



The contribution of the United Nations Convention on the Rights of the Child to understanding and promoting the interests of young people making the transition from care to adulthood

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ABSTRACT

The United Nations Convention on the Rights of the Child (UNCRC) acknowledges that young people without parental care are entitled to special support and assistance from the State. In detailing their expectations, the UN Committee have issued *Guidelines for the Alternative Care of Children* which recognise that State parties have a number of responsibilities towards care leavers. The paper explores how the UNCRC reporting process, and guidelines from the Committee outlining how States should promote the rights of young people making the transition from care to adulthood, can be used as an instrument to track global patterns of change in policy and practice. Content analysis of State Party Reports and Concluding Observations from 15 countries reveals that to date there has been limited engagement with understanding and promoting the needs of this group in the reporting process; although where a government is committed to developing legislation and practice then this does find its way into their national reports. Data supplied by affiliates of the International Research Network on Transitions to Adulthood from Care (INTRAC) reveals that national concerns, political ideology, public awareness, attitudes and knowledge of the vulnerability of care leavers influence service responses to protect and promote the rights of this group and the attention afforded to such issues in reports to the Committee. Findings also suggest that global governance is not simply a matter of top down influence. Future work on both promoting and monitoring of the impact of the UNCRC needs to recognise that what is in play is the management of a complex global/national dynamic with all its uneven development, levels of influence and with a range of institutional actors involved.

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1. Introduction

Over the last decade there has been a growing interest internationally in the needs and outcomes of young people making the transition from care to adulthood; and in services responses to try and promote their welfare (Pinkerton, 2002; SOS Children's Villages International, 2010; Stein & Munro, 2008). As policy makers, practitioners and researchers in individual countries identify and develop responses to the challenges faced by this highly vulnerable group, there is concern to understand and learn from the experiences of

others (see for example, INTRAC, Eurochild & SOS websites). This is in keeping with the trend towards global exchange and benchmarking in child welfare heralded and promoted by the United Nations Convention on the Rights of the Child (UNCRC) (Axford & Ross, 2005; Mapp, 2008). However, it is now generally recognised that international comparison is no easy matter. On the one hand there are difficulties in sourcing relevant information due to national and professional language barriers and to the limited number of reliable and comparable international data sets and on the other there is knowing how to best sift through a huge number of potential sources to be found in the primarily 'grey literature' of policy and practice (Munro, Brown, Sempik, Ward, & Owen, 2011; Munro & Stein, 2008; Munro, Stein, & Ward, 2005; Pinkerton, 2006).

The regular reporting by states signed up to the UNCRC and the feedback they receive from the UN Committee on the Rights of the Child would seem to have the potential to help in the complex and

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demanding process of knowledge management required of international comparison. The UNCRC may not always have the strength of national or even some regional cross national jurisdictions but it has shown itself very effective in promoting the convergence of perceptions and expectations about children as active citizens with rights which should be protected and promoted. As a codified statement of global rights the UNCRC would seem well placed not only as an instrument for promoting the rights of children but also as a means of benchmarking and tracking global change in recognition of and provision for identified groups of vulnerable children (Pinkerton, 2008).

The original text of the Convention acknowledges that children without parental care are entitled to special support and assistance from the State (Article 20). More recently, as part of the gradual detailing of expectations associated with the Convention that has been an important part of the role of the UN Committee on the Rights of the Child, *Guidelines for the Alternative Care of Children* have been issued (General Assembly of the United Nations, 2009). These make a series of recommendations for policy and practice to enhance implementation of the UNCRC and promote the wellbeing of children deprived of parental care. The importance of preparing young people to make the transition from care to adulthood and supporting them aftercare is acknowledged and the guidelines are an 'invaluable tool in the development of national [minimum] standards' (SOS Children's Villages International, 2010, p. 5). Consistent with the principles of the UNCRC, the guidelines reflect the importance of gradually preparing and empowering young people to take greater responsibility for decisions affecting their lives (in light of their evolving capacities).

The aim of this paper is to explore the extent to which young people's transitions from care to adulthood feature in UNCRC State Party Reports and Concluding Observations from the UN Committee. For this exercise 15 countries have been selected in which there are researchers affiliated to the *International Research Network on Transitions to Adulthood from Care (INTRAC)*¹ (Australia, Canada, France, Germany, Hungary, Ireland, Israel, Jordan, Netherlands, Norway, Romania, Spain, Sweden, Switzerland and the United Kingdom). This is far from a globally representative set of countries but they are appropriate to the exploratory task here in that in each of them there is some degree of recognition of the need to understand and promote the interests of young people leaving state care.

2. Searching the national reports and UN committee comments

In 1989 the United Nations General Assembly adopted the Convention on the Rights of the Child as the first legally binding international instrument to incorporate the full range of civil, cultural, economic, political and social rights for children and young people. It sets these out in 54 articles covering the right: to survival; to develop to the fullest potential; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life. Underpinning all of these are four core principles: non-discrimination; promotion of the best interests of the child; the right to life, survival and development; and respect for the views of children. The framework of rights articulated in the Convention is also described in terms of the 3 P's, that is, provisional, protective and participatory rights (Hammarberg, 1990). The degree to which these rights are exercised will vary depending upon children and young people's background, experiences, environment, culture and the context in which action is being taken (Lansdown, 2005).

The UNCRC was very quickly ratified by the required number of nations and came into force in 1990. To date 194 countries have ratified it, including every member of the United Nations except Somalia (who have declared their intention to do so) and the United States of

America. By agreeing to undertake the obligations of the Convention (by ratifying or acceding to it), national governments commit to protecting and ensuring children's rights and to holding themselves accountable for this commitment before the international community. States party to the Convention are obliged to develop and undertake all actions and policies in the light of the best interests of the child. There is a legal duty on signatories to the UNCRC to allow the UN Committee to examine the measures that they have taken to realise the rights enshrined in the Convention and to monitor progress. There is now a considerable amount of advice available from the Committee as to how to undertake reporting (www.ohchr.org). Signatories are required to submit reports at regular intervals (3 years following signing and every 5 years thereafter). This is followed by an oral hearing and dialogue between the State party and the Committee and then the latter prepares Concluding Observations (Rules of Procedure, Art 44 and 45). These offer comments on welcomed developments and progress as well as identifying matters of concern and making recommendations for the reporting government's attention.² This policy dialogue between the UNCRC Committee and national governments is central to the way the Convention expresses its 'soft power' in cultivating a global policy climate and fostering consensus within and across national governments (Axford & Ross, 2005).³

3. Method

To identify the priority being given to leaving care in this process of reporting and feedback, involving the 15 states in which there are INTRAC affiliated researchers, an electronic keyword search was undertaken of the two most recently submitted State Party Reports and corresponding Concluding Observations. In recognition of variations in the language and terminology employed to describe young people making the transition from care to adulthood in different jurisdictions, searches for the following specific keywords were conducted: children in care, care leaver, leaving care, transition and transitions from care, adulthood, public care, state care, aftercare, foster care, residential care and alternative care.

The purpose of the search was, firstly, to identify what information each State supplied on the legal and policy frameworks in place to support young people's transitions from care to adulthood; and secondly, to examine whether Concluding Observations identified strengths or weaknesses in policy and practice to promote the rights of this group. Findings from this preliminary work were collated to create a summary document drawing together the findings from the documentary search. This was circulated to INTRAC affiliates together with a brief questionnaire designed to elicit information to help explain why leaving care has been referred to in some State Party Reports but not others and to explore what that suggested about the factors promoting or inhibiting developments.

The *Guidelines for the Alternative Care of Children* that were recently issued by the UNCRC recognise the three important phases of leaving care identified by practice and research in this area: preparation and planning; the transition process from care to aftercare (including 'consideration of children's age, gender, maturity and particular circumstances'); and aftercare support (including 'ongoing education and vocational training opportunities' and 'access to social, legal and health services, together with appropriate financial support'). The guidelines specifically identify the need for young people to be equipped with the skills they need to be self reliant and to integrate

¹ INTRAC is a world-wide network of researchers concerned with the process of transition made by young people moving to adulthood from public care (see: <http://www.lboro.ac.uk/research/ccfr/INTRAC/index.html>).

² The Committee does not have the power to impose formal sanctions against countries for violations of children's rights or for failing to implement changes in response to their recommendations.

³ Although the role of NGOs is not explored in this paper it should be acknowledged that they also play an increasing role; supplementing the information supplied by governments and through their active involvement in the pre-session.

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