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Western Depictions of Children and the New Imperialism

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The New Imperialism: Are Western Adult/Child Depictions Crippling the Universalization of Human Rights?

The human rights discourse has become a paradigm in international relations, with the transition from the international system to an international society. The primarily Western U.N. has created the framework for and the language therein, and the paradigm has become a tool in development and post-conflict stabilization. A vital aspect of that paradigm is the differentiation between adult and child, which has also been primarily instituted by the West. The weight of the Western differentiation between adult and child is most significant in its politicized/legal expression, thus its impact is most directly manifested in treaties and conventions. The struggle of constructing who is a child and how that "childness" relates to rights and a legal position in society, culminated with the UN Convention on the Rights of the Child. The supremacy of this document has served the supremacy of the West in the human rights question. The struggle of this adult/child construction incorporates a range of issues: the abortion and reproduction rights of women, and even childcare, which are primarily operative in the *private* domain—heretofore off-limits to international intervention. By placing the discussion of human rights into a normative framework, the typical model of state sovereignty is changing, and becoming 'within-limits', with stipulations such as the monitoring system contained in the UNCRC marking the only limitations preventing its total involvement in the private domain.

In addition to this, the unmitigated blanket-issue of culture has triggered the promulgation of debates on whether or not universal child's rights can represent anything other than a new tool of imperialism—of imposing Western ideologies on developing countries. Can human rights be implemented in ways other than those which are called culturally imperialistic? To answer that question, some more involved factors must be considered. How are Western adult-child differentiations constructed and what is the interplay of gender in this construction? In post-conflict societies, who plays the most crucial role in the implementation of rights determined from that construction? And how does this incorporation of human rights fit into the greater scheme of post-conflict stabilization? Based on these questions, this paper will address the element of imperialism within the human rights discourses by defining the Western adult-child differentiation as it is manifested in abortion rights, then evaluate the language of the Convention on the Rights of the Child and how it is utilized by state institutions and NGOs in dealing with 'child soldiers', and finally, assess the difficulties in the implementation of that Convention.

Within the evaluation of the rights of the child, the most distinct connection between the adult and the child is a notably gendered one. In the conventions and standards established to protect the rights of the child, the issues of abortion and childcare both elicit a question of compromise between the rights of the adult and the rights of the child. The key difference between the adult and child, other than some demarcation of age, is presented to be the vulnerability of the child, throughout the consistent pattern of human rights legislation. The key connection between the factors of childcare and abortion is the frequency with which they bring the dialogue to focus on 'women and children', in the struggle together and against each other for certain rights. This relationship is so frequently the subject of the differentiation between the rights of the adult and the rights of the child, that it raises the question: where are the men? As Perry writes, men are often somewhat ignored by the "selective gaze of today's GCS [global

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civil society] and "often pose barriers to the implementation of women's and children's rights programs", sometimes in a quest for the recognition of their own needs in post-conflict situations (Perry 2004, p.53).

This presentation of the women's and child's rights movements as something which act as one movement, building on and working with each other, is problematic. It has facilitated the presentation of women and children as being victimized by the "patriarchal power holders" and "introduces tensions into communities rather than strengthening them" as it crosses the line into the domestic territory of the family which was off-limits for so long, and which often contains the most potent components of culture and tradition (Perry 2004, p.53). By giving women's and child's rights movements a united front, the argument delegitimizes the woman as sharing the trait of vulnerability uniquely and distinctly attributed to the child, and places the woman against the man in a culture where the men may potentially see this as a potential destabilization of the culture's traditional patriarchy. Likewise, it prevents the child from being seen as a unit independent of its mother or female guardian in such a patriarchal society and doubles the hostility evoked within the male segment of the society who have suddenly become doubly at fault, both against the women and the children of the culture.

Until the rights of women and children are pursued as distinctly separate aims, such tensions will continue to disrupt peace processes and confuse the endeavors of both the woman and the child. These two different groups have very different specific needs, both in and out of conflict, and so their advocacy groups must not manipulate the issue of a traditionally cultural patriarchy in order to gain the sentiment of the feminists in the West. There are interesting dynamics between the rights of the child and the feminist theories of development in that the role of reproduction rights and whether childcare is a domestic or international issue, relate directly to both the child and the mother, or guardian, of the child. If the women's and child's rights movements truly frame their issues from the "strategic structuralist" perspective presented by Donna Perry, avoiding analysis of culture and focusing instead on the "largescale structural forces that have 'tainted' local culture and rendered it dysfunctional" (Perry 2004, p.50) such as "poverty, structural adjustment, and population growth," (Perry 2004, p.54) and if rights abuses are only "deviant acts by individuals who have been corrupted by the stress of modernity" then, Perry argues, it is the fault of "global capitalism, overpopulation, and urban poverty" (Perry 2004, p.77). Thus, the women's and child's movements become anti-globalist and deflect the responsibility of the abuses from the culture to the structural forces of the "freemarket fundamentalism" which only "intensifies Third World suffering" (Perry 2004, p.50). This approach, and the combination of women's and child's rights movements, is presented as a politically expedient but reductionist perspective which raises just as many issues of controversial cultural practices as strategic essentialism (the manipulation of culture as a justification for human rights abuses) does (Perry 2004, p.47). The issue with strategic structuralism is that, in presenting women's and child's movements as one, it places issues like abortion and childcare in an uncertain position to maneuver from within the human rights discourse, and takes too much focus away from the culture of the societies in which these women and children exist. Western differentiations seem to have that effect.

Abortion is a concrete illustration of the conflict of interests between women's rights movements and child's rights movements. Preamble 9 of the Convention on the Rights of the Child mentions the need for 'special safeguards and care, including appropriate legal protection, before as well as after birth' (U.N. Convention on the Rights of the Child, 1989), and so "there occurs a dichotomy between the rights of the child and the rights of the mother. Involved in this, is a conflict between a 'right to life' and 'right to make decisions concerning one's own body'" (Ramesh 2001, p.1949). Some would argue that the fetus has no rights under the Universal Declaration of Human Rights, as Article 1 opens with the "fundamental statement of inalienability: 'All human beings are born free and equal in dignity and rights (Universal Declaration of Human Rights, 1948),' which Copelon et al. believes demonstrates the inherent nature of equality and freedom from birth, but not within the womb (Copelon et al. 2005, p.122). If women and children are in a struggle together, against the corruption of their culture by outside globalizing forces, then what does this mean for the women's right to choice and the child's right to life? Even more troubling, what if it is the child that desires an abortion—the young girl who has been raped or who does not have the resources of facilities to give birth and/or raise a child? "The Committee [on the Rights of the Child] has expressed repeated concern over adolescent girls' access to safe abortion services...the Committee has also recognized that safe abortion is part of adolescent girls' right to adequate health under Article 24" (Copelon et al. 2005, p.123). Many women's rights activists are pushing for safe abortions throughout the undeveloped world, but how would this operate in cooperation with the

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child's rights activists who argue that it is the rights of the child both before and after birth that are meant to be protected? Positioning women's and child's rights movements together, translates to a framework of human rights where the adult/child boundaries become adult male/women and children boundaries. This does not work. Not only does it isolate men and women from each other in such a way that the adult/child boundaries are no longer applicable, it also limits the role of culture in both defining and implementing human rights for either women or children.

Abortion rights are an issue of rights, culture, and law. In China, with its strict birth control policy, the poor health conditions of women have been attributed by their doctors to the fact that the woman has too many children to "raise nicely" (Adams 1998, p.87). This implies both that the children are the source of the woman's illness and that to follow the law of birth control (a very patriarchal concept and in direct conflict with a woman's right to make decisions for her own body) would have protected her from such illness. Finally, in Tibet, to control the population, women are subjected to mandatory sterilization and forced abortion (Adams 1998, p.77). Once again, abuses of human rights act as a stark representation of a legalized form of abusing the rights of the woman's right to choice, and, in this case the child's right to life. While in the most blatant of abuses, such as this, the rights of both woman and child are violated, the paradox of the impossibility to compromise the two is quite unavoidable. To attempt to present them in such a way as Perry does, while it serves to examine the methods that women's rights movements and child's rights movements choose to publicize the rights abuses, does not serve to effectively address how to serve the rights of both in so cooperatively a way. Simply put, to honor the rights of both in certain situations would prove impossible. The common ground in this argument is that the availability and freedom to choose a safe abortion protects the right of the woman to determine the use of her own body, and protects the unborn child from what could potentially be a miserable existence in a situation without the necessary resources. This still negates the rights of a fetus, though, which is the central issue in determining who has the right to life. Therefore, the issue of who is a child does not just involve determining when a child becomes an adult, but also when a child becomes a child: at birth or before?

The definition of the 'child' is most widely accepted and established as it is demarcated in the Convention on the Rights of the Child. Article 1 states: "For the purposes of the present Convention, a child means every human being below the age of 18 years" (U.N. Convention on the Rights of the Child, 1989), which, according to some, implies only "born persons" (Copelon et al. 2005, p.122). This limit was widely accepted and the Philippines proposed keeping it as such during the "consideration of Article 1 of the draft Optional Protocol", and were supported by "a number of countries and specialized agencies as well as the Friends World Committee" (Breen 2003, p.467). Later, the Friends World Committee argued that the Convention failed to effectively differentiate between the adult and child, indicating the essential need for this differentiation in the Optional Protocol to the Convention (Breen 2003, p.478). The United Nations Convention on the Rights of the Child (henceforth referred to as the UNCRC) was unanimously adopted by the United Nations' General Assembly on November 20th, 1990 and has since achieved "near-universal ratification with only the United States and Somalia left to ratify" (Harris-Short 2003, p.135). This demonstrates a level of "norm-creation" in the apparent existence of "a strong consensus among states as to the substance and universal applicability of the rights of the child" (Harris-Short 2003, p.135). With this practically unanimous adoption of the UNCRC, the demarcation of the age 18 as the moment a child becomes an adult became a widely assumed classification in very little time, although the implementation of the implications of this for child soldiers and child laborers was much less of a widespread success. David Rosen call the age limit for childhood, the "Straight 18 position" and believes it to be a byproduct of the "politics of age", which he defines as "the use of age categories by different international, regional, and local actors, to advance particular political and ideological positions" and he argues is:

central to the competing agendas of humanitarian groups, sovereign states, and the United Nations and its constituent agencies, and it brings them into complex struggles over the recruitment and use of children as soldiers, the ideological and political manipulation of the concept of "childhood," and the definition of who should be considered a "child soldier" (2007, p.296).

This position originates in the "universal definition" of the UNCRC, which defines childhood as "beginning at birth and ending at age 18" (Rosen 2007, p.296). If this is how childhood is defined in the most universal way in the current international society, how does such an age limit affect the "social and cultural changes contained in the

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transnational restricting of age categories" (Rosen 2007, p.297)? Not only does such a limit potentially transform the expectations of different cultures for what it means to be a child and what is expected of individuals younger than 18, but it will inherently condemn cultures whose "children" are performing jobs that are part of the cultural experience of growth and maturing, and will make such experiences a criminal victimization of a child. The "age-old view that children should be 'seen but not heard', and, the materialistic view of the last century that the child is 'future investment' (which sees the child as the result producing machine without his or her choice, thus, undermines his/her participatory right) should be dispensed with" (Ramesh 2001, p.1950). In fact, the UNCRC provides for the participation of the child, which can be restricted by both cultural traditions as well as systemic issues like poverty and when the basic needs of children are not met. Such a restrictive environment is at odds with the UNCRC principle of "the best interests of the child" (Howe and Covell 2003, p.1085). Not only must the child be given the opportunity to speak and be heard, but also to be a participant in decisions made for them and about them, both judicially and administratively. This includes what age determines who is a child and who is an adult, and that age should be based on regional standards, rather than global standards. Rosen posits that this "Straight 18 Position" is "a prime example of how a new political agenda can be represented as an existing cultural norm" and that "...a single universal definition...ignores the fact that there is no universal experience or understanding of childhood. Indeed, if anthropology has anything to contribute to an understanding of childhood, it is that there is a multiplicity of childhoods, each culturally codified and defined" (Rosen 2007, p.297). If this Position seeks to prevent the trying of children for war crimes or from even being recruited into armed forces or groups, how does it determine whether a person chooses to participate in war crimes at 18 but not 17, or whether they were forced or coerced into it? There is no magic number. The solution is not to persevere in resolving at what age a child is no longer vulnerable and innocent within violence, but to create structures that provide the child with alternatives to violence. The child soldier problem reflects the dynamic of neo-liberal imperialism and the struggle to implement policies to protect child's rights.

A primary source of discord within the child soldier debate is the perception of the child soldiers as victims. To begin with, "...international law abstractly theorizes that child soldiers are victims of adult abuse and criminality. Like the concepts of the "child laborer," "child bride," or "child prostitute," the "child soldier" is conceived of as a deviant product of adult abuse" (Rosen 2007, p.297). This definition is problematic in that it assumes that children are "dependent, exploited, and powerless," and if the UNCRC is valid in the most definitive and pure sense, then that dependency and powerlessness ends at age 18 (Rosen 2007, p.297). Indeed, in states where child soldiers are most greatly proliferated, they are more vulnerable than the child in an elementary school in the United States would be, as civil conflicts often result in a failure to "bolster education and employment opportunities" making young people especially susceptible to being recruited by rebel movements that can provide protection, security, and opportunity that is unavailable elsewhere (de Berry 2001, p.94). The previously established role of vulnerability as the key difference between Western depiction of adult and child means that the child is the victim in any circumstance in which that vulnerability is an incentive to act in a way that may be perceived detrimental to the child. Likewise, what this means for child soldiers is that they cannot be held responsible for any war crimes they commit, "because they are considered to have no legally relevant agency" (Rosen 2007, p.297).

Just as both the woman and the child are delegitimized when they are perceived or depicted by the Western rights movements as one and the same, so children and the international justice system are delegitimized when such a limited and simplistic determinant as age is the foundation for whether or not someone is truly guilty of murder, or if that individual was merely a pawn in a process in which they were vulnerable and exploited. Child soldiers cannot be viewed only as victims, simply because they are children "...but must also be credited with agency and volition in the decisions that take them to fight...Even in the mire of war, children can be seen to make the decision to fight from the subjective appraisal of their options and safety" (de Berry 2001, p.94). Indeed, there have even been circumstances where refugee camps became recruitment centers for armed groups and "...children reportedly volunteered to join armed groups hoping to find physical protection and economic security because these children felt unsafe and had been left to their own devices" (Breen 2003, p.470). The language that Breen uses, of children being "left to their own devices", in the context of these children choosing to participate in armed conflict based on the given devices, implies that children are desperate and ignorant of the consequences of such decisions. Yet again, they are delegitimized in that they are the victims even when they are holding the guns.

This by no means that the child soldier as a victim of the system is unfounded, as it is most certainly a byproduct of a

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failed or failing system, but this is a simplistic way of handling children who are definitively involved in conflict, which prevents solutions that provide a suitable alternative from being reached. It does this in underestimating the child's capability and desire to seek the most secure and ideal future for itself, either because the child has chosen an armed group in the past, which is seen as the wrong choice, or simply because he or she is a child and is assumed to not have agency in such structural issues as the pursuit of education and security. The Western perception of adult and child is so prevalent in the human rights discourse, that it has become a sort of norm itself, which has been utilized to further the humanitarian aims for better or worse. The greatest negative byproduct of such norm-creation is the inability to create a sustainable peace, due to a failure to recognize that "...chronological boundaries between childhood and youth and youth and adulthood are highly varied and rooted in the historical experience of each society and culture, and...in many circumstances, childhood and military life are not understood as either incompatible or contradictory" (Rosen 2007, p.297). Then again, the idea that "...both violence and childhood are culturally constructed cannot be overemphasized. The cultural construction of violence is influenced by its portrayal" (Korbin 2003, p.441). When children carrying guns is the portrayal of violence chosen by the media and human rights movements, one must evaluate the construction of the child in this role, as well as the agency being placed upon that child, as a violent actor in conflict. The culture and the legitimate agency of the child must be considered.

One of the most significant points to be made in relation to the definition of who is a child and the agency of children, most especially child soldiers, is that "...regardless how much weight is attributed to children's agency in different cultures or contexts, the laws regarding child soldiers were not developed with the involvement of the children, nor do they consider any framework for understanding agency of children other than extremely protectionist constructions of childhood" (Rosen 2007, p.297). Until the child is given legitimacy as is indicated in the UNCRC, including the crucial 'power of participation', and is viewed within his or her cultural context, this framework will repeatedly fail in implementation and will splinter societies in the effort. The "hitherto narrow agenda of the rights movement needs to be expanded by a discussion on issues such as structural violence in the form of starvation, disease, violence, and death in the private domain of families as well as in the community life" (Sinha 1994, p.2649). The widespread acceptance of the UNCRC is surprising, given its tension with state sovereignty, as it crosses the line into the private domain of the family life, though indirectly and in a top-down approach, via the state elites. This is the root of the accusations made against the idea of universal human rights as being imperialistic. To evaluate that accusation, it is important to ascertain how the UNCRC defines the rights of child and who implements this definition.

The "ethos" within the Committee on the Rights of the Child, assumes "that by embarking upon a process of internal discourse aimed at promoting "enlightened" interpretations of existing cultural values and practices, consensus in favor of the Convention's norms will gradually take hold" (Harris-Short 2003, p.177). The possibility of this is unlikely, given that the decisions made in the drafting and agreement of the UNCRC are all made by state elites without the engagement of the other levels of the state's population, which results in the isolation of the government from its culture, and "gives no greater respect to alternative insights and cultural world views of previous marginalized and excluded cultures" (Harris-Short 2003, p.177-8). The distinction of the UNCRC is that it was binding, whereas its predecessors (i.e. The Universal Declaration of Human Rights) were not, and that its language developed a focus on the 'best interest of the Child', which involved "provision, protection, prevention, and participation in one's situation relevant decision-making" and which reflected an "ideological shift" from protection, nurturance, and welfare, to autonomy, self-determination, and justice (Ramesh 2001, p.1948). This evolution of the rights of the child reflects not only an ideological shift in the concepts of human rights, but also in the Western perception of the child. Instead of being protected and nurtured, the child is being given rights whose language calls to mind Westphalian ideas and the rights of states more than the idea of the vulnerable or victimized child. Yet again, this emphasizes the ideals of the West over the ideals of the more communal- and agriculturally-based countries who view childhood, work, and the military as something very different. Also, child labor is a necessary source of income in some households, and "child work may raise total household resources and, through that, the health of all household members" (O'Donnell et al. 2005, p.453). Unfortunately, it is hard to discern between this kind of child labor and the other extreme, such as child prostitution or child slavery, as "the majority of child labor takes place in the informal sector, in agriculture, services and small-scale manufacturing" which means that child rights become the demand of a marginalized group rather than a legitimate obligation of the government (Davis and Powell 2003, p.711).

To combat such issues of implementation, many NGOs submit reports, documentation, and other information on the

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implementation of the UNCRC to the Committee on the Rights of the Child in different countries (Breen 2003, p.458), and while ratification is a step toward developing a more effective and universal discourse of human rights and child rights, treaty ratification is often dependent upon the level of democracy and strength of a country's civil society (Neumayer 2005, p.950). Furthermore, while NGOs have established and maintained participation in the process of the implementation of human rights, "ultimately they remain at the bottom of the hierarchy behind states and international organizations. Their role is predominantly in bridging the gap between law and policy, ensuring compliance with international humanitarian law, and their provision of information to stimulate dialogue" as was demonstrated in the drafting of the Optional Protocol to the CRC (Breen 2003, p.481). The Security Council has identified the need for ongoing elaboration of human rights standards within the United Nations system and by NGOs, and in this, "NGOs will continue to carry out perhaps what is their most important function, which is to ensure compliance by state parties with their legal obligations under international law" (Breen 2003, p.481). If the Optional Protocol is being used as the impetus for the ongoing work of the NGOs, though, when only three of the ten states required for it to come into force have adopted it, how valid is this Protocol in the short term, and what has to change for it to be more widely accepted in the long term (Breen 2003, p.481)?

Some of the primary difficulties in acceptance of the rights of the child as an implementable, non-imperialistic process are: the disassociation of state elites from the culture of their state, the top-down approach taken by such state elites, the delegitimizing language defining the "child," and the lack of the incorporation of culture and participation of the child in the "universal" understanding of child's rights. Many delegates to the Convention "adopt a positively hostile attitude toward the culture and traditions of their own people" (Harris-Short 2003, p.149), which complicates necessary steps in implementation, such as "convincing the local population to accept human rights as relevant and appropriate to their particular situation and to...adhere to the standards that the state has willingly accepted" (Harris-Short 2003, p.164). The issue of culture, which is often cited as the essential obstacle to universal human rights, is frequently utilized as an explanation for the inability to implement human rights standards, rather than the unwillingness to agree to them. One of the primary and unavoidable cultural issues is the poverty in the underdeveloped countries, where the use of child labor can sometimes "double the entrepreneur's own small income" and seen as a "necessary condition of cost-reduction strategy" (Kolk and van Tulder 2002, p.293). In impoverished regions, strict regulations and unilateral international sanctions banning child labor "seem to have minimal impact, and might well be counterproductive as it drives children to the informal sector where control over labor conditions is lacking" (Kolk and van Tulder 2002, p.293). Similarly, in India, one report by an official court commissioner appointed by the Supreme Court "exposed the non-implementation of protective legislation. All the protesting, demonstrating, lobbying...over a decade, have resulted in release of thousands of bonded child labourers but not one employer/enslaver has been so far prosecuted" (Sinha 1994, p.2649). The failure of the implementation of child rights is repeatedly evidenced in situations such as this, and reveals the need for established steps incorporating the participation of the roles of the child and the consideration of culture, to improve implementation.

First, terms like "all feasible measures" and "direct part in the hostilities" have no place in the UNCRC, as they become meaningless in the leniency of their implementation (UN Convention on the Rights of the Child 1989, Article 38). They are too abstract and leave too much room for individual interpretation between states, with very little potential for accountability. In fact, the nature of the convention seems to enable states to do what they can, with very little punitive consequences in the case of a state's failure. Secondly, the rights of the child must be distinguished and pursued separately from the rights of the woman, as these two can conflict and do not incorporate the same needs or seek equality in the same way. Both child and woman need the right of participation, but the woman needs participation as an adult like the man, whereas the child needs participation on its own level. A child's needs involve more dynamics of development, whereas a woman's needs require greater emphasis on equality. The manipulation of Western sympathies is not a viable reason to attempt to present women's and child's rights movements as one movement. Thirdly, since the Committee on the Rights of the Child is charged with receiving reports in implementation, devising and recommending new methods of implementation, and "making specific recommendations; to provide technical advice and assistance," but only 113 countries had submitted their initial reports in 1998, the "self-reporting mechanism...has become perceived as a weak enforcement tactic" (Ramesh 2001, p.1948). Therefore, new methods of monitoring and reporting must be created, with the incorporation of the people on the grassroots level, who are invested in the culture and represent a more realistic perception of how the rights will be received and perceived. Finally, the definition of child's rights must be re-evaluated from the perspective

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of the child, through research of children in conflict, as soldiers, refugees, laborers, etc, in order to understand the relevant perspectives and agency thereof. Throughout debates, "Chinese officials have persistently rejected the assumptions of individualism and universalism in human rights discourses" (Adams 1998, p.78). And in India, which ratified the UNCRC, a 13 year old laborer in a tailor's shop, was beaten to death by police after being accused of thievery, raising a tremendous outcry in India and revealing that there were no "genuine checks or controls to take care of potential violations of democratic rights of the child by the state itself" (Sinha 1994, p.2648). That states ratify the UNCRC, therefore, does not guarantee implementation and those that respect it will establish reservations (Neumayer 2005, p. 951). The states make decisions for its people first and then work to convert the people to that decision. This pattern is not working.

The Western ideas of adult/child boundaries influence the universal rights movements, which have shifted from the protection of to the participation of the child. This is a step forward for the West, but does not translate to the traditional cultures of the undeveloped states. The slowly dissipating boundaries of the public and private, and with it, traditional norm of state sovereignty, are giving way to the idea of the international 'society'. This environment has made it unpopular to denounce the neo-liberal imperialism of human rights standards, but the widespread ideology is not matched by widespread implementation, and it is this that reveals the problem of imperialism. The Western view of the child has proven to increase tension both in its implementation of abortion rights, strict regulation of child labor, and situations with child soldiers, by not considering the culture and by not giving the people participation in what rights they are given. The implementation of both reproduction rights and child's rights, problematic in itself, challenges traditional patriarchy in many cultures, and sometimes adds another level of violence in civil war states. The "Straight 18 position" challenges the traditional role of the family in cultures, and has delegitimized and obscured the agency of children. Essentially, when the grassroots culture does not accept the Westernized rights that are being 'given' them, that culture will undermine the movement and the effort will reflect the age-old imperialistic aims of 'enlightenment' that have become a part of the past. Child's rights must be part of the future.

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