

An Approach to Assessing “Accountability” in Implementing the UN Convention on the Rights of the Child

James Garbarino, PhD
Senior Faculty Fellow,
Center for the Human Rights of Children
Loyola University Chicago

Since its inception, the UN Convention on the Rights of the Child has been both an “aspirational” document (in the sense that it asserts an idealized conception of the human rights of children) and a legally binding mandate (in the sense that every five years signatories are required to report on the status of their efforts to implement it). The UN Committee on the Rights of the Child has been charged with the responsibility for evaluating how well signatory States are doing. This paper is an attempt to provide intellectual support and guidance in doing so, under the auspices of The International Standards Council inaugurated by the Victoria (Canada) Center for Child Rights and Development. The starting point for this analysis is the recognition that although the Convention focuses on the rights of children, at its core it is a tool for *parents* to get the State, the community, and the society to help them meet their children's needs. Article 3 states “Those responsible for children must make the best interests of the child a primary consideration.” Assessing how well States are doing in making this commitment and translating it into action should be the focus of efforts to assess “accountability.”

The UN Convention on the Rights of the Child is founded upon the principle that **quality of life outcomes for children should be uncorrelated with parental income and functioning**. Article 24 addresses this with respect to health (“The child as the right to enjoyment of the highest attainable standard of health possible and to have access to health and medical services.” Article 27 does so with respect to standard of living (“The child has the right to an adequate standard of living; parents have the primary responsibility to provide this, and the State has a duty to assist parents, where necessary, in fulfilling this right.”) The empirical strategy outlined in this paper flows from this principle, namely that the State has the responsibility to support the access of children to the basic services that promote health and well-being regardless of parental limitations.

I acknowledge that there is a role for simple efforts to “count” activities that indicate compliance with the Convention --e.g. legalistic enumerating of whether or not laws and policies are in place to guarantee rights and statistical efforts to document the status of health, well-being, education, child protection, and identity promotion issues (e.g. infant mortality rate, school attendance rate, etc.). It matters how many children in a nation live to adulthood, get an education, receive basic health care, and are protected from maltreatment. However, such an enumeration approach is insufficient.

To understand how well societies are doing in meeting their obligation to support the human rights of their children, I believe there is a need for an empirical approach that goes beyond simply counting. Such an approach would employ transparent statistical analyses to ask, “*given its resources and level of socio-economic development*, how well is this government (society) doing in the crucial task of

supporting the rights of children to develop independently and regardless of the socio-economic situation of their families?”

Why this question? It should come as no surprise that when the process of “counting” is done, the correlation between a signatory being in the “Developed North” and the level of child health, well-being, education, child protection, and identity promotion is strong. But is this really the only way to assess the degree to which a government has implemented a human rights approach and thus to assessing how well it is meeting its obligations under the UN Convention on the Rights of the Child? I think not. The first step is to conduct exercises in “counting” as an analysis in which there is a statistical “control” for the nation’s level of socio-economic development. When such an approach is employed, countries are not penalized for their low state of socio-economic development, but rather may be rewarded (in the sense of international recognition) if they are doing “better than would be expected,” given their level of socio-economic development. And, rich countries may be seen to be doing “less than would be expected.” In either case, such an analysis is a better representation of how committed a State is to “the human rights of children” not simply “how rich or poor it is.”

There is more. Beyond such a State-level analysis controlling for overall socio-economic development is **an analysis that seeks to augment “counting” approaches by determining how close a society has come to reducing to zero the correlation between family/parental financial resources and child opportunities.** In practice, it is likely impossible to reduce the correlation to zero because of genetic factors that predispose some children to educational, health, and economic success, factors that are transmitted from biological parents to children (there is some heritability of IQ and other traits – like impulsiveness and immunological resilience—that contribute to differences in educational, health, and economic success). It should come as no surprise that there is a “natural” correlation between family characteristics and the degree to which children succeed—in the domains of health, education, economic s, and overall “quality of life.” Beyond any such genetic contribution is the fact that, in most societies, parents with resources can provide pathways to success for their children . This effect has been observed not only in “capitalist” societies, but in “socialist” societies as well.

Some case examples serve to illustrate this issue:

- In the United States, rates of enrollment in university are higher for low ability adolescents from families with high levels of financial assets than for adolescence of high ability from low income families. Clearly, policies that reduce the magnitude of this correlation demonstrate that the child’s “right of education” is being implemented. The same would be true of elementary school and high school attendance rates in which child ability is not *perfectly* correlated with educational success. Many countries suffer from this violation of the human rights of children because public educational systems fail to meet the needs of many if not most children unless their parents have the financial resources to pay tuition and fees (or if there is a private, tuition-charging system that replaces public education). The UNICEF “bolsa” program in Brazil offered destitute parents a financial payment to replace the wages lost by their children attending school rather than working as a way to support the child’s right to education independently of the family’s economic situation.

- Studies comparing the correlation between neighborhood socio-economic risk factors, on the one hand, and rates of child maltreatment, on the other, have reported higher correlations in the United States than in Canada. Thus, the odds that socio-economic risk will expose a child to maltreatment are greater in the United States than in Canada. This means (in this respect at least) Canada is doing a better job of supporting the human rights of children to protection (regardless of economic considerations) than is the United States.
- In the USSR during the Communist era, despite ideological rhetoric and because of their privileged position, some families (e.g. Communist Party members) were able to provide their children with educational, social and economic advantages not necessarily correlated with differences in the performance and ability of their children.
- A factor analysis of the universe of nation states conducted in 1970 revealed that “Development” was the single most powerful factor (accounting for 21% of the variation). Interestingly, “Democracy” was the second most powerful factor (accounting for 15% of the variation). And in a separate analysis, it was “Democracy,” not “Development,” that accounted for the degree to which the moral judgments of 12-year-old children were “balanced” rather than either totally adult-oriented or peer-oriented.

In conclusion, for the process of “accountability” to mature intellectually, practically, and politically, it must include correlational models that go beyond simple counting and averages. This is essential if the process of accountability is to focus truly on the commitment of States to the human rights of children rather than to simply measure proxies for socio-economic development. Human Rights is the issue, the human rights of children as an essential basic priority of the State. What parents can or cannot do for children is the starting point for analysis, but what the State can and will do is the ending point.