

# TABLE OF CONTENTS

## PREFACE

EVA BREMS .....	v
-----------------	---

INTRODUCTION .....	ix
--------------------	----

## *I. CRITICAL REFLECTIONS ON CHILDREN'S RIGHTS*

### RIGHTS IN CONTEXT; QUESTIONING UNIVERSALITY IN THE IMPLEMENTATION OF CHILDREN'S RIGHTS USING JORDAN AS A CASE STUDY (2004)

LINA HAMMAD .....	3
-------------------	---

1. Introduction .....	3
1.1. Methodology .....	5
2. Setting the macro context in Jordan .....	6
2.1. Social and cultural context .....	7
3. The family protection project .....	8
4. Realities at local level .....	10
4.1. Perception and awareness of rights .....	11
4.2. The private sanctity of the family .....	14
4.3. An alternative approach? .....	15
5. Conclusion .....	15
5.1. Rethinking children's rights .....	18

## *II. MONITORING OF THE CRC*

### THE APPLICATION OF THE INTERNATIONAL CONVENTION ON THE RIGHTS OF THE CHILD IN AFRICA: WHEN THE LAW IS TESTED BY THE REALITY

RAOUL KIENGE-KIENGE INTUDI .....	23
----------------------------------	----

1. Introduction .....	23
1.1. State of the question of the rights of the child in Africa .....	23
1.2. An interdisciplinary approach .....	24

Intersentia .....	xi
-------------------	----

## Table of Contents

1.3.	Our focal point for assessment: the Democratic Republic of the Congo .....	24
1.4.	Structure of the paper .....	24
2.	The specific features of the African Charter on the Rights and Welfare of the Child .....	25
2.1.	Historical evolution of representations of the child in Africa .....	25
2.2.	Specific features of the African Charter on the Rights and Welfare of the Child .....	25
3.	The empirical assessment of the application of the rights of the child leading to a conclusion of ineffectiveness .....	26
3.1.	The African conception of human rights and the rights of the child: between apparent contradiction and attempted subjectivisation of the child .....	27
3.2.	The instrumentalisation of the International Convention on the Rights of the Child by governments and actors in non-governmental organisations .....	27
3.2.1.	The parading of the International Convention on the Rights of the Child by governments as a foreign policy strategy .....	28
3.2.2.	Capitalisation on the International Convention on the Rights of the Child by non-governmental organisations ..	28
3.3.	The point of view of African actors on the violation of the rights of the child in Africa .....	29
4.	Conclusion: the myth of the rights of the child in Africa .....	29
	Bibliography .....	30

## THE DOMESTIC FULFILMENT OF CHILDREN'S RIGHTS: SAVE THE CHILDREN'S EXPERIENCE IN THE USE OF RIGHTS-BASED APPROACHES

	AYE AYE TUN, GUY CAVE, DUNCAN TROTTER and BILL BELL .....	33
1.	Context .....	33
2.	A child rights based approach to development – the case of Save the Children UK .....	35
2.1.	Background .....	35
2.2.	The theory in practice .....	36
2.3.	Child rights situation analysis .....	38
2.4.	Accountability .....	40
2.5.	The four principles of the UNCRC .....	42
2.5.1.	Survival and Development .....	42
2.5.2.	Best Interests Of The Child .....	42

2.5.3.	Non-discrimination (Universality) .....	43
2.5.4.	Children's Participation – The Right To Be Heard .....	43
2.6.	The UNCRC reporting process .....	44
3.	Implications and challenges .....	44
4.	Myanmar: child rights programming in a 'fragile state' .....	45
4.1.	Voices of children: advocacy on anti-trafficking .....	45
4.2.	Accountability .....	46
4.3.	Application of the CRC general principles – participation and non-discrimination .....	48
4.4.	Summary .....	49
5.	Bulgaria: challenging institutional care in a transition economy .....	49
5.1.	Context .....	49
5.2.	Approach taken .....	50
6.	Kenya: promoting the best interests of children in conflict with the law ..	52
6.1.	Context .....	52
6.2.	Development of the diversion project .....	53
6.3.	Impact of the model .....	54
7.	Conclusion .....	55

## **CHILDREN'S RIGHTS IN ACTION: USING THE CONVENTION ON THE RIGHTS OF THE CHILD AS AN AUDITING TOOL**

URSULA KILKELLY and LAURA LUNDY .....

1.	Introduction .....	57
2.	Background to the NICCY research .....	58
3.	Measuring the implementation of children's rights: identifying the standards .....	59
4.	Applying the standards in practice .....	67
5.	Identifying priorities for action .....	70
5.1.	The issues most commonly identified by children and young people .....	72
5.2.	Egregious breaches of children's rights .....	74
5.3.	Incompatibility with one of the CRC's fundamental general principles .....	75
5.4.	Instances where the breach had the knock-on effect of undermining children's enjoyment of other rights .....	76
5.5.	Concerns raised by the CRC Committee in its concluding observations on the UK in 2002, which have not yet been remedied adequately .....	77
6.	Conclusion .....	78

## **STRENGTHENING THE PROMOTION, PROTECTION AND FULFILMENT OF CHILDREN’S RIGHTS IN THE AFRICAN CONTEXT**

JULIA SLOTH-NIELSEN .....	81
1. Introduction .....	81
2. The African system of human rights protection .....	81
3. Children’s rights in African constitutions .....	86
3.1. Definition of a child .....	87
3.2. Civil and political rights .....	89
3.3. Socio-economic and cultural rights .....	91
3.4. Protection rights .....	96
3.5. The best interests standard .....	98
3.6. Duties of children .....	98
4. Domestication of international law in municipal contexts .....	101
5. Conclusion .....	104

## **THE PROTECTION OF CHILDREN’S RIGHTS BY THE EUROPEAN COURT OF HUMAN RIGHTS**

MIEKE VERHEYDE .....	107
1. Introduction .....	107
2. Family law .....	108
3. Protection against exploitation .....	111
4. Juvenile justice .....	113
5. Family reunification .....	115
6. Other future challenges .....	117
7. Concluding remarks .....	118

## **THE IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE RIGHTS OF THE CHILD IN FLANDERS (BELGIUM)**

JOOST VAN HAELST .....	121
1. Introduction .....	121
2. The competence for the CRC in federal Belgium .....	122
3. National cooperation .....	124
3.1. The National Commission for the Rights of the Child .....	125
3.1.1. Tasks .....	125
3.1.2. Composition .....	126
3.2. National Action Plan for Children .....	127

4.	The CRC in Flanders .....	127
4.1.	The Children's Rights Commissioner's Office .....	128
4.1.1.	Legally guaranteed independence .....	129
a.	Position in the Flemish Parliament .....	129
b.	The Children's Rights Commissioner's Office .....	130
4.1.2.	Operation .....	131
4.1.3.	International image .....	132
4.2.	Assessment of the Flemish Government Policy in terms of observing the rights of the child .....	134
4.2.1.	The second Flemish Youth Policy Plan 2005–2009 .....	134
4.2.2.	The Child Impact Report .....	135
4.2.3.	The annual report on the rights of the child .....	137
4.2.4.	Coordination of Flemish policy on children's rights ....	138
a.	Coordinating minister for children's rights and youths .....	138
b.	Network of contact points for children's rights (and youth policy) .....	140
4.2.5.	Flemish Action Plan for Children's Rights and the establishment of a Reflection Group .....	141
5.	Conclusions .....	142

### *III. IMPLEMENTATION OF THE CRC FROM AN NGO PERSPECTIVE*

#### **DEFENCE FOR CHILDREN INTERNATIONAL: OUR OBJECTIVES, OUR ACTIONS AND OUR PRIORITIES. A CASE STUDY OF DCI SECTIONS IN THE AFRICA REGION**

	LAURENCIO E. AKOHIN .....	147
1.	Introduction .....	147
2.	Who are we? .....	147
3.	What are the objectives of DCI? .....	148
4.	What are the areas of intervention and priorities of DCI? .....	149
4.1.	Areas of intervention .....	149
4.2.	Priorities .....	149
4.3.	Considering the juvenile justice mandate .....	149
4.3.1.	Considering the objectives .....	151
4.3.2.	Considering the implementation .....	152
5.	Strategic plan of action .....	152

## Table of Contents

6. Difficulties facing the implementation of the CRC in the Africa Zone:  
what about Africa's sections? ..... 153
7. Conclusion ..... 154

### TERRE DES HOMMES: THE APPLICATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD FROM THE POINT OF VIEW OF THE NGOS

- BERNARD BOËTON ..... 155
1. Introduction ..... 155
  2. What is the specific approach of the NGOs among these players? ..... 156
  3. What are the principal obstacles when NGOs implement the rights  
of the child? ..... 157
  4. What are the levers on which the NGOs can rely on in their work? ..... 159
  5. Conclusion ..... 160

### IV. *HUMAN RIGHTS EDUCATION*

#### ARE WE EDUCATING CHILDREN AS PEOPLE WITH RIGHTS OR JUST TALKING ABOUT IT?

- KATARINA TOMAŠEVSKI ..... 165
1. Introduction ..... 165
  2. Wronging children's rights in (adults') silence ..... 166
  3. Why so much human rights education and so little to show for it? ..... 167
  4. Why schooling does not necessarily lead to learning? ..... 169
  5. Why education in Europe leads to increasing racism? ..... 170
  6. Why is tolerance an ugly word? ..... 172
  7. Teaching about private violence, and silence in the face of public  
abuses of power ..... 175
  8. Questioning conflicting values ..... 175
  9. Learning by doing ..... 178

## **TOWARDS A TRANSDISCIPLINARY MODEL WITHIN CHILD AND YOUTH RIGHTS EDUCATION**

RICHARD C. MITCHELL .....	181
1. Transdisciplinary thinking within child rights education .....	181
2. Competing and comparing canadian citizenship discourses .....	184
3. Re-theorising children's rights as human rights .....	191
4. New lessons from empirical research .....	195
4.1. Role of educators .....	195
4.2. Roles of governmental and non-governmental actors .....	196
4.3. Role of CRC reporting and UN treaty monitoring .....	197
5. Conclusion .....	199

## **THE RIGHT TO EQUAL ACCESS TO EDUCATION OF INTERNAL MIGRANT WORKERS' CHILDREN IN CHINA**

HAINA LU .....	201
1. Introduction .....	201
2. General situation of migrant children's education in China .....	202
3. An overview of national legislation and policies on this issue .....	204
3.1. Constitution and acts .....	204
3.2. Relevant administrative regulations and legal documents .....	205
3.3. New promises of the Chinese government .....	207
4. The gap between China and international standards .....	207
4.1. The principle of non-discrimination in access to education .....	208
4.2. Availability, accessibility and quality of education for migrant children .....	210
4.3. The right to fundamental education .....	212
4.4. The right to effective remedies .....	213
5. Factors behind the gap .....	214
5.1. Highly discriminative approaches in education .....	214
5.2. Financing of education: low input and decentralised education financing .....	214
5.3. Lack of a human rights-based approach in legislation and policy-making .....	215
5.4. Protection of local interests .....	216
6. Some recommendations .....	216
7. Conclusion .....	218

**THE RIGHT TO EDUCATION IN THE REPUBLIC OF IRELAND:  
TEACHING THE CELTIC TIGER**

AOIFE DALY .....	219
1. Introduction .....	219
2. Recent improvements for children's rights in Ireland .....	220
3. Resistance to rights-based approach .....	221
4. Early childhood care and education .....	222
4.1. Obligations regarding early childhood care and education .....	222
4.2. Inadequacies in the Irish system .....	223
4.3. Achievements of the Irish system .....	224
4.4. The future for early childhood care and education in Ireland ....	225
5. Primary schools-physical aspects .....	226
5.1. Class size .....	226
5.2. Infrastructure .....	226
6. Multi-denominational education in Ireland .....	227
7. Inequality in the Irish education system .....	228
7.1. The right to education of disadvantaged children in Ireland ....	228
7.2. The right to education of Irish Travellers .....	230
7.3. The right to education of migrant children in Ireland .....	231
8. Education for children with disabilities in Ireland .....	232
8.1. Recent legislation .....	233
8.2. Issues around educational provision for children with disabilities	233
8.2.1. Co-ordination in the Sector .....	233
8.2.2. Information Deficit on Children with Disabilities .....	234
8.2.3. Preschool Education for Children with Disabilities ....	234
8.2.4. Early School Leaving and Children with Disabilities ....	235
8.2.5. Educational Supports for Children with Disabilities ....	235
8.2.6. Education for People with Severe Disability in Ireland ..	236
9. Participation rights in the Irish education system .....	237
9.1. Positive initiatives .....	238
9.2. Access to information on sexual health .....	239
9.3. Human rights education .....	239
10. Conclusion .....	241



## EDUCATIONAL IMPLICATIONS OF THE CONVENTION ON THE RIGHTS OF THE CHILD AND ITS IMPLEMENTATION IN EUROPE

PAULÍ DÁVILA BALSERA and LUIS MARÍA NAYA GARMENDIA ..... 243

1.	Introduction .....	243
2.	Educational implications of the Convention .....	244
3.	The implementation of the CRC in Europe .....	247
3.1.	Access to information .....	249
3.2.	Protection against all forms of violence .....	250
3.3.	Non-discrimination: disabled children, children of minorities and indigenous peoples .....	252
3.4.	Ill-treatment, child victims and justice for minors .....	256
3.5.	The right to education, educational aims and play .....	258
4.	Conclusions .....	262

## V. WORKING CHILDREN

### THE STRUGGLE AGAINST CHILD LABOUR: A WINNABLE FIGHT

JOOST KOOIJMANS ..... 267

I.	Introduction .....	267
2.	Child labour today .....	268
2.1.	Some basic concepts: what is child labour? .....	268
2.2.	The extent of child labour today .....	269
2.3.	Priorities in the struggle against child labour .....	270
3.	International standards on child labour .....	270
3.1.	The ILO Conventions on child labour .....	270
3.1.1.	The Minimum Age Convention No. 138 .....	271
3.1.2.	The Worst Forms of Child Labour Convention No. 182 .....	273
3.1.3.	Supervision of the implementation of the Conventions .	275
3.2.	Relationship with the UN Convention on the Rights of the Child and its Protocols .....	276
3.2.1.	A common framework .....	276
3.2.2.	The definition of the child .....	276
3.2.3.	More than just economic exploitation .....	277
3.2.4.	Linkage with the Optional Protocols .....	278
3.3.	Other international instruments relevant to child labour .....	279

## Table of Contents

4.	Linking standards to action .....	279
4.1.	Convention no. 182 and Recommendation no. 190 as a guide for action .....	280
4.2.	The 2006 Global Report: how standards contribute to national action against child labour .....	281
5.	The fight against child labour can be won .....	283
5.1.	What is contributing to the decline in child labour? .....	283
5.2.	The challenges ahead .....	285
6.	Conclusion .....	287

## WORKING CHILDREN'S EXPERIENCES AND CHILDREN'S RIGHTS

ANTONELLA INVERNIZZI .....	289
----------------------------	-----

1.	Introduction .....	289
2.	Facets of children's work: survival, socialisation, participation and exploitation .....	291
2.1.	Children's work as a strategy for survival and improvement of economic conditions .....	291
2.2.	Children's work as socialisation and identity construction .....	293
2.3.	Children's work as participation: autonomy and self- determination .....	297
2.4.	Children's work and exploitation .....	300
3.	Working children's rights .....	304
3.1.	Children as subjects: a child rights approach .....	304
3.2.	The indivisibility of children's rights: which right has the priority? .....	305
3.3.	Conflicting discourses on child labour: which conforms to the UNCRC spirit? .....	306
4.	Conclusion .....	307

## CURRENT CHALLENGES IN ANALYSING CHILD LABOUR IN ROMANIA

MARIA-CARMEN PANTEA .....	309
---------------------------	-----

1.	Introduction .....	309
2.	International regulations on children's work .....	310
3.	Romanian legislation on child labour .....	312
4.	Romania – general context and the incidence of child labour .....	314
5.	Work as “economic activity” or “is children's housework, work?” .....	316

6.	“Children’s work” vs. “Child labour” during communism .....	318
7.	‘Child labourers’ and/ or ‘street children’? .....	320
8.	Poverty and child labour in Romania .....	322
9.	Education and child labour .....	324
10.	Final considerations .....	327

## VI. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

### A ROLE FOR THE COURTS IN ENSURING THE ENFORCEMENT OF THE SOCIO-ECONOMIC RIGHTS OF THE CHILD: OVERCOMING THE ‘COUNTER-MAJORITARIAN OBJECTION’

AOIFE NOLAN .....	333
1. Introduction .....	333
2. A few definitions .....	334
3. A brief comment on children’s position in society .....	336
4. Children as socio-economic rights bearers .....	337
5. The ‘counter-majoritarian objection’ – an introduction .....	338
6. The alleged problems with the courts’ acting assertively to ensure that children’s socio-economic rights are guaranteed in terms of the counter-majoritarian objection .....	340
7. Forwarding children’s socio-economic rights-related interests through democracy – the issue of representation .....	342
7.1. Direct representation of children’s socio-economic rights-related interests in the democratic system .....	342
7.2. Indirect representation of children’s socio-economic rights-related interests in the democratic system .....	343
7.2.1. Representation of children by elected representatives ...	344
7.2.2. Representation of children by parents .....	346
a. Parents representing their own children’s interests ..	347
b. Parents representing children’s interests generally ..	349
7.2.3. Representation of children by adults generally .....	351
7.2.4. Ensuring virtual representation through sympathy or empathy .....	353
7.2.5. Bringing children’s interests/rights to bear through their exercising indirect influence on democratic decision-making processes themselves .....	354
8. The exclusion of children from democratic processes – a blow against the counter-majoritarian objection to judicial intervention to guarantee children’s socio-economic rights? .....	356

## THE CHILD'S RIGHT TO PLAY: THE RIGHT TO BE A CHILD

JAN VAN GILS .....	359
1. Introduction .....	359
2. How to understand the CRC? .....	359
3. How to understand Article 31 of the CRC? .....	360
3.1. The comprehensive approach of the CRC .....	360
3.2. Article 31 .....	363
4. An overview of 18 research projects in a secondary analysis .....	364
4.1. Playing: an open concept .....	366
4.2. Playing outdoors .....	367
4.3. Playing and sports .....	368
4.4. Play and fighting .....	368
4.5. Social characteristic of playing .....	369
4.6. Playing as a privileged domain for autonomous time management .....	371
4.7. Polychronic life .....	371
5. Conclusion .....	372
Annex 1 .....	374

## A RIGHT TO TREATMENT FOR CHILDREN WITH A PSYCHIATRIC DISABILITY. A LEGAL ANALYSIS OF INTERNATIONAL HUMAN RIGHTS LAW

FIONA ANG .....	377
1. Introduction .....	377
2. A right to treatment for children with a psychiatric disability under binding human rights law .....	379
2.1. Health .....	379
2.1.1. CRC .....	379
2.1.2. CESCO .....	380
2.1.3. ESC .....	381
2.2. Cruel, inhuman and degrading treatment .....	381
2.2.1. CCPR .....	382
2.2.2. ECHR .....	382
2.3. Privacy .....	383
2.4. Recovery and reintegration .....	384
3. Conclusion .....	385

## VII. CHILDREN'S RIGHTS AND THE FAMILY

### CHILDREN'S RIGHTS IN RELATION TO THEIR FAMILY

NIGEL CANTWELL .....	389
1. Introduction .....	389
2. "The family": whose roles and responsibilities? .....	390
3. No right to a family .....	392
4. Protection of the family and its role; protection of the child in (or from) the family; protection of the child without parental care .....	392
4.1. Protection of the family and its role .....	393
4.2. Protection of the child in (or from) the family .....	394
4.3. Protection of children without parental care (deprived of their family environment) .....	395
5. International co-operation .....	398
6. Conclusion .....	399

### CHILDREN'S RIGHTS IN FAMILY COURT PROCEEDINGS

RUTH FARRUGIA .....	401
1. Introduction .....	401
2. Children's rights within the family – source of rights .....	402
3. "Best interests" in court proceedings .....	403
4. The family court .....	405
5. The child's right to be heard .....	407
6. Legislation affecting the child's right to representation .....	408
6.1. Commissioner for children .....	409
6.2. Child advocate .....	410
6.3. Guardian ad litem .....	411
6.4. Mediation .....	412
7. Effect of family breakdown on children's rights .....	413
7.1. Residence .....	413
7.2. Maintenance .....	414
7.3. Contact .....	415
8. Feedback from children .....	415
9. Conclusions and recommendations .....	417

## **AUTONOMY RIGHTS VERSUS PARENTAL AUTONOMY**

MEDA COUZENS .....	419
1. Introduction .....	419
2. The CRC and child autonomy .....	420
3. Parental responsibility .....	425
4. Scope for State intervention to secure child capacity for autonomy within the family .....	427
5. Areas of potential conflict between parental views and children's views ..	429
6. Conclusion .....	438

## **THE RIGHTS OF THE ADOPTED CHILD AND THE PUBLIC FAMILY POLICIES IN INTERCOUNTRY ADOPTION**

SALOMÉ ADROHER BIOSCA .....	441
1. Introduction .....	441
2. Approach to the phenomenon and the regulation of intercountry adoption .....	442
2.1. The case: Spanish council of State Advice number 2548/2002 ....	442
2.2. The concept of IA and IA as a social phenomenon .....	444
2.3. The boom of IA in Spain .....	446
2.4. The regulation of IA centred on the pre-adoption period .....	448
3. Protecting the adoptive child after adoption .....	450
3.1. Preventing disrupted adoptions in the pre-adoptive period .....	451
3.1.1. Preparation of the foster parents .....	451
3.1.2. Public determination of the foster parents' capability, suitability and eligibility to adopt .....	452
3.1.3. Information on the child .....	453
3.2. Towards the protection of the adoptive child with post-adoption measures .....	454
3.2.1. Family-friendly policies .....	455
3.2.2. Economic support: adoption subsidies for IA .....	456
3.2.3. Post-adoption services .....	457
3.2.4. Back to the roots policies .....	460
4. Conclusion .....	462

**SILENT KNOWLEDGE: AN EXPLORATORY STUDY OF THE ISSUES  
IN ACTIVISM AGAINST INCEST ABUSE IN INDIA**

NISHA .....	465
1. Introduction .....	465
1.1. Statement of the problem .....	466
1.2. Purpose and methodology .....	467
2. Theories of incest and feminist critique .....	468
2.1. Overview .....	468
2.2. The dysfunctional family theory .....	468
2.3. Psychoanalytic theory .....	470
2.4. Feminist theory .....	472
3. Challenges in working against incest abuse in India .....	475
3.1. Background .....	475
3.2. Unclear profile and ownership of the issue .....	476
3.3. Views of feminists and women's organisations regarding ownership of the issue .....	477
3.4. Limitation of current strategies used to stop incest abuse .....	479
3.5. Lack of adequate research & silence on incest abuse among activists .....	479
3.6. Community reaction to feminists & trends in preventive work against incest abuse .....	481
3.7. Legal challenges in action against incest abuse .....	482
3.8. Poor support services, skills, information and funding .....	483
4. Conclusion .....	484

**SYNERGIES AND TENSIONS BETWEEN WOMEN'S EMPOWERMENT  
AND CHILDREN'S RIGHTS: A CRITICAL ASSESSMENT OF  
WOMEN'S SELF-HELP GROUPS IN ANDHRA PRADESH, INDIA**

NICOLA JONES and MADHURI MUKHERJEE .....	487
1. Introduction .....	487
2. Social capital as a development tool .....	488
3. Research objectives .....	490
4. Methods and sample .....	492
5. Overview of SHGs .....	493
6. Findings .....	495
6.1. Improved awareness and access to information .....	495
6.2. Greater household decision-making power facilitates women's caregiver role .....	497

## Table of Contents

6.3.	Links between social and political capital .....	498
6.4.	Women's access to increased income facilitates investment in child well-being .....	499
7.	Conclusions and policy implications .....	500
	Appendix .....	502

## VIII. JUVENILE JUSTICE

### CHILDREN'S RIGHTS IN JUVENILE JUSTICE: A HISTORICAL GLANCE

	JEAN TRÉPANIER .....	509
1.	Introduction .....	509
2.	Emergence and evolution of juvenile justice .....	509
2.1.	The nineteenth century and the laying of foundations .....	510
2.2.	The creation of juvenile justice (1900–1930) .....	511
2.3.	The consolidation of juvenile justice (1930–1960) .....	514
2.4.	A period of transformation (1960–1990) .....	514
2.5.	Current trends .....	517
3.	The Convention on the Rights of the Child and other United Nations instruments .....	522
3.1.	Procedural safeguards .....	523
3.2.	Protection against restrictions to liberty .....	524
3.3.	Criteria for the choice of dispositions: the offence, the offender, the victim and society .....	526
4.	Conclusion .....	527

### BUILDING A BRIDGE BETWEEN PSYCHOLOGY AND LAW: THE CRIMINAL AND CIVIL LIABILITY AGE LIMITS AND THE CHILD'S COGNITIVE AND MORAL DEVELOPMENT

	NUNO FERREIRA .....	531
1.	Introduction .....	531
2.	Contribution from twentieth century psychology .....	533
2.1.	The concept of moral responsibility .....	534
2.2.	Piaget and the cognitive development of children .....	535
2.3.	The social learning critique .....	538
2.4.	Kohlberg and the moral development stages .....	539
2.5.	Some intermediate remarks .....	542



3.	A sociological perspective .....	543
4.	Legal implications of the contributions from psychology and sociology ..	545
5.	Conclusion .....	547

#### **RIGHTS BASED RESTORATIVE JUSTICE: TOWARDS CRITICAL PRAXIS WITH YOUNG PEOPLE IN CONFLICT WITH THE LAW**

	SHANNON A. MOORE and RICHARD C. MITCHELL .....	549
1.	Introduction .....	549
2.	Canadian context for youth justice .....	550
3.	Understanding restorative justice .....	552
4.	Rights based restorative justice: an analysis of power relations .....	555
5.	Standards of practice, power relations and rights based restorative justice .....	557
5.1.	Minimum standards .....	560
5.2.	Maximising values for restoration .....	561
5.3.	Emergent standards .....	562
6.	Concluding reflections: rights based restorative justice praxis .....	563

#### **THE RIGHT TO BE TREATED WITH HUMANITY: IMPLICATIONS OF ARTICLE 37(C) CRC FOR CHILDREN IN DETENTION**

	TON LIEFAARD .....	565
1.	Introduction .....	565
2.	Deprivation of liberty of children under the (juvenile) criminal justice system .....	567
2.1.	Three forms of deprivation of liberty; arrest, detention and imprisonment .....	567
2.2.	Preconditions of detention under the (juvenile) criminal justice system .....	568
3.	The right to be treated with humanity – Article 37(c) of the CRC .....	570
3.1.	Core article for children in detention .....	570
3.1.1.	Introduction .....	570
3.1.2.	Article 10 of the CCPR – the fundamental part of Article 37(c) of the CRC .....	571
3.1.3.	Relation between Article 10 and Article 7 of the CCPR ..	572
3.1.4.	Needs of a person of his or her age – special features of Article 37(c) of the CRC .....	573

## Table of Contents

3.1.5.	Conclusion – Three elements of the legal status of a child in detention .....	574
3.2.	What should be incorporated in the legal status? .....	575
3.2.1.	Introduction .....	575
3.2.2.	Separation of children and adults .....	576
3.2.3.	Contact with family .....	577
3.2.4.	Minimum Standards for Detention .....	578
4.	Implementation on the domestic level .....	580
4.1.	Implementation is a domestic matter .....	580
4.2.	Dutch youth custodial institutions act .....	581
4.2.1.	Domestic legislation specifically designed for children in youth custodial institutions .....	581
4.2.2.	Benefits and challenges of domestic legislation .....	582
5.	Conclusion .....	583

## RESTORATIVE JUSTICE IN BELGIUM: FROM DREAM TO REALITY

	ISABELLE DELENS-RAVIER .....	585
1.	Introduction .....	585
2.	The impact of the UN Convention on the Rights of the Child .....	585
3.	A new model of restorative justice? .....	586
4.	Legal background in Belgium – restorative measures .....	587
5.	The experience of community service .....	589
5.1.	The concept of “reaction strategies” .....	590
5.1.1.	Adaptation and rationalisation strategies .....	590
5.1.2.	Strategy of indifference .....	591
5.1.3.	Strategy of withdrawal-rejection .....	591
6.	Conclusions .....	591

## *IX. IMPACT OF THE ECONOMIC, POLITICAL AND CULTURAL ASPECTS ON THE APPLICATION OF THE CRC*

### THE CONVENTION ON THE RIGHTS OF THE CHILD PUT TO THE TEST BY POWER RELATIONS AND SOCIAL NORMS IN RURAL WEST AFRICA

	GUY MASSART .....	595
1.	Multi-sited ethnographical research .....	595
2.	Methodological options .....	596

3.	The questions .....	597
4.	Individualisation .....	597
5.	Societal context .....	598
6.	Responses .....	602
7.	Life options .....	603
8.	Social change .....	605
9.	Actions .....	607
10.	The applicability of the CRC .....	608

#### **REFERENCE POINTS IN THE LEGAL DISCOURSE ABOUT THE SEXUAL ABUSE OF MINORS**

	ISABELLE WATTIER .....	609
1.	Introduction .....	609
2.	The field of sexuality and decency: variable reference points .....	610
3.	The assumption of lack of consent: should the legal reference point itself be called into question? .....	613
4.	Morals, the collective consciousness and the “norms on the subject” ...	615
5.	Conclusions .....	619

#### **WORLDS APART FROM THE CRC: “THE TALIBÉ CHILDREN ON THE STREETS OF DAKAR”**

	AHMADOU TALL .....	621
1.	Introduction .....	621
2.	The social situation of talibé children and their fundamental rights .....	623
	2.1. Talibé children and their living conditions .....	623
	2.2. Clear lack of recognition of the rights of the child .....	624
3.	The responsibility of the actors involved in the phenomenon .....	625
	3.1. Exploitation by the marabout .....	625
	3.2. Role and responsibilities of the parents .....	627
	3.3. Action by the State and civil society .....	628
4.	Conclusions .....	630

**X. CONCLUDING REMARKS**

**DOES PRACTICE ALSO WORK IN THEORY?**

KARL HANSON ..... 633

Introduction ..... 633

1. Can one stand on the balcony and in the scene at the same time? ..... 633
2. What is at stake when theory meets practice? ..... 635
3. Can theory help hold things together? ..... 636
4. Can children's rights change social reality? ..... 639
5. If the CRC is not the panacea to change the world, then what is it? ..... 642
6. What shall we do with our darlings? ..... 644
7. Should we distinguish different schools of thought in children's rights? ..... 645

**BIOGRAPHIES ..... 647**