

Introduction

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‘Children are not the people of tomorrow, but people of today. They are entitled to be taken seriously. They have a right to be treated by adults with tenderness and respect, as equals. They should be allowed to grow into whoever they were meant to be – The unknown person inside each of them is the hope for the future.’
(Janusz KORCZAK)

Humankind’s image of children has developed gradually since ancient times. However, although the value and importance of childhood in one’s life has been underlined by many thinkers and authors different viewpoints throughout history, a deeper understanding of the significance of this initial period of human life facilitated by professional and organised scientific studies of children’s psychological development had its onset only at the beginning of the 20th century. In addition to the evolution of scientific research on children, the 20th century is also marked as a period of child rights movements¹ which resulted in the birth of the *United Nations Convention on the Rights of the Child* (hereinafter referred to as UNCRC), the very first international convention that considered children as rights holders and not objects of protection.

Before the UNCRC became the most widely ratified human rights treaty in the world,² children, just as most women and people with disabilities, were considered by most national legal systems as legally incompetent, and thus could not act and exercise rights on their own behalf. This showcases why it is not an overestimation to say that the 20th century was the “*Century of the Child*”.³ Paradoxically, the 20th century earned this title by being one of the darkest periods in human history and destroying the childhood of many generations; still, this situation also created a genuine need

1 The first international instrument enlisting and protecting children’s rights, the Geneva Declaration, was adopted on the basis of the initiation of Eglantyn Jebb in 1924, but it lost its legally binding nature by the dissolution of the League of Nations. Afterwards, in 1959, the Declaration on the Rights of the Child was adopted, however it was never a legally binding instrument to the state parties, and did not yet consider children as subjects with their own rights.

2 The UN Convention on the Rights of the Child is ratified by all state parties to the UN, except for the United States of America.

3 The 20th century was firstly called the Century of the Child by Ellen Key, a Swedish activist, and later on the appellation was strengthened by other scholars.

for a stronger appraisal of human dignity. The trauma of the First and Second World Wars pushed states to declare human rights⁴ and establish minimum standards that should never be violated again.

With the adoption of the UNCRC in 1989, children's rights were also declared, strengthening the recognition by states of the necessity to provide special protection to children and the families that raise them. Obviously, children were already covered by the protection provided by to universal human rights, as children's rights are also human rights. However, the special needs of children justify targeted attention, protection, and empowerment, as these are necessary to ensure the provision of appropriate circumstances for each child to grow up. Specifically, all children should have the opportunity to grow in an environment that provides full and harmonious development of their personality, in an atmosphere of happiness, love and understanding and prepares the child for an individual life in the society in the spirit of peace, dignity, tolerance, equality and solidarity.⁵ In light of this, the UNCRC created the notion of a "global child", and declared children's rights as necessities of a fruitful childhood by addressing their special needs. Besides creating the notion of the global child, the UNCRC also made it clear that it is in the children's best interest to grow up in a loving family environment, and that it is the duty of the state to strengthen families and create circumstances that enable them to function well, preserve their autonomy, and raise children who understand the importance of family as the basic unit of society. The very wide ratification of the UNCRC made the notion of the global child even more alive and the idea of equal rights to all children of the world without discrimination (i.e. by taking their best interests as a paramount consideration) brought us all one step closer to fulfilling and securing the protection and empowerment of those who were and are at stake on the matter: the children of the world.

The UNCRC was adopted 35 years ago,⁶ but its full implementation has yet to reach the desired level. To achieve a thorough implementation, bring the promise of the notion of a global child to fruition in reality, and secure strong, supportive families for children, the 20th century – as the period in which the universal protection of children was created – must be followed by more centuries that place value in childhood and the rights of the child. At the same time, these following centuries should manage to avoid the paradox of the 20th century, where children's lives and childhood were endangered and totalitarian regimes quietly destroyed families worldwide. Importantly, this shall not and cannot be done by adopting new human rights treaties on a universal level or by opening the existing treaties for amendments, but instead by committing to the real aims of the UNCRC. This means that the value of childhood

4 The Universal Declaration of Human Rights was adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948, and was followed by the International Covenant on Economic, Social and Cultural Rights Adopted by General Assembly resolution 2200 A (XXI) of 16 December 1966, and the International Covenant on Civil and Political Rights Adopted by General Assembly resolution 2200 A (XXI) of 16 December 1966.

5 See the preamble of the UNCRC.

6 The 35th anniversary of the adoption of the UNCRC is on 20 November 2024.

and children's rights shall be determined from the perspective of children and not from the point of view of adults, as this may help avoid relativising the rights of children both at the micro (family and school) and macro (national and international legislator) levels.

Thus, in order to effectively protect children and their childhood, it is essential to understand them in depth and to wear "child rights glasses" (i.e. consider topics from the perspective of children's rights) in everyday life. This is a perspective that should be considered by all professionals responsible for the creation and shaping of the legal framework that protects children, and by those that work in any aspect of child protection and empowerment. "Child rights glasses" is something that can be gained through interdisciplinary, child- and family-centred education. Importantly, the International and Comparative Children's Rights Master of Law (hereinafter referred to as ICCR LL.M) is a child- and family-centred, interdisciplinary programme that targets lawyers and aims to provide them with "child rights glasses". The current book, titled *International Children's Rights*, is part of a series of 11 books⁷ that outline the curriculum of the ICCR LL.M. This series of books aims to provide a holistic picture of the rights of children, and afford readers the following: cover human rights protection at both the universal and the regional levels; provide an understanding of children's social and personality development; provide information on children in conflict with the law; deliver knowledge of interdisciplinary and child-friendly communication; an overview of the national implementation of children's rights by private law and public law from the perspective of Central European countries; an overview of the child protection systems of these countries; an overview of the justice systems of these countries; cover the topic of religion and children's rights; describe the challenges that child protection and child rights-based approaches face in the digital age. Accordingly, the *International Children's Rights* book focuses on the notion of the global child, on international human rights law that covers the rights of the child, that is, the UNCRC and its Optional Protocols, and on the implementation and monitoring mechanisms that support these international instruments.⁸ This book comprises five parts.

7 The curriculum of the ICCR LL.M is based on an interdisciplinary and legal cross-border research comprising several countries (Croatia, Czech Republic, Hungary, Poland, Romania, Slovakia, Slovenia, etc.) and the following eleven books: *International Children's Rights*, *The Rights of the Child in Regional Human Rights Systems*, *Social and Personality Development in Childhood*, *The Rights of the Child in Private Law – Central-European Comparative Perspective*, *The Rights of the Child in Public Law – Central-European Comparative Perspective*, *Religion and Children's Right*, *Child Protection Systems – Central-European Comparative Perspective*, *Children in Digital Age – Central-European Comparative Perspective*, *Child-friendly Justice – Central-European Comparative Perspective*, *Interdisciplinary and Child-friendly Communication*, and *Children in Conflict with the Law*.

8 The editors of this book underline that the general universal human rights law framework is also part of the universal protection of children. Nonetheless, owing to great importance of the UNCRC and its Optional Protocols for the topic of children's rights, the general universal human rights law framework is not elaborated in detail in the current book, and is instead only mentioned.

1. Historical Background
2. The United Nations Convention on the Rights of the Child
3. The Optional Protocols to the United Nations Convention on the Rights of the Child
4. Implementation and Monitoring of the Rights of the Child on International and Local levels
5. Children and International Criminal Law

The *Historical Background* part of the book focuses on two core issues across two different chapters. First, it provides an overview of the development of the image of the child and the rights of the child from ancient times until the need for international protection and the idea of the UNCRC was born. Second, it provides an outline of the UNCRC's legislative history, starting from 1979, the International Year of the Child. Among the many important legislative steps, such as the debates on the definition of the child or the age limit for child soldiers, this chapter underlines the important role that Poland played in the initiation of the UNCRC. Specifically, it highlights how the “global child” notion of the UNCRC stemmed from thoughts of the Polish paediatrician Janusz Korczak, and how the initial text of the UNCRC was drafted by the recognised Polish family law professor, Prof. Tadeusz Smoczyński, whose very aim was to draft a child and family-centred document to support children's upbringing in a loving and caring family environment. The chapter also underlines the role of the Holy See – at that time led by Pope John Paul II – as a pioneer in the adoption and ratification of the UNCRC. After the signature and ratification of the CRC, Saint John Paul II acknowledged, during the World Summit of Children, the relevance of the “global child” notion introduced in the UNCRC by saying that ‘the International Convention on the Rights of the Child constitutes a statement of priorities and obligations which can serve as a reference point and stimulus for action on behalf of children everywhere (...)’, and emphasised the importance of children being upbrought in strong, loving families, as follows:

‘Children who are to learn to be supportive of their fellow man must learn the reality of mutually supportive relationships in the family itself, where there is profound respect for all human life, unborn as well as born, and where both mother and father jointly make responsible decisions regarding the exercise of their parenthood.’

The *United Nations Convention on the Rights of the Child* part of the book focuses on outlining how the UNCRC itself serves as the core legislative instrument for discussions on the rights of the child and for the work of the Committee on the Rights of the Child (i.e. the UN body responsible for monitoring the implementation of the CRC; hereinafter referred to as CRC Committee). The first chapter of this part covers the four core principles of the UNCRC, which are also acknowledged and emphasised by the CRC Committee and are presented herein: *non-discrimination*; *right to life*,

survival and development; best interests of the child; and genuine respect for children's views. Nevertheless, this first chapter, as well as ICCR LL.M, also considers one more principle, which is the *right to live in a loving and caring family environment.* The next three chapters cover the rights enshrined in the CRC by using the three “P” model, which divides the rights into the groups of protection, provision, and participation. There are other approaches on how to group the rights of the child besides the three P model, but the aim here was not to provide an exhaustive list of these approaches nor to enlist and analyse all the rights of the UNCRC one by one, but to show how the collaboration of these three elements contributes to the realisation of the UNCRC as a whole. These chapters rely on the legally binding text of the UNCRC and the General Comments issued by the CRC Committee. The General Comments are presented as soft-law instruments that aim to facilitate the implementation of the UNCRC at the international level but, unlike the provisions of the UNCRC, are not legally binding. The fifth chapter of this part is about the CRC Committee, elaborating on the organisation of the Committee, its role in the implementation and monitoring of the CRC, its rules of procedure and working methods, and the country reporting circle.

The *Optional Protocols to the United Nations Convention on the Rights of the Child* part encompasses three chapters, each of which deals with one of the Optional Protocols of the CRC. The first chapter deals with the *Optional Protocol on the sale of children, child prostitution and pornography*, the second with the *Optional Protocol on the involvement in children in armed conflict*, and the third with the *Optional Protocol on a communications procedure*. Among the Optional Protocols, the first two, similar to the UNCRC itself, have a very high ratification rate and thus can be treated as core instruments of the rights of the child in universal human rights law. However, the third Optional Protocol, which covers procedures that can be initiated with the CRC Committee in case of an infringement of children's rights in a state party whenever domestic remedy is exhausted, has been ratified by just a few state parties. The third chapter elaborates on the reasons behind the low ratification rate, as well as the pros and cons of its ratification.

The *Implementation and Monitoring of the Rights of the Child on International and Local Levels* part covers two topics. The first concerns the roles of civil society, as represented by non-governmental organisations, the United Nations Children's Fund (as also known as UNICEF), and national human rights institutions. Since the role of non-governmental organisations and of the United Nations Children's Fund is expressly provided in the text of the UNCRC, the chapter mainly elaborates on these articles when presenting the roles of these two institutions in the drafting and adoption of the UNCRC. Meanwhile, the role of national human rights institutions is described in detail in the General Comments of the CRC Committee, which recommends the establishment of specialised human rights institutions at the national level to facilitate the implementation and monitoring of children's rights. However, since the General Comments are not legally binding instruments, the state parties opted for many solutions to the recommendations, with some establishing specialised institutions and others strengthening children's rights representation in their general

human rights institution. The chapter also lists the reasons why a specialised national human rights institution included in the national legal system may be beneficial for the genuine implementation of the rights of the child. The second chapter addresses the sustainable development goals (hereinafter referred to as SDG) and children's rights, along with how the SDGs, as an agenda for 2030, are connected to human and in particular to children's rights.

The closing part of the book, Children and International Criminal Law, steps out of the narrow framework drawn by the UNCRC and its Optional Protocols to deal with children and international criminal law, presenting also the jurisprudence of the International Criminal Court regarding children.

This book is primarily addressed to students of the ICCR LL.M. However, it can be useful to lawyers who deal with children's rights in practice or theory, as well as to other professions that deal with children. The book in itself provides a picture of children's rights at the universal human rights level; nevertheless, in order to have a full picture of the rights of the child and to see the regional and national challenges of implementation as well as contemporary concerns regarding the rights of the child, the book needs to be read together with the other parts of the book series.