

Chapter 8

The Right to Development, the 2030 Agenda for Sustainable Development and Children

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Learning Objectives:

- To understand the linkages between children and development
- To understand the implications of paying explicit attention to children in conceptualizing the Right to Development (RtD) and in designing and implementing activities to realize the RtD.
- To explore the normative framework of the Declaration on the Right to Development in its application to children and its relation with the UN Convention on the Rights of the Child.
- To analyse the Goals and Targets in the SDGs relevant to children and understand how implementing them can help realize the RtD, and conversely, how operationalizing the RtD can help better implement the SDGs and realize children's rights.

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Introduction: Children and Development

Development efforts – pursued in the context of the Right to Development (RtD) or otherwise – are pertinent to children and vice versa. In the first place, this is the case because in all countries in the world, children make up a sizable part of the population. Obviously, this is also visible globally: children up to the age of 18 constitute about one-third of the current world population.¹ This fact in itself already justifies and necessitates the introduction of a child focus in the conceptualization, planning, design and implementation of many development efforts.

Secondly, it is important to be aware that children are disproportionately vulnerable to being affected by inadequate development, for example, as manifested in the occurrence of extreme poverty. While children make up roughly one-third of the global population, they constitute no less than half of the world's extreme poor.² In addition, their immediate condition and long-term development potential is more profoundly affected by poverty, than is the case for adults. According to a joint World Bank Group and UNICEF Briefing Note published in October 2016:

“The consequences of inadequate nutrition, a lack of early stimulation and learning, and exposure to stress last a lifetime. They lead to stunted development, low levels of skills needed for life and work, limited future productivity as adults, and transmission of poverty down the generations. Beyond this tragic impact on human life and potential, neglecting children fails to build the human capital needed for sustained economic prosperity in today's world”.³

Besides this rather instrumental way of presenting the matter, it is clear that children are deeply affected by under-development and poverty on other accounts as well. According to the child-focused international development NGO ‘Save the Children’:

“poverty impacts more acutely on children than on adults, as they are more vulnerable to the effects of deprivation (both immediate and long-term), less able to address or change their situation, and more greatly at risk of exploitation and other failures to meet and protect their rights”.⁴

While it is costlier for development interventions to reach out to the most deprived children, evidence is mounting that in the long run, such investments are worth making. According to a recent UNICEF report, “investing in the health and survival of the most deprived children and

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¹ US Census Bureau, *Mid-year Population by Youth Age Groups and Sex – World, 2017*, available at <http://www.census.gov/population/international/data/idb/region.php?N=%20Results%20&T=4&A=aggregate&RT=0&Y=2017&R=1&C=> (accessed 3 February 2017).

² World Bank Group and UNICEF, *Ending Extreme Poverty: A Focus on Children*, Briefing Note, October 2016, pp. 2–3, available at https://www.unicef.org/publications/files/Ending_Extreme_Poverty_A_Focus_on_Children_Oct_2016.pdf (accessed 5 June 2017).

³ *Ibid.*, p.2.

⁴ Save the Children, *Child Poverty: what Drives it and What it Means to Children Across the World*, 2016, p.10, available at <https://resourcecentre.savethechildren.net/library/child-poverty-what-drives-it-and-what-it-means-children-across-world> (accessed 5 June 2017).

communities saves almost twice as many lives for every US\$ 1 million as equivalent investments in less deprived groups”⁵.

A third element to consider in this regard is the existence and nearly universal ratification of the United Nations Convention on the Rights of the Child (CRC)⁶. All states in the world except the United States of America are thus bound to implement the Convention. Development problems and deficits have a strongly negative influence on the potential of States to realize the CRC. Because “development” is an essential basis for promoting and protecting the children’s rights that the CRC contains, both of these notions and the spheres of their theorization and implementation have many interfaces.⁷

And finally, for the purposes of this module, it is crucial to recognize and support the development potential that children have, including as agents and makers of change. Thus far, children have been involved too little in activities that lead to, respectively: articulations of development deficits, such as situation analyses; policies and other interventions that address such shortfalls; and implementation efforts. Involving them on a regular basis will serve both the instrumentalist cause of improving the quality of development work (a term used here in the broadest sense) and provide children with valuable spaces for building up knowledge and skills and for their broader personal growth.

This module will assist its participants in exploring some of the implications of paying explicit attention to children in conceptualizing the RtD and in designing and implementing activities to realize the RtD across the globe. The above introduction has clarified the reasons for considering children in particular. The next section sketches the core normative framework that exists in the realm of the RtD and children. This framework is composed of the UN Declaration on the Right to Development, 1986 (DRTD)⁸ and the CRC. Together with Agenda 2030, including the Sustainable Development Goals, the latter is also an important normative basis for designing child rights-based development interventions, as will be briefly highlighted in the fourth section of this module.

The RtD and Children: The Normative Framework

While the DRTD was drafted at a time when the CRC was also in the making, the Declaration contains no explicit references to children or young people. However, obviously, young people (be they children, adolescents or youth who, both internationally and nationally are all categorized in different age groups), are important potential beneficiaries of the Declaration and of the realization of the RtD as conceptualized in the Declaration. This is evident from the fact that the DRTD time and again uses terminology such as “every human person”⁹, “all human beings”¹⁰, or “all without distinction”¹¹. Article 8 of the DRTD underlines the need to ensure “equality of opportunity for all in their access to basic resources, education, health services, food, housing,

⁵ UNICEF, *Narrowing the Gaps: The Power of Investing in the Poorest Children* (New York: UNICEF, 2017), p.i.

⁶ United Nations, *Convention on the Rights of the Child*, United Nations Treaty Series 1577, p.44.

⁷ For instance, see: Roy Huijsmans (ed.), *Generationing Development: A Relational Approach to Children, Youth and Development* (London: Palgrave Macmillan, 2016).

⁸ A/RES/41/128.

⁹ Ibid, Article 1(1).

¹⁰ Ibid, Article 2(2).

¹¹ Ibid, Preamble.

employment and the fair distribution of income”¹². Clearly this applies to adults and children alike. In addition, collective and individual human rights are important underpinnings of the Declaration. The Preamble of the DRTD presents the vision that “in order to promote development, equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights”¹³. This statement encompasses children’s rights and there is, thus, an inseparable link between the RtD and children’s rights.

Three years after the adoption of the DRTD, in 1989, the UN Convention on the Rights of the Child was finalized. As was noted by Manfred Novak already in 2005, although the CRC does not refer to the RtD directly, its content largely “reinforces the spirit of the UN Declaration on the Right to Development”¹⁴. At the time of drafting the CRC, in the sessions that ultimately would lead to the adoption of Article 6 on “survival and development of the child”, the right to development reportedly featured, but only marginally.¹⁵

Nevertheless, given the Convention’s nearly universal coverage, as noted in the introduction, the CRC is of great significance for the conceptualisation of development, for designing and implementing development policies, and thus also for interpreting the RtD. While the CRC does not articulate an individual or collective children’s right to development as such, it puts strong emphasis on the development of the child, both in concrete individual cases and more abstractly concerning children in general. According to its Article 6(2): “States Parties shall ensure to the maximum extent possible the survival and development of the child”¹⁶. The main implementation provision of the CRC, Article 4, clarifies that: “States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention”¹⁷. Obviously, this also extends to realising the survival and development of the child.

Following the DRTD, the CRC sees “development” in a holistic manner and as a multi-faceted phenomenon. Concretely, the CRC refers to “development” as encompassing cultural, social, spiritual, physical, mental and moral dimensions.¹⁸ According to Hodgkin and Newell:

“Many of the obligations of the Convention, including in particular those related to health, adequate standard of living, education, and leisure and play (articles 24, 27, 28, 29 and 31) are relevant to ensuring the maximum development of the child, and individual articles expand on the concept of ‘development’.”¹⁹

¹² Ibid, Article 8.

¹³ Ibid, Preamble, Paragraph 10.

¹⁴ Manfred Novak, “Article 6. The Right to life, Survival and Development”, in André Alen *et. al.* (eds), *A Commentary on the United Nations Convention on the Rights of the Child* (Leiden: Martinus Nijhoff Publishers, 2005), p. 49.

¹⁵ Sharon Detrick, *et al*, *The United Nations Convention on the Rights of the Child: A Guide to the “Travaux Préparatoires”* (Dordrecht: Kluwer Academic Publishers, 2005), p. 120; see also: United Nations Office of the High Commissioner for Human Rights, *Legislative History of the Convention on the Rights of the Child* (New York and Geneva: United Nations, 2007), p.364; Manfred Novak, “Article 6. The Right to life, Survival and Development”, p. 46.

¹⁶ United Nations, *Convention on the Rights of the Child*, Article 6(2).

¹⁷ Ibid., Article 4.

¹⁸ Ibid., Preamble, and Articles 23(1), 27(1), 29(1), and 32(1).

¹⁹ Rachel Hodgkin and Peter Newell, *Implementation Handbook for the Convention on the Rights of the Child*, fully revised third ed., (Geneva: UNICEF, 2007), p.93.

In addition, “[t]he Convention’s provisions protecting the child from violence and exploitation (in particular, Articles 19 and 32 to 39) are as vital to maximum survival and development as are those on the provision of services”²⁰. And finally, “[t]he Committee expects implementation of all other Articles to be carried out with a view to achieving the maximum survival and development of the child”²¹. The latter is a consequence of the fact that the Committee on the Rights of the Child has recognized survival and development of the child as a general principle of the Convention which thus should direct all CRC-related decision-making and implementation action.²²

Like the DRTD, the CRC also demands consideration of the implementation capacity of relevant actors, primarily as expressed by the resources they have available. Article 4 of the CRC, in general terms, even tones down the State obligations to realise economic, social and cultural children’s rights by stating that “States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation”²³. The availability of resources is further referred to explicitly in the CRC provisions addressing higher education,²⁴ assistance for children with disabilities,²⁵ and social security benefits for children.²⁶ An interesting feature of the CRC is that it clearly posits the realisation of children’s rights as a shared responsibility between the parents, or other caretakers of the child, and the State.²⁷ The role of parents or legal guardians explicitly extends to “the upbringing and development” of their child for which, according to the CRC, they have “the primary responsibility”.²⁸ As is the case for the State, the resource base of parents or other caretakers of children requires attention too. Thus, according to Article 23(3) of the CRC, assistance for children with disabilities shall be provided for free “whenever possible, taking into account the financial resources of the parents or others caring for the child”²⁹. By virtue of CRC Article 27(2), the “parent(s) or others responsible for the child have the primary responsibility to secure (...) the conditions of living necessary for the child’s development”³⁰. They shall do so, “within their abilities and financial capacities”³¹.

A final other expression of the spirit of the DRTD in the CRC is the embodiment of consideration for the position of developing States and the particular difficulties they might encounter when seeking to implement the Convention. This starts in the last paragraph of the Preamble to the CRC which recognizes “the importance of international cooperation for improving the living conditions of children in every country, in particular in the developing countries”³². The above-quoted

²⁰ Ibidem.

²¹ Ibidem.

²² For further details, see: Khadeija Elsheikh Mhagoub, *The International Law on the Right of the Child to Survival and Development* (Cambridge: Intersentia, 2016).

²³ United Nations, *Convention on the Rights of the Child*, Article 4.

²⁴ Ibid., Article 28(1c).

²⁵ Ibid., Article 23(2).

²⁶ Ibid., Article 26.

²⁷ Karin Arts, “Twenty-Five Years of the United Nations Convention on the Rights of the Child: Achievements and Challenges”, *Netherlands International Law Review*, vol.61, no.3 (2014), pp. 267–303, at p.280 and pp.297–98.

²⁸ United Nations, *Convention on the Rights of the Child*, Article 18(1).

²⁹ Ibid., Article 23(3).

³⁰ Ibid., Article 27(2).

³¹ Ibidem.

³² Ibid., Preamble.

Article 4 (the general implementation provision of the CRC) concretizes this by making the realisation of economic, social and cultural rights co-dependent on international cooperation, but only “where needed”. The needs of developing countries and the corresponding necessity of international cooperation are further mentioned in CRC provisions on preventive health care and the treatment of children with disabilities,³³ the child right to health,³⁴ and the right to education³⁵.³⁶ The Committee on the Rights of the Child has clarified further details on international cooperation in almost all of the General Comments that it has adopted so far.³⁷

At the regional level, so far, no further normative developments have occurred in relation to the RtD and children. While the African Charter on Human and Peoples’ Rights is unique for containing a binding provision that extends to all peoples “the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal employment of the common heritage of mankind”³⁸, the African Charter on the Rights and Welfare of the Child³⁹ is silent on the RtD altogether. In line with the CRC, its Article 11 does refer to the personal child right “to develop his or her personality, talents and mental and physical abilities to their fullest potential”⁴⁰. However, it contains no contextual implementation provisions along the lines of Article 4 of the CRC and no provisions on international cooperation either.

The RtD, Children’s Rights and the SDGs: A Framework for Action

The clearest framework in which all of the above concerns come together in an action-oriented manner is the 2030 Agenda for Sustainable Development⁴¹, including the Sustainable Development Goals (SDGs). According to UNICEF, virtually all of the SDGs and their associated targets are relevant to children, whether they refer to them explicitly or not.⁴² In addition, the text of the 2030 Agenda reveals that it is explicitly grounded in international human rights treaties and is “informed by the right to development”.⁴³ Furthermore, as Kanade has pointed out in Chapter 3, the 2030 Agenda also “reaffirms” the RtD and is very much “grounded” in the DRTD. It also seeks to “build peaceful, just and inclusive societies that provide equal access to justice and that are based on respect for human rights (including the right to development)”⁴⁴. Further analysis of the text of the 2030 Agenda reveals that the document indeed contains a relatively high number of direct references to children, and certainly so when compared to its predecessor, the United

³³ Ibid., Article 24(4).

³⁴ Ibid., Article 24.

³⁵ Ibid., Article 28(3).

³⁶ See also: Karin Arts, “Twenty-Five Years of the United Nations Convention on the Rights of the Child: Achievements and Challenges”, at pp. 281, 291, 300–01.

³⁷ Karin Arts and Tamo Atabongawung, “The Right to Development in International Law: New Momentum Thirty Years Down the Line?”, *Netherlands International Law Review*, vol.63, no.3 (2016), pp. 221–249, at p.231 and 241 n.88.

³⁸ Organization of African Unity, *African Charter on Human and Peoples’ Rights*, CAB/LEG/67/3 rev. 5, Article 22.

³⁹ Organization of African Unity, *African Charter on the Rights and Welfare of the Child*, OAU Doc. CAB/LEG/24.9/49 (1990).

⁴⁰ Ibid., Article 11.

⁴¹ A/RES/70/1.

⁴² Marie Wernham, *Mapping the Global Goals for Sustainable Development and the Convention on the Rights of the Child*, (UNICEF, undated), available at https://www.unicef.org/agenda2030/files/SDG-CRC_mapping_FINAL.pdf (accessed on 17 August, 2017).

⁴³ A/RES/70/1, Paragraph 10.

⁴⁴ Ibid., Paragraph 35.

Nations Millennium Declaration⁴⁵. While the latter document (of 9 pages) included roughly 9 meaningful references to “child”, “children” or related terms, the 2030 Agenda (of 35 pages) contains well over 60 such references. The 2030 Agenda thus contains more than double the number of child-related references as references to the words “woman” or “women”.⁴⁶

Targets across the SDGs in the 2030 Agenda related to children
1.2 By 2030, reduce at least by half the proportion of men, women and children of all ages living in poverty in all its dimensions according to national definitions
2.2 By 2030, end all forms of malnutrition, including achieving, by 2025, the internationally agreed targets on stunting and wasting in children under 5 years of age, and address the nutritional needs of adolescent girls, pregnant and lactating women and older persons
3.2 By 2030, end preventable deaths of newborns and children under 5 years of age, with all countries aiming to reduce neonatal mortality to at least as low as 12 per 1,000 live births and under-5 mortality to at least as low as 25 per 1,000 live births
4.2 By 2030, ensure that all girls and boys have access to quality early childhood development, care and pre-primary education so that they are ready for primary education
4.5 By 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations
4.a Build and upgrade education facilities that are child, disability and gender sensitive and provide safe, non-violent, inclusive and effective learning environments for all
5.3 Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation
8.7 Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms
11.2 By 2030, provide access to safe, affordable, accessible and sustainable transport systems for all, improving road safety, notably by expanding public transport, with special attention to the needs of those in vulnerable situations, women, children, persons with disabilities and older persons
11.7 By 2030, provide universal access to safe, inclusive and accessible, green and public spaces, in particular for women and children, older persons and persons with disabilities

⁴⁵ UN General Assembly, *United Nations Millennium Declaration, Resolution Adopted by the General Assembly*, 18 September 2000, A/RES/55/2.

⁴⁶ Karin Arts, “Children’s Rights and the Sustainable Development Goals”, in Claire Fenton-Glynn (ed), *Children’s Rights in International Sustainable Development Law* (Cambridge: Cambridge University Press, forthcoming).

16.2 End abuse, exploitation, trafficking and all forms of violence against and torture of children

Besides the substantive specifics,⁴⁷ three additional aspects of the 2030 Agenda are of special interest in relation to promoting the RtD through pursuing children's rights.⁴⁸ First, the 2030 Agenda extends the development agenda to all countries in the world which have all committed to "work to implement the Agenda within our own countries and at the regional and global levels, taking into account different national realities, capacities and levels of development and respecting national policies and priorities"⁴⁹. This implies a major widening of the scope of development interventions. This expansion is very much in line with the reality that traditional characterizations of countries into "developing" and "developed" (and in some contexts, "least-developed") are no longer adequate, because development deficits, inequality, discrimination and exclusion, and also accumulated wealth and privilege, occur across both categories. Accordingly, actions envisaged under the SDGs are relevant in all settings. For example, according to an authoritative national report, in the relatively wealthy country The Netherlands, a shocking number of approximately 1 in 9 children lived in relative poverty in 2014.⁵⁰ It is clear that prompt action is required to counter this situation.

However, the extended applicability of the 2030 Agenda also carries a risk of diverting attention and resources away from required interventions in "the South", in favour of SDG- related action in "the North". In the meantime, many States have indeed embarked on national SDG Action Plans. The effects of these, both in terms of national implementation and in terms of resources for international cooperation, remain to be seen. UNICEF has started to report on progress on the elements of the SDGs that are most relevant to children, in both the developed and the developing world.⁵¹

A second aspect of the 2030 Agenda that is of special interest in relation to children and the RtD is that, children and young women and men are therein viewed as "critical agents of change" having "infinite capacities for activism".⁵² Third, despite the emphasis on children and their agency, the 2030 Agenda hardly formulates its child-related provisions explicitly in terms of children's rights.

⁴⁷ See: Marie Wernham, *Mapping the Global Goals for Sustainable Development and the Convention on the Rights of the Child*; Vitit Muntarbhorn, "The Convention on the Rights of the Child: 25 Years and Beyond", in Liefwaard, Ton and Julia Sloth-Nielsen (eds.), *The United Nations Convention on the Rights of the Child: Taking Stock after 25 Years and Looking Ahead* (Leiden: Brill/Nijhoff, 2017), pp. 23–26.

⁴⁸ The remaining text of this sub-section is based on: Karin Arts, "Children's Rights and the Sustainable Development Goals".

⁴⁹ A/RES/70/1, Paragraph 21.

⁵⁰ Social Economic Council, "Opgroeien Zonder Armoede" [Growing Up Without Poverty], *Advies*, 17/03 (2017).

⁵¹ UNICEF, *Children are Central to the 2030 Agenda for Sustainable Development*, <https://data.unicef.org/children-sustainable-development-goals/> (accessed on 17 August 2017); Chris Brazier, "Building the Future: Children and the Sustainable Development Goals in Rich Countries", *Innocenti Report Card 14* (Florence: UNICEF Office of Research – Innocenti, 2017).

⁵² See: A/RES/70/1, Paragraph 51; see also: Karin Arts, "Children's Rights and the Sustainable Development Goals"; Joachim Von Braun, "Children as Agents of Change for Sustainable Development", in Battro, Antonio et al. (eds.), *Children and Sustainable Development* (Berlin: Springer, 2017), pp. 17–30.

However, implicitly children's rights are relatively well served in the SDGs and their related Targets, certainly when compared to the Millennium Development Goals (MDGs). This is manifested, among others, in the fact that several important SDG targets are now all-inclusive and have to be realized for 100% of the children involved rather than for a sub-group. In the MDGs, the latter was, for example, the case for the goal of reducing under-five child mortality (by two-thirds) and for decreasing hunger and improving access to safe drinking water (both to be realized for half of the people affected). According to the SDG framework, by 2030, no people should live in extreme poverty or hunger; no preventable deaths of new-borns and children younger than 5 years of age should occur; all children should complete primary and secondary education; and, by 2025, child labour should not occur anymore.⁵³

In addition, the most relevant of the commonly recognized general principles of the CRC all resonate in the 2030 Agenda.⁵⁴ The substantive principle of "survival and development" of the child is amply present. The same applies to the principle of non-discrimination, which is amply served by the emphasis on "leaving no one behind" and inclusive development.⁵⁵ Finally, but to a lesser extent, the earlier remarks about children as change agents and the actual consultation of children and youth in the preparation phase of the 2030 Agenda reveal that even the general principle of participation has been acted upon. The fourth general principle of the CRC, that of the best interests of the child, has much lesser relevance than the other three such principles, and does not appear anywhere in the 2030 Agenda.

Conclusion

All of the above has shown that there are many connections between the RtD, children and their rights. While the main normative frameworks on the RtD and on children's rights do not articulate this explicitly, many of the substantive issues involved *are* addressed prominently in the latest consensus on the multilateral development agenda: the 2030 Agenda for Sustainable Development. Explicitly informed by the RtD and by children's rights, the 2030 Agenda focuses heavily on improving the situation and living environment of children. Most of the SDGs and their Targets contain child-specific components. This paper commitment raises high expectations, especially against the positive results that have been achieved on some of the child-related MDGs. An example is the MDG momentum around reducing child poverty which, according to the 2016 version of UNICEF's flagship publication the *State of the World's Children*, resulted in the situation that children born today "are over 40 per cent more likely to survive to their fifth birthday and more likely to be in school".⁵⁶ If the SDGs too were realized within the timeframe set (or earlier), a major contribution would be made to the realization of children's rights and also to the RtD. Delivering on these expectations will require a major effort though, in terms of mobilizing the means required for implementing the SDGs (in terms of funding, knowledge and expertise, data); all actors that can play a role (including the State, civil society organizations, and also less likely but highly necessary actors such as businesses and the media); and the best available data. The SDG process seems geared up to play a major role in this respect. Similarly, the RtD framework with its focus on treating development as a right of "entire populations and of all individuals" (including children, as pointed out above), and fairly distributing the benefits of

⁵³ A/RES/70/1, Targets 1.1, 3.2, 4.1 and 8.7.

⁵⁴ For the general principles of the CRC, see: United Nations Committee on the Rights of the Child, *General Comment No. 5: General Measures of Implementation of the Convention on the Rights of the Child*, CRC/GC/2003/5, 27 November 2003.

⁵⁵ Karin Arts, "Children's Rights and the Sustainable Development Goals".

⁵⁶ UNICEF, *State of the World's Children: A Fair Chance for Every Child* (New York: UNICEF, 2016), p.2.

development with equity and social justice; and a further focus on recognizing the corresponding duties of States not only internally but also externally through international cooperation, can help achieve the objectives of the SDGs related to children and realize the rights of children in a more effective manner.