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Decolonisation of knowledge production on Children's Rights in Africa

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Abstract

This paper provides a critical perspective on the decolonisation of children's rights. The research is a comparative analysis between the African Charter on the Rights and Welfare of the Child (ACRWC) and the United Nations, Convention on the Rights of the Child (UNCRC). It explores the progress and challenges on addressing children's rights within the context of Africa. The paper explores the limitations faced by African scholars to promote research on children's rights. These limitations include lack of funding and imposed conditions on research projects. Subsequently, without addressing such barriers studies on children's rights remain dominated by an imperialist approach anchored on colonialism. An important point to draw from this paper is the need to promote African research, which does not seek to re-write history, but offers an alternative view which contextualises the realities faced by children in Africa. The paper recommends the need to reframe hegemonic epistemologies on children's rights to accommodate the needs and challenges of children in the Global South.

Key words: Decolonisation, children's rights, knowledge production, Africa

Introduction

According to Herring (2023), children's rights entail fundamental freedoms and the inherent rights of all human beings below the age of 18. The Convention on the Rights of the Child (CRC) is an international treaty designed to protect the civil, economic, political, cultural and social rights of the child (Van Beuren, 2018). Consequently, the CRC is embraced globally, ratified by 196 state parties (Buck, 2014). However, on *prima facie* the CRC does not reflect on the impact of the "Scramble for Africa" on children. During this period there was a rapid and competitive quest by European powers to extend their empires in Africa, whilst perpetuating violations on children, including child labour and child marriage (Faulkner, 2019; Okyere, 2017; Balch et al., 2019).

In addition, researchers have associated the CRC with a new form of cultural imperialism (Faulkner & Nyamutata, 2020; Ibhawoh, 2007; Reynolds et al., 2006). In support of this view, scholars have argued that the treaty is not universal and is focused on Eurocentric views on childhood (Buck, 2014; Humbert, 2009). The research is entrenched on the decolonial theory, which de-emphasises the Western connotation of children rights, by adopting the cultural, social and political rights from different geopolitical territories in Africa (Bento, 2017; Richardson, 2012). The theory is based on a colonial matrix of power constituting hierarchical forms of domination and exclusion (Mignolo, 2011). This has been the formidable force which has contributed to the rise of historic movements including Pan-Africanism, Black Consciousness Movement, African Renaissance and the South African orchestrated #FeesMustFall movement. The student led uprising was founded on the realisation that African universities as institutions of learning have been instruments of colonial knowledge production. Ake (1979) prescribes that African need to acquaint with their struggles to obtain liberty from knowledge that sustained present asymmetric power structures. Thus, decolonisation re-centers and discards the perception that Africa is an extension of Western ideology.

In the context of this paper, colonialism refers to the systems and practices that "seek to impose the will of one people on another and to use the resources of the imposed people for the benefit of the

imposer” (Asante, 2006). In the global geopolitical construct, Iweriebor (2011) states that colonialism as a form of imperialism due to inter-European power struggles, and the acquisition of territories was a demonstration of national pre-eminence. Sommer (2011) endeavors to provide an inclusive definition of colonialism based on three foundational attributes; firstly, state of complete deprivation in which the society is “remote controlled” or configured according to the colonial ruler preferences; secondly, the existence of a permanent cultural gap; lastly, an intellectual “yoke” of ideology. The aspect of colonialism as an intellectual “yoke” of ideology is significant in this discussion as it exposes how the phenomena of children’s rights is globally accepted using a Eurocentric view, which is muted on the violations of children’s rights due to colonial legacies. Thus, the operations of colonialism have been detrimental to the protection and attainment of children’s rights. The colonial masters ruled by force to assert their might and maintain their grip on the territories. The study provides a decolonised perspective on children’s rights in Africa (Kaime, 2018). The paper has seven key thematic sections; namely, research methodology, conceptualisation of decolonisation, analysis of the CRC, the emergence of the African Charter, treaty ratification, development goals in Africa and concludes with a decolonised perspective on children’s rights.

Methodology

A qualitative research methodology was used, based on secondary data sources collected through desktop research. Scholars support this methodology because it is characterised by manifold interpretations, based on in-depth and detailed descriptions on key issues (Creswell & Creswell 2022; Shikwambana & Fourie, 2023). Various thematic areas were considered during desktop research, including decolonisation, children’s rights and African studies. Specific reference to literature from policy and treaty documents, journal articles and books on the CRC and African Charter were used to identify gaps in literature on decolonising children’s rights in Africa.

Conceptualisation of decolonisation

According to Eze (2015), decolonisation entails gaining independence from colonial powers, the process allows previously colonised populations to acquire political and economic domination. This process is not limited to geographical and institutional locations, but also involves mental emancipation. The end result of decolonisation is to make it feasible for the formerly colonised populations to return to their authentic selves (Eze, 2015). This view is supported by Ndlovu-Gatsheni (2012), whose critique of decolonisation shows that premature celebrations of the process escalate invisible political, economic, social and academic hierarchies. Thus, this paper adheres to the decolonisation diagnosis, which views decolonisation beyond the mere take-over of power within juridical and political boundaries, but rather advocates for African centered critical thinking on children's rights (Ndlovu-Gatsheni, 2012; Kepe & Hall, 2018).

Therefore, with specific reference to children's rights, decolonisation reflects on the location and identity of African scholars to move from a Eurocentric conception to a perspective which acknowledges and addresses the historical inequalities of children in Africa. Thus, this paper is a departure from exported perspectives on children's rights, which do not contextualise the challenges of children in Africa. In addition, Mafeje (1991) supports this thought position as it advances the notion of understanding African problems from the local viewpoints, as opposed to extracting knowledge which is disassociated with the realities on the ground. Gutto (2011), comprehensively concludes that unless the mind is decolonised, it is difficult to address societal and systematic impediments in African societies. Notably, the ACRWC which is investigated in this research, is an African fingerprint of the content and conception of children's rights, which attempts to discuss the rights of children by taking into consideration the African context.

Convention on the Rights of the Child

The CRC is the authoritative scope and benchmark of children's rights (Detrick, 1999). The treaty holds global recognition as the *sine qua non* of children's rights. In addition, scholars prescribe that the CRC is the principle driving force of the key issues and policies regarding children

(Holzscheiter, 2010; Quennerstedt et al., 2018). Notably, Articles 4 and 41 of the treaty advocate for state parties to promote a conducive for the realisation of the rights of the child and to implement legislation to promote economic, social, and cultural rights (CRC, 1990). The CRC has been a catalyst in advancing the socio-economic and political status of children, even in countries which have not ratified the treaty, but give reference to specific terms of the CRC (Faulkner & Nyamutata, 2020). For example, the widely referred to the “best interests” principle advocates that the full and effective enjoyment of children’s rights should be considered in all actions or decisions that concern the child.

Despite the desideratum status, the CRC has been vulnerable to criticism because of its failure to address inherent colonial legacies on children in Africa (Lundy et al., 2017). The experience of Africans during the colonial era presented pre-existing mechanisms of inequalities, socio-economic and political discrimination which have stagnated development in Africa (Jauhari, 2011; Joireman, 2001). Thus, the success of the CRC is a fallacy if the “resource factor” between the rich and poor or “the haves and have nots” is not addressed. The CRC does not comprehensively address the effects of colonialism on children due to socio-economic inequalities and land dispossession. The realisation of children’s rights without addressing these disparities results in an ongoing chimera of violations.

Moreover, this deficiency propagates the core argument on the impact of colonialism on children’s rights in Africa. In many cases African children were exposed to primitive education, discrimination, inequalities, child marriage and child labour. Though the effects of these issues are still visible in African communities, the genesis of these challenges can be traced back to colonialism. Manoli (2021), contends that colonialism in Africa was characterised by a deep-rooted pattern of deficiencies and lack of recognition for the protection of children. In addition, Ndanyi (2016) exposes that during the colonial era in Africa, the rights of children were violated through a capital accumulation system of child labour in factories, plantation, farms and households.

Furthermore, Fairhall and Woods (2021) have criticised the CRC as aid-oriented, which uses children’s rights as an avenue to access aid. Therefore, it is paramount for the treaty to address the socio-economic and developmental complexities faced by African children. Ankut (2007) contends that the realisation of the CRC is limited without a grounded African perspective. As a result, the African Charter on the

Rights and Welfare of the Child (ACRWC) was developed to proffer solutions to issues raised in this text.

The emergence of the African Charter

The African Charter is an internationally recognised treaty which identifies the African child as a holder of certain rights and provides guidance on domesticating children's rights. The ACRWC was adopted by African countries in July 1990, and 51 out of 55 countries have ratified the treaty as of July 2022 (Olowu, 2002; ACERWC, 2022; Chirowamhangu, 2022). The Charter focuses on the awareness and protection of children's rights, and addresses the effects of war, colonialism, apartheid and harmful cultural practices on children in Africa.

Scholars support that the African Charter in tandem with the United Nation's call for regional dialogue on the protection and promotion of children's rights (Mezmur, 2020; Meix-Cereceda, 2020). For instance, both the CRC in Article 28 and the ACRWC in Article 11(3)(a) agree that the right to basic education is non-negotiable and state parties must take all appropriate measures to ensure its realisation. This fundamental aspect has been included in several constitutional interpretations in Africa to address historical imbalances which restricted education access to a selected few.

In addition, the African treaty similarly to the CRC engages with state parties through periodic reports on the progress made to address children's rights violations. For example, the government of South Africa in its initial ACRWC Country Report acknowledged that despite legal reforms on customary law, the abuse of children through forced marriages and traditional practices has continued at a perpetual rate. In response, the ACRWC Committee in its concluding recommendations reinforced the need for more established efforts to eliminate harmful cultural practices (ACERWC, 2022). Specifically, the Committee called on the government to take all necessary measures to combat mutilation of boys due to botched circumcision and *ukuthwala*, which is a cultural practice involving abducting young girls, below the age of consent into forced marriages (ACERWC, 2022; Chirowamhangu, 2022). It is worth appreciating, as noted by Pillay (2014), that the reporting system under the ACRWC incorporates a complaints system which encourages the

participation of local communities in the participation of relevant statutes on children's rights.

Moreover, research goes beyond just the act of violating children's rights but explores the possible negative effects. As such, when these harmful practices continue unhindered, they make children vulnerable to HIV/AIDS. Viljoen (2000) points out that, "children are more likely to be victims of human rights violations than adults, and African children are more likely to be victims than children from other continents due to poverty, HIV/AIDS, warfare and harmful cultural practices, which have a disproportionate impact on the continent's children". This has been attributed to the lack of "Africanness" in the children's right discourse in highly traditional societies due to historical influence and colonial rule (Rafudeen, 2016).

Adu-Gyamfi and Keating (2013) erroneously assume that in post-colonial Africa, the CRC was the instrument that brought children's rights to Africa. However, Mezmur (2008) has argued that the advocacy of children's rights is not a new phenomenon, as they have been observed and respected through various forms. For instance, *ubuntu* is a collective agency of social cohesion, and it is commonly expressed as "I am what I am because of who we are" (Maluleke, 2012; Msengana, 2006; Mbeje, 2010). Thus, the connotation that it takes a village to build a child, provides that the protection of children's rights is not limited to the state, rather every member of society has a critical role to play (Mahuntse, 2021).

Contrary to the CRC, the African treaty has a collective approach to children's rights as compared to the liberal individualism culture in the global counterpart (Fenton-Glynn, 2019). The ideological difference with the CRC is based on the understanding that the African Charter endorses some responsibilities on children in relation to family and society. This is explored in Article 31(a)(d) of the ACRWC which states that, "the child, subject to his age and ability, and such limitations as may be contained in the present Charter, shall have the duty to work for the cohesion of the family, to respect his parents, superiors and elders at all times and to assist them in case of need" (ACRWC, 1990). This is supported by the *ubuntu* ideology which preserves African values, embraces societal collective norms and interdependent cultural models.

Lloyd (2002), presents that the implementation of children's rights in Africa, lacks a subjective context-based analysis, and concludes the voices of African children were silenced before the adoption of the

ACRWC. In an analytical aspersions, the provisions of the ACRWC are *sui generis* to promote African family law but fails to solidify the significance of African values and civilisation in the conception of children's rights. Consequently, Ncube (1998) and Kaime (2018), state that the ACRWC calls for "African cultural fingerprinting" on the conception and application of children's rights based on the cultural and social context.

Prima facie success of treaty ratification

According to Begum (2016), depending on constitutional order of the state, ratification may automatically result in the incorporation of the treaty into domestic legislation, or initiate the administrative process to implement the treaty. Furthermore, a preview of the rate of ratification between the CRC and ACRWC demystifies the progress made to decolonise children's rights. Research on the rate of ratification for African countries shows that from 1990 to 2005, African countries quickly ratified the CRC but procrastinated in the case of the ACRWC; for example, whilst it took only five years (1990 to 1995) for 52 African countries to ratify the CRC, whilst only seven African countries ratified the ACRWC during the same period (Chirowambangu, 2022; ACERWC, 2022).

In a critical commentary, Mbise (2017) confirms that African countries quickly ratified the CRC, but the same bandwagon effect was not adopted for the ACRWC. Thus, raising a two-edged argument, either the failure of African governments to ratify the African treaty or motivations by preconceived political propaganda to avert accountability on children's rights. Alternatively, other factors contributing towards the slow or non-ratification of the ACRWC are worth considering; for instance, poor governance, war, and lack of political will. Practical examples are found in countries such as Morocco, Somalia, South Sudan and Tunisia, which have ratified the CRC, but not the ACRWC (ACERWC, 2022).

In response to the above assertions, scholars attribute the eclipsing of the CRC on the overwhelming normative consensus and global recognition of treaty as the main instrument for children's rights advocacy (Faulkner & Nyamutata, 2020; Quennerstedt et al., 2018; Kaime, 2011). In support of this view, Detrick (1999) prescribes the CRC as "a universal benchmark on the rights of the child – a

benchmark against which all future claims for evolution will and must be answered”. Other scholars have described the treaty as a “codification of children’s rights” which is the principal proponent of the global children’s rights culture and policy reform (Holzscheiter, 2010; Kaime, 2018).

It would be an ideological injustice to overlook the contribution of the CRC in establishing the conceptual framework of childhood. Specifically, Article 1 of CRC stipulates that “a child means every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier” (CRC, 1990). Notably, the ACRWC is worth the recognition because it sets the age limit of a child at 18 years and does not provide room for judicial manipulation through the “age of majority” clause (ACRWC, 1990). Thus, Bajpai (2017) supports the clarity in the application age limits in treaties because they present “a formal reflection society’s judgement” on the capabilities, needs and responsibilities of children.

However, research has provided an alternative view, that association with the CRC has little to do with the commitment of protecting children’s rights but promotes a self-centred approach, which seeks to weaponise the treaty ratification to improve international standing and gain global recognition among ratifying states (Pupavac, 1997). In support of this view on the CRC, Mower Jr (1997) postulates that, African states ratified the treaty for two key reasons; firstly, to avoid appearing as unconcerned about children; secondly, to attract development assistance from developing states. Therefore, the ratification argument between the CRC and ACRWC cannot be fully comprehended be without considering the “resource factor” between the Global North and South. Whereby, the latter refers to states which have been politically, culturally and economically marginalised, many which are predominantly in Africa.

The development goals in Africa

Aikman and Unterhalter (2005) state that considerable global momentum was expressed in the commitments outlined in the United Nations, Millennium Development Goals (MDGs) adopted in 2000. For example, in South Africa the MDGs highlighted structural challenges in historically disadvantaged schools; including, malnutrition, poverty, discrimination and persistent inequalities (Chirowamhangu, 2024; Udjo

& Lalthapersad-Pillay, 2015). Moreover, United Nations (2015) when reflecting on the MDGs indicated that there was inconsistency in the implementation of the goals. Consequently, in their critic on the MDGs, scholars reference the lack of justification on the inclusion or exclusion criteria of the goals, and poor accountability on the progress or limitations thereof (Deneulin & Shahani, 2010; Kabeer, 2010). As a result, the Sustainable Development Goals (SDGs) were developed in 2015, in line with the roadmap toward the elimination of poverty by 2030.

The decolonial “resource factor” argument initiated the SDGs conversation, which was more universal, and had a holistic approach, unlike the MDGs which were principally crafted by developing countries (Mitter, 2016). But the realisation of the SDGs has been a slow process; for example, progress in implementing Agenda 2063 which is instrumental in domesticating SDG 4, has reflected that coverage on the quality of education and attainment of universal basic education targets remains inadequate (African Union, 2022; UNDP, 2022). Also related to education the gender gap remains excessively wide especially in sub-Saharan Africa. Egbo (2000) states that access to education for girls has been limited due to colonial education systems premised on gender-related discrimination. Research exposes that education for the girl child is undervalued and less appreciated in African communities (Mwanza, 2013; Oleke et al., 2006).

Adu-Gyamfi and Keating (2013) whilst focusing on children’s rights state that the ideology of SDGs is based on the CRC, in the same way the wording in the ACRWC, uses similar language as in the CRC but contains explicit inferences which reflect on the African context. The SDGs address a plethora of challenges outlined in the ACRWC; such as, SDG target 5.3 on eliminating child marriages and eradicating harmful cultural practices. These include, *ukuthwala*, virginity testing, and female genital mutilation (FGM). However, critiques state that the SDGs have been used to oppress rather than to liberate children because they are anchored on the reproduction of knowledge on children’s rights, which remains predominantly westernized leading to the continuation of colonial oppression (Faulkner & Nyamutata, 2020). This complements the argument previously raised in this paper that the transition from the MDGs to SDGs, is merely a theoretical process if the “resource factor argument” is not addressed.

Moreover, the socio-cultural context has a pivotal role on the measures taken to achieve the SDGs. Specifically in the context of FGM, where it is predominantly considered as a “harmful cultural practise” in Africa, but it is re-conceptualised as Female Genital Cosmetic Surgery (FGCS) in European countries. Whereby the former portrays an act of savagery, whilst the latter represents a form of beauty treatment. Thus, based on this example, the lack of clarity on the development goals makes it a far-reaching exercise. Faulker and Nyamutata (2020) allude to the fact that the drafters of the SDGs, overlooked that FGM depending on the socio-cultural context would be interpreted or practised under different connotation.

The children’s rights dichotomy: Decolonisation perspectives

In this section of the paper, I offer a decolonisation proposition on children’s rights in Africa. Decolonising children’s rights does not ignore the Eurocentric narrative but acknowledges its existence as it is based on Euro-American history and socio-political background (Mignolo, 2013). In addition, Schwöbel-Patel (2013) shows that Western centres of thought have reproduced Eurocentric oriented philosophy on children’s rights. Thus, the focus of decolonisation should not be metaphoric, but offer an alternative view based on historical colonial perspectives, which re-situate the contemporary world on this view (Tuck & Yang, 2012; Stokes, 2019). This calls for the need to reframe hegemonic epistemologies on children’s rights to accommodate the needs and challenges of children in the Global South. These efforts have faced resistance due to limited resources to support research from the Global South, lack of engagement with other researchers to disseminate knowledge and imposed conditions by research funders to focus on prescribed agendas (Ntona & Morgera, 2018; Bunting & Quirk, 2017; Dotteridge, 2014). This has a cause-and-effect impact on the knowledge production; for instance, the research publications can be adopted as recommended readings for module programmes at institutions of higher learning. Thus, Schwöbel-Patel (2013) concludes that when the sources of knowledge production are predominantly Western, it makes educators complicit of the act of promoting inequalities in society.

Research shows that human beings are not only born into a knowledge system, but they are also recognised sources and producers

of knowledge; as a result, this calls for “learn to un-learn, in order to re-learn” to promote research (Crawford, Mai-Bornu & Landstrom, 2021; Ndlovu-Gatsheni, 2018; Tlostanova & Mignolo, 2012). Hence, the need to adopt a decolonised learning curriculum in learning institutions. For Ramoupi (2014), in the case of higher education curriculum, a decolonised curriculum can assist learners not to be disconnected from the realities and lived experiences of Africans, especially in marginalised societies. This will help learners and researchers to break free from imposed ideas or ways of empirical imagination engraved by Western imperial reason (Tlostanova & Mignolo, 2012). In support of this view, Ndlovu-Gatsheni (2018) calls for complete epistemic freedom from Eurocentric history and advocates for the need for Africans to develop methodologies, conceptualise ideas, interpret and publish research findings.

Furthermore, calls to reinvent social emancipation in knowledge by embracing an ecology, rather than a monoculture of knowledge. Critically, the learning ecology refers to the promotion of non-relativistic dialogues and broad epistemological debates aimed towards developing decolonised knowledge and building democratic societies (Smith, 2012). For instance, the Centre for Human Rights at University of Pretoria promotes research on human rights in Africa, and the Institute for Pan African Thought and Conversation at University of Johannesburg, supports scholarly dialogues on issues in Africa. This supports the narrative that these efforts advance epistemologies of the South which respond to the coloniality of knowledge, by opening new forms of knowledge which address the needs marginalised people in Africa (Crawford, Mai-Bornu & Landstrom, 2021; Santos, 2007).

Lastly, the decolonisation narrative of children’s rights can be advanced through the production of more publications by African scholars. It sounds easier said than done, but the following statistics present a sober presentation of the current state of research in Africa. In a study conducted by Briggs and Weathers (2016), the findings showed that over a 20-year period from 1993 to 2013, there was a decline on African based scholars from 25% in the 1990s to 15% by 2013. Even worse since 2005, they had been no more than 20% contribution from African based authors (Briggs & Weathers, 2016). In response, to the highlighted statistics, one of the predominant factors contributing to the decline in research output, include limited financial support, and lack of opportunities for academic research. In similar research conducted by

Medie and Kang (2018), on key issues confronting the Global South; namely, gender inequality and politics, the study revealed that only 3% of the published articles between 2008 and 2017 were from scholars from Global South institutions.

So, what are the solutions? Decolonisation can be achieved by adopting Third World Approaches to International Law (TWAAIL), which helps to prevent the reproduction of knowledge on children's rights from a biased Eurocentric standpoint (Schwöbel-Patel, 2013). The TWAAIL aims to reform and rationalise international law by recognising the right to development and advocating for the protection of the marginalised, including children and women (Sunter, 2007; Badaru, 2008; Gathii, 2019). Moreover, whilst efforts to promote publications through platforms; such as, Sabinet African Journals are commendable. Another proposal proffered by this research would be to build asymmetrical power relations between scholars in the Global North and South through multi-country collaboration in research. Kalinga (2019) provides that these forums assist African researchers with access to authoritative sources and experts in research fields. In addition, African Universities can collaborate to raise funds for Conferences and invite scholars in the Global North on issues related to Africa. Also, embracing new technologies allows researchers to engage even when they are continents apart. Though the vast challenges with regards to internet connectivity and the inconsistent power supply, which have been labelled as "Energy Racism", which is the systematic lack of electricity in African universities especially rural areas (Maggott et al., 2022). Researchers can engage through online and social media to conceptualise and collaborate on research.

Conclusion

The reflections in this paper have demonstrated that there is a need to challenge the historical power dynamics which premised on the legacy of colonialism. Without the inherent "resource factor debate" the realisation of children's rights is cosmetically practical in the Global North, whilst it remains a theory in the Global South. This is not premised only on the infrastructural development to promote the rights of children, but also embraces the ideological comprehension grounded on sound African ideology. The research assessed the divergence and convergence of the CRC and ACRWC, and the impact of these treaties

has on attaining development goals including the SDGs. The paper explores the challenges faced by scholars in the advancement research to decolonise children's rights including funding and imposed conditions on research projects. Subsequently, without addressing such barriers studies on children's rights remain dominated by an imperialist approach anchored on colonialism. An important point to draw from this paper is the need to promote African research, which does not seek to re-write history, but offers an alternative view which contextualises the realities faced by children in Africa.

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