



# Three perspectives on the notion of 'the best interests of the child'



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The research reported in this article was centred on three research questions about the issue of ensuring that, in education and schooling, the principle of the best interests of the child is respected. The inauspicious treatment of children through the ages led the international community in the form of the United Nations to adopt its Convention on the Rights of the Child (CRC) in 1989. The series of developments culminating in the adoption of the CRC led to the formulation of the following three research questions: (1) What motivated the United Nations to adopt its CRC, in particular its formulation of the notion of 'the best interests of the child'? (2) How did the notion of 'the best interests of the child' subsequently find expression in the 1996 Constitution of the Republic of South Africa and the South African jurisprudence following thereafter? (3) What perspectives does the Bible, as the Word of God, provide on the notion of 'the best interests of the child'? Interpretivism-constructivism was used in putting together the thesis developed in this article. Interpretivism was applied to the results of an initial literature study on the status of the child, followed by constructivism in construing the line of argumentation that follows. The second part of the article emerged after a critical analysis of the post-1994 legislation and jurisprudence in South Africa. The norm set by the CRC has been respected since the advent of the new political dispensation in South African legislation and subsequent jurisprudence. The Bible, as the Word of God, also provides perspectives regarding the notion of 'the best interests of the child', although it does not employ this phrase as such. It teaches that since children are human beings and created in the image of God, and also because they are vulnerable, they have to be treated with loving care, respect, sympathy, and empathy.

**Contribution:** The article sheds light on the way the concept 'best interests of the child' attained international acceptance and subsequently obtained application in the South African constitutional arena since 1994. It also creates a link between legal stipulations and biblical perspectives regarding the notion of 'the best interests of the child'.

**Keywords:** best interests of the child; child; child anthropology; Convention on the Rights of the Child (1989); education; human rights.

## Introduction and problem statement

Children are born in communities and grow up in environments that increasingly become familiar to them as they continue to develop or self-actualise and flourish. 'Growing up' implies socialisation; in other words, children, as they begin to understand their surroundings, also begin to master the principles, customs and traditions thereof, much as:

[F]lamings gain their colouring from their food, without realising that they are doing so, and with no way of stopping it from happening (...) They pick them up from other group members. (Paley 2021:165)

According to Haidt (2012:7), it is not a matter of children learning directly from parents, peers, and community members, but rather of children self-constructing norms, morals, habits, and customs while interacting with other members of their community. Other thinkers, such as Ridley (1996:179), differ from Haidt in stating that children learn about the community in which they are growing up 'because of the human practice of passing on traditions, customs, knowledge and beliefs by direct infection from one person to another'. According to some theorists, environmental influence, in particular the influence of their peers, helps children to become who they are and shapes their character and personality (Gladwell 2010:141).

The following section of this article contains a brief overview of approaches to childhood in a variety of social and community contexts, and terminates with the argument that because many of these approaches are undeniably detrimental to children and their best interests, the

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United Nations decided to adopt its *Convention on the Rights of the Child* (CRC 1989), in which it puts forward a particular model of childhood as a time deserving of 'special care and assistance'. Two key principles of the CRC are that, firstly the best interests of children should be the primary consideration in all actions concerning them (Article 3) and, secondly a child's views should be sought in matters affecting the child (Article 12). The series of developments culminating in the adoption of the CRC led us to formulate the following three research questions:

- What motivated the United Nations to adopt its *CRC*, in particular its formulation of the notion of 'the best interests of the child'?
- How did the notion of 'the best interests of the child' subsequently find expression in the 1996 *Constitution of the Republic of South Africa* and the South African jurisprudence following thereafter?
- What perspectives does the Bible, as the Word of God, provide on the notion of 'the best interests of the child'? We contend that although this concept originated in the context of the secular world, a biblical interpretation thereof can lend greater depth to its meaning in general, concerning the way in which children and their interests are regarded and treated in pedagogical contexts, and more specifically, in legislation and jurisprudence that affect them and their interests.

We attend to the first of these three questions in the following section of this article, and to the other two in the sections following directly thereafter.

## How a plethora of approaches to childhood led to and indeed necessitated the United Nations' adoption of the CRC

Whatever the specific circumstances, what is, in fact, happening to children growing up in a particular social environment is that they learn through a variety of means and exposure to their environment to adopt the principles, morals, traditions and customs associated with the ethic of community that prevails in that particular environment. The concept of an ethic of community is based on the idea that people are, first and foremost, members of larger entities, such as families, teams, armies, companies, tribes, and nations. These entities, according to Haidt (2012:116), are larger than the sum of the people who compose them; they are real, they matter, and they must be protected. Children learn, as they grow up, that they have an obligation to play their assigned roles in these entities. In doing so, they reinforce the social fabric of the collective entity in question (United Nations 1989).

The study field referred to as 'anthropology of childhood' or 'childhood studies', has correctly noted from the late 1980s and early 1990s that there is 'a great diversity in definitions of, and ideas about, childhood and the different roles and

expectations placed on children according to their cultural background' (Montgomery 2022:n.p.). In order to understand these background aspects, some anthropologists of childhood have drawn heavily on social and cultural anthropology. In these frameworks, children are seen as developing beings, in possession of agency (they have voices that can and should be heard), and to varying degrees, they are understood and accepted to be vulnerable. Bluebond-Langner and Korbin (2007:n.p.) emphasise that it should be recognised 'that these attributes manifest themselves in different times and places, and under particular social, political, economic and moral circumstances and traditions'.

The way in which these attributes manifest themselves in different times and places can be illustrated with a few historical and contemporary examples. Education in the Greek city-state of Sparta (c. 9th–5th century BC) was entirely focused on successfully waging war against enemies, and hence, the training of future warriors. Every aspect of society, including the way children and their future roles were seen, was focused on raising future warriors or equipping others to support the warriors. Boys were taught how to be brave soldiers, and girls were nurtured so that they could produce strong offspring. For boys, training was focused on physical education. Girls were trained in wrestling, gymnastics, and calisthenics. According to GreekBoston (2023:n.p.), the goal was to teach them how to be strong because they were responsible for running the household while the men were at war. In addition, children were taught to have respect for their elders.

Ancient Athens (c. 6th century BC until after the birth of Christ) approached its children in a totally different manner. A child grew up in an *oikos* (household) that included the parents, slaves, and servants, such as nursemaids, responsible for the care of small children, and everyone lived with the mother in her quarters. Boys and girls stayed with their mothers until they were about 7 years old. Then the boys were sent off to school, where they were exposed to the *trivium* and the *quadrivium*, music instruction and physical education. Girls did not receive any formal schooling, but were trained in housework, or working in the fields and to be future mothers after the age of 13 or 14. By age 18, boys were expected to attend military school, where they graduated by the age of 20 (Ancient Athens 2023:n.p.).

We now take a long stride to Jean-Jacques Rousseau's view of the child in his book *Émile* (1762). In this book, Rousseau concentrated on his aim of showing how a natural (romanticised) education, in contrast to the artificial and formal education of society in his own time, enables a boy, *Émile*, to become social, moral, and rational, while at the same time remaining true to his original nature. Rousseau saw the child *Émile* as a 'natural man', uncorrupted by modern society. In his opinion, the natural goodness of a person can be nurtured and maintained only according to his

romanticised model of education – one that differed sharply from all accepted approaches to education of his time (SparkNotes 2023:n.p.).

Even in our own time, human societies differ widely in their answers to the questions: ‘Who counts as a child?’, and ‘How should a child be taken care of and be educated?’ This brought Allerton ([2020] 2023:n.p.) to conclude that childhood is a socio-cultural construction that varies widely both across and within different societies. Anthropological research has demonstrated that there is no single, universal understanding of childhood as a stage of the human life cycle. This explains why, for instance, European children in the Middle Ages were seen as little adults. Childhood did not exist as a distinct phase of life; children’s worlds were inseparable from those of adults. In some societies, children were (are) treated on the basis of ‘hard individualism’ (emphasis on tough resilience, self-sufficiency, and independence) and in others on the basis of ‘soft individualism’ (protecting the child as a unique little person, with emphasis on the naturalness of the child’s self). In some parts of the world, the emphasis is on personal psychological development; in others more on socialisation – the broad process through which children can become mature and competent members of society. In some societies, children find themselves trapped in neoliberal systems that call for intense competition and rote learning, while in others, they are expected to contribute to the family income through child labour or even prostitution (Allerton [2020] 2023:n.p.).

Generally speaking, the Western world showed little interest in promoting the best interests of the child during the 17th, 18th and even 19th centuries. The ‘child-saving movement’ across the Atlantic only began in the 19th century (Platt 1977:passim). This movement was based on the realisation that children had become victims of their circumstances, and it insisted that they deserved special care and proper treatment (Skelton & Proudlock 2015:3). The American *Care of Neglected Children’s Act* 24 of 1895 was the first to focus comprehensively on the care and protection of the child.

The late 1980s saw the content of the United Nations CRC of 1989 playing a pivotal role in the way children are to be viewed and treated (Patel & Watters 1994:305). Much of the work of international development agencies and child-focused non-governmental organisations has, since this date, been informed by the CRC (United Nations 1989). As mentioned above, the CRC put forward a particular model of childhood, as a time deserving of special care and assistance. Based on this point of departure, much contemporary critical anthropological work on childhood has been concerned with exploring the implications of this universal view or approach with regard to children’s individual rights, especially in developing contexts. The CRC embodies two key principles. The first principle states that ‘the best interests’ of children should be the primary consideration in all actions concerning

children (Article 3). The second principle states that a child’s views should be sought in matters that may affect him or her (Article 12) (Allerton [2020] 2023:n.p.). We now turn to the situation in South Africa, regarding the issue of the best interests of the child.

## The way the notion of ‘the best interests of the child’ found expression in the post-1994 constitutional dispensation in South Africa

During the pre-colonial period of South Africa, the well-being of the child was closely linked to the welfare of the local community and society. This often resulted in a situation where the best interests of the child were subjected to the concerns and interests of the broad community (Skelton & Proudlock 2015:2). Indications of this lack of concern regarding the interests of the child were already evident in the early days of the colonial period, after 1652. During the governance of the Cape by the Dutch East India Company, no laws existed for the protection or care of children, except for when functionaries had to process and finalise deceased estates. Initiatives of the child-saving movement slowly began to filter through to the Cape Colony in the 19th century, among other things in the form of the establishment of reform and industrial schools (Skelton 2005:5). This was followed by the promulgation of the *Reformatory Institutions Act of 1879*, and the *Deserted Wives and Children’s Protection Act of 1895*.

The adoption of the abovementioned American *Care of Neglected Children’s Act* 24 of 1895 found resonance in the promulgation of a similar Act by the Natal Province, namely *The Child Protection Act* 38 of 1901. A more favourable view regarding the position of the child ensued from this point on, partially in response to and in sympathy with developments in the international arena, as alluded to in the previous section of this article.

In 1913, the Union of South Africa passed the *Children’s Care and Protection Act* to deal with issues that relate to the care and protection of women and children (Geffen 1928). According to Skelton and Proudlock (2015:1–5), one of the most significant contributions of this Act was the establishment of places of safety for children, which were to be places where children against whom offences had been committed could temporarily be accommodated and where children could seek refuge. The 1913 Act was replaced two decades later by the *Children’s Act* 31 of 1937 (South Africa 1937).<sup>1</sup> An important aspect of this Act was the establishment of children’s courts which, among other things, provided for the well-being of deprived children.

Although South Africa did not ratify the United Nations *Declaration of the Rights of the Child* of 1959, this Declaration

1.As shown in the reference list of this article, there are three acts with exactly the same name; they differ only with regard to number and date.

gave a strong impetus to the cause of children because of its effect on deliberations and documentation across the globe with regard to the best interests of the child. The preamble of the *Declaration* emphasises that, owing to the physical and mental immaturity of the child, legal care should be in place for protecting the child 'before as well as after birth' (United Nations 1959). It declared that the world owed the child the best of the best<sup>2</sup> and stated that it aimed to strive towards a happy childhood, enabling a child to enjoy 'his own good and for the good of society'. As mentioned, although South Africa did not sign this Declaration, the country nevertheless responded with the promulgation of its own *Children's Act 33 of 1960* (South Africa 1960). The 'criminal liability-clause' in the *Childcare Act of 1983* (South Africa 1983), in particular, as Sinclair and Bedil (1983:20) noted, was innovative in the sense that it held nurses, dentists and medical practitioners liable for notifying the relevant authority of suspected child abuse or the neglect of children to which they tended.

South Africa signed the 1989 United Nations CRC in 1993 and ratified it in June 1995. Its ratification of this Convention lent compelling legal support to the encompassing inclusion of children's rights into the *Interim Constitution of South Africa* (South Africa 1993) and the final *Constitution of the Republic of South Africa* that followed in 1996. Principles put forward in the preamble of the CRC and in the CRC itself had a strong impact on the content of the South African Constitution (Du Plessis & Corder 1994:10). Because of signing and ratifying the CRC, South Africa was compelled to adopt the stipulations of the CRC regarding the rights of the child. Du Plessis and Corder (1994:10) observe that the technical committees that drafted the South African Constitution occasionally employed the wording used in the CRC. For instance, Section 3(1) of the CRC which reads, 'In all actions concerning the child, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration', can also be found in the 1996 South African Constitution.

The final Constitution of 1996 constitutes the ultimate breakthrough regarding the position of the child in South Africa. The promulgation of the Constitution had a significant impact on virtually every aspect of South African society, especially concerning the human rights of the child. Section 30 of the *Interim Constitution of South Africa* (South Africa 1993) had already paved the way for respect for the rights of the child by focusing on the protection of the child and his or her right to a name, family care, basic nutrition, health care and social services, not to be subjected to abuse or negligence or be exposed to exploitive labour practices. Section 30(3) was significant in that it lowered the age of maturity from 21 to 18 years.

In the final *Constitution of the Republic of South Africa* (South Africa 1996), the rights of the child are mainly ensconced

2: "... mankind owes the child the best it has to give".

in Section 28. This section takes children's rights to a new level: Section 28(1)(a) reaffirms the content of Section 30(1)(a) of the Interim Constitution regarding a child's right to have a name and nationality from his or her date of birth. Section 28(1)(b) not only confirms the necessity of parental care but adds 'the need for alternative care' for children 'when removed from the family environment'. Section 28(1)(c) is essentially a replica of Section 30(1)(c) of the Interim Constitution, although it adds the child's right to shelter and protection. Section 28(1)(c) likewise duplicates the former Section 30(1)(c) regarding maltreatment and abuse but adds the child's right not to be subjected to degradation. Section 28(1)(d) of the final Constitution confirms the right of the child to be protected against exploitive labour practices and services and adds his or her right not to be subjected to an environment that is not conducive for their spiritual, mental, moral, and social development.

Section 28(2) of the South African Constitution (South Africa 1996) is of key importance in the context of this article in that it states that 'a child's best interests are of paramount importance in every matter concerning the child'. The fact that this section focuses exclusively on the best interests of the child underscores the significance of this principle concerning children.

The *Children's Act* (South Africa 2005), which concentrates on the care and protection of the child, followed nearly a decade later. Section 9 of this Act reconfirmed the best interests of the child as of 'paramount importance' in stating: 'In all matters concerning the care, protection and well-being of the child, the standard that the child's best interest is of paramount importance must be applied.' This stipulation raises the question: What exactly does the phrase 'the interests of the child' (the 'paramountcy principle', as it is sometimes called) mean, and how is it applied in everyday legal procedures? We engage with this question in the following section of this article.

## How the notion of 'the best interests of the child' found expression in South African jurisprudence

In the almost three decades since the promulgation of the final Constitution, the meaning of the concept 'the best interests of the child' as a 'paramountcy principle' has often been under scrutiny in South African courts. We now discuss a few court cases that illustrate how the notion of 'the best interests of the child' has been applied in jurisprudence.

Previously, the requirement for first attendance at a school was that a child could enrol for Grade 1 in the year that he or she turned seven. In *Harris v Minister of Education* (2000), the complainant, a mother, argued that notwithstanding the fact that she had submitted a psychological report stating that her child was ready and well prepared for school, the child was

refused enrolment because she was regarded as being too young (by 17 days). The court ruled, based on the psychological report, that it would not be in the child's best interest to turn down her application for school entrance. The child was subsequently admitted to Grade 1.

In the matter of *Kotze v Kotze* (2003), based on a divorce proceeding settlement agreement, the parties agreed that they both would educate the child in accordance with the doctrines of church 'A' and have the child participate in its religious activities. The court adjusted their arrangement by ruling that such a clause in the agreement would not be in the best interests of the child since it could infringe on the child's right to freedom of religion; hence, it could have a negative effect on the development of his or her religiosity.

In the case of *Hay v B* (2003), the parents, both members of the Jehovah Witness Denomination, refused blood transfusion to their critically ill baby. One of their concerns was that the transfused blood might be contaminated and hence, detrimental to their baby. The medical practitioner, Dr Hay, stated that 'a life-saving blood transfusion' was necessary and if a transfusion was not performed, the baby was likely to die. She also stated that the blood was not likely to be contaminated and that it would be in the child's best interest to receive a transfusion. The court ruled, in accordance with the paramountcy principle of the best interests of the child, that it would be to the benefit of the child to receive the transfusion and that 'emergency medical treatment' could be given, if necessary, without the consent of the parents.

In the South African Supreme Court of Appeal case of the *Western Cape Department of Education and Others v Governing Body of the Point High School and Others* (2008), a dispute regarding the appointment of a principal and deputy principal to the school was finally resolved. Based on the curricula vitae of the (then) acting principal (Applicant A), the (then) acting vice principal (Candidate B) and the two candidates (C and D) from outside the province, as well as interviews with the governing body, the governing body decided that candidates C and D had proved to have the highest merits for the posts of respectively principal and deputy principal and therefore recommended them for filling the posts. For reasons of its own, the Department of Education favoured the other two candidates and refused to appoint C and D. Appeal Court Judge Hurt ruled in favour of the appointment of C and D on the basis of the best interests of the child (and the school).<sup>3</sup> He concurred with the ruling of the court *a quo* (the Cape High Court),<sup>4</sup> where Judge Potgieter had confirmed that the best interests of the children should be seen as of paramount importance in the matter. Judge Hurt added that since time was of the essence in the matter,

3. Appeal Judge Hurt: 'I am moreover confident that I at all material times, had regard to the paramount interests of learners at [the school], and I confirm furthermore, that the appointment of the second and third respondents is indeed in the best interests of learners at [the school].'

4. Judge Potgieter: 'It is obviously in the best interests of all parties concerned, that the situation at the second applicant should be regularised without any further delay, in view of the fact that the academic year has well advanced. Little purpose would accordingly be served by referring the matter back to the first respondent to be dealt with *de novo*.'

delaying the filling of the vacancies any further would not be in the best interests of the children (and the school).

In the Constitutional Court case *MEC for Education in Gauteng Province and Other v Governing Body of Rivonia Primary School and Others* (2013), the Court had to resolve the deadlock between the MEC of Education in Gauteng and the governing body of Rivonia Primary School regarding the admission of a learner to Grade 1. The governing body claimed that the school was already filled to capacity and averred that the MEC, in an effort to display his authority, was forcing it to allow the learner. The Court reprimanded both parties for not being able to resolve the matter in the best interests of the learner in question. It added that the learner was the suffering party in this conflict between two official bodies and ordered that it was in the best interests of the child to be admitted to Grade 1 at the school.

In the matter between the *Head of Department, Department of Education, Free State Department of Education v. Welkom High School* (2014), the court was informed that a Grade 9 learner of a Welkom High School who had fallen pregnant was initially allowed to attend school but her mother was later told that, with regard to the school's policy on pregnancy, the learner was to leave school and remain at home until after the birth of the child. The matter ended up in the Constitutional Court, which ruled that, despite school policy, it was in the best interest of the learner to remain in school to be able to complete Grade 9 and not lose a year by repeating the grade.

Charged with the assault of his 13-year-old son, M, the father of a Muslim family, defended himself by appealing to parents' common law right to discipline their children. In a matter that served at the Gauteng High Court (*State v YG* 2018), M, who had severely punished his son for watching pornography, stated that since watching such material was forbidden by the dictates of Muslim scriptures, he was under obligation to punish the child in accordance with Muslim decrees. Freedom of Religion South Africa, an *amicus curiae*<sup>5</sup> to this case, supported his point of view by emphasising that Muslim scriptures instructed parents to apply appropriate correction to their children. Judge Keightley ruled that, in terms of the constitutional provision regarding the best interests of the child, the state was obligated to protect children from potential injuries and all forms of violence and degradation. The court ruled that 'the common law defence of reasonable chastisement [*was*] unconstitutional and no longer applie[d] in our law'.

Against the backdrop of the above court rulings, it is important to note that the paramountcy principle, namely that the child's best interests should be upheld in all situations, is not an absolute right that trumps all other fundamental rights of people (in this case, children). The effects of Section 36 of the Constitution can also be limited under particular circumstances (Skelton & Proudlock 2015:2-15).

5. Latin for 'friend of the court' (Hiemstra & Gonin 1990:168).

## Critical appraisal based on a biblical-ethical perspective, regarding the notion of 'the best interests of the child'

Although the phrase 'the best interests of the child' has been used in a legislative and juridical context, as discussed in the previous two sections of this article, it is in essence a phrase with profound ethical and moral connotations. Collins (1988:152) notes that, despite their importance, children do not figure prominently in the Bible. This, he surmises, is because during their early years, children are with their parents and then they leave their parental home, as God intended.

It is clear from both the international and the South African national contexts that the phrase 'the best interests of the child' was born out of concern about the fate of children, which, through the ages, left much to be desired, as explained in the first sections of this article. On the surface, it may seem as if the adoption of the CRC, the stipulations about the status of the child in South African legislation and concomitant court rulings, are simply legal measures to ensure that children are properly treated in society at large and in legal terms. At the deepest level, however, all these formal legal measures flowed from moral concern for the child and his or her fate. According to ethicist H.G. Stoker (1967:251), ethics in essence is centred on the notion of 'caring for / taking care of the interests of others' (in this case, children). Most ethicists agree with his view, but use a variety of other words and terms to express the same idea: to love one's neighbour as oneself – a norm that has found widespread acceptability around the world (Vigil 2008:199) – ethical responsibility, duty ethics (towards children and their fate), an ethic of (critical) caring, compassion, empathy and sympathy, divine command ethics, an ethic of self-sacrifice, an ethic of responsibility, trust and truth, an ethic of dignity and respect, an ethic of fairness and reciprocity and an ethic of obligation, to mention only a few.

The Bible never actually employs the phrase 'the best interests of the child'. This confronts us with the question of why – from a biblical perspective – adults, also in the legal and juridical sphere of life, should express and demonstrate concern for children and the interests and fate of children. The first and foremost reason that the Bible offers is that children, like all human beings, are created in the image of God, and therefore, possess human dignity that should be respected (Sacks 2011:93). This means, according to Van der Walt (1999:328), that they have been placed in a particular relationship with God, in principle willing to obey his laws for creation. People are not static images of God – final and complete – but have to be renewed and developed continually in order to display the image of God more perfectly. Such development and renewal are impossible without education and the guidance of the Holy Spirit. Displaying God's image demands that a person – in this case, a child – develops and

uses all of his or her gifts, time, abilities and means to live in accordance with God's laws (among which the great commandment to love one's neighbour), thereby also serving one's neighbour and the entire creation.

The Bible teaches that, like all people, children should be treated with the same respect as one would expect for oneself (Phil 2:3). The second, equally important reason why adults should show concern for children and their fate, is that children are gifts from God to their parents and caretakers (Gn 30:22–23; Jr 22:30; Mk 9:36; Mt 18:5; Ps 127:3–5) and, hence, should be cherished and loved (Pr 22:15). Based on this principle, Paul warned fathers (parents) not to provoke their children to wrath and discourage them, but to bring them up in the nurture and admonition of the Lord (Col 3:21; Eph 6:4). Jesus even used children as examples for adults, thereby demonstrating that people should live in dependence on Him (Mt 18:3). He showed children special attention and lauded their simplicity and trust (Lk 18:15–17). Children are important in the kingdom of God and are not to be harmed (Mt 18:1–6, 18:10; Ps 103:13, 127:3; Tt 2:4). Parents and caregivers have a responsibility to model mature Christian behaviour, to love their children, to care for their needs, to teach the young and to discipline fairly (Col 3:21; Cor 12:14; Dt 6:1–9; Tt 2:4; Pr 22:6–2).

## Answers to the research questions

The research reported on in this article pivoted on the three research questions presented in the problem statement section at the beginning of this article. The purpose of the investigation was to discover plausible answers to the three questions. We now attempt to offer answers to each of the research questions.

*What motivated the United Nations to adopt its CRC, in particular its formulation of the notion of 'the best interests of the child'?* The series of unfavourable views of the child (children) all over the globe and through the ages, the abuse of children and the inconsistency in the views proffered about the child by various parties had to come to a culmination point. That point, as argued in the first section of this article, was reached when the international community, in the form of the United Nations, adopted the CRC in 1989. This set the standard for not only viewing children and childhood but also, and most importantly, how children should be treated. The CRC set the standard by adopting the notion of 'the best interests of the child' as a paramountcy principle and the need for listening to the voices of children.

*How did the notion of 'the best interests of the child' subsequently find expression in the 1996 Constitution of the Republic of South Africa and in the South African jurisprudence following thereafter?* The norm set by the CRC in 1989 has been resonating clearly in the South African context, in particular after the advent of the new political dispensation in 1994. The Interim

Constitution of 1993 and the final Constitution promulgated in 1996 both enshrined the idea of the best interests of the child, and the series of childhood-related acts that followed thereafter gave further meaning and impetus to the application of that notion or principle, which in due course, became known as the 'paramountcy principle' in connection with children and the way they should be treated. During the past three decades, the paramountcy principle has been respected and applied frequently in South African jurisprudence, as regards the needs and requirements of children.

*What perspectives does the Bible, as the Word of God, provide on the notion of 'the best interests of the child'?*

Although the Bible never employs the phrase 'the best interests of children', it provides a multitude of perspectives regarding the child that can all be construed to serve the best interests of children and tie in with secular, humanistic and child-centred perspectives proffered by the international community in the form of the CRC and with South African legislation and jurisprudence concerning the treatment of children. According to the Bible, all those who deal with children should have their best interests at heart, not only because a child is a human being and created in the image of God, but also because children are vulnerable beings who have to be treated with loving care, respect, sympathy and empathy.

## Concluding remark

We focused on three research questions regarding the matter of how to ensure that, in education, in both senses of the word (broad preparation for life actualisation and teaching-learning), the principle of the best interests of the child is respected. The deplorable views of children and the concomitant ill treatment that children had to suffer through the ages led the international community, in the form of the United Nations, to adopt the *Convention on the Rights of the Child* in 1989. The norm set by the United Nations in this Convention has since been respected in South African legislation. The Bible, as the Word of God, lends clear support to this theory and practice in that it emphasises the importance of children as beings created in the image of God, as well as their vulnerability.

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### Authors' contributions

The author I.J.O conceptualised the article and wrote the sections on legal aspects and jurisprudence. The author J.L.v.W structured the article, wrote the remaining sections, and edited the final draft.

## Ethical considerations

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## Data availability

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## Disclaimer

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