

Chapter 1

Introduction



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This publication is one of the outcomes of over a decade of work, under the auspices of the United Nations Committee on the Rights of the Child, to explore how to monitor and evaluate States Parties' compliance with the obligations they undertook when they ratified the UN Convention on the Rights of the Child (the Convention). A full account of the project work to date has been provided in Vaghri, Krappmann, and Doek's article 'From the Indicators of General Comment No. 7 to GlobalChild' (2019). Grounded in that foundational work, this book relies on that project work to provide a conceptual framing of the Convention, through the identification of the attributes of each right that provides the basis for the development of indicators against which to measure progress.

Although there are multiple sets of benchmarks and indicators already developed to measure many aspects of children's well-being, for example, in the fields of health and education, less investment has been made in understanding how to assess implementation of children's rights.¹ There is a dearth of widely recognised indicators, for example, in respect of children's civil and political rights or rights to protection from violence or exploitation. It is perhaps helpful to elaborate why this matters.

¹ See, for example, Bradshaw et al. (2007).

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Well-being is a description of a sense of physical, social, intellectual, and emotional health in relation to self, others, and the environment. It is a concept which has its roots in understanding the level of life quality and happiness (Ben-Arieh & Frønes, 2011, p. 461). Child well-being can be measured through a focus on the child's material well-being, their housing and social environment, their educational status and quality of school life, their susceptibility to risk behaviours, and their health and safety. Ben-Arieh argues that indicators relevant to human well-being must encompass aspects of life from the biological, psychological, and social perspectives. However, well-being is an end in itself and offers no prescription on how it should be achieved: its focus is on the outcomes in children's lives. A well-being perspective can be understood as reaching beyond the confines of a human rights treaty that is ultimately a legal document. It demands a stronger focus on the internal child than is often articulated within the rights framework.

By contrast, children's rights are a set of universal standards or norms rooted in formal entitlement to their fulfilment and corresponding obligations on those providing that guarantee. They can be measured both in terms of actions undertaken by duty bearers on behalf of children and the consequent impact of those actions in ensuring the realisation of the rights in the Convention. Rights impose accountability, necessitate a commitment to the rights of every child, demand recognition that rights are indivisible, and require a commitment to participation of the child in the approaches adopted to implement their rights. In other words, the realisation of rights requires a holistic analysis of measures undertaken by States Parties in respect of every right, taking into account the Convention's four General Principles:

- Non-discrimination
- Best interests
- Optimal development
- Being heard.

The realisation of rights involves scrutiny not only of outcomes, but also the structures and processes that States Parties have put in place to achieve those outcomes. Of course, the child rights based approach to monitoring is not inconsistent with a commitment to child well-being. Indeed, well-being is integrally embedded throughout the framework of the Convention. It is present in articles relating to best interests, optimum development, aims of education to develop personality, talents, and mental and physical abilities to fullest potential, commitment to children's physical, mental, spiritual, moral and social development, and freedom from harm, violence and exploitation. It is also present in the preamble, which notes the role of the family in promoting children's well-being, and the need for love, happiness and understanding.

The importance of further work on the development of child rights indicators was highlighted after the Committee on the Rights of the Child produced *General Comment 7 (GC7): Implementing child rights in early childhood* (2006). While, in theory, General Comment no. 7 provided authoritative guidance to States Parties in fulfilling their obligations to young children, it lacked practical application and concrete direction. In response, in 2006, The Human Early Learning Partnership,

Canada, led by the late Clyde Hertzman, together with other child rights and child development scholars, approached the Committee to explore possible approaches to increase the utility of General Comment no. 7 as a child rights instrument and as a tool for promoting early childhood development.

The result was a proposal to develop monitoring, data collection, and indicator systems for comprehensive analyses of early child development. The subsequent work, undertaken by the GC7 Indicators Group,² led to the development of a set of seventeen indicators, each addressing a specific right for young children, following the Structure, Process, and Outcome model later published by the Office of the High Commissioner on Human Rights (United Nations OHCHR, 2012). Subsequent pilots in Tanzania (Vaghri et al., 2011), Chile (Vaghri et al., 2013), and British Columbia, Canada (Vaghri, 2018), demonstrated that the indicators could work as a method for national, inter-sectoral self-study to identify policies, programmes, and outcomes in early childhood, and proved valuable as a tool to assess the degree to which the conditions conducive to fulfilling child rights for young children were in place (Vaghri & De Souza, 2021).

Building on this work, the next step was to develop indicator sets to apply to every article of the Convention on the Rights of the Child, that would be available on an electronic monitoring platform. This platform, named GlobalChild, was envisaged to act as a rigorous child rights reporting system, resulting in reports that were evidence-based and focused, yet comprehensive, and with the capacity to track positive or negative changes in States Parties' compliance over time. As countries continued reporting data into GlobalChild, the platform would become a global repository of data on child rights and child development from all signatories to the Convention. The data sets could then facilitate research on a variety of child rights and public policy issues.

With this vision in mind, in 2016, with the generous support of the Canadian Institutes for Health Research and with an international team of researchers, child rights advocates, and child development experts, a 5-year plan started to develop the GlobalChild platform. An Indicator Development Team researched and developed indicators for the monitoring platform in two phases (United Nations OHCHR, 2012). Phase I defined the human rights-based attributes of each Convention article. This was necessary to help inform the nature and range of indicators necessary to ensure full implementation. Phase II then identified Structural, Process, and Outcome indicators, using the identified attributes as the framework. Once in use by States Parties, the GlobalChild platform, through its standardisation and streamlining of monitoring and reporting systems, will promote States Parties' accountability to children and strengthen the oversight role of the Committee on the Rights of the Child.

This publication comprises the compilation of the work of Phase I of the GlobalChild initiative to identify the core attributes of the Convention rights. It

²To view the names and biographies of the GC7 Indicators Team members, please visit: <https://crcindicators.uvic.ca/index.php/content/about>

has been developed to provide a succinct legal analysis of all the substantive, organizational and procedural provisions of the Convention. It articulates the human rights-based attributes of each article and interprets the legal international standards of the right through the lens of these characteristics, thus ensuring that no aspect of the right is overlooked. An attribute is a key dimension of a human right. For example, in relation to the right to non-discrimination, the attributes are:

- Non-discrimination in the realisation of all rights for all children within the jurisdiction
- Non-discrimination on the basis of status, actions, or beliefs, of parents, guardians, or family members
- Special measures to address discrimination.

These three attributes collectively reflect the essence of the normative content of the right. Accordingly, the aim was to identify those attributes for each article. They needed to be mutually exclusive but comprehensive, and together provide a well-articulated and complete analysis of the focus and scope of that right. This analysis assisted developing a high quality, policy impact evaluation of States Parties' interventions for the enhancement of children's well-being and the fulfilment of children's rights. Overall, the book provides a comprehensive interpretation for States Parties to consider when fulfilling their obligations towards progressive implementation of the Convention and affords a framework and guidance to the Committee on the Rights of the Child in monitoring that progress. In addition, the book provides a summative overview that should prove invaluable for both advocates for and students of children's human rights.

The process of developing the attributes for each article of the Convention was undertaken through a rigorous process, building on the methodology developed by the OHCHR (United Nations OHCHR, 2012). For each article, an exhaustive desk review of the relevant legal standards was undertaken, drawing on the *Travaux Préparatoires*, interpretations by the Committee on the Rights of the Child and other relevant treaty bodies through their General Comments and Concluding Observations, applicable international instruments and standards, and recent legal commentaries.

The attributes identified are presented following a common format, which includes:

- An overview introducing the background and overall scope of the article.
- An explanation of the implications of the four General Principles (Articles 2, 3, 6 and 12) in understanding the subject article.
- A list of the articles in the Convention where the subject article has significant relevance. While recognising the universality of human rights, this list highlights where the article specifically impacts or needs to be understood in the light of other rights. Where a right has application to every article, for example, Article 4 on general measures or Article 1 on the definition of a child, it is not included in this section.

- A list of other relevant international instruments that have a bearing on either the history or the implementation of the article. In some cases, where they are relevant, regional instruments are included. The level of detail provided in these lists varies in accordance with the implications for the subject article. For example, in Articles 26 and 30, a greater degree of explanatory information on the relevant instruments is provided.
- A short legal analysis of each attribute with a view to providing a comprehensive understanding of its meaning and implications.

The articles have been placed in nine thematic clusters, broadly aligned with those established by the Committee on the Rights of the Child in its reporting guidelines to States Parties. Where the publication differs from the clustering of the Committee guidelines, this is done to simplify understanding of each section of the book. For example, we have placed Article 1 together with Articles 4, 42 and 44.6, as they are all concerned with the scope and implementation of the Convention, rather than being substantive rights of the child. We also separated out rights relating to exploitation from those linked with protection of children in vulnerable settings.

It is important to note this book is not intended as a thorough analytical commentary of the rights in the Convention. Many other authors have undertaken more comprehensive critical analyses of children's rights both in theory and practice. Rather, it is designed to provide a policy instrument, in which, for each article, after an introduction to the origins, the reader will find the condensation of the core elements of each legal provision springing from interpretation by the relevant UN treaty bodies and other human rights authorities. Each right is located within a framework that facilitates an understanding of the background to and locus of the right, the essential characteristics or attributes of each right, the framework of action necessary for the implementation of the right and its related policy development, and a referral system to monitor the States Parties' compliance.

The attributes identified were subjected to several reviews and feedback-seeking processes to avoid subjectivity in their selection. First, the draft papers were reviewed internally by each of the five members of the Indicator Development Team³ and revised accordingly. Three major external reviews further strengthened the attributes identification process.

A high-level review of the attribute papers for each set of attributes was undertaken by global experts⁴ on the theme of the cluster. Following the consequent revisions, the attributes were reviewed by the Reference Group, consisting of internationally renowned experts,⁵ at a face-to-face meeting in Geneva.

³To view the names and biographies of the Global Child Project Indicators Development Team members, please visit: <https://www.unb.ca/globalchild/projects/globalchild/team.html>

⁴To view the names and affiliations of experts consulted during the GlobalChild project, please visit: <https://www.unb.ca/globalchild/projects/globalchild/expertreviewers.html>

⁵To view the names and biographies of the members of the Global Child Project Reference Group, please visit: <https://www.unb.ca/globalchild/projects/globalchild/reference-group.html>

Finally, to further ensure the quality and pertinence of the attributes to the living reality of children, an international child consultative review component was undertaken through the Global Child Rights Dialog (GCRD). The GCRD was conducted in collaboration with Queen's University; Belfast's Centre for Children's Rights (CCR), in collaboration with Professor Laura Lundy; and other partners including Save the Children Canada and the Initiative for Article 12 (InArt12) from Greece. Child-friendly versions of the papers for each article were prepared. The GCRD undertook workshops with children from all five regions of the globe (Africa, Americas, Asia, Europe, and Oceania) to discuss and hear their thoughts about the attributes for each Convention article and to share their input. Almost two thousand children between the ages of 11 and 17 years participated from 52 sites in 35 countries, including Argentina, Canada, Greece, India, Japan, Russia, and Sierra Leone.⁶ The Indicator Development Team used this information to understand how children viewed their rights and the actions they felt necessary for enhanced compliance. Quotes from the children highlighting the priorities they identified are included with each article in the book and were used to help inform the subsequent drawing up of child rights indicators.

Once all these external review processes had been completed, a final internal review and redrafting was undertaken by the Indicator Development Team to ensure consistency and coherence, and to bring the papers up to date in order to reflect any recent and relevant developments and research.

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⁶To view the full list of the participating countries of the GCRD, please visit: <https://www.unb.ca/globalchild/projects/gcrd/countries.html>

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