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Conclusions

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Conclusions
Towards a field of critical children’s rights studies

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This volume takes a critical approach to children’s rights. We have identified the key components of such an approach in the introduction. Here, we illustrate, refine or revisit some of these components in light of the contributions to this Handbook. After a fresh look at notions of childhood, we address a context-specific approach, interdisciplinary dialogue and critiques of children’s rights. At the very end of this conclusion, we explore how a field of critical children’s rights studies may evolve.

Without any doubt, at the core of a critical approach to children’s rights are (i) a context-specific approach, (ii) an interdisciplinary dialogue, and (iii) an approach of critique. Whether each of them is indispensable for what we call critical children’s rights studies, is probably too early to tell, and may smack of a kind of dogmatic thinking that we do not want to impose. Nonetheless, we do shed some light on the way we believe these three components intersect.

1. Dynamic childhoods

This Handbook started with the recognition that universally accepted definitions of childhood are nonexistent. As several layers of social, economic, political and cultural realities coexist in multidimensional experiences of children and adults alike, there is a diversity of ‘childhoods’ (and ‘adulthoods’). Also, and related to this, the capacity of children to meaningfully participate in society varies and is shaped not only by children’s agency, but also by social structures and power relations that may limit or enhance the autonomy of children. These differences among children – as well as in the ways we look at them – are an important and recurrent theme throughout the various contributions.¹

¹ This focus on difference does not intend to do away with the recognition of similarities between children. For example, as Mayall (Chapter 5) points out, the way children experience a lack of respect for their membership of human society did not change much in the course of the twentieth century.
We will first identify three dimensions in which differences in childhood may arise, i.e. over time, across space and place, and as a consequence of socio-political identity markers. Then we will reflect on the relations between (images of) children and adults — in line with our argument below that a field of critical children’s rights studies should not only focus on children, but also research their relations with other societal groups, especially adults. Finally, it is shown how dynamic childhoods impact on perceptions of (the nature of) children’s rights.

1.1. Dimensions of difference in childhood

To start with, differences in the way we look at children are clearly visible over time (Verhellen, Chapter 3; Vanobbergen, Chapter 4; Reynaert and Roose, Chapter 6, in this Handbook). This process of changing images of childhood is not necessarily historical or linear, but at least dynamic. Multiple authors refer to the way that in the global North, an image of children as active participants in society is gradually gaining ground next to an image of passive, vulnerable children, who were isolated from society, lived outside of moral agency, were not accountable and had to be protected by adults. Romantic images of innocent, needy, sacralized, obedient, playful children, subject to care and mere recipients of parental culture and upbringing, increasingly compete with images of children as autonomous human beings, as bearers of human rights with a legal status that questions existing power relations (Verhellen, Chapter 3; Vanobbergen, Chapter 4; Mayall, Chapter 5; Reynaert and Roose, Chapter 6; Aitken, Chapter 8; De Graeve, Chapter 9). Beyond the image of children as rights holders, some chapters also refer to a growing tendency of seeing children as social and political agents, citizens, active meaning-makers, for whom e.g. participation becomes an expression of agency and not an expression of rights (Moosa-Mitha, 2005, p. 380; Vanobbergen, Chapter 4; Aitken, Chapter 8; De Graeve, Chapter 9; Mitchell, Chapter 10).

Second, differences in childhood images, as well as in children’s capacity for action, are apparent across social and geographical space (André, Chapter 7; and Aitken, Chapter 8). The
dominant image of the child that underpins social policies in the West since the beginning of the twentieth century, for example, tends to focus on children’s future role in a knowledge-based economy (see e.g. Verhellen, Chapter 3, on children as human becomings in compulsory education policies, and Reynaert and Roose, Chapter 6, on the institutionalized youth land in which to-be-protected children were, and still are today, isolated from the rest of society). The living conditions of many children in developing societies, however, require them to take up quite some responsibilities in childhood, often much earlier than children whose families do not face economic hardship in the same way (see e.g. Hanson, Volonakis and Al-Rozzi, Chapter 18, on the importance of child labour to contribute to the family economy, or Cantwell, Chapter 15, on child-headed households).

Third, different ‘childhoods’ also occur between the lived realities of individuals within a single temporal or spatial frame of reference, for example because children differ in socio-political identity markers such as age, gender, class, ethnicity or religious background (Aitken, Chapter 8; De Graeve, Chapter 9), or because the circumstances in which they find themselves can vary endlessly. Taken together, these ‘fault lines’ lead children to experience different ‘capabilities’ (i.e. children’s real opportunities for functioning and choice; see Reynaert and Roose, Chapter 6), different ‘priorities’, as well as different ‘boundaries of what is possible, appropriate and expected’ in the given circumstances (Morrow, 2011, pp. 5–6). These differences, which may entail both potentials and limitations for children, may result from personal identity, structural relations or a combination of both (Vanobbergen, Chapter 4; Reynaert and Roose, Chapter 6).

In light of the above, it is important to note that different and even competing childhood images can coexist in one single person. As is illustrated by Desmet and Aylwin (Chapter 22) in relation to natural resource exploitation, children can simultaneously be victims and beneficiaries. Children – just like adults – are never inherently vulnerable (Desmet and Aylwin, Chapter 22), nor are they ever fully-fledged (Aitken, Chapter 8). Even in situations of extreme violence against children (Lenzer, Chapter 16), such as FGM (Leye and Middelburg, Chapter 17), where the vulnerable child may seem stripped of all agency and where their capacity to act would seem nonexistent, this does not need to be the case. With her concept of ‘tactical agency’, Honwana (2005) for example explains that even persons in a subordinate social situation, such as child soldiers, may still find strategies and ways to cope with, or even take advantage of, the weak position they are in. Similarly, Cheney (2013) has described how aids orphans may still possess a certain degree of discretion and influence to exercise autonomy, even if their realm of choice is severely constrained.

1.2. Generational dynamics in defining childhood

Difference between childhood and adulthood is found in every society (Mayall, Chapter 5). As Mayall explains, ‘generation’ remains a fundamental concept structuring how we think about childhood as distinct from adulthood (see also Mestrum, Chapter 20, on inter-generational solidarity). Usually, child–adult relations are characterized by an adult understanding of childhood, often confusing biological realities with socially constructed ones (Mayall, Chapter 5; Vanobbergen, Chapter 4). Some authors see generations as a cognitive boundary (Mayall, Chapter 5, referring among others to Bourdieu), but for others (e.g. Blanchet-Cohen,

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5 This is thematized e.g. by Hanson, Volonakis and Al-Rozzi, Chapter 18, in their rejection of an adult-driven abolitionist perspective on child labour, seeing child labour as a moral category to be abolished no matter what the real impact on children’s lives is, just because children should not work.
Chapter 21, on intergenerational conflict in indigenous societies) it remains (also) a tangible reality. In both camps, the binary category of −18 and +18 is seen as hampering the realization of children’s rights.

As regards differences between adults and children, in a number of thematic chapters, it becomes clear that the image of the passive, vulnerable or exploited child is used as a primary way to explain why children, at least in certain situations, have to be considered different from adults. The need of children for special protection is discussed e.g. by Ceriani (Chapter 19) when describing the wrongful impact of detention as a mechanism of border control. Desmet and Aylwin (Chapter 22) refer to children’s sensitivity for the consequences of natural resource exploitation, e.g. in terms of environmental impact, which has more detrimental consequences for children than for adults. Mestrum (Chapter 20), in turn, holds that the question of child poverty cannot be seen separately from poverty in the family or in society, but still acknowledges that poverty has a stronger impact on children – who are ‘not responsible’ for poverty – than on adults. Also to Liefaard (Chapter 14 on juvenile justice), it is clear that a punitive response aiming at retribution and deterrence used for adults is unfit for children. At the same time, however, he warns that too much focus on separation runs the risk of disregarding the fact that children, like adults, are entitled to a fair and equal treatment in Court. Finally, Reynaert and Roose (Chapter 6) are taking an atypical position with regard to the difference between adults and children by turning the reasoning around. Children are indeed considered as vulnerable human beings. However, this vulnerability is not typically for children. Vulnerability characterizes both childhood and adulthood. Therefore, they argue that ‘we are all children’ (Mortier, 2002).

It is important to note here that the image of childhood may vary across generations. Children’s own understanding, for example of what constitutes their childhood or what constitutes a good life, may be different from what adults presuppose are the standards against which such assessment should be made (see e.g. Liebel, 2013; Hunner-Kreisel and Kuhn, 2010). Vanobbergen (Chapter 4) and Aitken (Chapter 8; also Mayall, Chapter 5) make a similar point, ascertaining that concepts such as agency put the autonomously thinking adult at centre stage; as such turning it into an adult ideal that a child may not necessarily wish to live up to. Both authors not only warn against making children fit into an adult model rather than questioning the model itself, but also underline that rights are to be shaped in a participative way, a process during which both adults and children participate in the definition of the context. In retrospect, this issue may have remained underexposed in this Handbook. With the exception of Mayall (Chapter 5) and Mitchell (Chapter 10), who address children and young people as main informants of the data presented, and – to a lesser extent – Tisdall (Chapter 11) and Blanchet-Cohen (Chapter 21) who respectively incorporate quotes from a pupil councillor and indigenous youths, children’s own views have not been explicitly incorporated in the methodology of the different chapters.6

1.3. Implications of ‘dynamic childhoods’ for children’s rights

A final theme concerns the relation between understandings of childhood and (the nature of) children’s rights. Various contributions have shown how society’s understanding of childhood is inextricably related with the way in which it defines children’s rights. Two examples are illustrative cases in point. On the one hand, Hanson, Volonakis and Al-Rozzi (Chapter 18) explain

6 Nevertheless, André (Chapter 7) recognizes the implications of an image of children as active agents for certain methodological choices in anthropological research, most notably placing children at the centre of research questions and problem-solving strategies.
how the changing image of working children – i.e. no longer, or not only, as subject to brutal treatment and exploitation, but also as social agents – implied a move away from a purely abolitionist perspective to a claim to a right to work in dignity. On the other, Quennerstedt (Chapter 12) shows that the position of children’s rights in teacher training is weakened by the predominant image of children as human becomings.

Whether children should have special rights, different from those of adults, or rights equal to adults’ human rights is subject to debate. For Verhellen (Chapter 3), a separate human rights instrument (the CRC) is needed, as children would otherwise not be able to enjoy their rights on an equal basis with other human beings. Ceriani (Chapter 19) argues along the same lines that the absence of a child-specific focus in migration policy leads to denying specific needs and rights of migrant children (as different from the adult male, who tends to be at the heart of migration policy). In the debate on child poverty, Mestrum (Chapter 20) nuances this view by arguing that child-specific actions to counter child poverty are welcome, but should not be de-linked from poverty of other people and from society as a whole. Instead, a child-approach should preferably be mainstreamed into a broader context of general poverty/environmental/health policies addressing all groups. Desmet and Aylwin (Chapter 22) concur in that a more comprehensive approach to natural resource exploitation is needed beyond focusing only on children, even though a separate children’s rights document has added value as it puts more emphasis on children as active participants of society, a perspective that is often missing in the general human rights discourse.

For Vanobbergen (Chapter 4) and Mitchell (Chapter 10), the issue is not whether children should have special or equal rights, but how children can contribute to shaping adults’ understanding of human rights and citizenship respectively, in order to move away from adult-centric ideas on these concepts. Aitken (Chapter 8; on the right of children to become ‘other’ than what adults imagined for them) and Tisdall (Chapter 11; on not judging children’s agency on the basis of their degree of ‘participation’ in adult structures) take up this point as well.

Overall, it is clear that children do not exist in a vacuum (Morrow, 2011, p. 11). They are in constant interaction with the world around them, including with adults, in a relational and interdependent way. Nevertheless, it remains important to realize that being ‘subjects of rights’ or ‘agents’ still leaves society to recognize children as such, and, more importantly, to act upon that: participating in society requires much more than merely possessing participation rights. Similarly, an image of children as rights holders or social agents does not in itself grant children a real capacity for action. The main challenges to be identified here are for adults to recognize children as co-actors in the dialogue about their childhood, rights, choices and interests (Vanobbergen, Chapter 4; Mayall, Chapter 5; Aitken, Chapter 8), to critically address the expectations and assumptions society has towards different social groups including children (Mayall, Chapter 5), and the need to incorporate children’s own views – or even involve them actively as researchers in their own right (Dedding et al., 2013). Addressing these challenges will help to realize that children have the right to be and become something different from what adults imagine for them (Aitken, Chapter 8).

2. A context-specific approach to children’s rights

The key importance of a context-specific approach to children’s rights, proposed in the introduction of this Handbook, has been confirmed and elaborated on by many contributions, across disciplines and themes. Recognition of the diversity existing both among children and in the contexts in which they grow up – which leads to a need for contextualization – is prevalent in most disciplinary perspectives. It seems inscribed in the DNA of some disciplinary
approaches that they are inclined to pay more attention to one particular ‘type’ of diversity, such as cultural diversity in anthropology, socio-economic and political contexts in sociology, geographical diversity in geography, and gender in gender studies. Other disciplinary perspectives include a general ‘attention for diversities’ in their approach. ‘Respect for diversities’, for instance, is a central principle of the definition of social work (see Reynaert and Roose, Chapter 6). Furthermore, from the beginning of childhood studies, more emphasis was put on the diversity among children (see Vanobbergen, Chapter 4). For the legal discipline, on the other hand, taking local diversity into account was, at least traditionally, not so evident, as ‘norm-setting … tends to be top-down and adult-driven’ (see Vandenhole, Chapter 2, p. 39). As elaborated below, recent scholarship on ‘children’s rights from below’ and ‘living rights’ is challenging such a view on norm-creation, and probably also aims to influence the development of children’s rights law (Vandenhole, Chapter 2).

In various thematic chapters, a lack of attention to context has been denounced, as hampering an effective realization of children’s rights. With regard to participation, for instance, the lack of ‘recognising and addressing wider contextual issues … may well be one reason for the criticisms of children and young people’s participation as being culturally inappropriate in some contexts and ineffectual in influencing decision-making in others’ (Tisdall, Chapter 11, p. 188). In other chapters, it is shown how a context-sensitive approach to children’s rights is being developed and experimented with. Blanchet-Cohen demonstrates how indigenous peoples have appropriated and transformed the CRC upon implementation, for instance in relation to the definition of the concept of ‘indigenous’. In the domain of alternative care, the CRC already incorporated a certain degree of openness towards other (cultural) contexts, by including references to the extended family and kafala. More recently, the 2009 Guidelines for Alternative Care of Children ‘have arguably set the stage for a more nuanced view of how efforts might be oriented toward [a] context-specific viewpoint’ (Cantwell, Chapter 15, p. 272).

On the basis of both the disciplinary and the thematic part, it can be observed that the interest for a context-sensitive approach to children’s rights is informed by at least two interrelated tendencies. A first tendency links up with a ‘traditional’ debate in the field of human and children’s rights, one that mainly emerged from the discipline of anthropology. Here, the call for a contextual orientation could be considered as a counter-movement against strong universalist appeals in children’s rights thinking. It is argued that the idea of children’s rights originates out of a particular understanding and vision of society and humanity, one that is grounded in a Western liberal tradition. This debate, on universalism versus relativism, developed during the past few decades to a point where it is generally recognized that children’s rights are relevant in a non-Western context where they can achieve a certain ground of legitimacy, on the condition that they are the object of a particular way of contextual translation and/or reinterpretation. This is in line with for instance the ‘cultural legitimacy thesis’ as developed by An-Na’im, where the existence of universal (human rights) standards is accepted, ‘…while seeking to enhance their cultural legitimacy within the major traditions of the world through internal dialogue and struggle to establish enlightened perceptions and interpretations of cultural values and norms’ (An-Na’im, 1992, p. 21). What An-Na’im seeks for is an internal reinterpretation of human rights (of children) based on a contextual orientation, in order to broaden and deepen universal consensus.

In a second tendency, and partly linked with the first one, a context-sensitive orientation could be considered as a shift away from a strong trend towards individualization, mainly in Western conceptions of children’s rights. Individualization highlights a person’s independency
and autonomy as the core values of human existence. A strong focus on individual entitlements in understanding children's rights stems from the tradition of Western liberal individualism, considering people, including children, as individual rights bearers or citizens, equal and autonomous individuals with inalienable personal rights. Critiques to this strong egalitarian doctrine came from gender studies, postcolonial studies and Marxist theory, amongst others. One central claim that was made, for instance from the feminist ethics of care, is that rights should not be considered as individual entitlements but rather as an interpersonal or interrelational practice. Interdependency, rather than autonomy is highlighted within this school of thought. Children's rights should then not be understood as individual entitlements but as an experience embedded within relations of care (see e.g. De Graeve, Chapter 9 on gender studies). Context here is understood rather on a relational level, as something that exists in between people (e.g. in families, communities, etc.). Others, such as Aitken (Chapter 8), emphasize context on a structural level, referring to power relations in the broader society. With his focus on space and place, Aitken explains that: ‘The idea of place that I focus on in this chapter is less about a phenomenological sense-of-place and belonging wherein people emotionally experience their place in the world (although it is that too), and more about the political use of places to define those who have access and rights and those who are excluded’ (Aitken, Chapter 8, p. 133).

The context-specific approach to children's rights, developed throughout the chapters of this Handbook, links up with an emerging ‘new’ paradigm in the study of children's rights as envisaged by, for instance, Liebel (2012) in his idea of ‘children’s rights from below’, Hanson and Nieuwenhuys (2013) in their concept of ‘living rights’, Vandenhole (2012) using the notion of ‘localizing children’s rights’ or Reynaert et al. (2010a), starting from a ‘lifeworld orientation in children’s rights’. This new approach starts from a critique on current understandings of children’s rights ‘from above’. As Liebel argues: ‘…little attention is given to [children’s rights’] broader meaning and implications, the social and political contexts and conditions of their creation and exercise…’ (Liebel, 2012, p. 1). On the basis of the thematic chapters of this Handbook, two ways in which context matters can be analytically distinguished.

First, contextual circumstances may lead to a different appreciation of a similar phenomenon. As illustrated by Hanson, Volonakis and Al-Rozzi (Chapter 18), depending on the circumstances, child labour has been either condemned and rejected (today, especially by the Global North and international organizations) or officially recognized and valued (during the industrialization period, and regarding the involvement of British schoolchildren in agricultural production during the Second World War).

Second, the different contexts in which children live have led to widely divergent approaches on the ground to tackle children’s (rights) issues, both at the regional, national and local level. This is obvious in the large variety of practices existing in the domains of juvenile justice (Liefaard, Chapter 14) and alternative care (Cantwell, Chapter 15), as well as in the tailored approaches developed for and by indigenous peoples (Blanchet-Cohen, Chapter 21). From a geographical perspective, Aitken proposes that rights should encompass ‘spatial variability and personal flexibility’ (Chapter 8, p. 138). According to Cantwell, a relevant context-sensitive approach to children’s rights requires ‘a constructively critical review of global conventional wisdom on children’s rights’ (Chapter 15, p. 258). A context-sensitive approach to children’s rights allows for regional and local variation, and eschews any dogmatic approaches.

It is proposed that contextualization in relation to children's rights (and probably human rights more generally) should be analysed and realized along two axes: one content-related and one scale-related. The first axis concerns the analysis of a context-sensitive approach to children's rights across the different 'substantive' determinants of a certain context, ranging from, but not limited to, the cultural, the socio-economic, the geographical, the socio-political and the
historical. The second axis suggests not to limit attention for contextualization to specific cases (‘the local’), but also pay attention to context when looking at the development and interpretation of children’s rights at a transnational, ‘global’ level. Both axes should be viewed as a continuum.

Of the various ‘factors’ that influence and constitute a context-sensitive approach to children’s rights, *culture* is arguably one of the most discussed and – at least for some decades – contested. The relation between human rights and cultural diversity has been abundantly debated in scholarship, from both a legal/political science (e.g. Brems, 2001; Donnelly, 2013) as well as an anthropological point of view (e.g. Cowan, Dembour and Wilson 2001; Goodale, 2009). The particular relationship between children’s rights and cultural diversity has equally received quite some scholarly attention (see, e.g. Alston, 1994; André, Chapter 7; Brems, 2002, 2013; Desmet, 2011; Harris-Short, 2003). Culture should not be seen in opposition to human rights, nor ‘demonized’ (Merry, 2003). Although the human rights project often envisages cultural change, human rights realization may also build on cultural practices (Brems, 2001, 2013). For anthropological scholarship has demonstrated that culture should be understood as fluid, hybrid, contested and dynamic, rather than static (Merry, 2003). Moreover, the pursuit of human/children’s rights must itself be considered as a cultural process (Cowan et al., 2001). The risk remains however that a cultural contextualization approach is considered as condoning or even legitimizing certain practices. This concern has been voiced for instance with regard to FGM (Leye and Middelburg, Chapter 17). However, paying attention to culture does not mean to justify or condone certain practices. Such an approach rather invites a better understanding of the dynamics and context, so as to possibly mobilize children’s rights differently. For instance, since FGM is often an essential prerequisite in the transition to womanhood, there may be a certain degree of ambiguity towards the practice at the local level (Vandenhole, 2012, p. 88). Vandenhole relates how, based on an in-depth understanding of these predicaments, a women’s organization in Kenya chose not to support criminalization of FGM, but to focus on awareness raising and alternative initiation rites. Such rites uphold the social and cultural meaning of FGM, but abolish the practice itself. This is an example of how children’s rights can be used differently, when there is a ‘thick’ understanding of the local context – even though questions regarding the girls’ participation in these evolutions and power relations within the community may remain (Vandenhole, 2012).

The relation between the human rights (of children) and the *socio-economic dimension* of a context was probably nowhere as intensively debated as in the field of development (see e.g. Mestrum, Chapter 20). Especially, resourcist approaches and theoretical frameworks such as the capability approach focused on the question as to which social and economic means are necessary in a particular context (of a country or a region) and what are the opportunities of a person to use these resources to realize social justice and human dignity (Brighouse and Robeyns, 2010; Nussbaum, 2011). These approaches were considered as complementing human rights-based approaches, as the insight progressively grew that being entitled to (social and economic) rights does not guarantee the realization of social justice and human dignity (Nussbaum, 2007). It brought the discussion on human rights (of children) in relation to the socio-economic dimension of a context to the recognition of the importance of *opportunities* in implementing human rights (of children). So, children can have a right to health care, and health care institutions may be in place in a certain neighbourhood/context, but still, children will make use of these health care institutions in a different way or will not use them at all. This can be due to lack of means to pay for health care services or more generally the socio-economic status (SES) of an individual child. This shows that the socio-economic dimension of a context influences in a decisive way the realization of children’s rights. These insights have
been highlighted, inter alia, in the field of social policy and social work. Reynaert and Roose for instance, in Chapter 6, point at social processes such as the Matthew effect to argue that children’s rights are determined by the social and economic dimensions of a context. So, just like the cultural dimension, the socio-economic dimension of a context asks for a profound analysis and understanding of the way socio-economic means are mobilized and whether this mobilization contributes to the realization of the human dignity of children.

Finally, still in relation to the content-related axis, it is important to point out the socio-political dimension of a context-sensitive approach. This dimension can be illustrated by referring to more ‘identity-related’ characteristics that impact a contextual orientation of children’s rights. Scholarly work on personal categories such as gender, ethnicity, sexual orientation, religion etc. do not just point towards these characteristics as personal traits of children. It emphasizes the socio-political dimension of these categories, as these categories only acquire meaning within complex power relations in a particular context. Children often experience discrimination and violations of their rights based on labels such as gender or religion for instance (see e.g. Taefi, 2009). Moreover, these labels may reinforce one another and result in further violations of children’s rights. These simultaneously existing and mutually reinforcing forms of discrimination, generally known as intersectionality, show how power operates in a very complex but subtle way resulting in violations of children’s rights (see on intersectionality also De Graeve, Chapter 9). So, as Wilson (2013) argues, intersectionality offers an analytical frame that focuses on the structural and political dynamics of power. The analysis of power dimensions in a particular context opens up possibilities for critical engagement with children’s rights (see Section 4, below, for more on critique).

The second axis of a context-sensitive approach concerns the relation between the local and the global. A contextual approach to children’s rights is often associated with a ‘local’, ‘case-specific’ approach. Although this is certainly one dimension of a context-specific approach, children’s rights practices generally cannot be understood without reference to their global dimension. Globalization is often considered as the root cause of violations of children’s rights. Globalization is then equated with economic globalization and the spread of a neo-liberal model of society, ignoring social concerns like for instance the realization of children’s rights. However, viewing globalization as the ultimate root cause of children’s rights violations ignores local children’s rights practices that are not de facto in the interest of children. Also at the local level, children’s rights can be impeded from full realization due to, for instance, misinterpretation, lack of resources or imbalanced power relations. Furthermore, such a consideration assumes that global processes related to children’s rights cannot be in the interest of children. However, globalization just as localization can be the motor of emancipating tendencies. Globalization is not merely an economic process but became just as well the carrier of the endeavour to realize global social justice (Widdows and Smith, 2013; compare Mestrum, Chapter 20, and her plea for alter-globalization). The global campaign for education that was set up in the early 1990s is a good example of global efforts to realize the right to education for all (Verger and Novelli, 2012).

Furthermore, for a good understanding of how children’s rights are constructed in a particular setting, it is vital to analyse local children’s rights practices in relation to global processes. As André argues in Chapter 7, ‘previously more remote societies have been progressively penetrated by external dimensions and global systems of values and monitored by global institutions that have integrated them into global power relations’ (André, Chapter 7, p. 113). So, we cannot understand local interpretations of children’s rights without linking them to the global social and political context. This is obvious in the context of migration, as Ceriani in Chapter 19 explains, where some of the root causes of child migration lie exactly in the current context of
globalization. However, this is not to say that local practices just undergo these global processes or that local communities can have no influence on globalization. Ife describes how for instance the use of social media can be used as part of a process of ‘globalisation from below’ (Ife, 2001), where local practices can have an impact on the global level by using the opportunities offered by globalization.

Finally, it is suggested that attention should also be paid to (the impact of contextual factors on) the diverging, and at times contrasting, interpretations and approaches to children’s rights in the transnational/global arena. Children’s rights are not unidimensional in their origin, significance and interpretation. The context in which children’s rights ‘emerge’ transnationally is equally important to enhance a better understanding of children’s rights. For instance, with regard to child labour, Hanson, Volonakis and Al-Rozzi note that ‘[t]he global character of [the worldwide movement against child labour] does not however mean that there is one single global perspective on child labour, in fact quite the contrary’ (Chapter 18, p. 321). They plead for attention to these ‘multifaceted realities of child labour’ (Chapter 18, p. 322). In the field of human rights, such a research effort has been undertaken by Merry (2006) in relation to gender violence and the Convention on the Elimination of All Forms of Discrimination against Women.

To conclude, there appears to be a broad consensus, across disciplinary and thematic contributions, that a context-sensitive interpretation and realization of children’s rights is necessary and feasible. Nevertheless, children’s rights, with their universal dimension and their necessity for a contextual understanding, are discursive in nature. Therefore, children’s rights practices need on-going reflection on different characteristics of a context. We identified two of these characteristics in particular, which we defined as two distinguishable axes: one content-related and one scale-related.

3. Interdisciplinary dialogue and a critical approach to children’s rights

In the introduction, the concepts of multidisciplinarity, interdisciplinarity and transdisciplinarity were understood as referring to different degrees of interaction between disciplinary perspectives that can be situated on a continuum, ranging from juxtaposition (multi) over interaction (inter) to integration (trans). At the level of chapters, this Handbook can be qualified to a large extent as multidisciplinary. The first part offers a critical analysis of how various (inter-) disciplines approach children’s rights, whereas various authors in the second, thematic part take one disciplinary perspective as point of departure. However, delving into the particularities of each chapter, the boundaries between disciplinary perspectives are often transgressed to a greater or lesser extent. In most chapters, insights from other disciplines are drawn upon to critically reflect upon the approach of one’s own discipline to children’s rights – in general or in relation to a thematic issue.

Some chapters seek to adopt a more robust interdisciplinary or transdisciplinary approach. For instance, Hanson, Volonakis and Al-Rozzi demonstrate how looking at child labour and working children by combining insights from ‘history, anthropology, childhood sociology, international labour law, human rights law and children’s rights studies’ provides a more in-depth understanding of the complexities and ambiguities of the topic (Hanson, Volonakis and Al-Rozzi, Chapter 18, p. 317). In Chapter 10 on citizenship studies, Mitchell pleads for a problem-oriented rather than a discipline-centred approach. In his view, such transdisciplinary research establishes its own standards, and implies a ‘greater legitimisation of knowledge creation by Indigenous stakeholders and other marginalised groups located in non-elite spaces outside the political confines of the increasingly corporate-industrial-academic complex’ (Mitchell, Chapter 10, p. 175).
The notion of ‘interdisciplinary interaction’ that we use here, following Klein (1990), may play out in different ways, such as: (i) borrowing, i.e. where analytical tools, methods or concepts from another discipline are used (see André, Chapter 7, on the use of ethnographic tools by other disciplines; most if not all thematic chapters engage in this type of interdisciplinary interaction); (ii) the interaction between disciplines to solve a specific problem, but without aiming for a conceptual unification of knowledge (e.g. Lenzer, Chapter 16; Leye and Middelburg, Chapter 17); (iii) the ‘increased consistency of subject matters and methods’, leading to an ‘overlapping area’ between disciplines; and (iv) the development of a new interdiscipline (see e.g. Vanobbergen, Chapter 4 on childhood studies; De Graeve, Chapter 9 on gender studies).

For the purposes of this Handbook, an important question is how the relationship between a critical approach to children’s rights and interdisciplinarity should be conceptualized. Phrased as an, admittedly normative, question: does a critical approach to children’s rights require an engagement with other disciplines, and thus a certain degree of ‘interdisciplinary interaction’? In the tentative answer provided hereinafter, nuance is vital. Also, the reflections deal with a critical approach to children’s rights, as a critical stance towards a certain discipline may be adopted, yet from a ‘mainstream’ understanding of children’s rights.

There seems to be a strong positive correlation between an interdisciplinary approach – in the sense of seriously engaging with other disciplines – and a critical approach to children’s rights. Transgressing disciplinary boundaries, both methodologically and conceptually, enhances a multidimensional understanding of children’s rights and leads to questioning, often disciplinary-specific, assumptions and constructions – the latter being a key element of an attitude of critique (see the introduction and Section 4 on critique, below). There does not appear to be an indispensable connection, however, between an interdisciplinary and a critical approach. On the one hand, not every interdisciplinary endeavour implies an attitude of critique. Interdisciplinary collaborations may be oriented towards addressing practical problems on the ground, and thus be governed by an implementation logic rather than a critical approach. On the other, it may be possible to adopt a critical perspective within the contours of a particular disciplinary approach. André, for instance, recounts how anthropologists were and are very critical of children’s rights, both as a concept and as an object of research (André, Chapter 7). Different schools within a certain discipline may also challenge each other in their understanding of and approach to children’s rights. Reynaert and Roose point out the distinction between relational social work and structural social work (Chapter 6), and Aitken references the importance of Marxist and feminist geographers (Chapter 8). In order not to overlook the expertise and particular knowledge interest of each discipline, Quennerstedt even proposes to ground research on children’s rights again more firmly in specific disciplines (Chapter 12).

The potential of critical reflection on children’s rights within the boundaries of a discipline seems to vary, however, with the nature of the discipline concerned. Doctrinal legal scholarship, for instance, is characterized by an ‘internal approach’ whereby legal rules and principles are analysed from ‘the perspective of an insider in the system’ (McCrudden, 2006, p. 632). Judicial decisions and legislation are evaluated on the basis of a closed system of legal reasoning, referring to (other) authoritative texts and concentrating on issues of legal coherence. Legal systems are conceived as more or less autonomous (McCrudden, 2006). In the words of Vick (2004, pp. 178–179), ‘[t]he law, in essence, is treated as a sealed system which can be studied through methods unique to the ‘science of law’, and legal developments can be interpreted … by reference to the internal logic of this sealed system.’ Remaining within the system’s logic, such doctrinal legal analysis or ‘black-letter’ research does not call into question the foundations or
ways of functioning of the legal system as such, nor does it look at the impact of law and legal institutions on society. These particular characteristics of doctrinal legal scholarship thus seem to complicate the possibility of adopting a critical approach to children’s rights by remaining within the contours of the legal discipline. For a critical legal perspective on children’s rights, it seems necessary to draw upon insights and methodologies developed in other disciplines. Such an ‘external’ approach has materialized in the development of socio-legal studies, critical legal studies and law-and-economics, among others (McCrudden, 2006).

Engaging in (a certain degree of) interdisciplinarity may entail various pitfalls and challenges though. A first prerequisite, in order to be able to adequately engage with other disciplinary perspectives, is a firm and profound understanding of the technicalities of one’s own discipline. Without a sound knowledge of the ‘home’ discipline, a dialogue with other disciplines may result in a slippery slope. Second, there is a danger of underestimating the complexities of other disciplinary approaches, leading to a superficial or unidimensional view. For instance, when non-lawyers engage with the legal discipline, risks seem to include adopting a dogmatic approach and taking legal provisions at face value, without a proper understanding of the nature of legal qualifications. Similarly, children’s rights may be equated with children’s rights law. Another scenario is that only the dominant school of a certain discipline is considered, whereas other, smaller, counterhegemonic schools remain under the radar. Additional hazards of interacting with another discipline include a lack of understanding of the limitations and biases of this discipline’s research methods, as well as misinterpreting research results (Vick, 2004, p. 185). Moreover, there is a potential of abuse of knowledge when integrating insights from other disciplines (Desmet and Aylwin, Chapter 22). Finally, studies that claim interdisciplinarity or transdisciplinarity run the risk of ‘lacking body’, as it may not be clear anymore which methods or frameworks of reference are employed, and how the research is to be situated within a broader body of knowledge.

Recapitulating, it is suggested that a critical approach to children’s rights hugely benefits from being infused with theories, concepts, methods and research findings from other disciplines, even though it may be possible to critically reflect on children’s rights within the confines of a certain discipline. Whereas in legal scholarship the need for interdisciplinary dialogue seems even greater because of the particular way of knowledge building, also in other disciplines certain issues may remain unaddressed when there is no engagement with other disciplinary perspectives. Every disciplinary approach sheds light on certain aspects of a research problem while obscuring others (e.g. a focus on individual (psychology) versus societal (sociology) factors), since every discipline is characterized by its own paradigms, research interests and methodologies. Therefore, entering into dialogue with other disciplinary perspectives seems to greatly enhance the potential for critical reflection on the human rights of children and young people.

4. Critiques of children’s rights

What we present under this heading are those components of what we consider a critical approach that have not been covered under the previous headings. In the introduction, we coined this as critique, i.e. an on-going process of questioning assumptions, knowledge and acts as well as the associated norms and values that shape the social, educational or legal practices that rely on the children’s rights framework. Analytically, we distinguish critique from the other key components of a critical approach to children’s rights, i.e. context-specificity and disciplinary interaction. However, it has become clear that some of these key characteristics of a critical approach certainly intersect and possibly even overlap to some extent. Contextualization is a
Leaving space for diverse framings and interpretations – as a key feature of critique – is directly connected to openness for local contextualization, as diverse framings and interpretations often originate from specific local contexts.

In the introduction, we tentatively conceptualized critique along four lines. First, critique does not take for granted that children’s rights or children’s rights law offer fully-fledged solutions for social problems. Put more positively, critique builds on children’s rights to detect underlying social problems and to analyse how such problems are constructed and defined. Second, a critical approach implies that the understanding of children’s rights is an interactive process between all involved rather than a technical process of establishing objective knowledge. This implies that different interpretations may co-exist. How children themselves shape their rights and thus produce a certain knowledge and interpretation of their contexts and society is of crucial importance in critique and in a critical approach more generally. Third, the broader societal structures cannot be disregarded, since children’s rights and the lifeworlds of children are embedded in them. Fourth and finally, critique creates space for alternative ideas on children’s rights, and hence potential for transformation and emancipation.

A key question in further elucidating the nature of critique is whether cherry-picking is possible, or whether the four elements outlined above all need to be in place in order to qualify as critique. On the one hand, it is important to note that an approach of critique is not a school of thought with a doctrinal rigour or a certain orthodoxy that has to be subscribed to. On the other hand, some elements of the approach of critique may be essential in order not to dilute the approach completely.

As Figure 23.1 illustrates, we propose here to slightly re-phrase critique as being characterized ideal-typically by three elements. One reflects the diagnostic dimension, i.e. the use of children’s rights to deconstruct the way in which social problems are defined (for example Lenzer, Chapter 16; Mestrum, Chapter 20; Reynaert and Roose, Chapter 6). The deliberative dimension refers to the way in which children’s rights scholarship is undertaken, i.e. as ongoing reflection that leaves space for diverse interpretations (André, Chapter 7; Blanchet-Cohen, Chapter 21; Cantwell, Chapter 15; De Graeve, Chapter 9; Leyevan Middelburg, Chapter 17), thereby avoiding closure or blackboxing (Stenner, 2011, p. 3). Children’s rights are given meaning in interactive processes that also include children (André, Chapter 7; Mayall, Chapter 5; Reynaert and Roose, Chapter 6; Tisdall, Chapter 11; Vanobbergen, Chapter 4): (compare Aitken, Chapter 8, who also argues in support of more open notions of development and progress). Third, the finality of children’s rights scholarship is said to be social transformation and emancipation; this is the emancipatory dimension. Whereas all three dimensions interrelate, the first (diagnostic dimension) and third one (emancipatory dimension) may be less explicitly present without rendering an approach of critique to children’s rights hollow or emptied of substance. On the other hand, an approach of critique seems very unlikely without on-going reflection and openness for diverse interpretations, including those of children themselves.

In the multidisciplinary setting of this Handbook, the question arises whether the ideal-typical picture of critique strikes a chord within each discipline, or to the contrary, whether our characterization of critique holds a disciplinary bias. Yet another way of framing the issue is whether there is a need to diversify the understanding of critique along disciplinary lines. The origin of the ideal-typical approach of critique to children’s rights as presented here, lies partly in social work/educational sciences, which in turn is indebted to the critical theory in the

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8 This analytical framework builds mainly on the work of D. Reynaert et al. (2012).
Tradition of the Frankfurt school, but also in anthropology and childhood studies. These disciplines may be primarily interested in the deconstruction of social problems definition, hence their understanding of children's rights in their diagnostic dimension, i.e. as analytical tools for deconstructing the ways in which social problems are defined. Other disciplines may not share that basic orientation. The legal discipline, for instance, primarily seeks to regulate behaviour (through legal norm creation and interpretation). Whereas it may be interested in the deconstruction of social problems definition, it will be more interested to see whether and how legal regulation is needed. Likewise, not all disciplines may include an explicit transformative and emancipatory finality in their self-definition, although one may wonder whether that element characterizes disciplines or rather approaches within disciplines (e.g., socio-legal studies or critical legal studies do seem to embrace the emancipatory dimension). It goes without saying that not every discipline may be expected (or be equipped) to undertake, for instance, a diagnostic exercise or to capture children's interpretations of children's rights, but it can draw on other disciplines to do so (see above on disciplinary interaction). In that respect, the key elements of critique should not too easily be categorized as discipline-specific.

At the same time, the emancipatory dimension in particular cannot be assumed at face value, and is in need of further clarification. A core concept in the emancipatory dimension is human dignity, as the end goal of emancipation or social transformation. Human dignity has become closely connected to human rights, but its meaning and relationship with human rights remains unclear (Düwell, 2014, pp. 28–31). The emancipatory dimension of an approach of critique to children's rights therefore needs to clarify the relationship between children's rights and human dignity. Human dignity is for example sometimes mobilized to support individual
choice, and sometimes works as a break on individual choice (Brownword, 2014, p. 1; a way-out may be offered by the notion of relational autonomy, see De Graeve, Chapter 9). When turning to children’s rights as vehicles for emancipation and transformation, a key determinant is power and power relations. Power analysis within children’s rights studies therefore needs to receive more attention than it has received so far (De Graeve, Chapter 9; Mayall, Chapter 5). Some work has already been done on child participation and power (Gallagher 2008; Hart 2008; Hinton 2008; Morrow and Pells 2012; Tisdall, Chapter 11). Approaches to power analysis in development work and the concepts used may be instructive for children’s rights too. The power cube, for example, distinguishes levels, forms and spaces of power. Power may be visible, hidden or invisible; it may work at global, national or local level; and spaces for engagement may be closed, invited or claimed/created (Gaventa 2006; on space, see Aitken, Chapter 8).

Another question is how the emancipatory dimension coincides with or differs from activist scholarship. For sure, contributors to this Handbook take different positions. For some, children’s rights scholarship should carve out its own place next to activism; they may question the emancipatory dimension. Others strongly favour an emancipatory objective, and see that realized, by and large, to its full potential by current children’s rights (law) (Ceriani, Chapter 19; Kilkelly, Chapter 13; Lenzer, Chapter 16; Leye and Middelburg, Chapter 17; Verhellen, Chapter 3). Yet others endorse the finality, but point out the limitations of children’s rights (law) to deliver on that prospect (Hanson, Volonakis and Al-Rozzi, Chapter 18; Vandenhole, Chapter 2; Desmet and Aylwin, Chapter 22) or emphasize the need for appropriation and transformation by stakeholders as an intermediate step (Blanchet-Cohen, Chapter 21).

In sum, the approach of critique may be somewhere in between the radical school, which defines itself mainly in terms of deconstruction, and a technical approach, in which neutral, pre-defined, final solutions are claimed to be possible. The approach of critique includes but does not stop with deconstruction (diagnostic dimension). It is also characterized by openness for diverse interpretations that continue to evolve, and that engage with one another in dialogue or confrontation (deliberative dimension). Finally, the approach of critique to children’s right explicitly gives up any claim to neutrality. To the contrary, it defines itself in terms of a finality of transformation and emancipation (emancipatory dimension).

5. Towards critical children’s rights studies

Based on the findings set forth in the previous sections of this conclusion, we end here by suggesting further directions in children’s rights research. Given the critical approach of this Handbook, we call this children’s rights research agenda ‘critical children’s rights studies’. In recent years, the notion of ‘children’s rights studies’ has emerged in several publications (see e.g. Vandenhole et al., 2010; Reynaert et al., 2010b; Stalford, 2012; Hanson and Nieuwenhuys, 2013), emphasizing exactly the need to deepen the theoretical foundations of children’s rights. As we stated in the preface, there is hardly a tradition in the (academic) field of children’s rights that critically analyses children’s rights without at the same time forsaking the framework of children’s rights (Reynaert et al., 2012). Much more insight is needed in the underlying norms, values and logics that shape children’s rights practices today and the way in which these are understood. Making these norms, values and logics explicit is the fundamental mission of what can be considered as a ‘new’ academic field of ‘children’s rights studies’.

The notion of ‘children’s rights studies’, although already in use for a number of years with various scholars, was only recently given real substance. Hanson (2014) for instance locates children’s rights studies at the intersection of childhood studies and human rights studies. In his view, the field of children’s rights studies is in essence an interdisciplinary field. Recently the
European Network of Masters in Children’s Rights, a network of universities offering higher education in children’s rights, has used the notion of children’s rights studies to emphasize ‘an understanding of children’s rights as socially and culturally contextualised subjective rights’. In an article published in the *International Journal of Children’s Rights* in 2012, Reynaert *et al.* argued in favour of developing a new field of ‘critical children’s rights studies’. Based on these ideas, we propose a research agenda for ‘critical children’s rights studies’ to be developed grounded in the following fundamental starting points:

1. Children’s rights are universal principles and entitlements embodying children’s human dignity. However, these principles need to be understood and interpreted as social constructs in a particular social, cultural, economic, political and historical context. Critical children’s rights studies should therefore conduct research on the interplay – and possible tension – between universal and particular understandings of children’s rights and on how these understandings are moving between the global and the local.

2. Children’s rights are the human rights of children, i.e. they refer to an idea of human dignity and social justice that is common to humankind, not just to children. Critical children’s rights studies should therefore not exclusively focus on the interests of children, but should understand the rights of children in relation to the rights of other groups in society, in particular adults in general. This also means that the institutionalized distinction between children and adults is a permanent object of theoretical reflection.

3. How children’s rights are shaped by children themselves and through the interaction of children with other groups in society, in this way producing a certain knowledge, is a central focus of critical children’s rights studies. Therefore, critical children’s rights studies should use methods of inquiry tailored to children and consider the possibility to involve children as researchers.

4. A critical perspective is a fundamental starting point in critical children’s rights studies: meaning that the way children’s rights are shaped is an object of constant analysis; mainstream paradigms are perpetually deconstructed; the different meanings and interpretations of children’s rights are confronted with each other; and their goal is emancipation and social transformation. Children’s rights also need to be studied in disciplinary interaction and in a contextualized way.

Of course, this is only a preliminary agenda of an emergent field of critical children’s rights studies. We hope that this Handbook will further trigger and mature the discussion on constructions and understandings of children’s rights in the years to come, and on how to research children’s rights. We are convinced that contextuality, disciplinary interaction and critique (in its threefold dimension: diagnostic, deliberative and emancipatory) will be pivotal in elaborating the critical children’s rights studies’ research agenda. The substance of it is open to further discussion and debate.

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9 Available at www.enmcr.net/ (last accessed 15 September 2014).
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Conclusions: critical children’s rights studies


