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Book Reviews

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"Article 33: Protection from Narcotic Drugs and Psychotropic Substances", in A. Alen, J. Vande Lanotte, E. Verhellen, F. Ang, E. Berghmans, M. Verheyde and B. Abramson (eds), *A Commentary on the United Nations Convention on the Rights of the Child* (Brill/Martinus Nijhoff Publishers, Leiden, 2012). ISSN:1574-8626. 92 pages.

The human rights discourse is crucial to drugs policy, as those who use drugs face discrimination, dehumanisation and criminalisation from both states and non-state actors on a daily basis (Elliot, 2012). Sustained examination of the matter of drugs in the context of the international human rights framework is, however, in its infancy. Within this field the interface of drugs and children's rights has been even further neglected. There is a notable dearth of commentary as regards children's rights and drugs policy from academics, the UN Committee on the Rights of the Child, and other bodies. This analysis of Article 33 of the UN Convention on the Rights of the Child (CRC) contributes strongly, therefore, to dealing with what is clearly identifiable as 'a current gap in the literature' (Mahgoub, 2012). The authors are well placed to engage in this examination. Barrett is Deputy Director of Harm Reduction International which works to reduce drug-related harms and Philip Veerman is a psychologist and expert in the juvenile courts in the Netherlands (see also Barrett and Veerman, 2010 and Barrett, 2011).

The book, a worthy contribution to the "Commentary" series, conforms to the pattern of the series in that it is divided into three chapters, first providing an introduction to the background of the issue, then comparing Article 33 with other provisions in the CRC and elsewhere, and finally examining the scope of Article 33. The publication provides an insightful and, insofar as possible in a monograph of limited length, comprehensive analysis of this broad and complex topic, and the authors draw astutely on their extensive expertise in the area, contributing real-life examples to highlight gaps in interpretation and to inform the debate. The necessity of this analysis is laid out in the introduction. There are a range of children's rights affected by

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drugs issues. There is little children's rights guidance available. Both children and the CRC, according to the authors, can be used as an excuse for punitive laws in the area. Furthermore drug use, as well as our knowledge of it, has changed since the drafting of the CRC.

The backdrop to the topic is multi-faceted and morally complex. Reference is made by the authors to the 'moral panic' (p. 7) which can accompany discourse around children and drugs, and also to the use of children to justify 'punitive' (p. 3) drugs policies by governments. Deeper consideration at this early stage of the publication of the positioning of children in the moral debate, as well as analysis of what constitutes a punitive policy, would have been welcome. Indeed it would have been useful to have some overt reference to the broader drug prevention/harm reduction debate as it relates to the nuances of children's rights (see, e.g. Dahlgren and Stere, 2012, for the prevention perspective).

Nevertheless, the book provides a much-needed focus on the specific rights and interests of children in this difficult area, including the fact that the special position of children is often overlooked in drugs policies and programmes. The analysis is set in the context of the totality of the CRC, including as that instrument does the principle of the best interest of the child, the right of children to be heard, the right of children to life, survival and development, and the principle of non-discrimination. Examination of the principle of non-discrimination on the basis of age in the context of children's rights is rare (Breen, 2005) and is therefore particularly welcome in this publication. In the sphere of drugs policy such an examination is crucial, considering the sense of denial that often accompanies policy in the area, due to the unacceptability of the notion of children as drugs users. As the authors of this book point out, many states have failed to implement youth-focused drug treatment programmes, and in some cases, under-18s have been excluded from services such as needle exchange (p. 20), highlighting how children's needs can remain ignored in this field.

The authors helpfully emphasise the differing approaches needed to the two aspects of Article 33, i.e. the state obligation to take all measures to protect children from the illicit use of drugs, and the obligation to prevent the use of children in the illicit production and trafficking of drugs. The UN Committee on the Rights of the Child has since 2010 stipulated that the former obligation be included in the state reporting process under "health", whereas the latter obligation remains under "special measures". This emphasis ensures the framing of children's drug use firmly as a health issue. It is reinforced by an approach by the Committee through its comments on child drug users as victims, not criminals, an approach echoed by other UN entities (e.g. the Special Rapporteur for Health).

It is acknowledged in the book that children's views are rarely ascertained in the area of drug policy, and that in particular it is important in the matter of

treatment for drug use (p. 22–23). It would have been of great value to have had detailed consideration of the consequences of the right of children to be heard more broadly in the area of drugs. What, for example, are the consequences of children's evolving capacities for something like smoking, which is "illicit" for children, not because of the illicit status of the drug itself, but instead because of minimum age limits? Is it justifiable potentially to criminalise children, but not adults, for engaging in this activity solely on the basis of age? The authors touch on the possibility of the removal of the prohibition of substances which are currently illegal in most jurisdictions, a scenario in which this question would become even more pronounced. The point is certainly repeatedly made that children who are drug users should be diverted from the criminal justice system; however, deeper analysis of the matter of children's autonomy in this context is needed.

The authors provide an expert and thorough examination of the text of A.33. In particular, the focus on the term 'appropriate measures' is illuminating, considering the fact that measures can and are taken by states to tackle drugs issues which are far from appropriate from a human/children's rights perspective, for example the torture of those in custody for drugs offences. Five core principles are identified in this regard: measures must be read in light of other articles of the CRC; they must take into account higher standards which may exist (as per A41 of the CRC); vulnerability must be considered; measures must be evidence-based and non-arbitrary; and finally they must be appropriate. Though it would have been preferable to have some elaboration as to exactly how these five principles were identified by the authors, they appear to provide a firm human rights-based approach to implementation of Article 33 for states, practitioners and others.

The authors also argue that there are four levels of protection provided for in Article 33: reducing initiation; protecting children who use drugs; protecting children from drug use in the family; and protecting from use in the community. Detailed consideration of each of these contexts is provided, placing important issues squarely within the human rights framework. The authors emphasise, for example, the need to differentiate between children's recreational and problematic drug use, and the need to focus on limiting harm where use is recreational, on the basis that the majority of young people who experiment with drugs do not go on to develop severe drug problems. The 'lack of focus' by the Committee (p. 34) to date on recreational drug use is highlighted. A vital analysis of the appropriate manner in which the 'relevant international treaties' mentioned in Article 33 must be read together with the CRC leads the authors to conclude that these drugs conventions define the substances covered by Article 33, but do not determine appropriate measures to be taken in accordance with the provision. In fact, it is concluded, the CRC must

be used as a human rights check on these international treaties, which were drafted without explicit regard for the international human rights framework.

This book provides considerable guidance on how human rights principles can and should provide the basis to law, policy and practice in relation to the issue of children and drugs policy. Greater explicit attention on this issue from the Committee itself, as pointed out by the authors and others (e.g. Mahgoub, 2012), is now necessary in order to establish authoritative direction on the matter.

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