**Child Law**

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**Introduction**

The UN Convention on the Rights of the Child (1989) is a legally binding international treaty that sets out children's civil, political, economic, social, health, and cultural rights. It has been ratified by every member of the United Nations except for the United States, making it the most successful human rights treaty to date. The Convention has significantly impacted the rights of children worldwide, including in England and Wales. In England and Wales, the Convention has been incorporated into domestic law through the Children Act 1989, which sets out the general principles of the Convention and provides a framework for protecting and promoting children's rights. The Act also established the Children's Commissioner for England and the Children's Commissioner for Wales, who are independent advocates for children's rights and work to ensure that children's voices are heard in decision-making processes that affect them. One of the key provisions of the Convention is the recognition of the inherent dignity and worth of every child, regardless of their background or circumstances. This has significantly impacted how children are treated in England and Wales and have led to a greater focus on promoting the child's best interests in all decision-making processes that affect them. In this essay, we will explore the relevance of the UN Convention on the Rights of the Child within England and Wales. We will examine how the principles outlined in the treaty have been implemented in these countries and assess the impact it has had on children's rights.

**History of the UN Convention on the Rights of the Child**

The United Nations Convention on the Rights of the Child (UNCRC) is a human rights treaty adopted by the United Nations General Assembly on November 20, 1989.[[1]](#footnote-1) The Convention sets out the civil, political, economic, social, and cultural rights of children and defines a child as any human being under 18. The Convention is the most widely ratified human rights treaty in history, with 191 countries having ratified or acceded to it as of 2021.

The idea of a Convention on the Rights of the Child first emerged in the aftermath of World War II, as the international community began to reflect on the rights and needs of children in the wake of the devastating conflict. In 1946, the United Nations established the United Nations International Children's Emergency Fund (UNICEF) to assist children in war-torn countries. The organization's mandate was later expanded to include the promotion of the rights and welfare of children globally.

In the following decades, several international instruments were adopted to protect the rights of children, including the Declaration of the Rights of the Child in 1959 and the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1966.[[2]](#footnote-2) However, these instruments did not specifically address children's rights and did not provide a comprehensive framework for protecting children's rights.

The process of drafting the UNCRC began in 1979 when the United Nations General Assembly adopted a resolution establishing a working group to draft a convention on the child's rights.[[3]](#footnote-3) The working group was composed of representatives from governments, NGOs, and UN agencies, and it held a series of meetings over the next decade to draft the text of the Convention.

One of the key challenges faced by the working group was determining the appropriate rights to include in the Convention. There was disagreement among member states about the scope of the Convention, with some countries arguing that it should focus on civil and political rights. In contrast, others argued that it should include economic, social, and cultural rights. Ultimately, the working group decided to include all these types of rights in the Convention, recognizing that they are all essential for children's full development and well-being.

The United Nations General Assembly adopted the final text of the Convention on November 20, 1989, and it was opened for signature on September 2, 1990. The Convention was enacted on September 2, 1990, after 20 countries ratified it.[[4]](#footnote-4) The Convention has 54 articles that lay out the rights of children and the obligations of states to respect, protect, and fulfill those rights. Some of the key rights included in the Convention are the right to life, survival, and development; the right to be free from discrimination; the right to express one's views and to have access to information; the right to play and leisure; the right to education; the right to an adequate standard of living; the right to be protected from abuse, neglect, and exploitation, and the right to participate in family, cultural and social life.

The Convention also established a monitoring and reporting system to ensure that states are held accountable for respecting, protecting, and fulfilling children's rights.[[5]](#footnote-5) Under this system, states must submit regular reports to the UN Committee on the Rights of the Child, composed of experts in children's rights. The Committee reviews the reports and recommends to states how to improve their compliance with the Convention.

The Convention has been widely ratified and has significantly shaped how the world views and treats children. It has provided a framework for developing national laws, policies, and programs related to children's rights, and it has helped raise awareness of children's needs and rights.

**Implementation of the UN Convention on the Rights of the Child in England and Wales**

In England and Wales, several laws and policies implement the UN Convention on the Rights of the Child (UNCRC). The Children Act 1989 and the Children Act 2004 are the main pieces of legislation that affect the UNCRC in England and Wales. These acts set out the rights and responsibilities of parents, guardians, and other adults who care for children and establish the powers and duties of local authorities and other agencies concerning children and young people.

One of the key provisions of the Children Act 1989 is the concept of the "welfare principle," which requires that the child's welfare is the paramount consideration in any decision made about a child.[[6]](#footnote-6) This principle is reflected in several other provisions of the Act, including those relating to the care and protection of children and the arrangements for children in need.

The Children Act 2004 builds on the provisions of the 1989 Act and introduces several additional measures designed to protect the rights of children and young people.[[7]](#footnote-7) For example, the Act establishes the Children's Commissioner for England, who is responsible for promoting and protecting the rights of children and young people and investigating complaints made by children and young people about breaches of their rights.

Another important legislation contributing to the implementation of the UNCRC in England and Wales is the Education Act 1996.[[8]](#footnote-8) This Act sets out the rights of children and young people to education, including the right to a free, compulsory education from the age of five to 18. It also establishes the powers and duties of local authorities concerning education, including their duty to ensure that all children and young people have access to suitable education.

The Mental Health Act of 1983 is another important legislation contributing to implementing the UNCRC in England and Wales.[[9]](#footnote-9) This Act sets out the rights of children and young people to mental health care and establishes the powers and duties of local authorities and other agencies concerning mental health care.

Finally, the Human Rights Act 1998 is an important legislation that affects the UNCRC in England and Wales.[[10]](#footnote-10) This Act incorporates the European Convention on Human Rights into domestic law. It requires that all public bodies, including local authorities and other agencies, act compatible with the Convention. The government of England and Wales must regularly report to the United Nations Committee on the Rights of the Child on the steps it has taken to give effect to the UNCRC.

To implement the UNCRC in England and Wales, the government must take a holistic approach that addresses all the rights in the Convention. This means that the government should focus on implementing specific laws and policies and ensure that all its actions and policies are aligned with the UNCRC. Additionally, it is important that the government engages and involves the children, youth, and other stakeholders in the policymaking process, as well as reporting and monitoring the progress made.[[11]](#footnote-11)

**The Impact of the UN Convention on the Rights of the Child on the Rights of Children in England and Wales**

The UN Convention on the Rights of the Child has significantly impacted the rights of children in England and Wales. It has helped to raise awareness of the importance of children's rights and has influenced the development of policies and practices that aim to promote the welfare of children.[[12]](#footnote-12) It has also played a role in shaping how children are perceived and treated in these countries, with greater recognition of children's rights and the need to protect and promote their welfare.

One of the key ways the UN Convention on the Rights of the Child has impacted the rights of children in England and Wales is by establishing the child protection system, which is designed to identify and intervene in cases where children are at risk of abuse or neglect. This system, governed by the Children Act 1989, has helped to ensure that children at risk of harm receive the protection and support they need.[[13]](#footnote-13) It has also played a role in raising awareness of child abuse and has contributed to a decline in the rate of child abuse in these countries.

Another way the UN Convention on the Rights of the Child has impacted children's rights in England and Wales is by promoting the right to education. The Education Act 1996 requires local authorities to provide education for children aged 5 to 18 and sets out the framework for the education system in these countries.[[14]](#footnote-14) This has helped to ensure that children have access to education and have the opportunity to reach their full potential. It has also contributed to an improvement in educational outcomes for children in England and Wales.

The UN Convention on the Rights of the Child has also impacted children's rights concerning health care. The Convention also recognizes the right of every child to the highest attainable standard of health and the enjoyment of the highest attainable standard of physical and mental health. This has resulted in the development of several policies and initiatives to improve children's health in England and Wales, including the NHS Child Health Promotion Programme and the Healthy Schools Programme.

Overall, the UN Convention on the Rights of the Child has significantly impacted the rights of children in England and Wales. It has helped to raise awareness of the importance of children's rights and has influenced the development of policies and practices that aim to promote the welfare of children. It has played a role in improving the protection and support available to children at risk of harm. It has contributed to improving the education and health of children in these countries.

**Challenges to the Implementation of the UN Convention on the Rights of the Child in England and Wales**

Despite the significant impact that the UN Convention on the Rights of the Child has had on the rights of children in England and Wales, there are still challenges to fully implementing the treaty in these countries.

One of the main challenges to implementing the UN Convention on the Rights of the Child in England and Wales is the lack of resources and funding for initiatives that aim to promote children's rights.[[15]](#footnote-15) This can make it difficult for local authorities and other organizations to implement the treaty's provisions and provide the necessary support and protection for children. For example, there may not be sufficient funding for programs that aim to prevent child abuse or to support children who have been abuse victims. This can have a negative impact on the rights of children and their ability to realize their full potential.

Another challenge to implementing the UN Convention on the Rights of the Child in England and Wales is the lack of awareness of the treaty among some sections of the population.[[16]](#footnote-16) This can make it difficult to ensure that the principles of the treaty are properly understood and implemented. Some people may not be aware of the rights that children have under the treaty or may not understand the importance of these rights. This can make it difficult to ensure children's rights are respected and protected.

There have also been instances where the provisions of the UN Convention on the Rights of the Child conflict with other laws and policies in England and Wales.[[17]](#footnote-17) For example, there have been cases where the rights of children have been limited to protect the rights of others, such as in the case of freedom of expression. This can create challenges in ensuring children's rights are respected and protected.

Another issue in implementing the Convention is the lack of a consistent and coordinated approach across the different regions of England and Wales. Each region is responsible for implementing the Convention, resulting in a lack of uniformity in protecting and promoting the child's rights.

There are also challenges related to enforcing the UN Convention on the Rights of the Child in England and Wales.[[18]](#footnote-18) While the treaty has been incorporated into domestic law, there have been instances where children's rights have not been properly protected or where children have not had access to effective remedies for violating their rights. This can make it difficult for children to assert their rights and seek justice when their rights have been violated.[[19]](#footnote-19) Furthermore, some experts argue that there is a lack of proper monitoring mechanisms to evaluate and oversee the implementation of the Convention and to hold accountable those who fail to meet the standards set by the Convention.

Despite these challenges, the UN Convention on the Rights of the Child remains a powerful and influential instrument that has significantly impacted the rights of children in England and Wales. It has helped to raise awareness of the importance of children's rights and has influenced the development of policies and practices that aim to promote the welfare of children. Efforts must be made to address the challenges to the full implementation of the treaty and ensure that children's rights are protected and promoted.

**Solutions**

To address the challenges to the full implementation of the UN Convention on the Rights of the Child in England and Wales, several solutions can be considered, such as Increase funding and resources for initiatives that promote the rights of children: Local authorities and organizations can advocate for increased funding and resources to support programs and initiatives that promote the rights of children, such as preventing child abuse and supporting victims of abuse. This will help ensure that the necessary support and protection are provided to children.

Raise awareness of the treaty: Efforts can be made to raise awareness of the UN Convention on the Rights of the Child among the population, particularly those who may not be aware of children's rights or the importance of these rights.[[20]](#footnote-20) This can be done through education and awareness campaigns, as well as through training and capacity building for professionals who work with children.

Address conflicts between the Convention and other laws and policies: When conflicts arise between the Convention and other laws and policies, efforts should be made to reconcile these conflicts in a way that prioritizes children's rights. This may involve engaging in dialogue and consultation with stakeholders and engaging with the legislative process to make necessary changes to laws and policies.

Coordination and consistency: To ensure that the Convention is implemented consistently across the different regions of England and Wales, there can be a mechanism of coordination and consultation in place between the regions. This will allow for the sharing of best practices and the identification of common challenges and help ensure that children's rights are respected and protected uniformly across the country.

Enhance enforcement mechanisms: To effectively enforce the rights of children, there can be a robust monitoring mechanism to evaluate and oversee the Convention's implementation and hold accountable those who fail to meet the standards set by the Convention.[[21]](#footnote-21) This can include independent monitoring bodies and mechanisms for children to report violations of their rights and seek remedies.

In summary, implementing the UN Convention on the Rights of the Child in England and Wales requires a concerted and consistent effort from the government, civil society, media, educators, and parents to ensure children's rights are protected and promoted. Addressing the challenges that impede the implementation of the Convention will require a multi-faceted approach with collaboration and cooperation across sectors.

**Conclusion**

The UN Convention on the Rights of the Child is a legally-binding international treaty that outlines the rights of children and has been ratified by every member of the United Nations, except for the United States and South Sudan. In England and Wales, the principles of the treaty have been incorporated into domestic law through the Children Act 1989 and the Human Rights Act 1998 and have significantly impacted children's rights in these countries. On that note, the UN Convention on the Rights of the Child is a vital instrument that has played a crucial role in shaping children's rights in England and Wales. It has been incorporated into domestic law and has significantly impacted the development of policies and practices that aim to promote the welfare of children. Despite this, there are still challenges to the full implementation of the treaty, including a lack of resources and funding and a lack of awareness of the treaty among some sections of the population; it remains a powerful and influential tool in the protection and promotion of children's rights. It is important that efforts are made to address the challenges and ensure that children's rights are respected, protected, and promoted in England and Wales.

References

“Access to Family Justice: England and Wales” [2016] Family Law in Britain and America in the New Century 203

“Article 12 of the UN Convention on the Rights of Children” [2018] Children's Rights: New Issues, New Themes, New Perspectives 260

“Children Act 1989” [2020] Hershman & McFarlane Children Act Handbook

“Convention on the Rights of the Child” [2019] United Nations Essential Documents Series 12

“International Covenant on Civil and Political Rights” [2020] A Commentary on the International Covenant on Civil and Political Rights 860

“United Nations Convention on the Rights of the Child (UNCRC)” [2020] The SAGE Encyclopedia of Children and Childhood Studies

Burton F, “Education Act 1996 (1996 c. 56)” [2015] Core Statutes on Family Law 221

Herring J, “Farewell Welfare?” (2005) 27 Journal of Social Welfare and Family Law 159

Hoffman S, “The UN Convention on the Rights of the Child, Decentralisation and Legislative Integration: A Case Study from Wales” [2020] Human Rights Monitoring and Implementation 57

Mumtaz M, “The Non-Implementation of UN Convention on the Rights of the Child: Internal and External Challenges of the Convention” (2021) 5 PAKISTAN LANGUAGES AND HUMANITIES REVIEW 108

Purcell C, “Every Child Matters and the Children Act 2004” [2020] The Politics of Children's Services Reform 61

1. “United Nations Convention on the Rights of the Child (UNCRC)” [2020] The SAGE Encyclopedia of Children and Childhood Studies [↑](#footnote-ref-1)
2. “International Covenant on Civil and Political Rights” [2020] A Commentary on the International Covenant on Civil and Political Rights 860 [↑](#footnote-ref-2)
3. “United Nations Convention on the Rights of the Child (UNCRC)” [2020] The SAGE Encyclopedia of Children and Childhood Studies [↑](#footnote-ref-3)
4. “United Nations Convention on the Rights of the Child (UNCRC)” [2020] The SAGE Encyclopedia of Children and Childhood Studies [↑](#footnote-ref-4)
5. Herring J, “Farewell Welfare?” (2005) 27 Journal of Social Welfare and Family Law 159 [↑](#footnote-ref-5)
6. “Children Act 1989” [2020] Hershman & McFarlane Children Act Handbook [↑](#footnote-ref-6)
7. Purcell C, “Every Child Matters and the Children Act 2004” [2020] The Politics of Children's Services Reform 61 [↑](#footnote-ref-7)
8. Burton F, “Education Act 1996 (1996 c. 56)” [2015] Core Statutes on Family Law 221 [↑](#footnote-ref-8)
9. “Postscript: Review of the Mental Health Act 1983” [2019] Mental health social work re-imagined 149 [↑](#footnote-ref-9)
10. Davis H, “4. The Human Rights Act 1998 (1): Rights and Duties” [2021] Human Rights Law Directions 66 [↑](#footnote-ref-10)
11. Herring J, “Farewell Welfare?” (2005) 27 Journal of Social Welfare and Family Law 159 [↑](#footnote-ref-11)
12. “Convention on the Rights of the Child” [2019] United Nations Essential Documents Series 12 [↑](#footnote-ref-12)
13. “Children Act 1989” [2020] Hershman & McFarlane Children Act Handbook [↑](#footnote-ref-13)
14. Burton F, “Education Act 1996 (1996 c. 56)” [2015] Core Statutes on Family Law 221 [↑](#footnote-ref-14)
15. “Convention on the Rights of the Child” [2019] United Nations Essential Documents Series 12 [↑](#footnote-ref-15)
16. Hoffman S, “The UN Convention on the Rights of the Child, Decentralisation and Legislative Integration: A Case Study from Wales” [2020] Human Rights Monitoring and Implementation 57 [↑](#footnote-ref-16)
17. “Article 12 of the UN Convention on the Rights of Children” [2018] Children's Rights: New Issues, New Themes, New Perspectives 260 [↑](#footnote-ref-17)
18. Mumtaz M, “The Non-Implementation of UN Convention on the Rights of the Child: Internal and External Challenges of the Convention” (2021) 5 PAKISTAN LANGUAGES AND HUMANITIES REVIEW 108 [↑](#footnote-ref-18)
19. “Access to Family Justice: England and Wales” [2016] Family Law in Britain and America in the New Century 203 [↑](#footnote-ref-19)
20. Hoffman S, “The UN Convention on the Rights of the Child, Decentralisation and Legislative Integration: A Case Study from Wales” [2020] Human Rights Monitoring and Implementation 57 [↑](#footnote-ref-20)
21. Hoffman S, “The UN Convention on the Rights of the Child, Decentralisation and Legislative Integration: A Case Study from Wales” [2020] Human Rights Monitoring and Implementation 57 [↑](#footnote-ref-21)