



## Learning from Practice: Reframing the Scholarly Dialogue on Children's Rights and Sexuality

By Jean Scandlyn

**Of Innocence and Autonomy: Children, Sex and Human Rights**. Edited by Eric Heinze. Aldershot: Ashgate, 2000. 208 pp.

*Carol Bellamy, executive director of UNICEF, said yesterday that organised syndicates were exploiting the crisis in Aceh province. "They have been using sophisticated technology such as SMS messages to people throughout this region offering children for adoption," she said, citing reports from UNICEF's partner agencies in Indonesia. She continued: "Whether it is [for] adoption or exploitation purposes or sex trafficking, these are criminal elements so it is very important not to let them get a foothold" (Aglionby, Steele, and Whitaker 2005).*

*Scotland Yard has set up a child protection unit as part of international efforts to combat the possible trafficking of children in the wake of the Indian Ocean earthquake, it emerged today (Batty 2005).*

*He [Masrizza, head of Aceh Sepakat Foundation] expressed concern that trafficking cases may rise as thousands of infants were among the tsunami refugees who have been pouring into Medan to seek shelter (Jakarta Post 2005).*

The tsunami that struck Southeast Asia in December 2004 displaced and orphaned approximately 35,000 children. Despite worldwide concern that they would be vulnerable to organized schemes of child trafficking and sexual exploitation, two months after the disaster there were very few confirmed cases of child abduction (Aglionby, Steele and Whitaker 2005; Batty 2005; and Hibbits 2005). Five months later, a review of Internet sources suggests that there are still few documented cases of child trafficking and no large scale problems. This does not imply that individuals and groups that traffic in men, women and children for exploitation of their labor and sexuality have not taken advantage of the situation; such cases may emerge over time. However, it does suggest that the spotlight cast by international, national, and local NGOs and government agencies concerned with protecting the rights of children displaced by the disaster may have prevented widespread abuses.

Because a natural disaster of such magnitude mobilizes global resources on a scale difficult to achieve when other needs compete for attention, efforts to combat child sexual exploitation and trafficking in the absence of crisis are inherently less dramatic and less effective. Nonetheless, the

response to concerns raised by the tsunami indicates a growing international consensus that the sexual exploitation of children will not be tolerated and that a child's right to freedom from sexual abuse and exploitation will be defended. Similar concerns and efforts were raised in light of the separation of infants and children from their families in the aftermath of Hurricane Katrina in the United States.

These global and national events signal the need to reframe the scholarly dialog about international human rights, childhood, and sexuality. That reframing must acknowledge not only the richness and complexity of cultural and historical differences in concepts of childhood and sexuality; it must also accord the same depth of analysis to the values and experiences that we share. The reality is that human beings are, and have been for centuries, intimately linked to one another through trade and cultural exchange. In this respect, the United Nations Convention on the Rights of the Child (CRC) is a recognition and codification of a process long underway. Consequently, as Jo Boyden, an activist for children's welfare with extensive experience in sub-Saharan Africa, says, "This brings us to the central issue in the whole debate, which is: what kind of globalization is the Convention going to bring?" (1997: 219).<sup>1</sup> A focus on globalization requires us to move beyond Western and non-Western cultural divides to examine the complex ways in which access to economic and political resources affects both conceptions of childhood and the power relations that impinge upon children's rights.

This growing consensus has developed out of the CRC, adopted in 1990 and presaged by the Declaration of the Rights of the Child of the League of Nations in 1924 (Heinze 2000: 5). Although Poland's first draft of the Convention, submitted for consideration in 1978, received a lukewarm reception from many Western representatives who thought children's rights were adequately covered in existing documents (Rendel in Heinze: 50), once passed by the U.N. General Assembly in 1989, CRC was ratified by all but a handful of nations within a year (Alston 1994).<sup>2</sup>

The CRC differed from previous children's rights documents in stating explicitly children's rights with regard to sex, sexuality, sex work, pornography, incest and abuse. Moreover, children's autonomy and innocence with regard to sexuality were also addressed in the Convention largely in response to the efforts of NGOs working on these issues (Rendel in Heinze). International agencies and NGOs at the international, regional, and national levels are active in actualizing CRC's "four Ps": protection, prevention, provision and participation" (50). UNICEF, Save the Children, the World Tourism Organization and End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT) have all been active in this arena internationally, providing education, documenting the scale and patterns of sexual exploitation and trafficking, sponsoring legislation and gaining the support of professional organizations and private industries to prosecute

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<sup>1</sup> This quotation and Boyden's shift from concern with consensus on the core rights of children to how globalization affects their rights in specific locations, come from a postscript to her original article that was published in a second edition of *Constructing and Reconstructing Childhood*, to which Heinze may not have had access.

<sup>2</sup> A discussion of the history of the CRC is beyond the scope of this essay and may be found in an earlier essay on children's rights and work (Scandlyn 2004).

offenders and protect children, increasing awareness of the problem on a global basis, and empowering children to voice their concerns and speak out against those who exploit them.<sup>3</sup>

*Of Innocence and Autonomy*, edited by Eric Heinze, gathers papers presented by scholars from the fields of law and criminal justice at a conference at the University of London in 1998, which explored the relationship between law and children's rights with regard to sex and sexuality. The articles cover a variety of topics ranging from the two introductory essays on the socially and historically constructed definitions of "childhood," to a discussion of obscenity and Vladimir Nabakov's *Lolita* and an analysis of autonomy among adolescents experiencing gender dysphoria. Despite the common theme of children, sexuality, and international human rights, the volume lacks focus and consistent quality of analysis, and several of the essays lack an integrated discussion of children's rights. Most of the case studies come from Europe; thus the volume is more regional than international in its scope. Consequently, this discussion will focus on the theoretical and historical essays by Eric Heinze, Christine Piper, and Margherita Rendel that do focus on international human rights

A comparison of these essays with the reports and documents presented on the international agencies' websites reveals a significant disjuncture between two critical approaches: legal scholars who explore the definitional dilemmas posed by the CRC; and international agencies that are implementing the CRC's principles. The narrow focus of these essays on definitional issues merely extends the arguments of cultural context and relativity to the realm of childhood sexuality in a way that precludes constructive evaluation of the consensus that already exists (and that the websites reveal). Thus the scholarly focus on whose model of childhood dominates efforts to protect children from sexual abuse and exploitation has several major limitations. First, it often prevents scholars from recognizing and acknowledging the very real successes in improving the conditions of children's lives and the protection of their rights in many parts of the world that have occurred in the context of the CRC. Rather than imposing a rigid view of childhood, as Boyden notes, the Convention has both accommodated local and regional differences in what childhood should look like and enabled the development of consensus on how to protect children from sexual exploitation (1997: 218-219). Second, while paying close attention to the cultural context of the definition of childhood developed in Europe and imposed through the CRC, it does not give equal attention to the cultural context of poverty, limited economic opportunity, and global inequality that contribute to the violations of children's rights with regard to sexual exploitation in non-Western settings. Finally, although critics of the CRC call for more attention to children's voices, children's voices are almost completely absent from these essays.

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<sup>3</sup> Their efforts are reported and evaluated in various documents available on the following websites: *For the Protection of Children from Sexual Exploitation in Tourism*. Guidelines for National Tourism Administration (NTA) Focal Points. [http://www.world-tourism.org/protect\\_children/index.htm](http://www.world-tourism.org/protect_children/index.htm). 18 pp. *Protecting Children from Child Abuse and Exploitation*. Save the Children. <http://savethechildren.net/alliance/publications/childabuse1003eng.pdf>. August, 2003. 13 pp. *Profiting from Abuse: An Investigation into the Sexual Exploitation of our Children*. UNICEF. [http://unicef.org/publications/pub\\_profiting\\_en.pdf](http://unicef.org/publications/pub_profiting_en.pdf). 2001. 44 pp. *Extraterritorial Legislation As A Tool To Combat Sexual Exploitation Of Children: A Study of 15 Cases*. Edited by Sarah Alesander, Marja van de Pavert and Annemieke Wolthus. [http://www.ecpat.net/eng/Ecpat\\_inter/IRC/ePublicTitle.asp](http://www.ecpat.net/eng/Ecpat_inter/IRC/ePublicTitle.asp). ECPAT International, April, 1999. 14 pp. *Five Years After Stockholm*. [http://www.ecpat.net/eng/Ecpat\\_inter/IRC/ePublicTitle.asp](http://www.ecpat.net/eng/Ecpat_inter/IRC/ePublicTitle.asp). ECPAT International. 2001. 188 pp.

### **Childhood Sexuality, Innocence, and Autonomy**

The central scholarly critique of the CRC rests in its claim to provide a truly universal definition of childhood. Article 1 of the CRC defines a child as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier” (UNICEF 2003). But as Heinze states in his discussion of the “universal child,” the definition extends well beyond defining childhood by chronological age: “To universalise children’s rights is to universalise a culturally specific idea of childhood” (3).

That children have their own Convention that seeks to protect their particular rights assumes that they are distinct biologically, psychologically, and emotionally from adults and other categories of persons and, by virtue of those qualities, require care and protection beyond that granted to all individuals under the Universal Declaration of Human Rights and its binding covenants. Both Heinze and Piper trace the origin and development of the specific concept of the child that is the foundation for international law in European history and culture. Heinze, in his paper, “The Universal Child?” identifies four models of childhood drawn from “socio-scientific movements.” The model of the essentialized child derives from psychological and sociobiological theories of development that assume that infancy and childhood are different states of being from adulthood. Human infants progress through a set series of developmental stages in the process of moving through childhood and adolescence to finally enter adulthood. Although these models acknowledge the role of culture and society in shaping what that progression looks like, human development is viewed as an inherently biological process that is therefore universal. The model of the socialized child views childhood as the time when individuals learn to behave as human beings in a particular cultural and historical moment, internalizing the norms and values of their society. This training occurs primarily in the family, but also occurs within the institutions of the state, which socializes its citizens through schools, social welfare policies, the police, and the courts. During the 1960s, the model of the socialized child was challenged by the work of historians, most prominently Philippe Ariès,; social critics such as Michel Foucault,; and anthropologists such as Margaret Mead, who argued that the concept of childhood itself was neither natural nor universal, but a product of specific historical and cultural circumstances. Heinze concludes that the current model is one of the contextualized child that “. . . draw[s] upon broader and more fluid sets of variables—geographic, economic, psychodynamic, including class, gender and race, and including children’s own active, constitutive shaping of their world” (15).

Each of these models of childhood has determined aspects of international human rights legislation regarding children, and has created dilemmas to be addressed. The “essentialized child” is a universal model, and therefore provides a logical foundation for international children’s rights. However, it is problematic for groups that maintain the distinctness of their own models of childhood that may include quite different norms and values with regard to work, sexuality, and other areas that come under the auspices of the CRC. The socialized child model addresses the issues raised by culturally pluralistic societies. But, because it accords primary responsibility for socialization to the state, the state may also act to limit children’s rights. In other words, this model substitutes social immaturity for biological maturity so that until children are fully socialized as adults, their rights are necessarily limited. “Children do not bear full responsibilities, and thus cannot bear full rights” (11). Although the model of the constructed child supports multiple views of childhood behavior, it creates difficulties for the law, which is necessarily formal and rigid and must

treat each individual the same (i.e., universally). The limitations of law thus create room for the codification of norms and values of childhood of the dominant class or society. For example, Jo Boyden argues that child street workers are often viewed as deviant from middle-class European norms and consequently may be punished, incarcerated, or placed in “protective custody” (cited in Heinze 2000). Finally, the model of the contextualized child raises the issue of children’s autonomy. In this model children are viewed as active agents in their own socialization and active producers of culture independent of adults. If children’s capacity for reasoned action and responsibility are more fluid than the earlier essentialist and socialized models suggest, then where does the basis lie for treating them as a special group requiring special protection? If nothing else, in the court of law, domestic and international, argues Heinze, it complicates the regulation of childhood sexuality.

The latter question provides the point at which issues of children’s rights and sexuality emerge as problematic. Western concepts of childhood since the Victorian era generally (with the exception of Freud) equate childhood with sexual innocence and purity. Once the individual demonstrates sexual activity, he or she is no longer accorded the status of a child. Christine Piper’s essay, “Historical Constructions of Childhood Innocence: Removing Sexuality,” explores the contradictions in Western views of childhood and sexuality and how they impact the protection of children’s rights. The child welfare movement that arose in mid-19<sup>th</sup> century Europe and North America “de-sexed” children in order to protect them. Childhood was defined by innocence, ignorance of sexuality, lack of responsibility for sexual acts, and vulnerability to adult sexual desire. Moreover, within this worldview, once a child’s innocence is lost, says Piper, he or she offers a more potent source of temptation and danger to adults. A child who knowingly engages in or initiates sexual acts is no longer innocent, no longer a victim, no longer a child. Whereas this model of the sexually innocent child was useful for protecting children within the context of the children’s *welfare* movement, notes Piper, the children’s *rights* movement, which developed later, requires a more complex approach to childhood. “The images of children which sustain a discourse of rights are those of ‘knowing’ and, in some measure at least, autonomous people with a sufficient level of understanding to exercise rights” (2005: 39). Nevertheless, Piper argues that the image of the child as sexually innocent still carries authority.

Jenny Kitzinger argues that the danger of viewing childhood as a time of sexual innocence lies in creating a class of persons defined by age that leads to their exploitation and oppression. “We need to examine children’s material reality and recognize that children are vulnerable because they *are* children—childhood is a state of oppression (an oppression compounded by discrimination based upon sex, race, class and disability) (1990: 174). Portraying children as innocent and lacking the ability to act to protect themselves obviates any discussion of power, a necessary discussion if we are to effectively combat sexual and other forms of exploitation of children and young people. Short of dismantling the existing infrastructure based on children’s rights, what evidence exists that international agencies are incorporating more contextual views of childhood that take structures of power into account?

### **Putting Principles into Practice**

In the arena of children’s rights and sexuality, the active involvement of NGOs in the drafting of the Convention and subsequent efforts to enforce its principles provide an effective model for

balancing the formality of international human rights legislation with more localized conditions and concepts. The Informal Ad Hoc Group of NGOs formed to assist the Committee on the Rights of the Child in drafting the convention and was to dissolve once the convention was adopted. Instead of dissolving, however, the committee reformed to work toward the implementation of the convention. In 1992 the Children's Rights Information Network was created to ensure that NGOs had information on children's rights. In her essay, "Sexuality and the Convention on the Rights of the Child," Margherita Rendel concludes that the strong role of NGOs created "openness and flexibility" in the Working Group so that "The Convention's provisions became more radical and included more rights. . ." (2000: 61). Because of their role in drafting and actualizing the CRC, it is important to critically review their activities and findings to assess how they represent childhood and how those representations affect, positively or negatively, their efforts to protect children's rights and autonomy. A review of material posted on the websites of key international agencies demonstrates that there is considerable international consensus on the rights of children to be free from sexual abuse and exploitation. It also shows that the concept of childhood they espouse does not lack understanding of and respect for significant cultural differences. The following are brief discussions of key reports posted on the websites of four international NGOs, two of which are special agencies of the United Nations, and two of which are independent organizations each of which is working to support children's rights in the area of sexuality and frequently set the tone and direction for smaller, more locally based agencies and organizations.

### *The World Tourism Organization*

The World Tourism Organization (UNWTO/OMT) is a specialized agency of the United Nations and serves as a global forum for tourism policy issues. Members include representatives from 145 countries, seven territories and over 300 affiliate members that represent private businesses, educational institutions, tourism associations and local tourism authorities. A key component of its mission is ensuring respect for and observance of human rights and fundamental freedoms (UNWTO 2006). As an outcome of World Congresses against Commercial Sexual Exploitation of Children in 1996 and 2001, the UNWTO issued guidelines to "mobilize the business sector, including the tourism industry, against the use of its networks and establishments for the commercial sexual exploitation of children" (2005: 2). As an intergovernmental organization with representatives of the tourism industry as affiliate members, one might expect the UNWTO to adopt fairly conservative definitions and approaches to childhood and sexual exploitation. However, the organization's approach is multi-faceted and is reflected in policy statements and codes of organizations of the tourist industry such as the International Hotel and Restaurant Association and The International Federation of Tour Operators. First, the UNWTO does place the sexual exploitation of children as the main issue in addressing "organized sex tourism" arguing that "sexual abuse and sexual exploitation of children and youth are never tolerated" (2005: 6). Although the organization's position uses CRC as a basis for its stance on protecting children and refers to them as "victims," it does not emphasize children's sexual innocence, but the need to protect their dignity and worth in the context of human rights for all persons. The UNWTO thus focuses on protecting children for several reasons. First, children and youth represent a large proportion of the individuals who are used in pornography, sex work, and sex tourism. Second, the UNWTO states that because "Child victims of sexual exploitation when grown up tend to repeat sexual abusive behaviour

towards other children,” (2005: 7), protecting children furthers the UNWTO’s goals of ethical practice, the promotion of peace, mutual understanding and respect for all peoples, and sustainable development. Finally, the UNWTO recognizes the commercial sexual exploitation of children as a form of child labor and economic exploitation that is intimately linked to conditions in the world political economy that foster it. Thus, although the UNWTO sees the transmission of sexual exploitation as occurring through its deleterious effects on *individual* children, it also recognizes that widespread poverty and inequality contribute to its existence.

The guidelines are directed to National Tourism Administrators in member countries. They are intended to provide options in combating sex tourism while recognizing that political, social, and cultural differences, as well as the nation’s place in the global political economy, will affect which strategies are adopted. The UNWTO does not constitute a legal body with the authority to enforce legislation. Therefore, its activities necessarily focus on voluntary compliance with “softer” measures, such as detection and surveillance, enforcing norms and principles in the tourism industry, raising public awareness, collaborating with organizations that are active in combating sexual exploitation of children, and knowing the legal instruments. Examples include producing videos on sex tourism that can be shown on airline flights; training of workers in hotels, restaurants, and other tourist-based businesses to recognize sexual exploitation and how to handle incidents; and placing informational exhibits at tourism industry fairs. Direct efforts, such as intervening in incidents of sexual exploitation of children in tourism or not allowing tourism networks to be used for such purposes, are mentioned as part of the tourism sector’s primary responsibilities. However, this aspect is not emphasized in the subsequent guidelines. Sustainable economic development, though a goal mentioned in the organization’s mission statement, is not embraced as a mechanism for fighting the sexual exploitation of children and young people.

#### *United Nations Children’s Fund*

As an international agency not directly tied to commercial interests, the United Nation’s Children’s Fund (UNICEF) does base its approach to understanding and combating the sexual exploitation of children to the local and international political economy. Despite its use of dramatic personal narratives<sup>4</sup> to illustrate its points, UNICEF’s report, *Profiting from Abuse* begins with a discussion of the link between structures of economic and political power and the sexual exploitation of children and the necessity of recognizing specific local and regional conditions (2001: 3). The reports of UNICEF-sponsored programs in five countries (Nigeria, Italy, Albania, Cambodia, Kenya, and the Dominican Republic) follow. These programs use a variety of approaches: educating children about sexual exploitation, reintegrating sexually abused children into schools, enrolling children in vocational training to provide alternatives to sex work, and educating communities about these issues. Two of these reports discuss the role of legal institutions in identifying and prosecuting those who are involved in trafficking in children. One example is the U.S. Trafficking Victims Protection Act, passed in 2000, that provides not only for prosecuting traffickers but also provides assistance to other countries to develop effective laws against trafficking

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<sup>4</sup> I agree with Katherine O’Donovan (in Heinze: xii) that we must listen to the voices of children to understand their experiences and perceptions of sexuality and sexual exploitation. This must be done thoughtfully, however, to avoid merely sensationalizing their experiences.

and “to enhance economic opportunity for potential victims in an effort to deter trafficking” (UNICEF 2001:6). In a country that more frequently individualizes widespread social problems, this is an exceptional stance.

A second example, in the report by Shifman and Franzblau included in *Profiting from Abuse*, “Trafficking: Legislative Responses,” acknowledges the limits of stringent anti-trafficking laws when the demand for sex workers is high. For example, Bangladesh, where trafficking entails penalties of life imprisonment or death, nonetheless sees 10,000 - 15,000 girls and women trafficked each year to India where girls and young women are especially valued as being free from sexually transmitted diseases (2001: 15-16). The UNICEF report concludes with a list of “Signs of Progress.” Though the effort expended is considerable, the report does not provide much evidence of its effectiveness in reducing the numbers of children trafficked. Although UNICEF is not directly responsible for generating this legislation, it does take responsibility for monitoring and supporting legal efforts within and between national governments.

#### *ECPAT International*

In contrast to the UNWTO and UNICEF, for whom sexual exploitation of children is but one item on a larger agenda, ECPAT’s stated purpose is to end the commercial exploitation of children. One of its primary activities is to implement the Agenda for Action adopted at the First World Congress against the Commercial Sexual Exploitation of Children in Stockholm, Sweden, in 1996. Although the Stockholm Agenda for Action does include the language, “the right to enjoy childhood,” its definitions of childhood are neither simplistic nor lacking in the acknowledgement of children’s agency and ability to act on their own behalf. The agenda also acknowledges the role of poverty in contributing to sexual exploitation of children, but does not accept poverty as an excuse for such behavior. The annual reports on the progress of the Agenda for Action posted on ECPAT’s website demonstrate a growing international consensus that using an international venue to avoid punishment for sexually exploiting children will not be tolerated. Studies such as the one ECPAT sponsored on extraterritoriality provide detailed, comprehensive guidelines for revising national statutes to conform to international law and policy. For example, the report suggests that the current requirement that the action must be defined as a crime both in the location where it occurs and in the country of the person who perpetrated it must be dropped so that perpetrators cannot “hide” behind the more lenient laws. The report concludes that nations must adopt a more truly international stance toward such crimes.

#### *Save the Children*

Of the four organizations surveyed, Save the Children’s “Protecting Children from Sexual Abuse and Exploitation” is the least sensationalistic, the most comprehensive, and the most nuanced report. Beginning with statistics on the prevalence of child sexual abuse and exploitation worldwide, the policy frames its recommendations within the mandates of the CRC. Neither their discussion of children and youth nor their definition of sexual abuse includes references to innocence, purity, or passivity. Whereas the policy states the need to protect children from abuse, it is strong in its assertion that children are not victims and that their experiences must be considered seriously:

*However, the term of victim may not accurately capture the situation as it does not emphasise the rights and dignity of sexually abused children. Stigma and shame may also follow as an unintended effect of this victimization. Save the Children believes that interventions have to be informed by the experiences, resilience and views of the children. The participation of children in developing positions and programmes is essential to Save the Children (2003: 2).*

More importantly, the policy acknowledges the role of “structural power imbalances between generations, sexes, classes, ethnic groups and races,” and asks agencies to look beyond sexual deviance to issues of power and control when designing programs to end child sexual abuse.

### **Protecting Children’s Rights vs. Protecting Children**

UNICEF’s report, “Profiting from Abuse,” states that “The most effective responses to the abuse take into account specific local and regional factors, and include an understanding of the different ways in which children are exploited, the places where children are exploited, the methods used to recruit them and the procedures used to retain them” (2001: 7).

Thus Heinze’s advocacy for a “contextualized child” has already been achieved at least at the international level, something that Jo Boyden recognizes in the postscript to an article that she published in 1990 that similarly criticized the western-based view of childhood being imposed through international human rights initiatives: “What we have in 1996, then, and what was absent in 1990, is an instrument with very real institutional power which frames in international law the global childhood ideals which were the subject of my original article” (Boyden 1997: 216). Thus, while trying to oppose the cultural hegemony of the West, scholars often fail to acknowledge that cultural change works both ways: the West and its conceptions are changed and modified, too. As noted previously, Rendel, in this volume, notes the important role that NGOs, many based in non-Western countries, played in drawing up the regional guidelines for implementing the CRC. It is also important to remember that, even though it is hegemonic, the Western ideal of childhood has also facilitated positive changes. For example, it mobilized social action for worker safety that benefited both adults and children and created the conditions from which sexual abuse and exploitation of children could be brought to awareness and addressed. Children living in non-Western countries merit the benefits of such protection.

What these agencies face, and refuse to tolerate, is a highly institutionalized and commercialized behavior that is global, multi-faceted, complex, highly lucrative and that causes much suffering for children and actively violates their human rights. AnnJanette Rosga, who recently completed a study of child sex trafficking in Bosnia-Herzegovina, criticizes some interventions for oversimplifying and attributing all sex trafficking to organized crime. “People often think that all child sex traffickers kidnap their victims, but in many cases the children end up funneled into the system by their own families because of extreme poverty.” Yet Rosga adds, “Sometimes the children leave home voluntarily because of abuse or other harmful conditions” (Office of News Services 2005). While Rosga correctly points out that “rescue efforts” often fail because they simply return children to poverty and abuse, to suggest that these children are acting “voluntarily” when they enter the sex trade is equally naïve. When options are so limited and uniformly dismal, we speak of “voluntary action” or “respecting children’s autonomy” at the risk of their health and survival.

Nor does this critique incorporate a very sophisticated view of power. Children in every society are under the control of adults. Therefore, it is important to constantly question what that control looks like and whose interests it serves—whether those adults are agents of the state—if children are defined as fully independent individuals, or are the child’s parents or guardians. A consistent theme in these agencies’ reports is the reluctance of children and adults in a variety of societies to report sexual abuse and exploitation because of the stigma and shame associated with it. Again, this raises the question of whether different societies have different conceptions of childhood or have different capacities to protect children’s rights. Research consistently shows that the majority of sexual abuse of individuals under the age of 18, of both males and females, occurs in the context of unequal power: For example, abusers may use physical force (either weapons or differences in physical size) or entice minors to engage in sexual acts to obtain access to economic or other resources such as work or housing or a combination of these (Save the Children 2003; UNICEF 2001; Bourgois 2004).

When children are given the opportunity to speak, as they are in many of the reports published on these websites, their stories, like this account by a boy from Tijuana, Mexico, indicate the complexity of the situation:

*They [other boys] invited me to take drugs and at first I didn’t want to but then I wanted to see what it felt like. I slept in the streets. I lay down anywhere. I’m 14 now and I’ve got to like being in the streets . . . some clients come and look for us when we’re in the centre playing on the machines. If you like the price, you go, if not, you don’t . . . Some offer you 10 dollars to go to their homes, but you say 30 or it’s not on. . .”*  
(UNICEF 2001: 9).

### **Reframing Our Analysis**

The most significant power issues on an international scale are those among nations and regions that have significant differentials in wealth and the capacity of their states to enforce protection of their citizens. Thus, though Heinze calls for a contextualization of childhood, he fails to account for the context in which children are sexually exploited and abused. Poverty and domination do not only occur when Western nations impose their views of childhood on other nations and international organizations, but more importantly, when they support or create unequal access to jobs, education, health care, and political power within and between countries. This is to misunderstand culture as an explanation for difference: as Paul Farmer states, to “conflate culture with poverty” (1999: 7). It is often not cultural beliefs and values about children that are the source of difference in how they are treated and what is expected of them, but the economic and political conditions under which they live.

To maintain focus on Western *cultural* hegemony is to contribute to a “collective misrecognition” (Bourdieu 1998) of the political and economic sources of the sexual exploitation of children. As Katherine O’Donovan notes in her preface to the volume, “The fear is that the universal child traps all other children, denying their diversity and excluding those who cannot fit. Yet might not these fears also be based on subsequently falsifiable theories?” (cited in Heinze: xi).

In describing the situation in Cambodia, the UNICEF report, “Profiting from Abuse” states:

*Mr. Phat and the villagers he works with have seen for themselves that children are at risk for sexual exploitation when parents are not able to provide them with protection and support. Poverty, especially, creates dangerous situations for children. In Battambang province, poor and landless mothers and fathers struggle with addictions to alcohol, drugs and gambling, and children are victims of domestic violence, physical and sexual abuse and neglect. Some parents leave their homes to search for work on the Thai side of the border, leaving their children behind. Many children do not go to school (2001: 24).*

As this example illustrates, Cambodian parents do not necessarily have a radically different conception of childhood with regard to sexuality; they do lack economic alternatives for themselves and their children. What may be more problematic here is the dominance of western conceptions of individual free choice that place inordinate responsibility on individuals with few options available to them. In this respect, children are fortunate in that their lack of autonomy is openly acknowledged and addressed in the CRC.

## Conclusion

What the reports published on these websites demonstrate is that, in the context of globalization and international human rights, it is not only cultural ideals that move across national and cultural borders, but the conditions of autonomy as well. Not only are children in many nations sexually exploited and abused, the context in which these acts occur frequently limits the autonomy of the adults who would protect their children and generates economic rewards for those who exploit them. This does not deny the importance of respect for cultural variation in norms and values concerning childhood and sexuality; however these reports suggest that, at least in their formal reports and policies, these agencies are using a contextualized view of childhood. Further study of institutional practices in various settings would test to what extent it has been achieved.

This is the trap of deconstruction: once the concept of childhood is deconstructed there is little room for action. A more productive approach would be to focus scholarship on the everyday realities of children's lives. Katherine O'Donovan concludes the preface to *Of Innocence and Autonomy* by exhorting scholars, "Above all, we must be open to hearing the voices of childhood" (xii). Yet children's voices and any discussion of research into the factors and conditions that generate sexual abuse and exploitation of children are absent from these discussions.

This is not to dismiss an examination of the law as one arena in which we struggle to "solve the morally textured problems of sexuality" (3). In fact, such an examination is key to the effective protection of children's rights. But in doing so, our use of culture to explain difference must be broadened and contextualized to account for differences in economic resources and political power both within and between nations. As Heinze aptly notes, "Law is stability, constancy, predictability" (20), whereas human behavior is dynamic and messy. It is at this intersection of conceptual models and behavior where critical analysis can help us to both protect children from sexual abuse and exploitation while supporting their autonomy.

Both scholars and activists are faced with trying to change behavior that is entrenched not so much in universal or local conceptions of childhood, but in global oppression and inequality. That children as a group are exploited and abused is a reflection of the exploitation and abuse of nations and regions of the world. Rendering that behavior illegal, and creating an international culture that does not tolerate the violation of children's rights, is a small but important step. If that effort is

enhanced by an outmoded but powerful image of children, then it may be the price of working for change within the system as it exists. Until poverty, unemployment, unequal development and distribution of wealth are successfully addressed, children are a group that requires protection. Scholars can make a greater contribution to this effort if they keep apprised of how their cautions and criticisms have been incorporated into the work of activists.

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