

# Population Review

Volume 60, Number 1, 2021

Type: Article, pp. 51-74

## Beyond a Living Apart Together Relationship: A Children's Rights Perspective on Child Well-being

**Author:** Wouter Vandenhole

**Affiliation:** Law and Development Research Group, Faculty of Law, University of Antwerp

**Corresponding author/address:** Professor of Human Rights and Children's Rights Law, Law and Development Research Group, Faculty of Law, University of Antwerp, Belgium; email:

[wouter.vandenhole@uantwerpen.be](mailto:wouter.vandenhole@uantwerpen.be)

### Abstract

At first sight, child well-being and international children's rights law have much in common. Specifically, they both focus on a category of human beings defined by age (children), and both are concerned about 'child flourishing'. Surprisingly perhaps, the word well-being is rarely used in children's rights work, and it is not very prominent in the leading human rights instrument on children's rights, the Convention on the Rights of the Child. In this paper, I pursue two objectives. First, I want to find out how the notion of child well-being has been constructed in international children's rights and which proxies in the latter can help to imbue the concept with meaning. Second, I explore whether and how the fields of children's rights law and child well-being may engage in a fruitful dialogue. I challenge the view that children's rights are unable to offer more than a minimalistic checklist for child well-being, identify learning points for children's rights, and propose speaking points for a sustained dialogue between the two fields.

### Keywords

Child well-being, children's rights, best interests of the child, full and harmonious development, international children's rights law

## I. Introduction

Child well-being studies and international children's rights law share a common focus on child flourishing. Still, more often than not, they are in a Living Apart Together (LAT) relationship: notwithstanding the *potential* substantive links, they do not cohabit in a single field of study. A child well-being framework may guide much of domestic law governing children in some countries, like the United States, as Huntington and Scott propose (2020), but even if it does, it often does so in an implicit way only (Huntington and Scott 2020: footnote 31).

That LAT relationship between the study of international children's rights law and child well-being studies has to do with disciplinary boundaries, misperceptions and prejudices, but also with different origins and objectives: children's rights law scholarship seeks to offer a normative framework that draws heavily on legal instruments, such as the Convention on the Rights of the Child (CRC) (CRC, 1989). Child well-being research is more empirically than normatively oriented. Also, as Lundy has pointed out, children's rights law is far more modest in aspiration than 'common definitions of child well-being' (2014: 2440), which can be understood in light of the fact that children's rights law is about State accountability (2014: 2441).

This paper is guided by two research questions. First, I seek to find out whether and which conception of child well-being is used in international children's rights law (*de lege lata*, the law as it is) and which proxies in the latter can help to imbue the concept with meaning (*de lege ferenda*, the law as it ought to be). Contrary to earlier studies on the relationship between child well-being and international children's rights law (Lundy 2014), I am not so much interested in correlation but rather in conceptualization. I start the analysis with a close textual reading of the main international legal instrument on children's rights, the CRC, and of the most authoritative source of legal interpretation of that instrument, the CRC Committee's General Comments. Though not decisive, some quantitative evidence is used to illustrate how little explicit attention is paid to the notion of child well-being in the CRC and in the interpretative guidance offered by the CRC Committee. Since this is the first systematic and comprehensive mapping of child well-being in the CRC and the CRC Committee's interpretative work, such a quantitative approach adds to our knowledge base on the subject. In a second step, I turn to possible proxies for well-being, in particular notions of best interests of the child and full and harmonious development. The underlying question is how a notion of child well-being is or could be constructed within international children's rights law. Throughout this section, I apply legal interpretative techniques, relying primarily on the *travaux préparatoires* (preparatory works) and the authoritative interpretation given by the CRC Committee, and in a subsidiary way on legal literature.

The second research question I examine is whether and how children's rights and child well-being studies may enter into a fruitful and enriching dialogue, and where the opportunities and challenges for a rapprochement may lie. Initially, my research hypothesis was that children's rights and child well-being studies could pollinate each other. Gradually, I realized that I was not able to undertake such an exercise, since it would require a very thorough and lived understanding of both fields, whereas my background lies in international children's rights law. Ideally, such a piece would, therefore, be co-authored by one or more experienced scholars from both fields, which has not proven feasible for the moment. Instead, I focus in this paper on points for dialogue between the two fields. In order to get the setting for such a dialogue right, I first seek to debunk the perception that an international and legal children's rights perspective inevitably reduces any debate about child flourishing and well-being to a reductionist checklist approach. It is equally important to acknowledge the particular strengths of child well-being studies. For the latter, it has to be kept in mind that this is not my field of study. In other

words, I can only identify the strengths of child well-being studies *from my perspective*, which is that of international children's rights law. In order to keep the exercise manageable, I have not reviewed each and every piece on child well-being, but relied on two literature review articles (published in 2003 and 2014), and complemented these with materials published in *Child Indicators Research* between 2011 and 2020. Whereas it is impossible to do justice to the breadth and depth of the field, I believe it has been an appropriate methodology for the modest purposes of this paper, i.e., to identify speaking points for a dialogue between the two fields.

## II. Explicit mentioning of well-being in the CRC

The backbone of international children's rights law consists of a core treaty, the CRC, and three optional protocols: the first optional protocol focuses on children and armed conflict (OPAC), the second on the sale and sexual abuse of children (OPSC) and the third on a complaints procedure (OPIC).

The CRC is a human rights instrument: it guarantees the human rights of children. It is one of nine UN core human rights treaties. The CRC contains over 40 substantive provisions which contain an array of rights of children and obligations of States. There are different ways to organize and summarize the rights in the CRC. One is to classify the rights along the two main human rights categories of civil and political rights on the one hand, and economic, social and cultural rights on the other hand. That categorization is explicitly mentioned in Article 4 CRC that clarifies the general obligation incumbent on States parties, but is otherwise not an organizing principle in the CRC itself (Vandenhoe, Erdem Türkelli and Lembrechts 2019: 76). A children's rights-specific categorization is that of the three Ps: participation, protection and provision (Verhellen 2000), which Ruck, Peterson-Badali and Helwig call nurturance rights (comprising provision and protection) and self-determination rights (participation) (2014: 2537). Both categorizations are primarily pedagogical tools: they have each their own weaknesses, but are helpful to explain some of the basics of the CRC. Typical of the CRC are its four general principles: non-discrimination (Article 2 CRC), the best interests of the child as a primary consideration (Article 3 CRC), the right to life, survival and development (Article 6 CRC), and the right to express ones views, those views being given due weight (Article 12 CRC) (GC 5, para. 12). These are again not explicitly identified as such in the CRC itself, but represent an attempt of the CRC Committee, the CRC monitoring body, to emphasize some of its key principles. The selection of general principles too has been criticized (Tobin 2011; Hanson and Lundy 2017; Vandenhoe 2017).

None of the optional protocols mention child well-being. A search in the CRC results in six hits. First of all, the preamble states the conviction of the States parties to the CRC that the family is the natural environment for the growth and well-being of children. Preambular paragraph five reads: 'Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community'. Furthermore, the child's well-being is explicitly referenced in four contexts: protection and care (Article 3.2 CRC); separation of a child from one or both parents (Article 9.4 CRC); access to information (Article 17 CRC); and juvenile justice (Article 40 CRC).

Article 3.2 CRC contains the undertaking of States Parties 'to ensure the child such protection and care as is necessary for his or her well-being, [...], and, to this end, [to] take all appropriate legislative and administrative measures.' The first paragraph of Article 3 CRC establishes that the best interests of the child must be a primary consideration in all decisions regarding the child.

Article 9.4 CRC obliges States, in instances where the separation of parent(s) and child result from State action, to provide parents and children with the ‘the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child’.

Article 17 CRC imposes the obligation to ‘ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.’ Paragraph (e) adds that States must also ‘[e]ncourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being [...].’ It is interesting to note that this provision adds three dimensions of well-being (social, spiritual and moral). It also introduces a distinction between well-being on one hand, and (physical and mental) health on the other. The latter is mentioned as a separate object of promotion.

Finally, Article 40.4 CRC provides for a ‘variety of dispositions [...] to ensure that [juvenile offenders] are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.’

As Lundy points out quite rightly, ‘with the exception of Article [...] 3(2) (best interests) [...] the references in the other three Articles [...] seem to be fairly *ad hoc*.’ (Lundy 2014: 2442). In Article 3.2 CRC, the child’s well-being is the central objective of the protection and care obligations incumbent on the state. In the three other provisions, the reference to the child’s well-being is rather peripheral. It is, therefore, hard to concur with Ruck, Peterson-Badali and Helwig (2014: 2552) that well-being is ‘used frequently throughout the convention’ and that it is ‘often considered a guiding principle of the CRC’.

The *travaux préparatoires* mention well-being a good number of times, but are inconclusive on the meaning given to the notion. Clearly, well-being and children’s rights were seen as connected, but not coterminous (OHCHR 2007: 212, 759-764). Generally speaking, during the negotiations on the CRC, the notion of well-being was often linked with protection (OHCHR 2007: 60, 214, 251, 257, 283). In the discussion on the role of the mass media in providing information to children (Article 17 CRC), the notion of well-being was not merely linked, but explicitly used to defend a protectionist and in the views of some a paternalistic approach (OHCHR 2007: xli, 451). On other occasions during the negotiations, well-being was associated with happiness (OHCHR 2007: 61, 248), (harmonious) development (OHCHR 2007: 357, 690) or welfare (OHCHR 2007: 263). At times, child well-being was associated with the best interests of the child (OHCHR 2007: 264), or a suggestion was made to replace the former with the latter (OHCHR 2007: 519, 530). At one time, there seemed to be an agreement that well-being was comprehensive enough to imply a child’s physical and mental health, so that adding ‘physical and mental health’ next to ‘well-being’ was considered superfluous (OHCHR 2007: 488), but in the end, both were included. At no time during the negotiations, a thorough discussion took place on the meaning allotted to the child’s well-being, let alone on its conceptual relationship with children’s rights.

In sum, child well-being is only mentioned a limited number of times in the CRC. The number of times a concept is mentioned is not necessarily instructive. As important is to see that it has not been identified as a general principle of the CRC by the CRC Committee, nor been suggested by the critics of the current four general principles to be added as a general principle of the CRC. Admittedly, it has been explicitly referenced in a couple of provisions in which the protection, care or development of children is at stake. In the language of the ‘three Ps’ typology, child-being can be said to be associated in the CRC with both provision and protection rights. It also cuts across the human rights categories of rights, that is civil and

political rights, and economic, social and cultural rights: care belongs typically to the latter category, whereas access to information and juvenile justice guarantees typically belong to the former. Notwithstanding these mentions across categories, well-being plays no significant interpretational role in any of them. Neither does the legislative history suggest that child well-being was given a particular meaning in relationship to international children’s rights in general or to any right in particular. A net distinction can be found, in particular in Article 17 CRC, between well-being on the one hand, and health on the other hand, but the *travaux préparatoires* suggest that an opposite outcome of the negotiations was just as likely.

### III. Mentions of well-being in the interpretative work of the CRC Committee

In order to better understand the way in which child well-being is construed within the CRC, I now turn to the CRC Committee’s General Comments. General comments seek to give an authoritative interpretation to specific rights or provisions. The CRC Committee has adopted 24 general comments so far, on a variety of topics. General Comment 18 on harmful practices was adopted jointly with the Committee on the Elimination of Discrimination against Women, and General Comments 22 and 23 on children in the context of migration jointly with the Committee on the Protection of the Rights of All

Instrument	No. of hits	Instrument	No. of hits
GC 1 (aims of education) (2001)	0	GC 13 (violence) (2011)	11
GC 2 (NHRIs) (2002)	0	GC 14 (best interests) (2013)	5
GC 3 (HIV/AIDS) (2003)	1	GC 15 (health) (2013)	4
GC 4 (adolescent health) (2003)	3	GC 16 (business) (2013)	0
GC 5 (general measures) (2003)	1	GC 17 (rest, play, culture) (2013)	9
GC 6 (unaccompanied children) (2005)	1	GC 18 (harmful practices) (2014)	2
GC 7 (early childhood) (2006)	24	GC 19 (child budgeting) (2016)	1
GC 8 (corporal punishment) (2007)	1	GC 20 (adolescence) (2016)	2
GC 9 (children with disabilities) (2006)	3	GC 21 (children in street situations) (2017)	2
GC 10 (juvenile justice) (2007)	5	GC 22 (migration: general principles) (2017)	0
GC 11 (indigenous children) (2009)	0	GC 23 (migration: obligations) (2017)	1
GC 12 (right to be heard) (2009)	3	GC 24 (juvenile justice revised) (2019)	1

Figure 1. Mentions of child well-being in the Committee’s on the Rights of the Child General Comments (2001-2019)

Migrant Workers and Members of Their Families (all can be found on [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=enandTreatyID=5andDocTypeID=11](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=enandTreatyID=5andDocTypeID=11)). By way of introduction, I offer an overview of the number of mentions of the word ‘well-being’ in each general comment. This mere quantitative approach is followed by a substantive discussion of the way the CRC Committee references child well-being.

The references to child well-being are very uneven, as Figure 1 shows. Out of the 24 general comments, five do not mention well-being at all. Thirteen contain only a rare reference to it (seven mention it once, three mention it twice, three mention it three times). Only six general comments make four or more references to child well-being: one, four times; two, five times; one, nine times; one, 11 times; and one, 24 times.

There is no clear development over time discernable (contra Lundy’s suggestion, 2014: 2442), nor any clear thematic logic behind these references. In total, well-being has been mentioned 80 times. In the first decade (2001-2010), 42 mentions were made; in the second decade, 38. In the two decades under review, general comments with no, rare or more frequent references to child well-being can be found. Thematically, also, there is no clear pattern identifiable. The highest number of hits can be found in the general comment on early childhood (n= 24), but general comments on another age category, i.e., adolescence, barely mention well-being. Also, the general comment on violence has eleven hits, but the related one on corporal punishment just one. Strikingly, general comments dedicated to children in vulnerable situations such as in migration or in street situations, or to indigenous children or children with disabilities, contain no or very few references to child well-being.

What is clear is that the three general comments that yield the highest number of hits (GCs 7 on early childhood, 13 on violence and 17 on rest, leisure and play) explicitly engage with the notion of well-being under the heading of *objectives* of the general comment. For example, in GC 17 it is said that ‘[t]he present general comment seeks to enhance the understanding of the importance of article 31 for children’s well-being and development’ (GC 17 para. 7). Hence, children’s rights are seen as a vehicle to pursue child well-being, although it remains unclear how exactly.

In conclusion, the CRC Committee’s referencing of child well-being in its General Comments is very inconsistent, with no particular development over time, nor any clear link with particular topics or particular groups of children. There is no obvious objective reason for such selectivity. For at least one general comment, the one on violence against children (2011), there may be a subjective factor, i.e., the presence of a particular Committee member who pushed for inclusion of child well-being (Maria Herczog, personal communication, August 28, 2019). I now turn to a substantive analysis of the CRC Committee’s approach to well-being.

#### **IV. Substantive analysis of the CRC Committee’s approach to well-being**

The substantive analysis of the Committee’s approach will be undertaken in two steps. First, I will explore how the CRC Committee understands child well-being in its General Comments. Second, I will try to flesh out how the relationship between child well-being and children’s rights is depicted.

The CRC Committee approaches well-being as a multi-dimensional concept, which includes physical, emotional, mental, cognitive, social, spiritual, moral, and other dimensions (see, e.g., GC 3 para. 6; GC 17 para. 42). Aspects of well-being include: survival, health, physical safety and emotional security, standards of living and care, opportunities for play and learning, and freedom of expression (see, in

particular, GC 7); basic material, physical, educational, and emotional needs; as well as needs for affection and safety (see, in particular, GC 14). Three word groupings are frequently used: survival, growth and well-being (see, in particular, GC 7 paras 13 and 16); survival, well-being and development (GC 7 para. 8; GC 13 para. 11); and well-being, health and development (GC 13 paras 18 and 33; GC 17 paras 13; GC 20 para. 4).

The relationship between health and well-being, and between well-being and integrity is not so unequivocal. In the Committee's interpretation, sometimes well-being coincides with a comprehensive definition of health (see, in particular, GC 15 paras 4 and 24), at other times well-being is juxtaposed to health, development, safety, integrity (see, e.g., GC 12 paras 98 and 101; GC 17 para. 13). The Committee's juxtaposition of well-being and health may be based on a similar approach in Article 17 CRC itself (see above). Well-being is sometimes distinguished from safety and integrity (in particular in the context of violence, see GC 13 paras 27 and 33), and sometimes paired with safety (GC 12 paras 101 and 126).

The relationship in the General Comments between well-being and children's rights is not clear-cut. In particular in the context of violence against children, well-being has been given the status of no less than a right to well-being (see, in particular, GC 13 paras 11 and 34). More usually, well-being is seen as an umbrella concept or meta-norm that is part of the objectives of a child rights approach. GC 13 on violence against children argues that '[r]espect for the dignity, life, survival, wellbeing, health, development, participation and non-discrimination of the child as a rightsbearing person should be established and championed as the pre-eminent goal of States parties' policies concerning children.' (GC 13 para. 59). This is echoed in GC 21: 'A child rights approach ensures respect for the dignity, life, survival, wellbeing, health, development, participation and non-discrimination of the child as a rights holder.' (para. 10). The General Comment on early childhood suggests yet another relationship, i.e., that children's rights cover a range of aspects of well-being for which parents bear responsibility: 'their survival, health, physical safety and emotional security, standards of living and care, opportunities for play and learning, and freedom of expression.' (GC 7 para. 20). In sum, well-being is sometimes seen as a right in itself, sometimes as one of the goals pursued through a child rights approach, and sometimes as partly synonymous with children's rights. The CRC Committee seems to reference well-being haphazardly with regard to some rights and some issues, in varying constellations with other concepts, and without using a clear concept of child well-being. This ambivalence is problematic, since it is not clear at all which role well-being (if at all) plays in the interpretation of children's rights, and even less what it means and how it may have added value in the CRC's interpretation and application. One may argue that a concept can play several roles or have several dimensions. A comparison may be drawn for that purpose with the concept of the best interests of the child, which has been said by the CRC Committee to be a right, an interpretative principle and a rule of procedure (GC 14 para. 6). However, such a comparison is flawed, since the meanings given in the General Comments to the well-being of the child are at least partially mutually exclusive. Moreover, the open-ended and multifunctional meanings of the best interests of the child – which Melton refers to as the 'indeterminacy inherent in the best interests standard' (Melton 2014: 2569) – have not been particularly helpful (compare Lundy 2014: 2443), and are often even considered problematic (see the discussion in the next section), so that it is not advisable to follow a similar approach to the concept of well-being.

## **V. Proxies for child well-being in children's rights**

The previous sections served to show that child well-being does not feature prominently in the CRC nor in the interpretative work of the CRC Committee. The concept is, in fact, not often mentioned, its use

seems haphazard and its meaning extremely bendable at the risk of being volatile. Does that mean that child well-being is fairly irrelevant in international children's law? I do not argue so. In my understanding, international children's rights law often uses two concepts as proxies for child well-being: the best interests of the child, and the full and harmonious development of the child. On this point, in GC 7 on children's rights in early childhood, well-being is explicitly associated with the general principles that guide the CRC, in particular with the right to life, survival and development and with the best interests principle (paras 10-13) (cf. Lundy 2014: 2442-2444). In what follows, I introduce these proxies and argue why they can be seen as proxies of child well-being. This analysis shows how child well-being can be more meaningfully conceptualized and integrated in international children's rights law (*de lege ferenda*) than it currently is (*de lege lata*).

*a. The best interests of the child*

The 'child's best interests' – a well-established concept in children's rights discourse – predates the CRC. It was identified by the CRC Committee as one of the four general principles (GC 5 para. 12). According to Article 3.1 CRC, the best interests of the child shall be a primary consideration in all actions directly or indirectly concerning children, both in the public and the private sphere. The best interests principle also appears in other articles of the Convention, including Articles 9, 10, 18, 20, 21, 37(c) and 40.2(b)(iii) CRC. However, the best interests principle and Article 3.1 CRC remain one of the most controversial and debated issues of the CRC, not only in literature and academic debates, but also in its interpretation in jurisprudence (for an overview and further references, see Vandenhole, Erdem Türkelli and Lembrechts 2019; Vandenhole and Erdem Türkelli, 2020).

The CRC Committee favors a flexible case-by-case approach to the best interests of the child. It interprets Article 3.1 CRC to contain a threefold concept that corresponds to three levels of obligations for States: a substantive right, a rule of procedure and a fundamental interpretative legal principle. Substantively, when different interests are at stake in a decision that affects a child or children, the child and/or children have a right to have their interests assessed, appropriately integrated and consistently applied. Procedurally, the decision-making process must include an evaluation of the possible impact of the decision on the child(ren) concerned, child-friendly procedural safeguards (including the guarantee that children can express their views) and a legal reasoning justifying the final decision. What needs to be made clear is how the child's best interests were taken into consideration and how much weight was given to these interests in the process leading to a decision or action. As an interpretive principle, Article 3.1 CRC obliges states to choose, if a legal provision is open to more than one interpretation, the interpretation that most effectively serves the child's best interests (GC 14 para. 6).

A case-by-case best interests test has the advantage of being flexible or bendable, but the disadvantage of being indeterminate and open-ended, and thereby 'leave room for manipulation' (GC 14 para. 34). Vandenhole and Erdem Türkelli (2020) have emphasized three safeguards to counterbalance that open-ended nature:

1. A safeguard against paternalism: the best interests cannot be defined without giving the child the opportunity to express her or his views, and without taking these views duly into account. This safeguard builds directly on the Committee's on the Rights of the Child argument that '[a]ssessment of a child's best interests must include respect for the child's right to express his or her views freely and due weight given to said views in all matters affecting the child.' (GC 14 para. 43; GC 12, paras 70-74). In other words, hearing the child is crucial in assessing his or her best interests:



There is no tension between Articles 3 and 12, only a complementary role of the two general principles: one establishes the objective of achieving the best interests of the child and the other provides the methodology for reaching the goal of hearing either the child or the children. In fact, there can be no correct application of Article 3 if the components of Article 12 are not respected. Likewise, Article 3 reinforces the functionality of Article 12, facilitating the essential role of children in all decisions affecting their lives. (GC 12 para.74)

2. A safeguard against discretion and bias: the best interests need to be defined with reference to (other) human rights of the child. This safeguard too builds on the Committee's submission that best interests 'assessment and determination should be carried out with full respect for the rights contained in the Convention and its Optional Protocols.' (GC 14 para. 32) and that 'elements that are contrary to the rights enshrined in the Convention or that would have an effect contrary to the rights under the Convention cannot be considered as valid in assessing what is best for a child or children' (GC 14 para. 51).
3. A safeguard against marginalization: the best interests of the child come chronologically prior to other interests, and are hierarchically higher than other interests. This safeguard builds on Smyth's work in the area of migration (2015) and echoes the Committee's analysis that 'the child's best interests may not be considered on the same level as all other considerations' and that they 'have high priority and [are] not just one of several considerations' (GC 14 paras 37 and 39).

Contrary to Huntington and Scott, I do not consider the best interests of the child and child well-being as fundamentally different. They suggest that child well-being 'shapes regulation and policy *ex ante*', whereas the best interests of the child standard would belong to the realm of individual cases in 'legal settings' (2020: 1375). In my view, the best interests of the child can also play an *ex ante* role in policymaking, as the CRC Committee has emphasized: 'For collective decisions – such as by the legislator – the best interests of children in general must be assessed and determined in light of the circumstances of the particular group and/or children in general' (GC 14 para. 32). The way these authors define a child well-being framework is also quite peculiar, and consists of three elements: relying on a clear evidence base; accounting for social welfare interests; and elevating the promotion of racial justice 'as essential to a legitimate and just scheme of regulation' (Huntington and Scott 2020: 1378).

Elements to be taken into account when assessing the best interests of the child are the child's views; the child's identity; preservation of the family environment; situation of vulnerability; the child's rights to health and to education; and care, protection and safety of the child (GC 14 paras 52-79). With regard to the latter element, the CRC Committee has explicitly read Articles 3.1 and 3.2 CRC together: ensuring protection and care for a child's well-being is part of the best interests assessment and determination. Moreover, in the Committee's view, the terms 'protection and care' must be read in a broad sense, 'since their objective is not stated in limited or negative terms (such as "to protect the child from harm"), but rather in relation to the comprehensive ideal of ensuring the child's 'well-being and development' (GC 14 para. 71). Children's well-being is understood to include 'their basic material, physical, educational, and emotional needs, as well as needs for affection and safety.' (GC 14 para. 71). In view of this interpretation, the best interests of the child can be seen as an operational legal proxy for the child's well-being. So understood, children's well-being cannot be defined without their views being heard and taken into account. It can also not be given a meaning that contravenes any of the rights recognized in the CRC.

*b. Full and harmonious development*

A second proxy for well-being that may be found in international children's rights law is the notion of the full and harmonious development of the child. That healthy development is seen as a proxy for well-being should not come as a surprise, since the latter's importance for healthy development has been demonstrated (Ruck, Peterson-Badali and Helwig 2014: 2552).

Article 6 CRC guarantees a right to life, survival and development, which has been recognized again, just like the best interests of the child, as one of the general principles of the CRC (GC 5 para. 12). Articles 18, 23, 27, 29 and 32 CRC all cover domains of development (Peleg 2013: 523). Article 27 CRC provides for a right to a standard of living that is adequate for the child's mental, spiritual, moral and social development. The right to an adequate standard of living goes 'beyond the purely material aspects of living such as food and housing', for the 'standards, or the conditions under which the child lives, must be adequate for the child's physical, mental, spiritual, moral and social development.' (Eide 2006: 17). Although the CRC Committee has acknowledged that the child's development is a holistic concept (GC 5 para. 12), it nonetheless tends to focus on the material aspects when it explains CRC provisions. It has held, e.g., that appropriate assistance to parents entails adequate support for the well-being of adolescents, which may include 'the provision of material assistance and support with regard to nutrition, clothing and housing' (see, e.g., GC 4 para. 12). Article 29 CRC clarifies the aims of education, five in total, among which the 'development of the child's personality, talents and mental and physical abilities to their fullest potential.' In the Committee's view, the five aims of education mentioned are all linked to the realization of the child's human dignity and rights (GC 1 para. 1).

Peleg has criticized the CRC Committee for holding a 'human becoming's' conception of childhood, that is a conception that focuses on the child's future development rather than on the here-and-now. He has suggested to go beyond the process of transition from childhood to adulthood when interpreting development, and has advocated instead a capability approach to the child's right to development (Peleg 2013: 524-525). However, Peleg has not drawn out the implications of such a freedom or capability approach to child development for the interpretation of the notion of child well-being. Biggeri and Mehrotra do have tried to operationalize a capability approach to child development: they have identified fourteen capabilities of children, which in their view correspond to domains of child well-being (2011). This shows how full and harmonious development, if understood within a capability approach rather than a 'human becoming's' conception of childhood, may be considered a proxy for child well-being in international children's rights law.

In conclusion, well-being seems not yet well understood and somehow under-theorized in international children's rights law, notwithstanding the interest the fields of international children's rights law and child well-being share in children's flourishing. Both the best interests of the child and full and harmonious development may be seen in international children's rights law as proxies for child well-being, provided that they are thought through (as far as best interests is concerned) or rethought (as far as full and harmonious development is concerned). In other words, they are not ready-made proxies, although it is important to note how the voice of children (the right to express their views) and their being here-and-now is being foregrounded. Now that the first research question of this paper has been addressed (that is, which conception of child well-being is being used in international children's rights law, and which proxies in the latter can help to imbue the concept with meaning), I turn to the second one: how an agenda for dialogue between international children's rights law scholarship and child well-being studies could look like.

## **VI. An agenda for dialogue between international children's rights law scholarship and child well-being studies**

As explained in the introduction, this section does not provide a comprehensive account of areas that lend themselves for pollination between the two fields (for some starting points for such an exercise, see Lundy 2014). Rather, it focuses primarily on identifying points for dialogue between the two fields. In order to get the setting for such a dialogue right, the possible misunderstanding about children's rights as a minimalistic and legalistic checklist needs to be addressed (sub-section a). It is equally important on the other hand to acknowledge some of the particular strengths of child well-being studies as seen through the lenses of international children's rights law scholarship (sub-section b) I conclude with speaking points for a sustained dialogue (sub-section c).

### *a. Children's rights as an ambitious agenda, not as a minimalistic checklist*

In a narrow and legalistic reading of children's rights, the CRC can be seen quite rightly as an utterly minimalistic agenda of well-being (if at all), or it can be reduced to a threshold checklist (see also Lundy 2014: 2458). There are, however, several readings possible, and being given, to the CRC, as also illustrated in previous sections. In light of the object and purpose of the CRC, that is to recognize and strengthen the humanity of children and to acknowledge their entitlement to human rights, I reject a legalistic reading of children's rights and argue in favor of reading it as an ambitious agenda. At least three different legal approaches can be identified to approach the human rights of children as an ambitious agenda, rather than as a minimalistic scorecard. It is to be noted that these approaches are indeed drawn from human rights law more generally.

First, a useful distinction has been made between minimum and maximum approaches to human rights. In a minimum approach, the border that should not be crossed is seen as a bottom line. A maximum approach, on the other hand, reaches for a horizon (Brems 2009). The distinction between minimum and maximum approaches corresponds by and large to a differentiation in the field of economic, social and cultural rights between two approaches: violations and obligations (Chapman 1996). In a violations approach, very often the emphasis will be on whether a minimum threshold of human rights protection has or has not been realized. In an obligations approach, the full scope of obligations incumbent on States is explored. With regard to children's rights, so far, an obligations approach has been followed, also in the absence of a complaints procedure for violations with the CRC Committee until fairly recently (the third protocol on a communications procedure was only adopted in 2011, and ratified so far by 46 States). An obligations approach is most clearly reflected in the adoption of (quite ambitious) general comments. An in many ways comparable discussion on a minimalist (threshold) versus maximalist (ceiling) approach to equality has been waged too in recent years. Many commentators agree that, so far, legal approaches to equality have focused on minimum thresholds and minimum protection floors, and too little on ceilings on inequality, in order to properly address questions of redistribution (Alston 2015; Moyn 2015; Vandenhole 2021). These approaches and discussions show that there are strong voices in support of a maximum approach to human rights in general, which can and must be extended to the human rights of children, and which steers decisively away from a minimalistic checklist approach.

A second legal concept to avoid a minimalistic approach is to approach the CRC as a living instrument that imposes ever-increasing standards on States. The European Court of Human Rights has adopted such an approach across the board, both with regard to absolute rights such as the prohibition of torture as with regard to relative rights such as the right to respect for private and family life (Letsas 2012). The

living instrument doctrine can be adopted and has to some extent been adopted by other human rights monitoring bodies too (Moeckli and White 2016), including the CRC Committee. It is this idea of a dynamic high standard, that increases over time, that may guard against any minimalist interpretation of human rights treaties such as the CRC.

Finally, the notion of progressive realization too may help to consider human rights standards as an always moving horizon. In practice, progressive realization is often seen as a pragmatic response with regard to economic, social and cultural rights due to a lack of available resources (GC 5 para. 7). However, in a more ambitious reading of the human rights of children, it may be revamped as an ambition to always better realize ever-increasing standards of human rights protection. As Lundy has argued, '[t]he concept of "progressive realization" is an overriding principle of the CRC [...]' (2014: 2453). In this reading of progressive realization, it becomes an incentive for states to always strive for better realization of all human rights of children, rather than an excuse for incremental realization of economic, social and cultural rights.

These are just three doctrinal developments in international human rights law that may guard against a minimalistic checklist approach, and that may encourage a more ambitious reading of human rights treaties such as the CRC. Each of them would need and deserve a far more in-depth treatment, but that is beyond the focus of this paper. Here, they merely serve to illustrate the point that international children's rights law cannot be considered as static and minimalistic per se, so that any dismissive argument against a dialogue between the two fields is misguided.

#### *b. How child well-being studies can enrich children's rights*

For this section, I rely on two literature review articles (published in 2003 and 2014), and complement these with materials published in *Child Indicators Research* since 2011 as well as with chapters published in the Handbook of Child Well-Being (Ben-Arieh, A., Casas, F. Frønes Ivar and Korbin, J. E. 2014a). My ambition is not to offer a comprehensive overview and review of the depth and breadth of child well-being studies. Rather, I seek to identify speaking points for a mutually enriching dialogue between the two fields.

In my view, there are at least three ways in which child well-being studies can enrich and inspire children's rights.

First, child well-being studies seek to focus on the *positive* attributes of children in the child development literature (Pollard and Lee 2003: 59; Fernandez 2011: 548; Ben-Arieh, A., Casas, F. Frønes Ivar and Korbin, J. E. 2014b), which may be an antidote to the often negative approach to child development – in terms of deficits or disabilities – (an exception is the work on child neglect indicators, see Ruiz-Casares, Lacharité and Martin 2020) and to the negative approach to children's rights with an emphasis on the dangers and threats children face. The focus on positive attributes has also been called a strengths-based or a 'positive development' approach (Amerijckx and Humblet 2014: 406). The CRC Committee has indeed called for outcome indicators that focus on the child's positive development and well-being as a rights-bearing person, beyond a purely narrow focus on incidence, prevalence and types or extent of violence (GC 13, para. 58), and child well-being studies can make a major contribution in this regard.

Second, whereas there may be no fully consistent or globally shared definition of child well-being (Pollard and Lee 2003: 62-63; Fattore, Fegter and Hunner-Kreisel 2019: 388-389), child well-being studies have come up with a fairly consistent understanding of domains of well-being. In their systematic

literature review, Pollard and Lee identify five distinct domains of well-being: physical, psychological, cognitive, social, and economic (Pollard and Lee 2003: 64). Ben-Arieh and Frønes, drawing on the OECD, mention the following six domains: material well-being; housing and environment; education; health and safety; risk behaviours; and quality of school life (2011: 461). O'Hare and Gutierrez identified education, health and material well-being as key domains, based on a review of 19 key studies that used composite indices (2012), and Minkkinen included four dimensions (physical, mental, social and material) in her structural model of well-being (2013: 549-551).

These domains may be understood as follows. Physical well-being refers to physical health problems, health-related and risky behavior. The social domain includes sociological perspectives, for example having good relationships with family and others, family structure and family history. The psychological domain includes indicators that pertain to emotions, mental health, or mental illness, while the cognitive domain includes those indicators that are considered intellectual or school-related in nature. Children's economic well-being is defined through parents' work and socioeconomic status, and families' level of affluence. Indicators for each domain can be divided into negative, such as anxiety or depression, and positive clusters, such as happiness and self-esteem (Van Voorde et al. 2017: 6).

Moreover, there is a growing understanding on how objective (in particular material resources) and subjective elements of child well-being intersect (see, e.g., Bradshaw, Martorano, Natali and de Neubourg 2013; Main, 2014; Sarriera et al., 2015). In sum, international children's rights law may benefit from the more conceptual approach taken in child well-being studies, in particular by integrating the domains of well-being in the operationalization of the notion of the best interests of the child.

Third, while there may have been little agreement on how to measure child well-being in an earlier period (Pollard and Lee 2003: 66), a variety of sets of indicators is now available as well as proposals for a taxonomy (Ben-Arieh 2011). Also, the multidimensional nature of child well-being, while initially not often reflected in the measurement (Pollard and Lee 2003: 67) is now much better captured (though not necessarily in the dominant international models of child well-being (see Marjanen, Ornellas and Mäntynen 2017). Major progress has been made in using comprehensive composite indices (O'Hare and Gutierrez 2012) and multi-item scales as indicators of child well-being (see, e.g., Casas et al. 2012; Clery, Tsang and Vizard 2014; Casas 2017). The CRC Committee has called on States to elaborate national standards, inter alia for child well-being (GC 13 para. 18), which can be built on the indicator sets developed in child well-being studies. Such child well-being indicators are to be distinguished from children's rights indicators. Lundy has identified characteristics that children's rights indicators should meet and argued how such indicators differ from child well-being indicators (2014: 2450-2453), but without coming up with a comprehensive set of children's rights or child rights-focused indicators (for a discussion of attempts and the proposal of a children's rights index for rich countries, see Kim and Yoo 2016). Input from child well-being indicators may nonetheless help to identify robust children's rights indicators.

In sum, what children well-being studies may have to offer to children's rights is their positive development approach, more conceptual clarity inter alia about key domains of well-being, and the availability of indicators to assess well-being.

### *c. Conversation points between child well-being and children's rights studies*

Amerijkx and Humblet have identified five structural theoretical axes, which show a binary structure in the literature that they reviewed. They concluded that for each axis, one pole prevailed over the other.

Taking all five axes together, they noted that the ‘negative, eudemonic, objective, material and individual approaches to *child well-being* predominate[d] over its positive, hedonic, subjective, spiritual and collective dimensions.’ (2014: 411). For some of these weaker dimensions or poles, which Amerijckx and Humblet considered as the opposites of a ‘one-dimensional, single-level and unipolar approach to child well-being’ (411), a dialogue may be mutually reinforcing for both fields of study. That is particularly the case for the subjective and hedonic dimensions. Children’s rights and child well-being studies are moreover confronted with similar challenges to pay more heed to context-specificity, and to avoid fragmentation. A broad-based dialogue between both fields can lead to new insights to better address these common challenges.

### c.1. Subjective well-being and children’s participation in research

As Amerijckx and Humblet have pointed out, there is a growing interest in not only objectively determining child well-being, based on outcomes, but also in including children’s own perceptions (‘subjective well-being’) (2013: 406; see also Casas 2011; Fernandez 2011: 548; McAuley 2012; Dinisman, Fernandes and Main 2015; Andresen, Bradshaw and Kosher 2019; Brockevelt, Cerny, Newland and Lawler 2019), as well as in the extent to which children’s knowledge on their subjective well-being is (considered) authoritative (Fattore, Mason and Watson 2012: 432-433), the implications of the construction of the self by the child for subjective child well-being (Benninger and Savahl 2017) and the relationship between (subjective) child well-being and children’s participation rights (Lloyd and Emerson 2017; Corominas, González-Carrasco and Casas 2020). There is also a corollary interest in better understanding the role of children as researchers of their own well-being (Casas et al. 2013). Nonetheless, many important challenges remain with the ‘participatory integration of children into the research process’ (Fattore et al. 2019: 389-391).

Children’s rights scholarship, at least one strand of it, has a longstanding interest and expertise in child participation. More recently, and more hesitantly, also the topic of child participation in research has been taken up. The literature on child participation is vast, and reflects the new childhood image in law and research following the adoption of the CRC, as well as in the interdisciplinary field of childhood studies and the new sociology of childhood (Sutterlütty and Tisdall 2019: 183). Central to this image is that children are also active agents themselves. Children can be competent meaning makers with ideas and thoughts that have social or political significance (Cussianovich Villarán and Martínez Muñoz 2014). Especially Article 12 CRC has played a crucial role in this paradigm shift. To be fair, while a unique provision in human rights law, Article 12 CRC is not revolutionary at all: it simply guarantees children’s right to express their views and have due weight accorded to these views in all matters affecting them. This is a far cry from a right to decide, but nonetheless an important element in any process of meaningful participation (Cussianovich Villarán and Martínez Muñoz 2014: 2518). Also, Article 12 CRC addresses the legal and social status of children as subjects of rights. This image makes children more equal in their relationship with adults and the state (Vandenhole, Erdem Türkelli and Lembrechts 2019: 144-158). But both Article 12 CRC and the notion of agency are not wholly unproblematic, and there is an interesting debate on notions of agency, autonomy and self-determination (Sutterlütty and Tisdall 2019). A sustained dialogue between child well-being studies and children’s rights studies may help to further clarify these notions. Likewise, the methodological challenges in research on subjective child well-being and on the implementation of the right to be heard may be very similar (Stoecklin 2019), so that in that regard both fields can benefit from an ongoing dialogue.

With regard to a children’s rights approach to participation in research, Ennew was a pioneer in the development of rights-based research with children. She coined the concept of ‘the right to be properly

researched' (Boyden and Ennew 1997; Bessell 2017). Others have involved very young children as co-researchers (Lundy, McEvoy and Byrne 2011). Tisdall has researched how to involve children and young people meaningfully and ethically within research. She has also studied child-led research experiences (Cuevas-Parra and Tisdall 2019a; Cuevas-Parra and Tisdall 2019b; Tisdall 2018). In the field of child well-being studies too, attention has been paid to children's agency and children's perspectives in research (Mason and Danb 2011; Casas et al. 2013). So, again, the point is not that children's rights are superior or more advanced in this regard, but rather that a most fruitful conversation may be initiated between these so far fairly separated fields (Lundy 2014: 2457).

### c.2 A hedonic vision: a here and now approach to childhood

A second dimension in which children's rights studies and child well-being studies may reinforce each other is in strengthening a particular strand in child well-being studies that embraces the so-called hedonic vision. In the hedonic vision, the here and now of children's well-being matters (Amerijckx and Humblet 2014: 410). An important part of children's rights scholarship has indeed strongly supported this here and now approach to childhood, in order to challenge a once dominant understanding of childhood as becoming (James, Jenks and Prout 1998; Peleg 2013; Van Obbergen 2015: 66). While not rejecting an eudemonic vision, in which the whole lifetime may be taken into account, children's rights offer particular support to the hedonic vision, in particular by recognizing children as rights-holders. This acknowledgement of the (legal) subject-hood of children has been a paradigmatic shift in children's rights studies, and both fields can mutually inspire and reinforce each other in better understanding its implications (compare Lundy 2014: 2458-2459).

### c.3 Universalism versus context-specificity

In child well-being studies, a debate takes place about universalism versus context-specificity (Amerijckx and Humblet 2014: 406; see also Carboni and Morrow 2011; Casas and Rees 2015; Rees and Dinisman 2015; Exenberger et al. 2019). More recently, the methodological nationalism in much of child well-being research has been problematized too (Fattore et al. 2019: 391-395). In children's rights (and human rights more generally) studies too, there is a growing acknowledgement of the importance of local context, without necessarily questioning the normative universality of children's rights (see also Vandenhole 2020; Lundy 2014: 2458-59).

First of all, the opposite of universalism is not relativism, but particularism, as Dembour has convincingly argued. Particularism implies that "local circumstances must be taken into consideration in the application of human rights" (Dembour 2006: 177). In Dembour's view, universalism and particularism go hand in hand, since it is about "accommodation of unity and diversity in mankind" (2006: 155). Particularism is only possible in opposition with universalism and vice versa, and they can therefore not exist independently of each other (Dembour 2006: 179). By allowing space for particularism, neocolonial arrogance and imposition through domination – the dangers inherent in universalism – are avoided. At the same time, it is acknowledged that universalism is a doctrine, an ideal: in reality, there is a need to pay attention to local context. This is not to say that 'anything goes'. 'Rather, it brings the question when universalism needs to be imposed and when particularism is justified to the fore.' (Dembour 2006: 180).

Particularism can be understood as a process of adaptation to the local context. In anthropology, this process of adaptation of human rights norms to local circumstances has been coined vernacularization. Vernacularizers 'are people in between, conversant with both sides of the exchange but able to move

across borders of ideas and approaches.’ (Levitt and Merry 2009: 449). Vernacularizers balance between hybridization and replication. In translation by replication, ‘[t]he transnational idea remains the same, but local cultural understandings shape the way the work is carried out’ (Merry 2006: 44). In other words, international human rights norms are a given. In hybridization, ‘symbols, ideologies, and organizational forms generated in one locality [merge] with those of other localities to produce new, hybrid institutions’ (Merry 2006: 46). Whereas replication leaves the normative universality untouched, it may render children's rights irrelevant in practice. Hybridization on the other hand may lead to a dilution of normative universality.

Hanson and Nieuwenhuys may have come closest to a grand theory of vernacularization of children's rights, which is built around three core concepts: living rights, social justice and translations. At the core of their theory is the idea that children's rights are ‘an open-ended endeavour that is responsive to the world that the young construct as part of their everyday life.’ (Hanson and Nieuwenhuys 2012: 3). The concept of living rights emphasized that children's rights do not come from Geneva, where most legal codification takes place, but from children's lived realities. In other words, the emphasis lies less on the unidirectional travel from Geneva to concrete contexts, but rather on rights that emerge from daily life struggles. Social justice refers to the shared normative beliefs underlying rights struggles. Translation seeks to capture ‘the complex fluxes between different beliefs and perspectives on rights, their codification and the unstable interpretations given to these codified forms.’ (Hanson and Nieuwenhuys 2012: 6); it is about the ‘tensions at work between global and local formulations of children's rights’ (Hanson and Nieuwenhuys 2012: 21). These insights may help to engage with questions of local understandings of child well-being, and how these local understandings relate to more universalist approaches to child well-being.

#### c.4 A fragmented versus an integrated concept

Amerijckx and Humblet have held a plea to override a ‘one-dimensional, single-level, unipolar approach to *child well-being*’ (2014: 411), which they considered as a major challenge for child well-being studies. Although the multidimensional nature of child well-being can now be much better captured in measurement (see section V. b. above), as late as 2018, Chzhen, Gordon and Handa lamented that global child-specific estimates of the number of poor children were still unidimensional, and that there was no ‘consensus around a common conceptual or normative framework for measuring multidimensional child poverty’ (2018: 708). Children's rights studies too, run the risk of framing a fragmented response (right-by-right) rather than giving a truly integrated analysis, particularly in the area of child poverty.

In human rights law, hardly any comprehensive anti-poverty provisions can be found – the exception being Article 30 of the Revised European Social Charter (RESC). There is also very little case-law that takes a holistic approach to child poverty (Vandenhole, Erdem Türkelli and Lembrechts 2019: 287). A holistic approach to child poverty may be inherently difficult due to the individualistic approach that children's rights law tends to take: rights belong to individuals (Vandenhole 2009: 355). The individualistic bias of children's rights law, in combination with the lack of a comprehensive right tackling poverty, may lead to a fragmented approach. A further effect may be that root causes and structural causes remain unaddressed (Vandenhole 2013: 630). This moot point in children's rights studies may benefit from an encounter with similar debates in child well-being studies.



## VI. Conclusions

This article has been informed by two research questions: 1. whether and which conception of child well-being is being used in international children's rights law? 2. whether and how children's rights and child wellbeing studies may enter into a fruitful and enriching dialogue?

International children's rights law contains no clear concept of child well-being, and has not been able to construct a coherent notion through proxies like best interests of the child and full and harmonious development. Child well-being is explicitly referenced in a number of contexts in which the protection, care or development of children is at stake. The CRC Committee's referencing of child well-being seems to be very inconsistent, with no particular development over time, nor any clear link with particular topics or particular groups of children. Substantively, the Committee approaches well-being as a multi-dimensional concept, which includes physical, emotional, mental, cognitive, social, spiritual, moral, and other dimensions. Aspects of well-being include: survival, health, physical safety and emotional security, standards of living and care, opportunities for play and learning, and freedom of expression; basic material, physical, educational, and emotional needs; as well as needs for affection and safety. Three word groupings are frequently used: survival, growth and well-being; survival, well-being and development; and well-being, health and development. The relationship between well-being and children's rights is not clear either: well-being is sometimes seen as a right in itself, sometimes as one of the goals pursued through a child rights approach, and sometimes as partly synonymous. In sum, and notwithstanding some clarifications, *the concept of well-being remains undefined and undertheorized in children's rights*. De lege ferenda, child well-being can be more meaningfully conceptualized and integrated in international children's rights law, if analyzed through operational legal proxies like the best interests of the child or the right to full and harmonious development, and provided that these proxies are thought through (as far as best interests is concerned) or rethought (as far as full and harmonious development is concerned).

A dialogue between children's rights studies and child well-being studies may be of benefit to children's rights studies in at least three respects: through its strengths-based or a 'positive development' approach; through its fairly consistent understanding of domains of well-being; and through the opportunities for measurement it offers, given the availability of indicators to assess well-being. But such a dialogue between children's rights studies and child well-being studies may be also of mutual benefit. In order to render mutual benefit more likely, I felt it was needed to discard the reading of children's rights as a necessarily legalistic and minimalistic checklist. A maximum approach, a living instrument interpretation and the notion of progressive realization each allow for a richer reading of children's rights than simply as a checklist. But more importantly, both fields share common challenges that they may want to explore and address in an on-going dialogue. These challenges range from including children's own perceptions ('subjective well-being'), better understanding the role of children as researchers to strengthening a particular strand in child well-being studies that embraces the hedonic vision. In the hedonic vision, the here and now of children's well-being matters. Children's rights and child well-being studies are confronted with similar challenges to pay more heed to context-specificity and to avoid fragmentation. A broad-based dialogue between both fields can lead to new insights to better address these common challenges. It is my sincere hope that this paper can make at least a modest contribution to such a dialogue.

## References

- Alston, Ph. (2015). "Extreme Inequality as the Antithesis of Human Rights." *Opendemocracy.net* [<https://www.opendemocracy.net/en/openglobalrights-openpage/extreme-inequality-as-antithesis-of-human-rights/>, accessed December 20, 2019]
- Amerijckx, G. and Perrine Claire Humblet (2014). "Child Well-Being: What Does It Mean?" *Children and Society* 28 (5): 404-15.
- Andresen, S., J. Bradshaw and H. Kosher (2019). "Young Children's Perceptions of their Lives and Well-Being." *Child Indicators Research* 12 (1): 1-7.
- Ben-Arieh, A. and Ivar Frønes (2011). "Taxonomy for Child Well-Being Indicators: A Framework for the Analysis of the Well-Being of Children." *Childhood* 18 (4): 460-76.
- Ben-Arieh, A., F. Casas, Ivar Frønes and J. E. Korbin (eds.) (2014a). *Handbook of Child Well-Being. Theories, Methods and Policies in Global Perspective*. Dordrecht: Springer
- Ben-Arieh, A., Ferran Casas, Ivar Frønes and Jill E. Korbin (2014b), "Multifaceted Concept of Child Well-Being" (pp. 1-28) in *Handbook of Child Well-Being. Theories, Methods and Policies in Global Perspective*, edited by A. Ben-Arieh, F. Casas, Ivar Frønes and J. E. Korbin. Dordrecht: Springer.
- Benninger, E. and S. Savahl (2017). "A Systematic Review of Children's Construction of the Self: Implications for Children's Subjective Well-being." *Child Indicators Research* 10 (2): 545-569.
- Bessell, S., Beazley, H. and Waterson, R. (2017). "The Methodology and Ethics of Rights-Based Research with Children," (pp. 211-231) in '*Children Out of Place*' and *Human Rights : In Memory of Judith Ennew*, edited by A. Invernizzi, M. Liebel, B. Milne, and R. Budde. Cham: Springer International Publishing.
- Biggeri M. and S. Mehrotra (2011). "Child Poverty as Capability Deprivation: How to Choose Domains of Child Well-being and Poverty," (pp. 46-75) in: *Children and the Capability Approach*, edited by M. Biggeri, J. Ballet and F. Comim. London: Palgrave Macmillan.
- Boyden, J. and J. Ennew (1997). *Children in Focus – A Manual for Participatory Research with Children*. Save the Children Sweden.
- Bradshaw, J., B. Martorano, L. Natali, and C. de Neubourg (2013). "Children's Subjective Well-Being in Rich Countries." *Child Indicators Research* 6 (4): 619-635.
- Brems, E. (2009). "Human Rights: Minimum and Maximum Perspectives." *Human Rights Law Review* 9 (3): 349-72.
- Chapman, A. R., "A 'Violations Approach' for Monitoring the International Covenant on Economic, Social and Cultural Rights." *Human Rights Quarterly* 18 (1): 23-66.
- Brockevelt, B. L., S. L. Cerny, L. A. Newland and M. J. Lawler (2019). "Activities within an Ecological, Relationship-Based Model of Children's Subjective Well-Being". *Child Indicators Research* 12 (2): 589-608.

- Carboni, I. and N. Morrow (2011). "Finding the Right Balance Between Standardisation and Flexibility: A Compendium of Indicators for Measuring Child Well-Being." *Child Indicators Research* 4 (4): 597-618.
- Casas, F. (2011). "Subjective Social Indicators and Child and Adolescent Well-being." *Child Indicators Research* 4 (4): 555-575.
- Casas, F. (2017). "Analysing the Comparability of 3 Multi-Item Subjective Well-Being Psychometric Scales Among 15 Countries Using Samples of 10 and 12-Year-Olds." *Child Indicators Research* 10 (2): 297-330.
- Casas, F. and G. Rees, (2015). "Measures of Children's Subjective Well-Being: Analysis of the Potential for Cross-National Comparisons." *Child Indicators Research* 8 (1): 49-69.
- Casas, F. et al. (2012). "Subjective Indicators of Personal Well-Being among Adolescents. Performance and Results for Different Scales in Latin-Language Speaking Countries: A Contribution to the International Debate." *Child Indicators Research* 5 (1): 1-28.
- Chzhen, Y., D. Gordon and S. Handa (2018). "Measuring Multidimensional Child Poverty in the Era of the Sustainable Development Goals." *Child Indicators Research* 11 (3): 707-709.
- Clery, E., T. Tsang and P. Vizard (2014). "The Children's Measurement Framework: A new Indicator-Based Tool for Monitoring Children's Equality and Human Rights." *Child Indicators Research* 7 (2): 321-349.
- CRC Committee (2002). "General Comment No. 2: The Role of Independent National Human Rights Institutions in the Promotion and Protection of the Rights of the Child." 15 November 2002.
- (2003). "General Comment No. 3: Hiv/Aids and the Rights of the Child." 17 March 2003.
- (2003). "General Comment No. 4: Adolescent Health and Development in the Context of the Convention on the Rights of the Child." 1 July 2003.
- (2003). "General Comment No. 5: General Measures of Implementation of the Convention on the Rights of the Child." 27 November 2003.
- (2005). "General Comment No. 6: Treatment of Unaccompanied and Separated Children Outside Their Country of Origin." 1 September 2005.
- (2005). "General Comment No. 7: Implementing Child Rights in Early Childhood." 20 September 2006.
- (2006). "General Comment No. 8: The Right of the Child to Protection from Corporal Punishment and Other Cruel or Degrading Forms of Punishment (Arts. 19; 28, Para. 2; and 37, Inter Alia)." 2 March 2007.
- (2006). "General Comment No. 9: The Rights of Children with Disabilities." 27 February 2007.
- (2007). "General Comment No. 10: Children's Rights in Juvenile Justice." 25 April 2007.
- (2009). "General Comment No. 11: Indigenous Children and Their Rights under the Convention." 12 February 2009.
- (2009). "General Comment No. 12: The Right of the Child to Be Heard." 20 July 2009.

——— (2011). “General Comment No. 13: The Right of the Child to Freedom from All Forms of Violence.” 18 April 2011.

——— (2013). “General Comment No. 14 on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration (Art. 3, Para. 1).” 29 May 2013.

——— (2013). “General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art. 24).” 17 April 2013.

——— (2013). “General Comment No. 16 on State Obligations Regarding the Impact of the Business Sector on Children's Rights.” 17 April 2013.

——— (2013). “General Comment No. 17 on the Right of the Child to Rest, Leisure, Play, Recreational Activities, Cultural Life and the Arts (Art. 31).” 17 April 2013.

——— (2016). “General Comment No. 19 on Public Budgeting for the Realization of Children’s Rights (Art. 4).” 20 July 2016.

——— (2016). “General Comment No. 20 on the Implementation of the Rights of the Child During Adolescence.” 5 December 2016.

——— (2017). “General Comment No. 21 on Children in Street Situations.” 21 June 2017.

——— (2019). “General Comment No. 24 on Children's Rights in the Child Justice System.” 18 September 2019.

Committee on the Elimination of Discrimination against Women (CEDAW) and CRC Committee (2014). “Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the CRC Committee on Harmful Practices.” 14 November 2014 (revised in 2019).

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and CRC Committee (2017). “Joint General Comment No. 3 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 of the CRC Committee on the General Principles Regarding the Human Rights of Children in the Context of International Migration.” 16 November 2017.

——— (2017). “Joint General Comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 of the CRC Committee on State Obligations Regarding the Human Rights of Children in the Context of International Migration in Countries of Origin, Transit, Destination and Return.” 16 November 2017.

Corominas, M., M. González-Carrasco and F. Casas (2020). “The Importance of Feeling Adequately Heard by Adults and Enjoying Time with Family in Relation to Children’s Subjective Well-Being.” *Child Indicators Research* 13 (1): 193-214.

Cussianovich Villarán, A., and M. Martínez Muñoz, (2014). “Child Participation, Constituent of Community Well-Being,” (pp. 2503-2536) in *Handbook of Child Well-Being. Theories, Methods and Policies in Global Perspective*, edited by A. Ben-Arieh, F. Casas, I. Frønes and J. E. Korbin. Dordrecht: Springer.

- Dembour, M.-B. (2006). *Who Believes in Human Rights? Reflections on the European Convention*. Cambridge: Cambridge University Press.
- Dinisman, T., L. Fernandes and G. Main (2015). "Findings from the First Wave of the ISCWeB Project: International Perspectives on Child Subjective Well-Being." *Child Indicators Research* 8 (1): 1-4.
- European Court of Human Rights (28 July 1999), *Selmouni v France*, App. No. 25803/94.
- Exenberger, S. et al. (2019). "Eastern and Western Children's Voices on their Well-Being." *Child Indicators Research* 12 (3): 747-768.
- Fattore, T., S. Fegter and C. Hunner-Kreisel (2019). "Children's Understandings of Well-Being in Global and Local Contexts: Theoretical and Methodological Considerations for a Multinational Qualitative Study." *Child Indicators Research* 12 (2): 385-407.
- Fattore, T., J. Mason and E. Watson (2012). "Locating the Child Centrally as Subject in Research: Towards a Child Interpretation of Well-Being." *Child Indicators Research* 5 (3): 423-435.
- Fernandez, E. (2011). "Conceptualizing Indicators for Children in Diverse Contexts and Particular Circumstances, Challenges and Constraints." *Child Indicators Research* 4 (4): 547-553.
- Goodman, R. (1997). "The Strengths and Difficulties Questionnaire: a research note." *Journal of Child Psychology and Psychiatry* 38 (5): 581-6.
- Goodman, R., H. Meltzer and V. Bailey (1998). "The strengths and difficulties questionnaire: A pilot study on the validity of the self-report version." *European Child and Adolescent Psychiatry* 7 (3): 125-30.
- Hanson, K. and L. Lundy (2017). "Does Exactly What it Says on the Tin? A Critical Analysis and Alternative Conceptualisation of the So-called "General Principles" of the Convention on the Rights of the Child." *International Journal of Children's Rights* 25: 285-306.
- Hanson, K. and O. Nieuwenhuys (2012). "Living rights, social justice, translations," (pp. 3-25) in *Reconceptualizing Children's Rights in International Development: Living Rights, Social Justice, Translations*, edited by K. Hanson and O. Nieuwenhuys. Cambridge: Cambridge University Press.
- Huntington, C. and E. S. Scott (2020). "Conceptualizing Legal Childhood in the Twenty-First Century." *Michigan Law Review* 118: 1371-1457.
- James, A., C. Jenks and A. Prout (1998). *Theorizing Childhood*. Cambridge: Polity Press.
- Kim, S. S. and M. S. Yoo, (2016). "A Comparative Study on the Level of Realizing Children's Rights: A Focus on Rich Countries." *Child Indicators Research* 9 (3): 855-872.
- Letsas, G. (2013). "The ECHR as a living instrument: Its meaning and legitimacy," (pp. 106-141) in *Constituting Europe: The European Court of Human Rights in a National, European and Global Context*, edited by A. Føllesdal, B. Peters, and G. Ulfstein. Cambridge: Cambridge University Press.
- Levitt, P. and Sally Engle Merry (2009). "Vernacularization on the Ground: Local Uses of Global Women's Rights in Peru, China, India and the United States." *Global Networks* 9 (4): 441-61.
- Lloyd, K., and L. Emerson (2017). "(Re)examining the Relationship Between Children's Subjective Wellbeing and Their Perceptions of Participation Rights." *Child Indicators Research* 10 (3): 591-608.

- Lundy, L. (2014). "United Nations Convention on the Rights of the Child and Child Well-Being," (pp. 2439-2462) in *Handbook of Child Well-Being: Theories, Methods and Policies in Global Perspective*, edited by A. Ben-Arieh, F. Casas, Ivar Frønes and J. E. Korbin. Dordrecht: Springer.
- Lundy, McEvoy, L. and Byrne (2011). "Working With Young Children as Co-Researchers: An Approach Informed by the United Nations Convention on the Rights of the Child." *Early Education and Development* 22 (5): 714-36.
- Main, G. (2014). "Child Poverty and Children's Subjective Well-Being." *Child Indicators Research* 7 (3), 451-472.
- Marjanen, P., A. Ornellas and L. Mäntynen (2017). "Determining Holistic Child Well-being: Critical Reflections on Theory and Dominant Models." *Child Indicators Research* 10 (3): 633-647.
- Mason, J. and S. Danby (2011). "Children as Experts in Their Lives: Child Inclusive Research." *Child Indicators Research* 4 (2): 185-189.
- McAuley, C. (2012). "Editorial: International Advances in Child Well-Being: Measuring and Monitoring Subjective Well-Being." *Child Indicators Research* 5 (3): 419-421.
- Melton, G. B. (2014). "'Because It's the Right (or Wrong) Thing to Do': When Children's Well-Being Is the Wrong Outcome," (pp. 2561-2574) in *Handbook of Child Well-Being. Theories, Methods and Policies in Global Perspective* edited by A. Ben-Arieh, F. Casas, I. Frønes and J. E. Korbin. Dordrecht: Springer.
- Merry, S.E. (2006). "Transnational Human Rights and Local Activism: Mapping the Middle." *American Anthropologist* 108 (1): 38-51.
- Minkinen, J. (2013). "The Structural Model of Child Well-Being." *Child Indicators Research* 6 (3): 547-558.
- Moeckli, Daniel and Nigel D. White (2018). "Treaties as 'Living Instruments'," (pp. 136-171) in *Conceptual and Contextual Perspectives on the Modern Law of Treaties*, edited by Michael Bowman and Dino Kritsiotis. Cambridge: Cambridge University Press).
- Moyn, S. (2015). "Human Rights and the Age of Inequality." *Opendemocracy.net* [<https://www.opendemocracy.net/en/openglobalrights-openpage/human-rights-and-age-of-inequality/>, accessed December 20, 2019]
- O'Hare, W. P. and F. Gutierrez (2012). "The Use of Domains in Constructing a Comprehensive Composite Index of Child Well-Being." *Child Indicators Research* 5 (4): 609-629.
- OHCHR (2007). *Legislative History of the Convention on the Rights of the Child, Volume II*. Geneva: United Nations.
- Peleg, N., "Reconceptualising the Child's Right to Development: Children and the Capability Approach." *The International Journal of Children's Rights* 21 (3): 523-542.
- Pollard, E.L., and P.D. Lee (2003). "Child Well-Being: A Systematic Review of the Literature." *Social Indicators Research* 61 (1): 59-78.

- Rees, G. and T. Dinisman, (2015). "Comparing Children's Experiences and Evaluations of Their Lives in 11 Different Countries." *Child Indicators Research* 8 (1): 5-31.
- Ruck, M. D., M. Peterson-Badali and C. C. Helwig (2014). "Children's Perspectives on Nurturance and Self-Determination Rights: Implications for Development and Well-Being," (pp. 2537-2559) in *Handbook of Child Well-Being. Theories, Methods and Policies in Global Perspective*, edited by A. Ben-Arieh, F. Casas, Ivar Frønes and J. E. Korbin. Dordrecht: Springer.
- Ruiz-Casares, M., C. Lacharité and F. Martin (2020). "Child Neglect Indicators: a Field in Critical Need of Development Globally." *Child Indicators Research* 13 (2): 363-367.
- Sarriera, J. C. et al. (2015). "Material Resources and Children's Subjective Well-Being in Eight Countries." *Child Indicators Research* 8 (1): 199-209.
- Stoecklin, D. (2019). "Freely Expressed Views: Methodological Challenges for the Right of the Child to be Heard." *Child Indicators Research* 12 (2): 569-588.
- Sutterlüty, F. and E.K.M. Tisdall (2019). "Agency, Autonomy and Self-Determination: Questioning Key Concepts of Childhood Studies." *Global Studies of Childhood* 9 (3): 183-87.
- Tisdall, K. (2018). "Applying human rights to children's participation in research," (pp. 17-38) in *Seen and Heard: An interdisciplinary approach to exploring children's participation, engagement and voice*, edited by M. Twomey and C. Carroll. Oxford: Peter Lang.
- Tobin, J. (2011). "Understanding a Human Rights Based Approach to Matters Involving Children: Conceptual Foundations and Strategic Considerations," (pp. 61-98) in *The Human Rights of Children: From Visions to Implementation*, edited by A. Invernizzi and J. Williams. Farnham: Ashgate.
- Vandenhoe, W. (2009). "The Limits of Human Rights Law in Human Development," (pp. 355-374) in *Facing the Limits of the Law*, edited by E. Claes, W. Devroe and B. Keirsbilck. Berlin: Springer.
- Vandenhoe, W. (2013). "Child Poverty and Children's Rights: An Uneasy Fit." *Michigan State International Law Review* 22 (2): 609-636.
- Vandenhoe, W. (2017). "Distinctive characteristics of children's human rights law," (pp. 21-36) in *Children's Rights Law in the Global Human Rights Landscape: Isolation, Inspiration, Integration?*, edited by E. Brems, E. Desmet and W. Vandenhoe. London: Routledge.
- Vandenhoe, W. (2020). "Decolonizing Children's Rights: Of Vernacularization and Interdisciplinarity," (pp. 185-204) in *Childhood and Children's Rights – Between Research and Activism*, edited by R. Budde and U. Markowska-Manista. Berlin: Springer.
- Vandenhoe, W. (2021). "Planet *and* People. Making Human Rights Distributive by Design," (pp. 105-121) in (forthcoming) *Human Rights, Poverty and Social Justice*, edited by S. Egan and A. Chadwick. Cheltenham: Elgar.
- Vandenhoe, W., G. Erdem Türkelli and S. Lembrechts, (2019). *Children's Rights. A Commentary on the Convention on the Rights of the Child and its Protocols*. Cheltenham: Elgar.

Vandenhoe, W. and G. Erdem Türkelli, (2020). "The Best Interests of the Child," (pp. 205-221) in *The Oxford Handbook of Children's Rights Law*, edited by J. Todres and S. M. King. London: Oxford University Press.

Van Hoorde et al. (2017). Bouncing back. The wellbeing of children in international child abduction cases ([http://missingchildreneurope.eu/Portals/1/Docs/Compiled\\_research\\_report\\_final.pdf](http://missingchildreneurope.eu/Portals/1/Docs/Compiled_research_report_final.pdf), [accessed December 20, 2019]).

Vanobbergen, B. (2015). "Children's Rights and Childhood Studies. From Living Apart Together Towards a Happy Marriage," (pp. 60-76) in *Routledge International Handbook of Children's Rights Studies*, edited by W. Vandenhoe et al. London: Routledge.

Verhellen, E. (2000). *Convention on the Rights of the Child: Background, Motivation, Strategies, Main Themes*. Leuven: Garant.