



Article scientifique

Editorial

2022

Published version

Open Access

This is the published version of the publication, made available in accordance with the publisher's policy.

Reinventing children's rights

Hanson, Karl

How to cite

HANSON, Karl. Reinventing children's rights. In: Childhood, 2022, vol. 29, n° 2, p. 149–156. doi: 10.1177/09075682221098593

This publication URL: <https://archive-ouverte.unige.ch/unige:166474>

Publication DOI: [10.1177/09075682221098593](https://doi.org/10.1177/09075682221098593)



Reinventing children's rights

Childhood

2022, Vol. 29(2) 149–156

© The Author(s) 2022

Article reuse guidelines:

sagepub.com/journals-permissions

DOI: 10.1177/09075682221098593

journals.sagepub.com/home/chd

In a changing world we constantly need to adjust our thinking patterns and frameworks to help making sense of the continuing transformations that have a bearing on children, childhood and children's rights. Many authors and initiatives contribute to that task. In 2016 Florian Esser et al. edited a collected volume entitled *Reconceptualising Agency and Childhood*, which engages with the theoretical, practical, historical and institutional dimensions of the concept of agency in childhood studies. In their edited volume published in 2018 entitled *Reimagining Childhood Studies*, Spyros Spyrou et al. discuss future directions of the expanding and vibrant field of childhood studies that they locate at an important junction in its 25 years old history of research and theorising. A few years earlier, in 2013, Olga Nieuwenhuys and I participated in the field's collective reconceptualization efforts through our edited volume entitled *Reconceptualizing Children's Rights in International Development*. In that book, we presented a conceptual framework composed of the notions living rights, social justice and translations that wants to capture the complex flux and interrelations between legal arrangements, social practices and discourses on children's rights. More recently, the online *Reconstructing Children's Rights Institute* has been hosting in 2021 a series of conversations and resources to critically examine racism, neo-colonialism and patriarchy in humanitarian and development efforts to protect children and support families. The initiators posit that humanitarian and development aid, if practiced incorrectly and without making explicit the underlying power dynamics and funding mechanisms, 'can cause harm and undermine the dignity and autonomy of those it intends to support, who become othered "beneficiaries."'¹ To counter the negative consequences of the international children's rights and child protection regime, the online institute wants to set in motion reflections and practical experiments how to 'dismantle and reconstruct' the existing children's rights system. In this editorial I want to move the undertaking a step further and reflect on what it would entail to 'reinvent' children's rights altogether. The act to reinvent is a challenging and unstable one that might lead to replacing the extant regime with an entirely new and better adapted version, but it can also lead to merely duplicating an already existing framework, in which case it would be a wasted effort. As we are all newcomers (Kannan et al., 2022) who must constantly reappropriate the field's histories and concepts, the costs for reinventing something that already exists are not very high compared to the potential benefits of bringing even if it is only a few novel ideas to the conversation. How can children's rights be reinvented to keep pace with the incessantly changing environments in which they operate?

The global children's rights regime and the international law that is part of it occupies a precarious yet secure position between the interests of the powerful and the ideals of justice (Krisch, 2005). One of the central opposing forces within the global children's rights regime runs between human rights' concomitant instrumental and emancipatory powers (Stammers, 2009), that we brand here as 'aristocratic' and 'grassroots' perspectives. Children, childhood and children's rights are the adored targets of the philanthropy of the rich and famous, including lords and ladies of all kinds. A telling example of such an aristocratic engagement with children's rights is the work of the Dutch Princess Mabel van Oranje, who is the founder and influential advocate of *Girls Not Brides*, a global partnership committed to end child marriage and ensure that all girls in the world can stay in school, stay healthy and have the futures they dream of.² Van Oranje's entrepreneurship and activism has met a very wide acclaim amongst the main relevant specialized UN entities and children's rights NGOs who adhere to the proposed framing of children's non-discrimination rights as a fight against child marriage. However, such an approach that represents all marriages by persons under 18 inherently as forms of forced marriage is contested. Based on empirical research with young people who claim to have made the decision to marry themselves, Hoki Horii (2020) for instance finds that the international approach to end child marriage is lopsided as it overlooks children's agency and capacity in marriage decisions and hence fails to balance the empowerment and protection of children. Esther Miedema et al. (2020) similarly argue that the choice children make to marry must be taken much more seriously by embracing an emic understanding of the drivers of such choices and the circumstances in which marriage is considered by young women and their families as the safest route to follow. The authors feel that research and interventions concerning child marriage should leave aside the assumption that some alternatives are always better compared to others but should engage with the local realities and context in which choices to marry or not are being made. These ideas resonate in Neil Howard and Samuel Okyere's edited volume on the international child protection regime (2022) that contains substantiated accounts of the problems faced and sometimes created by the international child protection regime in different regions of the world concerning child soldiering, child protection, child labour, child trafficking, child prostitution, and more general child protection and children's rights policies. In addition to providing a review of the problems within international child protection arrangements, the authors push for alternatives that are more respectful of the perspectives of the concerned populations in crafting policy solutions to violations of children's fundamental rights. A similar radical critique of the mainstream protectionist approach of aristocratic children's rights understandings, which are trapped in an outsider's child savers complex, has been articulated by Matías Cordero Arce (2012) who feels that the children's rights discourse all too often operates as a 'rhetorical bulldozer' in the hands of child saviours. Western colonialism and capitalist modernity, he argues with reference to Boaventura De Sousa Santos (2009), have distorted the balance in human rights discourse that tilts towards regulation and not emancipation. In Cordero Arce's view, the children's rights discourse needs to be reconstructed so it can work as an emancipatory force rather than as a disciplining mechanism. It therefore needs to be built around a strong version of participation, be sensitive to cultural diversity, recognize children's citizenship

comprising children's responsibilities, include marginalized childhoods, overcome essentialist adult-child divides and take into account class, ethnicity and gender as important variables for the advancement of children's rights. He conceives rights as power that originates in the struggles of children who are the grassroots who can mobilize the language of children's rights to challenge power and that does not need to be 'given' to them. From an aristocratic vantage point, the realization of children's rights is about rallying as many as people and organizations as possible around a central idea that can be resolved by awareness raising campaigns, capacity building, the development of laws and policies and the design, operationalisation, monitoring and evaluation of projects, programmes and services concerning children. From a grassroots perspective as held up by Cordero Arce, children's rights are potentially an instrument and a language for emancipation that can be used by social movements to resist children's oppression and enhance their equality.

These two perspectives illustrate the co-existence in the field of children's rights of paternalist, welfare orientations and protest-inspired emancipatory approaches. At one side of the divide, an institutionalised aristocracy of children's rights advocates and technical experts point at the need to solving pressing social problems such as to stop violence against children, to abolish child labour, to end child marriage or to ensure inclusive and equitable quality education for all. Governmental, intergovernmental and nongovernmental organizations alike, all strong proponents of the international children's rights framework, ask for more political will, more resources, more legal and administrative measures, more awareness raising campaigns, more professional interventions to make children's rights a reality. At the other side stand grassroots opponents who challenge the mainstream international child protection regime by pointing at alternative themes and ideas that are built around children's agency and local understandings of rights. They emphasize the need to recognize children's political rights, rights of working children or young person's capacity to make informed choices about for instance marriage or sexual orientation.

The struggle between these competing perspectives is not new and was already present at the origins of the children's rights movement during the industrialization of the West at the turn of the 19th and 20th century. An example of their enduring coexistence is when child protection systems were set up as an alternative approach to the criminal law to deal with young offenders. Dissenting voices strongly disapproved these new systems because they were found too repressive, in some ways perhaps fiercer, with regard to children, than the criminal justice systems they were supposed to replace (Hanson, 2003; Weijers, 1999). Already at the time of their introduction, opinions diverged whether separate childhood laws could protect the interests and rights of children and young people, or if they merely protected the interests of society by disciplining the children of the poor (Hanson, 2016). A 1914 New York court decision that criticised the malevolent use of a boy's photograph to document the rise of juvenile delinquency powerfully illustrates the resentment towards the way how child protectionists from the privileged middleclass advanced the cause for instituting a separate juvenile justice system. In his ruling, the judge stated that *"These people from their height of selfconscious righteousness and superior excellence peer down on and discuss these humble beings as though they were so many cobblestones in*

the street, without any regard at all for their feelings or their rights in the community" (Dimock, 1993: p. 42). The history of the children's rights movement teaches us that concerns for the protection and control of children and childhood went hand in hand with struggles for their emancipation and autonomy. The top-down approaches of most institutionalised child protection and children's rights organisations and programmes have been accompanied by alternative frames of reference that contest too condescending attitudes towards children. Hegemonic and counterhegemonic sides have been part of children's rights since the field's inception and have fuelled its progress and expansion; they have been developing in parallel since more than a century and have remained remarkably stable.

Besides major differences, both approaches also have important things in common, including the particular place that is accorded to social movement leaders and influential authors in the development of the movement in favour of children and young people's rights. Two iconic figures from a different era, Janusz Korczak and Greta Thunberg, have been praised as children's rights champions by representatives of both sides of the above-mentioned divide. One of the pioneers of the idea that children have rights, Polish paediatrician and author Janusz Korczak (1878–1942) is celebrated by large institutional child protection and human rights entities as well as by smaller grassroots children's rights organizations. Where the UN Special Representative of the Secretary-General on Violence against Children or the Council of Europe's Commissioner for Human Rights emphasize Korczak's struggle against violent upbringing and children's right to protection, grassroots child rights NGOs and small-scale national Korczak associations refer to his writings on the child's right to love and respect and his rejection of paternalism. Swedish environmental activist Greta Thunberg (°2004) who has been hailed as the authentic voice of an adolescent who speaks up to defend the rights of children has equally received appraisal from a similarly wide range of children's rights defenders. UNICEF or the CRC Committee on the Rights of the Child, major executive entities in the management of the international children's rights agenda, have for instance applauded Thunberg for her role in taking the climate change debate under the attention of international politics. Likewise, grassroots movements of young people and authors who argue in favour of including child and youth empowerment in thinking on global justice commend Thunberg's role in spearheading climate change protest as a strong example for children's agency and the recognition of young person's right to political participation (see, e.g., [Josefsson and Wall, 2020](#)).

The shared enthusiasm for Korczak and Thunberg illustrates that aristocratic and grassroots approaches to children's rights at times converge. Child rights defenders, whatever team they play for, contend that children are a distinct category of people entitled to special concern and attention for their rights. Korczak famously wrote that we, adults, do not at all have to lower ourselves to the world of children but that we must raise ourselves to their feelings ([Hartman, 2009](#)), emphasising the existence of a child mind-set apart from an adult one. In her renowned speech at the UN Climate Action Summit in September 2019 in New York, Thunberg made the claim that she, a child, should not be at that meeting in the USA but that she should be at school in Sweden. By telling that she was doing the work of adults who have not done enough to preserve the environment she

stressed that children and adults have different roles to play. The very language of children's rights not only implies that children and adults are two separate entities divided in 'us' and 'them', but also reinforces their differences. Similar to the paradox encountered by the feminist movement that has contributed to producing the 'sexual difference' it wanted to eliminate (Scott, 2009, cited in Lind, 2020) the children's rights discourse engenders the differences between adults and children it seeks to reduce.

Children's rights proponents also agree that there is a divide between 'us' who believe that children have rights and 'them' who do not (yet) believe in such rights. This second version of the 'us' versus 'them' binary has contributed to disconnecting children's rights advocacy from broader claims for social justice and human rights. At the image of child labour abolitionist campaigner and 2014 Nobel Peace Prize recipient Kailash Satyarthi, many child rights activists turn to often merely shallow moral arguments to saving 'our' vulnerable and ignorant children (Hanson and Nieuwenhuys, 2020), leaving the child at the receiving end and his or her own activities and moral responsibilities out of the picture. Malala Yousafzai, who received the 2014 Nobel Peace Prize jointly with Satyarthi in recognition of her advocacy work for girls' right to education, equally refers to morality arguments to come at rescue of the education of girls as an important way to preparing humanity's common future. As Nieuwenhuys and I have observed elsewhere,

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 it 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 (Hanson and Nieuwenhuys, 2020, p. xx).

Moralization discourses that are adopted by all kinds of children's rights leaders and organizations disconnect the field from broader, structural questions (Poretti et al., 2014; Van Daalen and Hanson, 2019). This is in keeping with how humanitarianism and the underlying moral sentiments have taken centre stage in politics, replacing claims for justice by moral appeals for compassion (Fassin, 2011), an evolution that has largely contributed to emphasising the saviour rather than the saved. By itself, notwithstanding the weight attached to the moral arguments of its advocates, the children's rights framework cannot respond satisfactorily to the impact of large social and economic developments on the lives of children, including the consequences of globalization. It is tempting to think of the world as ultimately obeying to a set of moral values expressed in international human rights law. The children's rights framework provides an appealing blueprint for how a better future would look like, and many consider the implementation of international norms and programmes as the golden road to make that future come closer to reality. Notwithstanding the strong appeal of the moralization discourse, it contributes little to understand the drivers of the disordered reality.

Discourses concerning children and their rights are coloured not only by moralization but also by invoking children's and society's future. Besides being championed by the entire company of children's rights defenders, Korczak and Thunberg have in common that they stand for an engagement to make the world a better place than it is. Korczak, a paediatrician and institutional educator, believed that to lead the world to a more constructive and peaceful future, it was essential to start with children, 'the adults of tomorrow' (Hartman, 2009). Thunberg, in her speech at the UN Climate Action Summit in September 2019, reprimanded political leaders for not taking sufficient action to stop climate change, by telling them that they are failing young people and invoking the future generations. Notwithstanding the many points of discord, children's rights are part of a social justice project that offers a powerful discourse as well as the necessary political and legal tools to advocate to making society a better place. People, institutions and organizations can disagree about the priority themes in children's rights (Poretti et al., 2014), about the strategies and alliances to be mobilised and formed or even about the kind of better future we want for our children and our societies. But there is one idea with which all children's rights actors agree, that is that we should and can make tomorrow better than today, an idea at the centre of modernity that expresses a reflexive, even impatient drive to make and remake the world, the nature and ourselves. For Paul James, in modernity 'we feel we have no choice but to act upon what we, and the world, should look like' (2015, p. 192). Children – and the more encompassing concept of the 'world-child' (Tabak, 2020) – who are considered the future perfectly respond to modernity's telos, that is human progress. Stripping modernity to its most basic idea that 'we can make tomorrow better than today' puts at the centre projections and ideals about children and childhood. Given the central place of children in modernity's preoccupations with the future, to study the children's rights project is hence a way to study current conditions of modernity itself, the most overwhelming social project of our time.

The projection of children to the future mirrors what Johannes Fabian (1983/2014) calls allochronic discourses about how 'other' cultures represent the past. Analogous to how early anthropologist were seen as 'time voyagers' (ibid., p. 146) who, by gaining insights into the social organization and interactions of non-Western societies increased our knowledge about the past, one might consider the study of children and childhood as a way to looking into the future. A strategy to prevent giving equal status, to deny coevalness to social norms from 'other' cultures, seen as non-modern or pre-modern societies, has been operated by excluding the Other from our present time. Temporal distancing has been a strategy to denying coevalness, which for Fabian is a normative ideal concerned with granting equal value and concern for different contradictory or even conflicting worldviews. Non-Western 'others' as well as children have been denied coevalness because they were seen to be living in another time, respectively in the past and in the future. Their dominant mode of presence in human rights and children's rights discourses has been, for the non-Western other and for the child alike, as victim and object.

When the 'other' is a child, he or she never stands in the 'here and now', but lives twice in an allochronic time, namely in the past and is as such a victim of that past, as well as in the future, and becomes an object of our concerns. The typical subjects of children's rights

discourses, such as working children, underage soldiers, girls who do not have access to education or who marry young are denied coevalness on a double allochronic basis. First, because their families are deemed to live in the past, the reasons why they send their children to work or want them to marry young are seen as relics of an undesired past and are therefore refuted. Second, the claims of children themselves that they want to work or desire to get married are dismissed on the ground of the need to preserve their future wellbeing. Both allochronic appearances, one referring to the past and the other to the future, do not cancel one another but are mutually reinforcing. Children from the global South are denied coevalness because their families live in the past and the children themselves live in the future. This leaves them without a presence, which is the temporal condition for having one's viewpoints considered on an equal basis in dialectical conversations between persons and societies.

Given the central place of children in modernity's preoccupations with the future, to reinvent children's rights turns out implying to reinvent modernity itself. How can we combine modernity's emancipatory project to making tomorrow better than today with modernity's own normative ideal to granting equal value and concern for each person's worldview, requiring the recognition of children's coevalness?

Notes

1. <http://www.cpcnetwork.org/reconstructing-childrens-rights-institute/>
2. <https://www.girlsnotbrides.org/>

References

- Cordero Arce M (2012) Towards an emancipatory discourse of children's rights. *The International Journal of Children's Rights* 20(3): 365–421.
- de Sousa Santos B (2009) *Sociología jurídica crítica. Para un nuevo sentido común en el Derecho*. Madrid, Spain: Trotta. cited in: Cordero Arce, M. (2012). Towards an emancipatory discourse of children's rights. *The International Journal of Children's Rights* 20(3): 365–421.
- Dimock G (1993) Children of the mills: re-reading Lewis Hine's child-labour photographs. *The Oxford Art Journal* 16(2): 37–54.
- Esser F, Baader MS, Betz T, et al (eds) (2016) *Reconceptualising Agency and Childhood: New Perspectives in Childhood Studies*. London, UK: Routledge.
- Fabian J (2014) *Time and the Other. How Anthropology Makes its Object*. (First edition: 1983). New York, NY: Columbia University Press.
- Fassin D (2011) *Humanitarian Reason. A Moral History of the Present*. Oakland, CA: University of California Press.
- Hanson K (2003) *Kinderrechten en strafrechtelijke verantwoordelijkheid. Een kritische analyse*. PhD dissertation. Ghent, Belgium: Faculteit Rechtsgeleerdheid, Universiteit Gent.
- Hanson K (2016) Separate childhood laws and the future of society. *Law, Culture and the Humanities* 12(2): 195–205.
- Hanson K and Nieuwenhuys O (eds) (2013) *Reconceptualizing Children's rights in International Development: Living Rights, Social Justice, Translations*. Cambridge, UK: Cambridge University Press.

- Hanson K and Nieuwenhuys O (2020) A child-centered approach to children's rights law. Living rights and translations. In: Todres J and King SM (eds) *The Oxford Handbook of Children's Rights Law*. Oxford, UK: Oxford University Press.
- Hartman S (2009) Janusz Korczak's legacy: an inestimable source of inspiration. In: *Council of Europe Commissioner for Human Rights, Janusz Korczak. The Child's Right to Respect*. Strasbourg, France: Council of Europe Publishing, 13–21.
- Horii H (2020) Walking a thin line: taking children's decision to marry seriously? *Childhood* 27(2): 254–270.
- Howard N and Okyere S (2022) *International Child Protection: Towards Politics and Participation*. London, UK: Palgrave Macmillan.
- James P (2015) Despite the terrors of typologies. The importance of understanding categories of difference and identity. *Interventions* 17(2): 174–195.
- Josefsson J and Wall J (2020) Empowered inclusion: theorizing global justice for children and youth. *Globalizations* 17: 1043–1060.
- Kannan D, Dar A, Duff S, et al. (2022) Childhood, youth, and identity: a roundtable conversation from the global South. *Journal of Childhood Studies* 47: 20.
- Krisch N (2005) International law in times of hegemony: unequal power and the shaping of the international legal order. *European Journal of International Law* 16(3): 369–408.
- Lind J (2020) *The Politics of Undocumented Migrant Childhoods: Agency, Rights, Vulnerability*. Doctoral dissertation. Malmö, Sweden: Malmö Universitet.
- Miedema E, Koster W and Pouw N (2020) Taking choice seriously: emic understandings of decision-making about child marriage. *Progress in Development Studies* 20(4): 261–269.
- Nieuwenhuys O (2013) Theorizing childhood(s): why we need postcolonial perspectives. *Childhood* 20(1): 3–8.
- Poretti M, Hanson K, Darbellay F, et al (2014) The rise and fall of icons of 'stolen childhood' since the adoption of the UN Convention on the Rights of the Child. *Childhood* 21(1): 22–38.
- Scott JW (2009). *Only Paradoxes to Offer: French Feminists and the Rights of Man*. Cambridge, UK: Harvard University Press. cited in: Lind J. (2020) *The Politics of Undocumented Migrant Childhoods: Agency, Rights, Vulnerability* (Doctoral dissertation, Malmö Universitet, Sweden).
- Spyrou S, Rosen R and Cook DT (eds) (2018) *Reimagining Childhood Studies*. London, UK: Bloomsbury.
- Tabak J (2020) *The Child and the World: Child-Soldiers and the Claim for Progress*. Athens, GA: University of Georgia Press.
- Stammers N (2009) *Human Rights and Social Movements*. London, UK: Pluto Press.
- van Daalen E and Hanson K (2019) The ILO's shifts in child labour policy: regulation and abolition. *International Development Policy/Revue internationale de politique de développement* 11: 133–150.
- Weijers I (1999) The debate on juvenile justice in The Netherlands, 1891–1901. *European Journal of Crime, Criminal Law and Criminal Justice* 7(1): 63–78.

Karl Hanson, Co-editor
University of Geneva, Switzerland
April 2022