

### **Affectedness, empowerment and norm contestation - children and young people as social agents in international politics**

Holzscheiter, Anna

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ARTICLE

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# Affectedness, empowerment and norm contestation – children and young people as social agents in international politics

Anna Holzscheiter

Department of Political and Social Sciences, Freie Universität Berlin, Berlin, Germany

## ABSTRACT

In my contribution to this collection, I aim to expose how the growing transnationalisation of groups of affected persons – in this case children and young people – has brought to the fore normative contradictions and tensions built into the 1989 UN Convention on the Rights of the Child. More specifically, I will show how the universal notion of children's rights and a strong global consensus on the 'scourge' of child labour has been challenged through the empowerment of affected persons – in this case child workers. Building on critical constructivist thinking on norms, my core argument is that the increasing access of affected persons' organisations (APOs) to international organisations and high-level events brings with it an increase in norm contestation. Rather than creating new normative contestations, I will show in my analysis, the inclusion of the most affected brings to light normative inconsistencies and ambiguities that have been potentially ingrained in international treaties but hitherto successfully suppressed by powerful norm advocates. The articulation of subversive perspectives on child labour by working children and young people, I will conclude, results in normative tensions and collisions and a reconsideration of seemingly universal values previously taken for granted.

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## Introduction

Advocates of the idea of human rights as universal, interdependent and indivisible are often inclined to gloss over the contradictory aspects of human rights norms or problems of privileging some human rights over others. Newer theories on norms that revolve around the notion of contestation and translation promise to deliver important insights into how actors may exploit these normative contradictions and tensions or seek to resolve them in innovative ways. As such, norm theories that focus on how norms are being translated and enacted into discursive and social practices bear great potential in rendering visible the agents and actions involved in the realisation and localisation of human rights standards.<sup>1</sup> My core argument in this article is that the empowerment and increasing agency of 'the most affected' inside and outside of international organisations in many cases brings to light normative tensions and collisions inherent to the international human rights regime.<sup>2</sup>

**CONTACT** Anna Holzscheiter  [anna.holzscheiter@fu-berlin.de](mailto:anna.holzscheiter@fu-berlin.de)

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In its exploration of the effects of the empowerment of affected persons' organisations (APOs), the paper departs from widely shared essentialist perspectives on norms which continue to dominate the discipline of International Relations. Positivist theories on the emergence, consolidation and implementation of norms in international politics share the core assumption that, once written down and ratified, international standards merely need to be diffused internationally and locally and implemented and complied with in domestic politics and societies.<sup>3</sup> By contrast, this paper is grounded in critical constructivist thinking on norms in International Relations<sup>4</sup> and International Law.<sup>5</sup> The latest wave of norm research has moved on to explore what happens to international standards when they are being debated and applied in international, domestic and local settings: how are these norms being translated in different contexts? How do these contexts affect actors' interpretation of norms? How are potential collisions between norms or tensions inherent to specific legal concepts (such as, in the case of this paper, the principle of the 'best interests of the child' and the principle of 'evolving capacities of the child') addressed in different contexts?<sup>6</sup> Following a critical constructivist notion of international norms as enjoying considerable plasticity in the ways they figure in discourses, policies and practices around the world suggests that the contemporary meaning and productive effect of international norms revolving around the notion of human rights for children cannot be observed without studying how they are used in discursive (inter)actions. To put it differently: only by looking at norms as 'meaning-in-use' and studying how actors frame specific issues in terms of the behavioural inscriptions of a norm can we determine if this meaning is indeed socially shared or rather contested among actors with different identities.<sup>7</sup>

Critical constructivist approaches to norms thus bear incredible potential when it comes to capturing normative insecurities of actors as well as the situations in which they perceive different international norms as colliding, contradictory or difficult to reconcile in practice. Following the literature on norm contestation, I propose a theoretical approach towards the relationship between direct political representation of affected populations on the one hand and increasing rather than decreasing normative ambivalence on the other. This approach borrows from critical constructivist perspectives on international norms and extends them in two directions: first of all, it connects theories on norm contestation to the affectedness paradigm, arguing that the empowerment of affected persons and their growing political organisation and visibility in global governance triggers normative ambivalences – bringing to the fore conflicts between norms that had been hitherto suppressed. Secondly, I argue that theories of norm contestation need to engage more with different variants of norm contestation.

Empirically, I illustrate my argument on the malleability of international human rights norms by tracing the impact of the UN Convention on the Rights of the Child (CRC) in a specific field of international cooperation: international policies on child labour. Looking at discourses on child labour within international institutions, most notably the International Labour Organisation (ILO) but also the wider UN environment, I argue, exposes the empowering effects of the participatory norms enshrined in the CRC on those most affected by child labour – working children and adolescents themselves. At the same time, the recent history of policy-making on child labour and changing attitudes of state and non-state actors on this issue bring to light the normative tensions between protection and emancipation that have always been in-built to the human

rights catalogue laid down in the CRC. The empowerment of young people outside and inside international institutions, I contend, has led to a growing recognition of these normative tensions. In fact, transnational coalitions of working children have to some extent successfully exploited norm collisions integral to the human rights regime in their contestation of abolitionist norm advocates and particularly the 1999 ILO Convention No. 182 ('Worst Forms of Child Labour Convention'). As I aim to show in the empirical part of the article, the normative trajectory of the CRC, thus, has been one where the antagonism between objectifying, paternalist norms of child protection on the one hand and subjectifying, emancipatory norms of child participation, agency and empowerment continues to play out across diverse policy issues. As a consequence, the biography of the CRC in the past 29 years has been a rather turbulent one – and an integral component of these turbulences has been the rising visibility and political organisation of children and young people as affected populations of child rights governance.

Apart from the theoretical contribution this paper aims to make, it also extends the range of 'affected persons' that are seen to be relevant in global governance by exemplifying the dynamics of APOs' empowerment and norm contestation in the case of working children. Postcolonial and feminist accounts of articulation, representation and marginalisation of the 'affected' in international politics have already highlighted the agency and subjectivity of women or actors from the global South as affected persons in international politics.<sup>8</sup> Children as affected persons, however, continue to be a marginal area in International Relations scholarly research,<sup>9</sup> even more so theoretical and empirical contributions that understand children and young people to be not only objects but also subjects – in fact *persons* – of international politics, endowed with social, economic and political agency. The literature on children in international relations evidences, however, that they have only received attention when situated in classical fields of international politics such as security, war and the economy. Few International Relations scholars (and even fewer International Law scholars) have addressed the specific class of norms that we might call 'human rights for children'. Those who did, have done so from rather traditional, positivist understandings of norms.<sup>10</sup> Generally, children and young people have yet to be acknowledged as relevant subjects in the study of international politics, even though, very slowly, the IR agenda is opening up to scholars interested in analysing the international politics of childhood and children's rights.<sup>11</sup> The following discussion of the ways in which children and young people as agents of international politics have carried forward international discourses on the human rights of children – and particularly their relevance for international child labour policies – is structured as follows. The next section will revisit the history and contemporary debate on the human rights of children from the point of view of theories on norm contestation. Following the literature review, the paper highlights two dimensions of contestation theory that I identify as relevant for the affectedness paradigm: agency (who contests?) and the substance of contestation (what is contested?). The last substantive section of the paper applies the theoretical and conceptual propositions put forward earlier to the case of international child labour standards and the role of working children's organisations as affected persons' organisations.

## A contestation perspective on international human rights norms for children

How can we observe the effects of international human rights norms that have been adopted by the international community decades ago? What happens to international human rights treaties when they come of age, when the contexts in which they are applied have changed sometimes dramatically, when they travel to distant temporal and spatial shores? In this paper, I address these questions by looking at the 1989 United Nations Convention on the Rights of the Child (CRC). Undoubtedly, this seminal treaty is the source of a growing visibility and voice for children and young people in national societies and political institutions as well as in international organisations and policy-making. The CRC not only served to emphasise and institutionalise the particular vulnerability of children and young persons, but it also marked a revolutionary moment in the history of human rights of children by codifying political rights for children, most notably their right to participate and to be heard in all matters directly relevant to them (Article 12, CRC). Ever since the CRC was adopted by the United Nations General Assembly in 1989, the participatory dimension of this treaty was cherished as a critical turning-point in the history of the rights of the child and as the coming-into-being of the child as a social and political agent in international politics and law.<sup>12</sup> And yet, as I will show, the case of human rights of children is by no means one of inevitable normative progress, neither is it one where a seemingly harmonious catalogue of 41 substantive human rights (codified in the CRC) is progressively realised and implemented. Rather, I will present the case of human rights of children as one laden with normative controversies and colliding social expectations.

Theories on international norms revolving around the concept of contestation have become very popular in the past decade roughly.<sup>13</sup> Norm contestation is commonly defined as comprising all forms of opposition – discursive or otherwise – towards the applicability, validity and meaning of norms.<sup>14</sup> By now, the notion of contestation has become a widely accepted term and a welcome extension to earlier norm theories in international relations with their top-down, progressive focus on diffusion and implementation of international norms in domestic contexts. Theories on norm contestation assume that every international norm is potentially contested and that contestation is a normal feature of international norms and their biographies. Every international norm, be it already institutionalised or only in the making, therefore comes along with diverse forms of resistance, sometimes addressing the legitimacy of the norm itself, sometimes addressing the applicability of the norm in specific situations and contexts.<sup>15</sup> At the same time, theories on norm contestation emphasise the productive effects of contestation inasmuch the very act of contesting a norm is seen as a source of agency.<sup>16</sup> They do not see contestation as necessarily a critique or total rejection of a norm but make us aware of the fact that contesting a norm also implies a serious engagement with the content of international treaties and regulations. The human rights of children as codified in the CRC are a case in point. The treaty not only constitutes the most all-encompassing human rights treaty that has ever been adopted by the UN General Assembly, but it also entered into force at record speed and with near-universal endorsement as all UN Member States have ratified the CRC – all except the United States.

Rather than taking non-ratification at face value and seeing it as an outright rejection of the human rights enshrined in the CRC, the notion of contestation redirects the perspective from narrow questions of compliance towards a broader study of how proponents and opponents of the CRC engage with this human rights treaty. An analysis of broader societal discourses on human rights suggests that there is – and always has been – an enormous political and societal engagement with the norms enshrined in the CRC, no matter if political parties and societal actors and organisations oppose or cherish the human rights principles of that Convention.<sup>17</sup> The example of the CRC shows that contestation is omnipresent and that particularly in cases where norm proponents make us believe in a startling normative unanimity, we just have to dig deeper. The case of the CRC and its notion of human rights for children however also exemplifies that contestation is a healthy and productive practice surrounding international norms. Rather than seeing contestation a point-blank rejection of international norms, a closer look at practices of contestation can expose the seriousness and intensity of engagement with the meaning and implications of such norms, even on the part of its severest opponents. The benefits of approaching international norms from the vantage point of contestation are multiple. Most importantly for this paper, a contestation approach permits to grant analytical supremacy to ‘situations of conflicting or changing meanings of norms’<sup>18</sup> rather than instances and processes of smooth, progressive implementation. Contestation approaches thus support a research agenda that is less focused on normative consensus – rather, they place considerable analytical value on the identification of normative tensions, ambiguities, inconsistencies and collisions.

### Contesting what and in what role?

In the context of the affectedness paradigm, two questions related to norm contestation appear to be of particular relevance: first, what role is ascribed to affected persons in norm contestation theories? And secondly, how does the recognition of affected persons as subjects in international politics and law and their increasing involvement in international institutions and policy-making processes influence the biographies of norms? In the beginning, theories on norm contestation were applied to a rather narrow set of traditional IR issues.<sup>19</sup> In the numerous empirical studies on contestation and the Responsibility to Protect, nuclear non-proliferation or humanitarian intervention, both norm promoters and contestants were by and large states. More recently, however, a number of contributions to the contestation literature have directed scholarly attention to agents beyond state representatives, i.e. the ‘supposed beneficiaries and addressees’ of norms.<sup>20</sup> This newer trend in the contestation literature is thus a plausible starting point for an exploration of the dynamics between affectedness, empowerment and contestation. In the following, I will explore two dimensions of the literature on norm contestation further in which I see potential for broadening and specification in the context of the affectedness paradigm: a) norm contestation and the agency and identity ascribed to contesting parties and b) the substance of contested norms.

### ***The affectedness paradigm and agency in norm contestation***

Placing persons and groups affected by international policies and regulations centre stage in the analysis of norm contestation has necessitated to pay attention to the question of agency in international politics. Here, IR scholars have become more sensitive to agency as a matter of contestation itself and to the ways in which non-state actors' access to and participation in international institutions is a matter of contention.<sup>21</sup> Various conceptual proposals have been made with regard to the relational identities of actors vis-à-vis international norms. Bloomfield and others have operated with the notion of norm antipreneurs vs. norm entrepreneurs to position actors alongside a promoter-contester axis.<sup>22</sup> Two different roles have been assigned to these antipreneurs by Bloomfield: the role of creative resister and competitor entrepreneur.<sup>23</sup> What is common to these suggestions with regard to agency and norm contestation is a dichotomous view on norms as either being promoted or contested. More importantly for the argument of this paper, though, is their assumption that those contesting existing international norms do so by bringing in *new* normative perspectives and interpretations. This preoccupation with new norms and interpretations derives from norm theory's preoccupation with normative change – thus agents are either perceived to be catalysts or obstructers for normative change.

My central claim here is that those challenging a norm often do so by taking advantage of norm conflicts that are in-built to international treaties. We can thus conceive of affected persons as actors who explore the boundaries of established international norms by bringing to the fore normative inconsistencies and ambivalences integral to a specific issue-area. Their practices of enactment and re-contextualisation of international norms may trigger the healthy dynamics of norm conflict that are warranted to make these norms meaningful in a specific time and place.

### ***The affectedness paradigm and the substance of contested norms***

When it comes to the substance of contested norms, the existing literature on norm contestation exhibits a narrow perspective on contestation limited to three types of contestation: a) contestation as rejection of the general validity of a norm, b) contestation of the applicability of a norm to a specific situation, or c) contestation as incompatible behavioural prescriptions coming from two different fields of international rule-making. The act of contestation is thus understood to involve clearly identifiable antagonisms or incompatibilities between two or more norms (e.g. environmental protection vs. economic growth). As a consequence, the agents involved in practices of contestation are typically assigned clear-cut identities as either promoting or challenging/rejecting the norm at stake or defending *either* Norm A *or* Norm B in cases of norm collisions. In contrast, my central claim here is that those challenging a norm do not necessarily propose new norms but often set in motion conflicts over norms that have been potentially ingrained in international treaties but hitherto successfully suppressed by powerful norm advocates.

As others before me have suggested theoretically, there is a need to abandon the dichotomous tendency of critical constructivist thinking on contestation by acknowledging that there are different variants of contestation and, arguably, more complicated



constellations of relationships between norms.<sup>24</sup> In fact, critical constructivist thinking on contestation can be enriched by looking at different variants of contestation – and the role that affected persons and their organisations play as agents of contestation in all these variants. I suggest that there are three different variants of norm contestation: first, the classical definition of two colliding substantive norms – these colliding norms can also be part of the same rule system or normative order, in the case of this paper, the international regime surrounding child protection and children's rights. Secondly, contestation as conflicts over procedural norms. Procedural norms are such norms that relate to appropriate behaviour related to relationships and interactions between actors in specific institutional contexts (i.e. conversation rules, voting rules, conflict management) as well as norms for the formulation, implementation and interpretation of international standards. And thirdly, contestation as conflicts over the meaning, relevance and applicability of one and the same norm in specific contexts. In the study of how the agency of affected persons is related to norm contestation these variants point to different analytical avenues.

To summarise the two propositions that lie at the heart of this paper: I argue that the agency of affected persons vis-à-vis international norms is consequential in (at least) two significant ways. First, their inclusion does not have to be equivalent with the emergence of entirely new normative beliefs. Rather, the visibility and action of affected persons in international policy- and law-making can move normative tensions and conflicts in international human rights law that have been identified much earlier (even in the course of the drafting of international standards) into the spotlight. These norm conflicts thus become manifest as a consequence of the inclusion of the affected, even though they were potentially conceivable prior to their inclusion. Secondly, the empowerment of the affected in international rule-setting creates fields of tension between substantive and procedural norms. As much as participatory norms for specific groups of persons (women, children, people living with disabilities, older persons, minorities, workers) have become central to contemporary discourses on affected persons as legitimate agents inside international institutions, they have become a matter of conflict with regard to changing rules of access for APOs in international organisations. Divisions over the extent to which participation, autonomy and agency should be granted to groups of persons previously held to be vulnerable and silent, thus, have also become relevant to the standard operating procedures of international organisations themselves. The following section will illustrate these two arguments by discussing the case of working children as affected persons in the international regime on child labour. By tracing the intensifying involvement of working children in international debates on appropriate ways to address child labour, the empirical section substantiates the argument that inclusion of the affected brings to light norm conflicts in-built to international law and policies that were previously 'tamed'. Looking at the substance of these norm conflicts, I will, in a second step, show that the inclusion of child workers in international forums and institutions has brought to light all three variants of norm conflicts discussed above.

## Affectedness, empowerment and norm contestation – the case of working children

The history of international policy-making in the field of child labour and the growing transnationalisation and visibility of organisations of working children in this field constitute an excellent example to show how the empowerment of affected persons triggers dynamics of norm contestation on all three levels identified above. As I will show in this last, empirical part of my paper, the opening up of international institutions for working children and young people brought to light conflicting normative prescriptions that have always been part of the contemporary children's rights regime – and its core legal document, the CRC – but successfully suppressed by powerful norm entrepreneurs. The case of child labour serves as an illustration for the core argument of the paper on affected persons and the manifestation of norm collisions. I therefore do not offer a systematic exploration of all norm collisions occurring in the context of international child labour policies, nor does the paper present findings of extensive data collection and analysis. The empirical analysis draws on secondary literature on international child labour policies on the one hand, particularly literature that discusses the history of international cooperation and transnational civil society advocacy in this field.<sup>25</sup> Primary sources, particularly those documenting international conferences on child labour as well as documents published by working children's associations were used to identify norm collisions or normative tensions with explicit references to the human rights norms contained in the CRC. Documents published by local, regional or transnational organisations of working children were therefore scanned for vocabularies suggesting antagonism and contestation (e.g. the phrase 'alternative perspective') as well as any connections to international norms contained in these contesting speech-acts (e.g. passages connecting empowerment of child workers as 'agents' to the participatory norms in the CRC or speech-acts that link ILO child labour policies with abolitionist perspectives on child labour). At the same time, primary sources were searched for the three different variants of contestation: whenever norms are presented as antagonistic or inconsistent, are actors referring to procedural norms (e.g. the question if working children and adolescents affected persons should participate in international negotiations on child labour policies), are they referring to clashes between substantive norms (e.g. abolition vs. legalisation) or are they referring to different interpretations of the one substantive norm (e.g. what exactly is meant by 'hazardous forms of child labour')?

### *The CRC and participatory rights for children then and now*

During the drafting of the UN Convention on the Rights of the Child between the years 1979 to 1989, a remarkable shift in the perception of children (defined as all human beings below the age of 18) happened.<sup>26</sup> In fact, the legal personality of the child in international politics changed by 180°. While earlier human rights documents for children treated the child as a passive, vulnerable, innocent and silent object of international protection and transnational solidarity and charity, the drafters of the CRC for the first time included the full range of human rights for children, most notably political rights such as the right to be heard or freedom of assembly and religion. As the

cornerstone of what is often portrayed as a seismic shift in international law on the rights of the child, Article 12(1) of the CRC stipulates that

'States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.'

A look at the *travaux préparatoires* makes this revolution all the more puzzling as the drafters of the CRC spent very little time and debate on these political rights – even though they constitute the most contested dimension of the CRC to the present day. As I have shown elsewhere, though, those state and non-state representatives and legal experts who have negotiated the CRC had a very narrow understanding of the child's right to participation when they adopted Article 12.<sup>27</sup> They considered the right to be heard largely in the context of child custody cases and were not aware of the avalanche they would trigger with this article. As interviews with delegates of the NGO Ad Hoc Group in the drafting revealed, they would have never considered consulting with children in the context of the negotiations – and children were only invited to adorn the glamorous adoption of the CRC by the General Assembly in November 1989.<sup>28</sup>

29 years on, however, Article 12 of the CRC must be considered an incredible catalyst for the recognition of children's political, social and economic agency and the realisation of the right to active participation in a broad range of contexts (youth parliaments, civil society organisations, social movements, schools, kindergartens, urban planning committees). International institutions have also been influenced by this development. In that sense, Article 12 of the CRC has served as a door-opener for children in national and international political institutions and decision-making processes. The interpretation of the relevance of Article 12 has evolved from a very narrow one in which the right of the child to be actively involved and consulted was taken to be applicable to a limited range of contexts to a general principle legitimising the overall political and social participation of young people. Article 12, thus, has evolved from a substantive right applicable to a limited range of contexts to a principle *sui generis*, a procedural norm that sees child participation as a value in itself rather than just a means to an end in specific situations. By now, the human right to be heard and to participate has become constitutive for children's agency in societal, political and economic spheres – and the empowerment of children as affected persons is an outcome of broadening participatory rights. The fact that the Committee on the Rights of the Child has elevated participation as contained in Article 12 to one of the four general principles of the CRC (rather than merely one right in a long list of rights) implies that taking into account the views of children on all matters affecting them must be seen as a general procedural principle that should be recognised in all interactions with children as affected persons.<sup>29</sup> As a consequence, the participatory rights enshrined in the CRC warrant a special focus on children as affected persons and the ways in which the agency of minors and the political organisation of their interests has been recognised in international politics. And indeed, as the case of international policies on child labour shows, the empowerment of children as affected persons and the involvement of working children's organisations in the context of international child labour conferences has brought to light all three variants of norm collisions identified earlier in this article.

### *Agency, participatory rights and norm contestation in the child labour case*

When it comes to the relevance of the UN Convention on the Rights of the Child, the more recent history of international cooperation in the field of child labour evidences that both anti-abolitionist protagonists of grassroots working children's organisations as well as representatives of influential abolitionist international advocacy NGOs have framed their concerns in terms of core human rights principles enshrined in the CRC. They have done so, however, in order to bolster dramatically different normative agendas with regard to child labour.<sup>30</sup> In international debates on child labour, core principles of the CRC have been used to support diametrically opposed positions in the struggle of different groups, not only with regard to the appropriate response to child labour (conflict over substance) but also with regard to the legitimate involvement of children as affected persons (conflict over procedure). How can one and the same international human rights treaty be the normative point of reference diametrically opposed positions on child labour? The explanation for this finding lies in the normative tensions built-in to the CRC, more precisely, the tension between protectionist human rights clauses such as Article 32 on child labour ('right of the child to be protected from economic exploitation') and participatory clauses such as Article 12 ('the right to express his or her own view freely in all matters affecting the child' and the 'right to be heard'). The formation and transnationalisation of child worker organisations and their actions inside international institutions, I argue, have not introduced a whole new normative grammar to the debate on child labour but rather kissed awake the sleeping beauty called norm conflict hitherto shrouded by the supposed universality and rational legal quality of the CRC.

The history of international politics in the field of child labour exposes the overall dynamics identified by the editors of this collection in their introductory paper.<sup>31</sup> Here too, we can observe how prominent Northern NGOs in this field such as Anti-Slavery International or the Global March Against Child Labour were acting for considerable time as the undisputed indirect representatives of the interests and fates of working children. In the course of the 1970s and 1980s, however, the formation of 'rooted organisations' of working children and youth first in Latin America, then in the Caribbean, in Africa and Asia, also implied challenging the representational power of these Northern NGOs.<sup>32</sup> These child worker movements and organisations have gradually evolved into vocal transnational social movements, usually involving children between 5 and 18.<sup>33</sup> While these transnational social movements have also been fighting against exploitative and abusive forms of work, they continue to oppose radical abolitionist policies, i.e. such policies that define child labour as all work keeping children from attending school lessons. Rather, child worker organisations have also endorsed fights for higher wages, health and safety regulations and regulated working hours. In the 1990s, when major international policies were debated in the context of the International Labour Organization (ILO), these child worker organisations began to target international institutions – not only the ILO, but also NGOs partnering with the ILO. Their aim to bring hitherto suppressed perspectives and demands to the international discussions on child labour went hand in hand with attempts to reclaim representational power from, Northern professional NGOs.<sup>34</sup> The struggle for recognition and agency is reflected in the various regional and global declarations they have adopted, in

which they claimed their right to be recognised as social agents in their own right, as being capable to form and express their own opinion, to take responsibility for their own lives and to be able to represent their interests in international institutions.<sup>35</sup> 'Nothing About Us, Without Us': the title of a collection of essays published in 2013 by the Latin American Movement of Child Workers, MOLACNATS, epitomises the claims to political representation of affected children and young people in the international regime on child labour.<sup>36</sup>

Certainly, the international debate of the 1990s over changing existing child labour policies was mainly led by state representatives – with some, mainly developed countries clinging to a broad abolitionist agenda and others, mainly developing countries, aiming towards a focus on abolishing first and foremost the 'worst forms' of child labour. However, it was also the opening up of international institutions to new non-state actors, among them groups and organisations of working children, whose political agency has fuelled norm contestation. Looking at the international discussions on child labour policies that were being led in the 1990s, one can identify the different variants of norm contestation specified earlier in this paper.

### *Affectedness and the substance of contested norms in the child labour case*

Looking at the substance of struggles over international child labour policies, all three variants of contestation discussed above can be identified. International debates on appropriate rules and policies on child labour have been marked by conflicts between different childhood paradigms – and the substantive norms they carry with them.<sup>37</sup> Generally, the approach embraced by the ILO, but also by other important international organisations such as UNICEF or the United Nations at large have been leaning towards child protection policies, aiming to shield children from all possible forms of exploitation and portraying them as being the silent victims of exploiting adults (employers, families etc.). At the same time, the image of the childhood as phase free of sorrow, responsibility and economic hardship which was, for a long time, taken to be the accepted universal understanding of appropriate childhood has become increasingly under attack, following a growing recognition of children as agents who are capable of making autonomous decisions. This recognition has also sparked off debates on the child's right to work and to be an economic agent. When the voices of child workers were becoming louder in the international debate and when child workers were finally able to penetrate the confines of international organisations and conferences, the tension between the norm to protect children from all forms of harm (and specifically from economic exploitation, Article 32 of the CRC) and the norm to involve children in the definition of their best interests on matters that affected them directly (Article 12, CRC) was becoming suddenly manifest. The empowerment of the affected thus raised awareness for a substantive norm conflict inherent to the rights catalogue of the CRC that had hitherto been contained. The norm conflict is evidenced by the fact that both norm entrepreneurs for child protection and those in favour of an emancipatory agenda were using the CRC as their main normative reference point to justify their agenda. In their contestation of the imagery of the child as dependent, vulnerable and voiceless, child workers have used the CRC and its emancipatory facet as a major normative point of departure. They have rejected the vocabularies of victimhood, vulnerability and distress that characterised traditional discourses on child labour as a global 'scourge' and, instead,

claimed their right to participate in the communicative spaces where their fates and interests are being negotiated.<sup>38</sup> Thus, child workers have exploited the participatory dimension of the CRC to fight for recognition as social agents and as active shapers of their own lived realities, not merely passive targets of abuse and manipulation.<sup>39</sup>

The increasing recognition of the child's right to participate and to be heard was not only challenging conventional ideas on childhood as taking place outside factories and farm work.<sup>40</sup> It also challenged the procedural norms characterising non-state actor involvement in international organisations, calling for direct and meaningful involvement of children and young people in international debates relevant to them. The various instances in which children were heard in front of the Security Council are perhaps the most notable expression of this trend.<sup>41</sup> The political and participatory rights enshrined in the CRC, hence, were also confronting international organisations with demands for changing their access rules for children as the affected. In the context of the international child labour conferences of the 1990s, thus, conflicts over procedural norms revolving around the 'participation norm' have been noticeable.<sup>42</sup>

To acknowledge the political agency of children implies to see them as persons endowed with a range of human rights, including political rights such as the right to freedom of assembly, the right to freedom of opinion or the right to be heard and listened to.<sup>43</sup> In the child labour case, established Northern adult NGOs working closely together with international organisations such as ILO and the United Nations at large have built their power to represent children as the affected by delineating the boundaries between legitimate adult representatives on the one hand and incapacitated vulnerable, innocent and voiceless constituencies of non-citizens (children) on the other.<sup>44</sup> However, when child worker organisations began to claim their representational power and, as a consequence, were allowed to speak in front of the delegates at ILO conferences, conflicts between these grassroots organisations and historically authoritative abolitionist NGOs and trade unions were observable. At the 1997 Child Labour Conference in Oslo, eight representatives of child worker organisations had been invited to speak at a plenary session for the first time. In their statements, they demanded their general right to be included in policy-making on child labour, argued against the total abolition of child labour and called for an improvement of their work conditions.

The third variant of norm contestation – conflicts over the meaning of a norm and its applicability to specific situations – is exemplified by recurrent contentious debates over what qualifies as 'worst forms of child labour' and the question if work obstructing school education should automatically be considered one of these worst forms. The child workers speaking at the Oslo Conference were asked for their opinion on education – they argued that many working children were in fact learning more from their work than through the educational offers of poorly run schools.<sup>45</sup> They thus upheld that the abolition norm associated with detrimental 'child labour' should not be applied to such work that is interfering with school education. Instead, they advocated for a perspective that values work as a site of learning and the acquisition of skills.<sup>46</sup> Their position put representatives of child workers squarely at odds with powerful advocacy coalitions such as the Global March Against Child Labour and their unequivocal position that child work that comes at the expense of comprehensive school education should be considered 'child labour'.<sup>47</sup>

The interventions by representatives of working children were met with strong reactions on the part of state delegates. Some delegates claimed that children had lied about

their age, others condemned everyone who finds children's work acceptable.<sup>48</sup> More importantly, however, they did not result in institutionalising child workers participation in international encounters – quite to the contrary, ever since organisations of working children have been denied access to high-level meetings. Child worker organisations were not accepted as official non-state participants at the International Child Labour Conference in The Hague in 2010. Rather, they had to resort to staging alternative events and protests in the vicinity of the conference location.<sup>49</sup> Transnational child worker coalitions such as MOLACNATS distributed leaflets in the vicinity of the official conference venue, claiming their right to participation and 'to be heard' under Article 12 of the CRC and demanding their recognition as 'social agents, economic and political actors'.<sup>50</sup> The only voices of children that were included in the official conference were two testimonials of former child labourers in front of Queen Beatrix of the Netherlands – the emotional contribution typically valued as legitimate in many official international events. Child participation at the 2013 Child Labour Conference was limited to the creation of an exclusive web space for 'youth' to contribute to the so-called *Child Labour Dialogues*. The web page's icon for these dialogues was a smiley.<sup>51</sup>

The child labour case continues to be exemplary for the ongoing discursive struggle over the historical and spatial origins of a global childhood paradigm and its contested validity across diverse cultures and societies.<sup>52</sup> And yet, despite their re-exclusion from high-level intergovernmental consultations on child labour, the empowerment of working children as affected persons has compelled many states and non-state actors to reconsider their strong, protectionist perspectives on child labour and to accommodate the image of the child as a political and economic agent.<sup>53</sup> Thus, the norm conflicts identified above have yielded positively productive effects inasmuch as some proponents of this international debate have been moving towards each other rather than remaining stuck in a polarised debate. In particular, it appears that even traditional child protection charities have been increasingly embracing a perspective on working children that includes their right to be acknowledged as political and economic agents and to contribute meaningfully (rather than just as testimonies of misery) in programmes and policies that affect them. *Terre des Hommes* and *Save the Children*, for example, are official supporters of associations of working children and youth in Latin America, such as MOLACNATS. Both organisations have adopted policies on child labour that emphasise child workers' agency and the need to take into account their perspectives on child labour.<sup>54</sup>

## Conclusion

In this contribution I have sought to address several of the core issues motivating the TWT collection on the affectedness paradigm, before all with regard to the impact of the direct participation of the most affected in global governance on the biographies of international norms and the challenges it presents to what on the surface may look like an unchallenged international consensus. The paper has analysed how the empowerment of minors as affected persons continues to shake up the normative foundations of children's rights, in particular the way in which it continues to challenge the human rights of children codified in the CRC. Discussing the international discourse on child labour then and now, the paper has unveiled how the increasing visibility and agency of working children (as the affected) has resulted in changing discourses on child labour and contestation of the meaning of the

norms enshrined in the CRC. Studying ongoing resistance towards a strong abolitionist, objectifying discourse on child labour coming from increasingly transnationalising child workers' organisations, I have sought to show how the very enactment and realisation of participatory rights for children and young people within the confines of international institutions has fuelled conflicts between different behavioural expectations. While in my contribution I have focused on the ILO as the focal point of international policies on child labour, the opening up of international institutions towards children as political agents can also be observed at the United Nations at large where, for example, children are part of NGO delegations to the Committee on the Rights of the Child. Further issues related to the opening up of international institutions to children as affected populations however need to be addressed, before all the extent to which political representation of children and young people is dependent on third parties (in terms of funding; access; speaking rights; legal knowledge and the like) and the ways in which these third parties may interfere with young people's agendas and discourses.

The paper has thus sought to make a case for the relevance of the affectedness paradigm in the context of research on norm contestation. While it focuses on children and young people as affected persons in international relations and on the particular case of international child labour policies, the dynamics it describes are by no means unique to this group or case. Quite the opposite – it is a dynamic of increasing norm contestation that might be seen as a core characteristic of contemporary global governance and as an effect of the way in which the 'participatory norm'<sup>55</sup> has infused international organisations and led to their increasing openness to a plethora of non-state actors, including affected persons' organisations. And yet, as the case study exemplifies, norm contestation practices resulting from a stronger voice and activism of affected persons renders questions of agency, authority and identity related to norm contestation more convoluted than the traditional state-focused contestation researcher would expect. They point to struggles over authority, representation and political citizenship *among* non-state actors rather than 'just' between representatives of state and civil society.

The findings presented in the paper suggest that procedural norms as a specific category of international norms warrant more analytical prominence and that a closer look at changes in the ground rules for interactions between international organisations and grassroots organisations of affected persons yields important findings into the contestation of procedural norms.<sup>56</sup> Looking at the changing policies of large advocacy organisations working in the field of child labour such as the *Save the Children Alliance* or *Terre Des Hommes*, it is clear that the greater visibility and more balanced representation of children as affected persons in international debates and standard-setting initiatives has inspired a reconsideration of conservative abolitionist agendas and led to a growing recognition of children as political and economic agents in advocacy and programming on child labour. These organisations have intensified their cooperation with (former) child workers in advocacy, policymaking and policy-implementation and generally acknowledge the changed status of the child in international law. At the end of the day, these transformations also necessitate a reconsideration of the question who has the authority and legitimacy to define 'affectedness' and agency in international politics.



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## Notes on contributor

**Anna Holzscheiter** is Assistant Professor of Political Science and International Relations at the Department of Political and Social Sciences at Freie Universität Berlin and Head of the Research Group ‘Governance for Global Health’ sponsored by Freie Universität Berlin and WZB Berlin Social Science Center. She has received her PhD from Freie Universität Berlin and held Fellowship positions at the Center for European Studies/Harvard University and the London School of Hygiene and Tropical Medicine. Her work focuses on the turbulent biographies of norms in international politics (particularly in the fields of human rights and health) and can be found in *Review of International Studies*, *Millennium*, *International Studies Perspectives*, *Politics & Governance*, *Journal of International Development*, *Leviathan*, *Global Society*, among others.

## Notes

1. Bachmann-Medick, “Introduction.”
2. This argument is part of a broader agency-focused theory on norm collisions developed in Gholiagha, Holzscheiter and Liese, *Analysing Norm Collisions*.
3. Cortell and Davis, “How do International Institutions Matter?”; Hafner-Burton, “Sticks and Stones”; Hafner-Burton, “International Regimes for Human Rights”; Hafner-Burton, *Making Human Rights a Reality*; Linde, “The globalization of childhood”; Linde, *The Globalization of Childhood*; and Simmons, *Mobilizing for Human Rights*.
4. Krook and True, “Rethinking the Life Cycles of International Norms”; Wiener, “Contested Meanings of Norms”; Wiener, “Enacting Meaning-In-Use”; and Zwingel, “How Do Norms Travel?”
5. Koskeniemi, *From Apology to Utopia*; and Teubner, “De Collisione Discursuum.”
6. For an agency-based constructivist approach to norm collisions see Gholiagha, Holzscheiter and Liese, *Analysing Norm Collisions*.
7. Fontana and Grugel, “To Eradicate or to Legalize?”
8. Chowdhry and Nair, *Power, Postcolonialism and International Relations*. See particularly: Chowdhry, “Postcolonial Interrogations of Child Labor.”
9. for exceptions see: Beier, *The Militarization of Childhood*; Beier, *Children, Childhoods, and Security Studies*; Carpenter, *Forgetting Children Born of War*; Holzscheiter, *Children’s Rights in International Politics*; and Linde, *The Globalization of Childhood*.
10. Linde, *The Globalization of Childhood*; and Simmons, *Mobilizing for Human Rights*.
11. Watson, “Children and International Relations.”
12. Holzscheiter, *Children’s Rights in International Politics*.
13. Deitelhoff and Zimmermann, “Things We Lost in the Fire”; Wiener, “Contested Meanings of Norms”; Wiener and Puetter, “The Quality of Norms is What Actors Make of It”; and Jetschke and Liese, “The Power of Human Rights a Decade After.”
14. Wolff and Zimmermann, *Between Banyans and Battlescenes*.
15. Deitelhoff and Zimmermann, “Things We Lost in the Fire.”
16. Zimmermann et al., “Unlocking the Agency of the Governed.”
17. Blanchfield, *The United Nations Convention on the Rights of the Child*.
18. Wiener, “Contested Compliance,” 198.

19. Burai, "Parody as Norm Contestation"; Contessi, "Multilateralism, Intervention and Norm Contestation"; Welsh, "Norm Contestation and the Responsibility To Protect"; and Glanville, "Does R2P Matter?"
20. See note 13 above.
21. Braun et al., "Rethinking Agency in International Relations"; Holzscheiter, "Coping with Diversity and Dissent?"
22. Bloomfield, "Norm Antipreneurs and Theorising Resistance"; and Wunderlich, "Theoretical Approaches in Norm Dynamics."
23. Bloomfield, "Norm Antipreneurs and Theorising Resistance."
24. See note 13 above.
25. Bourdillon et al., *Rights and Wrongs of Children's Work*; Hindman, *The World of Child Labor*; Myers, "The Right Rights?"; Smolin, "Conflict and Ideology in the International Campaign against Child Labour"; Smolin, "Strategic Choices in the International Campaign Against Child Labor"; Myers, "Considering Child Labour"; Dahlén, "The Negotiable Child"; Fyfe, *The Worldwide Movement Against Child Labour*; and Hanson and Vandaele, "Working Children and International Labour Law."
26. See note 11 above.
27. Ibid.
28. Ibid., 211.
29. Committee of the Rights of the Child, 43rd Session, 11–29 September 2006, Day of General Discussion on the Right of the Child to be Heard, Accessed October 2, 2018. <https://www.ohchr.org/EN/HRBodies/CRC/Pages/DiscussionDays.aspx>
30. Holzscheiter, "Representation as Power and Performative Practice."
31. Sändig et al., "Affectedness in International Institutions."
32. Following their emergence in Latin America, most working children's organisations have adopted the acronym NATs (niños y niñas trabajadores). Today the largest child worker organisations are the African Movement for Working Children and Youth/Mouvement Africain d'Enfants et Jeunes Travailleurs; the Latin America Movement of Working Children and Adolescents (MOLACNATS); the Working Children's Movement in South and Central Asia; and EUROPANATS.
33. Miljeteig, *Creating Partnerships with Working Children and Youth*.
34. Hungerland et al., *Working to be Someone*.
35. See for example Kathmandu Declaration, Convergence of working children from South and Central Asia, August 2005, accessible at <http://www.asoc.it/italianats/dichiarazioni/dichiarazione-di-kathmandu-2005.html>, accessed 2/10/2018; Final Declaration of the 2nd World Meeting of Working Children and Adolescents, Berlin, April/May 2004, Accessed October 2, 2018. <http://www.asoc.it/italianats/dichiarazioni/dichiarazione-di-berlino-germania-2004.html>
36. MOLACNATS, *Nothing About Us, Without Us*.
37. Bourdillon et al., *Rights and Wrongs of Children's Work*; Dahlén, "The Negotiable Child"; Hanson and Vandaele, "Working Children and International Labour Law"; Smolin, "Conflict and Ideology in the International Campaign against Child Labour"; and White, *Children, work and child labour*.
38. See note 32 above.
39. Hertel, *Unexpected Power*, Chapter 3.
40. Ennew, "Outside Childhood"; and Ennew, "The History of Children's Rights."
41. See statement by Jenny Londoño, former child soldier, consultant Grupo de Jóvenes Consultores (Colombia) at the 8305th Meeting of the Security Council, Open debate on children in armed conflict, 9th of July 2018, see: Accessed September 12, 2018. <https://www.un.org/press/en/2018/sc13412.doc.htm>
42. Tallberg et al., *The Opening Up of International Organizations*.
43. Invernizzi and Williams, *Children and Citizenship*.
44. Among the most well-known global CSOs working in the field of child protection are: the Save the Children Alliance, CARE, PLAN, World Vision, the Terre des Hommes International Federation, and the Bernard van Leer Foundation. In child labour, Anti-Slavery International

is commonly considered to be the most influential non-state actor while the Global March Against Child Labour is the largest network of organisations in this field.

45. Dutch Ministry of Social Affairs and Employment, *Combating the most intolerable forms of child labour: a global challenge*, Report of the Amsterdam Child Labour Conference, February 1997, Accessed July 6, 2018. <http://ilo-mirror.library.cornell.edu/public/english/comp/child/conf/amsterdam/report.pdf>
46. See note 35 above.
47. Global March Regional Coordinators, 'From Exploitation to Education', *Global March Position on Child Labour and Education*, 2004, Accessed May 7, 2015. <http://www.globalmarch.org/images/GM-Position-Paper-on-Child-Labour-and-Education.pdf>
48. Miljeteig, *Creating Partnerships with Working Children and Youth*, 18–19.
49. The 2010 meeting of EUROPANATS took place alongside the official 2010 ILO Conference in The Hague, staged as an alternative meeting to express 'deep disagreement' with ILO's child labour policies; see Accessed June 7, 2018. <http://www.associazionenats.org/>
50. Declaration of Molacnats on the occasion of the Global Child Labour Conference in Den Hague, May 2010, p.3, online Accessed June 7, 2018. <http://www.pronats.de/assets/Uploads/molacnats-erklaerung-deutsch.pdf>
51. See "Child Labour Dialogues," Accessed June 7, 2018. <http://www.childlabourdialogues.org/>
52. Poretti et al., "The Rise and Fall of Icons of 'Stolen Childhood.'"
53. See note 29 above.
54. See Terre des Hommes International Federation, 2015, Position on child labour, see: Accessed June 7, 2018. <http://www.terredeshommes.org/terre-des-hommes-position-on-child-labour/>
55. See note 41 above.
56. Holzscheiter, "Coping with Diversity and Dissent?"

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