

**PROPOSED RESEARCH INTO THE IMPLEMENTATION OF THE
CONVENTION ON THE RIGHTS OF THE CHILD
IN KURDISTAN AND THE UK**

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Introduction and Approach

I am an international student at Plymouth University and commenced my Research Masters in September 2011. The thesis is entitled 'A comparative analysis of how the rights of children as set out in the United Nations Convention on the Rights of the Child (UNCRC) are made effective through their implementation in Kurdistan/Iraq and the United Kingdom'. I am completing my research under the supervision of Jason Lowther and Thomas Smith. Having completed my initial background research I am now in the process of collecting data that will allow me to make a comparison between the two countries. My research will be undertaken through a variety of methods, in particular, an initial literature review followed by the completion of surveys and interviews undertaken both in Kurdistan and in the UK.

I chose to make my comparison between Kurdistan and the UK because I am an Iraqi Kurd, and as a mother of two I have a vested interest in children's rights in my own country. I chose to make my comparison with the UK primarily because this is the country that I am studying in and also because the UK signed up to the UNCRC before Iraq. Through my research I hope to be able to discover ways in which the implementation of children's rights in Kurdistan may be improved. I will then be able to present these findings to the Kurdish Government as part of my work when I return home in an attempt to bring about a change in how the rights of children are implemented and to ensure that through these changes children are better protected and represented. With the continuing violence in Iraq, children's rights have been somewhat neglected and as with many such situations children are the innocent victims. Ensuring and improving the rights of the next generation of Iraq is vitally important at a time when the country is going through important changes and re-generation.

McSweeney states that the odds a child must overcome to reach adulthood in the modern world are staggering. Over 50 million children work in unsafe or unsanitary

conditions. 120 million children between six and eleven years old have no formal education. Curable or preventable diseases claim the lives of three and a half million children annually. 155 million children under the age of five in developing nations live in absolute poverty. In developed nations, children's lives can also be difficult. Millions of children are abused, neglected, and exploited.¹ Against such a backdrop it is vitally important that children's rights be implemented effectively to ensure that they are given the best possible start in life. Sadly, the violation of children's rights is a common occurrence in many parts of the world and as a result efforts have been made to establish an international regime to protect the rights of children everywhere.²

International Recognition of Human Rights

The recognition of children's rights has proved a long and difficult route to implement effectively. Globally, for many years, children were viewed as property under the rule of their parent's authority, notably the father. It was only in the twentieth century that children became recognisable as individuals. Records show that in some jurisdictions laws for the protection of animals were introduced long before the mention of children's rights.³ It has been accepted internationally that children play a unique and strategic role in the development of their immediate families and local communities. This has prompted former UN Secretary-General, Kofi Annan, to note in his foreword to the United Nations Children's Fund's *State of the World's Children Report 2005*, 'only as we move closer to realizing the rights of all children will countries move closer to their goals of development and peace'.⁴

Preceding the UNCRC were the Declaration of the Rights of the Child 1924 and the General Assembly Declaration on the Rights of the Child 1959. Both of these declarations paved the way for the 'most widely accepted human rights treaty ever'.⁵

¹ McSweeney, K. A., 'The Potential for Enforcement of the United Nations Convention on the Rights of the Child: The Need to Improve the Information Base', (1993) 16 *Boston College International & Comparative Law Review* 467 at p.467.

² Rehman, J., *International Human Rights Law*, 2nd Edition, (2010) p.555.

³ Rios-Kohn, R., 'The Convention on the Rights of the Child: Progress and Challenge', (1998) 5 *Georgetown Journal on Fighting Poverty* 139 at p.140

⁴ Bellamy, C., *The State of the World's Children 2005: Childhood under Threat*, (2004), p. vii.

⁵ Cohn, I., 'The protection of child soldiers during the Liberian peace process', (1998) 6 *The International Journal of Children's Rights* 179 at p.179 ; Holmstrom, L., *Concluding Observations of the UN Committee on the Rights of the Child: Third to Seventeenth Session 1993-1998*, (2000), p. xiii ; Pia Rebello, B., and Nurper, U., 'Child Development in Developing Countries: Child Rights and Policy Implications', (2012) 83 *Child Development* 92 at p.92.

Developing the United Nations Convention on the Rights of the Child was a lengthy process; it was the culmination of ten years of drafts and discussion.⁶ There were a number of reasons why the drafting process took so long, firstly working groups were open to all interested states which in itself held up the progress of the Convention, secondly the Cold War slowed the pace of drafting. Delegates from certain countries also purposely used obstructive tactics, for example they would submit controversial proposals only to withdraw them later or they would submit large numbers of proposals which obviously would take a lot of time to consider.⁷

The UN General Assembly proclaimed 1979 as the international Year of the Child; and it was this that sparked the international community to develop a legally binding instrument on the rights of the child.⁸ The Permanent Representative of Poland to the United Nations Office at Geneva wrote to the Director of the Division of Human Rights suggesting that a convention should be adopted in order to celebrate the International Year of the Child.⁹ The UNCRC was adopted by the General Assembly of the United Nations on 20th November 1989 and is a vital document that has implications on both policy and practice.¹⁰

Blau & Frezzo state that the UNCRC not only details the rights of children but also those who are responsible for implementing them.¹¹ Whilst the UNCRC has laid down certain rights that should be afforded to children, the implementation of these rights varies greatly, in countries such as the UK the implementation of these rights is generally good, however in places like Kurdistan there is still much to be done to improve the implementation of even the most basic children's rights. The UNCRC is not the first internationally recognised instrument pertaining to the rights of children; however it is significant for many reasons.¹² Firstly, it shows the international acceptance of the view

⁶ Jupp, M., 'The United Nations Convention on the Rights of the Child: An Opportunity for Advocates', (1991) 34 *Howard Law Journal* 15 at p.20.

⁷ Office of the United Nations High Commission for Human Rights, *Legislative History of the Convention on the Rights of the Child Volume 1*, (2007) p .xxxviii.

⁸ *Ibid.*, p.31.

⁹ *Ibid.*

¹⁰ Mama, R. S., 'Needs Rights, and the Human Family: The Practicality of the Convention on the Rights of the Child', (2012) 89 *Child Welfare* 177 at p.177.

¹¹ Blau J. & Frezzo M., *Sociology and Human Rights: A Bill of Rights for the Twenty-First Century*, (2011) p.230.

¹² Jupp, M., 'The United Nations Convention on the Rights of the Child: An Opportunity for Advocates', (1991) 34 *Howard Law Journal* 15 at p.20.

that children's rights are not adequately defined and protected by human rights treaties already in existence.¹³

The impact that the UNCRC has had on the status of children has been as profound as its consolidation of children's rights.¹⁴ There are a number of reasons for this; the Convention separates childhood from adulthood, it asserts the family role in the lives of children, it ensures all children have rights regardless of circumstance, it recognises that children are individual members of the community and it identifies obligations to the child.¹⁵ The Convention also provides a common reference which can be used to assess progress and compare results.¹⁶ The full significance of the UNCRC reaches further than its legislative implications. It has helped to transform attitudes towards childhood; in effect the UNCRC has set out the *terms of childhood*, detailing minimum standards that are due to every child under the age of 18 years.¹⁷ The UNCRC is a vital addition in the effort to improve the quality of life for the world's people by providing international protection of their rights for these reasons; the fact that the Convention subjects are children; the scope and content of the rights laid down within the Convention; the potential impact the Convention could have on the world's economic and social life; and the Convention's potential impact on the domestic life of its parties including their laws, procedures, practices and institutions.¹⁸

One of the hallmarks of the UNCRC is that it integrates a broad range of categories, including civil and political rights (e.g. to self-determination, and to protection from arbitrary arrest, torture and compulsory labour) and economic, social and cultural rights (e.g. to basic economic welfare, health care, education and freedom of religion).¹⁹ Unlike

¹³ McGoldrick, D., 'The United Nations Convention on the Rights of the Child', (1991) 5 *In International Journal of Law and the Family* 132 at p.133.

¹⁴ Bellamy, op.cit., p.3.

¹⁵ Ibid., pp.3-6.

¹⁶ Pais, M, S., *A Human Rights Conceptual Framework for UNICEF*, (1999), p.5.

¹⁷ UNICEF, *The State of the World's Children (Special Edition): Celebrating 20 years of the Convention on the Rights of the Child*, (2009), p.3.

¹⁸ Mower, A. G., *The Convention on the Rights of the Child: International Law Support for Children*, (1997), p.3.

¹⁹ Denov, M., Maclure, R., and Campbell, K., *Children's Rights and International Development: Lessons and Challenges from the Field*, (2011), p.3.

any previous bill of rights for children, the Convention is described as both comprehensive and conceptually coherent.²⁰

The UNCRC is the singularly most valuable treaty in the armoury of human rights law that protects and defends the rights of children.²¹ For this reason it is vitally important that its provision are implemented effectively, through the next phase of my research I aim to look at how this is done in Kurdistan and the UK and I will put forward my recommendations on how the Kurdish Government can better its implementation.

²⁰ Melton, G. B., Preserving the Dignity of Children Around the World: The UN Convention on the Rights of the Child, (1991) 15 *Child Abuse and Neglect* 343 at p.343.

²¹ Rehman,, op.cit. p.557.