
Mr Rector Magnificus
Distinguished Guests
Dear Colleagues and Friends from Abroad
Ladies and Gentlemen

Introduction

My address is situated within the context of the 25th anniversary of the Convention on the Rights of the Child, the first binding framework for an internationally agreed charter of children’s rights. It is, of course, well known that the CRC was not only the treaty which entered into force the most rapidly, but it enjoys equal fame for its near universal ratification (with only three outstanding states to ratify), and even non-state signatories such as Palestine. Initially, I will focus on the CRC as the supranational treaty, in order to contextualise my subsequent remarks.

The second part of my address focuses on the prospects for regional (and subregional) children’s rights. Although my main area of expertise relates to Africa, I will touch on other regions. The implications, both positive and adverse, for the future of children’s rights at the supranational, regional and subregional levels will constitute the conclusion.

Part 1: The CRC after 25 years

There can be no doubt that children’s rights have come of age; the CRC gave birth to an entirely new terrain of legal and allied endeavours, much as the invention of the motor car spawned
parking garages, Formula 1 racing, and traffic lights (which we South Africans strangely call robots). The initial formulaic citation of pruned down Convention rights by scholars has developed and deepened over time. It has been replaced by detailed and authoritative expositions of specialised areas, each one worthy of comprehensive study. One thinks here of topics such as children and armed conflict, child victims of exploitation, the rights of refugee children, and birth registration. Each was accorded one substantive Convention article, but now requires stand-alone and comprehensive elaboration to determine the required legal response.

It must be recalled that the CRC was initially intended chiefly to be a collation of rights previously found in different human rights treaties, just tailored and elaborated to meet children’s specific needs and interests. At the time of drafting, there were “relatively few clearly recognised child focussed standards”, in terms of “hard law” in particular. Despite the universal character of the two Covenants, the ICCPR and the ICESCR, it was not clear that children were automatically beneficiaries of most of the rights they contained. Hence, the fact that agreement could be reached on the fundamental rights and freedoms applicable to children in the final text of the CRC, with the addition of several groundbreaking innovations such as recognition of the evolving capacities of the child, the primacy of her best interests, and restrictions on certain forms of punishment and deprivation of liberty, were critical achievements. They laid the basis for a “consensus generating” movement.

Commentators of that era noted the extraordinarily comprehensive nature of the treaty, whilst lauding its lack of categorisation of rights into traditional categories: civil and political, social economic and cultural. From this derived the now famous grouping of Convention
rights into the 3 Ps – protection, provision and participation, as Nigel Cantwell wrote in 1992 in his preface to Sharon Detrick’s invaluable work on the Travaux Preparatoires to the CRC. This laid the ground for emphasis on the “indivisibility, equal importance and mutual reinforcement” of Convention rights. This mutuality of rights is reflected, too, in the well known 4 pillars of the CRC identified by the CRC Committee: non-discrimination, best interests, right to life, survival and development and the child’s right to express views. This bedrock of principle, around which all other rights, freedoms, vulnerabilities and exclusions are clustered, remains intact after 25 years.

The achievements of the CRC and the CRC Committee are variously described in rather glowing terms: “Remarkable progress”; “enormous success” and “an ideological fortress”.

Beasley et al ascribe one of the successes of the CRC as being the impetus it gave to rights-based research with children. This was occasioned by the submission of the first reports to the CRC Committee in 1996, which illustrated that available data was insufficient to monitor progress towards implementation of CRC rights (outside of health and education). They conclude that two and a half decades of rights-based research has transformed our understanding of the diversity and lived experience of childhood, not to mention that it continues to “provide a scientific basis for policy and action which also genuinely recognises children’s experiences and priorities”.

Prof Michael Freeman alludes to another benefit: the CRC has brought children’s lives out from the private sphere of the family, and into the spotlight. This was initially inspired by the diligent attention paid in the CRC to children in vulnerable situations –
exploited children, children deprived of alternative care, victims of child labour, sexually abused children, etc. The spotlight fell on the numerous children not growing up in the ideal nuclear family with 2.2 children and a minimum floor of access to socio-economic goods and services. The rendering of the private lives of children as visible has become more pronounced in recent years: the latest data indicates that “an estimated 70 million girls aged 15 to 19 report being victims of some form of physical violence while around 120 million girls under the age of 20 have experienced forced intercourse or other forced sexual acts.” The October 2014 UNICEF publication “Hidden in Plain Sight” details that the primary perpetrators of physical violence against girls were parents and care-givers. In others, it was educators at school. We are only now grappling with the pervasive violence that children experience at the hands of adults. Responses encompass legislative reform, reporting systems and toll free hotlines, establishing local child protection committees, instituting specialised police and investigative units, and committing to “Do No Harm”: the message of the safeguarding children movement.

The international children’s right movement has rightly been described as one of the most powerful social movements of the twentieth century. The recognition of the child’s right to participate and have views taken into account brought into being a new social contract, one which has required profound adjustment. Children’s participation has arguably had considerable transformative impact on the way that young people are perceived in many societies. It has transformed legal institutions and decision-making about children, and driven the creation of a host of new institutions, such as ombuds for children, Children’s Parliaments, and national observatories. It
has reshaped our understanding of children’s testimony, and on how
to elicit their views.

However, the supranational children’s rights movement faces not
inconsiderable challenges.

First, at the conceptual level, it is evident that the CRC must be
treated as a “living document”. New issues have come to light over
the last two and a half decades, such as the displacement of the
inter-country adoption industry to Africa, the growth of commercial
surrogacy in India, and the phenomenon of child-headed households
occasioned by HIV/AIDS. In addition, interpretative ambiguities enjoy
increasing scholarly attention: what is kinship care, for instance, and
is it family care or does it constitute alternative care? An answer is
not merely academic - it would determine the applicability of the UN
Guidelines on Alternative Care and whether state support, both
material and psycho-social, must be provided. Another example:
what is the “highest attainable standard of health” in article 24 of the
CRC? How does this right translate into a definite set of measurable
standards which cover such varying contexts as Highly Indebted Poor
Countries (HIPC's) and other much more well off parts of the earth? A
last example: deprivation of liberty for the shortest appropriate
period of time; for some this can be a maximum sentence of 3 years
(Uganda), whereas for others who still defend their legislation as CRC
compliant, it can be as long as 20 years or more (South Africa). There
is no uniform consensus at this point. Thus, although the CRC
provisions seem cast in stone, textual clarification, interpretation and
standard setting remain a work in progress, with fresh norms and
guidance in many spheres emerging at a steady rate.

Moreover, the variety and complexity of children’s rights is
expanding. Globalisation and technology are placing new frontiers
before us (think of massive increases in mobility and migration, and
the growth of digital technologies, which impact on children’s
exercise of their rights in ways unforeseen even a decade ago). Even
in the developing world, the emergence of children as a consumer
class is rapidly expanding: markets are moving into spaces where
children live. These examples illustrate that whilst the CRC may have
been groundbreaking at the time, some standards are too simplistic
and pared down to take children’s rights to the next level. As Philip
Veerman has said, the Convention is aging, and we need to put our
heads together creatively to imagine directions for future
development, and potential risks yet to come.

Linked to an extent are recurring debates around cultural relativism.
Take the question of early marriage: a formidable array of INGOs and
others have aligned themselves behind a concerted effort to end
marriage for all children under 18. On the other hand, asserting the
child’s right to empowerment, the recent General Comment of the
CRC Committee (No 18) permits, exceptionally, marriage from the
age of 16. Another area where the cracks have begun to show, is in
current debates about infant male circumcision and circumcision as a
preventive measure to combat HIV/Aids. Claims based on the
universality of children’s rights which dismiss culture and religion as
aberrations overlook the extent to which these are still contested,
despite the consensus-building function that the CRC has admittedly
served.

Second, at the practical level, the burden on the CRC Committee
occasioned by the extensive ratification of the CRC soon became
apparent. Under the leadership of Jaap Doek, the Committee
developed a plan to augment the number of members from 10 to 18,
and then to split into two chambers to expedite the consideration of
state party reports. This provided a temporary reprieve. As Doek
notes, “the problems of the CRC Committee are increased ... because it monitors the implementation of the two optional protocols (each ratified by more than 145 countries) in addition to the implementation of the Convention in 193 countries, which is already many more than other committees”. There is now again a delay in the consideration of reports which, once submitted, are scheduled for dialogue years rather than months hence. It has been observed, furthermore, that the Committee lacks the capacity to follow up reports on its concluding observations.

In April 2014, the CRC’s 3rd Optional Protocol entered into force, paving the way for the Committee to receive individual communications about violations. The first admissible communications will probably not reach the Committee soon, since the rule of exhaustion of local remedies applies. However, it is predictable that once the communications procedure becomes embedded in litigation practice, it could potentially increase the workload of the Committee exponentially. For one, the receipt of communications is not linked to a time bound 5 yearly reporting framework, but is potentially a “free for all” at any time. Second, the consideration of complaints could involve a more elongated process, as the Rules contemplate the possibility of oral hearings, and the receipt and consideration of a variety of documents emanating from a vast array of sources; the Committee can also get its hands wet (as it were) with the possibly time consuming process of negotiating a friendly settlement. Even after a friendly settlement or a decision on the merits, the Rules provide for the continued involvement of the Committee in monitoring and follow up, with the necessary reports, visits, and requests to states parties for information. Thus the extension of the CRC Committee’s jurisdiction could well be a double
edged sword: it may detract from the Committee’s other responsibilities and become overwhelming.

Outside of its mandate to consider periodic state reports, the role of the Committee is quite limited. The Convention permits the Committee to recommend to the General Assembly to appoint special representatives to undertake specific studies on its behalf. Two such studies have been commissioned, the Machel study on Children in Armed Conflict in 1996, and the Pinheiro study on Violence against Children of 2006. Both have led to the appointment of special mandate holders, the Special Representative on children in armed conflict, and the Special Representative on violence against children. The special mandate holders have arguably been able to provide a more direct response mechanism, and they have de facto increased the capacity of the supranational children’s rights architecture meaningfully.

The CRC provides the platform for the Committee to make general recommendations on children’s rights issues. Since 2001, the Committee has issued 18 General Comments, which have become ever more concrete and specific, and hence of substantive value domestically. For instance, I know that General Comment (no 3) on HIV Aids has had a meaningful impact on legislative developments in several African countries, and that General Comments have been cited with authority in South African jurisprudence, as Ann Skelton discusses in her chapter in the book “Litigating Children’s Rights” edited by Prof Ton Liefaard and Prof Jaap Doek that will be launched during the forthcoming conference.

But the CRC Committee lacks an express mandate which provides for independent powers of investigation; it does not have the legal ability to commission studies of its own accord, and to undertake
investigative missions outside of the state party reporting process. Doek refers to the possibility of urgent actions in serious situations, but notes that this had not yet occurred. The Committee does not seem to have the function to initiate campaigns itself, although it can contribute to other’s campaigns. Campaigns do fall within the purview of special mandate holders, an example being the campaign “Children, Not Soldiers”, launched in March by the SRSG on Children and Armed Conflict.

In short, the Committee is somewhat hamstrung as regards fulfilling a proactive and forward looking role, though this is through no fault of its own. Both the legal mandate in the Convention, and the part time appointment of Committee members, render these types of functions difficult to contemplate.

A final point concerns the Committee’s concluding observations. Sarah Spronk who will defend her dissertation on children’s rights to health here next week notes that responses to states as diverse as the Netherlands, Iran, Lebanon, Bosnia and Columbia, countries with different levels of development, highly divergent cultures and geographic characteristics, were identically worded. The tendency to supply stock recommendations, whilst understandable in the context of voluminous material the Committee peruses, does point to something of a “distance” between Geneva and affected states parties.

Writing in 2000, Prof Michael Freeman opined that the “UN Convention is a beginning. Near universal ratification is a major accomplishment. A proliferation of regional and international investments in its wake is significant.” This gives rise to my second theme - can regional and subregional systems address some of the concerns and gaps highlighted? What risks could open up?
2. The regional landscape

2.1 Africa

Africa is the regional system with which I am most familiar. The African Charter on the Rights and Welfare of the Child (1990), in force from 1999, is monitored by the African Committee of Experts. I am currently the second vice chair.

The Charter provides the African Committee with an expansive mandate. It echoes the mandate of the African Commission on Human and Peoples’ Rights to receive communications. The Committee has handed down decisions in two communications thus far. A third is in preparation. The communications procedure is described in my chapter in the book “Litigating Children’s Rights” previously mentioned. Suffice it to mention the impact of the “Nubian Children” decision handed down against Kenya in 2011. This decision found violations of the Charter provisions on birth registration and nationality applied to children of Nubian descent born in Kenya. Due to their lack of ancestral land, they had been systematically denied identity documentation and passports. The Committee has already had one follow up delegation to meet with the government, and positive responses were provided about remedial action. The Nubian community is fully aware of the decision. In February 2013, the Kenyan Nubian Rights Forum began operating a paralegal assistance program and by year end had served over 900 clients. My conclusion: the Committee’s decision has placed the paralegals and the community on a much stronger footing to claim documentation to regularize their nationality.

It is of concern that only three communications have been brought to the Committee in 12 years, but there are signs that this might pick
Guidelines for the submission and consideration of communications have now been adopted; Pan-African and international NGOs are reportedly exploring specific issues upon which they would like adjudication.

The Committee’s more generous mandate includes undertaking investigative missions, interpreting the Charter, commissioning interdisciplinary assessments of the situation of children’s rights in Africa, organising meetings, and laying down principles on the rights of children in Africa.

The Committee is responsible for the Day of the African Child (DAC), initially launched by the Organisation of African Unity. It is celebrated on June 16 every year to honour the anti-apartheid contribution of children in the infamous 1976 Soweto uprisings. The Committee selects a theme for the event, using consultations with children held to solicit their views on the theme. The DAC is celebrated in most African countries; in many, the focus has expanded to incorporate the whole month of June.

The Committee has recently produced two General Comments. The first is on the incarceration of caregivers of children. It breaks new ground in addressing sentencing practices, and provides practical guidance to criminal justice agencies and prison authorities on how to fulfil the rights of children and babies when their care-givers, usually mothers, are imprisoned.

The second General Comment relates to Article 6 of the Charter, the right to a name, to a nationality and to birth registration. It links with the current AU to increase the low rate of birth registration in most African countries. We believe that this General Comment is destined to have great impact, given the importance of accurate civil registry information for planning and economic development. Also, the
precise delineation of the nature of the state obligation where children might become stateless is of considerable importance in the international legal architecture.

A third General Comment is at an advanced stage, and two more are planned for 2015. These will all deal with issues not traversed by the CRC Committee: rather, they link to socio-political agendas of the AU.

I wish to highlight the close relationship between the African Committee and civil society. This relationship manifests itself in several ways: first, each ordinary meeting commences with a general dialogue with NGO partners. At the March 2014 meeting, NGOs raised the plight of children affected by the ongoing conflict in South Sudan and Central African Republic. The result was a mission undertaken to engage at grassroots level with affected children and stakeholders. As leader of the mission to South Sudan in August, I am persuaded that it had positive impact, encouraging the Sudanese People’s Liberation Army to formally commit to a documented timeframe for demobilizing all child soldiers within its ranks.

Further, the Committee’s ordinary sessions mostly preceded by a 3 day CSO Forum. Members of the Committee attend the Forum, which provides a structured opportunity for some 450 NGOs from around the continent to share experiences, formulate advocacy positions and shape the Committee’s work.

However, it is no secret that the African Committee lacks the resources (both human and financial) to enable it to work more often and more efficiently. Were it not for partners such as UNICEF and Sida providing financial support, the Committee’s output would
be far diminished. Ordinary meetings are held only twice a year for a week. There are thus considerable constraints to what can be achieved by a resource-poor regional structure.

2016 has been declared the AU Year of Human Rights. The Committee is already involved in continental preparations. An increasing synergy is developing between the Committee and other AU structures, political and otherwise, indicating a positive prognosis for regional initiatives.

2.2 The Americas

Unlike the African system, the American Convention does not require state parties to submit reports. However, it establishes an Inter-American Commission on Human Rights and the Inter-American Court on Human Rights. The Commission can take action on petitions and other communications. The Court in turn can deal with cases of violations submitted by the Commission or by a State Party. The Office of the Rapporteur on the Rights of the Child of the Inter-American Commission was created in 1998 to bolster respect for the human rights of children in the Americas.

The Rapporteurship has an extended mandate which includes undertaking country visits to OAS member states, preparing specialised studies, providing a specialised analysis of petitions affecting children’s rights, promotional activities (seminars and specialised meetings), and in serious situations, requesting states to adopt urgent measures to prevent irreparable harm.

It is evident that the Commission and Court are contributing significantly to an indigenous jurisprudence in the Americas. Monica
Feria Tinta, who also assisted to draft the child rights moot problem that will be debated this week, has reviewed the impact of this jurisprudence in her 2008 book “The landmark rulings of the Inter-American Court of Human Rights on the Rights of the Child”.

To illustrate, the Inter-American system has dealt with matters involving street children, children in armed conflict, the imprisonment of children with their parents, displaced children, abusive conditions of detention, sexual and labour exploitation, corporal punishment, gender concerns relating to “invisible girls” and juridical identity and birth registration, amongst others.

Drawing from Monica’s chapter in the book to be launched, the Court is the international human rights tribunal with most generous powers to grant reparation awards. Measures have ranged from restitutive measures, moral and pecuniary damages including setting up trust funds for beneficiaries who are minors, and measures of satisfaction such as public apologies and acknowledgement of the truth. Steps have been required to honour victims such as naming schools, streets or squares after children, a mausoleum having to be provided for burial of a child’s body, and even setting up web pages for the search for victims.

The Inter-American system is possibly the regional system with the most mature and tested history in the children’s rights sphere. Regional studies can respond to particular legal and policy traditions in a region, and a heightened degree of responsiveness is apparent in the urgent steps that can be taken where grave risks of violations to children’s rights are manifest.

2.3 Europe
The Council of Europe as Europe’s leading human rights organisation, promoting human rights through varied activities that include standard-setting, treaty monitoring and enforcement.

The European Convention on Human Rights has gained relevance in the child rights sphere principally through articles 3 and 8 (inhuman and degrading treatment and the right to respect for private and family life). A considerable literature has developed around the child rights jurisprudence of the European Court on Human Rights, which has used a number of approaches, including the development of procedural rights and a focus on positive obligations. As Ursula Kilkelly notes “The positive-obligations approach has been even more instrumental in effective application of the ECHR to children’s cases. Analysis has shown that this approach has been particularly crucial in the areas of family ties, abduction and reunification, and custody and access under article 8; it has also been important in areas like child protection and abuse covered by article 3, where it has genuinely pushed the boundaries of the state’s duty to protect children from harm”. The result, according to this author “...has enabled the Court to make its own unique contribution to children’s rights through the development of an entirely new set of legal requirements and rules”. It is now common for the ECtHR to list the relevant provisions of children’s rights instruments in its judgments, highlighting the dove-tailing of regional and international children’s rights.

In its legislative guise, the Council of Europe has spearheaded the development of child-specific treaties, such as the 2007 Lanzarote Convention on the Protection of Children Against Sexual Exploitation,

The Council has increasingly played a standards-setting role in various spheres of child protection. There is a Recommendation on the children living in residential institutions (2005), and Rules applicable to juvenile offenders subject to sanctions or measures (2008). In 2010, the influential Guidelines on Child Friendly Justice were adopted. Guidelines on child-friendly health care came into force recently.

As regards policy and programming, regard can be had to the programme Building a Better Europe for Children, to the current COE Strategy on the Rights of the Child 2012-2015, and to the Committee of Experts which will develop the next Strategy for the Rights of the Child 2016-2019. This strategy will be tailored to regional concerns: for instance, Internet and media related issues and the impact of the economic crisis are of major importance for COE member States.

There is also an evident COE advocacy function, for instance, the ONE in FIVE Campaign aimed at equipping children, their families and societies with knowledge to prevent and report sexual violence against children.

The European Union is a more recent entrant into the child rights sphere. Helen Stalford and Eleanor Drywood talk of a sea change in children’s rights at the EU level, since 2006 especially. The Treaty of Lisbon made the promotion of children's rights an explicit objective for the EU, which is bound by the Charter of Fundamental Rights of the European Union. The Commission’s strategy documentation commits it to ensure that own legislative proposals are in full
compliance with the fundamental Charter Rights, including the best interests of the child. The Commission is also working with Member States to see that they comply with the Charter when implementing EU legislation into their national law.

As regards a coordinating function, mention should be made of the European Forum on the Rights of the Child – created by the Commission under German Presidency in 2007. This Forum brings together representatives of Member States, the European Parliament, the Committee of the Regions, the Council of Europe, UNICEF, national observatories, children’s ombuds, civil society and others.

3. Subregional Initiatives

I will now turn to four examples of subregional initiatives. First, the East African Community (comprising founders Kenya, Uganda and Tanzania, now joined by Rwanda and Burundi), established by treaty in 1999 for economic and trade goals. An EAC Youth and Children Strategic Plan 2009-2014 contemplates a unified policy on children’s rights. The historic Bujumbura Declaration on Child Rights in 2012 committed the EAC to develop a comprehensive EAC Child Policy. The EAC’s task is to strengthen interstate collaboration and coordination on issues that affect children, including data collection and monitoring. A policy on child participation is about to be finalised.

A second example is the ASEAN region: an ASEAN Human Rights Declaration of 2012 refers to children’s rights. Although the Declaration is characterised as a largely political document, it is
another “small step” in the evolution of the ASEAN human rights system.

The ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) was inaugurated in 2010, and has since dealt with cyber pornography and prostitution, early marriages, adolescent pregnancies, sexual and reproductive health, juvenile justice, statelessness, and violence against children. The Workplan 2012-2016 reveals deepening engagement with standard setting eg in ECD, child protection systems strengthening, and ongoing consultations on cultural and religious practices affecting children.

The Pacific Island Forum (PIF) provides another emerging example. The Forum provides an important space for member countries to cooperatively address issues arising from their critical lack of human, technical and financial resources. The development of regional resources (such as model laws), donor coordination and collaboration in the form of services pooling have been identified as possible beneficial spin offs.

ECOWAS comprises 15 member states in West Africa, and has paid particular attention (from a children’s rights perspective) to the question of trafficking, dating back to 2001. A Trafficking in Persons Unit is involved in counter trafficking activities, mobilizes resources for Member States and monitors overall implementation of activities. It also implements the ECOWAS Plan of Action on Trafficking in Persons.

4. Analysis of prospects and pitfalls

4.1 Prospects
Having achieved supranational consensus about child rights standards 25 years ago, what are the emerging prospects for regional responses?

At the outset, it is worth noting that the CRC itself envisages a role which encompasses partnerships with other bodies. No other instrument links reporting under the treaty with development cooperation to such a large extent. A “shared monitoring task” has been described, which at the time was innovative. The CRC is thus not inimical to cooperation between global and regional/subregional bodies – it does not have to be an “Either /Or” dichotomy.

Further, the prospects of regional bodies acceding in own name to the CRC is not too farfetched. The EU has already ratified the UN Disability Convention and the 2007 Hague Convention on the Recovery of Child Support. EU ratification of the CRC has been mooted. This indicates that synergy between regional and supranational systems is possible, and this form of “cross pollination” might occur more frequently in future.

Because closer and deeper engagement with members exists at regional level, the potential for more impactful enforcement of children’s rights principles looms. As noted, some regional bodies are able to invoke a proactive approach: the EU via its ‘Fundamental Rights Checklist’, the Inter-American Commission via its urgent measures, and the African Committee undertaking investigative missions. This is a function that a UN monitoring Committee cannot fulfil to the same degree.

In addition, there may be a contribution as regards law-making: eg the EU can pass directives such as the one proposed on procedural safeguards for children accused in criminal proceedings, as well as 2011 legislation on child abuse and exploitation. Legislative
endeavours of regional bodies can have a very concrete and narrowly fashioned remit, such as the EU Regulation of 2013 which requires the training of Schengen border guards on the vulnerabilities of unaccompanied minors and trafficking victims. They can be targeted to getting all members of the regional structure up to speed (as it were), rather than leaving this to member initiative or chance, as individual members may have varying interests and priorities. This is a promising prospect where a regional legislative function exists.

Attention is also drawn to the policy making function that a regional body can leverage. For instance the integration of child protection systems, as envisaged in the EU and mooted by ECOWAS and ASEAN, is arguably an essential corollary to domestic child protection in an era of large scale migration.

Regional groupings can potentially monitor the implementation of their decrees at state/domestic level in a way that the global treaty monitoring system - based largely on the blame and shame of periodic reporting - cannot do. Regional integration mechanisms bring other tools to bear, such as issuing binding directives and forcing the harmonisation of national domestic laws. Even the policy-making function of regional organisations is often superior in impact by comparison to the relatively weaker tools of the CRC Committee, to date chiefly to be found in a motley assortment of General Comments.

Regional entities have an enhanced ability to engage with civil society, and in a far more structured fashion than is possible under the UN system. I referred to this in the African context, but it has also been flagged in the ASEAN developments: “Most remarkable has been the growth of various civil society actors... ...[who have] made a
critical contribution to the development of the regional human rights system in ASEAN, mainly by expanding the human rights discourse across the region...”. Although national and international NGOs play a critical role in the reporting procedures under the CRC, this cannot rise to the level of responsiveness and flexibility of NGO networks at devolved level.

A third advantage arises where regional or subregional structures are coupled to economic development and trade issues – as is the case with the EU, ECOWAS, EAC, and the PIF. Regional bodies are possibly better placed to engage with businesses and enterprises than either global bodies or individual governments, whose local economies might be dwarfed by powerful multinationals. Multinational internet service providers are an example.

Regional economic groupings can also exercise socio-economic influence over their member state’s the power of persuasion then being linked to common economic goals. In European context, for instance, the 2013 Recommendation on Investing in Children: Breaking the cycle of disadvantage calls on Member States to set up social investment targeted at children; crucially, it encourages the use of the EU financial instruments to ensure better outcomes for children.

In the resource poor PIF, regional integrative mechanisms provide the space to address human, technical and financial resource constraints together, rather than each being an “island” unto itself. Eendrag Maak Mag, as we say in Afrikaans.

Next, donor co-operation can more coherently address critical child rights concerns via regional entities. As Wouter van den Hole notes, the EU has considerably extended the attention paid to children’s
rights in its external policies, commencing with guidelines on children and armed conflict in 2003. Since then, the EU has launched various Guidelines on children’s rights in development co-operation, including focussing on child labour, and on violence and exploitation.

Smaller territorial units of governance are supposed to facilitate closer engagement with institutions on the ground. Geographical proximity and, oftentimes, economic similarity of regional members permits a more targeted approach, operationalised at a level which is far closer to both the beneficiaries and the duty bearers. Is one not more likely to be inspired by ones neighbours, than by strangers from other parts of the globe? And a more vigilant reaction to child rights violations is more likely than through the global system.

Finally, it has been suggested that much academic children’s rights discourse is too decontextualized. With such abstract thinking, “the particular social economic and historical contexts...are overlooked.” This criticism is less likely in regional and subregional endeavours, where decision makers are more acutely attuned to the specificities of their context.

4.2 Pitfalls

Regional structures vary enormously in their access to resources, the depth and reach of their constituency, and their ability to make reforms or policies stick. Enforcement mechanisms – eg regional courts – differ too. The African Court must still get off the ground meaningfully. The SADC tribunal had an ignominious demise after finding against despotic Zimbabwe. However, the Inter-American system has been praised.

Further, there are many regions without access or with weak ties to a credible subregional system. Parts of the world may be at risk of
being left behind if attention in children’s rights domain shifts overly to developments at the regional level.

Third, there is the danger of fragmentation, and of the development of contradictory standards at regional level. These may not entirely mesh with supranational norms and rules. A good example of this is in Europe in relation the decision of the European Court in the *Neulingen* case on child abduction, after which regional standards seemed to be slipping away those established in the Hague Convention on International Child Abduction (1983).

Another risk for underresourced regions - maybe even for Europe - is that of a multiplicity of standards, policies, guidance and directives becoming applicable, thereby creating confusion and sapping time and energy.

Fourth, with Europe playing such a prominent role in the development scenario, the risk exists that the resource poor regions will not ultimately develop their *own* children’s rights agenda, but will remain beholden to, and overly influenced by, the global concerns of the North. If ownership of the children’s rights agenda weakens, the opportunity to influence state practice may dissipate.

Do the pitfalls of regionalism outweigh the positive prospects? I think not. The potential for synergistic actions being harnessed towards the overarching common goals established 25 years ago in the CRC is too tantalising to dismiss. In any event, closing the door to regional children’s rights movements is probably tantamount to shutting the stable door after the horse has bolted. The emerging roles of the Council of Europe, the African Committee and the Inter-American
system now have their own trajectory, which cannot simply be wished away.

5. So what can a chair on “Children’s Rights in the Developing World” contribute?

Regionalism in the European context is well developed, with many scholars focussing on children’s rights in the COE, the EU and many other existing European structures linked to children’s rights. My task is to link our annual summer school, our forthcoming Advanced Masters in Children’s Rights, our research and our teaching with children’s rights developments in other parts of the world. Naming a chair specific to the developing world recalls both the North/ South divide as well as the potential of South/ South learning on children’s rights. It creates an impetus to deliberately include a broader perspective on children’s rights in other regions.

The location of this chair at Leiden University is auspicious: many Dutch NGOs enjoy an excellent reputation for aid and humanitarian work: without being comprehensive, DCI, War Child Holland, Child Helpline International, Bernard van Leer Foundation, and Wereldkinderen are just some of the organisations that I have had direct contact with in the field.

6. In conclusion

I would like to conclude by expressing some words of gratitude. First, I would like to thank the Board of Leiden University, the Board of the Faculty and the appointments committee for their trust in me.

A particular word of thanks to the Dean, and to the Institute of Private Law. My heartfelt thanks towards all the staff of the department of child law, my immediate colleagues in the Faculty. I must single out Ton Liefaard and Marielle Bruning for their
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