

Reflections on the impact of human rights inflation on the international protection of children's rights

تأملات في اثر تضخم حقوق الإنسان على الحماية الدولية لحقوق الطفل

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Abstract

The world is witnessing an unprecedented growth in the texts guaranteeing human rights, which did not allow to avoid the increasing violations of human rights, especially since the emergence of international human rights instruments was mostly associated with maneuvers and political considerations, rather than being the subject of a comprehensive theoretical study and analysis of the relations of influence between various international human rights instruments, and this was clearly demonstrated in light of the international protection of the child, which produced less consistent and less clear guarantees that reflected negatively on the rights of the child

Keywords: international mechanisms inflation, the protection, children's rights,

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ملخص

تشهد الساحة الدولية نموا لم يسبق له مثيل في النصوص الضامنة لحقوق الإنسان، الأمر الذي لم يسمح بتجنب الانتهاكات المتزايدة لحقوق الإنسان، خاصة وان نشوء الصكوك الدولية لحقوق الإنسان ارتبط في معظمه بالمناورات والاعتبارات السياسية، عوض أن يكون محل دراسة وتحليل نظري شامل لعلاقات التأثير والتأثر بين مختلف الأدوات الدولية لحقوق الإنسان وقد تجلى ذلك بوضوح في ظل الحماية الدولية للطفل التي أنتجت ضمانات اقل اتساقا واقل وضوحا انعكست سلبا على حقوق الطفل. الكلمات المفتاحية: الآليات الدولية، التضخم، الحماية، حقوق الطفل.

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1. INTRODUCTION

One of the signs of the emergence of the individual in the international sphere and his emancipation from the absolute sovereignty of his State is the enormous arsenal of universal, regional, and national texts guaranteeing his rights. Since human rights have historically been the "reserved domain" of the State and are now the focus of governmental and non-governmental initiatives, the diversity of global, regional, and national systems indicates that they are now the topic of cross-border mobilization and control.

However, the process of internationalizing human rights, which combines a variety of local, regional, and global factors, has contributed to its construction, making it both concrete and contentious. A lot of actors working at the national, regional, and international levels have interdependently worked to create the international human rights protection system. The plurality and diversity of approaches for protecting international human rights were influenced by a global context marked by multilateralism, convergence, and crises, which resulted in an "inflation" of human rights agencies and standards.

Despite the legitimacy of the concept of children's rights, the process of internationalization, mostly linked to pragmatic considerations, has contributed to the proliferation and differentiation of human and children's rights regimes, which have created a kind of uncertainty and confusion in the effective realization of children's rights, especially as the interaction of regional, global and national systems poses a number of problems associated with the nature of their relationship. In which complementarities and conflicts overlap, with regard to the human rights acquired by a child for his or her humanity in isolation from regimes that are only detectable instruments of rights and do not create them.

The increase in international legislation has led to an enlargement of international standards and mechanisms for the protection of children's rights, making the international system for the protection of human rights very complex and diverse, both at the level of protected rights and at the level of oversight mechanisms. In this article, we will try to answer the central problem: how did normative and institutional human rights inflation affect children's rights?

The theoretical element of inflation as a contemporary notion will be

examined, along with its implications, causes, and issues, in Part I, with an emphasis on children's rights in Part II as a paradigm of normative and institutional inflation in the field of human rights.

2. A conceptual framework for human rights inflation

The heterogeneous international environment has contributed to the multiplicity and diversity of methods of international human rights protection, leading to "the Inflation" of human rights standards and bodies, burdening international institutions and States until some called out the madness of rights, and Others are imperialism of rights, where today's world is experiencing an unprecedented increase and growth in human rights guarantees, This has not allowed for the prevention of increasing human rights violations and, as a result, international precautions have become less coherent and less transparent, reinforcing the coexistence of several degrees of protection, national, regional and global.(Upendra,2012,p198)

2/1/What does the term "inflation of human rights norms" mean?

Human rights norms are the texts and principles embodied in international human rights conventions and other relevant sources of international law aimed at enshrining, promoting, protecting or establishing international responsibility in the event of a violation of human rights. Different provisions controlling human rights set international human rights law apart from other aspects of general international law. This legal specificity has helped to create an objective system with obligations that are different from those under traditional international law.

The proliferation of norms has led to an increase in human rights,the large number of human rights, as many as hundreds, makes the State practice so-called "rights shopping", that is, it will choose its own rights with limited resources. Indeed, the existence of more than 300 rights under international protection makes compliance very difficult, so international conventions have become only loose instruments that urge Governments to govern well, especially since these conventions are complex and do not contain guidance to Governments on how to reconcile these many commitments with their realities and possibilities(.الموسى،2017،ص89)

Some have referred to human rights inflation as a multilevel phenomenon known as "Frénésie normative or "excès de droit", which has led some to question the necessity of establishing new standards in the face

of the abundance of pre-existing standards while others have argued for the need to balance multiple human rights regimes. If the issue of coordination was previously possible, it was more difficult today because of the proliferation of international organizations and the explosion of the number of instruments adopted. Moreover, there was an increase in the types of human rights norms. The same right could be protected by a declaration, a binding convention, a peremptory norm, or a general principle of law, in addition to the multiplicity of mechanisms for monitoring compliance with those norms. .(Turgis,2010,p36-37)

Excessive production of human rights standards has obscured the human rights priority of the violator. The crisis of excess production of human rights norms and foundations, and the pervasive spread thereof, will be followed by an overload of policies and resources that cannot be tolerated by any Government or system, however committed it may be, and human rights inflation can be one aspect of the universal production of the human rights doctrine. A "spell" capable of solving all human problems, or the legitimate cover of all strategic interests far from human rights.(Upendra2012,p19)

Consequently, inflation in human rights standards and the creation of a new list of innovative rights each period reduce the normative value of human rights s rights ", through the impulse to empty all requirements and needs within the framework of rights, Without incorporating the essential elements of a right, it may sometimes be useful to return to a more assertive and less fictitious of rights that makes their application on the ground a legal reality.(Oberderff, 2010,p14)

The adage "Too much of anything is good for nothing" applies to human rights inflation as the proliferation and multiplicity of human rights standards at all levels will diminish and "dilute" them, lowering the normative value of human rights and allowing States to abdicate their obligations under the pretext that it is difficult to put human rights into practice.

2/2/ the problems associated with human rights inflation

The increasing number of international norms guaranteeing human rights is linked to a range of problems, both at the level of protected rights and at the level of international mechanisms that ensure that these rights are respected. We observe the duplication of the list of rights in international

instruments as we consider the vast collection of international human rights documents. A person's rights are protected by more than one international convention due to the convergence of protected rights, if not always in conformity, even though different groups are targeted by conventions (women, children, persons with disabilities, etc.), as well as the different time and spatial frameworks (universal, regional).

There is still ambiguity in defining human rights despite many texts dealing with these human rights because human rights have evolved scattered. Human rights are an idea that is interpreted in different ways, viewed from multiple angles, and there is no specific concept of these rights in terms of their content and extent. The same right can refer to different, if not opposing, realities.

The human rights concept is linked to a time frame (the age of the lights) and a spatial one. (Europe and America) denies its universality, the current concept of human rights is far from the world's heritage, where says It is common for contemporary literature to emphasize that the concept of human rights belongs to Hamurabi, Greek, Romanian and Buddhist civilizations, as well as to divine religions, but this affirmation falls within the field of fundamentalism. These texts do not speak of human rights, even though they contain anthropology consistent with the protection of human dignity.(Genvieve•2008•p)71

Jeanne Hersch continues, "Human rights are not grasped by all people. As the same rights were not represented in the same way across all cultures, "all traditions did not know human rights, but there was a need, an expectation, and a meaning of these rights. All cultures shared that there was unique care and demands for the human person because" he is human".(Hersch•1991• p)04

Universal international instruments have not defined human rights in order to avoid ideological differences, on the one hand, and, on the other, to seek the largest number of signatures and ratifications, they simply list the rights without addressing conceptual problems, especially since human rights are understood to be constantly changing as a result of relationships of influence and impact on the social, economic and political environment.

International treaties have relied on the classification of rights rather than their definition in an effort to limit ideological differentiation. Although interdependence and indivisibility are a cornerstone of the universality of

human rights, the conflict between civil and political rights and collective and fundamental rights against secondary rights led to unequally protected rights and hierarchy in how those rights were handled.

This has created a kind of uncertainty that comes from asymmetries and conflicts between the rules, given the ambiguity that allows for multiple interpretations. as a result of significant logical gaps in the overall structure of the Rules, particularly those that effectively eliminate other rules and procedures that allow the use of procedures to undermine substantive rules, This uncertainty and inconsistency are more likely to be the result of a diplomatic settlement of unresolved differences during the negotiations. This makes States more inclined to adhere to a weak treaty regime that allows them to maneuver on an operational occasion(Donnelly ,1986,p)605.

Notably, universal international conventions, especially the Universal Bill of Human Rights, have avoided specifying rights, attempting to compile a simple list of rights within the framework of what some have referred to as "constructive ambiguity" or "conceptual flexibility" in order to obtain the greatest number of ratifications on the one hand and to permit States to achieve effective results at the domestic level on the other.(Dhommeaux ,1989,p)406.

That plurality of rights has resulted in a multiplicity of United Nations human rights organs, regional organizations and other relevant human rights bodies, which has led to a conflict of competence and ambiguity in the role of the organizations and bodies themselves. The number of actions may lead to conflicting results and observations. In addition, it is sometimes difficult for victims to access complex mechanisms, significantly prolonging the proceedings.) 90ص2000، البرغي(.).

In addition to the risks of contradictory jurisprudence and competence between the various regulatory agencies the concurrent implementation of international procedures on the basis of a complaint or communication would entail the risk of procedural overlaps among the organs, This was clearly reflected in the Greek case, which at the same time mobilized the Sub commission on Anti-Discrimination and Protection of Minorities of the United Nations, the United Nations Commission on Human Rights and the International Labor Organization (ILO), the Committee of Ministers of the Council ofEurope.(Turgis,2010,p)49

States' extensive adherence to human rights treaties has led to a reduction in the number of periodic reports submitted to international commissions, because States cannot submit their reports to all of these commissions together, nor can they examine a series of reports at one or two sessions, but additional sessions are required. This mechanism requires sufficient time for its implementation. .) بوجلال، 2004، ص42 (.

States Parties do not, as a result, treat the reporting mechanism seriously. 20% of States parties to the Covenants and the Convention against Torture have not yet submitted a report; the reason for this may be due to the large number of treaty bodies that make it difficult for many and varied reports, as well as the fact that these reports overlap. The Commission's mandate is broad and has universal competence, but it has limited financial resources, which prevented it from following up on the reports. (الموسى، 2017، ص93-94)

A State may also be required to submit a large number of reports that may not actually strengthen the State's submission as a result of the periodic reporting requirements under each ratified international treaty and the sending of representatives to the supervisory body to represent the State and respond to the questions posed. The variety of supervisory bodies could cause them to clash and overlap with one another. Because the reporting method has been adopted by the United Nations and regional systems, coordination between these committees and entities is necessary.(Bernard ،2013،p)14.

Indeed, the large number of oversight bodies.(United Nations treaty committees).

is due to the fact that most of them are established to ensure compliance with the standards listed in one text under "Interest in specialization" at the expense of "rationalization of oversight", since the multiplicity of complaint-receiving bodies raises a risk of mutual disregard, leading to differences in interpretation, which complicate the State's functions in implementing its decisions, especially those that can be different if not contradictory and which can undermine the credibility and authority of the mechanisms.(Turgis،2010،p16).

3. the Impact of human rights inflation on children's international protection

The child is among the most vulnerable populations and should receive

extra care and consideration. In recent decades, there has been a rise in international attention to the promotion and defense of children's rights. Following the adoption of the Convention on the Rights of the Child on November 20, 1989, efforts to create legally binding international norms have accelerated since the 1959 Declaration on the Rights of the Child, which offers a moral framework in this field.(Bennouna,1989,pp433-445).

1/1/ The Normative inflation of children's rights

Children's rights are included in what international human rights academics refer to as "Droitscatégoriels," unique rights enjoyed by vulnerable groups "such as women, children, foreigners, migrants, minorities, etc." But how can the universality of rights, which are not reserved for "all human beings," but rather a particular category, be discussed? Is this not in violation of the universality principle, which calls for "all rights, to all human beings"?

The notion of " rights of specific groups " does not detract from universal rights. On the contrary, it adds to it, since the introduction of the specificity of certain groups establishes a genuine universality. The provisions of the 1989 Convention on the Rights of the Child take into account children's vulnerability and give them two types of rights s rights ", the first as a human being and the second as a child must be cared for, It does not deprive others of the rights enjoyed by the child, but rather adds rights to the latter. .(Lochak, 2013,p05).

Perhaps the circumstances surrounding the 1979 Convention, when it started to be believed that an international consensus could be formed in order to formulate children's rights in a legally enforceable international convention, are to blame for the proliferation of standards for children's rights. The former Commission on Human Rights established an open-ended working group with representatives from 43 States and delegations from intergovernmental and non-governmental organizations. The group met in a consensual setting without voting on project proposals in an effort to avoid conflicts. The editors of the Convention sought to bridge the cultural gap through research, consultation, and conciliation.(Martaguet,1990,p130).

Within the framework of protecting children's rights as the most vulnerable groups within society and on the occasion of the thirtieth anniversary of the Declaration on the Rights of the Child and the tenth anniversary of the International Year of the Child, the United Nations General Assembly adopted the Convention on the Rights of the Child, which was presented for

signature, accession and ratification on 20 November 1989 and became effective after 11 months, with a preamble text of 54 articles.

Reflecting on international texts, children's rights were scattered in many international documents. More than 80 conventions could be enumerated with children's provisions, but the texts were often fragmented and contradictory, and they barely enshrined powers for parents and the State Prerogatives as legally responsible for child protection. The 1989 Convention set itself apart from its forerunners by recognizing the child as the possessor of economic, social, cultural, civic, and political rights in addition to providing for his protection.(Lavalée· 1996·p609).

Although the Convention on the Rights of the Child was regarded as a true bill of rights for the latter, this did not preclude the attention of a series of international instruments to children's rights, including the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Optional Protocol to the Convention on the Sale and Prostitution of Children and Child Pornography, as well as well as well as ILO Convention No182, The Convention on the Prevention and Punishment of the Crime of Genocide and other international texts, which often allocate special provisions to children in their conventions or guarantee them rights as human beings.

Children's rights have also been enshrined at the regional level through the allocation of a convention of their own, such as the African Charter on the Rights and Welfare of the Child, 1990. The European Convention on the Exercise of the Rights of the Child 2000 or the Reference to Children and the Allocation of a Set of Articles for the Protection of Children adopted by several regional instruments such as the Arab Charter on the Rights of the Child 1945, the European Social Charter 1961 and the American Declaration of Human Rights and Duties 1948.and Other regional provisions guaranteeing double protection for children as human beings and vulnerable groups.

The rights contained in the Convention on the Rights of the Child can be divided into three groups:

Group I: Attention is given to the child's relationship with the State, public freedoms, education, health and international risks (arts. 06, 07, 08, 10, 11, 12, 13, 15, 17, 22 to 32 and 38).

Second group: Care for the child's relationship with his or her family (arts.

22, 23, 5, 19, 14, 16 and 18).

Third group: Describes the difficulties a child may face (articles 19, 21, 23 through 36 and 40), calls for solutions and precautions (articles 33, 29, 30, 37 and 39).(Fossier·1990·p574).

Since the Convention on the Rights of the Child deals with civil and political rights as well as economic, social and cultural rights, it deals with the jurisdictional requirement in article 02/01:"Guaranteed to every child under its jurisdiction," but abandoned the requirement of jurisdiction when speaking of economic, social and cultural rights (art. 04/01) within the framework of international cooperation, thus giving a universal dimension in application even if it was limited to economic, social and cultural rights.(Langford ·2013·p58).

The editors of the Convention have tried to move away from the ethnocentrism and refer to cultural diversity in several locations of the Convention, provided that these cultural specificities are not incompatible with what the Convention calls "the best interests of the child". (art. 03/01), for example, the Convention attends to the phenomenon of female genital mutilation that is common in the African States and Egypt as an act of abuse against the child's physical and sexual integrity, as well as the violent disciplinary methods prevailing in Asian societies.

From references to cultural specificity, article 05 gives an expanded concept to the nuclear family in the Western concept of "extended family or group as provided for by local custom", as well as article 20, paragraph 03, which attempts to contain Islamic culture mentioning the "kafala", which is considered an alternative to legally and legally prohibited adoption in Islamic States, is added to that article. (29/03) Develop respect for the child's family, identity and language, its own values and the national values of the country in which he lives.

2/2/ Institutional inflation on children's rights

In an effort to give effect to children's universal rights, a series of monitoring bodies had been set up to review the progress achieved by the States governing the conventions on the rights of the child, under which they were obliged to submit their reports after ratification. The conventions went beyond the codification of rights and established treaty implementation mechanisms to monitor the implementation of the contents of the Convention.

The multiplicity of conventions on children's rights directly or indirectly has led to the multiplicity of treaty oversight mechanisms, with at least 6 treaty committees monitoring States' compliance with the rights of the child, most notably the Committee on the Rights of the Child of the Convention on the Rights of the Child, the Human Rights Committee, which verifies respect for the International Covenant on Civil and Political Rights.

The Committee on Economic, Social and Cultural Rights, which respects the International Covenant on Economic, Social and Cultural Rights Committee on the Elimination of Racial Discrimination, which affirms respect for the International Convention on the Elimination of All Forms of racial discrimination.

The Committee on the Elimination of Discrimination against Women, which affirms respect for the Convention on the Elimination of All Forms of Discrimination against Women. Committee against Torture to affirm respect for the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Commission on Human Rights is also staffed by a number of special rapporteurs charged with monitoring the situation of children's rights both in specific countries and on specific topics. These include: the Special Rapporteur of the Commission on Human Rights on the right to education. Special Representative of the Secretary-General for Children and Armed Conflict. Special Rapporteur of the Commission on Human Rights on the sale of children, child prostitution and child pornography. Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. Special Rapporteur of the Commission on Human Rights on religious intolerance. Non-governmental organizations have the opportunity to communicate with and communicate information to the special rapporteurs concerned.

The multiplicity of international texts on children results in three kinds of overlap between rights in international texts: the first is the compatibility of rights between different texts in terms of content and expression, which does not pose a practical issue because the implementation of any of the texts has the same result.

The second possibility is to recognize and define different rights in terms of content and expression, and here again the problem does not arise that the scope of protected rights will expand. The third possibility would be

when international texts resorted to different expressions of the same rights. Here the problem arises and the possibility of a competition between rights. The fact is that the risk of competition between rights is "very limited" in view of the recurrence of the principle of interest (principle de faveur) in various global and regional international documents, the aim of which is to prevent the use of a provision establishing a human right to derogate from the protection established by another text similar to it. This principle aims at achieving the most realistic text of the right mentioned between the two texts. (Bernard•2013, p09).

However, the "superposition" of human rights regimes may pose a real risk when there is a radical change in the statement of rights under one name, and some texts are given priority without ratification of other texts or ratification with reservations and interpretative declarations. Indeed, the likelihood of this occurring at the practice level is very low, as subsequent documents always take into account earlier texts at the global level, which implies effective coordination..(Bernard•p12).

Indeed, within the framework of coordination among its bodies, the United Nations set up the Body of Chairpersons of the Treaty Oversight Committees of the Office of the United Nations High Commissioner for Human Rights (OHCHR), whose members were unanimous in recognizing the concerns raised by addressing the right to more than one treaty, the difficulty of repeating reports and the technical and administrative problems that the body decided at its third meeting in 1990: "In drafting their reports, States parties can refer to or consolidate, where appropriate, information contained in reports submitted to other treaty bodies rather than duplicate the same information". (عناي، 2003، ص34)

While coordination at the United Nations level has been carried out successfully, coordination between United Nations and regional mechanisms with regard to the reporting system has not yet materialized, perhaps because of the different value accorded to the reporting system between the different regional systems

4. CONCLUSION

After examining the issue of human rights inflation and monitoring its problems and effects on the international protection of children's rights, we draw the following conclusions:

-Between the difficulty of establishing an exhaustive definition of

human rights and the need to protect them, international documents stipulated rights without defining them, in order to avoid ideological differences and an ambition to obtain the largest number of ratifications, which some called "Conceptual flexibility" or "constructive ambiguity", which provides an opportunity for States to overturn their own vision of the right to protection, resulting in an enormous enlargement in the nature and divergence of the foundation of protected rights, until some rights bear contradictory interpretations.

-conventions guaranteeing the rights of particular groups, such as children, women, and people with disabilities, etc., after the completion of the International Bill of Human Rights, while noting that attention to particular groups does not take away from the universal dimensions of human rights but rather adds to them, The study showed that the Convention on the Rights of the Child—as a model—has a universal dimension with distinction because it comprises two types of rights, the first of which is sensitive to the kid's particular needs as a child and the second of which is gained by the child as a human being.

-The multiplicity of human rights protection regimes can pose a threat to children's rights, especially if they overrepresented contradictory views and are accompanied by States' non-ratification or ratification with reservations and interpretative declarations to universal human rights documents.

- Regionalism can become a substitute for universality, but this possibility is rare since regional regimes represent an intermediate international level between national and United Nations systems, as regional convergence and harmony constitute a fertile area of solidarity and agreement. Thus, the complementary equation between regional universality in the field of human rights depends on "universality of recognition" and "regionalism of application".

- Reflecting on the abundance of international instruments guaranteeing children's rights and the proliferation of bodies entrusted with the task of preserving rights, he realized that the overwhelming interest in children's rights was null and void, especially in the light of the decline in children's rights worldwide on the ground that States were redoubling their obligations at the international level in order to clean up their external record on the one hand and evade the effective realization of rights on the

other grounds of their inability to adhere to all instruments that affect children's rights

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