

On the Child's Right to Identity, the Best Interests of the Child and Human Dignity

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The paper asserts that courts' application of the Best Interests principle, often involving indiscriminate recourse to socially accepted notions of child treatment or to a de-contextualized notion of cultural sensitivity, is liable to be characterized by ambiguity and to result in failure to protect the child's interests and human dignity. It is further asserted that this ambiguity enables the promotion of others' interests and concerns under the guise of the child's best interests, thus allowing the principle's misuse.

Hence, the need to ask whether and how the principle can function less as a welcoming container to different and contradictory ideas, whether and how it can offer the child better protection.

The consolidation of a minimalist rights regime phrased in general language in the UN Convention on the Rights of the Child (hereafter: the Convention) is not a panacea: The principle's misuse may be perpetuated despite the Convention and sometimes even *through* its promise, though, on the whole, to a more limited extent than in the pre Convention era.

Nevertheless, it is suggested that the record breaking rapidity of the Convention's almost universal ratification has symbolic power and could be utilized as an impetus to develop and implement a cross-cultural conception of the child Best Interests (Hereafter: Best Interests Conception) drawing not only on the Convention's wording but also on its *raison d'être*.

The paper utilizes the distinction between commitment to multiculturalism and endorsement of a stance of cultural relativism to explain how traditional cultures may enrich human rights discourse and empower child advocacy efforts through the proposed Best Interests conception and need not pose a threat to the child's authentic interests.

It is shown how this process has the potential of promoting either mutual cultural transformations- towards greater harmonization between human rights culture and the local culture(s) in dialogue with it - or intercultural tension and alienation. The paper suggests how the process may be purposefully utilized to empower the proposed Best Interests conception through cultural transformations founded on the child's human dignity. It is explained how this purposeful utilization may be carried out through egalitarian dialogue between different cultures.