

The Rights of Children, the Rights of Nations: Developmental Theory and the Politics of Children's Rights

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The Convention on the Rights of the Child (CRC), U.N. General Assembly (1989) is a major breakthrough in defining children as fully human and working to ensure them the attendant benefits worldwide. While children's rights as equal human beings may seem obvious in the 21st century, the politics of establishing and ensuring such rights are contentious. The CRC is a brilliant negotiation of conceptions of the child and international relations, yet certain tensions in the children's rights process lead to a lack of clarity in a global situation that continues to leave millions of children at risk. Analyzing the CRC and related practices from a developmental perspective can help identify obstacles to the advancement of children's rights, especially those related to opportunities for rights-based thinking and the exercise of self-determination and societal-determination rights.

In this article, I offer a qualitative analysis of children's rights in the context of what I refer to as the CRC activity-meaning system. I present a theoretical framework for considering this system of policy and practice as enacted in the CRC treaty and related monitoring, reporting, qualifying, and implementing documents. A discourse analysis of conceptions of the child and those responsible for ensuring their rights in seven representative documents (including the CRC Treaty, a report by the U.N. Committee on the Rights of the Child, minutes of a U.N. Security Council meeting, reports by a State-Party, and a report by a civil society group in that country) reveals tensions inherent in the CRC activity-meaning system.¹ Emerging from this analysis is a tension between children's rights and nation's rights. Created in part via explicit and implicit assumptions about child development in the CRC as these posit responsibilities across actors in the broader

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¹Documents for this analysis were selected to represent the major actors in the CRC system and to provide a case study following a sequence of required and alternative reports related to activities by one State-Party (Colombia) over a period of several years.

CRC system, this tension challenges the implementation of children's rights and the development of children's rights-based understandings. I use this analysis to explain why future research and practice should address the development of children's rights-based understanding not only in terms of maturation or socialization but also as integral to salient conflicts in their every day lives.

The Convention on the Rights of the Child (CRC, U.N. General Assembly, 1989) is an international treaty adopted by the 159 Members of the United Nations General Assembly in 1989 and subsequently ratified by all but two U.N. member nations (the U.S.² and Somalia). The CRC consists of a Preamble and 54 Articles stating the rights of "the child" and the responsibilities of "States Parties" in ensuring those rights. The Convention outlines social, economic, cultural, civil, and political rights assured via binding processes of implementing and monitoring by ratifying states. The United Nations Committee on the Rights of the Child (the CRC Committee) is central in orchestrating this process designed "to provide an international mechanism for monitoring progress on implementation" of the Convention "working with other Treaty Bodies, United Nations agencies, and other organizations to promote the Convention and the realization of the rights of the Child." This CRC system is, moreover, the first human rights treaty that involves nongovernmental organizations with an official role in reporting on its implementation (www.crin.org). The CRC also advocates that children have a say in matters that affect them, but, as I will show, their perspectives enter into the dialogue mostly via alternative reports and research.

Most scholarly discussion about the CRC focuses on the treaty document itself, but it is in this broader CRC system of activities that we can identify issues related to ensuring or limiting children's rights. A potential contribution of developmental psychology is to analyze the conception of the child, how this conception fits with the politics of international relations required for ensuring rights, and any tensions resulting from such interdisciplinary endeavors. Identifying these tensions is important for understanding challenges to implementing the CRC and for designing research on children's rights-based understanding and participation. Toward these ends, this article presents an analysis of the broader CRC system, including the treaty and documents enacting related monitoring, reporting, and qualifying activities.

After a brief description of the CRC, I discuss the analytic design in terms of a sociocultural activity theory of human development, present the discourse

²There has been little written about the reasons for the United States' failure to ratify the CRC. In personal communication, Roger Hart, who has been involved in the CRC development and implementation reports legal and political reasons. The United States has claimed that individual states must approve all treaty signatures, which not all states have done. In addition, Hart reports political pressures, in particular, from powerful southern states that did not want to ratify the CRC because of the apparently expansive nature of children's rights to make decisions about issues like birth control independently of their parents.

analysis methodology derived from this theory, and review results of the analysis. Based on these results, I explain how notions of child development implicit in the CRC document leave children's rights vulnerable to the politics of treaty-making. Results of the analysis also suggest the need to make sociopolitical aspects of child development more explicit, especially in relation to children's rights-based understandings and opportunities for children's self-determination.

Questions guiding the inquiry include: What is the nature of children's rights discourse across the CRC activity-meaning system? What tensions emerge from an analysis of the broader CRC activity-meaning system? How could these tensions affect opportunities for children's development of rights-based understandings and practices of self-determination rights? What developmental theory might allow for critical and creative analyses of children's rights-based understandings and actions? Based on the analysis, I will explain that focusing on developmental theory and the politics of treaty-making suggests the need for a developmental approach that considers children as social beings who interact with the material and symbolic circumstances in their environments, including the political processes like rights, which are essential to their lives.

The CRC

The following excerpts illustrate the CRC discourse.

From the *Preamble*

... the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance. . .

From *Article 12*

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

From *Article 14*

States Parties shall respect the right of the child to freedom of thought, conscience, and religion . . . [and] shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

From *Article 38*

States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces.

Scholars argue that participation by 193 nations suggests that the Convention is an advance of modern civilization, because children's status as complex persons

with rights worth international and local protection was first mentioned in Declaration of the Rights of the Child in 1924 (Hart, S.N., 1982, 1991; Hart, R.A., 1999). On the other hand, there is also evidence of the limits of the treaty and its implementation. Scholars have offered numerous critiques of the CRC, stating that “philosophical, legal, political, constitutional, methodological, and cross cultural” aspects of the CRC may serve to “facilitate or constrain” its effectiveness (Murphy-Berman & Weisz, 1996, p. 1231). Critics have noted, in particular, the predominantly Western perspective (Wilcox & Naimark, 1991) and the latent imperialism embedded in the moral and utopian assumptions guiding such human rights treaties (Dahbour, 2003; Koshy, 1999). Activists have, however, used the strong wording of the CRC to advocate for children’s rights and to pressure governments to create programs for children’s participation (Hart, 1999).

Intrigued with the relationship between nurturance and self-determination rights, developmental psychologists have examined children’s and adults’ understandings of different categories of rights and responsibilities of ensuring those rights (Ruck, Abramovitch, & Keating, 1998). Although the CRC and related activities rely on certain definitions of the child, relatively little discussion of child development theory explicitly guides the CRC or interactions between any theoretical assumptions and the politics of implementing the CRC. A treaty based on conceptions like “evolving capacities of the child” could, for example, usefully identify those capacities and the nature of their development, especially because such definitions differ across developmental theories. While leaving open the specific nature of “evolving capacities” may allow for diverse interpretations across cultures (Landsdown, 2005), it also potentially allows cultural and political powers to override children’s rights. When focusing in this way on the figure of the child and the nature of development, we ask, for example, what kinds of capacities within and across contexts constitutes maturity to participate in war at age 15, while still requiring that the child adhere to religious and political practices defined by the family and the State.

Toward a Developmental Reading of Children’s Rights Discourse

Developmental psychology has an important role to play in analyzing the CRC. Theories of child development, presumably, provide at least some of the foundation for the rights and responsibilities it advocates. Developmental theory is implied in the major definitions, principles, and myriad efforts to implement practices toward improving children’s rights (Hart, 1999). Nevertheless, the document offers no explicit discussion about the foundational theory of child development. Furthermore, although theory and research on human development remain implicit, political processes, like State sovereignty are explicit. This contrast is perhaps not surprising given the power of State Parties for making the Convention a reality.

If the treaty endows rights based on “evolving capacities” but does not define these capacities nor the circumstances and course of their development, the nature of the protections remains open to question. While one theory posits that children are not capable of critical reflection before the age of 12 (Piaget, 1968), for example another theory posits that critical reflection depends on the nature of challenges children face in their lives (Burton, Obeidallah, & Allison, 1996). Children growing up in the context of war or inequality would, on this view, be able to reason critically about precisely those issues (Daiute, 2006). Although the purpose of the CRC is not to define developmental theory, the basis of developmental concepts could affect its interpretation and implementation. We should, thus, address questions about the theory of child development embedded in the CRC system, the representation of children as psychosocial actors, and interactions of those representations with the politics of international treaty-making. Ultimately, being able to support children’s rights-based understandings and action depends on such clarity.

A complete review of theories of child development is not possible in this article, but previous reviews have highlighted several diverse emphases (Damon & Lerner, 2006). Most developmentalists today recognize the integrated biosociobehavioral nature of child development in that the maturation of the child’s body and brain relates to experiencing and understanding the social and physical world. Nevertheless, major theories differ in whether they emphasize biological or social processes (Damon & Lerner, 2006). Versions of the two most popular theories guiding contemporary research are cognitive developmental theories, which have made great contributions by explaining the increasingly complex cognitive organization of the child’s mind (Piaget, 1968) and social theories, which have offered explanations of how mind is shaped through symbolic interaction in cultural systems (Bronfenbrenner & Morris, 1998; Vygotsky, 1978).

Because there is no explicit discussion of the foundational principles of child development in or attached to the CRC, I drew on sociocultural theory (Leont’ev, 1978; Vygotsky, 1978) focusing on the development of higher order processes, like those required for rights-based understanding and self-determination, as they occur in the symbolic activity of discourse (Harre & van Langenhove, 1999; Wertsch, 1991). I generated questions, a design, and analysis of child development theory within the CRC and related activities from the perspective that development is an interaction of individual and society.

Following the proposal that “Every function in the child’s cultural development appears twice: first, on the social level, and later, on the individual level; first *between* people (*interpsychological*) and then *inside* the child (*intrapsychological*)” (Vygotsky, 1978, p. 57), the social–political context with which children interact from birth not only affects them but defines them. For this reason, developmental analysis of children’s rights—whether and how children are treated as members of sociopolitical life—must consider how children interact in society, not

only in terms of abstract cognitive processes but also in terms of what is going on in their environments. For example, children being recruited to fight on behalf of their country or to cope with inferior educational systems may perceive that public institutions are limiting their rights to life, learning, and play, but it is in precisely such situations where their reflection and any potentially critical results of such reflection are undermined by the State's need for child soldiers or its inability to provide education.

The sociocultural perspective posits that social institutions shape individuals and that individuals can transform social institutions (Engestrom & Miettinen, 1999). Consistent with this theory, children must have opportunities for critical and creative engagement in salient activities, which include exposure to important relations in society as well as to interpersonal interactions in the peer domain. On this view, development occurs within actual social processes including conflicts, and developmental trajectories are defined in terms of social struggles, which may be debilitating or transcendent. As we see later on, this could mean involving children in such activities as discussions of war, social exclusion, or education budgets rather than protecting them from such discussions. Ideally, civic activities are positive, like those involving youth as apprentices in social organizations devoted to improving society, but, in societies at war or with great economic inequalities, civic activities can be extremely negative. In such contexts, understanding children's rights as a developmental process becomes especially important.

Analyzing Children's Rights Discourses

This inquiry involves applying sociocultural activity theory to design and implement a discourse analysis of children's rights policy related to the CRC. The theory-based design draws on two concepts of sociocultural theory. As with other legal and policy practices, documents are reference points for a broader range of activities by institutional actors. Given this way of thinking about children's rights policy, I drew on the sociocultural concepts of activity-meaning system and dialogic relations to generate the research questions, design, and analysis process. Activity systems are those symbolically linked interactions of individuals in meaningful contexts and institutions (Engestrom & Miettinen, 1999). The developmental idea is that as children grow, they act and interact in relevant culturally mediated systems, which determine the values, concepts, and practices in their lives. These values, concepts, and practices are created in discourse and, thus, build in relation to the specifics of every day life. Children's rights policy, like other policies, is embedded within such a system of institutions, activities, and relationships. With the following theoretical formulations, we focus on interactions across seven different kinds of documents in the CRC system.

Documents, like everyday oral discourse and nonverbal symbol systems, are created in the midst of activity-meaning systems. Because each document in the

CRC activity-meaning system occurs within a series of meetings, it is a response to previous interactions and directed toward future ones (Bakhtin, 1986). Documents, thus, express dialogic relations in several ways (Bakhtin, 1986). Because they enact values, policy documents are discursive practices (Harre & van Langenhove, 1999) available for analysis of the principles, concepts, and tensions involved in society, which, in our study, is focused on the children's rights process. The documents in the CRC system are also dialogic because they are directed explicitly and implicitly to specific and general audiences of participants in the children's rights process. Analyzing language in context, for example, by linking the statements and values in one document to others in our theory-based system is one among several techniques mentioned here that makes this a discourse analysis (as compared to a content analysis that relies only on explicit statements, usually in nouns and verbs contained in texts). Another element of discourse analysis is paying attention to the small words, such as "the" in phrases like "the child," implying a universal form (citations on the increasing use and systematic nature of discourse analysis include Bakhtin, 1986; Bamberg, 2006; Engestrom & Miettinen, 1999; Harre & Van Langenhove, 1999).

Drawing on practices such as requirements for follow-up to receipt of a document also captures this notion of discourse activity system. Periodic reports by States that ratify the CRC, for example, are responses to a treaty requirement. Agenda items by the CRC Committee are, in turn, responses to periodic reports, which may be accepted or discussed for violations at a CRC Committee meeting. Through such ongoing interactions, participants in the CRC system negotiate the meaning of children's rights. Consistent with this view that culture is mediation in meaningful discourse, we define children's rights as embedded in a cultural-political system.³

The first phase of the present inquiry was to apply sociocultural theory to design an analysis of the children's rights activity-meaning system. This involved identifying the range of documents that address one another and selecting exemplars of each major phase of the interaction. With the CRC system design established, I conducted discourse analyses for information about the nature and relationships among these documents. The discourse analysis focused on identifying the implicit developmental theory in the CRC itself, including definitions of the "child" as stated and as implied in the description of rights and responsibilities and the determination of agents acting on the child's behalf. The next phase of the discourse analysis involved identifying activities enacted in the CRC documents, which include qualifying, monitoring, reporting, and implementing. I then discuss implications of the analysis for allowing children to express and develop their rights-based understandings.

³This definition of culture as socially mediated activity differs from definitions of culture as a set of beliefs and rituals belonging to a specific national, ethnic, gender, class, or other group.

The CRC Activity-Meaning System

The CRC activity-meaning system is enacted in the CRC treaty and related documents, as listed in Table 1. As shown in Table 1, this collection includes the CRC (Preamble and 54 Articles), “Declarations and Reservations” (Kuper, 1997; U.N. Treaty Collection, 2001), the U.N. General Assembly Security Council Item no. 63 on the Promotion and Protection of the Rights of the Child, 61st Session, the CRC Committee Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observation: Colombia, 42nd Session, a State Party Report: “Third Periodic Report of Colombia, and the Alternative Report to the Report of the Government of Colombia on the Situation of the Rights of the Child.” I selected these documents because they represent the major actors involved in stating, ensuring, and monitoring children’s rights and follow a sequence of reporting and monitoring for Colombia, a State Party figuring prominently in the process.

The CRC, like other international treaty practices, involves a system of interactions, like reporting and monitoring by key participants. As shown in the column labeled “Activity-Meaning” on Table 1, these documents constitute a system of activities including policy making, qualifying, monitoring, and reporting. This theory-based design provides a way of considering the broader CRC process relevant to children’s sociopolitical understandings.

Implicit Developmental Theory in the CRC

Reading the CRC document, we ask “Who is the child? Who are the child’s agents? What do these representations imply about the child’s reasoning and development as a social–political agent? How do these explicit and implied definitions of the child occur in relation to the representations of political actors mentioned in the CRC?” The discourse analysis to address these questions involved identifying all references to the “child,” those individuals, roles, and institutions defined as acting on behalf of the child, the nature of relationships among these actors, stated and implied developmental processes, and qualifications of these relationships and processes for different categories of rights. After compiling these identifications, I compared them to those stated in the major contemporary explanations of development: maturational, socialization, and sociocultural.

The general model of human development embedded in the CRC—although not explicitly discussed—is one of a gradually maturing organism—expressed in terms like “evolving capacities of the child” and “will be given weight in accordance with age and maturity.” Characteristic of the CRC discourse is its reference to “the child,” implying that “child” is a universal category. The related discourse of maturation suggests that this universality is biological. At the same time, there’s a process of socialization implied, via expressions about the prominent role of

Table 1. Documents in the CRC Activity-Meaning System for Discourse Analysis

Actor/Document	Activity-Meaning
International	
1) <i>United Nations CRC</i>	Policy-making treaty
2) <i>Office of the U.N. High Commissioner on Human Rights (OHCHR)</i>	Qualifying activity
<i>Declarations and reservations to the CRC</i>	(State-Parties take issue with CRC)
3) <i>U.N. General Assembly, Security Council Agenda Item no. 63</i>	Monitoring activity
<i>On Promotion & Protection of the Rights of the Child</i>	(for State-Party violations & concerns)
61st Session, 26 October 2006	
4) <i>Committee on the Rights of the Child, consideration of reports submitted by States Parties under Article 44</i>	Monitoring Activity
<i>Of the Convention, concluding observations: Colombia,</i>	(Summary of State Report)
42nd Session, 2 June 2006 (Re: Colombia's 3rd per.report)	
5) <i>Committee on the Rights of the Child, Implementation of the Convention on the Rights of the Child, Colombia</i>	Monitoring activity
National actors	(Request for additional report)
6) <i>Third periodic report of Colombia (CRC/C/129/Add.6) (8/05)</i>	Reporting activity
7) <i>Alternative report to the report of the government of Colombia on the situation of the Rights of the Child</i>	Reporting-monitoring
Local actors	
Citations of child and youth perspectives in local programs	Reporting child/youth views

“States Parties” and families to make decisions on the child’s behalf, qualifications like “taking into account the rights and duties of the child’s parents,” and exceptions such as accommodations to State Parties recruiting children into armed conflict at age 15 when necessary, although childhood is otherwise protected up to age 18.

Who is the Child?

As stated in Article 1 of the Convention, “*a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.*”

The child’s status as an individual person, like all other humans, is the basis for rights in the CRC. Results of the analysis reveal explicit and implicit representations of the child, as an individual person deserving of human rights, yet vulnerable, emergent, dependent, and determined by the broader social structures of the family and the state. Because the child described in the CRC matures only gradually, he or she is deemed in need of protection until the age of 18, except in the case of armed conflict, when this age can be lowered to 15.

For the most part, “the child” is represented as in need of protection and, thus, vulnerable in the face of myriad threats. Most of the rights are based on the child’s physical or cognitive immaturity and attendant needs for shelter, sustenance, protection from abuse, protection from coercion, exploitation, and harmful activities like unhealthy labor and armed conflict. The details of the Articles also represent the child as singular, passive, and generic. The child’s status as an individual is underscored in rights to “privacy, respect, reputation, honor, dignity.” Although vulnerable, the child is eventually able to exercise rights, although the nature of transition to increased ability is not stated.

As stated in one quarter of the 54 articles (Hart, 1999), the child is endowed with some rights to participation such as the right to express views in matters that affect him or her and to assemble peacefully. Although included, participation rights are always qualified to be consistent with the interests of the State. Moreover, rights to freedom from discrimination based on culture, race, creed, and other unique qualities are granted the child through the family and the State, thus limiting the child’s self- and societal-determination.

An implication of a developmental trajectory comes from statements like “the child should be prepared to live an individual life in society, consistent with the spirit and ideals of the United Nations—spirit of peace, dignity, tolerance, freedom, equality, and solidarity.” The CRC does not mention milestones or qualitative shifts in the child’s understanding or behavior across the years from birth to 18, which leaves discretion about different levels of maturity to the family and the State. In the absence of a description of developmental processes, the default model is

one of socialization to local values and practices that the child would presumably internalize by age 18.

Who are the Child's Agents?

The CRC represents two primary agents on the child's behalf: the family environment and State Parties. The child's relationships are, thus, hierarchical—in terms of membership in a family that protects and socializes the child and membership in the State that protects and socializes the family. Analyses reveal a range of family responsibilities and rights, including the family's role in providing a home for the child and the family's role in social reproduction (such as in their responsibility to provide the child with a name and language). As stated in the Preamble, parties to the Convention declare they are "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." As the primary agent for the child, the family is defined in Article 5: "parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child."

The family provides continuity for social reproduction, by providing identity in a name, heritage language, and "harmonious development of his or her personality." The designation of the family environment may seem obvious as the child's primary domain of nurturance, especially to those of us in Western industrial and postindustrial societies, but the family is also a mediator for divisive issues, like culture, religion, and politics. The nesting of the child's rights within the institution of the family is, for example, a way that the CRC allows for the protection of traditional values, practices, and ideologies. What this designation misses, however, is the child's participation in society—as a means of development and as a potentially transformative force of social change should children, for example, disagree with family practices or participate in new activities auguring trajectories that differ from tradition. Children in countries of the former Soviet bloc participate in activities to promote democratic citizenship, for example which their families might find to be quite foreign or untenable.

The CRC States Parties are the primary agents mediating for the child's rights, sometimes through the family, as discussed in the previous section, but mostly through their direct involvement in the CRC and in domestic laws. Ratifying States promise to "recognize the rights of the child," "promote," "take all appropriate measures to secure" and "protect" the child's rights, to "treat [the child] without discrimination," to "ensure" the child's best interests, to "develop," "establish," and "preserve" the child's identity (such as to provide a birth certificate). Ratifying States promise a range of protections (such as to take appropriate legislative and

administrative measures to ensure children's rights). The State also promises to respect, to take appropriate legislative and administrative measures, to promote values (such as spirit of international cooperation), to teach "preventive health care guidance for parents," to prepare the child for responsible life, to refrain from recruiting and abusing the child, and to make principles and provisions of the Convention widely known. State Parties are also afforded a wide range of exceptions, such as the right to recruit young people to fight their wars even before the age of maturity if necessary.

Limitations on Children's Rights

Across the wide range of rights in the Convention, national values and laws are sovereign and qualifying each right in some way. Most of the articles, in short, allow States Parties to limit a child's right "in conformity with the law" and "in the interests of national security or public safety, public order, the protection of public health or morals or protection of the rights and freedoms of others" (p. 15). The child's right to his or her family, expressed as the right not to be separated from the family, limits the primary buffer between the child and the State: "Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or the child."

The CRC establishes children's rights as universal but posits limits in terms of their developmental capacities to act on their own behalf. Noticeably missing in the Convention is representation of the child as a social being or social agent. None of the articles highlights equal relationships—such as with peers, siblings, or other social institutions where the child might have responsibilities or an effect on others. The absence of any mention of social relational reasoning and interaction skills underscores the underrepresentation of capacities and, more importantly, underrepresentation of children's social-political participation. What then is the meaning of self-determination? How does it differ from societal-determination? How do these capacities develop? More critical questions could ask about whether and how children apply perceptual and analytic skills (such as perspective-taking) to local material and symbolic circumstances, such as those related to debates about gender equity and religious practices.

In summary, extremes of both maturation and socialization theories are implicit in the CRC. As noted in Articles 12 and 14 above, children's rights, such as those to freedom of expression and conscience are defined in terms of "evolving capacities" and "in accordance with age and maturity," thereby expressing a maturational view of development. These same rights are also limited by the "rights and duties of the parents and, when applicable, legal guardians to provide direction to the child" and to determine "the best interests of the child." These parental

roles suggest a socialization model of development, by implying that the child's view would ultimately echo the parents' view and, moreover that parents would not limit their children's rights according to the CRC. Assumptions about how children's capacities develop in relation to circumstances and injustices in their daily lives remain unexamined. Although maturation and socialization views may both assume that children eventually can reason critically about their own lives, theory-based analyses of the development of children's sociopolitical reasoning seems crucial to the appropriate balancing of nurturance and self-determination rights. If, for example, States and parents limit deliberation of precisely those contentious issues in society where children's rights may be most challenged, how would children develop, express, and exercise these rights?

Negotiating Rights across the CRC System

In this section, I discuss how an analysis of dialogic relations across the CRC activity-meaning system offers insights about the dilemmatic nature of defining children's rights. The analysis of the broader CRC system illustrates how State Parties qualify their compliance with the treaty, thereby limiting children's role in expressing and developing their rights-based understandings.

Qualifying Rights

Children's rights are qualified not only within the CRC document, as mentioned above, but also in the broader CRC system. As indicated in Table 1, the children's rights system allows for qualifying activity, as demonstrated in the formal process of *Declarations and Reservations*. A few examples of "Declarations and Reservations" illustrate CRC respect for cultural and religious Conventions, such as Djibouti's declaration that it "shall not consider itself bound by any provisions or articles that are incompatible with its religion and traditional values" (U.N. Treaty Collection, 2001, p. 8) and the Holy See's reservation that "Family planning and education services in Article 24.2, [will] mean only those methods of family planning which it considers morally acceptable that is the natural methods of family planning" (U.N. Treaty Collection, 2001; p. 11). In more political vein, Cuba asserts that "under the domestic legislation in force, majority is not attained at 18 years of age for purposes of the full exercise of civic rights" (p. 7). Because declarations and reservations clarify or claim exemptions to specific CRC articles, they are involved in an ongoing negotiation of the Treaty.

An analysis of the nature of declarations and reservations offered insights about how State Parties tailor the CRC to their circumstances and goals. This analysis involved identifying the frequency of CRC Articles cited in qualifications by State Parties in "Declarations and Reservations to the Convention on the Rights of the Child."

Table 2. CRC Article Mentions in “Declarations and Reservations to the Convention on the Rights of the Child”

Article	Focal Issue of Article	Frequency of Mention
21	Child protection in adoption	17
14	Child right to freedom of thought, conscience, religion	14
7	Child right to birth registration, name, & nationality	12
37	Child protection from punishment	12
38	Protection of children affected by armed conflict	12
2	Child protection from discrimination	8
9	Protection from separation from parents	8
40	Protection in the administration of juvenile justice	8
10	Child right to entering/leaving country for family unification	7
13	Child right to freedom of expression	7
15	Child right to freely associate & peaceful assembly	7
16	Child right to privacy	7

Note. There were no mentions for Articles 27, 33–36, 42–50, 52–54. For the remainder of Articles, there were 6–1 mentions.

As shown in Table 2, several Articles emerge as particularly contentious by the relative frequency of mentions, while others were mentioned infrequently or not at all. The analysis revealed that the most frequently qualified Articles are Article 21 on child protection in adoption (17 State Party mentions), Article 14 on the child’s right to freedom of thought, conscience, and religion (14 State Party mentions), Article 7 on the child’s right to birth registration, name, and nationality (12 State Party mentions), Article 37 on child protections against punishment (12 mentions), and Article 38 related to treatment and participation in armed conflict, in particular assurances to not be recruited before the age of 15 (12 mentions). While those 12 Articles received the majority of mentions, another 17 articles received between 1 and 6 mentions, and 25 Articles were not mentioned at all. Another way to summarize these data is that 5 Articles were cited in 46% of the State Party declarations and reservations, while the remaining 44% were spread across 11 Articles.

Interestingly, 10 of the 12 Articles mentioned most frequently are focused on rights emphasizing children’s self-determination. For example, children’s rights to freedom of thought (Article 14), freedom of expression (Article 13), right to freely associate (Article 14), and right to privacy (Article 16) are explicitly related to self-determination. Others, in contrast, are more implicitly related to self-determination, such as Article 37 that claims protection from punishment and Article 10 that claims the child’s right to enter/leave the country for family unification. While these are based in part on nurturance principles, qualifying children’s rights to protection from punishment could also be qualifying their right to speak out against laws or practices they find unjust. Because relatively few articles overall focus on children’s self-determination (approximately 25% as

cited above), it is important to note that qualifications focus disproportionately on those self-determination rights. Articles that no State Party questioned had to do with protecting children against various kinds of abuse and exploitation (sexual abuse, exposure to substance abuse, abduction, and other exploitation), the State Party implementation and monitoring of CRC procedures, and language.

With this analysis extended beyond the CRC treaty to the Declarations and Reservations, we observe, for example, how children's rights occur within and are limited by the rights of State Parties. We see, moreover, in the declarations that children's rights are qualified in terms of political and cultural priorities of the State Party. The analysis, thus, revealed that ensuring children's self-determination is viewed as more problematic for State Parties than protecting children from certain ills. In addition to noting this tension between children's rights and State Party rights, the analysis foregrounds the relative lack of an explanation for children's sociopolitical development and rights-based understandings, beliefs, and actions.

Based on the qualifying activity examined in the declarations and reservations, we can raise questions about the definition and possibility of children's self-determination rights. If children's rights to freedom of thought, self-expression, free association, etc. can be limited by State Party and family rights, what is the implied explanation of children's development of capacities related to these abilities? How does such limiting of children's rights exploit the lack of explicitness in particular about the nature of children's sociopolitical development and rights-based understandings in the CRC system? Does the implicit maturational model allow the rights of families and states to override the rights of the immature child? Do assumptions about socialization compromise children's rights by implying that their views will inevitably mirror those of their elders?

There are several directions to pursue in addressing these questions. Embedding children's rights in nation's rights is necessary for negotiating a children's rights treaty. Qualifications also allow for cultural diversity, but equating children's rights to cultural-political rights of their elders limits the possibility that they would contest the status quo. If that is the case, we ask "What is the nature of children's self-determination defined in the CRC system?" What mechanisms are there in the CRC system to address how children's perspectives might differ from those of their parents and national institutions?

Monitoring and Reporting

The next section further foregrounds the tensions between children's rights and nation's rights inherent in the CRC activity-meaning system. While qualifying activity privileges the State Party perspective, monitoring and reporting open the field of debate to the international and local areas. Monitoring occurs by the international organizations of the United Nations Security Council and the U.N. Committee on the Rights of the Child. State Parties and nongovernmental organizations are involved in reporting to those international organizations, which

creates an implicit monitoring by the nonstate actors. Table 1 lists a sequence of monitoring and reporting documents by international, State, and nonstate actors to illustrate the CRC activity-meaning system. In addition to gathering these documents as illustrations of the broader CRC activity-meaning system, I analyzed the dialogical nature of interactions across actors in the system.

The sequence of documents listed in Table 1 extends the CRC negotiation process beyond the statement of the treaty (no. 1 on Table 1) and the privilege of State Parties to qualify their ratifications (no. 2 on Table 1) to a process of monitoring and reporting (United Nations Treaty Collection, 9 October, 2001). This iterative sequence of interactions includes monitoring by the international organizations, included here with the U.N. General Assembly Security Council Agenda Item no. 63 noting violations of CRC articles by certain State Parties (no. 3 on Table 1), and the CRC Committee monitoring activity focused on Colombia, which had been previously noted for violations (no. 4 and no. 5 on Table 1). Each State-Party must periodically present reports on their efforts to ensure children's rights, 2 years after ratifying the CRC and then in 5- year intervals. They are also required to respond to violations and concerns noted by the international committees.

Interactions across this sequence of documents are quite explicit. For example, the U.N. Security Council cited Colombia, along with several other countries, for violations and concerns about allowing children to fight in that country's internal conflict. In its 3rd periodic report, Colombia then acknowledged that "The most critical aspect of the Colombian reality today is the internal armed conflict" (Colombian Government, 2004). A subsequent CRC Committee monitoring document referred to the issue of displaced children: "The Committee takes note of the State party's [Colombia's] intention to increase resources to internally displaced children, however expresses grave concern of the very high number of children who continue to be displaced in Colombia, the 3rd largest number of displaced persons in the world" (www.unhcr.org).

The CRC Committee then directed Colombia to address a "List of issues . . . in connection with the consideration of the third periodic report of Colombia," stating further that "Under this section the State party is requested to submit in written form additional and updated information, if possible, before 5 April 2006." The State-Party report then replied to "the list of issues raised," again acknowledged that "the most critical problem in Colombia today is the internal armed conflict," and offered assurances that it has implemented "programs relating to children that have been developed by responsible institutions."

Another voice in this CRC system is the civil society sector, represented by The NGO Group of nongovernmental organizations. The NGO Group Liason Unit "supports participation of the NGOs, particularly national coalitions, in the reporting process to the Committee on the Rights of the Child . . . to ensure the implementation of the Convention," especially through their production of

“Alternative Reports” (<http://www.crin.org/NGOGroupforCRC/index.asp>). An example of such a report is the “Alternative report to the report of the government of Colombia on the situation of rights of the child in Colombia (2005).” This report acknowledges that the Colombian government had assumed certain responsibilities for children’s rights, yet this document also criticizes the government’s lack of effectiveness in improving the situation of Colombian children, especially children of the poor, whom the report states as an overwhelming majority of the population.

The Alternative Report quotes the government, for example, as proposing “to incorporate in the military program of ‘peasant soldiers’ approximately 100,000 youth” (Alternative Report, p. 13). Also taken up in this report is the government’s negotiation and amnesty of paramilitary groups who prey upon children: “Amongst the main concerns [are] that the negotiations have denied the root causes of serious human rights abuses committed by the paramilitaries; . . . that negotiations have been carried out in spite of [the fact that] these groups continue to commit crimes; that there have not been taken the necessary measures to dismantle and disarticulate their ties with members of the official armed forces or to guarantee the rights of victims and the society to truth” (Alternative Report, p. 13). Such claims of the government failure to protect youth from participation in armed conflict include quotes by children: “I was promised a job and that they were going to pay me one million [Colombian pesos] for each guerilla leader that I killed. I am expert in explosives and then I can work planning mines and other explosives” (Alternative Report, p. 79). Like the reports by the Colombian government, such reports are directed explicitly to the Committee of the CRC, but there is also implicit dialogue among the actors within Colombia.

As we have seen, monitoring and reporting activities expand the CRC activity-meaning system by increasing the dialogue among local participants and by including children’s perspectives, especially by introducing “Alternative Reports,” which check state power and often include children directly in the CRC process. Nevertheless, across the CRC systems, the child continues to be represented as the object of children’s rights discourse, rather than as an agent in the process of interpreting rights and violations of rights. The analysis above reveals the dilemma of rights system that protects children by embedding them as family and state possessions rather than as collectively empowered agents in society. Although there may be no obvious way out of the dilemma within the state of the art of international diplomacy at the present time, we can advance inquiry about children’s rights by continuing to pose questions about how children develop and how they understand precisely those rights-based issues their governments and families challenge. Toward this end, it behooves us to find ways to include young people’s perspectives more explicitly and systematically in research on the CRC system.

Research inspired by sociocultural theory positing that children’s development interacts with the specific circumstances of their every day lives, such as

conflicts and injustices they face, offers insights about the context-dependent nature of children's reasoning about sociopolitical issues relevant to rights-based discourse. Several examples follow to illustrate how eliciting children's perspectives about contentious sociopolitical issues belie assumptions about maturation and socialization. These examples suggest the need for increasingly systematic research to assess whether children's experiences with rights violations lead to understandings that occur earlier than maturational theories would posit and how those experiences might lead to understandings that differ from those of their elders.

Integrating Children's Perspectives in the CRC Activity-Meaning System

Because children's rights are embedded in the rights of nations, primarily in the guise of protection of the "evolving capacities" of the gradually maturing child, research can make a major contribution by considering the sociopolitical nature of development. Given the theoretical and practical ambiguity of the CRC activity-meaning system in establishing the basis of children's rights-based reasoning, we draw on research that elicits children's understandings about conflict and diversity, two rights-related issues that State Parties qualify.

To integrate young people's explicit participation in the broader CRC system, it is important that their voices come in as more than anecdotal quotes. Systematic research with young people reflecting on issues where their rights have been compromised suggests that they reason in complex ways at relatively younger ages than we would expect from a maturational or socialization perspective. Three studies eliciting children's perspectives in relation to local crises suggest the complexity of children's reasoning about issues related to rights and the fact that this reasoning does not necessarily echo that of the elders entrusted to advocate on their behalf.

In her recent ethnographic study with children involved in armed conflict, Sta. Maria (2006) described a situation in the Philippines where children as young as 11 are recruited into civil struggles in spite of the State's ratification of the CRC and laws against recruiting minors. Explaining the pathways of Filipino children's participation in armed conflict, Sta. Maria explains that armed insurgency groups such as the New People's Army (NPA) and the Moro Islamic Liberation Front (MILF) provide orphaned and impoverished children with nurturance and a community in exchange for their participation in conflict-related tasks.

Based on interviews with children in the Philippines, Sta. Maria reports that children's experiences with violence become the basis for their development. Sandra, for example, explained that she had joined the NPA to escape poverty and an abusive family situation as a child. In addition to finding protection and opportunity in the NPA activities, Sandra also learned that when she left home, her "stepfather stopped beating her mother." Expressing her problem-solving further, Sandra explained, "If I have the chance, I want to go to college and study something

related to what I did as a medic in the NPA—I was good at what I did, I even used to operate on those who were shot . . . Mama asked me why I wanted to stay with the NPA. I told her that I wanted to experience life as an NPA . . . Back then, I wasn't afraid of dying . . . At least I had a chance to tell my Mama the reasons why I was going. It was the first time I told her about how I felt," (Sta. Maria, 2006, p. 35). Examining such thinking to identify how young people like Sandra define nurturance and self-determination rights in relation to specific challenges and opportunities in their environments seems a productive step toward establishing context-sensitive methods and definitions of children's rights-based reasoning.

Another study asked young people to reflect on their experiences and needs at the end of the 1990s war in the Balkans. In that context, where the state and adult generation had been silencing talk of war to protect children from the horrors they had experienced, children spoke clearly about their rights to learn about their history, including the recent wars. Based on interviews with children and their parents in two areas of the Balkans, researchers report that both Serb and Croatian children said they wanted to know more about the war and explained why this knowledge is important (Freedman & Abazovic, 2006). The tension between parents' view of protection and the children's need for participation shouts out in these typically conflicting quotes: "We should learn about the causes of the war and how disputes should be resolved in order to avoid wars. . . . I believe we should talk about it," while the following is typical of the parents interviewed: "We have been trying not to burden them [the children]. We don't talk about politics at home so we are trying to protect them as much as we can." Children are, moreover, aware of the suppression, as one boy said, "They avoid the subject at home" (Freedman & Abazovic, 2006, p. 23). The issue in this situation is the right to knowledge, which becomes salient in the Balkans because of the ongoing tensions that children observe daily in spite of the silence denying those tensions. Children's thirst for a particular kind of knowledge thus emerges in a specific contentious context.

In the United States, there is also evidence that young people exposed to conflict in urban contexts reason in critical ways. In one study, for example, although the curriculum and teachers in a violence prevention program emphasized resolving conflicts by employing a range of interpersonal communication strategies, 7- through 10-year-old children identifying with African-American, Latino, and immigrant backgrounds noticed that discriminatory practices can make conflict resolution difficult if not impossible. These 7- to 9-year-old children, like the children in the Balkans, spontaneously focused on tensions reflecting broader issues in the society, perhaps those discussed in the privacy of their homes or among trusted peers. The following quote, for example, is the beginning of a longer conversation by two children who were recent immigrants to the U.S.: "What a bad country America is . . . It has a lot of pollution. I mean look at the manners they have . . . the bad language . . . and you can't even get used to them" (Daiute, Stern,

& Lelutiu-Weinberger, 2003, p. 97). Children who feel marginalized in a society may become particularly attuned to such critical details and the fact that it is okay to express such critique among peers but not in larger class discussions, one among many instances of higher order thinking that occurred in this study (Daiute et al., 2003). In the absence of such opportunities to discuss contentious issues, it may seem that children are unable to reflect on them or must be protected from the realities of social marginalization.

The significance of these brief accounts is that they suggest the promise of research on children's rights-based understandings in the context of contentious issues in their every day lives. As they notice and respond to the issues in their environments, children's sociocognitive capacities may emerge differently, suggesting the need for context-sensitive research and practice. Sandra, for example, linked past and future action when pressured to explain her involvement in the guerilla movement; the young Balkans expressed discomfort about something society was trying to protect them from; and the young children in the United States distanced themselves from the powerful mainstream context when they had the protection of like-minded peer support. Across these examples, we hear children using higher order thinking skills, such as Sandra's transformation of a debate with her mother about participation in the NPA into a statement of self-discovery and potential pathway to a productive future and the Balkan children's apparent knowledge of issues that their parents had tried to hide from them.

Future research could usefully explore in more detail whether and how such context-sensitive discourse has an impact on children's rights-based reasoning and action. This approach would build on theory that is specific in terms of the interdependence between individual and societal development, thereby extending beyond maturational and socialization models implicit in the CRC system.

This approach is consistent with other scholars' examination of the influence of context on children's rights-based understandings (Horn, this issue; Peterson-Badali & Ruck, this issue; Sherrod, this issue). Working from theory positing that rights-based reasoning develops in relation to children's experiences, rather than any absolute age-based capacities, recent research has identified differences in children's thinking about rights, citizenship, and sociomoral issues across positions in society. Experiences of maltreatment, ethnicity, socioeconomic status, and their local sociopolitical ideologies affect how they think about the nature and assignment of rights (Peterson-Badali & Ruck, this issue; Sherrod, this issue; Turiel, 2002). Research has also begun to consider interactions of children's thinking about relationships between rights, civic responsibilities (such as acting on behalf of others, including or excluding others, etc.) as functions of children's positions in society (Horn, this issue; Sherrod, this issue). Consistent with this context-sensitive research, a sociocultural activity approach suggests the value of examining children's rights-based reasoning in relation to the specific issues that are contentious in the society, like those qualified across the CRC activity-meaning

system and located in monitoring and reporting documents typically at the margins of the system.

Given the sociocultural hypothesis that it is specific situations where critical thinking emerges, such ongoing research would also require methods that allow children to express their rights-based understandings in a range of ways over contexts and time. For this reason, future research could beneficially elicit narratives from children living in situations where their self-determination rights, in particular, might be in conflict with those of the state and other institutions. As we saw in the analysis above, moreover, issues of conflict and intergroup relations tend to be those that State Parties qualified and exempted from their agreement to comply with the CRC. These qualified issues are, thus, contentious, and, I would argue, those issues that are broadly discussed in the society or exposed by uncomfortable silences. From the perspective that children's development is interdependent with the activities in their society, we could expect that conflicts and silences would be highly salient to children in such contexts.

Implications

In summary, this analysis of the representations of the major actors in the CRC activity-meaning system reveals conceptual issues and power relations that limit children's rights. Although the relatively reduced vision of the child addresses the political problem of acquiring ratifications in the short run, the emphasis on nurturance rights at the expense of participation rights limits the potential value of the CRC. By analyzing child development as a social-cultural-political process, rather than as a maturational or socialization processes, we may be better able to identify challenges and define human development in relation to circumstances where children are growing up, including the complex situations that challenge their rights. Consistent with the analysis presented here, I suggest that the issues that the State Party wants to control further in terms of children's rights are contentious ones in the society, such as girls' education or birth control. Based on previous research on interactions among children and youth (Daiute et al., 2003; Giroux, 2001), I posit that it is precisely such contentious issues that are being discussed privately if not publicly among young people. By broadening the unit of analysis to the CRC activity-meaning system, we see how the discourse of children's rights can address contentious issues within state parties and from the perspective of young people. These issues of salience in everyday discourse would, thus, be ones provoking children's critical reflection and perhaps the basis for expression about "matters that affect them," those matters promised and limited in the broader CRC system. I point out these tensions to suggest a theoretical basis and direction for future research, interventions, and ongoing policy-related inquiry. In particular, identifying these tensions suggests the need for research focusing on how children understand the issues that are contentious in a society, such as taboos

against discussions or activities, like those related to war, and the transformation of cultural practices related to social, political, or economic change.

Koshy, a human rights scholar, makes another point we can apply to developmental theory: “while the very meaning of utopia seems to impel us toward an exhaustive possibility, an absolute manifestation, or an end-point, . . . We are only always getting there and the horizon keeps moving as we proceed” (1999, p. 27). The many threats to claims for children’s rights in the CRC suggest we are far from utopia. If our research could account for detours that occur when children struggle with a range of less-than-ideal circumstances, we may be able to create models that provide new insights about young people’s thinking and agency within these situations of social ills that ensnare them.

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