

HUMAN RIGHTS LAW 9

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Edited by **Barbara Stark**

Human Rights and Children



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Barbara Stark

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HUMAN RIGHTS LAW

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Human Rights and Children

Human Rights Law

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Introduction

*Barbara Stark**

‘Human rights’ are children’s rights, of course, since children are human. But this is still a radical proposition. It means that ‘human rights’ are more than the civil and political rights exercised by adults, or their claims against the state for economic, social, and cultural rights. Rather, ‘human rights’ refer to the full panoply of rights set out in the International Bill of Rights, and more specifically and comprehensively in the Convention on the Rights of the Child (CRC),¹ including the recognition of the dignity of every human being from birth.² Human rights are the responsibility of the state, whether they are exercised, claimed, or nascent, and they belong to everyone.

This volume offers a comprehensive overview of children’s human rights, drawing on the works of leading authorities as well as new scholars grappling with emerging ideas of ‘children’ and ‘rights.’ It draws on both human rights scholarship and interdisciplinary scholarship on children.³ It begins with the CRC, the culmination of over sixty years of activism, hard work, and debate. The theory of the CRC is grounded in the fundamental theory of human rights, the Enlightenment challenge of John Locke and Jean-Jacques Rousseau to the once-unchallenged authority of the king and the church, the challenge of reason to privilege and religion.

The transformative departure of that move was just the beginning. The divine right of kings gave way to the social contract between the ruler and the ruled, but many were excluded from that contract. Abolitionists pointed out that the social contract was limited to white men, and socialists noted that it was limited to white men of property. Feminists pointed out that women were not part of that contract, which was exclusively between men.

All of these challenges and developments have crystallized into a globally-recognized body of human rights instruments. The CRC, as virtually every commentator observes, is the most comprehensive and the most widely ratified human rights treaty in the world. It incorporates the rights and protections set out in previous instruments and extends them to children, including the very youngest. The CRC recognizes the child as a subject, entitled to rights of her own, rather than a passive object to be protected. This is a radical leap, and it calls for radical practice – the child is to be listened to, and is entitled to have her views and opinions taken into account.

Brief History

Professor Philip Alston traces the development of children’s rights during the twentieth century, identifying five distinct phases.⁴ Phase 1, 1901–47, begins with growing recognition of the exploitation of children, as cheap labor and as sex objects (through the ‘white slave trade’), as well as their particular vulnerability during, and after, wars. He cites the early International Labor Organization (ILO) conventions, setting out minimum ages for agricultural and maritime workers and conditions under which young persons could work at night.

The Covenant of the League of Nations, similarly, explicitly included ‘children’ among those for whom ‘fair and humane conditions of labour’ were to be maintained, and whose ‘trafficking’ was to be addressed in future conventions. In 1924, the League adopted the Declaration on the Rights of the Child, which provides in pertinent part:

... 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:

1. The child must be given the means requisite for its normal development, both materially and spiritually;
2. 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 reclaimed; and the orphan and the waif must be sheltered and succored.⁵

Phase 2, 1948–77, begins with the creation and establishment of the broader human rights regime. The Universal Declaration of Human Rights and the American Declaration of the Rights and Duties of Man referred to children in a few provisions; the European Convention did not. The subject of children’s rights was raised by a nongovernmental organization (NGO), the International Union for Child Welfare (IUCW), which eventually resulted in a new draft Declaration on the Rights of the Child, addressed by the Commission on Human Rights in 1959. As Professor Alston notes, while the Declaration affirmed the notion of children’s rights as a distinct focus, the Declaration failed for the most part to recognize the civil and political rights of children and stressed the ‘need to safeguard and protect’ the child, rather than empower her. The other significant development in children’s rights during this phase was the addition of children as ‘a specific category of protected persons’ under the Geneva Conventions on Humanitarian Law. This protection was enlarged by the Additional Protocols of 1977 to include non-international armed conflicts.

Phase 3, 1978–89, was marked by ‘the emergence of a strong children’s rights consciousness at the international level.’⁶ 1979 was designated the International Year of the Child and the first draft of the CRC was presented to the Commission on Human Rights by the Polish government. Difficult issues confronting development agencies, including child labor, child sexual exploitation, child soldiers, and intercountry adoption, were reframed as children’s rights issues. Phase 4, 1989–2000, included UNICEF’s World Summit for Children in 1991, the fall of the Berlin Wall, the entry into force of the CRC, and the establishment of the Committee on the Rights of the Child. In 2000, the General Assembly adopted two Optional Protocols to the CRC, addressing child soldiers and the sexual exploitation of children. A comprehensive normative framework for children’s rights had been established and almost universally endorsed.

Describing Phase 5, from 2001 through the date of his timeline, 2005, Alston notes the post-9/11 shift from a focus on human rights to a focus on security, and anticipates the ‘diversion of public funds from social rights expenditures,’ even before countries slashed such expenditures in response to the global recession of 2008. He concludes his timeline, which has included two world wars, decolonialization, and the emergence and eclipse of human rights, by citing the Inter-American Court of Human Rights⁷ for what he characterizes as ‘[p]erhaps the most optimistic assessment,’ i.e., that children have ‘now become “subjects entitled to rights, [and] not only objects of protection.”’⁸ Children’s rights, in short, have come of age.

This volume is organized into six Parts. Part I sets out the substance of the CRC and other legal frameworks. Part II describes the dilemmas presented by children's socio-economic rights. Part III considers recent approaches to child labor, recalling the importance of this subject, driven by the ILO, in the earliest phase of children's rights. Part IV considers the growing problem of child soldiers in an increasingly violent world. Part V focuses on the ongoing sexual exploitation of children, noting that global sex trafficking is the most recent iteration of the 'white slave trade.' Part VI concludes by describing the limits that human rights impose on punishing children, and the still-widespread resistance to these limits.

Part I The Convention on the Rights of the Child and Other Legal Frameworks

A. Theory

Part I focuses on the CRC and other legal frameworks created to define, clarify and promote children's rights. It begins with the theoretical underpinnings of the CRC. Children need their own Convention because of the widespread misconception that they are incapable of exercising rights, and that others – parents, teachers, or the state – must protect them, not only by providing them with an adequate standard of living, health care, and education, but by protecting them from their own childish desires, by deciding what is best for them. The key substantive requirement of the CRC is the recognition of children as active subjects, participants in family life and the life of the community, rather than passive objects to be protected and cared for.

In its General Comment No. 7, *Implementing Child Rights in Early Childhood*,⁹ the Committee on the Rights of the Child stresses that Art. 12, which 'recognizes the right of the child to express his or her views and to have them taken into account in *all matters* affecting the child,'¹⁰ applies to even the youngest children. This contributes to children's ability to 'actively take part in shaping their environment, their society, and the world they will inherit.'¹¹

This challenges traditional notions of parental responsibility and it has produced a predictable backlash, as Professor David M. Smolin notes. Professor Smolin knows exactly how alien and threatening the CRC is to a well-organized opposition in the United States. As he explains in *Overcoming Religious Objections to the Convention on the Rights of the Child* (Chapter 1, this volume),¹² in the United States 'rights' are generally understood as autonomy rights, i.e., civil and political rights as opposed to economic, social, and cultural rights. Granting children autonomy rights, accordingly, poses a real dilemma. 'It is self-evident that granting infants and toddlers autonomy rights would be either absurd or cruel. Infancy and early childhood is defined by dependency – the very opposite of autonomy.'¹³ For Smolin, to the extent Art. 5 limits the role of parents to one of 'providing direction and guidance to the child's choices,'¹⁴ the CRC undermines parental authority, leaving children without crucial protection from their own immature decisions. This can be avoided, and parental fear assuaged, he suggests, by an 'understanding' to 'alleviate legitimate concerns' about the usurpation of parental authority; specifically, a provision that, 'The United States understands that parental responsibilities, rights and duties, require that parents on a regular basis make decisions in regard to the best interests of the child.'¹⁵

Noting the tension between the Committee's unambiguous condemnation of corporal punishment and the widespread acceptance of spanking in the United States, Smolin observes

that the Committee has no law-making authority, and that its views may be considered merely advisory. Finally, Smolin suggests that any remaining issues with the CRC should be addressed by declaring it 'non-self-executing,' as the United States has done with respect to the International Covenant on Civil and Political Rights (ICCPR)¹⁶ and the International Convention on the Elimination of Racial Discrimination (ICERD).¹⁷ This means that while the United States would be legally bound as a matter of international law, it will not be bound as a matter of domestic law until and unless Congress enacted implementing legislation. While the CRC could not provide a cause of action in a United States Court, ratification as a non-self-executing treating would 'involve the entire society in an ongoing effort to effectuate the rights of children.'¹⁸

Professor Martin Guggenheim is skeptical (Chapter 2, this volume). Rights are no panacea. '[A] generation after the Supreme Court said that children have rights,' he notes, 'Children, in a variety of ways, are worse off than ever before.'¹⁹ His expectations are low, as his title suggests: *Ratify the U.N. Convention on the Rights of the Child, But Don't Expect Any Miracles*.²⁰ Writing about the application of United States constitutional protections to children, Guggenheim explains why the expansion of children's rights has done so little for children: 'Once we allow (as we always will) the possibility of *some* difference between the rights of adults and of children, we build into all inquiries room to deny children the very things we mean by the use of the term "rights" as applied to adults.'²¹

In '*Putting Children's Rights into Perspective*' and '*Laying the Legal and Institutional Foundations at the Regional and National Levels*,'²² Professors Philip Alston, John Tobin and Mac Darrow (Chapter 3, this volume), while noting the 'dire situation' of the world's children, proceed to affirm 'that the foundations are in place' for the promotion and progressive realization of children's rights.²³ The authors explain why the 'establishment of an appropriate legal framework' is crucial to this project.²⁴

The authors recognize the 'basic paradox' which characterizes the CRC. On one hand, the CRC is:

[T]he most widely ratified treaty in history, the first virtually universal human rights convention, it is the most far-reaching, the most forward-looking, the most comprehensive, it is the embodiment of a whole new vision for children, a definitive turning point in the struggle to achieve justice for children, and a document with an unprecedented potential to bring about dramatic change.²⁵

At the same time, however: '[I]t is equally easy to recite a litany of terrible abuses which continue to be committed against children, some of which seem to be even more chronic and less susceptible to resolution today than they were before the Convention existed.'²⁶

Noting the almost universal ratification of the CRC (the United States being the conspicuous outlier), the authors describe the ongoing work of promoting regional and constitutional recognition of children's rights. They then tackle the main issue of implementation; i.e., monitoring compliance with the CRC and keeping key actors accountable. This is probably the single most useful chapter for those seeking a rigorous, comprehensive introduction to the CRC. The historical perspective, drawn on above,²⁷ along with the lucid and detailed explanation of its core principles, and the ways in which they have been incorporated in national and regional legal frameworks, gives the reader a sense of the process through which theoretical rights become actual practice.

In *Religious Legal Traditions, Muslim States and the Convention on the Rights of the Child: An Essay on the Relevant UN Documentation*,²⁸ Kamran Hashemi (Chapter 4, this volume) sets out the real and probably irreconcilable tensions between the CRC and what he calls Muslim Legal Traditions (MLT). While noting that Shariah Law 'is strongest in the area of personal status [including] matters of minors such as custody and guardianship,' Hashemi eschews a 'vision of Islam ... that presumes Shariah to consist of divine and immutable rules.'²⁹ Rather, he focuses on a vision of Muslim law that has been subject to different interpretations, practices, and modifications by states.³⁰

This chapter provides a rigorous and nuanced analysis of the reservations and declarations submitted by the 57 Muslim states, all of which are signatories to the CRC. Concluding that 'most of MLT are either consistent with or contribute to children's rights,'³¹ Hashemi concedes that substantive tensions remain, particularly with respect to legal recognition of maturity, linked to puberty as opposed to full legal age under MLT,³² and the traditional punishment code, or *Hudood*, which penalizes sexual relations outside of marriage and has been revived in some Muslim states.³³

B. Doctrine

The second section of Part I sets out the doctrinal foundations of the CRC, including the major role played by the United States, the only state that has not ratified the CRC, in its formulation. This section introduces the two Optional Protocols to the CRC, showing how it operates as a framework capable of generating and supporting future developments.

This section grapples with the hard work of transforming theory into actual legal doctrine, blackletter law. It begins with *The Role of the United States in the Drafting of The Convention on the Rights of the Child*³⁴ by Cynthia Price Cohen (Chapter 5, this volume), an indefatigable advocate for children and the CRC. Price Cohen situates the drafting process in the political context of the last days of the Cold War. Championed by Poland, an Eastern bloc state, and a longtime proponent of children's rights, the CRC was originally viewed as a socialist project, although Poland was soon to shake off Soviet control.³⁵

As Price Cohen demonstrates, however, the United States successfully pushed for the inclusion of civil and political rights,³⁶ edited other articles, and, through the consensus process, effectively blocked articles it opposed, such as the Swedish proposal to raise the minimum age for participation in combat from 15 to 18. Stressing the importance of the United States's role in the drafting process, Price Cohen raises sharp questions regarding the ongoing costs of its failure to participate in the development of CRC jurisprudence, which would require the United States to ratify the Convention.

As Michael J. Dennis explains in *Newly Adopted Protocols to the Convention on the Rights of the Child* (Chapter 6, this volume),³⁷ the United States has not entirely rejected the notion of children's rights, having ratified two Protocols to the CRC: the Optional Protocol on the Involvement of Children in Armed Conflict (Children in Armed Conflict Protocol)³⁸ and the Protocol on the Sale of Children, Child Pornography and Child Prostitution (Sale of Children Protocol).³⁹ As Dennis notes, both Protocols by their terms function as 'independent multilateral agreements under international law.'⁴⁰ Both nevertheless build on important doctrinal understandings first set out in the CRC. Thus, for example, the notion of the child as a subject, rather than the child as an object, of international law is the basis for provisions in both

Protocols promoting international cooperation in the ‘rehabilitation and social reintegration’ of victimized children.⁴¹

C. Implementation

This section describes efforts to realize the rights set out in the legal instruments. It shows how non-governmental organization (NGOs), as well as the Committee on the Rights of the Child, have sought to promote children’s rights, how states have incorporated them into domestic law, and how states have resisted them by taking broad reservations. This part concludes with the by-now familiar charge that human rights are a tool of Western imperialism, in this context as well as more generally.

The realization of children’s rights – their transformation from theory to doctrine to lived experience – is an ambitious project. In *The Role of Nongovernmental Organizations in Implementing the Convention on the Rights of the Child* (Chapter 7, this volume), Stuart N. Hart and Laura Thetaz-Bergman explain the crucial role of NGOs in breathing life into the CRC.⁴² Drawing on their years working with NGOs and state actors, the authors note that children’s interests are especially subject to neglect by the state because they are not represented in the government; children are not a constituency. NGOs, accordingly, must hold the states accountable. The authors draw on a rich body of interdisciplinary work to propose a multi-dimension model for rigorously doing so.

In *Committee on the Rights of the Child: Basic Processes* (Chapter 8, this volume),⁴³ Marilia Sardenberg, a former member of the Committee, describes ‘the dynamic and fascinating construction of [the Committee’s] innovative approach to the new area of children’s rights in the U.N. system.’⁴⁴ Faced with the work of examining and responding to the ‘initial reports of some one hundred States Parties between 1992 and 1996 – at which time the second periodic reports would become due,’⁴⁵ the Committee made a request to the General Assembly to authorize two three-week sessions per year, in addition to a one week Pre-Sessional Working Group meeting. In 1995, both one-week Pre-Sessional Working Group Meetings and regular three-week sessions were increased to three meetings each year.⁴⁶

The CRC stresses the principle of international cooperation, including technical assistance from UNICEF and other specialized agencies as well as NGOs.⁴⁷ Examples of such assistance includes immunization programs, clean water plans, and effective educational initiatives. Children, Sardenberg notes, remain our best collective investment: ‘If children are those most affected by the negative impact of poverty and social exclusion, of hunger and homelessness, and of disease and illiteracy, they are the group that may benefit most from public social policies geared toward human development in any country.’⁴⁸

Barbara Bennett Woodhouse, a leading American advocate for children’s human rights, shows how these rights can be incorporated in domestic law in *The Constitutionalization of Children’s Rights: Incorporating Emerging Human Rights into Constitutional Doctrine* (Chapter 9, this volume)⁴⁹ and how such incorporation can be thwarted. Professor Woodhouse compares the U.S. Constitution and the South African Constitution – historically, textually, and legally – in terms of children’s human rights. She shows how and why the latter has become a model for the world, not only for children’s rights, but for women’s rights and the economic, social and cultural rights so crucial to both women and children. The U.S. Constitution, in contrast, ‘seems to operate as an impediment rather than an aid in developing a coherent concept

of children's rights.⁵⁰ The basic problem, for Woodhouse, is the U.S. Supreme Court's protection of parents' rights, rather than children's rights, in two early cases protecting families from intrusive state legislation.⁵¹

The South African Constitution, on the other hand, 'singles children out for special protections.'⁵² This reflects not only the emergence of international children's rights during roughly the same period as the elimination of apartheid, but South Africa's gratitude to its children for the role they played in the national struggle for equality.⁵³

In *The International Convention on the Rights of the Child: A Catalyst for Innovative Child Care Policies* (Chapter 10, this volume),⁵⁴ Martha F. Davis and Roslyn Powell show how the CRC functions as a springboard for other legal innovations, specifically, state-supported childcare. This is hardly an innovation in the developed countries and even in many developing states, as the authors are well aware. But the United States has long lagged behind the other industrialized states. This is among the most hands-on, practical articles in this collection, a useful model for anyone working on the ground to implement the CRC.

At the same time, the authors illuminate the relationship between women's rights and children's rights. As feminists have long observed, women do virtually all of the unpaid family caregiving work, including childcare. The state's failure to support childcare is a failure to support women. A demand for childcare, accordingly, is a demand for women's equality. As Professor Davis and Powell explain, 'When large numbers of women entered the labor force during World War II, the federal government financed childcare programs for approximately 550,00 to 600,000 children. However, when the war ended, so did significant support for childcare.'⁵⁵ As women play an increasingly important role in the economy, and in politics, women's issues, including childcare, gain political traction. As women gain clout, they are increasingly able to press for children's rights. Indeed, it is hardly a coincidence that children's rights did not fully emerge until a critical mass of women were sufficiently empowered to demand them.⁵⁶

One indication of the success of the CRC may be seen in the backlash against it. As Professor William A. Schabas notes in *Reservations to the Convention on the Rights of the Child* (Chapter 11, this volume),⁵⁷ as of 1996, 47 states parties to the CRC accompanied their ratifications 'with reservations or interpretative declarations intended to limit the scope of their obligations.'⁵⁸ Schabas explains how reservations function in connection with multilateral treaties in general, and revisits the decision of the ICJ in *The Genocide Case* to explain how they function in the context of human rights treaties more specifically.⁵⁹ He then explains why what were good reasons for allowing states to enter reservations in that case do not apply in the context of the CRC.⁶⁰ Noting that 'the traditional solutions proposed by international law [for dealing with reservations] are inadequate and the guidance provided by case law and legal scholarship is woefully slender,'⁶¹ Schabas urges the Committee to 'exercise creativity and innovation'⁶² to promote fuller state compliance.

Professor Sonia Harris-Short suggests that the CRC suffers from deeper problems. In *International Human Rights Law: Imperialist, Inept and Ineffective? Cultural Relativism and the UN Convention on the Rights of the Child* (Chapter 12, this volume),⁶³ Harris-Short makes a provocative argument. Drawing on empirical evidence provided by the actual practice of delegates appearing before the United Nations Committee on the Rights of the Child, she rejects the charge that, '[s]tate delegates cynically manipulate "culture arguments" to challenge and undermine human rights norms,'⁶⁴ suggesting a more complicated reality:

The reality of entrenched cultural differences within the populace means that there is often a lack of vital grassroots support for the human rights principles willingly accepted by state delegates operating at the international level, particularly when the rights in question impinge upon traditions and practices relating to children and the family.⁶⁵

In Harris-Short's view, Schabas's exhortation to the Committee to resist state reservations may well be futile, since it does not address the fundamental disconnect between international human rights standards and 'the "real cultures" of states.'⁶⁶

Part II Children's Socio-Economic Rights

The authors of the articles in this part address what is probably the most widespread threat to children, that is, the deprivation of their most basic socio-economic rights. As many commentators have noted, the CRC resuscitates the economic, social and cultural rights eclipsed in mainstream human rights. The first section of this part explains the difficulties of addressing child poverty through the CRC. The second section focuses on what may well be its most controversial provisions – those dealing with the child's rights to education, including, essentially, human rights education.

A. Child Poverty and Other Socio-economic Problems in General

The lack of basic economic rights, including an adequate standard of living, education, shelter, and healthcare is probably the major human rights problem faced by children. As global inequality continues to grow, and the distance between the rich and the poor continues to widen, children everywhere remain the poorest of the poor, the most disadvantaged.

But 'children's rights' may not be an effective way to deal with child poverty, as Professor Wouter Vanderhole, who holds the UNICEF Chair in Children's Rights at the Faculty of Law of the University of Antwerp (Belgium), explains in *Child Poverty and Children's Rights: An Uneasy Fit?* (Chapter 13, this volume).⁶⁷ Vanderhole has no doubt that poverty affects children's rights:

Child poverty is an affront to human dignity, and therefore seems to be blatantly in violation of the human rights of children: poverty is not in their best interests, it is often strongly intertwined with discrimination due to lack of equal opportunities, it is against their right to development, it may be a form of violence, and it is certainly not in line with their right to a standard of living adequate for their physical, mental, spiritual, moral and social development.⁶⁸

But 'rights,' even economic rights, do not directly address 'poverty.'⁶⁹ 'Human rights,' at least as the discourse developed in the social democracies of Western Europe after World War II, assumed that there was a range of income and wealth among the residents of a state, and between members of different states, but that this need not preclude the universal enjoyment of human rights. Some might have more than they needed, but everyone would have enough. Even in developing states, the language in Article 11 of the Economic Covenant requires the state to recognize 'the right of everyone to an adequate standard of living for himself and his family,' including 'adequate food, clothing and housing.'⁷⁰ It has become increasingly clear,

however, that the ‘progressive realization’ of this right has remained aspirational for major swathes of the world’s population, including growing numbers of children.

None of the authors in this part have any illusions about the ability of the CRC to lift children out of poverty. At the same time, they each set out thoughtful proposals for using the CRC as a tool to improve the lives of poor children. Citing the final draft of the Guiding Principles on Extreme Poverty and Human Rights, prepared by the Special Rapporteur on Extreme Poverty and Human Rights and adopted by the Human Rights Council in September 2012, for example, Vanderhole notes that ‘at a minimum children are entitled to a package of basic social services that includes high-quality health care, adequate food, housing, safe drinking water and sanitation and primary education, so that they can grow to their full potential, free of disease, malnutrition, illiteracy and other deprivations.’⁷¹ At the very least, he insists, referring to the ‘recent wave of austerity measures adopted in response to the financial and economic crisis,’ children’s rights should be prioritized. He concludes that ‘retrogressive measures require careful justification by the state and should not affect the minimum core of children’s rights.’⁷²

In *Child Poverty in Canada and the Rights of the Child* (Chapter 14, this volume),⁷³ Robert Brian Howe and Katherine Covell describe how poverty, as a practical matter, virtually precludes children’s enjoyment and exercise of their human rights in Canada, notwithstanding the government’s commitment to improve conditions for Canadian children in low-income families in 1991.⁷⁴ Drawing on Thomas Hammarberg’s division of the rights set out in the CRC into the ‘three Ps;’ i.e., rights of provision, protection, and participation,⁷⁵ the authors show how poverty negatively affects every aspect of children’s rights. The lack of rights of ‘provision,’ i.e., children’s rights to basic economic and social needs, for example, not only leads to hunger, but hunger impedes learning.⁷⁶ Poverty, similarly, correlates to reduced rights of protection; children in low-income single-parent families are at greater risk of abuse or neglect.⁷⁷

Like Vanderhole, the authors do not expect the CRC to eradicate childhood poverty, even in an affluent country like Canada. In fact, they point out that in Canada, as well as in other developed states, child poverty has actually *increased* since the CRC came into force.⁷⁸ This is attributable to broader economic trends, but the CRC – as implemented in Canada and elsewhere – has failed to compensate for their negative impact.⁷⁹ The authors conclude with concrete recommendations for improvement.

Maria Bouverne-De Bie, Geert Cappelaere and Eugeen Verhellen (Chapter 15, this volume) describe and sharply question what they see as the ‘ever-expanding’ intervention of the state in the care and development of children in poor families.⁸⁰ They note, with growing apprehension, that ‘Interventions initially made to benefit the child’s opportunities of unfolding ... have an opposite effect.’⁸¹ At the same time, they are concerned that ‘lower-class youngsters, like other “minority” groups, are not accepted as equal partners within society.’⁸² The authors observe that while Belgian law does not subject children under 16 to criminal punishment,⁸³ other forms of social control exert a similar pressure: ‘Descriptions such as “underprivileged” implicitly deny the right to make an own choice of values and lifestyle.’⁸⁴

B. Children’s Right to Education

Eugeen Verhellen authors the first two articles in this section, which explore the multiple dimensions of children’s right to education. In *Children’s Rights and Education: A Three-track*