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A child-centered approach to children's rights law: living rights and translations

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Abstract

A child-centered approach to children's rights law recognizes that children shape, interpret, and practice what their rights are and that they have the right to do so. In this chapter we start critiquing essentialist tendencies that diminish children's active engagement with their rights and discuss how the concepts of living rights and translations may help provide children with space to negotiate meanings and influence interpretations of their rights. The concept of living rights contends that the meaning, interpretation, and practice of children's rights is a living, dynamic process. The concept of translations challenges the one-way idea of implementation to analyze what happens with children's rights in the complex encounters of children's and other actors' perspectives. Taken together, living rights and translations help to understand the multiple readings of children's rights, including those of children, at work in a given situation.

Key words: Children's rights law – child-centered approach – UN CRC article 12 – paternalism – essentialism – embodiment – living rights – reflexivity – translations

Shortly after the adoption of the Convention on the Rights of the Child (CRC) by the UN General Assembly on 20 November 1989, many observers commended the Convention for radically breaking with the then prevailing paternalistic approach to children. Thomas Hammarberg, a Swedish diplomat and human rights defender, wrote in 1990: "More than any earlier international agreement, the Convention recognizes children as human beings of equal value. It marks the end of the age-old idea that children, at least in legal terms, are no more than possessions of their guardians. At the same time, it recognizes children as children. The importance of a happy childhood is accepted for its own sake."[1] One year later, Hammarberg became one of the first ten members of the Committee on the Rights of the Child, a function he exercised between 1991 and 1997. He was a strong supporter of Article 12 of the CRC that contains the right of the child to express his or her views and that was designated by the CRC Committee as one of the Convention's four "general principles".[2] Article 12 has been a source of inspiration and has provided an international normative backup for the idea that children have participation rights and are to be considered as autonomous human beings.[3] Martin Woodhead aptly summarizes the consensus amongst many authors about the importance of children's participation rights as follows:

> The individual child is no longer to be viewed merely as an object of concern, care and protection, whose life and destiny are shaped and regulated by laws, institutions, parents and professionals, acting in what they judge to be the child's interests. Henceforth, children are also to be recognised (and supported towards recognising themselves) as active in the process of shaping their lives, learning and future. They have their own view on their best interests, a growing capacity to make decisions, the right to speak and the right to be heard.[4]

The ideas of living rights and translations, we contend, help explore the consequences of recognizing children's right to contribute to conceptualizations of what their rights are.[5] But before discussing living rights and translations, we will first explain how we came to these concepts through a critique of essentialist understandings of children's rights, which we will illustrate in section 1 with a short portrait of the 2014 Nobel peace prize recipients, Kailash Satyarthi and Malala Yousafzai. Section 2 builds further on this example to unpack universalism and cultural relativism and looks at the importance of local realities and practices for considering children's rights and autonomy. In section 3, we discuss how the living rights concept recognizes children's rights as a form of embodiment and helps highlight that rights are what they become in everyday practice. In an effort to recognize children as

active subjects of rights, we advocate an inclusive approach that accepts a degree of indeterminacy and even contradiction. The notion of translations, as we explore in section 4, explains the importance of this non-essentialist stand. Taking the perspective of children as bodily beings-in-the-world, embodiment acknowledges children's relatedness, that knowledge about children's rights is embedded in specific contexts with their own history, language and values, and that there are always multiple readings at play in a given situation. We conclude with some examples of how the living rights and translations framework can be mobilized to further explore a child-centered approach to children's rights law.

1. Essentialist understandings of children's rights

The understanding that children, like any other human beings, have fundamental rights, which had long been contested, has now become a mainstream idea. However, the overall acceptance of children's rights does not imply the existence of a broad consensus of its meaning or consequences. Academic literature on the Convention on the Rights of the Child for instance contains both abundant praise for the Convention and its achievements as well as severe criticism.[6] When children's rights are presented in general terms, as is the case on websites and in brochures of international child protection agencies, children's rights are mostly conceived in terms of their essence, or indispensable conceptual characteristics, rather than their concrete, experienced existence. As the portraits of the 2014 Nobel peace prize recipients in this section illustrate, at least two figures of essentialism are at work here. A first form of this "essentialism" relies on a paternalist view of the world and assumes that experts, based on their experience and knowledge stemming from fields such as developmental psychology, social work, human rights law, or humanitarian advocacy, are better able than the children concerned to understand what children's rights are. A second form of "essentialism" makes children themselves the central spokespersons of their rights but tends to recognize only those children's voices attuned to what experts contend.

In 2014, the Nobel peace prize was awarded to two advocates for children's rights, 60-year old Kailash Satyarthi, a longstanding activist in the fight against child labor in India, and Malala Yousafzai, a 17-year old campaigner for girls' right to education in Pakistan. In his Nobel lecture that was held on 10 December 2014 at Oslo City Hall, Satyarthi offered the archetype of the first form of essentialism to children's rights.[7] He pointed at one empty chair in the majestic City Hall and contended that it was reserved for the millions of invisible

children who are left behind and cannot speak for themselves. The empty chair represents a powerful metaphor of the paternalist claim that children would remain unprotected without the intervention of authoritative adult representatives for whom saving them from harm is a moral duty. Satyarthi's claim that he was speaking on behalf of millions invisible children is emblematic of an approach that considers children as inherently different from adults and, because of their physical weakness, immaturity or inexperience, as needing the help of well-meaning and caring adults to guide and protect them. Besides being a moral duty for individual adults, this form of essentialism based on paternalism has informed the setting up of separate legal and institutional arrangements for children, such as specialized juvenile justice and child protection systems and legislation and policies that aim at the abolishment of child labor.[8] These kinds of specialized systems and legislation for children are generally seen as beneficial for children, as they aim at securing children's protection rights. However, separate regimes have also prohibited children from relying on certain fundamental rights such as the legal guarantees prevailing in the adult criminal justice system or the regulation of labor conditions included in general labor legislation. Contrary to an essentialist understanding, we do not think that the mere existence of separate rules and mechanisms for children improves respect for children's rights. Specialized arrangements can indeed increase children's protection, but they can also have detrimental consequences for children.

This is especially the case with separate childhood laws having a dual goal of improving both the protection of children and that of society. Paternalist arguments may then refer to children's inherent vulnerability and inexperience to promote change in a desired direction. Satyarthi illustrates this idea when, in his Nobel lecture, he cites Mahatma Gandhi's claim that if we want peace in this world, we must begin with children. Here the goal is not the well-being of children, who are merely the instruments to bring about change, but the future of world peace.[9] The separate legislation and programs that target the elimination of child labor are not only paternalistic, as they decide for the children concerned what is best for them, they are also less concerned with the well-being of children than with such economic issues as fair competition and a level playing field. Representing the individual child in isolation, these laws and programs have diverted attention away from social and economic inequalities or discrimination underlying both children's and adults' exploitation. Protectionism, in short, separates children from the general human rights framework and diminishes, paradoxically, their legal status.[10]

But not all essentializing positions are paternalistic or the preserve of adults; a second form of "essentialism" makes children the almost exclusive representatives of their rights, but only in so far that their views agree with those of the paternalists. Kailash Satyarthi received the Nobel Peace prize jointly with the then 17-year old Malala Yousafzai, whom he, in tune with his paternalist stance, addressed in his Nobel lecture as "my dear daughter Malala." Having been victim at age 15 of an assassination attempt by the Taliban because of her engagement with girls' right to education, she was the youngest Nobel peace prize recipient ever. A child herself, Malala Yousafzai is emblematic of the belief that a child is the best "natural" defender of his or her rights. This is illustrated in her 2014 Nobel lecture, in which, departing from the savior tone of her co-recipient, she claims that her being a child makes her the voice of all children claiming the right to education.[11] Her claim contains the idea that only children can speak for other children and ignores children's diversity and contrasting viewpoints about their right to education. Malala's position reflects schools of thought in childhood research that contend that children are "the most authentic source of knowledge about themselves and their lives."[12] It is important to consider, though, that this authenticity may veil that voice is often entrenched in the agenda of people or organizations that lend legitimacy to and interpret rights claims. In the case of the Malala Fund, a children's rights NGO that Malala Yousafzai and her father Ziauddin Yousafzai founded in 2013 to promote the right of girls to education, a Board of Directors oversees strategic decisions about the organization's mission, work plan, program, staff, and budget. The adult members of the Board are composed of senior staff members from private companies (McKinsey & Company, Unilever), private philanthropic foundations (Open Society Institute, Aman Foundation, Obama Foundation) and of a Sustainable Development Goals Advocate appointed by the UN Secretary General.[13] As critics have remarked, Malala's voice remains mute when it comes to the wider geopolitical context of children's rights violations in war zones.[14] Observing how children's voices in this example are subordinated to powerful global humanitarian actors helps understand that the positions held by both Nobel Peace prize recipients, even if they are informed by a different form of essentialism, are closely related. Where Kailash Satyarthi referred to children as harbingers of peace, the Malala Fund sees secondary education for girls as an instrument to transform society. Girls' right to education is, according to the organization's website, "an investment in economic growth, a healthier workforce, lasting peace and the future of our planet." Malala's success in mobilizing powerful people to help advance her cause is possible, in sum, because her rights claims resonate with the latter values and worldviews. Despite their apparent antagonism, both Satyarthi and Yousafzai share a common moral ground that takes

the convergence of children's interests and those of their powerful protectors for granted. When they refer to children's rights, they do so by using only vague and general terms and by providing merely some anecdotal evidence of instances where children's rights are violated. They build on the assumption that is possible to capture the "essence" of children's rights by making abstraction of their own beliefs about children, the social, economic, political and institutional contexts in which their interpretations of children's rights are produced, the particular usages of language, as well as of the prevailing ideological and discursive climates.[15]

2. Culture, rights, and autonomy

The Nobel peace prize recipients' heroic profiles would be meaningless without the powerful enemy confronting them in the form of carefully entertained representations of cultures deemed ignorant or resistant to what they consider enlightened insights about children's rights. Kailash Satyarthi's campaign against child labor acquires its meaning from a carefully constructed representation of India as a caste-based society condemning the children of the lower castes to a life of ignorance and drudgery. Malala Yousafzai's Pakistan is, likewise, type casted as the land where Islam denies girls the right to education. Though there is, of course, some truth in these representations, they tend to gloss over local forms of resistance and to typically portray children as passive victims utterly dependent on outside intervention. We argue that these representations are difficult to reconcile with the recognition of children's ability to understand and exercise rights. But they also incriminate whole cultures of abusing children, implicitly positing Western values as best guarantors of children's (and human) rights. A critical position towards the values embedded in one's own culture—or cultural relativism—is however not only the heuristic device that enables social anthropologists to make sense of other cultures but is also more widely a condition for acknowledging the equality of all people, irrespective of cultures. This means that all cultures need to be assessed on their own merits, and no culture is superior to others. Children's rights cannot, therefore, be assessed globally removed from local culture contexts and instead based on a priori defined criteria, because there is no way of establishing such criteria "outside" the scope of a specific cultural context, of which "western" is of course also one.[16] Attempts at doing so would not only be pointless, but potentially harmful, as they may instill a sense of inferiority in those accused of belonging to the "wrong" culture and stifle attempts at resolving conflict

and coming up with solutions tailored to their specific situation. In the case of Sierra Leone's child soldiers, for example, anthropologist Susan Shepler argues that humanitarian agencies have worked with a locally unacceptable notion of childhood innocence and misunderstood the importance of intergenerational exchange. Shepler, importantly, adds that these agencies have uncritically worked with Western interpretations of children's rights and childhood innocence that has made child soldiers' reintegration into local society very problematic. This does not mean taking a cultural relativist stance and positing that aspects of cultures that oppress the young should be ignored. Shepler points at the conflictual nature of Sierra Leonean generational relations against which the former child soldiers had rebelled and suggests that by incriminating culture the humanitarian agencies also overlooked the importance of this issue.[17]

Essentialist understandings of children's rights not only disregard children's local realities and practices, but also risk undermining children's attempts at securing rights that have a bearing in their specific situation. In other words, both the abstract universalism that incriminates cultures and the apparent alternative, cultural relativism, that ignores the oppressive aspects of cultures, tend to perceive the young as incapable of meaningful autonomous action and fail to recognize their agency in claiming and practicing their rights.[18] This is precisely what a child-centered approach to children's rights seeks to address. When children forward rights claims that conflict with their protectors, they are not only less likely to garner the same level of support as the more consensual children's rights claims put forward by the 2014 Nobel peace prize recipients, for example, but may be met with active containment or even violent suppression. This is the case with sizeable numbers of children claiming the right to work in dignity, to take up arms to resist oppression, to make a living on the streets, or to marry and form a family.[19] In social domains that have a positive meaning, such as school councils or local policy making, children's rights advocates champion children's agency and participation rights. However, "in relation to social domains that have a negative connotation, prevalent children's rights norms, practices and discourses tend to take the opposite viewpoint. When children marry, work, engage in armed conflict or commit a criminal offence, dominant claims no longer emphasize children's capacities or participation but prioritize the protection of vulnerable children."[20] Arguments and positions over which there is disagreement not only illustrate the normative and ideological stakes in debates about children's rights, but can also open up our thinking about child-centered approaches to children's rights. What should adults do when children make use of their agency and right to autonomy to advance claims with

which we disagree? This question provides the starting point for thinking about living rights, a notion that we will discuss in the next section.

3. Living rights

In this section, we first explain what we mean by living rights and, second, highlight why the concept helps bridge different levels of society engagement in defining, legislating, and realizing the rights of children. We also discuss why the concept is particularly relevant to better understanding the social practices that emerge when different social actors interact across these various levels.

To begin with what living rights are, we wish to make three points: first, children's rights exist even before they are translated into law; second, children's rights are complex and unstable; and, third, the notion of living rights is primarily a heuristic device. We contend that the meaning, interpretation, and practice of children's rights is a living, dynamic process. Law is always an unstable translation of ideas of right and wrong that exists at a certain moment in a given situation. Law does not exist in a vacuum but is embodied. By this we mean that these ideas belong to beings in the world, who act and think in a specific context, in relation to others. In other words, knowledge and understanding of children's rights are both always situated. Children and people in general, while claiming and putting notions of rights into practice, help shape what these rights are – and become – in the social world. This means that children's rights already exist in practice before they are translated into legal principles and are therefore not the mere product of philosophical, political, and legal deliberations of international institutions or states.

There are many examples in the real world of how children's everyday concerns drive children's rights dynamics. Hertel describes, for instance, how in 1995 US Trade Unions sought to discourage garment factories in Bangladesh from employing children by threatening with a boycott.[21] Bangladeshi activists soon pointed out that the mere threat had already thrown tens of thousands of children out of employment and left them without means of subsistence. But even if the sacked children held protest meetings in front of the factory gates, the criticisms were brushed aside as an attempt to invoke human rights merely to maintain business. It was only after international agencies such as UNICEF and Save the Children had succeeded in mobilizing public opinion in favor of defending Bangladeshi children's right to work that the Trade Unions understood that the boycott would harm very poor and vulnerable

children in unacceptable and unpopular ways, and so they decided to use more child friendly methods.

By positing that children's rights are alive, we also say that they are complex and unstable, and this is our second point. Individuals representing different local and organizational interests and possessing different kinds of knowledge, skills, and power negotiate an imperfect compromise that may then be partially translated into law. An illustration of this is human rights norms that prescribe age limitations for recruitment and participation in hostilities that result from successful humanitarian advocacy efforts.[22] These norms are based on understandings of the rights of the child that actively contest other conceptions that inform different forms of youth agency during armed conflict. Current international law prohibits the participation in hostilities of any person below 18 years,[23] an age that matches prevailing ideas about children and youth's vulnerability upheld by the humanitarian actors who succeeded to increase previous lower age limitations. However, the age of 18 years does not necessarily correspond to how in specific localities and under certain circumstances young people conceive their social, economic, and political responsibilities in times of social instability,[24] and might choose to actively participate in armed struggles. The age limitations in international law are particularly challenging when conflicts come to an end and questions arise how to deal with young people under 18 who, in practice, have deliberately participated in armed conflicts. Our point is however not to suggest that social practice should override international norms but to highlight that children's rights are not the fixed outcome of a consensus but can be made to carry many, even contradictory meanings.[25] How should victims and communities take care of underage soldiers when they have committed atrocities for which they cannot be held accountable because of their young age? Also, how can a society pay tribute to its young fighters who have contributed to ending violent oppression by taking up arms, but who cannot be officially recognized for the life-threatening risks they might have taken during past struggles?

Our third point is that living rights are a heuristic device facilitating empirical investigation of how co-existing children's rights practices, ideas, and legal codifications influence a given social arena.[26] Since the adoption of the CRC in 1989, divergence and competition over the precise meaning or interpretation of what children's rights are or ought to be has continued despite numerous persons, agencies, and institutions producing prolific policy, advocacy, and research activities. For example, the question how to respond to young people who are accused of having committed an offence has been answered in various ways, ranging from

welfare to justice to restorative oriented approaches. Each approach thereby relies on children's rights as a starting point but ends up designing quite different arrangements for dealing with young offenders, ranging from welfare measures to criminal sanctions to reparations of the damage caused. Even if the restorative model has been receiving the largest support, international children's rights standards do not as such provide a precise outline for youth justice, but merely present a yardstick against which legislation policies and practice in the field of youth justice can be assessed.[27] This is not surprising considering the diversity and sheer size of the fields in which children's rights are played out and the worldviews and biographies of the people involved, the relative positions and power of the entities that participate in the debate, the kind of rights under discussion, the contexts in which such debates and interpretations occur, the practical considerations of agencies working with children, and so on. We consider extant divergence and competition not as limitations that need to be overcome, but the inevitable result of children's rights being alive and providing an opportunity to better understand how children—while making use of notions of rights—shape what these rights are, and become, in the social world. Emphasizing children's agency in living with and through their rights helps bring the interplay between how children understand their rights and the way others translate and make use of rights claims on children's behalf into the limelight.[28]

This brings us to how the idea of living rights helps bridge the different levels of society in which debates on children's rights play out—such as the global and state level, the intermediary level in which national institutions, civil society, and NGOs operate, and finally the local level from where children's rights claims originate. But before discussing what we feel are the sources of children's rights claims, let us begin with the level that is highest and most prominent in the public eye. The highest level entities, implementing the rights of vulnerable children such as street children, working children, displaced and trafficked children, children orphaned by AIDS, and (ex)child soldiers, are the United Nations and affiliated agencies such as the International Labor Organization as well as internationally operating NGOs such as Save the Children, Terre des Hommes, and international trade union organizations. To coordinate efforts, many of these agencies have embraced the so-called "child-rights approach" that recognizes that children are legal subjects able to forward claims and negotiate social assumptions and constraints. But the consequences of this approach are very unevenly acknowledged and may often be little more than decoration.

International conventions offer an interpretation of the underlying rights principles, but states, though agreeing with the rights principle that inspired the norm, may not accept the way it has been codified. Take the example of Bolivia and Argentina. In Bolivia, a national debate about children's rights and child labor led to a new law in 2014 that makes it legal for children older than ten to work in certain sectors and under specific circumstances. The government and key civil society actors insist that the law is designed to protect child workers and uphold their rights. In Argentina, by contrast, not only was the minimum working age raised from fourteen to sixteen years in 2008, in 2013 the country adopted new legislation that punishes those who employ children under sixteen with up to four years of prison.[29]

One of the reasons why interpretations of international law by states may vary is that society is filled with multiple legal orders, including those sanctioned by custom and religious institutions that regulate behavior and set normative standards by which people from different walks of life abide. The Bolivian state's efforts to recognize indigenous rights and their culturally embedded notions of child upbringing account for some of the differences with Argentina. But the role of civil society and particularly of social movements of working children who actively engaged with the new law is equally important.[30] In other words, the diversity of interpretations owes to the diversity of actors involved, which may include government officials and staff of NGOs, local institutions such as churches, schools, and children's homes but also refugee camps in war zones, the children's kith and kin, and finally the children themselves. Children's rights are always interpreted and implemented in a given context that is dynamic and potentially conflict-ridden. These conflicts may appear to be about who "owns" children's rights at the expense of the children themselves, but this again reiterates the assumption that children would be unable to fully understand and practice their rights. Dailey suggests that this assumption is linked to the liberal belief that only adults can make mature, fully informed, autonomous decisions. She proposes the notion of transitional rights to conceptualize the capacities that children do have rather than those they lack. Drawing from psychoanalysis she contends that children's emotional, relational, and developmental capacities are the necessary ingredients to become a mature, autonomous, rights bearing adult.[31] Anthropologists are however critical of the very idea that rights bearers must per se be autonomous individuals. Abebe proposes the notion of interdependent agency to highlight that both children and adults may conceive of their rights as intimately bound up with those of the collectives to which they belong.[32] Children's rights must include children's conceptions and practices of their rights. Or to quote Tamanaha's conventionalist way of

identifying law emptied of any essentialist feature: “Law is whatever people identify and treat through their social practices as ‘law’ (or recht, or droit and so on).”[33] Children’s rights, in other words, are: “all of the many ways in which social actors across the range talk about, advocate for, criticize, study, legally enact, vernacularize, and so on, the idea of human rights in its different forms.”[34]

The experience and exercise of rights can therefore not be made conditional upon enlightened outsiders teaching children and their parents about their rights.[35] What happens if there are no such outsiders? Does this mean that children “are unable to exercise agency and creatively address the challenges of keeping their end up in the most daunting situations?”[36] And how do we conceptualize children’s ability to make a life out of situations in which many child rights activists would be completely lost?

The notion of living rights implies that children have implicit or explicit understandings of what children’s rights mean to them. It makes little sense to posit that children have rights if at the same time we deny that they have the ability and understanding to participate in the production of knowledge about their rights. In other words, children’s rights are inalienable: there is no higher authority that confers human rights on some children but not on others or that can take these rights away. All children have the same rights simply because they are children.

Do children need to ask for their rights in terms of “rights-talk”? Or is it sufficient that they act according to what they believe are their rights, without explicitly claiming them? This question amounts to finding out from what point onwards a certain conduct or specific terminology can be assumed to correspond to a rights-claim and be part of living rights. Do children realize their right to food by stealing when they are hungry? Are children who move from one locality to another, such as refugee children, expressing their right to mobility, even if they remain silent throughout the journey? Also, who decides what kind of actions or expressions are at least needed to be considered as a living right? To start answering these important questions we need to move away from the abstract and take particular situations into account where rights claims can be made and come alive. The boundaries between activities and claims that do not explicitly refer to rights talk but can count as living rights, and those that are not, are not only porous but can also shift according to time and place, and much will depend on the context in which certain actions take place or statements are expressed. Childhood researchers have described how children’s notions of rights may vary widely from inoffensive demands for play-spaces and healthy environments to more

contentious claims addressed to local authorities and both national governments and international development agencies. These may involve stopping police violence on the streets, or deportation, maltreatment, rape, and murder. The claims often take the form of a challenge to how their rights are interpreted. In Yogyakarta for instance, Van Daalen, Hanson, and Nieuwenhuys have documented how a movement of street people in which children figured prominently organized resistance against police raids and claimed the right to earn a life and lead a dignified life on the streets.[37]

In sum, all social practices that are conventionally identified as rights may be understood as "living rights." They are alive through active and creative interpretations, association, and framing of what various actors in a given context bring together to form an unstable understanding of what children's rights are. But even if we claim that children's rights are under construction and that their interpretation is a multi-faceted and even a contentious exercise, what is it that makes some interpretations more "valid" than others, in other words, how do they become entrenched? To study the processes through which children's rights become seen as fixed in particular contexts and settings, we turn to the concept of translations.

4. Translations

In this section, we present the concept of translations to discuss what happens with rights in the encounter of children's and other actors' perspectives, ranging from international agencies, state authorities, cosmopolitan elites, child rights professionals, and grassroots social movements. To ensure their impact on the lives of children, international children's rights are implemented through a vast array of legislative, administrative, and other measures that translate the children's rights discourse to national and subnational legislative and policy systems, as well as to the entities and professionals entrusted with their application. In this process, different series of translations are performed. If we want to understand the prevalent worldviews and interests that are at play in these processes of translation, the current "international children's rights economy" needs to accept critical scrutiny of the assumptions that are hidden behind its consensus thinking.[38] According to translation studies, translation does not look for a perfect equivalence between source text and target text but allows for disparities depending on the purpose of the activity and the intended addressees.[39] The notion "translation," therefore, is not limited to the "transfer" of one idea into another context, but implies an active stance of re-production and change. As a theoretical construct, the concept

of translation sustains reflexivity and can make the active re-production of meaning more explicit and open to debate.[40]

Social and legal research on human rights looks into interconnections, movement, and boundary crossing of different forms of legal discourse across governance levels and domains and also examines how norms are "remade as they travel."[41] In her analysis of the transnational circulation of international women's rights, Zwingel prefers the term "translation" instead of "norm diffusion" because "translation implies that differently contextualized norms may be translated into another realm, for example, from global to national or local to national, whereas diffusion assumes a one-way influence from global to non-global."[42] Zwingel makes a useful distinction between three forms of norm translation, including "global discourse translation," "impact translation," and "distorted translation," that permit an intelligible analysis of the distinct processes at work in translation activities. Global discourse translation looks at how norm entrepreneurs such as NGO activists seek to influence international institutions to create specific norms that are in their field of interests, for instance by organizing international conferences, requesting and performing large surveys and study reports, or lobbying intergovernmental entities or states. An example is how some international lawyers and development experts privilege the idea that labor is only valuable if it is performed by paid adults and dismiss all unpaid domestic and subsistence work as beneficial to children and of no economic value. Paradoxically, this entails that children can only work unpaid, as claiming payment would turn their work into prohibited child labor. The prohibition hides the contribution of children in the Global South to the global economy, such children's struggles for rights and emancipation, and their agency in seeking to realize a good life for themselves and their families.[43]

Impact translation examines the kind and degree of impact international norms have on national normative and material settings. Besides the study of technical legal and policy mechanisms such as the domestication of international children's rights law or the setting up of national independent children's rights institutions like Children's Ombudspersons, this also concerns how international norms can be translated into locally relevant, understandable, and culturally acceptable norms.

Distorted translation considers disconnections between international and domestic norms such as in situations where international norms have unintentional consequences, or where local activism for social justice is disconnected from international human rights norms. Medaets and Bittencourt Ribeiro, for instance, point to the discrepancy between planned national

legislation in Brazil to prohibit corporal punishment, proposed, ostensibly, to implement international children's rights norms, and the local moral codes in two Amazonian villages in Brazil which permitted corporal punishment due to the fact that local communities considered corporal punishment necessary to establish parental authority with as little violence as possible, in a way that was ultimately beneficial to children.[44]

Contrary to terms generally used in human rights literature, such as implementation, dissemination, or diffusion, the lens of translation acknowledges a two-way process. For Merry, the notion of translations can hence contribute to reversing the traditional "top-down" approach to human rights as it involves a double movement, whereby international human rights can be translated "down" to the local levels, but local stories can also be translated "up" internationally in conventional human rights language.[45] In this dynamic two-way process, both sides of the exchange get transformed, a process that Young terms "Caribbean creolization", which "comes close to a foundational idea of postcolonialism: that the one-way process by which translation is customarily conceived can be rethought in terms of cultural interaction, and as a space of re-empowerment."[46] The postcolonial perspective helps replace the routine belief in children's rights as a Western invention with a conceptualization that sees them as the unstable and contingent result of a situated and unequal encounter.[47] Nicolas Argenti, for example, provides an enlightening discussion of how, in many post-independence African countries, frustration about unmet promises has set in motion a huge exodus of, at times, very young people from rural areas and sparked a whole set of uprisings, millenarian movements, and guerrilla wars challenging paternalism and demanding rights for the young.[48] It is against highly conflictual backgrounds that translators or "people in the middle" who "connect transnationally circulating discourses and particular social contexts"[49] must operate. They therefore do not merely translate discourses and practices from the field of international law and international organizations to specific situations in which people are believed to be ignorant about their rights, but also translate specific local grievances to often unaware transnational actors.

Translations are not limited to single instances where translation occurs such as between international and national law, but often include long chains of translation, for instance within governmental and non-governmental organizations between senior staff members at headquarters, international and local staff working at country level and grass-root organizations, or between a National Ministry of Education, regional directors, school principals, individual teachers, and pupils.

In the field of international human rights, large organizations such as Amnesty International and Human Rights Watch, organizations that exercise decisive influence, are more likely to inaugurate issues that get on the agenda than local populations.[50] Research on international advocacy in children's rights suggests that large children's rights agencies such as UNICEF, Save the Children, and the ILO have had a decisive role in getting on the agenda such issues as specific needs and rights of children exposed to emergencies; children's basic needs; the worst forms of child labor; and violence against children.[51] International agencies act not only as translators of human rights claims but also as gatekeepers who select which claims are passed on and which are not, making it difficult for certain demands to even find a suitable translator. I'Anson, Quennerstedt, and Robinson feel that the present economy of children's rights leaves insufficient room for alternative ways of thinking and practicing children's rights and find that children and young people should be more fully included in the translation processes.[52] This brings us back to the importance of the notion living rights. In conceiving translation as a two-way process, there should be, at least conceptually, sufficient space for including children's situated knowledge and understanding of their rights.

Instead of seeing the translation of children's rights as a top down or a bottom up activity, we think translation should be considered "a circular process whereby source and target languages constantly engage with one another giving rise to unforeseen complexities that produce a state of constant indeterminacy."[53] Looking at these processes as translations implies that there is room to acknowledge difference. Also, it involves recognizing children's representations of their lives and situation and provides them with space to negotiate meanings and influence interpretations of children's rights. The most emblematic discussion of this idea to date is how working children's organization struggle to have their interpretations of their rights related to work taken into account by international law making entities in the field of labor law, in particular by the International Labour Organization (ILO). Even if their claim to recognize children's "right to work in dignity" has met with only limited success in international law and policy making circles, they have succeeded in offering an original alternative account of how children's rights should be interpreted in relation to their work. These discussions have led to the availability of a well-documented body of work that challenges the classic top down view that all child labor under a certain age should be merely prohibited by offering a bottom up approach suggesting that the cluster of work-related rights is a complex but fundamental human right that should also be recognized for children.[54]

Conclusion

The 2014 Nobel peace prize ceremony has offered a great occasion to celebrate consensus amongst the "noble us" who advocate for children's rights versus the "evil them" who violate children's rights. The Oslo City Hall has obviously not been the best place to criticize essentialist approaches to children and childhood nor to explore potentially conflicting ideas and understandings of children's rights. However, the moral grounds upon which the prevalent "us and them" dichotomy are built, are highly problematic:

> as Mouffe puts it, "with the 'evil them' no agonistic debate is possible, they must be eradicated." (2005, 76) Indeed, in spite of an increasing rhetoric of dialogue, the relationship between child rights advocates and local communities always aims at changing the norms and values of the latter, while those of the incomers are assumed to remain unchanged. A more genuine and constructive approach to dialogue, acknowledging the equal legitimacy of antagonistic ontological, epistemological and axiological perspectives (Chateauraynaud, 2011, 162-164), would open the space for producing a more complex account of children's problems and, possibly, for devising more appropriate solutions.[55]

This chapter has argued that children's rights do not exist in a social vacuum but are always necessarily realized in a specific situation or social field in which different forces and different normative beliefs around social justice are at play. It is in this third space or "in-between space"[56] that the exchange of equally legitimate sets of values and norms takes place and new social practices around children's rights emerge. Taken together, living rights and translations offer a conceptual framework that may contribute to improve the study and understanding of the variations of children's rights claims, and of the place of children's conceptions and practices of their rights within these discussions.[57] The questions at the center of a child-centered approach to children's rights law can be formulated as follows. What are children's conceptualizations of their rights? How can we have access to children's positions? How do children's interpretations of their rights interact with other, concurring, competing or alternative views on children's rights? How do the notions of living rights and translations interact and how can they help apprehend, question and interpret children's rights law?

It has not been our aim to give a direct answer to all these questions, but to provide a framework that can be mobilized to examine these questions in a wide range of cases and in numerous specific situations that matter for the field of children's rights studies. An example of the new insights this approach can produce is offered in a study by Gurchathen Sanghera and his colleagues who have applied the living rights framework to examine young people's rights claims during the 2014 Scottish independence referendum that had granted 16- and 17-year olds the right to vote. Understanding the right to vote as a living right, the authors have gained insights into how various claims-making processes simultaneously challenge, redefine, and transform boundaries of citizenship, whereby "the idea of living rights re-frames the way we think about rights, young people and citizenship". [58] They also found that the language of living rights may prove central to protect the most vulnerable "non-citizens" in society, such as refugees or asylum seekers, especially at a time of austerity and growing hostility of those considered being "outsiders." The establishment and development of the international children's rights regime indeed coincided with increasing social, political, and scholarly interest for the mobility and migration of children.[59] A globalized economy implies the global circulation not only of goods and capital but also of people, including children, for whom the respect of their rights is particularly challenging in the context of migration. In this context, children's rights to mobility offers an example of how a child-centred approach to children's rights law can contribute to further conceptualize the social and legal recognition of the right to mobility and migration as a global human right itself.[60] A right to mobility can be understood both as a substantive right to move around freely as well as an instrumental right that may help children realize the rights they would be deprived of without moving. In addition, the right to mobility encompasses the right not to move, which brings into focus how being forced to move may deprive children of the rights they enjoy when staying put. The claim not to be obliged to move from the rural areas to the city was for instance one of the 10 claims made by movements of working children in a Declaration they adopted in 1996 in Kundapur, India.[61] In the current controversy about migration laws that tend to obstruct rather than enable people's mobility, children's rights are increasingly invoked to justify policy interventions in the lives of children and families. These policies work overwhelmingly from an essentialist reading of what is best for children, ignoring children's own ideas about their right to either migrate or to be protected against forced migration. We believe that introducing the notions of living rights and translations into the analysis of specific situations such as these not only offers a productive starting point to further conceptualize how children

perceive their rights but also to more explicitly include children's conceptualizations of their rights in discussions about childhood and youth policies on local and global scales.

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