach to social work, Gabel (2015, p. viii) notes that "social work overly relies on charity and needs based approaches. These approaches are built on the deficit model of practice in which professionals or individuals with greater means diagnose what is 'needed' in a situation and the 'treatment' or services required to yield the desired outcome…" Gabel (2015, p. ix) has emphasized that a rights-based approach equally values process and outcomes:

> In rights-based work, goals are temporary markers that are adjusted as people perpetually reevaluate and understand rights in new ways calling for new approaches to social issues…. Rights-based approaches are anchored in a normative framework that are based in a set of internationally agreed upon legal covenants and conventions, which in and of themselves can provide a different and potentially more powerful approach.

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[5] Two books were published in the SpringerBriefs series in 2015 and another three in 2016. One is expected to be published soon "that unpacks international field experience with a rights-based approach (Gabel, 2021a).

Gabel (2015, p. xi) has provided a very useful table that summarizes the similarities and differences between charity, needs and rights-based approaches in social work in terms of aspects such as goals, process, target population, accountability and emphasis. Gabel noted the similarities between the rights-based and strengths approach in social work (which focuses on strengths, abilities and potential rather than problems, deficits, and pathologies). Gabel (2015, p. xv) also emphasized:

> the strengths-based perspective falls short of empowering individuals to claim their rights within a universal, normative framework that goes beyond social work to cut across every professional discipline and applies to all human beings. Rights-based approaches tie social work practice into a global strategy that asserts universal entitlements and the accountability of governments and other actors who bear responsibility for furthering the realization of human rights.

Gabel (2015, p. xiv) has written that "bonding" the practice of social work to international human rights documents will make social workers look beyond their own governments' responses to social issues. This will help social workers move from often being "agents of the state" to being change agents. She also noted (2015, p. xv; 2021b) that "rights-based approaches in social work have gained international acceptance in the past two decades more so outside of the United States than within"[6] though "US scholars have gone into greater depth regarding how to apply a rights-based approach." Gabel (2015, p. xv) thought less acceptance of rights-based approaches in the US was related to a number of factors including that many in the US reject the application of international standards for human rights in the United States, the "limited engagement" of social workers in the area of human rights and "the perception that human rights activism is best led and achieved by lawyers or elite policy advocates."

Clinical Sociology and Rights-Based Intervention

Clinical sociology is one of the fields that has discussed rights-based intervention. Clinical sociology is defined as a creative, humanistic, **rights-based** and interdisciplinary specialization that seeks to improve life situations for individuals and groups in a wide variety of settings (Fritz, 2021a, b; Uys & Fritz, 2020). Clinical sociologists, working individually or part of a team, assist clients/client systems or initiate their own projects. They assess situations and avoid, reduce, or eliminate problems through a combination of analysis and intervention. *Clinical analysis* is the critical assessment of beliefs, policies, or practices, with an interest in improving a situation. *Intervention* is based on continuing analysis; it is the creation of new systems as well as the change of existing systems and can include a focus on prevention or

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[6] Gabel (2021b) notes that "All accredited schools of social work in the US must teach human rights however, in a survey we conducted a few years ago, we learned the depth and application of rights-based approaches to practice vary widely across schools. It is a work in progress."

promotion (e.g., preventing environmental racism or promoting community sustainability).

Clinical sociologists have many different areas of expertise, such as health promotion, counseling, organizational development, evaluation research, social conflict reduction, or cultural competence, and they work in many capacities. They are, for instance, university professors (full-time or part-time) who also may be consultants or advisers; community organizers; sociotherapists; mediators; social entrepreneurs; focus group facilitators; activists; social policy implementers; elected officials; action researchers; managers; and organizational analysts. Clinical sociologists, then, work at any of the intervention levels – individual, small group, organization, community, national and global. The clinical sociologists who have an organizational focus may be interested in assisting organizations in the public sector (government and nonprofit organizations) or for-profit enterprises that are publicly or privately owned.

Rights-based intervention refers to the creation of new systems as well as the change of existing systems (including a focus on prevention or promotion) while taking into account everyone's human rights. The rights often are those defined by national as well as international documents such as the United Nation's Universal Declaration of Human Rights. A rights-based approach means that an intervention will "promote and maintain a minimum standard of well-being to which all people… would ideally possess a right" (Johnson & Forsyth, 2002). Interventions, then, should "protect and promote," or at least not undermine, "the interests of [those who are] poor and vulnerable" (Johnson & Forsyth, 2002).

Since at least 2012 (Fritz, 2012, p. 394), the U.S. definition of clinical sociology has explicitly included the idea that intervention is rights-based. Prior to that time it was thought that using the term "humanism" in the definition was sufficient as that term included human rights work. As Alfred McClung Lee noted in 1979, a clinical sociologist could not work for just any client, as the specialization has to serve humane goals. Over time it became clear, as the United Nations Population Fund (2014) has noted, that by explicitly connecting the work of clinical sociologists to human rights documents "a right that is not respected leads to a violation (and then) redress or reparation can be legally and legitimately claimed." For this reason, the term "rights-based" was added to the definition. By having "humanist" and "rights-based" as part of the definition, it also was very clear that interventions that were not humanist and rights-based (e.g., the work of some sociologists in developing and supporting the apartheid system in South Africa)[7] could not be considered to be clinical sociology.

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[7] Clinical sociologists are very aware of the problems that can be connected to intervention that is not rights-based. For instance, there could be a consultant who assists a government by advising leaders but does not take the rights of all citizens into account or who assists business owners by finding ways to illegally control workers. An example of intervention that is not rights-based was the work of some South African sociologists in developing and supporting the apartheid system in South Africa. For a discussion of this problem, see the publication by Tina Uys (2021, pp. 112–116).

Examples of Rights-Based Interventions

Clinical sociology, like the field of social work, focuses on intervention at different levels. Gabel (2015, p. xv), discussing the field of social work, noted the following about rights-based approaches at different levels of intervention:

Individual Level

Individuals seeking assistance are not judged to be worthy or unworthy of assistance but rather are viewed as rights holders… Interventions offered are not patronizing or stigmatizing, rather methods provide assistance based on the dignity of and respect for all individuals.

Group/Organization/Community Levels

Efforts are redirected away from proving that they deserve or need a resource toward learning about how they can claim their entitlements to resources. Practitioners facilitate human rights education among group members including knowledge of human rights instruments, principles, and methods for accessing rights.

National Level

Clinical sociologists agree with the points mentioned in this framework, but also would include an international or global level. As noted above, intervention work at all levels would involve letting people, organizations and communities know their rights; having all those involved be able to provide information and opinions; and encouraging the practitioners to influence individual/small group/organization/community/national and international policies and practices. Interventions by clinical sociologists are expected to take rights into account. Some of the interventions are explicitly tied to rights frameworks while other work is done without making explicit connections to specific human rights documents. Two examples of explicit rights-based interventions involving clinical sociologists are provided here.

Cities for CEDAW[8]

On December 18, 1979, the United Nations (U.N.) General Assembly adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and, after being ratified by 20 UN Member States, it entered into force as an international treaty on September 3, 1981. CEDAW, often described as the international bill of rights for women, gives direction to UN Member States that have ratified the treaty. The treaty (UN. CEDAW, 1979) covers a wide range of topics. The thirty articles focus on areas such as educational opportunities; sex trafficking; women's rights in political and public life; access to health care; rural women; women's economic and social rights; and equality in marriage and family life. Some topics are not mentioned (e.g., abortion) or are only mentioned in the preamble (e.g., poverty). The expectation is that the specifics in CEDAW should be incorporated into national law in order to fully realize women's rights.

CEDAW was adopted 130 to 0, with 10 abstentions. Of the 193 UN Member States, more than 50 of the countries that ratified the treaty did so specifying certain reservations and objections. This makes CEDAW one of the most (and possibly the most) heavily reserved human rights treaties (Al Shraideh, 2017, p. 18). Only a handful of countries (Iran, Somalia, Sudan, Tonga, Palau and the United States) have not ratified the treaty. U.S. President Jimmy Carter signed the treaty in 1980, but the U.S. Senate never ratified it. The U.S. is the only economically developed country not to have ratified the treaty.

In the United States, there has been a campaign, since 2013, that hoped to have 100 cities declare themselves as CEDAW cities by the end of 2015. This initiative received the support of the United States Conference of Mayors in 2014. This kind of effort raises awareness about CEDAW, provides a framework for community action[9] and calls attention to the fact that the United States is one of a very small number of nations that has not ratified the treaty. Disappointed and/or angry that the US Senate has not ratified CEDAW, advocates hope the Cities for CEDAW initiative will help lead to U.S. ratification.

While the national campaign is to get governments "to effectively implement CEDAW within their city, county and/or state to address barriers to full equality for women and girls" (Och et al., 2018, p. 6), the cities' efforts can look quite different. They could, for instance, focus on what is going on in city administration and/or the broader community; they can discuss and prioritize different topics; they may have – or not – a women's department/commission as part of the city government; they may have a lot of government support or just enough to put this initiative in

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[8] This section is based on "Communities for CEDAW: Initiating Change on the Local Level." (Fritz, forthcoming).

[9] Some actions are taken within the community and others within city administration. For instance, Eric Garcetti, the mayor of Los Angeles, California, "issued a directive for each city department or office to have a Gender Equity Liaison, established a Gender Equity Coalition and required each head of a city department/office to submit a Gender Equity Action Plan for the central inclusion of women and girls as part of the city's CEDAW initiative" (Fritz, 2018).

place; they may have varying degrees of grassroots support for this effort; they may – or may not – want CEDAW or the U.N. to be mentioned; and the local governments may see this as a continuing effort or one that would last for a rather short period (e.g., 1 or 2 years).

In 2015, a CEDAW effort was initiated by a clinical sociologist in Cincinnati, Ohio, a city of approximately 300,000 in a tri-state area (Ohio, Kentucky, Indiana) in a northern and central part of the United States. This initiative began as a university class project and the initial effort moved quickly. A Cincinnati for CEDAW community coalition was formed (including non-governmental organization representatives, faculty members and students) and members of the Coalition met with city council representatives and a representative from the mayor's office. Within a few months (by the e There is still little consensus over exactly when the precise concept of 'rights-based approaches' emerged, however, it is easy to trace various international development agencies' explicit talk of an integration of rights within development practice in the post-Cold war period of the early 1990s, with momentum building around the 1995 Copenhagen Summit on Social Development.nd of a semester), a city council resolution was put in place, but it took a very long time (2 years) before the Cincinnati City Council issued two short ordinances – one that created a Mayor's Gender Equality Task Force and the other requested a gender analysis of the city's government operations. The first research (quantitative) from the gender analysis was presented about 1 year after the research study began and some changes started to be made in the city's departments. The Mayor's Gender Equality Task Force's extended term ends in 2021 and the final gender analysis (with quantitative and qualitative information) has been completed.

Some initial changes already have been made by city offices since the initiative was introduced and these include: programs about domestic violence from Women Helping Women have been instituted for city departments; two high-level appointments (one for the first time) have been filled by women who were promoted in the Police Department; employees are now aware that a city employee who has a complaint and feels uncomfortable discussing the issue with the supervisor can go directly to a human resources representative rather than the employee's supervisor; women's equipment needs are being met and a peer-to-peer program has been established in the Fire Department; and appointments to city boards and commissions are now only considered after a written submission that provides information about the appointment in light of the current composition of the board or commission. Suggestions have been made to City Council regarding continuing plans for the initiative.

This effort may not only affect the situation in one city. A review of this effort and efforts in other communities has resulted in a list of advisory points that can be used by communities that want to put a similar effort in place (Fritz, 2021a, b). These include selecting an excellent name for the initiative; developing leadership skills; identifying community partners for a coalition; discussing girls as well as women; looking for and encouraging political will; developing right-sized and appropriate drafts of documents for consideration; providing adequate financing; putting an advisory committee/task force in place; conducting a gender analysis;

setting short-term and long-term goals; looking for opportunities to use the different levels of intervention to support the initiative; establishing an up-to-date website; emphasizing outcomes and emphasizing a human rights basis for the effort. Cities for CEDAW is all about gender equality in a human rights context. The expectation is that basic human rights documents – such as CEDAW and the Universal Declaration of Human Rights – will be strongly connected to the work in a local community)[10] Working effectively on a local community level can be done after national or international policies have been put in place. It also can be the essential effort that improves the prospects for national and international policies to be established or implemented successfully. It is hoped that the Cities for CEDAW effort will result in the United States finally ratifying the CEDAW treaty.

Mediation

Mediation, as defined by a clinical sociologist, is a "**rights-based**, humanistic and creative process in which one or more impartial individuals help parties (disputants), with their consent, discuss an issue or issues that concern one or more of them" (Fritz, 2014, p. 3). The mediation process is sometimes referred to as facilitated negotiation. Rights-based mediation takes into account everyone's human rights. A rights-based approach means that a mediation is concerned with achieving at least a minimum standard of well-being for parties, and those they represent, as a right of all people. Mediations should not undermine the interests of the vulnerable.

Mediation is used in a wide variety of circumstances to try to reduce or resolve conflicts or disputes; the areas include divorce, truancy, eviction, the environment, workplace, civil war, special education, business arrangements. Government administration, neighborhood problems, health billing issues and land ownership, The mediator (or mediation team) establishes an open, trusting setting in which parties are encouraged to discuss facts as well as their personal feelings about the issue or issues that brought them to the discussion. After all parties have been identified and included, mediation is usually conducted as a flexibly-structured process and can be free-flowing or more controlled. If the outcome of this process is an agreement, it would be shaped by the parties and satisfactory to them. Mediation can be an excellent method for resolving some kinds of disputes in part because it can be faster and less expensive than the alternatives. Most importantly, the parties create their own resolution to a dispute or conflict rather than have a decision imposed upon them.

The UN has made many statements about mediation and respecting human rights during mediations. On September 13, 2011, for instance, Nassir Abdulaziz Al-Nasser, the president of the 66th session of the United Nations (UN) General Assembly, gave his opening remarks to the UN Secretary-General and the General

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[10] In some U.S. communities it may be difficult for some policymakers to easily accept the connection to an international human rights document. It may be easier to connect the work, at least initially, to local or national human rights documents.

Assembly. He said there would be four main areas of focus that would frame the work of the General Assembly during this session and that the first focal area would be "the peaceful settlement of disputes." He indicated that in his view "the General Assembly should, through its revitalization, become more engaged and empowered on issues of mediation, so that it can fulfill its role as the world's preeminent peacemaker at this major juncture in international relations." And in 2012, the UN issued the *UN Guide to Effective Mediation*. It said, in part:

> Peace agreements should end violence and provide a platform to achieve sustainable peace, justice, security and reconciliation. To the extent possible in each situation, they should both address past wrongs and create a common vision for the future of the country, taking into account the differing implications for all segments of society. They should also respect international humanitarian, human rights and refugee laws…. (mediators) cannot endorse peace agreements that provide for amnesties for genocide, crimes against humanity, war crimes or gross violations of human rights (UN Guide to Effective Mediation, 2012).

Mediation is an interdisciplinary field with mediators coming from many disciplinary backgrounds including peace and conflict studies; counseling; law; environment; labor studies; and clinical sociology. It is useful to think about how the disciplinary background of a mediator or a mediation team may affect the design and approach to mediation. A number of those involved in some way in the mediation – e.g., parties; friends, relatives and employers of the parties; employer of the mediator; powerful individuals or groups that may be concerned about the mediation; and/or an organization that may be funding the mediation process – also may have different assumptions, values,[11] and principles.

The principles, attitudes, and tools needed by a mediator in conducting interventions may differ somewhat depending on the level of intervention (e.g., individual, organization, community, nation, international) and the kind of mediation. The basics for the mediator include: having an ethical framework; practicing inclusiveness[12]; working with the people's interests and opportunities; encouraging recognition of other viewpoints; demonstrating interdependence as a factor in the change process; encouraging capacity building; having relevant knowledge and knowing how to access more of it; including a long-term perspective; and discussing relevant documents (e.g., international or national standards regarding human rights).

Clinical sociologists are well-suited for the role of mediator. After receiving mediation training and undertaking supervised practice, clinical sociologists usually bring a lot of experience in working with the different levels of intervention (Fritz, 2021a, b). Mediators can expect to work at more than one level even though a mediation may appear to be mainly at one level (e.g., neighbors may be arguing

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[11] James Laue and Gerald Cormick discussed the approach of interveners in their 1978 chapter, "The Ethics of Intervention in Community Disputes." For Laue and Cormick, the basic values for a mediator were freedom, justice, and empowerment. It is worth discussing if the assumptions, values, and principles will be the same for mediators involved in different kinds of mediation.

[12] Some countries have legislation or official guidance that makes it difficult to talk with certain parties (e.g., people or organizations identified as terrorists). Mediators and mediating organizations need to know that it is not illegal for them to talk with all those who are involved.

about a dog continuously barking at night but the unresolved situation has now involved their families as well as concerned other people in the broader community). The clinical sociologist can move between the different levels (individual, family, community) to help parties analyze and possibly resolve a situation.

It might be useful to examine a rights-based approach in one kind of mediation. One of the mediation areas in which clinical sociologists work in the United States is special education (sometimes called special needs education).[13] There are times when parents of a student with special needs and the student's school may find themselves in a dispute about the student's educational program. There are a number of ways to address this situation (e.g., have a meeting of all those involved, take the issue to a higher level within the educational system, go to court, change schools) but, since the 1997 reauthorization of one particular law in the United States, the Individuals with Disabilities Education Act (IDEA), mediation is available in the US to a disputing party for any matter related to the identification, evaluation, educational placement or provision of a free and appropriate public education related to a child's disabilities.

I have worked as a special education mediator in two U.S. states for over 15 years. In my experience, cases are usually initiated by a parent or parents although some have been initiated by school systems or jointly initiated. Some cases involved as few as five persons, but a number had 15 or more people involved. Most cases included just the parties and their close associates (e.g., teachers, attorneys, family members and friends) but a number involved others (e.g., a hospital representative, therapists, someone from another school system that handles matters in a different way, and/or an expert on a topic of concern). A short mediation might last 6 h while others might take 2 days.[14] In many cases, somebody on one side may be initially resistant to settling the matter and/or sitting down at length to talk about the issues. Many cases reached an agreement but others went on to be decided in a court setting. One of the options for a clinical sociologist (and others) who are mediating cases (in this instance, special education cases) is to stress that this discussion is a rights-based mediation. The mediator might choose to distribute and/or discuss all or parts of one or more documents such as the US Americans with Disabilities Act, US Individuals with Disabilities Education Act, UN Convention on the Rights of the Child; UN Convention on the Rights of Persons with Disabilities and/or one or more of the many documents about rights that are available on the website of the Center for Appropriate Dispute Resolution (CADRE) (https://www.cadreworks.org/search/

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[13] Special education or special needs education is defined here as a "customized instructional program designed to meet the unique needs of an individual learner" (Gargiulo, 2006). This is a broad definition, including all children (e.g., those who are gifted or who have disadvantages because of gender, ethnicity, war trauma, or being orphans) who need some kind of additional support, although the focus usually is on students who have learning difficulties. Learning difficulties may be due, at least in part, to one or more problems/disorders (e.g., physical, psychiatric, emotional, behavioral) and might require an educational program with special materials, services, teaching approaches and/or equipment.

[14] Sometimes the second day is at some point in the future because the meeting date may depend on when requested test results become available.

rights). The website contains documents developed by different U.S. states about topics such as family rights, basic rights in special education, the right to filing a complaint, and the right to mediation.

The discussion about rights could be held with mediation participants at one or more points. It could be prior to the mediation, at the very beginning of the mediation or at any point during the mediation including the conclusion. A rights-based approach can help those involved in the mediation focus on the rights of all those involved and, if the mediation discussion seems to "be stuck" at some point, a discussion at that time of points raised in one of the documents can sometimes help participants refocus and move forward.

Conclusion

Rights-based intervention is based on human rights standards. Interventionists can introduce human-rights standards in many ways in their work. It might be, for instance, part of an ethics code\s or included in an organization's basic principles. Sometimes, however, this approach is not easily noticed by all those involved in the intervention process. One of the easier ways to help make sure all those involved in an intervention pay attention to human rights standards is to emphasize the point by explicitly incorporating the idea of rights-based work as part of the definition of the field as well as in any explanation of the work that is being done.

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Chapter 11
Discourses of Globalisation, Ideology, and Human Rights: Major Trends

Joseph Zajda (ID)

Discourses of Globalisation, Ideology, and Human Rights: Introduction

We are all citizens of one world; we are all of one blood. To hate a man because he was born in another country, because he speaks a different language, or because he takes a different view on this subject or that, is a great folly. Desist I implore you, for we are all equally human…Let us have but one end in view, the welfare of humanity. Comenius (1592–1670).

Comenius, also known as Komenský, was the bishop of a protestant Church, the Bohemian Brethren whose members had been were forced into exile when the Habsburgs imposed Catholicism on Bohemia. What was innovative at the time was his radical idea that all children, from both sexes and all social classes should be educated. According to Mount (2011), Comenius developed his philosophy, very similar to today's 'holism', where all knowledge combined could be used, to offer a new and visionary education of individuals for peace:

Comenius thought that he could put all the knowledge, philosophy, theology, geography and history, into one system of knowledge. And that system would then be the basis for the re-education of mankind towards peace and brotherhood (Mount, 2011, cited in Jan Amos Comenius: A Bohemian in Amsterdam, 2011).

These ideas, modern in terms of conceptualisation for the seventeenth century, indicated that at that time, there were active progressive thinkers, like Comenius, who believed in the universal peace and brotherhood. Some 300 years later, The *Universal Declaration of Human Rights* (UDHR) (1948) was launched, as an international policy document defining the rights and freedom of all human beings. This document can be regarded as the most significant policy document in the history of

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human rights. It defined, for the first time that fundamental human rights had to be recognized and universally protected. The UHHR was eventually translated in more than 500 languages and resulted in more than seventy human rights treaties, which continue to be used today in discourses of globalisation, democracy, human rights and social justice.

Defining Human Rights

There are numerous definitions and conceptions of human rights. However, there exists a global consensus that human rights refer to freedom, justice, and equality: the rights that are considered by most societies to belong automatically to everyone. Ozdowski (2021) stresses that human rights help us to recognise that every person has 'inherent dignity and value' and that in this sense human rights are global—they are the same for all people. This is what makes human rights truly 'universal' and global. Furthermore, human rights, from a cultural perspective, are international mores, and norms that help to protect all people everywhere from severe political, legal, and social abuses (Vissing & Williams, 2018). Human rights include the right to freedom, diversity, privacy, due process, and property rights. The right to freedom of religion, the right to a fair trial, and the right to engage in political activity are significant principles of a pluralist democracy. These rights exist in morality and in law at the national and international levels. The main sources of the contemporary conception of human rights are the Universal Declaration of Human Right (United Nations, 1948). The 1948 *United Nations Universal Declaration of Human Rights* defined the fundamental rights of people, including:

- The right to life
- Freedom of thought, opinion, and religion
- The right to a fair trial and equality before the law
- The right to work and education
- Freedom from torture and arbitrary arrest
- The right to participate in the social, political and cultural life of one's country.

Human rights education is essential to the full realization of human rights, social justice and fundamental freedoms and contributes significantly to promoting democracy, equality, respect for human dignity, preventing discrimination and enhancing participation in democratic processes (Vissing, 2021). It reflects societal and legal standards that need to be learned by each generation and transferred to the next, in order to preserve and maintain the principles of democracy, equality and freedom.

Social and Cultural Dimension of Human Rights Education

There is an ambivalent nexus between social stratification, inequality and human rights. The greater the social inequality, the less one finds human rights and social justice. The prospect of widening inequalities in education, due to market-oriented schooling, and substantial tolerance of inequalities and exclusion, are more than real (Milanovic, 2012, 2013). Access and equity continue to be enduring concerns in education. This was confirmed in the OECD (2009) study: 'Across OECD countries, over 40% with less than an upper secondary qualification are not even employed…Even those with higher levels of education are vulnerable if they become unemployed. Around half of the unemployed young adults aged 25-34 with lower and upper secondary attainments are long-term unemployed' (OECD, 2009, p. 13, see also UN Millenium Development Goals report, 2015; Human Rights Report, 2020; OECD, 2021a, 2021b).

The creation of a more equitable, respectful, inclusive, and just society for everyone is a dream for all concerned citizens on spaceship Earth, be they democratic policy makers, empowering and egalitarian pedagogues, and informed and active citizens, who believe in human rights education and the much needed policy reform. The United Nations declared 1995–2004 as the Decade of Human Rights Education. It stressed that the human rights education was a powerful tool to fight racism and discrimination in all spheres of education and in society. Social and cultural dimensions of human rights education include ideology, power, inequality, education, gender, ethnicity, race, religion, and social justice.

Major discourses of human rights education tend to remain at a policy rhetoric and humanistic pedagogy level. As such, they seemed to be uncritical of the existing status quo of legitimized social and economic inequality. We could ask the following: What social action is needed to move from proclaiming the rights and obligations of people in a given country, towards effective and empowering implementation of those rights and obligations? How can we best ensure that the rhetoric of human rights is matched by reality? We need to recognise that the ideology and the politics of human rights play a significant part in the discourse of human rights education (see Zajda & Ozdowski, 2017).

Children's Rights

Human rights education is particularly relevant to teaching children's rights. Ozdowski (2009) in *An absence of human rights: Children in Detention*, stated that 'The imprisonment of children under mandatory detention policy in Australia's detention camps was one of the worst, if not the worst, human rights violations in the Australia's post World War II history'. Children have the right to special protection because of their defencelessness against mistreatment (Vissing, 2019). The first United Nations statement devoted exclusively to the rights of children was the Declaration on the Rights

of the Child, adopted in 1959. This was a moral rather than a legally binding document. In 1989 the legally binding Convention on the Rights of the Child was adopted by the United Nations. In 54 articles the Convention incorporates the whole spectrum of human rights – civil, political, economic, social and cultural – and sets out the specific ways these should be ensured for children and young people.

- Around 11 million children die each year from largely preventable diseases caused by lack of clean water and inadequate health care. Through improved access to clean water, food and immunisation, the lives of many children are being saved.
- Around 101 million primary school age children worldwide are not enrolled in school. Most of these are girls. Millions more children are enrolled in schools now than at any time in history.
- Around one in six children aged from 5 to 14, 16% of this age group are working around the world.
- Close to 2 million children have been killed in armed conflicts in the past decade.
- Nearly all countries in the world have signed the Convention on the Rights of the Child (CRC), and committed themselves to promoting, protecting and fulfilling the rights of children (Zajda, 2010).

In addition, there is a great deal of empirical evidence on the occurrence of different types of human rights violations in many countries today (Gates, 2013; Vissing, 2021; Human Rights Watch, 2021; EU Annual Report on Human Rights and Democracy in the World). EU Annual Report on Human Rights and Democracy adopted a new action plan (2020–2024) to promote human rights culture and fights against human rights abuses in some countries today:

> One of the highest profile EU actions in 2020 against human rights violations and abuses was the establishment of a dedicated *EU Global Human Rights Sanctions Regime.* This is a real breakthrough. It sends a clear message that human rights violations and abuses will not be tolerated, no matter where they happen. In 2020, the EU also adopted the new *Action Plan on Human Rights and Democracy (2020–2024)* which sets out the EU's ambitions and priorities and places human rights prominently in its external action.

Conceptualising Human Rights Education

Fundamentally, human rights education movement refers to the transfer and acquisition of knowledge concerning human rights and the necessary skills of how to apply them. Human rights education is also about adoption of universal values and behaviours that are respectful of others and compliant with such universal standards. This is especially important in a globalised world, where many different cultures and religions meet and need to interact peacefully (Vissing, 2020; Zajda, 2021). The UDHR in particular, and other relevant treaties, provide us with universally agreed basic standards of decent behaviour; standards that are cross-cultural and trans-national. Thus, human rights education provides us with an all-important

link between universal and therefore global human rights standards and local values and practices.

As such, human rights education encourages intercultural dialogue, reduces conflict and builds mutual respect around universal values. It delivers an important peace building capacity, as it develops the relevant knowledge, skills, understanding and attitudes: all necessary for a peaceful and harmonious co-existence. It also empowers individuals to participate in a broader community and in authentic democratic processes which promote inclusive citizenship, equality and advancement of the rule of law (Ozdowski, 2021).

Some recent research suggests that human rights education does not address our growing diversity and interdependence, which is needed to help students address global complexities affecting their lives (Spreen & Monaghan, 2015). We need to explore research dealing with the recent shift from HRE to Global Citizenship Education (GCE) (Dill, 2013; Spreen & Monaghan, 2015).

There are many models of human rights education. Tibbitts (2012) for example, identifies three predominant models that are 'linked implicitly with particular target groups and a strategy for social change and human development' (p. 163). These include the *Values and Awareness Model*, which focuses on HRE in school curricula and public awareness campaigns as a primary vehicle of transmitting basic knowledge of human rights issues and the Universal Declaration of Human Rights (UDHR); the *Accountability Model* which targets professionals directly involved in public or civil service (e.g. lawyers, policemen) and focuses on knowledge related to specific rights instruments and mechanisms of protection; and the *Transformational Model* which seeks to empower vulnerable populations to recognize human rights abuses and to commit to their prevention (Tibbitts, 2008).

Current Research on Human Rights Education

Contemporary research questions in human rights education can be summarized as follows:

1. How can researchers and educators better understand and analyse human rights education within specific cultural contexts
2. How are human rights conceptualised in different nations globally?
3. Will a better knowledge and critical understanding of human rights produce better pedagogical outcomes in schools?
4. Are there ideological differences in implementing human rights education in developed and developing countries?
5. What is the development and impact of human rights education on nations, characterised by neo-colonialism, dictatorship, totalitarianism, oppression, violence, wars and conflicts?

6. How can we use comparative education research in promoting a more balanced and effective human rights education globally? (Adapted from *Contemporary issues in human rights education*, 2011)

In general, human rights education research globally, can be divided into four broad categories: *humanism*, *progressivism*, *reconstructionism and critical discourse analysis*. The first three correspond to curriculum theorising and curriculum design models over the last five decades. *Humanistic* perspective in education and human rights education focuses on knowledge, the enhancement of human development, autonomy, and values. According to Aloni (2014), humanistic education is grounded in the Universal Declaration of Human Rights and the Rights of the Child:

> Humanistic education, designates a variety of educational theories and practices that are committed to the world-view and ethical code of Humanism; that is, positing the enhancement of human development, well-being, and dignity as the ultimate end of all human thought and action – beyond religious, ideological, or national ideals and values. Based on a long philosophical and moral tradition and manifested in the UN's Universal Declaration of Human Rights and the Rights of the Child (Aloni, 2014).

A relevant humanist perspective is developed by Veugelers (2011), who focused on values and norms, as well as citizenship education. He showed how discourses on values have changed in the last decades and what the possibilities are for a humanist perspective on both autonomy and social involvement. He argued for a 'critical democratic citizenship with a strong focus on meaning-making, diversity, bridging, and embedding morality development in political processes of social justice'(p. 4). In her human rights research, Kiwan (2015), like Veugelers (2011), and other human rights researchers, also focuses on what it means to be a human being within the context of the Universal Declaration of Human Rights, and citizenship education. It can be argued that if the source of human rights is the individual's moral nature, then individuals are guided by their moral compass. In short, human rights are value-based, hence normative. Consequently, Kiwan (2015) argues that contemporary human rights discourses are 'increasingly coupled' to citizenship education (Zajda & Ozdowski, 2017).

Progressivist perspective in education was developed to stress the individual and experiential learning, best captured by John Dewey and his child-centred pedagogy. Dewey focused on the child's personal experience in learning in his book *Democracy and Education* (1916), which became a guide for progressivist and experiential pedagogy during the twentieth century. This was a new thinking in education, in contrast to the traditional education of the nineteenth century, which was based on preparation for the university. Learning by doing, or experiential learning, is the key principle of progressivist pedagogy. Experiential learning, as opposed to traditional and rote learning, denotes knowledge acquired from experience, rather than formal schooling (Dewey, 1938). Experiential learning theory (ELT) defines learning as 'the process whereby knowledge is created through the transformation of experience. Knowledge results from the combination of grasping and transforming experience' (Kolb, 1984). ELT offers a pragmatic and holistic perspective of the learning process. Experiential learning can be traced to the experimental pedagogy of John

Dewey, Jean Piaget, Carl Rogers, Ivan Illich, Paulo Freire and others. Experiential learning is relevant to other major educational theories, 'including critical pedagogy, progressive pedagogy, empowerment-based pedagogy, and transformational pedagogy' (Zajda, 2008).

Reconstructionist perspective in education and human rights education focuses on improving people's lives in their cultural settings. Since culture is ubiquitous in our society, with its core elements of ideology, organizations, language, values and technology, it is most relevant to human rights education. By examining the existing economic and social conditions, defining inequality, individuals become more aware of factors responsible for it, and engage in social actions to change the conditions perpetuating economic and social inequality. The *Transformational Model* of human rights education of Tibbitts (2008) is a vivid example of this (see Zajda & Ozdowski, 2017).

Critical discourse analysis examines and analysing power relationships in society, as expressed through language and social practices. Foucault (1977) used the role of discourses in wider social processes of legitimating and power, and emphasizing the construction of current truths. Foucault attempted to trace the beginnings of internalised moral behaviour, or a reflexive relation to the self in human beings. Examples are presented of various approaches to discourse analysis, including deconstruction and preferred reading and interpretation of the text. Discourse, derived from critical theory, is fundamentally a form of critical and deconstructive reading and interpretation of a text. Rea Zajda (1988) used discourse analysis in her work to examine the construction of the self, gender and identity. She argued that 'Discourse is concerned with the social production of meaning'. These meanings, she argued, can be 'embodied in technical processes, in institutions, in patterns for general behaviour, in forms for transmission and diffusion and in pedagogical forms' (Zajda, 1988, p. 11).

With reference to discourse analysis, Zajda (1988) argued that discourse 'can also refer to not only statements, but social or institutional practices through which the social production of meaning takes place or is embodied' (Zajda, 1988, p. 11). She was one of the first researchers to examine, construct and use discourses of the self and sexuality. More importantly, Zajda (1988) challenged the neutrality of knowledge and ideology in language and text. Zajda (1988) argued that the critical aspect of discourses challenges both 'the accepted hierarchical structuring of authority concerning knowledge and the neutrality of knowledge and ideology. It asks questions about the historical and cultural conditions in which discourses emerged' (Zajda, 1988, p. 12).

Critical discourse analysis perspective is particularly relevant for examining specific patterns of power relationships in human rights policy documents, as expressed through language and social practices. It lends itself to the used in deconstruction of the text, in order to critique knowledge and the social production of meaning.

Current research on human rights education, as discussed here, includes discourses of human rights, historical, contemporary, and future issues in human rights education, human rights for a global citizenship, extremism vs. human rights, a victim-group's approach to human rights education in Colombia, unintentional

messaging about children's rights in children's books, an interdisciplinary, and international global policy outlook of the optional protocol on the sale of children, child prostitution and child pornography, the importance of rights-based intervention in clinical sociology, and emerging trends in discourses of globalisation, ideology, and human rights.

Zajda and Vissing (2022) argue that effective human rights education has the potential to create a more equitable, just, tolerant, peaceful society for all in the global culture. Carroll (2022) suggests that the human rights record in the Global South largely reflects an 'absence of care/concern for human life, though before we apportion blame and castigate the leaders and peoples of the Global South, we should perhaps first examine our own roles in the creation and propagation of the many human rights abuses that have been documented' (Carroll, 2022). Historical, contemporary, and future issues in human rights education is provided by Swindell and Wright (2022). Their analytical framework, drawn from prominent theories of globalisation and human rights is used to examine critically how education systems have responded to address social, political and cultural changes. The authors offer pragmatic directions for human rights and education including global citizenship education, situated in human rights, and global sustainability.

The legal issues confronting migrant and refugees children in Europe, is addressed by Rodrigues (2020). He suggests a top priority strategy, a green line applicable to all Member States in matters relating to children, regardless of whether they are migrants, refugees, or unaccompanied minors. Vissing (2021), argues that there are 'civil, political, economic, cultural, and social rights, and rights unique to certain geographic, demographic, or indigenous groups'. She stresses the need to protect the human rights of each group and helping in the prevention of violence and the protection of citizens (Vissing, 2021).

Holland (2021), on the other hand, in her case study, examines a victim-group's approach to human rights education in Colombia, and argues that human rights education provides a promising blueprint for intervention in peace building contexts. The author provides examples of how the women themselves, activists in human rights had their lives threatened or even taken.

Juchniewicz (2022) analyzes children's books, in order to provide effective strategies, in order to introduce children to their rights through picture books. She reviews the ideological shifts in how children's rights are portrayed in picture books, as the world has become more globalised. She argues that a 'book that is provided to or selected by a child can in this way plant seeds of understanding regarding their rights and generate a sense of self-esteem' (Juchniewicz, 2022).

The topic of the sale of children, child prostitution and child pornography is examined critically by Tanya Herring (2022). She refers to The United Nations Convention on the Rights of the Child (UNCRC), Article 22, is a section of Child Law, in order to ensure that a child seeking refugee status or considered a refugee receive appropriate protection and humanitarian assistance outlined in the Convention. This research investigates the seldom studied role of General Comments across human rights instruments and State obligations, concerning children.

Hudson (2022) examines the historical development of mental health as a human right in the context of globalization. The author argues that there exists a growing research in mental health field, establishing mental health care as a human right. A key element of this policy has been the 'effort to establish an international consensus on the rights of mental patients, including the rights to health and mental health care, and mental health itself' (Hudson, 2022).

Fritz (2022) employs clinical sociology with reference to human rights-based intervention, in order to offer the idea of rights-based intervention, discusses why rights are included in the definition of the field of clinical sociology. Clinical sociology is defined as a creative, humanistic, rights-based and interdisciplinary specialization that seeks to improve life situations for individuals and groups in a wide variety of settings (Fritz, 2022).

Finally, Zajda (2021) argues that the right to freedom, the right to a fair trial, the right to freedom of religion and the right to engage in political activity are significant principles of a pluralist democracy. The chapter concludes that in order to advance the discourse of human rights for all, and participatory democracy, we need current evidence of significantly more human rights education at every level: beginning with teaching human rights to children.

Human Rights Education, Implementation and Emerging Policy Issues

Recent research suggests that human rights education is recognised as an essential tool for building stability in post-conflict societies (Baxi, 2007; Holland, 2010; Smith, 2010; Unicef, 2011; Donnelly, 2013; EU, 2020; Vissing, 2020; Human Rights Watch, 2021). In some circumstances, it can also deal effectively with racism, bigotry and xenophobia (Ozdowski, 2009). However, at the same time, many human rights education questions remain unanswered. Human rights education is not only about principles and goals. It is also a dialogue about tools and methodologies that can be used to deliver the quality and value-added education, which reflects the values of social justice and human rights. Human rights education deals with questions of strategies and priorities. For example, should we concentrate on human rights education for legal professionals, in developing countries, or perhaps, should we give a priority to community learning, or focus on primary school children. Human rights education is also about relevant pedagogy and curriculum development that are appropriate and effective in promoting the concepts and values of human rights.

Some researchers have argued that human rights and social justice are difficult to achieve in a society where social inequality debate is powerless, dormant, or ineffective. The difficulty of attaining authentic social justice globally was explained by Rikowski (2000), who argued that sustainable social justice is impossible on the basis of social stratification globally.The challenge we face today is one of

addressing equity and fairness in the global community, and challenging dominant ideologies, authoritarian power structures, and oppressive totalitarian regimes. The full promotion of economic, social and cultural rights will demand a deep political, social and cultural transformation and change in many nations globally (see Zajda & Ozdowski, 2017).

The future of human rights education will depend on our ability, skills and power to make human rights education relevant beyond the spheres of law, political institutions, or international relations. Human rights education must be explored and understood by all active citizens, irrespective of ideology, race, ethnicity, gender, or religion. The effects of globalisation compel us to address issues of economic and social equity, the rule of law and meaningful participation in real and authentic decision-making. In the *re-envisioning* of the human rights education, as a social action platform for social justice, peace and tolerance, we need to re-examine:

- current evidence concerning the nexus between social justice, cultural transferability and human rights
- competing and contested democracy models
- language issues in cross-cultural research, intercultural dialogue and education
- issues of race and ethnicity in the discourses surrounding regional and global cultures
- the unresolved tensions between religion, politics, and values education
- gender research in the global culture
- citizenship education and life-long learning
- globalisation, economic and social change and the implications for equity, access and democracy.

As above demonstrates, in order to address human rights for all, and participatory democracy, we need to develop and consolidate a strong emphasis on human rights, inclusivity and the values of social and economic justice. In the classroom we need to ensure that children have a meaningful and well-grounded approach to their own rights and responsibilities, as they mature into adulthood. Both families and schools are powerful shapers and agencies of socialisation and the best places to begin nurturing and teaching an understanding of cultural diversity, human rights and democracy (Vissing, 2020).

Conclusion

Effective human rights education has the potential to create a more equitable, just, tolerant, peaceful society for everyone for all in the global culture. But it will remain a mere hollow policy rhetoric, or 'magic words', unless we debate more vigorously social, cultural and economic inequality in the global culture, within the legal framework of human rights education, the *Universal Declaration of Human Rights*, and the *Millennium Development Goals Report*. We need to critique the existing status quo of stratified societies and nations, neoliberal politico-economic

imperatives, authoritarian and dictatorial power structures, dominant ideologies, and forces of globalisation, which have affected all levels of society, reinforcing cultural, political and economic social stratification. This has serious implications for realizing a genuine and empowering human rights education and social justice in the future. Human rights education will need to become an integral part of critical and progressive pedagogies for social justice and pluralist democracy.

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