

**Implementing the U.N.
*Convention on the Rights
of the Child***

**A Standard of Living
Adequate for Development**

Edited by
ARLENE BOWERS ANDREWS
and
NATALIE HEVENER KAUFMAN

Foreword by **GARY B. MELTON**

PRAEGER

Newport, Connecticut
London

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This book is dedicated to our children, *Carrollee, Brook, Emily, and Athey*

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Foreword

Gary B. Melton

In 1989, after a decade-long drafting period, the U.N. General Assembly unanimously adopted an extraordinary document, the *Convention on the Rights of the Child*. The *Convention* is unprecedented in its universality and rapidity of ratification and accession. Almost every nation of the world has ratified or acceded to the *Convention*. (At this writing, only the United States—a signatory but not a party to the *Convention*—and Somalia are exceptions.) One might argue that this near-unanimity is indicative only of the ease in attracting prochild sloganeering, no matter what the cultural differences may be in how those slogans are understood. Although such an observation undoubtedly has some power in explaining the politics of ratification in many countries, one should not assume that ratification is meaningless or that it is the product of purely cynical motives.

Two facts weigh against such an interpretation. First, the drafters of the *Convention* established a system of monitoring implementation that is of unprecedented scope. Each state party to the *Convention* is obligated to produce a periodic report for review by a U.N. committee of experts serving in their personal capacity. Although the Committee on the Rights of the Child does take this responsibility seriously, the important structural innovation is that the *Convention* provides that U.N. agencies, expressly including UNICEF, and “other competent bodies” may offer “expert advice” or technical assistance in the process of monitoring and implementation (Art. 45).

This provision mirrors the unusual history of the drafting of the *Convention*, in which nongovernmental organizations (NGOs) were granted a seat in the working group to draft the *Convention*. Further, an ongoing caucus of NGO

representatives observed the debate and advised the NGO representative, who played an influential role in the drafting. By the ultimate recognition of NGOs (“other competent bodies”) in the *Convention* itself, the states parties agreed to scrutiny of their efforts by domestic citizen groups as well as international organizations. To facilitate implementation and monitoring, the states parties have an express obligation to “make principles of the *Convention* widely known, by appropriate and active means, to adults and children alike” (Art. 42). In essence, the *Convention* is structured in a manner that promotes its use as an instrument in domestic as well as international law and politics.

That fact would be unimportant but for the second fact: The content of the *Convention* is also of unprecedented scope. The *Convention* is neither narrow nor trite. Unlike many expositions of children’s rights, it does not consist merely of platitudes. Not only is the number of rights recognized under the *Convention* remarkable (fifty-four articles, most with multiple sections), but their theoretical coherence is also striking—an intellectual integration that is all the more stunning when one considers the process by which the *Convention* was drafted.¹

The authors of the *Convention* adopted a “constitutional” approach to children’s rights, in which they adopted expansive language covering a broad range of domains of children’s lives. More than any other global human rights treaty, the *Convention* integrates civil and political rights with social and economic rights. The common theme is the requisite of *dignity* for children—a word that appears often in the *Convention* expressly and that permeates it conceptually.

Article 27, the focus of this book, is a particularly meaningful illustration. By its adoption, “States Parties recognize the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral, and social development.” Note that this provision, which seems on its face to establish an extraordinarily broad entitlement, is “constitutional” not “statutory” in form. It does not establish a checklist of mandates or prohibitions for states parties. Rather, Article 27 provides a principle to guide the global community in regard to the minimum scope—that which is by *right*—of social policies intended to promote the welfare of children.

Interpretation of Article 27, like many provisions of the *Convention*, demands both normative and empirical analysis. Normatively, explication requires a determination of what is “adequate” in an extraordinarily broad range of domains of children’s lives, which must be defined. Empirically, it requires identification of the social and economic circumstances (the “standard of living”) necessary for adequate development.

Definition of adequacy of development requires an analysis of the purposes of the *Convention*. In that regard, the preamble to the *Convention* offers some helpful clues. For example, the Preamble recognizes “that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love, and understanding.” Besides providing an assumption about a requisite for adequate development (i.e., a loving family environment), this clause of the preamble suggests that the

ultimate outcome of interest is development of the child's personality. *Personality* is a term of art in international human rights law. A word that appears in numerous instruments, its meaning is closer to "personhood" than the colloquial and psychological definitions of the word. The next clause of the Preamble, which notes the drafters' desire that "the child should be fully prepared to live an individual life in society," gives further credence to this interpretation.

In short, Article 27, when combined with the Preamble, requires states parties to ensure the availability of the requisites for children's full participation in society. Therefore, Article 27 demands a standard of living sufficient to achieve personal independence at such a level in the domains listed within the article. This interpretation is consistent with the underlying theory of the *Convention*—that children, as persons, are owed respect for their dignity. Within such a framework, it is necessary but insufficient to fulfill the rudiments of citizenship. Civil and political rights are not enough. Friendships, family relationships, work, study, play, and spirituality are all essential to the human experience. Such are the aspects of children's lives that define them as persons and that enable their development as individuals worthy of respect and respectful of others—capable of living, as the Preamble admonishes, "in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality, and solidarity." The *Convention* properly mandates states parties to guarantee children the standard of living necessary to achieve individuality in the fundamental domains of life. At the same time, the *Convention* does demand meaningful opportunities for children's civil and political involvement (the nature of that participation necessarily evolving developmentally), presumably including the education necessary to be an informed participant in democratic processes (see also Arts. 28 and 29).

This understanding must be translated in concrete criteria that may guide the U.N. Committee on the Rights of the Child as well as policymakers in each state party. Accomplishment of this objective presents difficult challenges for social scientists. Several points are noteworthy in that regard.

First, some of the topics are ones that are seldom studied. Most notably, spiritual development is a domain that is rarely given attention by social scientists. Even the conceptual foundation needed for research (What does "spiritual development" in childhood mean?) is largely lacking.

Second, to the extent that information about the linkage between standard of living and developmental outcomes is available, it is typically correlational. To set standards for compliance with Article 27, research is needed that causally relates standard of living to specific *levels* of variables of interest. For example, information is available about the relation between family income and children's educational achievement. Research does also suggest some of the mechanisms by which this relationship occurs (see, e.g., Alexander & Entwisle, 1996). However, it is not framed in a way that permits easy inferences about the relation between family income and a level of achievement sufficient for an individual life in society.

Third, the relation between standard of living and the outcomes of interest is not necessarily linear. This fact is most obvious in regard to spiritual development. Many religions regard people who have taken vows of poverty as their holiest adherents. The richness, for example, of spirituals arising from the slave churches of the antebellum U.S. South raises a question at least of the necessity of a particular standard of living for spiritual development. For other domains of development, particular experiences only loosely related to standard of living may be the most important for acquisition of skills important to “mental development” in a given culture (see, for example, Hollos, 1983, on the relation of the physical environment to cognitive development).

Further, even in terrible conditions some children are sufficiently resilient to continue their development. Almost no one would question what social scientists have learned from formal study—that poverty is generally an impediment to children’s development (Duncan & Brooks-Gunn, 1997). Nonetheless, the pages of history are filled with accounts of leaders who have grown up under severely adverse conditions. Some measure of social and economic resources is obviously necessary for survival, but that level is far below what most people would regard as a decent standard of living. Although “adequacy” may be defined in terms of a standard of living that gives a child a reasonable chance of development to a level sufficient for full participation in society (not that this is absolutely necessary for such development),² the fact remains that the standard of living adequate even for “development” (distinguished from “survival”) may be quite low.³

Fourth, the answer in regard to the standard of living adequate for full participation in society is historically and culturally relative. The kinds of “mental development,” for example, needed for independence in an agrarian society are undoubtedly different from those necessary in a society requiring computer literacy in order to communicate easily with others and to have a reasonable range of occupational choices. In that regard, even though the *Convention* addresses *minima* required for child’s development, they are relevant to industrialized as well as developing countries—even to industrialized countries that, unlike the United States, do not permit gross inequality in their citizens’ standard of living.

Fifth, as already noted and as some of the preceding points illustrate, the definitions of the domains of interest and the determination of adequacy are ultimately questions of law and morality. Social scientists will need to be guided by lawyers and ethicists in framing their research questions in a manner that will be useful to policymakers who take their obligations under the *Convention* seriously and to advocates who are equally diligent in the monitoring process.

Recognizing the need for an interdisciplinary, multicultural analysis of the meaning of Article 27 and the establishment of a corollary agenda for research and monitoring, the Institute for Families in Society at the University of South Carolina convened a study group consisting of distinguished scholars of diverse professional and cultural backgrounds.⁴ This book emerged from provocative

discussions by that group and insightful editing by my colleagues Arlene Bowers Andrews and Natalie Hevener Kaufman.

The result is a model for a process that could be used to understand the broad language present in many other articles of the *Convention*. For example, working with partner U.S. centers in the Consortium on Children, Families, and the Law and dozens of scholars from abroad, the Institute for Families in Society undertook a similar analysis of the child's right under the *Convention* to a family environment. Some of the ideas discussed in that study group were presented in a special section of *American Psychologist* (December 1996) and a special issue of *Law and Policy* (October 1995). Among the other "constitutional" provisions of the *Convention* are the right of children separated from family members to "be dealt with ... in a positive, humane and expeditious manner" (Art.10, sec.1), "the right of the child to freedom of thought, conscience and religion" (Art.14, sec.1), the right of children to "access to information and material from a diversity of national and international sources, especially those aimed at the promotion of ... social, spiritual and moral well-being and physical and mental health" (Art. 17), the right of children with disabilities to "a full and decent life in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community" (Art. 23, sec. 1), the right of children to "participate fully in cultural and artistic life" (Art. 31, sec. 2), and "the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth...." (Art. 40, sec.1).

As the compilation of chapters reflecting a model process for understanding the *Convention on the Rights of the Child*, this book is likely to be essential to policymakers, advocates, and scholars as they undertake the intellectually, morally, and politically challenging work of protecting the dignity of children. I hope that *Implementing the U.N. Convention on the Rights of the Child* will be followed by many efforts of comparable depth and quality to explicate the meaning of the *Convention* for children around the world.

NOTES

1. The *Convention* was drafted by consensus. Thus, the ultimate wording of the *Convention* represents, in effect, the lowest common denominator—the most stringent language that, in the judgment of the chair, the participating nations could accept unanimously.
2. The concept in psychoanalytic ego psychology (Hartmann, 1939/1958) of an "average expectable environment" may be helpful in that regard.
3. Article 6 of the *Convention* obligates states parties to "ensure to the maximum extent possible the survival *and* development of the child" (emphasis added).

The study group met in May 1996 at Isle of Palms, South Carolina. Shelli Charles should be recognized for her skill and diligence in handling the logistical arrangements for the meeting.

4.

I would also like to thank Cindy and Evan Nord, whose generous endowment of the Institute permits us to undertake some groundbreaking studies like the international inquiry in this book without the constraints of grant and contract funding.

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Preface

The United Nations *Convention on the Rights of the Child* has been adopted by almost all nations of the world. The *Convention* encompasses survival, protection, participation, and development rights. One crucial dimension to any discussion of the rights of the child is determining how to create the kind of environment most likely to enhance the child's development. Article 27 of the *Convention* states that those accepting the treaty "recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development." The aim of this book is to present an analysis of the nature, importance, and potential implementation strategies if societies were to take seriously the obligation they have accepted. This book is based on a symposium held in May 1996, especially to address this issue and includes original papers, revised in light of the discussions, of twenty scholars and practitioners who attended. The participants were drawn from a wide variety of fields, and their viewpoints integrate contemporary scholarship and experience across disciplines and cultures. The introduction and conclusion integrate the new insights and recommendations drawn from the extensive discussions of the meetings. The focus of this book is the total child—the physical, mental, spiritual, moral, and social development—exploring both known and newly emergent scholarship and policy in psychology, economics, law, social work, education, sociology, pediatrics, and community organization.

There has been a dramatic increase in interest in children's rights globally. One of the primary forces driving this interest is the acceptance of the *Convention on the Rights of the Child* by governments from around the world. Yet the global community and its constituent parts are only beginning to forge an un-

derstanding of how to interpret and implement the set of standards and obligations that governments have taken on by adopting the *Convention*.

The child's right to survive and develop is a fundamental premise of the *Convention*. Arlene Bowers Andrews' chapter reviews the significance of childhood for human development and the challenge of identifying adequate living conditions within and across cultures. She reports on the already established indicators of child development throughout the world, with emphasis on the threats to development. Finally, and of special significance given their salient role in Article 27, she reviews the issues affecting parents' and governments' capacities to fulfill their responsibilities under the article.

Article 27 reflects a rather new and holistic approach to understanding the needs of children. Natalie Hevener Kaufman and María Luisa Blanco set forth the origins of Article 27, reviewing the controversies during the drafting process and the special role played by the nongovernmental organizations. The authors also outline the procedures established for interpreting and monitoring the *Convention*. Looking at the functioning of the Committee on the Rights of the Child and the initial country reports submitted under the terms of the treaty, they explicate some of the patterns already emerging from this process.

Clearly the Committee efforts, however strong, cannot alone be responsible for seeing that the *Convention*'s objectives are reached. Parallel work by public and private groups at all levels are necessary. Asher Ben-Arieh describes current work aimed at developing and applying statistical indicators of child well-being within nations. Having chaired such efforts at the national level, within Israel, he describes, as well, his work with an international group of experts aimed at meeting the challenges of identifying feasible indicators across nations. His chapter focuses on the selection of indicators of positive development and well-being beyond survival. Included are the results of the international study group and an agenda for future monitoring efforts.

Central to the developing agenda on children's rights is the recognition that children are human beings entitled to dignity and respect of their own. As the global community begins to fully adopt an attitude toward children based on their integrity as human beings, not human becomings, we also need to see childhood as a state in itself and see children as more than potential adults. Jens Qvortrup explains the implications of accepting childhood as a time and space of life that is important in its own right and argues that indicators of quality childhood should be comparable to indicators of quality adulthood, that is, children should be considered as partners and autonomous units in distributive justice.

The drafters of Article 27 identified five specific developmental domains that they assumed are dependent on an adequate standard of living. The first is the child's physical development, addressed here by Francis E. Rushton and Robert E. Greenberg, two pediatric specialists. The authors carefully and thoroughly present the increasingly strong evidence linking poor physical development to low socioeconomic status.

Mental and physical development are also linked. Nutrition, health, safety, and positive stimulation for learning are associated with the child's intellectual functioning and academic achievement. Patricia Y. Hashima and Susan P. Limber present their analysis of this research and also report on the current evidence that the child's mental development is extensively influenced by the home environment and the schools.

The Holy See was instrumental in seeing that the child's spiritual development was added to the list of domains included in Article 27. Ross A. Thompson and Brandy Randall, while noting the relative scarcity of research on children's spiritual development, create their own framework for discussing the crucial domain of the child's spirituality. The authors discuss the importance of the family, community, and early childhood experiences that promote trust and security, contributing to the ability of the child to understand and appreciate the spiritual domain.

The moral domain has been the subject of more research providing us with the tools to understand how children learn social conventions and standards of morality. Judith Torney-Purta has helped to lead the formulation and investigation of extensive cross-cultural studies of civic education. She discusses findings that children learn standards of morality through natural groups in their environment, and she reports on research about children's perceptions of human rights and citizenship.

The child's social development, although beginning in the family, requires positive involvement in groups beyond the family in schools and with peers. If children learn socially responsible behavior, they are in a position to make a positive contribution to their social environment. Malfrid Grude Flekkøy and Natalie Hevener Kaufman discuss the current literature on social development and the importance of the child's participation. When participation provides experience with decision-making, children learn a sense of control over their own lives and acquire skills necessary for any well-functioning democracy.

The child's development requires more than an adequate standard of living within individual families. Varying levels of community wealth, measured in a variety of ways, are also part of the context within which children grow and develop. Frank D. Barry explores the concept of "community wealth" including relationship factors such as adult-child interaction time as well as economic resource level. The author also describes the complexity of community wealth and considers the community as potential mediator between government and families and the limitations of responsibility for child development.

The gap between rich and poor is not only an issue of nation-state dispute. It also has serious effects on the development of children within nations. Leroy H. Pelton explores the plight of poor children and their families relative to the nonpoor. He raises the issue of community responsibility to address the needs of the poor if poor children are genuinely to have the opportunity to develop and thrive.

From an important and different perspective, Allen M. Parkman considers

how human capital theory applies to Article 27. He argues that from this perspective, parents fulfill their responsibility under the *Convention*, in part, by investing in their child's human capital, thereby making the child more productive. Investments per child can be higher when parents have more resources, fewer children, freedom from discrimination, and long-term relationships with the child.

The universality of the adoption of the *Convention* does not, of course, mean universality of interpretation. Clearly different cultures will choose to select different elements to emphasize and different provisions to implement first. For Article 27, the very concept of "standard of living" must be interpreted within a cultural context. Virginia Murphy-Berman explores the various conditions and contexts that might influence cross-cultural interpretations of Article 27. Cultural beliefs about how environments influence child development also influence these interpretations. Therefore, as implementation measures are designed, cross-cultural policy differences will need to be considered.

Finally, the *Convention* is only effective to the extent that it is fully understood, meaningfully interpreted, and seriously implemented. As the most politically and economically powerful nation in the world, the United States can play a major role in advancing the needs of children globally. U.S. nonratification of the treaty does not mean that the treaty lacks importance for the United States. The U.S. signing of the treaty—which formally requires that the country not act contrary to the treaty's requirements—the customary law status of the *Convention*, and the continuing international child advocacy of the U.S. government and nongovernmental organizations means that the *Convention* has to be understood by those within the United States. Robin Kimbrough reviews the U.S. law that applies to Article 27 and raises questions about how the treaty might be interpreted here. She also considers how current policies, such as welfare reform, might be examined in light of the responsibilities set forth in Article 27.

Are there critical issues for implementing Article 27 in countries that are in transition to more democratic and more open economic systems? Jiří Kovařík of the Czech Republic discusses the many ways that his government is involved in steps that may affect the responsibilities the government accepted under Article 27 when ratifying the *Convention*. He reviews many dimensions of the child's environment, including the environment of children in institutions, and points to success and shortcomings in the country's work thus far.

One special cultural issue arises for children within Africa and of the African Diaspora. The people of Africa have nurtured living conditions that produced civilizations where children thrived. Since colonization, the standard of living has virtually collapsed in some areas of Africa, leaving children dangerously threatened. As the people of Africa have dispersed across the globe, their children have confronted challenging circumstances. Barbara Morrison-Rodriguez reviews the implications of Article 27 for changing their plight, promoting standards that would assure that children of African descent fully develop. She

provides a wealth of information about a particular case study—that of African American children in South Carolina, indicating the great divergences between the developmental environments of black and white children in one state within the United States.

The editors' concluding chapter draws attention to the ongoing need for research about Article 27 and the important areas of policy formulation. They also explore current efforts to create global means of measuring and monitoring the child's well-being aimed at promoting adequate living conditions for the child's development.

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We would like to thank the Institute for Families in Society of the University of South Carolina, especially its director, Gary B. Melton, for supporting this project. Most of the chapters in the volume were initially written for a conference on Article 27 of the U.N. *Convention on the Rights of the Child*, led by Dr. Melton and sponsored by the Institute. We thank Shelli Charles, in particular, for her fine organizational skills in arranging the conference and compiling the original papers. Sheila Heatley and María Luisa Blanco have provided capable technical assistance as we prepared this manuscript.

Arlene Bowers Andrews offers these acknowledgments: Thank you, mother, Elfriede Traeger Bowers, for how you have shown me that adults can strive to promote a child's standard of living even in the face of imminent threats. You and Dad gave me a childhood that makes me at home among people of different nations and cultures. Stuart Andrews, my life partner, you help me try to live according to the global principles of the children's *Convention* in our daily lives and community. I am also ever grateful for your insights as I probe greater legal understanding. Brook and Emily, you are the models for how children can contribute to the quality of an adult's standard of living, for you have surely enriched mine. And I am especially grateful to all those other Bowers and Andrews children who never let me forget what the world is like through the eyes of a child: Ainsley, Jillian, Matheson, Colin, Kelley, Andrew, Annie, Jonathan, Brian, Matthew, Melanie, Jason, Lori, Brandon, Heather, and Chris.

Natalie (Lee Jane) Hevener Kaufman acknowledges: I thank my sister, Susan Kaufman, for her enthusiasm and encouragement of so many of my endeavors. I would also like to thank my brother-in-law, Peter Waldron, for so many stim-

ulating, diverting conversations, and Miranda and Jacob Kaufman-Waldron for filling our visits with bottomless fun. I am grateful for the loving support of my parents, my sister, Helene Kaufman, and my brother, Ted Kaufman. My life is enriched in very many different ways by my women friends: Robyn Newkumet, Sue Rosser, Malfrið Flekkøy, Deb Valentine, Sara Schoeman, Jan Love, Anita Floyd, Sarah Fox, Ann Cargill, Angela Nordmann, and Francie Close. Finally, I want to thank my partner, David Whiteman, whose endless creativity and humor always gets us through, and my daughters Carrollee Kaufman Hevener and Athey Whiteman Kaufman for their caring love of me and one another.

Abbreviations

ABA	American Bar Association
AFDC	Aid to Families with Dependent Children
CACFP	Child and Adult Care Food Program
CATCH	Community Access to Child Health
CDF	Children's Defense Fund
CRC	<i>Convention on the Rights of the Child</i>
EIC	Earned Income Credit
GAO	General Accounting Office
GDP	Gross Domestic Product
GNP	Gross National Product
IEA	International Association for the Evaluation of Educational Achievement
JOBS	Job Opportunities and Basic Skills program
KDS	Christian Democratic Party (Czech Republic)
KDU-CSL	Christian and Democratic Union, plus Czech People's Party
NACLA	North American Congress on Latin America
NGOs	Nongovernmental organizations
OBE	Outcome-based education
ODA	Civic Democratic Alliance (Czech Republic)
OECD	Organization for Economic Co-operation and Development
ODS	Civic Democratic Party (Czech Republic)
SANPAC	South African National Plan of Action for Children

SES	Socioeconomic status
SSI	Supplemental Security Income
TANF	Temporary Assistance to Needy Families program
U.N.	United Nations
UNICEF	United Nations International Children’s Fund
VAT	Value-added tax
WIC	Women, Infants, and Children program (U.S.A.)

PART I

FOUNDATION

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