

# Editorial: Challenges of children's rights

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## INTRODUCTION

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Children's rights and related socio-legal issues have become a quite complex and far-reaching agenda for the international community. The most concerning issues, such as the phenomena of child poverty and other forms of deprivation, child labour, global violence against children, the situation of children living with disabilities or with special needs in care, or the burning problems of juvenile delinquency need a multidisciplinary approach at a theoretical as well as a practical level.

Having only emerged in the 1920s in modern legal and political discourse, the field of children's rights is a quite young one, with no autonomous branch of law to cover it. Children's rights not only affect various fields of law, including civil law,<sup>1</sup> criminal law<sup>2</sup> and administrative law,<sup>3</sup> but also appear within the scope of constitutional law<sup>4</sup> and international law.<sup>5</sup>

There is no uniform code of law for children's rights, either. The main source is the *UN Convention on the Rights of the Child* (UN CRC), adopted in 1989. The fundamental principle, on the one hand, is based on the human rights approach, which has now become an unquestionable paradigm. This says that children are entitled to the same rights as the adults, as the former are human beings, too. On the other hand, they are in need of particular protection and support due to their special socio-legal status and age. Such protection and support is to be provided by their caretakers, and ultimately by the state. Consequently, children's rights make their appearance in a number of social and legal relationships. Due to their vulnerability and

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<sup>1</sup>On child custody, see Woodhouse (1999), and Schrama et al. (2021) on child participation in family law.

<sup>2</sup>On criminal accountability and children's rights, see Arts and Popovski (2006) and Cipriani (2016), or Linch (2010) on child-focused restorative justice, and Sloth-Nielsen (2003) and Paré et al. (2022) on children's access to justice.

<sup>3</sup>On the best interests of the child principle in administrative law procedures, see Veselov (2020).

<sup>4</sup>On children's constitutional protection, see O'Mahony (2019) and Nylund (2019).

<sup>5</sup>On international law perspectives, see, for example, Pupavac (2002) and Butler (2012) or van Bueren (2021).

the developing nature of their capacities, children face barriers to their exercise of rights, which means they need a more active institutional protection.

By the end of the 20th century, the field of children's rights had become firmly established. Through the diligence and intensive work of social movements, an international convention ratified by virtually all states in the world recognized the existence and protection of the rights of the child. But where do we stand now, in the third decade of the 21st century, in the field of children's rights?

This thematic issue of the Hungarian Journal of Legal Studies accommodates papers coming from various areas within legal studies, such as family (civil) law or international law, some of them with a more theoretical approach, and some using empirical methods supporting normative research.

The first paper, by Gábor Kecskés and Agnes Lux, focuses on the burning issues of our environment from the perspective of children's rights. Despite data and research explicitly linking environmental harm to children's rights violations, increasing knowledge of environmental crises, and numerous already existing international agreements, the common understanding of the clear relationship between children's rights and the environment is still a matter of debate. The authors offer an overview of the binding international documents, highlighting the close link between children's rights and climate change, and they also analyse the practice of the respective monitoring body within the field. The main contribution of the paper is to serve as an introduction and to offer an insight into the relevant international norms adopted at the environmental 'crossroads' of children's rights.

Another piece with an international focus, by Mark Pap, concerns 'The Right to Respect for Private and Family Life of Children Born through International Surrogacy in the Case Law of the European Court of Human Rights.' It analyses the related cases of the ECtHR, attempting to give an overview of states' obligations to ensure the right of the child born through international surrogacy to respect for his private and family life, in connection with the recognition of the relationship between the intended parents and the child.

Other authors deal with current legal questions in individual countries. Patrizia Rinaldi discusses 'The winding access to legal status for unaccompanied migrant minors in Spain', using an inclusive and participatory approach, partly based on interviews conducted with minors. A comprehensive assessment is carried out on the basis of children's rights, and the social, institutional, and organizational contexts, as well as taking into consideration the policies which condition the protection *milieu* with regard to migrant children and the practices at both general and operative levels.

Orsolya Szeibert's paper, 'The voice of the child and the child's hearing,' deals with a current issue, the child's hearing and the voice of the child in parental responsibility matters and cases. The author's aim was to answer the question of how Hungarian codification, judicial practice, and legal scholarship have changed over the last decade, and how far they have adapted to modern child-focused standards. The significance of the topic emerges from the fact that both the exercise and the rendering of parental responsibilities is somehow problematic in many families, and this difficulty is burdened by the requirements of a child-friendly justice system.

Anwuli Irene Ofuani-Sokolo and Hadiza Omoyemhe Okunrobo focus on 'The child's right to survival and development in Nigeria: The Boko Haram insurgency context'. The drastic impact of the Boko Haram insurgency, which brought the death, abduction, displacement of, and violence against children, cannot be overstated. Moreover, the prevalence of malnutrition,



food scarcity, diseases, and lack of access to water, sanitation, health care and education remains a challenge. Accordingly, this paper seeks to examine the efficacy of the laws and policies in place to protect children's right to survival and development in Nigeria.

The final piece of the collection is a paper with a more theoretical approach, as Giorgia Brucato deals with problems related to 'Children After War: From Moral Development Claims to Welfare and Agency Rights'. The author considers how contexts of war impact children's lives, and argues that such contexts provide opportunities to advance or to set back both the development of moral powers, namely capacities for a sense of justice and a conception of the good, as well as capacities for autonomy. In addition to an interest in satisfying their basic needs and protection, children have an interest in developing their moral powers and growing into autonomous agents.

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