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Do we protect? Children's rights in international codification

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DO WE PROTECT? CHILDREN'S RIGHTS IN INTERNATIONAL CODIFICATION

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2021

Dedication

To all the children in the world who are not afraid to dream.

DO WE PROTECT? CHILDREN'S RIGHTS IN INTERNATIONAL CODIFICATION

by

SANDRA NEHRING, B.A.

THESIS

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“It is easier to build strong children than to repair broken men.”

-Frederick Douglass, abolitionist, writer, statesman

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Abstract

International arena fails to protect. Each year, millions of children face violence, neglect, and abuse. Responses provided by state actors are not enough to eliminate children's rights violation, making child abuse an uncomfortable aspect of development. This thesis argues that international regulations regarding children's rights do not provide equal, universal, and sufficient child protection, what further leads to greater child abuse. Specifically, it analyzes the status of six international documents introduced between 1924-1996, in order to set a common theoretical foundation for the subject of children's rights. The results of the analysis of legal documents discussing children's rights, when compared to the situation of exercising children's rights in Poland, show that the presence and implementation of international children's rights regulations and research are not enough to eliminate the issue of child abuse.

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Introduction

United Nations Children's Fund (UNICEF) reports, "Nearly 1 in 10 children across the globe (around 152 million) are subjected to child labour [...]" (UNICEF, 2019). The same research presents that almost half of this is labor in life-threatening conditions. Another report states, "the global rate for under-five mortality has dropped by around 60 percent, while the proportion of undernourished children has almost halved" (UNICEF, 2019). This observation is disturbing and bipolar, knowing that 196 states ratified the United Nations Convention on the Rights of a Child. Not much later, World Health Organization (WHO) stated that "globally, it is estimated that up to 1 billion children aged 2–17 years, have experienced physical, sexual, or emotional violence or neglect in the past year" (WHO, 2020). Abuse, no matter the form, scars victims and fully affects their lives and life choices. In March 2021, UNICEF announced that globally, over 168 million children did not attend school due to COVID-19 pandemic last year (UNICEF, 2021). Even though a global pandemic is a major complication to ongoing politics and countries' reaction to challenges, children's right to an education has been violated in a scale that will affect the future of growing adults.

Additionally, in 2016 WHO published a technical program named *INSPIRE: Seven strategies for ending violence against children*. The first two strategies represent implementation and enforcement of laws and norms and values change (WHO, 2016). It can be noticed that international actors found the need for an additional revision of child protection regulations in order to protect children from the violation of their rights. Global acknowledgement and implementation of international children's rights should lead to greater awareness of the vulnerability of children, not to shocking numbers regarding children's rights violations. Knowing that states are expected to follow ratified international regulations, the number of children affected

by actions that omit their rights and freedoms should be significantly lower. Furthermore, the existence of international documents protecting children does not stop child labor, child marriages, or child soldiers. It also does not eliminate the problem of the lack of access to water, health care and education. Questioning the purpose and the validity of published and internationally implemented documents is at this point necessary for the understanding and limitation of occurring violations.

This thesis argues that international community fails to protect children from abuse and violation of their rights. The research includes an examination of international documents to see if there is the presence of internationally established core values, similarity of principles, and language and formulation analysis. The reason for a broad analysis rather than a focus on a specific problem lies in the gap in existing research and literature. Limited availability of analysis resources still does not answer why the abuse occurs and what should be done in order to eliminate it. The main perspective is that core challenges like invalid formulation of regulations, different approaches to the creation of codification, or misleading understanding of the principles of child protection can lead to greater violation of children's rights, as well as the lack of reaction to child abuse. The purpose of this research is to find out whether the current state of codification is sufficient or if it is current formulation somehow allows child abuse to continue. Further, the analysis of the core international legal documents on children's rights will be applied to the situation of exercising children's rights in Poland. Since Poland is a country that has played a significant role in the creation of international child protection, it would be interesting to see Poland supports, through actions, the reduction of children's rights violations. It is important to note that not all documents require ratification, which is the only reliable assurance that member states will introduce them into local practice (Roberg 2007). The existence of international

regulations does not mean that laws are universal and commonly accepted or implemented to national regulations.

Chapter One: International actions towards better protection- child protection timeline

The exploration of children's rights related laws and practices, due to the uncommon presence of this subject in research, requires a bit of historical and theoretical background. As the first level of analysis, it is important to distinguish children's rights from the general concept of human rights. The rights of the child are human rights; they result from the personal dignity and uniqueness of the child as a person. They are for the benefit of every child; one cannot deprive them or give them up (Freeman 2000). However, seeing the child as the holder of certain inalienable rights is a fairly new approach, with the beginnings of the movement for children's rights dating back only to the end of the 19th century (Fortin 2009, Kosher et. al 2016). There are many reasons for why policy makers do not focus on this specific group. It is difficult to benefit from aiding children rights. Ideally, political actors should work together towards bettering the situation for children around the world (Melton 1980). However, different cultures perceive a child's welfare differently, hence the challenge of developing universal standards (legal, medical, etc.) (Evers et. al 2015).

1.1. The History of Children's Rights

The beginnings of the international movement for the protection of children's rights date back to 1874, with the established, in the United States, the first organization for the protection of children's rights, the New York Society for the Prevention of Cruelty to Children (Carstens 1912). In Europe, at a similar time, since 1880, international associations - criminologists, judges for minors, care for abandoned children and the homeless - were established, which worked to mitigate the criminal law for minors or to establish educational and care facilities for children (Crane 2018). Despite the progress of civilization, child protection standards did not exist in industrialized countries in the early 20th century. Children often worked alongside adults in unsanitary and life-

threatening conditions. Growing public awareness of injustices affecting children, reinforced by an understanding of their developmental needs, have led to the emergence of movements to protect children's rights (Kosher et. al 2016). In 1908 the First International Congress of Moral Education was held in London (Sadler 1909), and in 1913 the First International Congress on Child Protection was held (Joveski et. al 2020). In 1919, the world-famous child protection organization, Save the Children, was founded in England and a few months later in Sweden, Radda Barnen founded, in 1920, the International Children's Aid Association (Mulley 2019). The General Assembly of the League of Nations adopted the Declaration of the Rights of the Child, known as Geneva, in 1924 (Kosher et. al 2016). This Declaration is very short and contains only five principles on the equal treatment of children irrespective of their race, nationality, religion, development, care, and assistance to children, in situations of distress. In 1946, the United Nations established United Nations Children's Fund (UNICEF). In 1948, The United Nations General Assembly adopted the Universal Declaration of Human Rights, in which Article 25, entitles mothers and children to "special care and assistance" and "social protection" (Hannum 1995). Later, in 1959, the UN proclaimed the Declaration of the Rights of the Child, which is an extension of the 1924 Geneva Declaration (Kosher et. al 2016). 1966 brought a promise that through international covenants on civil, political, economic, social, and cultural rights, the UN member states would guarantee equal rights - including education and protection - to all children (Bueren 1999). On the twentieth anniversary of the Declaration of the Rights of the Child in 1959, the United Nations General Assembly proclaimed 1979 as the International Year of the Child (Hammarberg 1990). Ten years later, in 1989, The Convention on the Rights of the Child was adopted by the United Nations General Assembly and widely recognized as a landmark achievement in human rights and children's rights. The Convention guarantees and sets minimum standards for the protection of

children's rights in all areas (Hammarberg 1990). The document mentioned UNICEF as an expert in child protection, which helped develop the Convention. In 2000, The United Nations General Assembly adopted two Optional Protocols to the 1989 Convention on the Rights of the Child, requiring state parties to take measures to prevent the involvement of children in armed conflict and to prevent child trafficking, child prostitution and pornography (Revaz 2001).

Human rights, including children's rights, are created in a response to their violation. Each convention and improvement of legal regulations means that children still face abuse and legal underestimation. Knowing this, we can see that children's rights and their institutional protection are still quite new to the international discussion. International child protection standards have changed significantly over the last century giving children real rights and opportunities to enforce them. However, there are still gaps in respecting and understanding of these rights.

1.2. Children's Rights as a Subfield of Human Rights

Human rights are one of the most important elements of the achievements of modern civilization. Although they are core to the development of the global community, defining them in a universal way that would protect each human being has been a challenge. Legal norms are closely related to the state organization and, like other social norms, are an integral part of the existence of a social organization (Greenhill 2010). However, regardless of its social character, the law also has certain general values. It enables the anticipation of human actions and thus allows for their control. Secondly, in an ideal interpretation, it treats everyone equally, granting the same rights and imposing the same obligations. In this sense, the law serves the realization of justice and power, so important from the point of view of a diverse community, but also understood in different historical periods and by different nationalities. The law serves the public interest in maintaining social order, but also the individual interest (Schrag, 2004). Following the definition,

human rights apply to every human being, both child and adult, regardless of gender, skin color, or nationality (Greenhill 2010). Not everyone has the same opportunity to exercise these rights; they may be exercised differently in many parts of the world. Some social groups, in the name of equal opportunities, have additional rights, or existing ones are additionally modified so that they can fully benefit from them. The main legislator of the catalogue of human rights is the state, and only to the extent that it is beneficial to its own interests (Turczyk, Kusztal 2018).

Children's rights are a subset of human rights, which acknowledge the heightened vulnerability of children who must rely upon others (i.e., adults) to their security, protection, and autonomy. Children, since they cannot take care of themselves, cannot assert their own rights. Children need parents, guardians, representatives to protect their rights. However, state interests and guardian interests can sometimes diverge from child rights interests, such that children's rights are violated. To remedy or reduce these instances of individual or state exploitation of children, the international community drafted the Convention on the Rights of the Child (CRC), listing major children's rights. The Declaration of Human Rights also protects every child, but the CRC is a special document that explicitly protects children. The existence of such international documents confirms the fact that children require special protection, to ensure their right to education, to information, to protection against degrading treatment and punishment, to private and family life, to freedom of expression, etc. - in accordance with their age, maturity, and understanding of their situation. It is therefore the co-responsibility of the state, legal guardians, and the international community to ensure that children can exercise these rights. Ideally, starting from an early stage of child development, children should have advocates for their rights, but more importantly, adults should not only be aware of them, but also respect them.

1.3. Approaches to Child Protection

As the scholars struggle with defining one specific definition for human rights generally, children's rights are expected to be specific (Goldstein 1986, Harrelson-Stephens, and Callaway 2007). The literature (Wall 2011, Bentley 2006, Levy 2018, Schechter et. al 2008, Michalska 1985, Carlson et. al 2002) distinguishes two major foci in the child protection field: educational approach and legal approach. Recognizing a child as the element of educational process might seem correct to many. This approach indeed puts a child in the center, to develop a learning process that will lead to the creation of an independent adult. Educational approach does not evaluate children as members of community, who shall be represented, who have full rights. The legal approach, on the other hand, focuses on providing children with protection in the legal guardian-child relationship. It regulates adults' responsibilities towards a child. Major child protection-oriented documents, that are the foundation for this approach are significantly new. The Declaration of the Rights of the Child (1924), The Convention on the Rights of a Child (CRC) (1989), and The European Convention on the Exercise of Children's Rights (1996) together make a complete, yet still limited, set of child protection regulations, which are ratified/implemented by the majority of countries in the world. International actors, who ratified CRC, implement this document as the major one. Comparing to other conventions, CRC is more general and easier to apply to national regulations than previously mentioned documents. Considering CRC as the main set of regulations, it gives us roughly 30 years of active international actions towards the development of child protection resources.

The representatives of the international arena often refer to the Convention on the Rights of a Child as the main document describing children's rights. 196 countries have implemented the CRC. This makes the CRC the most popular international document regarding child protection,

which governments refer to while creating national laws. Countries of different developmental level perceive children and their rights differently, mostly depending on the culture (Walker et. al 2008, Cabannes 2006, Purta et. al 2008). One of the problems with establishing universal children's rights was placing children in international politics. This challenge led researchers to analyzing children through their citizenship, as this comes with rights to political participation (Wall 2011). The majority of citizenship related studies are limited to children and voting age relationship (Schrag 2004, Bentley 2005, Wall 2011). There seems to be a common aspect of the understanding and application of children's rights in different regions of the world. Every country faces challenges of child protection violation, what makes it a topic of international dispute.

Chapter Two: Literature review

The existence of six major children's rights documents, remembering that the study of child protection as independent to human rights is still significantly new, sets an international guideline for the society on how to provide safe environment and ability to grow to minors. Many factors and approaches influence the legal aspects of child protection. The world of politics consists of variety of disciplines coming together to create standards for the good of global development. Different aspects of sustainable development: economy, health care, access to education and judicial systems create a pool of approaches that political actors can address while representing their nation's needs (O'Neill 1988). What is crucial to acknowledge is that children and their rights fall under the umbrella of each of mentioned examples. The privilege of being an adult in the process of creating policies is being able to speak up and expect to be heard, request protection and expect the government to provide it. Article 22 of the Universal Declaration of Human Rights (UDHR) states, "Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality" (Universal Declaration of Human Rights, 1948). Theoretically, everyone in the world is equal, free and has the right to representation. This is a very broad explanation of human rights, where some of them require more specifications. In the age of development and globalization, human rights are more prone to be violated, and many groups are still underrepresented. One of the underrepresented social groups are children, who are often victims to abuse, but are not mature enough to stand for themselves in the international debate.

Analyzing children's rights starts with deciding on what definition we choose to follow. One of the first documents on child's rights, The Declaration of the Rights of the Child, also known as The Geneva Declaration, adopted in 1924 by the League of Nations, does not specify who is understood as a child, it rather declares adults' obligations towards children (Geneva Declaration of the Rights of the Child, 1924). We can analyze many reasons why it would be described this way, but the first thought is the period between the two World Wars. Unstable political situations in the world took the focus from children's rights. The possible idea could be protecting a child's position during time of war, claiming them as an adult's dependent, rather than an independent being. Article 1 of the later implemented, The United Nation's Convention of the Rights of a Child (CRC) states "[...], a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier" (Convention on the Rights of a Child 1989). Limiting the legal position of a child to a certain age was a milestone in the development of child protection rights. This allowed for a further evaluation of children's vulnerability. Following was The European Convention on the Exercise of Children's Rights, implemented in 1996. Similarly, to CRC, this convention adopted the definition of a child as a person below 18 years. Although legal definitions call for many interpretations, Janusz Koreczak, Polish child's rights activist once said, "There are no children, there are people" (Lifton, 2018). This is the basic point for evaluating this topic- children's rights are human rights, but it is needed to evaluate it through the perception of underrepresentation in the fields of law, politics, and development. Kilbourne (1999) said that "the CRC is the most widely ratified human rights treaty ever." The regulations of the CRC are the basis of the majority of published resources on child protection, making it the main document (Michalska 1985, Carlson et. al 2002, Bentley 2006, Schechter et. al 2008, Wall 2011, Rabello de Castro 2012, Cope & Creamer 2016, Levy 2018). The focus on the

CRC leaves other child protection documents behind, creating questions regarding the importance of the existence of multiple children's rights codifications. Reynaert et. al (2009) find that scholarly work tends to discuss the process of implementation and monitoring of children's rights. The creation and evolving of children's rights are omitted due to the lack of universality of the definition and understanding of child protection.

The application of children rights to each human being should protect children's rights from being marginalized. The prohibition of discrimination, as a prohibition of arbitrariness, mainly concerns the actions of the government. It may also concern relationships between private individuals. The latter depends on the importance that society attaches to the controversial principle of private freedom and other fundamental rights. Gamelas (2007), Hemingway (2004) and Makkonen (2002) study the prohibition of discrimination, which was originally conceived as a right of defense, and is also understood in the context of the right to resources and participation. Little attention is paid to situations in which social groups experience discrimination or dependency on the grounds of low social or legal status related to the state of minority. One example of discrimination is the failure to take children's opinions as a social group into account in political decision-making, with negative consequences for children's future lives and even for future generations (Gamelas, 2007). In June 2019, the International Monetary Fund (IMF) announced that 152 million children in the world have to work to support their families and 72 million of these children work in life-threatening conditions (DW.com, 2019). It gives us 10% of children in the world, having to enter labor market to provide for their relatives. Nearly half of them are risking their lives. This is one of the examples of how the international arena fails to protect those who cannot represent themselves and expect to be treated with respect. What is important to notice is that this is world scale data. It means that having international regulations

implemented by the majority of governments in the world is not enough to provide safety to children. This leads us to the importance and specification of legal regulations. It is crucial to find the answer to the debate on the structure of child protection documents and still ongoing common violation of children's rights.

The lack of the comparison of international documents in published research opens up a discussion on how we can evaluate and improve research, laws, and social actions if we do not look for patterns in published legal regulations. Fortin (2009) points out that the law does not fully regulate child related standards. Peleg (2018) marks that the universalization of children's rights and child protection requires greater specification or legal regulations. This is to avoid abuse and violations based on cultural or religious differences. Invernizzi (2011) states that the CRC lacks the rigor that would provide minors with protection. These works alone raise an alarming issue- the weakness of a major international document providing security to children. It is important to evaluate if published regulations should be improved to a more described form or if the international policy makers should leave the codification for an open interpretation.

Chapter Three: Challenges of children's rights in international debate

Although international documents directing children's rights are available to the global leaders, child abuse rates are still alarmingly high. Theoretically, with a good legislative foundation of child protection (which is a result of international cooperation) and available children-focused organizations, child abuse should not be as common and traumatic, as it currently appears. In order to see which actions, contribute to the alarming state of child abuse, we must go back to the very base of child protection- legal documents discussing children's rights, to validate their purpose and efficiency.

One of the challenges of an effective foundation of child protection is the definition of a child. Until the 18th century, the distinctiveness and specificity of childhood was not acknowledged. It was believed that childhood is an insignificant period of a person's life, full of mental and physical weakness. A child subject to the father's absolute authority was treated as an infantile human requiring a strict upbringing (Kosher et. al 2016). However, it was not until the second half of the 19th century that the social position of the child was recognized, and it was acknowledged that the child required separate treatment, care, and upbringing. Moreover, including children in the subject of human rights does not necessarily mean that children were now being respected and their rights were being followed. The approach to children and child protection, while acknowledging the historical understanding of a child as infantile and immature, leads to the modern challenges of defining children's rights as a separate to human rights subject. Without a standardized definition, the global community cannot provide safety to children, putting them at risk of greater abuse.

While we connect the historically challenged process of creating laws in response to the tragedy of war, rapid process of implementation and a general lack of understanding of child

protection as an independent category of human rights, to the ideal universality of children's rights, we encounter major challenges of this subject. One of the reasons for why and how legal documents fail to protect is the way they are structured. In order to validate the legislative resources available to international actors, it is needed to look closer at the formulation of legal regulations discussing children's rights. The lack of specific description of legal regulations leads to children's rights violation and greater child abuse (Bueren 1999). International documents are constructed to advise and help, ideally all, implementing them countries. The lack of thoroughly specified rights, lack of the consideration of consequences for obeying stated laws, leads to the underestimation and omission of these documents in international and national operations. Governments have the freedom of interpretation and implementation of international codifications. There are no requirements for states to include regulations in their constitutions, they might be established as additional bills, etc. Furthermore, we must acknowledge the measurement of commitment of governments to work together towards certain cause. Without international jurisdiction, an absolute actor, participation in international politics is voluntary. Simply, countries cannot be forced to draw their jurisdiction around international regulations. However, as participation in international relations is voluntary, governments that expressed their will to participate in child protection should result in low rates of child abuse. In other words, the more advanced commitment to the creation and protection of children's rights, the lower the child abuse rates should be.

Mentioned challenges lead us to the importance of understanding the development of child protection and children's rights in international codification. The child protection field mainly recognizes and refers to the Convention on the Rights of a Child (1989), as the core children's rights document, which is very misleading. The CRC is only one of the latest documents in this regard. The recognition of documents before the CRC regarding child protection allows for finding

similarities and patterns among different documents. Finding support for the creation of children's rights through a common ground present in all the documents since the first one recognizing a child as an independent human being, could redirect the approach from reacting to child abuse, to preventing child abuse.

In the literature, scholars underlined the alarming state of children's rights in international codification (Melton 1980, Bueren 1999, Schrag 2004, Wall 2011). Surprisingly, while there is a lot of research available on the educational and social approaches to children's rights, the field lacks revision and state of existing international documents in that matter. The lack of strong specification of international children's rights leads to greater violation and the failure of child protection. What could decrease this problem is a common foundation for child protection principles included in all international documents regarding this cause. This would introduce lawmakers to a set of laws- children's rights- that cannot be omitted. Furthermore, the more certain rights are repeated in different documents, the more commonly accepted and respected they become. In a sensitive topic such as child protection, this could aid in supporting the safety of children and thereby, the international documents could meet their purpose. It is important to acknowledge that if laws, especially regarding minors, are not regulated enough, those who want to make exploit children, will indeed violate these rights, without the fear of facing sanctions.

Revision of major documents on children's rights would allow international actors for addressing the ongoing challenges. Researchers' approach specific subfields of child's development (e.g., education), yet not the regulations that place and define children in society and politics. Addressing this would allow for detecting errors and mistakes made in the past, and the avoidance of them in future legislature.

My theory examines if the level of protection of children's rights is strong enough during the rapid development of child protection (mainly 20th century) in the formulation of international documents. The lack of specification is already presented in the hierarchy of existing documents of child protection. Furthermore, to answer why the challenges occur, this analysis seeks to find out if international documents regarding children's rights base on the same principles or if they create separate set of laws (lack of correlation between documents may lead to misunderstanding of the subject). The results of this detailed text analysis should inform us if established regulations are compatible with each other, and if they are up to date or require improvement. Findings will also present the state of inclusiveness of child protection documents. Additionally, this research will compare findings with the state of child protection in Poland, basing on government's reports to The Commission on Children's Rights, to verify the validity of presence of the international codifications.

Chapter Four: Research design and methodology

This chapter discusses the methodology chosen to analyze the state of documents discussing child protection and the purpose of their presence in international legislature. The reason for this field's crisis partially lies in international codification. It is assumed that regulations included in these documents are not specific enough to protect children from child abuse and children's rights violation. Researching this by detailed text analysis will allow to answer if available children's rights documents are one of the core problems of this subject or if the challenge of implementing protection lies somewhere else. This qualitative research identifies child abuse and children's rights violation as dependent variables, and the state of legal protection as independent variable.

4.1. Analysis approach

Firstly, it is important to differentiate child abuse from children's rights violation as not all violations are abusive. Finkelhor and Korbin (1988) define child abuse as "the portion of harm to children that results from human action that is proscribed, proximate, and preventable". Children's rights violation is considered as "child poverty, violence against children in all its forms as well as discrimination against girls, children born outside of wedlock, children with disabilities, and migrant, asylum seeking, stateless and refugee children" (UNICEF 2017). Legal protection of children combines the presence of children's rights in international documentation and the stage of practical protection (children-oriented organizations, schools, families, etc.). The importance of researching the relationship between legal codification and the state of children's rights lies in type of relationship between the variables. Depending on which factor we choose as the dominant, we might face different challenges. Children's rights documents regulate child protection to limit child abuse, however child abuse and children's rights violation lead to questioning, revision, and

development of child protection documents. This cycle puts child protection and its documents in a perspective of preventive, ad-hoc and post-hoc reaction.

4.2. Data selection

World order has changed significantly since the implementation of the main declarations on child protection, the narrative and understanding have changed as well. However, we can expect that international documents regarding child protection share a common foundation or discuss similar core values.

This research looks for similarities and differences between 6 major international child protection documents. The purpose of this analysis is to detect whether children's rights documents base on similar core values or if are created as independent documents, discussing different challenges of child protection. Significant similarities should inform us about the common approach to protection and values in children's rights, as well as efficient cooperation between participating states (information exchange, common goal, etc.). On the other hand, differences between these documents will underline the challenging areas of child protection. Creating independent documents on children's rights that are not based on corresponding values shows that there is an unstable foundation for the development of children's rights and approaches to the understanding of a child. Child protection requires collective involvement and high level of differences between documents will show that law creators overtime could not agree on the main principles and directions of this subject. The more differences within the documents, the higher the chance of child abuse and children's rights violation.

The selection of documents for this analysis was based on the CRC's references to already existing codifications. As stated previously, CRC is so far considered the core document in the field of child protection. Included in CRC references to these documents, indirectly inform us that

these specific codifications are important in the creation of children's rights, as well as guide us through the history of the international development of child protection (i.e., timing of publication, character of the document, etc.).

Preamble to the Convention acknowledges the presence of children's rights in five independent codifications: Declarations of 1924 and 1959, Universal Declaration of Human Rights (1948), International Covenant on Civil and Political Rights (1966) and International Covenant of Economic, Social and Cultural Rights (1966). This research is conducted on 3 out of 4 documents that the CRC referred to, the CRC itself and additionally one regional child protection document:

- 1) Convention on the Rights of a Child (1989),
- 2) European Convention on the Exercise of Children's Rights (1996),
- 3) Declaration of the Rights of the Child (1924),
- 4) Declaration of the Rights of the Child (1959),
- 5) Universal Declaration on Human Rights (1948),
- 6) International Covenant on Civil and Political Rights (1966).

Above documents are internationally established as the main regulations regarding child protection (Bueren 1999). The purpose of the selection of the European Convention on the Exercise of Children's Rights is to see if regional documents also include international regulations in their content or if they only refer to local guidelines. The International Covenant of Economic, Social and Cultural Rights (1966) was not selected for this analysis because only one article (article 10) discusses child protection, so the impact of this document would not be sufficient to the purpose of this research due to not enough reliable information (ICESCR 1966).

This analysis will consist of three detailed levels. First, I will look for the presence of the 4 core principles of child protection established in the CRC: *non-discrimination*, *best interest of*

the child, the right to survival and development and *the views of the child* (CRC 1989). Second, I will evaluate if the mentioned documents require improvement for better applicability or if published regulations are still inclusive enough. I will do so by looking for the *non-discriminatory* definition of children and their rights, as well as the presence of references to ethnicity, religion, beliefs, and nationality. *Best interest of the child* will be detected by the prioritization of children and their needs in the regulations. *The right to survival and development* is expected to be present in laws regarding education, access to health care, child's position in judicial system. Finally, the regulations discussing *the views of the child* are expected to cover child's freedom of speech, beliefs, and preferences. I expect that all mentioned declarations and conventions will share similar ground (values) for child protection. Therefore, we should notice the presence of rights that fall into the morals of 4 core principles of child protection established by CRC in 1989, in all reviewed documents. The presence of the same core values in all documents will show that international actors agree on the approaches and challenges of child protection.

Third, once the presence of similar core values (presence of CRC core principles of child protection) is detected, I will review the language of these documents to find the presence of regulations that, by formulation not specific enough, leave an open window for child abuse. This part of the analysis is important because similar core values do not equal similar protection. Incorrect specification of a regulation can insinuate allowance for misinterpretation and its possible violation. I will complete that by asking if a regulation is described in a manner that limits, prohibits, or forces certain actions (depending on the right) or if it is open for interpretation introducing the risk of child abuse. This process allows for elimination of challenges in providing children's rights, that could affect the foundation of this subject.

Qualitative approach to this thesis allows for in-depth text analysis. In the selection of documents regarding children's rights I focused on the time frame 1924-1996. Beginning with the first document recognizing a child, Declaration of the Rights of the Child (1924), Universal Declaration on Human Rights (1948), the extended form of the Declaration of the Rights of a Child (1959), the International Covenant on Civil and Political Rights (1966), the Convention on the Rights of a Child (1989) and finishing the time frame with the European Convention on the Exercise of Children's Rights (1996), which is the latest available independent (not an additional protocol, etc.) international agreement regarding child protection. Above documents were retrieved from two international on-line databases: *UNdata* (UN Library) directed by the United Nations Statistics Division and the *EU Open Data Portal* administrated by the Publications Office of the EU. The seventy-two-year period includes major world order changes that possibly affected the creation of children's rights. The selection was limited by the availability of international children's rights or child protection documents. Child protection movement had its biggest development after the publication of the CRC in 1989 (Bentley, 2005). Comparing to other subjects of international regulations (i.e., trade, migration), child protection is a significantly new field of research with still growing universal codification.

Second criteria for the selection of the six international documents was the number of state-parties. Declarations supported by the United Nations have the most participating countries (DRC 78, UDHR 193, CRC 196, ICCPR 173). The original version of the Declaration of the Rights of a Child was adopted by the League of Nations as the first document recognizing children's rights, by the total of 55 members at that time (Invernizzi 2011). Even though the European Convention on the Exercise of Children's Rights applies to 47 member states of the Council of Europe, meaning that this is a regional document, I perceive it as beneficial to this research for the purpose

of the comparison of international and regional regulations. I suspect that regional convention will have less freedom of interpretation comparing to international documents. This is because while conducting larger scale international codifications, law makers must acknowledge for the differences in religion, culture, and social perception of the matter of these documents. Regional documents tend to be organized with greater cooperation between member states, but most importantly, discuss challenges of a specific group that has some kind of relationship already present (religious, cultural, historical, economical, etc.). Regional law makes can allow themselves for a more specified approach to law-making, as it has to apply to this specific community and its needs.

As the core categories of child protection were introduced in 1989, a lot could affect the current interpretation. This research will inspect whether formulations made 32 years ago are still applicable to the modern understanding of discrimination, development, respect, equality, and equity or if the evolvement of international understanding of these principles requires a change in the codification. Regulations that fit into the description of each core category will be deeper interpreted for the form and body to see if more specific formulation is needed.

4.3. Evaluation of core principles of children's rights

For the purpose of this analysis, each document will be independently evaluated for the presence of core principled of child protection. The United Nations describes core principles of child protection as “These four principles contribute to a general attitude towards children and their rights. They are based on the notion that children too are equal as human beings (UNICEF 2019). Even though they were officially established in the CRC, their presence should be noticeable in previous and current child protection documents. I will look at the core six documents that discuss children's rights and look for the presence of regulations that fit the description of

each of the four categories. The reason for selecting CRC and its four principles is the fact that CRC, by researchers, has been announced the best child protection international document that is currently available (Carlson et. al 2002, Bentley 2006, Schechter et. al 2008, Wall 2011, Rabello de Castro 2012, Cope & Creamer 2016, Levy 2018).

1. Non- discrimination

Non- discrimination is based on Art. 2 of CRC “States parties shall respect and ensure the rights set forth in the present convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's parents or legal guardian, race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, poverty, disability, birth or other status” (CRC 1989). This means that all children should experience their rights, freedoms, and protection equally. Although the article states that race, religion, language, and culture cannot lead to discrimination, abuse related to these factors still exists. In this category I will seek for the presence and absence of non-discriminatory language, inclusiveness, and universality of regulations. I will look for possible cultural limitations that could violate the applicability of these rights to the situation of children’s rights.

2. Best interest of the Children

Adults, whenever deciding in children’s name, should always do it in the manner that is best for the interest of a child. Art. 3.1. of CRC explains it as "in all actions concerning children whether undertaken by public or private social welfare institution, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration." (CRC 1989) To detect whether this category is noticeable throughout international codifications, I will look for regulations that are presented in a way that, in order to provide protection, requires

more detailed formulation. Regulations that are not descriptive enough can lead to over-interpretation or omitting of discussed rights.

3. The right to survival and development

This category is best explained by Art. 6.3. of CRC where it is stated that “State parties shall ensure to the maximum extent possible the survival and development of the child.” (CRC 1989). One of the interpretations means that each of the countries that apply the United Nations document on child protection to their national legislature, should form their politics and budget with the consideration of children, to provide them with best protection. To detect whether this category appears in 6 core children’s rights documents, I will look for development and survival related regulations (i.e., health, education, legal guardianship, etc.)

4. The views of the Child

Article 12.1. of CRC states that “States parties shall assure to the child who is capable of forming his or her own views the rights to express those views freely in all matters affecting the child, the view of the child being given due weight in accordance with the age and maturity of the child” (CRC 1989). The understanding of this category has changed overtime. Speaking about religion, beliefs, political participation, together with greater social representation by groups that used to be (or still are) oppressed has become a part of 21st century evolution. In this category I will search for possible limitations and violations of these freedoms of expression.

4.4. Content analysis

For the purpose of qualitative evaluation, I will use content analysis. The thematic approach will allow for deeper exploration of the existing documents. By detecting the presence of core categories in each of the documents, I will be able to test for missing approaches in international

codification. In the first part of content analysis, the structure of each document will be analyzed basing on following questions:

1.1. Does the document include regulations corresponding to each of the following: non-discrimination, best interest of the child, the right to survival and development and the views of the child?

1.2. Does the document respond to all above mentioned categories?

1.3. Are the regulations placed in a way that is easy to find by the reader?

1.4. Is the language easy enough to be understood by readers without the knowledge of an advanced, subject oriented vocabulary?

Answering above questions will prepare and allow for a deeper content analysis. Once the presence of child protection regulations in each of analyzed documents is confirmed, I will look and the body and language of regulations. This analysis will answer the question of the quality of provided children's rights. I suspect that the more detailed the regulation, the better protection of children can be provided, as the possibility of misinterpretation will be decreased. As the second level of research, for best codification of the analysis, I will answer the following questions:

2.1. Does the regulation include specific limitations?

2.2. Does the regulation allow for over or under interpretation?

2.3. Can this regulation be interpreted as both: positive and negative right?

2.4. Does the regulation/document include possible penalties for disobeying laws?

2.5. Is this regulation inclusive to all social groups (people with disabilities, racial, gender-based inclusion)?

Additionally, all evaluated regulations will be put on a 1-5 scale where 1 presents high need for document's revision due to the lack of inclusivity and 5 presenting fully inclusive and universal

document that does not require additional revision. This will help understand the overall need for revision of the documents.

Overall evaluation of international documents, with the focus on four principal categories of child protection, should allow us for better understanding of current situation of children's rights in the world. The results should inform us if the language of existing regulations and specification should be revised and improved for better protection of children all over the world.

4.5. Case study

The results of detailed text analysis of the six main documents of child protection, together with the analysis of content quality (language, applicability, formulation, etc.) will allow us to discuss the status of the foundation of child protection. To verify the theoretical tools with the practice of child protection, this analysis will include a case study of Poland. The sample was selected basing on the importance of Poland in the creation of children's rights. Poland was an initiator of the Convention on the Rights of a Child and UNICEF, main document, and major organization in child protection (Nurkse, Castelle 1990, Balinska 1998). The purpose of this comparison is to detect whether children's rights documents are respected and taken into consideration by their initiators. Poland by practice, being one of the founding fathers of child protection, should set an example for other members of the international debate and apply children's rights regulations to the state's actions.

The detailed text analysis, together with the analysis of presence and meaning of the core principles in reviews documents will allow for reviewing of the status and approaches to international child protection. This will set a reviewed legal foundation for the analysis of state of child protection. To analyze the state of child protection in Poland, I will review 5 reports provided by the Polish government to the United Nations Committee on Children's Rights. These reports

were published from 1995-2020, which will allow us to see the changes that were made in a response to Committees guidelines. Due to data availability in the *UN Treaty Bodies Database*, the documents include the government's reports, list of issues, meeting summaries with country representatives' declarations of the state of child protection. In these reports I will search for Committee advisories regarding actions that should be taken by the government and the government's responses to them. I will search for children's rights violations that are not eliminated throughout the time mentioned frame. Additionally, to provide data independent of the United Nations, I will look at the "Survey of adverse childhood experiences and associated health-harming behaviors among Polish students." The Regional Office for Europe of the World Health Organization conducted this study in 2018 by randomly selecting 1760 students at five universities in Poland.

I expect this analysis to show low rates of child abuse in Poland. As a government that is proud of country's history in child protection, Poland should present low percentage of children's rights violation.

4.6. Chapter conclusion

In conclusion, I suspect that the alarming child abuse statistics are connected to the form of international child protection regulations. The lack of form that forbids or limits actions for many can be the unspoken allowance. The under- or over-interpretation is dangerous for children as it leads to possible abuse and violation of their rights and freedoms. The evaluation of the six core children's rights documents allows me to detect trends and challenges in the foundation of child protection. Additionally, looking for the four core principles of child protection, introduced in CRC, in the body of remaining 5 international documents will allow me to find common ground for the subject of child protection and test whether documents were being adopted in response to

older versions of regulations or if they were introduced to the international arena as separate documents. By applying my findings to the state of Polish child protection, I will be able to detect whether existing theoretical codification is enough to protect and if its implementation in national documents and actions positively affects children and their rights by reducing child abuse rates.

Chapter Five: Theory and practice- the difficult truth about international child protection

Chapter five presents the analysis of previously mentioned documents and the correspondence with the state of child protection in Poland. The literature review from chapter two highlighted the challenge of defining a child in international documents. The existing research also underlined the division between different approaches to child protection. First, this chapter will provide a review of existing documents regarding child protection. This has not been found in published research, yet this analysis finds it fundamental to seek the roots of current child protection regulations in documents published in twentieth century. Second, by comparing findings of the legal analysis with the case study of Poland, this chapter will find the answer to the purpose and validity of child protection documents in practice.

In the modern world, the principle that every child has the right to be respected, cared for, and treated as any other person is no longer questioned by most countries. Despite the many conventions and treaties that have been signed and ratified, abuses still occur against the youngest. They are the easiest to harm because they are defenseless, innocent, and naive. The protection of children's rights in international documents is an important aspect of international human rights protection. The legal definition of a child, introduced by CRC states: “for the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier” (CRC 1989).

To better understand the process of creation of child protection I reviewed six international documents that discuss children's rights:

1. Declaration of the Rights of the Child (1924)
2. Universal Declaration on Human Rights (1948)
3. Declaration of the Rights of the Child (1959)

4. International Covenant on Civil and Political Rights (1966)
5. Convention on the Rights of a Child (1989)
6. European Convention on the Exercise of Children's Rights (1996)

Basing on the evaluation of already existing research, I expected the CRC to be the most inclusive and up-to-date document that was created separately from earlier published regulations. As each of the following documents was introduced within more than 5 years period, I expect the body of these regulations to represent separate approaches to child protection, mainly corresponding with global changes.

5.1. Language and structure

First part of this review focused on the language and body of each of the six documents. International agreements should be characterized by accessible language, which will not only be universal in understanding, but also easily translatable and adaptable to different languages (Piszc, Sierocka 2020). The more challenging the terminology or references to other documents, the more possibilities of understanding and misinterpretation of translation. This can lead to errors in implementation of included regulations.

The research found that one document, the International Covenant on Civil and Political Rights (ICCPR), included language specific for the subject (Table 1). Although the body of the Covenant requires basic knowledge of the legal terminology, regulations can still be understood without further misunderstanding. ICCPR is an international treaty targeting two specific sets of rights: civil and political, hence it is more exclusive nomenclature. Contrary, the remaining five documents demonstrated use of common language that does not require familiarity with the specific terminology in order to be understood and translated (Table 1). Applying formal but not advanced terminology allows for better adaptation into national languages of different signatories.

Language and terminology are important in the creation of children's rights documents not only for the purpose of translation but over interpretation as well (Goh 2016). Over interpretation of legal regulations introduce a greater risk of child abuse and children's rights violation. Legal loopholes, by leaving room for obeying accountability for omitting regulations, put uninformed children in jeopardy. This analysis found that 2 reviewed documents include indirect risk in the body of its legal regulations: The Universal Declaration on Human Rights and The International Covenant on Civil and Political Rights. UDHR article 26.3. states "Parents have a prior right to choose the kind of education that shall be given to their children." (UDHR 1949). Here the regulation does not specify if parents also have the right to choose no education for their children or if their decision must be consulted with authorities. It puts children at risk of receiving insufficient education. Similarly, ICCPR article 24 "Every child shall be registered immediately after birth and shall have a name" does not specify the procedure of child registration (ICCPR 1966). It also does not discuss who is the legal guardian of the child and who has the authority over the child. It creates risk of not following best interest of a child in i.e., custody dispute between parents. Taking into consideration the possibility of over interpretation in these two codifications and the fact that neither UDHR or ICCPR target children's rights only, the analysis detected an assumption that while discussing human rights in general, without the focus on a specific group or specific problem (indigenous people, children, people with disabilities, discrimination, etc.), international documents shall be constructed in a way that will not discourage governments from implementing them, whether through ratification or just acknowledgement. Providing enough freedom of understanding of the regulations is important from the perspective of universality and international interest in the document, yet the consequences of not specific enough regulations can lead to greater violation and abuse of these rights and freedoms.

Table 1. Examples of text formulation in international documents on child protection

Source	Strengths of the formulation (common understanding of the subject)	Challenges of the formulation (advanced understanding of the subject)
<i>Declaration of the Rights of the Child (1924)</i>	“Art.2. The child that is hungry must be fed [...]”	X
<i>Universal Declaration on Human Rights (1948)</i>	“Art. 19. Everyone has the right to freedom of opinion and expression [...]”	X
<i>Declaration of the Rights of the Child (1959)</i>	“Art. 7. [...] <u>Education should promote the child’s culture, and help the child become a useful member of society.</u> The child shall have the opportunity for play and recreation”	X
<i>International Covenant on Civil and Political Rights (1966)</i>	X	“Art. 6.3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to <u>derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.</u> ”
<i>Convention on the Rights of a Child (1989)</i>	“Art. 7. The <u>child shall be registered immediately after birth and shall have the right from birth to a name [...].</u> ”	X
<i>European Convention on the Exercise of Children’s Rights (1996)</i>	“Art. 1.2. The <u>object of the present Convention is, in the best interests of children, to promote their rights,</u> to grant them procedural rights and to facilitate the exercise of these rights by ensuring that children are, themselves or through other persons or bodies, informed and allowed to participate in proceedings affecting them before a judicial authority”	X

During the evaluation of the above documents, two assumptions for the unregulated (wide interpretation) structure of the content were found. Documents introduced on behalf of the United Nations are applicable to the variety of countries, cultures, languages, laws, and religions that create the international community. Setting the language and body in a strictly described and limited in interpretation manner could create possible errors for the applicability to national laws, while taking into consideration the culture, relationship between governments and nations and the commitment to the international legislature. Secondly, the Universal Declaration on Human Rights is not legally binding. International actors have the freedom of decision regarding the steps

following the signing of UDHR. Laws can be implemented to national codifications yet not doing so cannot be sanctioned.

The review of the language and body of the documents showed that international documents tend to include formal but common language. Table 1 shows randomly selected examples from each of the documents, that present language and subject advancement required in order to be able to understand the overall codification. As can be noted, most documents are formatted in an undemanding manner, while ICCPR is formulated in a more advanced way (need for understanding of an additional regulation). Additionally, all evaluated documents were structured in an accessible for reader manner, with clear separation of content and segments of laws. Combined can allow for better understanding and applicability to the variety of languages in the international community, as well as to raise attractiveness of the non-binding international documents within the international community.

5.2. 4 principles of child protection

The Convention on the Rights of the Child (1989) introduced four core principles of child protection: *non-discrimination, best interest of the child, the right to survival and development, and the views of the child*. These principles divide the subject of children's rights into four corresponding, yet separate groups. Although these categories have been known as established by the CRC, this research found the presence of the core principles in all of the evaluated documents. This leads us to the conclusion that although CRC officially declared these categories, they were already present in different child protection documents prior to the creation of United Nations. Declaration of the Rights of the Child (1924), later revised Declaration of the Rights of the Child (1959) and the Convention on the Rights of a Child (1989) include the presence of all four categories, where the Universal Declaration on Human Rights (1948), International Covenant on

Civil and Political Rights (1966) and the European Convention on the Exercise of Children's Rights (1996) discuss only some of them.

The Declaration of the Rights of the Child (1924)

The research began with the review of the 1924 Geneva Declaration. This document is known for being the first one in history to discuss child protection. It was developed as a response to the massive abuse of children during war years (Quartly 2010). This very short document, including only 5 points discusses responses to certain children's rights violations but it does not establish children's rights. The two concepts of rights and obligations are mixed together. The non-binding Declaration introduced by the League of Nations is indeed short and lacks the focus on the rights of children, but all of the included paragraphs fall into each of the four core principles categories. The responsive approach is limited, but it is important to remember that this document was the first international regulation to acknowledge children and their safety. Non-discrimination is here and placed within the first sentence of the regulation. Best interest of the child can be noted in each of the articles, including the introductory statement. The right to survival and development was discussed in the first four points. On the other hand, the voice of the child was presented in paragraph two and five, being the least discussed principle of child protection. This document presented children as fully dependent of adult guardians that provide for them. It also does not discuss consequences of violating regulations. Considering war reality, children's rights were not the main focus of development for the international arena. It is important to note that although the declaration is short and, as for modern expectations, requires major revision, being the first international document regarding child protection places it as a core to the creation to children's rights.

Universal Declaration on Human Rights (1948)

Non-binding international document on human rights presented by the United Nations is one of the two regulations evaluated for the purpose of this research, which do not discuss children's rights directly, but still include child protection specifications in the body. Articles 1 and 2 state that everyone is born free and equal, with no distinction of any kind, including race, gender, culture, religion, and other personal preferences. Here children are perceived as a part of community, categorized with every human being.

Articles 25.2, 26 and 26.3 focus the narration on children and family life. This part of the Declaration acknowledges children and immature, needing assistance and to be cared for. It is stated that "All children, whether born in or out of wedlock, shall enjoy the same social protection" what leads to the understanding that child protection is a global responsibility (UDHR 1948). It is also the first document to refer to education, stating that elementary level should be compulsory. Additionally, in this codification, legal guardians were given the freedom of choosing preferred kind of education that should be given to the child.

UDHR does not discuss each of the 4 core categories of child protection. It addresses all human beings together, without any categorization. Although non-discrimination, best interest of the child and the right to survival and development found related rulings in the body of the document, the voice of the child was not supported. Present articles that fall into mentioned categories do not show deeper exploration of the topic of children's rights. The detected lack of proper specification can lead to over interpretation and possible abuse of children's rights. Nonetheless, in comparison to the Geneva Declaration, the analysis of this document found general improvement in understanding children's rights and the approach to child protection.

Declaration of the Rights of the Child (1959)

The 1959 Declaration of the Rights of the Child was a revised version of the 1924 Geneva Declaration adopted by the League of Nations. The improvement from 5 to 10 articles discussing children's rights was also created with the use of commonly understood formal language. This document, contrary to its original version, addresses rights of the children, not just responses to their violence. It was the first document to acknowledge children as a citizen. Although there are no direct responsibilities, just rights, each of the four core categories of child protection found support in this Declaration. Non-discrimination and the voice of the child were supported by only one article each, however best interest of the child and the rights to survival and development were addressed in each of the 7 articles. The research detected a shift of focus from the problem of discrimination, as this one was already addressed in previous documents, to the safety and development of a child.

This document shows a strong reference to both the Geneva Declaration and UDHR. What differentiates this Declaration from already existing laws is the presence of limitation, specifically child labor related. Including limitations to rights of children presented the need for prioritization and hierarchy of rights in freedoms regarding those, who according to law are not fully independent. The analysis of above-mentioned documents again showed a relationship between introduced documents, founding that CRC was not the first document to categorize four core principles of child protection.

International Covenant on Civil and Political Rights (1966)

ICCPR is the second document, following UDHR analyzed for the purpose of this research that addresses children's rights as an addition to human rights generally. Additionally, the research found that ICCPR, just like UDHR, allows for over interpretation of rights included in this

document, creating a greater risk for abuse and children's rights violence. The lack of descriptive explanation of "security", "protection" and "help" leaves room for misinterpretation in a way that protects the document from being vetoed, yet still provides some guidance regarding safety. The usage of advanced terminology requires familiarity with content regarding similar issues. Contrary to other documents, the lack of legal and political knowledge in the field of human rights might challenge the correct understanding of discussed regulations.

This very inclusive codification covers three of the four core categories of children's rights, even though child protection is not the major focus of this document. The biggest support was found in two categories: best interest of the child and the right to survival and development. These two categories applied equally to 6 articles each, where non-discrimination was discussed in four articles and the voice of the child lacked direct support.

The analysis found references to laws previously established in international documents. With the focus on political and civil rights, children were once again supported with the right to citizenship and registration, and beliefs freedoms as well. For example, parents and legal guardians remain to have the right to choose education and religion they are willing to follow while raising the child. What distinguishes it from already existing codifications discussing the same subject is the establishment of Human Rights Committee in art. 28.1, as a general office for human rights, without the specification of children's rights.

International Covenant on Civil and Political Rights, although it does not discuss children's rights only, includes important regulations regarding child protection. Previous documentation regulates education, providing care and adults' responsibilities towards children. ICCPR further recognizes children as citizens and grants them the right to registration once born. This is the document's major contribution to the situation of international child protection.

Convention on the Rights of the Child (1989)

United Nations Convention on the Rights of the Child is the first “big scale” international document to set the rights and personal freedoms of the child. Compliance with the Convention shall be supervised by the Committee on the Rights of the Child. States that have ratified the Convention are required to report on the rights of the child and to make the most of their implementation. CRC was announced as the document to establish core principles of child protection and a division of this document into these four categories is present.

The Convention refers to other international documents: the Geneva Declaration of the Rights of the Child (1924), the UN Declaration of the Rights of the Child (1959), the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Social and Cultural Rights (1966). The references support this research’ assumption that CRC has been created in a strong cooperation with already laws, rather as a new UN project. Opposite to mentioned documents, Part I of the Convention deeply discusses states’ responsibilities towards children. Part I and part II together presents a catalogue of rights that children are granted, from the moment of their birth. By putting responsibility on participating governments, the Committee highlighted the importance of collective work in the field of child protection. Not only communities will be held accountable but also those who create laws. The 1924 and 1959 declarations highlighted, in particular, the regulations on child protection from the perspective of a legal guardian, while the Convention contains provisions, personal rights and freedoms.

The language of the Convention is easy and can be understood without advanced expertise. No specifics on the subject of international politics terminology were used. The analysis suspected the reason for it to be the need for translation into most languages of UN member states. The

structure of legal regulations generally does not allow for over interpretation. Articles are defined in a way that describes what is allowed and what actions will meet consequences. This research firstly expected to see major errors regarding description of rights. In the case of CRC, articles are formed in a way that minimized the possibility of misinterpretation, providing the maximum of legal protection to children, what can be notices in Article 32 discussing economic status of a child:

“1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development. 2. States Parties shall take legislative, administrative, social, and educational measures to ensure the implementation of the present article. To this end and having regard to the relevant provisions of other international instruments, States Parties shall in particular: (a) Provide for a minimum age or minimum ages for admission to employment; (b) Provide for appropriate regulation of the hours and conditions of employment; (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article” (CRC 1989, p.9).

Moreover, CRC includes guidelines on appropriate actions in order to provide effective protection, i.e., Article 19 states that:

“1. States Parties shall take all appropriate legislative, administrative, social, and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment, or exploitation, including ‘sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement” (CRC 1989, p.5).

European Convention on the Exercise of Children’s Rights (1996)

The European Convention on the Exercise of Children’s Rights is a regional document introduced by the Council of Europe, discussing children’s rights only. This is the latest international document regarding child protection. This Convention is the first document granting procedural rights to children. Although the presence of core categories of child protection was noticed, the Convention does not respond to each of the 4 principles. A major focus on placing children in judicial procedures was found. Nonetheless, the preamble states that the Convention was created in reference to United Nation’s CRC. This means that although the document remains regional, it is based on the CRC. What differentiates this document from earlier evaluated is the approach to child protection- instead of listing and setting children’s rights, as it was previously done, here we notice a direct approach to the exercise of mentioned rights. Laws are followed by judicial consequences a state will face for obeying discussed rights.

The European Convention on the Exercise of Children’s Rights does not require advanced knowledge in order to be understood and translated. This can be discerned by the lack of legal field terminology. Although it discusses judicial procedures, the usage of simple language minimizes the risk of over interpretation and the following risk of child abuse and children’s rights violation.

The analysis allowed for better understanding of the current state of the legal foundation for children rights. One of the researching assumptions, that all documents discussing children's rights are correlated, was found true. Even if there was no direct reference, the body and regulations showed presence of older declarations. Each of the reviewed documents showed presence of the core principles of child protection. This finding presents that CRC did not establish these four categories, what was firstly claimed by UNICEF, but only acknowledged their presence. Documents published after 1966 introduce a shift in the understanding of child protection. Children are now being granted international recognition, are placed in national politics and instead of just being cared for, are given freedoms.

Table 2 summarizes the analysis' findings. As can be noted, most of the six documents were created using common terminology that does not require advanced knowledge in the legal setting of child protection. Considering the number of participating states, it is believed that accessible formulation was used in order to provide better understanding and interpretation, after documents' translation to national languages.

None of these documents showed an immediate need for revision. Although the oldest one was introduced nearly 100 years ago, each of the codifications represents inclusiveness and equal approach to all social groups.

Table 2 Summary of findings

	Declaration of the Rights of the Child (1924)	Universal Declaration on Human Rights (1948)	Declaration of the Rights of the Child (1959)	International Covenant on Civil and Political Rights (1966)	The Convention on the Rights of a Child (1989)	European Convention on the Exercise of Children's Rights (1996)
Document responds to all 4 principal categories of children's rights	✓		✓		✓	
Language allows for an interpretation without familiarity with field's terminology	✓	✓	✓		✓	✓
Present risk of over interpretation		✓		✓		
Present instructions regarding steps following disobeying regulations					✓	✓

Chapter Six: Child protection in Poland

In this part of the analysis, the relationship between principles established in legal documentation (Table 2) and practice will be presented on the example of Poland. Poland is well known for its commitment to children's rights and child protection. In 1978, Poland submitted a draft Convention on the Rights of the Child to the UN Human Rights Commission. The Commission submitted this proposal for consideration to a working group composed of Member States, UN agencies and intergovernmental and non-governmental organizations. The Convention on the Rights of the Child was mainly inspired and initiated by Janusz Korczak and his work for children (Nurkse, Castelle 1990). Following this, a Polish doctor Ludwig Rajchmann initiated the establishment and paid an important role in the evolution of UNICEF (Balinska 1998).

This research evaluated six international documents on child protection. Poland ratified three of them: International Covenant on Civil and Political Rights in 1977, The Convention on the Rights of a Child in 1991 and European Convention on the Exercise of Children's Rights in 1997. By ratification, Polish leaders agreed to implement laws included in these documents to national codifications. Universal Declaration on Human Rights was not signed by Poland. Together with the leaders of other eight countries, Poland opposed to sign the Declaration due to its political situation and preferences of then current government. Even though Poland officially is not a part of this agreement, it still includes all mentioned rights in its national laws, just formed differently. Declaration on the Rights of the Child from 1924 was a document introduced by the League of Nations. Following the updated by United Nations version of the Declaration on the Rights of the Child from 1959. Neither of these documents were legally binding but Poland, together with many other countries still agreed to include mentioned regulations in the creation of national laws regarding child protection.

As Poland is a leader country in the movement of children's rights by initiating the concept of child protection, this analysis expects the rates of child abuse in Poland to be significantly low. The major focus of child protection shall be put on access to education, elimination of poverty and the elimination of domestic violence and other forms of child abuse.

To better understand the results of this analysis, it is important to acknowledge the demographics of children in Poland. The difference in consideration what is expected to be low or high rate varies on the size of the population. What could be understood as low rate for United States (317,941mln) (CENSUS.GOV 2014), can be a high rate for Poland, as the ratio of population is close to 1:10.

The governmental agency, *Statistics Poland*, provided a report on the state of population declaring that in 2014 the population of children aged 0-17 was close to 18% (6.943 mln) of the population of the nation (38.479 mln) (GUS 2015). Children in the school age of 7-18 accounted for 12% (4.565 mln).

6.1. Reports on Poland

Survey of adverse childhood experiences and associated health-harming behaviors among Polish students conducted in 2018 by The Regional Office for Europe of the World Health Organization presented alarming rates on child abuse, which are presented in Table 3. The researchers evaluated the responses of 1760 randomly selected students of Polish universities. Nearly 77% of students that participated in the study admitted abuse and experiences that affected them growing up. Almost 20% of participants faced four out of five forms of abuse researched by the survey and nearly 49% of students reported that the abuse was caused by their parents (Makaruk et. al, 2018). These rates are not what one can expect from a leading country in the subject of child protection. Here we can notice the dispersion between legal documents (theory)

and the practice of child protection. The presence of legislative support does not eliminate the problem of children's rights violation.

Table 3 Scale of child abuse based on survey answers

Form of abuse	% of the sample
<i>Physical abuse</i>	46%
<i>Emotional abuse</i>	42%
<i>Emotional neglect</i>	25%
<i>Household alcohol misuse</i>	21%
<i>Sexual abuse</i>	5%

Source: Survey of adverse childhood experiences and associated health-harming behaviors among Polish students

Taking aside the sample size and the possible errors coming from surveys, these rates are alarming. Each form of abuse mentioned in Table 3 is addressed in child protection documents. If not addressed directly, still fall under the umbrella of laws discussing child abuse.

Committee on the Rights of the Child

One of the requirements introduced in CRC is the obligatory reporting of children's rights status to the Committee by each member state, every 5 years. Following that the Committee issues reports including comments and recommendations for governments to improve specific issue areas that are alarming to children's safety. Additionally, non-governmental organization can issue an alternative report on the problem of violating children's rights. NGOs are an important body in the process of implementing children's rights. CRC underlines the importance of them in the creation of child protection.

The case of child protection in Poland was already discussed during multiple Committee sessions. Each session concluded with comments stated by the Committee to the government. For the purpose of this research, I looked at the Committee data available to the public.

On January 23rd, 1995 the Committee issued continued summary record for Poland. During the eighth session the situation of NGOs and child abuse was discussed. In this report the Committee highlighted the ongoing problems with child neglect, law enforcement, family services and judicial branches. Polish representative, Mr. Jakubiak admitted that although child protection complaints procedures exist, there are problems with implementing them. The representatives announced that Poland struggles with providing care to children with disabilities because of the estimated number of 300 000 of children requiring additional care. If this was not alarming enough, the representative also mentioned that child's freedom of speech is an issue due to the cultural understanding of family and the full authority of parents. This is a major violation of children's rights. Each of the child protection documents evaluated in this research state that all children, no matter their ethnicity, religion, etc. are equal and have the same rights. The Committee underlined that changes on the governmental level are less important in child protection than training of those, who directly work with children- teachers, law enforcement, health services, and caregivers. It was advised for Poland to not use political changes as an excuse in providing equal rights. The Committee expressed its disapprobation on child abuse in landmines that cause a lot of child death, asking Poland if it would consider cooperating with UNICEF in order to ban them. The Committee also discussed the problem of child prostitution in Poland.

Overall, the first report on Poland mainly addressed the problems of cultural perception of a child, as well as alarming rates of child abuse and the lack of child protection. The consideration of reports submitted by states parties issued after 31st session of the Committee in October 2002,

resulted in more comments towards Poland. Before this report was issued, Poland had 7 years to work on areas that were highlighted in previous document. The discussion to the second periodic report covered the implementation of new constitution that included many of CRC regulations in its body. Here Poland was also recognized for the creation of the Office of the Ombudsman for Children responsible for monitoring children's rights throughout Poland. The major recommendation issued in this report are:

“Strengthen the role of the Supreme Chamber of Control as an internal monitoring body for the evaluation of children's issues and establish a comprehensive system for monitoring and self-evaluation of the implementation of the Convention both at the national and local level; Provide the Ombudsman for Children with sufficient resources to enable him to fulfil his responsibilities; Collaborate with non-governmental and civil society organizations in monitoring children's rights and policies both at the national and local level” (CRC/C/15/Add.194 2002, p.3).

Although the Committee noted that changes in Polish actions towards child protection are present, the rates of child abuse, sex trafficking and kidnapping are still alarming. Poland was recommended to ratify the Worst Forms of Child Labour Convention (No. 182) of the International Labour Organization (ILO) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

The second report on Poland underlined ongoing issues with child protection. It shared the understanding of the political changes in the country yet shared no acceptance for present forms of child abuse. The Committee requested an additional to the periodical report to control actions taken towards the reduction of children's rights violence.

In March 2015 the Committee published a *list of issues* in response to 3rd on 4th reports of Poland. Unfortunately, neither of these reports are available in the Committee's online database. In its communiqué, the Committee requested action on the state of children's rights protection, the plan for children's rights and child protection development, and child discrimination. It was noted that Poland, even though was already advised to provide a "Plan for Children," still has not done so. The Committee referred to the problem of xenophobia and inequality related discrimination, what is a major violence of international children's rights, mentioned in documents ratified by Poland. Discussed was the challenge of providing children safe environment and easy access to education. Here the Committee also referred to underreporting of Polish data on child protection making it an important factor of child abuse. This report also discussed judicial procedures of cases where children are included.

The *List of issues* from 2018 that revised 5th and 6th periodical reports referred to problems that were already pointed out in previous reports, showing that Poland, even though ratified CRC, and other children's rights documents, takes minimum actions of improving child protection. In this review the Committee referred to violations in three out of four core principles of child protection established by CRC: non- discrimination, best interest of the child and the views of the child. The Committee underlined the lack of clear mechanisms and presence of children in the national budget. Additionally, each of the problem areas reported in previous documents was included in the 2018 summary, bringing the attention to the lack of actions of the Polish government to change the situation of child protection in Poland.

Combined comments on 7th and 8th periodical reports, published in 2020, include the responses of Polish government to each of the issues marked by the Committee since 1992. This complete report explains actions taken by the state to provide a better care for minors in education,

health, judicial system, and family services. Child abuse, sex trafficking and labor rights violence were discussed, and actions were supported by mentioning of national programs towards the limitation of these forms of abuse.

Although this response looks promising, it still awaits the revision of the Committee. Data included at the end of the report does not present optimistic forecasts.

Table 4 Reported cases of domestic violence against children

2015	2016	2017
46 969	60 846	63 970

Source CRC/C/POL/5-6 (2020). United Nations, New York

Table 4 presents that rates of children abused in domestic violence, between 2015 and 2017, increased by nearly 37% (CRC/C/POL/5-6, 2020). On contrary, the same issue in Canada, a country with similar population to Poland, is reported for 10,781. Canada's rates are nearly six times lower than domestic violence against children in Poland (Conroy 2021). This presents the opposite outcome of what the government of Poland claimed to do. The advisory made by the Committee to raise attention to these alarming rates were not targeted properly, which led to the worsening of the situation of children's safety in Poland.

Another alarming issue is the data on child prostitution and exposure of children to pornography, which scale is presented in Table 5 (CRC/C/POL/5-6, 2020). The Committee addressed this area in its 1995 report. Nearly all articles discussing this topic noted a raise in the violence of children's safety. Moreover, articles covering the recording and distribution of pornographic content including minors show increase in its stage. This shows that actions taken to eliminate this problem were insufficient and lead to the worsening of child safety in Poland.

Table 5 Pornography and child prostitution by crime code

	Minors who are victims				Recorded offences			
	2015	2016	2017	2018	2015	2016	2017	2018
Art. 200 (3) showing pornographic content to a minor under the age of 15 years or providing the minor with such content or broadcasting such content in a manner that allows the minor to see it.	70	223	318	355	92	220	307	341
Art. 200 (4) showing the performance of a sexual act to a minor under the age of 15 years for one's own sexual gratification or that of another person.	84	132	155	123	75	90	118	11
Art. 202 (3) producing, recording, importing, storing, possessing, disseminating, or showing pornographic content that includes a minor.	101	0	0	0	365	1 648	1 576	3 076
Art. 202 (4) recording pornographic content that includes a minor	16	0	0	0	24	45	56	72
Art. 202 (4) (a) storing, possessing, or viewing pornographic content that includes a minor.	96	0	0	0	163	278	253	307

Source CRC/C/POL/5-6 (2020), United Nations, New York

Another issue area that requires attention is child poverty. Although the report states that national programs targeting this issue were established, the overall rates of extreme poverty raised from 4.7% to 6.0% between 2017 and 2018, which can be noted by the percentage of children in poverty showed in Table 6 (CRC/C/POL/5-6, 2020). Legally defined level of child poverty in 2017 was 14.8%. Although a decrease in the scale of the problem is noted, it is still much higher result than the lowest expected rate provided by the European Union, 8.8% (Eurostat 2018).

Table 6 Poverty rate among children aged 0-17

Poverty	2015	2016	2017	2018
<i>Extreme</i>	9.0%	5.8%	4.7%	6.0%
<i>Legally-defined level</i>	19.3%	18.1%	14.8%	-

Source CRC/C/POL/5-6 (2020) United Nations, New York

Access to education is one of the major rights included in all documents regarding child protection. Education, being the foundation of raising a future adult and citizen, shall be one of the most important issue areas for each government.

Table 7 Children not attending school

	Total	Aged 16-18 years	As % of children in compulsory education
<i>2015/16</i>	246 492	53 822	5.4
<i>2016/17</i>	236 792	35 644	5.2
<i>2017/18</i>	255 749	68 646	5.7
<i>2018/19</i>	220 557	4 317	5.0

Source CRC/C/POL/5-6 (2020), United Nations, New York

Although data presented in Table 7 shows decrease in the total rates of children not attending school, 220 557 for the 2018/2019 school year is still way too high for a developed country that ratified international documents on children's rights and child protection (CRC/C/POL/5-6, 2020). To compare this results, the average for children out-of-school in Europe, reported by UNESCO, is 1.1%. This result is almost 5 times lower than the percentage in Poland (UNESCO 2020).

6.2. Theory and practice

The review of six international documents on child protection provided a common ground for the creation and understanding of children's rights throughout the twentieth century (Table 2). The application of these findings to the case study of Polish child protection raised many of questions. The analysis of reports of the Committee showed that, although declarations were ratified and legal regulations were implemented, child abuse is still presence. An unexpected finding showed that the rates of children's rights violation can still raise, even if international organizations publicly issue their concerns and requests for an immediate action.

In the process of fighting child abuse and children's rights violation the international debate encounters many different factors that are connected to the level of country's development (economy, education, health care, etc.). The relationship between international organizations and state governments was expected to have a positive effect on child protection. This research found that the responsibility for safe development of minors cannot be provided without strong governmental support and commitment to decreasing violation. However, this finding helped analyze and understand the stage to which countries are willing to cooperate in international relations. Being a party, or even initiator of agreements does not provide assurance of country's dedication to specific regulations' purpose. By comparing the results of the analysis of international documents to the reports on child protection in Poland, this research discovered that the presence of a good theoretical foundation for a cause is not enough to protect children from violence and abuse.

Chapter Seven: Conclusion

In sum, chapter one provided a historical overview of international child protection and the challenge of defining a child in culture and politics. The understanding of importance of this historical background is crucial for this research. Children's rights were created in times of major world's conflicts and the rapidness of this field's development brings up risks in their international understanding and acceptance. Secondly, children's situation in international dispute is not commonly known and discussed unlike other fields of global interests like development, environmental crisis, or rules of trade. Chapter one presented that the topic of child protection and children's rights lacks a dominant approach. The division into many more specific approaches (educational, legal, etc.) creates a risk of omitting important for child's safety issues, leading to children's rights violation.

Chapter two introduced my theory that questioned the state of international children's rights documents and its purpose in comparison to the rates of international child abuse. The gap in literature on the state and accuracy of international regulations on child protection allowed for analysis that was not inspired by existing research. The literature review in chapter three presented scholarly focus on the problem of widely understood discrimination and abuse that children face. Existing research, provided in this thesis, already highlighted the major problems of international regulations on child protection, still leaving the state of children's rights violation unresolved. In the literature review, a common ground was found: the international arena is not doing enough to protect those, who are vulnerable.

Chapter four discussed the research design and methodology I used for the purpose of this research. Qualitative approach allowed for a deeper evaluation of legal documents reviewed in this analysis. One of the quantitative challenges of international child protection is underreporting of

data by governments, to avoid, i.e., international shaming or possible sanctions (Hafner- Burton 2008, Murdie & Davis 2012). This is why the qualitative approach was also used for the analysis of case study included in this research. Additionally, chapter four explains what this research looked for in international documents on child protection, in order to support my thesis.

The detailed text analysis presented in chapter five provided us with results that partially supported the main assumption. This research asked if the available state of documents on international children's rights provides protection to children. The results showed that currently available codification is overall inclusive and the set of six major documents provides legal regulations regarding each aspect of a child's life. None of the evaluated documents require immediate action, although additional revision could help create a safer reality for children.

The results were compared with the state of child protection in Poland presented in chapter six. This eye-opening outcome questions the purpose of international regulations on child protection. It was found that a good legal foundation is not enough to enforce child protection, even in a founding father country of this subject. Furthermore, the Polish government ratified three of the six documents (remaining three did not require ratification) and agreed to implement them to national laws. Moreover, CRC regulations were implemented to national constitutions. Reports provided by Poland to the Commission on Children's Rights present the opposite of what we understand as child protection in a developed country. High rates of child poverty, sexual and mental abuse, domestic violence and over 200 000 children below the age of 17 not attending school violate established international children's rights.

Scholars found that the problem with inaccurate child protection lies in the system and the lack of cooperation between agencies (Henly 2000, Munro 2005). This could help us understand why, even though the theoretical frames of children's rights were found inclusive and descriptive,

high rates of child abuse still appear. In her further work, Munro highlights the importance of education and raising awareness regarding children's rights in international community (Munro 2010). This conclusion takes us back to the beginning of this research and identifies major challenges in defining children's rights as separate from the subject of human rights. Although this field remains significantly new to the international debate, the presence of children's rights violation must be cooperatively eliminated as the lack of action can lead to unwanted social acceptance of its current state.

Following, the international governing community shall take action in publicly naming states that show presence of child abuse. Legal support of regulations and research is not enough to eliminate the issue globally. This research found that the international arena fails to protect already in its core- legal foundation. This problem must be first addressed by global leaders and countries that are crucial to sustainable development.

Further research should be conducted in order to establish a set of necessary actions to provide international protection to children. First, it is important to distinguish an independent field of children's rights, rather than understand it as a subfield of human rights. Second, the subject of children's rights requires greater attention from international actors. One of the causes of child abuse is the omission of this topic in daily international operations. Further research should explore the commitment of State- parties to the development and implementation of international children's rights, especially actions towards reducing child abuse. The subject of children's rights is still broad in understanding, due to lack of research. Available research often focuses on selected issue areas i.e., education, health care access, abuse, or child labor. There is a need for more research of international children's rights as a foundation for child's development. More statistical data should be collected to help visualize the scale of international child abuse. As this research

presented, the major issue lies in practice and this can be addressed by an active cooperation of international agencies. Inter-governmental cooperation, with the support of NGOs and human rights movement is required to help the field of children's rights and child protection be recognized and further developed.

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