

Rethinking Child Protection from a Rights Perspective: Some Observations for Discussion¹

Susan Bissell², Jo Boyden³, Philip Cook⁴, William Myers⁵

Introduction

Researchers and practitioners involved in child rights and protection issues are questioning the paradigms and strategies now dominating national and international efforts to protect children in various conditions of adversity. Their questions reflect concerns that while many of the current approaches to children needing special protection are effective, some are not. They wonder whether new ideas, and perhaps even reorientation of effort, might be needed. That observation has become commonplace regarding children confronted by adversities as diverse as HIV/AIDS epidemics, armed conflict and other forms of civil unrest, natural disasters, hazardous work, trafficking, street-living, and familial abuse and neglect, among others.

There is a growing realization that the real issue may have to do with universalized responses to problems having locally specific characteristics. Overly prescriptive, and in many instances generalized, interventions might result from interpreting progressive international child rights and protection standards too narrowly and without due regard to local context. Moreover, formalized institutional interventions often ignore, or even actively deny, the value of localized approaches and resources. The upshot is that policy makers and program administrators may act without sufficiently understanding either the problems they confront, especially as experienced by children, or the practical implications of remedies they seek to apply. Imposing solutions that do not fit the situation, as a number of reported cases attests, is not only wasteful, but can be catastrophic for the very children they are intended to help. Context is critical, and to the

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² UNICEF Innocenti Research Centre, Florence, Italy.

³ Queen Elizabeth House, University of Oxford, U.K.

⁴ International Institute for Child Rights and Development, University of Victoria, Canada.

⁵ Department of Human and Community Development, University of California, Davis, U.S.A.

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extent it is ignored by current intervention approaches, there may be a need to modify and sophisticate them, or perhaps even to adopt alternative paradigms, standards and practices. Ultimately, the fundamental humanitarian principle to ‘do no harm’ needs to resurface, and to be paramount in a rights approach to child protection.

Initiating discussion

The first step in identifying and correcting any serious deficiencies in current approaches is to open the subject to widespread discussion. This step was taken in December of 2004 through an informal meeting of about a dozen concerned international child protection professionals at the University of Oxford. Participants at that meeting compared field experience from diverse regions of the world, noting that child protection interventions are too often launched on the basis of ideological positions, false assumptions, or imported models without either consulting children or obtaining adequate information about their situations. The discussants noted that such interventions may be unhelpful; many children prefer and rely on self-help, peer support and informal networks rather than formal mechanisms developed by authorities and other adults. The meeting also observed that few child protection interventions are, for a range of reasons, adequately monitored and evaluated in terms of their impact on children. Outcomes are, therefore, unclear. It was emphasized that we seem to know very little about whether and to what extent child protection policies succeed in actually protecting children. The group agreed that policies oriented by the UN Convention on the Rights of the Child (CRC) and other human rights standards have indeed resulted in important processes of social change. However, it was also agreed that it is difficult to link those processes to either negative or positive impacts on children in the absence of empirical data. It also concluded that while the present state-centered approach to guaranteeing children’s rights and protection has a valuable role to play, anecdotal evidence from experience suggests that governmental intervention cannot by itself reliably protect vulnerable children in many of the most common situations of serious risk.. More help is needed, in the effort to realize the rights of children, from family, community, and children themselves.

The Oxford meeting group suggested several principles for better contextualizing efforts to reach children needing protection. First of all, interventions should be

empirically based to reflect the realities of the situation. Second, children should be regarded holistically, in both developmental and ecological perspective, and should be served by a full range of human rights tools. Third, children should not be regarded as a homogenous, undifferentiated group but as a highly diverse category of beings with an extraordinary range of competencies, perspectives, status attributes, aspirations and societal roles. Fourth, protective action needs to mobilize cultural and community assets. Fifth, children themselves must participate as important actors in their own protection, and all interventions in their lives need to be in part accountable to them.

In April of 2006, the UNICEF Innocenti Research Centre (IRC) in Florence, Italy convened a meeting to, among other purposes, explore implications of the Oxford group discussion and recommendations for advancing the CRC. This interest was an outgrowth of a 62-country study the IRC was conducting, examining implementation of the general measures of the CRC. This group included principals from the Oxford group, UNICEF IRC staff, invited experts, and representatives of bilateral partners interested in the promotion of children's rights. The meeting stressed the relationship between children's protection and their human rights, observing that the two are so entwined that protection issues are productively viewed in a rights framework, and the practical observance of children's rights can be evaluated according to how children fare in their lives. The meeting noted that effective implementation of children's rights and protection necessitates a rigorously empirical understanding of children and their situation, as well as the contextualization of action to fit the people and problems involved.

In order to nudge children's rights and protection activities in that direction, it suggested an ambitious research agenda with four priority goals: (1) the creation of an empirically oriented conceptual framework that relates children's rights and mechanisms of child protection to individual and social processes of human development; (2) documentation of the extent to which children in special need of protection are now protected through public sector efforts, especially those applying the CRC; (3) analysis of the actual risks children confront in their lives and the extent to which those in special need of protection can be protected through their own agency and through support from familial, cultural, community and other non-governmental sources; and (4) recommendation of models for productively combining governmental resources with

family, community, and cultural assets to provide effectively contextualized protection that addresses the diversity of children's circumstances. It was stipulated that research should reflect children's own experience of childhood, highlighting distinctions based on age, gender and other social attributes, growing social science understanding of child development and of how children deal with threats, an ecological perspective on childhood that includes the role of culture and social systems in child vulnerability and protection, and the significance of the CRC in both policy and practice as they affect children.

Confluence of child rights and child protection

Two related but often separated concerns about children have in recent years come strongly to the fore of professional discourse. Historically, the first is children's protection, especially in serious situations that severely threaten their lives, safety and physical or psychosocial development. Children in abusive homes or workplaces, children in armed conflict, children orphaned by HIV/AIDS and many others in harsh circumstances require special protection if they are to survive and flourish. The question is how to provide that in effective ways, and experience suggests that this often involves getting a broad perspective on both the children and the situations involved, avoiding a too narrow definition of either problems or solutions. The second, more recent, concern is children's rights, which have become the formal framework, through the CRC, for national and international policies intended to benefit children. Every country except the U.S. and Somalia has ratified this convention and formally accepted its provisions as the normative framework for policies protecting and promoting children.

Professionals who have been engaged with these issues internationally for at least a decade will recall a history of some tension between protection and rights perspectives. The "need" for children to be protected has not always been regarded by either side as consistent with what are claimed to be their "rights". Social scientists studying these issues empirically, in the field, have not always been able to square their findings with positions taken by advocates approaching the topic from a normative legal perspective. A decade ago the disagreements were often intense. For instance, a well-known child rights lawyer in a 1991 workshop insisted that programming for child protection should be

based not on consequences to children, even if catastrophic in some places, but exclusively on CRC and other international standards, because when dealing with rights “values trump facts”. His position was anathema to attending social scientists and child advocates attuned to judging the success of interventions by their impact on children, and the gap appeared unbridgeable.

Today, however, the conceptual gap between “rights” and “protection” has been almost eliminated, in part because it is generally agreed that if children’s human rights were conscientiously honored, far fewer of them would fall into dire circumstances requiring special protection measures. Even though extreme positions can still be encountered, the mainstream now treats these ideas as complementary rather than competitive. It is widely recognized that children needing special protection from dire circumstances also tend to be the ones whose rights are being most flagrantly violated. Also, it has become increasingly apparent that children in such circumstances cannot be effectively protected by focusing only on the specific abuse they are subjected to or by acting in isolation from the cultural and social context in which they live. Dealing with contexts brings up the issues of their rights. When the immediate concern is for child protection, a rights approach opens up the issues to a broader perspective. There are, concurrently, more possibilities for intervention, because of the requirement that children be treated holistically, with due regard for their specific circumstances, strengths and susceptibilities. Their social ecology and their growth and development need to be factored. Such a perspective also underscores the importance of recognizing children’s own agency in protecting themselves, their families and their peers. There is considerable evidence that children play an active role in shaping their own development and the environment in which they live and can bring their own insights, experience and creativity to bear to ameliorate their difficulties. Indeed, when provided with appropriate opportunities to engage in their own protection, children will often learn important life and pro-social skills which in turn enhance their resilience and development.

On the other hand, treating children as helpless victims of adversity can render them more susceptible. Similarly, thinking about textually abstract rights gains from being grounded in the challenges of protecting real children in specific contexts. Seeing rights through the eyes of concrete protection requirements and consequences imbues

them with the ability to be observed and measured in terms of their outcomes in children's lives, thereby making possible the accountability to and for children implied by the CRC. Thus, this paper starts from the point of view that rights and protection concerns are a good marriage and belong together, each perspective illuminating and being illuminated by the other, each contributing to a unity greater than the sum of its parts.

Important issues of concern

A few important themes have run through the Oxford and Florence meetings and the side conversations surrounding them. They are observations, critiques, and ideas that have for some time been raised in one form or another by researchers and experienced practitioners addressing questions of how to protect especially threatened children and their rights. They lie at the heart of worries about the efficacy of currently fashionable international and national approaches to child protection. These are complex and often controversial issues that will require time and research investment to resolve, so they are presented here not as definitive, but as concerns intended to help focus evaluative discussion of what we do now and open doors to alternative ideas of what we might do better in the future.

Defining “protection”

Despite recent momentum in bringing children's rights and protection into common focus, violations of children's rights to protection have proved far more difficult to define, prevent and combat than have most other aspects of children's rights. Past and current failure to effectively address children's rights to protection represents a major challenge to the implementation of the CRC and to securing the welfare of children in serious adversity. To start with, it has proved difficult to define “protection”, the need for it, and the criteria it must meet in ways that make sense for a wide variety of children, cultures, and situations. While the CRC offers a generalised framework which can be used as a partial basis for conceptualising, analysing and implementing children's protection rights, it has definitional limitations with problematic implications for

children's well-being. Its broad conceptualisation of protection ranging from major societal threats like armed conflict to far more specific risks like intra-familial abuse that operate at the level of the individual child encompass such a wide range of practices and circumstances within a single generic construct that it is hard to identify features that are common to all protection infringements.

Nevertheless, there do seem to be some common themes. For instance, difference in and abuse of power and related discriminatory or exploitative practice does seem to be an abiding feature of the most serious threats to children, whether in the context of interpersonal relations, institutions or societal structures. In other words, breaches of children's rights to protection generally involve acts of commission perpetrated by adults, adult institutions, or the young themselves. This is apparent in cases of exploitative child work, child trafficking, violence by teachers against pupils, forced recruitment of children into the military, and many other situations of this nature. Such child protection failures may also be due to inordinate environmental pressures that debilitate or destroy vital systems of social support. This is commonplace during natural disasters and in situations of political violence, or forced migration, which can lead to family separation or extreme destitution, circumstances that in turn often correlate with susceptibility to exploitation and abuse.

However, even if it is possible to identify a few agreed-upon general criteria for what constitutes protection, we are far from achieving a global consensus on definitions in this field. This is hardly surprising as the values and objectives of child rearing and development, the nature of care arrangements, children's competencies and vulnerabilities and their experiences of childhood, are highly variable both within and across cultures, with the consequence that views on how best to protect children are similarly diverse. Practices that in one context may be accepted as 'normal' and appropriate, in another may be condemned. For instance, feeding infants according to a set timetable may be regarded as good discipline in some settings, whereas in other contexts where the very young are fed on demand this might be considered cruel. Further, practices that are viewed from outside a culture as aberrant may be embedded in a nexus of social values and customs that are cherished from within and may in fact be powerful sources of child protection. For example, in many societies the 'gifting' of a son

or daughter to a well-off relative, an esteemed and powerful neighbour, a local leader, or someone else of influence, is a traditional and important strategy for buffering children of economically fragile households against the effects of serious misfortune. Alliances created in this way often follow prescribed social rules and can be of great social value as they establish lasting relationships of solidarity that can be called upon for resources, services, or advice and information. However, when viewed only in terms of children's rights texts, this fostering practice tends to be regarded exclusively in terms of its potential for damaging abuse—as a pretext for the virtual slavery of children, for instance—while ignoring its important contributions when utilized properly.

Lack of precision in conceiving and defining child protection has invited arbitrary definitions based on unjustified assumptions about what constitutes a risk to children or a violation of their rights. This has led in many cases to rigid models and classification systems that bear little relation to reality. Thus, the family-arranged fostering of children described above, which is intended as a child-protective mechanism to ensure a balance of labour and consumption within and between households, has sometimes been labelled as detrimental to children and a form of child trafficking. While abuses of this practice have certainly occurred and need to be guarded against, it is doubtful that the considerable field evidence about such fostering systems justifies general condemnation. Such unmerited categorization occurs in regards to many other social issues as well, and many such definitions are based on common stereotypes of the children involved. A notorious example is that of street-working children who, especially in Latin America, have long been detained and institutionalized (often in conditions of punitive incarceration) for their “protection” under the demonstrably false assumption they are “abandoned” and without homes.

Definitional straightjackets of this kind, developed by adults without consulting children, tend to ignore children's own experience and do not reflect children's real concerns and ideas of the threats they face. In war zones, for example, it has been established that a focus on children's exposure to injury, the death of loved ones, etc., does not necessarily address their true anxieties, which often are linked to other stresses such as chronic food shortages or the inability to undergo important rites of passage, such as marriage, due to lack of material resources. Such misconceptions are important

because the effects of stressors on children are known to be, to a large extent, contingent upon subjective perceptions more than external conditions.

Ethnocentrism

Experience and research clearly indicate that protection is a culturally tricky topic that demands the application of theory in appreciating the critical processes that contribute to and mediate children's development and learning, as well as a high level of empirical understanding of the people and situation at hand: a careless rush to judgment can be seriously damaging to children. One problem with the current international child protection paradigm is that it appears to favour western cultural perspectives over equally valid non-western ones in defining protection problems and in prescribing responses to them. For example, international child labor standards promoted by rich countries based on their own historical experience with industrialization and urbanization impose policies of questionable relevance on developing countries having very different economic and settlement patterns. Efforts of the west, for instance, tend to be directed towards export industries although the percentage of working children in them is small. Poorly considered child labour elimination efforts in those industries have been known to put some children at greater risk of exploitation in the informal sector. The question of ethnocentrism in the articulation and application of children's rights is so emotionally charged that most rights advocates and most analysts have been reluctant to address the issue. They often tend instead to dismiss concerns about it as "moral relativism"—a pejorative misnomer in this context—and to ignore the possibility that international power inequalities sometimes so corrupt the interpretation of children's rights and the exercise of children's protection that supposedly "protected" children are left worse rather than better off.

Social scientists researching child protection issues in the field question the assumption that the implementation of international standards should be the same everywhere. There are those who believe that the cross-cultural validity of international norms is such that they should be interpreted and applied uniformly everywhere. However, it is now evident that protection strategies closely associated with Euro-American culture have not always been demonstrated to be more beneficial for children

than are approaches from different cultural perspectives. It is not clear from the evidence, for example, that children benefit more from the individualistic orientation of Euro-American culture than they do from the more collective sensibility of most other parts of the world, but many rights and protection norms are skewed in that direction. Similarly, it has not been demonstrated that bureaucratized protection models that work only through organized programmes are more effective for children than are informal approaches that build on family and community child-rearing practices. Nor is it clear that regarding only States as responsible for implementing children's rights is productive for children when addressing particular child protection challenges that require the engagement of other social institutions such as community and kinship-based systems.

As important as the policy and program tools readily available to government may be, they also have important limitations. Whereas effective public health and education systems, for example, require the massive organizing power of government, some of the most difficult child protection issues have not proved amenable to such standardization and bureaucratization. In many such instances, intervention models that work through formal enforcement or service delivery programs do not seem to be as effective as are certain approaches that mobilize and build on protections that can be extended through family and community child-rearing practices. The limitations of government acting alone can be glimpsed in the examples of three common bureaucratized "protection" approaches that some observers increasingly feel are ethnocentric transfers of North ideas into South contexts where they may not be very appropriate.

The child rescue model

The first is a "child rescue" model, in which children perceived to be at danger are removed from the scene of danger, and are treated exclusively as individuals with little thought to the essentiality of their connections to family, community, culture, landscape or other aspects of their environment meaningful to them. Historically dating from late 18th and early 19th century Europe, this approach frequently carries a subtext of disparagement of children's natural and social surroundings, which may be regarded as pernicious. It is today increasingly conceded that this model has caused a great deal of pain and damage to children, such as through removal of indigenous children from their

families to schools designed to sever their minority cultural ties and link them exclusively to the national culture, which is commonly regarded as superior morally and in terms of being better integrated into the modern world. But the approach is still in common use today, such as through coercive exclusion—some times even outright abduction—of children from their place of work without their consent, always in the name of “rescue”, or forced removal of children from their families in cases of intra-familial abuse and areas of armed conflict or other disaster. This approach belittles the efforts that children and families make to provide their own protection and in some cases may exacerbate their difficulties, as when household income drops and family welfare suffers due to children’s removal from the workplace. The fact that this easily dramatized approach is popular with rich country publics, who are primary sources of funding for many organizations working in developing countries, may help explain its continuing prevalence in the face of today’s expert understanding that other options are likely to better benefit children.

The social services model

A second, and especially bureaucratized, protection approach is the “social services” model, in which government (or some other agency) typically delivers one or more special protective services to children, or perhaps to the family unit as a whole, who are deemed to be in need of specialist intervention. A common example is drop-in centers providing recreation, education, health, or other services to street children, out-of-school children, or other children from poor areas. This model ignores alternative and perhaps more socially and economic appropriate models of assistance that make use of existing social channels and could reach more children, including perhaps those most in need. Both rescue and social services models risk labeling client children and their families as different from and lesser than others, with the consequent risk of stigmatizing and excluding them socially. There are also serious questions about the long term viability of such approaches, since they cannot prevent children from falling into situations of adversity and can only offer remedial support to a minority of those in need of support. Because these kinds of professional interventions represent the values and practice of ‘modernity’ and are often imbued with the power of the state, children, families and

communities can become convinced that these bureaucratic options are more efficacious than more informal measures. This can have the practical effect of encouraging families to place children at risk as a means of qualifying for state services, as in the case of children who are abandoned to orphanages where it is assumed they will be better cared for, fed, clothed and educated, than they can be in their own homes.

The medical model

A third approach is a “medical” model in which children requiring protection are viewed as in a situation of pathology and in need of “rehabilitation”. A particularly direct application of this approach is drug therapy, individual or small group counseling, such as is common for child delinquents or children in situations considered likely to be traumatic, such as armed conflict. While the expense and limited potential for expansion of this very professional-intensive approach is widely noted, the obstacles it has placed in the path of developing more accessible, effective, efficient and culturally appropriate approaches also need to be recognized. There are of course situations in which a medical orientation is helpful, but where it has been imported into developing countries as a general strategy, this approach has sometimes tended to displace and marginalize local and cultural assets for the integration and protection of children, disempowering families and communities and thereby reducing the protective resources available. As well, by defining children as ‘sick’ and in need of treatment, rather than paying attention to the societal causes of their suffering, these kinds of approaches tend to individualize and de-politicize that which is structural and often profoundly political

The narrowing effect of ethnocentrism

What is important about these three models is that they virtually exclude the social units—family, kin, tribe, gender and religious affiliations, etc.—that in most societies provide most protection to children. It is not uncommon for practitioners and researchers to remark that, despite a significant number of individual *projects* that have built child rights and protection activities on local social and cultural foundations, international and national *policies* even in non-Western countries are likely to reflect Western models and ignore local ones. The problem is not that Western models are necessarily wrong—they

may in fact be useful in certain situations—but that they tend to be adopted uncritically even where they do not fit well and end up displacing the rich resources of indigenous approaches that might have been more useful.

Ethnocentrism also becomes problematic when it unduly narrows the options for implementing rights and providing children with protection. For instance, specific actions prescribed in CRC Article 32 as the means for reaching the objective of preventing workplace abuse of children are considered unrealistic by most poor families, and many experts agree. Laws prohibiting children from any economic activity prior to a legal minimum age, for example, were developed to address child labor in highly industrialized Europe. Even though research suggests they make little sense in developing countries where most child work is still on family farms, they continue to be energetically promoted by advocates who unjustifiably assume that what might have made sense in 19th and 20th century Europe will be equally valid in very different non-European societies of the 21st century. Some transpositions of rich country “solutions” to poor country situations often are popular—for applying in other parts of the world—even though they impede other approaches likely to work better for children. In the illustration of child work, for example, abolitionist approaches to child labour elimination often drive child work underground and restrict opportunities for more practical approaches that protect children in their work, or approaches that address debt poverty and redress deficiencies in education systems. Ethnocentrism may also denigrate some of the most common and effective ways in which other societies protect children, especially teaching children to handle, rather than completely shy away from, danger. For some, protection is equated with empowering children to handle danger competently. At the same time, critics are aghast at the idea of deliberately exposing children to risk and learning to master it, and find such protective measures to be repugnant or even a possible violation of children’s rights. The issue is made more difficult because traditional protections are not infrequently cynically abused and then cited merely as a pretext to justify egregious child rights violations against which children ought to be protected. It is sometimes difficult to discern true protection from veiled exploitation.

Lack of a theoretical and empirical basis for protective measures

One of the big challenges associated with assessing the impact of the CRC is the difficulty in precisely measuring outcomes for children. This is in part due to the absence of robust tools and indicators in the child protection sector, though this is an area of evolving effort. More importantly, central to the impact measure problem is the fact that little provision has been made for linking the definition, implementation, and evaluation of rights to scientific understanding of childhood, child development or the role of risk and loss in children's well-being and development. Although some bridges between social science theory and empirical evidence and rights approaches to child protection have been growing in recent years, it more often seems that there is a gap between rights discourse and the discourse about children and their development.

That impression owes something to the fact that insights of social science are empirical and follow rigorous rules of inquiry and theoretical understandings intended to minimize ideological, political, and other subjective factors. International standards such as the CRC, on the other hand, are by nature highly normative and came into being through political negotiation between governments about the kind of world they wish to create and the obligations they are willing to assume to achieve this end. These standards are much more about social values to be pursued than about the processes of child development, the nature and requirements of children or children's lived realities. Each approach contributes its own advantages, but without a more precise and systematic understanding of the relationships between children's rights and development, it is difficult to ensure that the CRC and other provisions for child protection will be interpreted and implemented in ways beneficial for children. Social science theory and methodology are therefore essential. In the absence of empirical and theoretical grounding, protection measures can incline toward the imposition of moralism, in which cases ostensibly protective measures may actually oppress the very children they are supposed to help, increase their vulnerability, and seriously violate their rights. This tendency has been noted especially in regards to initiatives dealing with marginalized children, such as youthful sex workers and street children. The contributions of social science are needed to support the implementation of international standards in order that

they realize their intended purposes and ensure that protective activities will actually be beneficial for children.

Constructs of childhood

The increasingly global assumption that prolonged childhood dependence in the nuclear family and formal schools is everywhere the only appropriate context for the rearing, protection and socialization of children has yet to be confirmed by empirical evidence. Despite this, it continues to drive policy in almost all countries. In fact, huge numbers of children are actually dealing with family discord and breakdown. It is also well documented that schools are in many places so ineffective and abusive that they constitute obstacles—even threats—to the well-being, social learning and integration of the young. The idea that childhood everywhere should be a period of play, school, and freedom from major economic and social responsibility does not easily withstand scrutiny. Children flourish in many parts of the world where they both work and study, share economic and social responsibilities with adults, and have broad community access to the information and activities available to adults. By the same token, risks to development are not everywhere the same—although bereavement, family separation, and similar such experiences do tend to undermine wellbeing in most children—and this lack of uniformity reflects not only the diversity of stresses but also the multiplicity of protective factors that mediate or moderate them in different contexts.

In much of the world, protective measures fail to acknowledge that children are valuable contributors to their own protection and to society, with many responsibilities toward others. Anthropological and other social science research consistently reveals that majority world children commonly assume proto-adult roles that are very significant for maintenance of family and household, and that they take pride in these roles and derive both learning and meaning from them. There is considerable evidence that fulfilment of these responsibilities gives children a sense of belonging and competence, and that opportunities to participate in family and society promote multi-faceted development, enhance children's social integration and mitigate against distress. But this evidence is still scattered and has not been mobilized and rationalized in a framework that makes it easily accessible to policy makers. A more scientifically compatible understanding of

childhood, child-rearing success, and children's protection needs to be infused into the intellectual environment informing both national and international policy.

The role of the State

At the very center of concern about inadequacies of current approaches to protecting children and their rights are a number of questions regarding the role of government. Everyone agrees that it has an important role, but what is it, and what can be reasonably expected from it? These are not easy questions to answer, and the issue can engender a great deal of ideological controversy that lies beyond this essay. But there are also pragmatic considerations worth raising here. They arise from the fact that international child protection strategy is today focused primarily on states, making national governments the primary parties responsible for the protection of children through their legislative, enforcement, and service functions. That is because it is based primarily on international conventions (most notably the CRC) that are, by definition, treaties between governments that commit governments and make them responsible for their implementation. Other options for protecting children are also possible. For example, there is no inherent reason why a strategy could not emphasize the mobilizing and reinforcing of non-governmental organizations, such as charities and religious institutions, especially since so many groups of this type have historically been engaged in child protection work.

The idea that government should assume primary responsibility for the protection of children has its roots in European history, especially during the 19th century, and it was given a boost in the first half of the 20th century as a response to two world wars that took a terrible toll on children. However, it was made explicit, expanded to be comprehensive, and fully formalized as an international principle in 1989, through adoption of the United Nations Convention on the Rights of the Child. That is to say, the principle was proposed by national governments (originally Poland), was negotiated between national governments in the inter-governmental forum of the United Nations, and was articulated as an intergovernmental treaty addressed uniquely to States Parties and committing only those national governments ratifying it.

Two aspects of the formalization of responsibility for child protection in national government are especially worth noting. First, that responsibility was phrased within the general concept and terms of human rights, which are themselves based in international agreements between governments. The CRC establishes children as full citizens able to claim proper attention and entitlement to rights. Broader philosophical perspectives notwithstanding, “citizenship” is operationally about the relationship between people and government, and access by children to their rights under the CRC is via government. This not only ties the fate of children to government, but also implies that the responsibility of government toward them is so extensive as to be nearly endless. The rights specified by the CRC are comprehensive, not only seeking to cover directly or indirectly the most important of children’s survival, physical growth and psychosocial development needs, but also providing them with means of social expression and participation. While child protection is at the very center of the CRC, it is nevertheless but one aspect of the treaty’s purpose, which is ultimately to facilitate the holistic development of children.

The end result is to explicitly extend to children through government commitments a social importance and standing higher than is typically accorded them by either popular custom or pre-CRC national law. In this context, child protection serves a higher purpose than merely keeping children safe; it is an essential part of helping them to realize their full potential as human beings and citizens of their societies. Protection is to be accomplished in ways that facilitate and contribute to that higher objective, and ratifying governments are responsible for seeing to that. In other words, their obligation is to act holistically for children, not just to provide for specific functions. There is considerable reason to question how realistic this expectation is for any government at all, let alone fragile ones with feeble resources.

A second fact about the CRC to keep in mind is that it formally commits governments—States Parties—and not necessarily whole societies. Some advocates argue the contrary, but their argument is, so far, legally and philosophically unconvincing, especially in the case of undemocratic countries where government has little claim to be representative of the full society. The reliance on inter-governmental mechanisms, for all their many advantages, can have a limiting effect, isolating

governments as uniquely responsible without necessarily bringing the full resources of society into play, except as they are able to encourage wider participation.

It is certainly true that there are gaps between formal government commitment and popular values and practice.. This may suggest that children's rights need to be more deeply rooted, and not depend solely on whether a government itself can directly enforce or implement them. This limitation may pose relatively little problem in the case of public services that government itself plans and provides, such as public health, education and justice systems. However, advancing the rights of children in areas of life in which government has little influence and must rely on willing compliance from businesses, non-profit institutions, and the public at large in their homes and communities remains a major challenge.

There is some evidence that child protection challenges—especially difficult ones like severe poverty, child exploitation through trafficking and abusive labor practices, AIDs orphans, intra-familial violence and neglect, and gender and ethnic discrimination—fall largely in areas of concern in which government does not have decisive influence. This is in part because most crucial decisions creating problems or trying to alleviate them are taken by non-government actors in the family and community. At the same time, children affected by these more extreme situations tend to be among the populations that are the most inaccessible to government or even in direct conflict with government.

Saddled with great responsibility but isolated from society, governments can wield only the tools they have at their disposition, trying to resolve through laws and programs problems that will only yield to voluntary changes in popular ideas and practice. Here is the problem: while national and international law may well be the best vehicle for articulating child rights and goals for child protection, it is not the only tool for realizing them in practice. In fact, the other tools might not even be directly available to government. For one thing, countries vary widely in what they can accomplish through law and government, and even in the most amenable circumstances there are strong limits on the extent to which basic family and community child-rearing values, ideas and practices intimately linked to child protection can be reached. In addition to this, as cited earlier, in protection contexts where an alleged rights approach is taken and an

abolitionist stand adopted, children can find themselves in worse circumstances than before.

This problem is increasingly recognized, and some governments, as well as non-governmental organizations, have taken creative steps to address it, usually through partnering arrangements or devolution of responsibility. There is growing evidence that child protection purposes might better be served by incorporating approaches that mobilize and work through other social, community and cultural assets.

It must be noted that doubts here expressed about the reach of government in child protection are not intended to apply to the role of government in general. In other areas equally important to children's welfare—such as in the provision of health, sanitation and education services—government leadership is clearly indicated, and in some countries it has been responsible for very substantial, even spectacular, progress. The complexities of attending to children requiring special protection often make unusual demands that qualify it as a special case.

Ways forward

Make empirical knowledge a basis for effective implementation of rights

Many researchers and practitioners involved in child protection issues have been calling for more empirical input, informed by sound theory, into the planning and evaluation of measures to protect children and their rights. The central question concerns the impact of rights and protection policies on children. In recent years considerable information has been collected on policy and program efforts to protect children, including by codification of CRC provisions into national legal systems and increases in public investment. However, relatively little is known about the actual effect of these changes in the lives of children, especially those needing special protection. We have tracked activity, but not yet its impact. That research now needs to be undertaken as a matter of high priority. That information is especially important in regards to children in circumstances of severe adversity. In short, the implementation of rights needs to take into serious consideration the **facts** of childhood and child development, and its impact

on them, through the use of solid empirical research and analysis that derives from sound theoretical understanding.

Mobilize cultural and community assets for child rights and protection

One of the most interesting of developing trends in child rights is a movement to make better use of existing community and cultural assets for the protection of children and promotion of their rights. The challenge in implementing children's rights involves moving the CRC from text to context, from legislation and policy to practice. This process confronts inevitable resistance to change, and overcoming this obstacle requires understanding possible local discomfort with concepts of individual rights, explicit rights for children, and the integration of child protection strategies into the daily rhythm of children's lives. It also involves treating human rights more flexibly to insert them with meaning into particular social, economic and political contexts. For example, much used rights concepts of "duty bearer" and "rights holder", terms that are meant to hold governments accountable to citizens, are prone to misunderstanding when applied to hold families and community members accountable to children. There is no cultural context in which to understand that. The individualistic focus of human rights can be easily misunderstood and resisted when applied in the context of collectivistic societies in which all members, children included, have active responsibilities and roles in supporting their families and communities.

What is needed are creative approaches that contextualize the main principles of children's rights and protection within language and conceptual systems accessible to a given population. Ultimately, human rights are about supporting the right to human dignity, and leading-edge experience now suggests that this is best accomplished by exploring the cultural dimensions of human and social development. At the heart of dignity lies the concept of realizing and expanding human capabilities both individual and social, a concept now being championed in the developmental thinking of intellectual leaders such as Amartya Sen, Martha Nussbaum, Michael Ignatieff, Barbara Rogoff, and others. This process of evolving agency and capacity is often culturally defined and primarily shaped by the social construction of childhood, child rearing practices, as well as notions of risk and protection.

While this view can conflict with collectivistic local beliefs found in many developing countries—where child rearing goals emphasize interdependence, group harmony, reciprocity, and mutual responsibility—ways have been found to bring them into harmony. For example, research undertaken in sub-Saharan Africa has explored the overlap between collectivistic tribal child rearing values, beliefs and practices, and the reciprocal conceptualization of rights implicit in the CRC. The first step is to recognize that cultural differences in childrearing often go unrecognized by child protection program planners applying a legalistic, medical, or welfare approach to protection problems. Those who consider themselves the experts often have derived their understanding from a western or northern conceptual basis that denigrates local experiential knowledge and traditional wisdom, perhaps even considering them harmful. It is important to go beyond the experts to understand the conceptual and social context in which the community involved is immersed, and to put the process of the discovery of rights into their hands.

Experience is suggesting this process can be productively begun by unraveling the less tangible aspects of culture, especially myth, ritual, healing, storytelling, culturally constructed play, notions of evolving identity, belonging and connection, all of which are at the core of healthy human development. Developmental theorists such as Martin Whitehead point out that culture is increasingly mentioned in child development theory as a key determinant in the shaping of developmental “pathways”. In fact culture is increasingly being seen *as* development. It is recognized that each child’s development will take various direction or pathways, as opposed to rigidly determined stages, based on each child’s “developmental niche”. This niche is comprised of cultural values influencing children’s development, specific childrearing patterns, and the environmental conditions influencing variations in healthy growth and development. These ideas show early promise of being very useful for the development of cultural understanding and activity for children’s rights and protection.

The implication is that child rights can, and must, be framed within each culture’s objectives for human development. For example, while “play” is found in all societies,

the purpose of play differs in promoting a range of development outcomes from helping foster social intelligence to supporting technical and motor skills. Similarly, child protection must be comprehended within a broader understanding of local cultural strategies for mediating risk, promoting resilience and the positioning of children's agency in this process.

This leads directly to an approach to child protection that is based on cultural symbols and concepts, making them into "assets" for rights and protection rather than sources of vulnerability and resistance. For example, initiation ceremonies can be powerful social mechanisms that foster a sense of social belonging, self-identify, and learning of cultural skills. Frequently these ceremonies are framed only in regards to the risks they pose to young people, without acknowledging the deeper psycho-social benefits to children. In many parts of the world, important debates are taking place in which Elders and young people are discussing the merits of maintaining and strengthening the core values of traditional initiation ceremonies, while reducing some of the harmful practices within these ceremonies.

Implementing the CRC, therefore, requires an approach that recognizes the specific risks and strengths, or assets, in the social cultural context of each child's life.

Such an assets approach incorporates a number of key factors. These include:

- Emphasizing the need to invest in young people's assets and protective factors rather than focusing solely on specific problems. This is important because it enhances children's sense of self-efficacy and self-esteem, thereby enabling them to act on their situation whereas a 'deficit' approach that highlights their vulnerabilities risks undermining their sense of agency;

- Recognizing that protection threats have common antecedents that are often rooted in deeper systemic challenges, such as poverty, and that these specific threats cannot not be effectively addressed by tackling individual risks in isolation;
- Examining the context of children’s lives in order to understand the location and interaction of protective and risk factors and the forces that moderate and mediate these;

Experience in applying an assets approach to child protection suggests that protection strategies that build on children’s assets while promoting protective factors are more effective in addressing local threats than is focusing solely on risk reduction. Key to this process is the reinforcement children’s healthy sense of belonging, connectedness, and positive trusting relations with key adults and peers. It also includes better understanding of ways in which children themselves perceive these social connections and supporting children’s agency in negotiating these relationships.

Successful protection programs building on cultural and community assets expand their reach to allow both adults and young people to form positive relationships and exercise their agency. Research on assets indicates that initiatives bridging the different aspects of children’s lives are more likely to strengthen protective factors and reduce risk factors. The use of adolescent friendly partnerships and communication strategies has been found especially pertinent in this regard in its ability to reach greater numbers of adolescents and reach across more *aspects* of adolescents’ lives (e.g. school, family, work, community activities).

Finally, this approach involves developing strategic alliances between local children's advocates and outside agencies, institutions and organizations. It is increasingly clear that mobilization of community and cultural assets can offer an important basis and complement to make government child protection initiatives more effective and beneficial for children. In various countries, close working relationships have been established between national or local government and community groups for the protection of children and their rights. This has become very common, for example, in work with street children. In some places—where government is either too weak to assist or where it constitutes one of the main threats to children (as in some cases of armed conflict)—local assets may be the only ones available for the protection of children, but in normal cases a cooperative combination of governmental and local assets is possible and to be preferred. Experience suggests that place should be made for interested children themselves to participate in these relationships.

Learn from creative experience

One of the most productive investments that could now be made would be to study systematically examples of creative programs making use of cultural assets to promote children's rights and protection within the community. Examples may include:

South Africa – African Approaches to Juvenile Justice

In 1994 after the ANC took power in South Africa, a review of the countries juvenile justice services revealed shocking numbers of children languishing in the countries jails and juvenile detention centres. A process was therefore initiated to develop a more child friendly justice system for young people. A three - prong

strategy was developed including: developing and piloting community based justice projects, training key judges and prosecution lawyers in child centred approaches, and initiating child justice and protection councils that sought the harmonization of South African Indigenous justice values and practice with child rights. Key child developmental principles grounded in South African culture formed the basis of this experience, and these included: 1) reinforcing a child's sense of belonging, 2) creating opportunities for mastery of one's self and environment, 3) developing a health sense of personal identity, and 3) providing opportunities for young people to give back to their communities through local participation. This experience was synthesized in 2003 into the Juvenile Justice Bill that is now widely seen as setting new standards in applying an African restorative approach to youth justice. Specifically, the bill includes: community diversion programs; a greater emphasis on African values of social responsibility, based on the South African notion of *Ubuntu*, in community sentencing for minor crimes. Initial evaluation of the Bill reveal numbers of children being placed in institutions, greater community satisfaction with the process of dealing with crime, and reduced recidivism.

New Zealand – Restorative Approaches to Child Welfare

Maori children remain disproportionately featured in negative statistics in common with other indigenous children worldwide. They experience higher rates of poverty, higher rates of morbidity and mortality, including rates of abuse and homicide, and in many instances poorer access to basic health services, higher

rates of child abuse, and higher rates of educational exclusion. These trends increased during the period of social and economic upheaval from the 1980s-1990s in Aotearoa New Zealand when neo-liberal reforms were rapidly and comprehensively implemented. In response to these trends, and building on a renaissance of traditional social practices in Maori communities, the government of New Zealand introduced the Children, Young Persons and Their Families Act 1989 where the emphasis is on family reunification and reintegrating young people back into their wider family when care and protection matters were concerned and into wider society where youth justice matters were concerned. Many of the features of this legislation remain of interest to other countries such as Canada, South Africa and Australia because of the use of processes such as Family Group Conferences. These are widely believed to reflect a more restorative approach to care and protection and youth justice with an emphasis on what are in the best possible interests of the child or young person paramount in the legislation. Parliament is currently considering amendments to this Act, but this should not overturn the purpose or principles of the Act.

Brazil – Community Child Protection Councils

The Brazilian government has attempted to institutionalize implementation of children's rights under the CRC by legislation of principles at the national level and implementation of them through decentralized local councils. These councils are established one in each municipality (in fact, a district), of which there are over 5,000 in the country. Each council is comprised of equal numbers of

municipal government representatives and non-governmental representatives, the latter chosen by the local populace, an arrangement that is intended to help minimize political influences on the administration of child rights and protection. Such municipal councils are mandated to review all government investments in children in the municipality to ensure their honesty and efficacy for children and to assume responsibility for children in special need of protection. Because Brazil is a very large country with major cultural, economic and other differences between the regions, one purpose of decentralization is to contextualize child rights and protection approaches to fit each specific environment. Some early reports from selected municipalities suggest that this approach has in at least some places been productive in mobilizing community interest and assets in the protection of children, but a far larger study of a representative sample of these municipal child rights councils should be undertaken in order to ascertain whether this policy approach has been generally effective.

Put social substance in children's agency

A commitment to development as the provision of expanded life opportunities and the capability required to realize them incorporates a vision of universal human agency. That vision of agency is firmly established in the body of international human rights that is extended to children as part of the general coverage of the basic conventions comprising the so-called "Bill of Human Rights" and through the CRC, which extends and expands upon those general rights specifically for children. As the recipients of those rights, children have full claim to both opportunities and capabilities, and therefore to the broad social and individual agency they bestow. This sort of agency is both an individual and a social product, a result of what children do for themselves and what society does with and for them. It involves not only the freedom of children to speak and work in the cause of

their own interests and aspirations, but also the investment of society in creating social and economic space for them and in protecting their physical, mental and social capacities. Children's agency as opportunity and capability is something that everybody, from family to government, contributes to, prominently including children themselves. They are not only the recipients of opportunity and capability, but contributors to them as well, both for themselves and for others. The social inclusion of children as contributing and rights-endowed citizens entails protecting both them and their rights through processes in which the children themselves participate. While progress in this direction has been notable in recent decades, it remains but a beginning. The challenge of protecting children, including in very difficult circumstances, in ways that reinforce their agency by expanding opportunity and capability, rather than restricting them, has yet to be fully engaged. It is a new frontier of both protection and rights that is calling to be explored with new ideas, creativity, and innovation.