

Legal Semiotics of Silence: The Best Interests of the Child in International Law**

Silence is often a most significant declaration, and a most misleading one.¹

Abstract

The best interests of the child (BIC) principle is the centrepiece of the UN Convention on the Rights of the Child (CRC 1989): all decisions concerning children should be made according to this standard. However, the provision enshrining the BIC in the CRC is characterized by its silence concerning the actual content of this principle: what actually constitutes the best interests of the child in a given situation? Who decides what is best for the child, and according to which standards and guidelines? The meaning of the BIC has been interpreted differently across nations and according to different situations, even within the same jurisdiction, social class, and culture. This article applies legal semiotics theory to explore the meaning of silence in the formulation of the BIC as a significant sign under international law. For this purpose, it refers to Victoria Welby, the British foremother of modern semiotics, and her signifiacs theory, as well as to renowned Hungarian-American semiotician Sebők Tamás' global semiotics theory, to uncover the many ramifications of the BIC principle for the implementation of children's autonomy rights at the domestic level.

Keywords: best interests of the child, legal semiotics, UN Convention on the Rights of the Child, Victoria Welby, Sebők Tamás, meaning, international law

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¹ Victoria Lady Welby, *Signifiacs and Language: The Articulate Form of Our Expressive and Interpretative Resources* (MacMillan 1911, London) 41.

I Introduction

The UN Convention on the Rights of the Child (CRC 1989), the main treaty promoting child rights under international law, offers special safeguards to ensure that states parties shall protect the fundamental rights and freedoms of children in both the public and private spheres.² The Convention enshrines ‘the Best Interests of the Child’ principle under Article 3, which stipulates that in all decisions concerning children, the best interests of the child shall be a primary consideration. The best interests of the child constitutes a principle of interpretation of the CRC, along with the evolving capacities of the child (Article 5), whereby each provision of the Convention must be interpreted in light of these twin principles.³ The best interests of the child is also one of the four guiding principles of the CRC, along with the principle of non-discrimination (Article 2) and the rights to life (Article 6) and participation of the child (Article 12).⁴ It is also repeated in several provisions pertaining to the child’s upbringing and development,⁵ adoption,⁶ children separated from their family,⁷ and children deprived of liberty.⁸ The UN Committee on the Rights of the Child emphasized the important role of the BIC in its General Comment No. 5 on measures of implementation, and mentions this principle in all its general comments – a unique feature compared to other principles and rights enshrined in the Convention. The CRC drafters chose to place this principle at the very beginning of the Convention, immediately after the definition of child (Article 1) and the principle of non-discrimination (Article 2), and before the listed child rights and fundamental freedoms, therefore underscoring its significance. Since the CRC is the most widely ratified human rights treaty worldwide, with 196 member states, this principle is recognized internationally.⁹ The BIC is also mentioned by the committees monitoring the implementation of other human rights treaties, such as the ICCPR and the ICESCR, thereby going beyond the scope of the CRC.¹⁰ This principle has been implemented

² Convention on the Rights of the Child, opened for signature 20 November 1989, 1577 UNTS 3 (hereinafter: CRC) (entered into Force 2 September 1990).

³ Geraldine Van Bueren, *The International Law on the Rights of the Child* (Martinus Nijhoff Publishers 1998, The Hague) 45.

⁴ CRC Committee, ‘General Comment No. 5: General Measures of Implementation of the Convention on the Rights of the Child’ (27 November 2003) UN Doc CRC/GC/2003/5, para 12.

⁵ CRC art 18(1).

⁶ Ibid art 21.

⁷ Ibid arts 9(1), 9(3) and 20(1).

⁸ Ibid art 37(c).

⁹ Ibid.

¹⁰ International Covenant on Civil and Political Rights, opened for signature 16 December 1966, 999 UNTS 171 (hereinafter: ICCPR) (entered into Force 23 March 1976); International Covenant on Economic, Social and Cultural Rights, opened for signature 16 December 1966, 993 UNTS 3 (hereinafter: ICESCR) (entered into Force 3 January 1976); CESCR Committee, ‘General Comment No.14: The Right to the Highest Attainable Standard of Health’ (11 August 2000) UN Doc E/CN.12/2000/4, para 24; HR Committee, ‘General Comment No.32: Right to Equality before Courts and Tribunals and to a Fair Trial’ (23 August 2007) UN Doc CCPR/C/

into domestic law in many countries for decisions bearing on adoption, child protection, divorce and custody, and youth criminal justice.¹¹ The BIC is arguably a uniquely non-contentious principle internationally. Indeed, regardless of the many different cultural, social, economic and religious circumstances within societies globally, most individuals, institutions, and communities agree that decisions concerning children should be made in their best interests. The BIC is, however, characterized by a unique feature: its actual substance appears to be missing. The Convention does not specify *how* decisions shall be made in children's best interests: ie, what criteria and which guidelines, if any, shall be employed, and *who* should make the ultimate decision. Hence, while the BIC is practically universally approved globally, it is simultaneously devoid of clear content. This article applies legal semiotics theory to explore the meaning of silence in the formulation of the BIC as a significant sign under international law. For this purpose, it refers to Victoria Welby, the British foremother of modern semiotics, and her signification theory, as well as renowned Hungarian-American semiotician Sebők Tamás' global semiotics theory, to uncover the ramifications of the BIC principle for the implementation of children's autonomy rights at the domestic level.

II Legal semiotics as a method of investigating international law

The science of semiotics examines signs and symbols in all forms of human expression. While the application of semiotics as a theory and method of decoding signs was originally very broad, from theology and philosophy to mathematics and medicine – including the medical symptomology found in the *Corpus Hippocraticum* – in the last century, semiotics theory was mostly associated with fields such as linguistics and translation studies.¹² Yet the last decades have been characterized by a 'Renaissance' of semiotic studies, and several semioticians are presently examining the meaning of signs in new disciplines, from architecture to digital media and law.¹³ Sebők Tamás, a Hungarian-American semiotician,

GC/32, para 42; HR Committee, 'General Comment No.35: Liberty and Security of the Person' (16 December 2014) UN Doc CCPR/C/GC/35, paras 18, 44, 62; HR Committee, 'General Comment No.36: Right to Life' (3 September 2019) UN Doc CCPR/C/GC/36' para 60.

¹¹ See Elaine Sutherland and Lesley-Anne Barnes (eds), *Implementing Article 3 of the UN Convention on the Rights of the Child* (Cambridge University Press 2016, Cambridge); Shabnam Ishaque, Muhammad Mustafa Khan, 'The Best Interests of the Child: A Prevailing Consideration within Islamic Principles and a Governing Principle in Child Custody Cases in Pakistan' (2015) 29 (1) *International Journal of Law, Policy and the Family* 78–96, DOI: <https://doi.org/10.1093/lawfam/ebu015>; Nadjma Yassari and others (eds), *Parental Care and the Best Interests of the Child in Muslim Countries* (Springer 2017, The Hague).

¹² Giovanni Manetti, 'Ancient Semiotics' in Paul Cobley (ed), *The Routledge Companion to Semiotics* (Routledge 2010, London, 13–28).

¹³ See for example Jamin Pelkey (ed), *Bloomsbury Semiotics* (Bloomsbury 2023, London); Gabriele Aroni, *The Semiotics of Architecture in Videogames* (Bloomsbury 2022, London); Anne Wagner, Sarah Marusek, *Research Handbook on Legal Semiotics* (Elgar 2023, Cheltenham).

linguist and polymath, is recognized as a pioneer of this important dissemination and broadening of the semiotic sphere with his theory of global semiotics: the notion that semiotics constitutes an ‘all-encompassing, comprehensive, international, limitless [...] universal’ network or web, for it has transmuted from a glotto-centric (language-centric) science to encompassing other fields and semioticians on all continents.¹⁴ He is one of the modern founders of biosemiotics, which comprises his own investigations into animal communication, coined ‘zoosemiotics’.¹⁵ Sebők Tamás, internationally known under his English name, ‘Thomas Sebeok’, initially worked as a linguist, and was appointed to design ‘semiotic warning signs’ or more specifically ‘a mixture of iconic, indexical and symbolic elements’ for USA military nuclear waste disposal sites, with the hope that these universal signs would last the duration of the radiation.¹⁶ However, Sebők also conducted research in anthropology, specifically on the meaning of folksongs and poems, and even the supernatural, thereby leaving a rich corpus in the field of semiotics.¹⁷ He explained the meaning of semiotics, and distinguished it from linguistics, noting that ‘Semiotics is both a *science*, with its own corpus of findings and its theories, and a *technique* for studying anything that produces signs’.¹⁸ As for Victoria Lady Welby, she is known as the ‘foremother of modern semiotics’ and although her work in semiotics was obscured for almost a century, a special issue was dedicated to the centennial anniversary of her passing (1912) in *Semiotica* (2013), covering her signifi- cation theory in various disciplines, from philosophy to law.¹⁹ Welby’s theory aimed to examine the significance of terms and conceptions,²⁰ and her Threefold Laws of Meaning to interpret the 1) sense of signs; 2) the meaning-intention, that is, the intention of the master signifiers who choose specific signs, and 3) the significance of signs and symbols, have been applied in fields such as architecture and law.²¹

¹⁴ Thomas Sebeok, *Global Semiotics* (Indiana University Press 2001, Bloomington) 1–7.

¹⁵ Ibid; Thomas Sebeok, *A Sign is Just a Sign* (Indiana University Press 1991, Bloomington); Paul Copley, ‘Introduction: The Pursuit of Signs’ in Paul Copley (ed), *The Routledge Companion to Semiotics and Linguistics* (Routledge 2001, London, 1–13) 6.

¹⁶ Thomas Sebeok, ‘Communication Measures to Bridge Ten Millennia: Technical Report’ (1984) iv.

¹⁷ Thomas Sebeok, ‘Semiotics: A Survey of the State of the Art’ in *Current Trends in Linguistics* (vol 12, Mouton 1974, The Hague) 213–264; Thomas Sebeok, *Signs: An Introduction to Semiotics* (2nd edn, University of Toronto Press 1999, Toronto); Donald Favareau, *Essential Readings in Biosemiotics: Anthology and Commentary* (Springer 2010, Dordrecht).

¹⁸ Sebeok, *Signs*... 5.

¹⁹ Marcel Danesi, ‘Semiotica Special Issue: On and Beyond Signifi- cation: Centennial Issue for Victoria Lady Welby (1837–1912)’ (2013) 196 *Semiotica*, Special Issue.

²⁰ Victoria Welby, ‘Meaning and Metaphor’ (1893) 3 (4) *The Monist* 510–525; Victoria Welby, *What is Meaning? Studies in the Development of Significance* (MacMillan 1903, London); Oxford English Dictionary (1911).

²¹ Victoria Welby, *Signifi- cation and Language: The Articulate Form of Our Expressive and Interpretative Resources* (Foundations of Semiotics, John Benjamins 1985, Macmillan, 1911, London); Gabriele Aroni, ‘Semiotic Analysis of the Corinthian Order in the Basilica of San Lorenzo in Florence 1420–1490’ (2014) 4 *Southern Semiotic Review* <<https://www.southernsemioticreview.net/semiotic-analysis-of-the-corinthian-order-in-the-basilica-of-san-lorenzo-in-florence-1420-1490-by-gabriele-aroni/>> accessed 31 October 2025; Jacob de Haan, ‘Rechtskundige signifi- cation en hare toepassing op de begrippen: ‘aansprakelijk, verantwoordelijk,

Semiotics is especially relevant in the legal field because law encompasses legisigns and icons that shape relationships between individuals, communities, and institutions. While some may confuse legal semiotics with linguistics or legal theory, legal semioticians have recently emphasized its unique features.²² Semiotics of law encompasses both textual semiotics, which relates to the terminology employed in legal documents, and visual legal semiotics – for instance, the many visual icons present during court hearings and international treaty body meetings; how judges, lawyers, and diplomats will behave, interact, present arguments and thereby what their impact will be on decision-making.²³ Semiotics comprises ‘legisigns’, defined by Kevelson as ‘provisional judgments, held and acted on as if they were truths, although they are in fact the product of an ad hoc community that comes together out of a common purpose’.²⁴ This definition notably refers to the doctrine of precedent in the common law system, whereby court decisions influence future judgments, especially those of upper courts. Moreover, legal semiotics comprises semiotics of law and semiotics in law. Semiotics of law examines legal information exchanges via the study of sign systems, whereas semiotics in law considers law as a system of signs.²⁵ Most importantly, semiotics studies the legal realm as an infinite sign system. In short, legal semiotics is a different way of perceiving and interpreting the legal space. Legal semiotics offers methods for interpreting textual and visual semiotics – their sense, meaning, and significance – and, moreover, provides a common language for scholars, lawyers, diplomats, and the general public.²⁶

The international legal realm epitomizes the importance of legal semiotics, and especially the significance of words as signs and symbols in the formulation of human rights in treaties. Indeed, State representatives spend decades negotiating the wording of each treaty provision. For example, the drafting of the Convention on the Rights of the

toerekeningsvatbaar’ [Legal significance and its application to the concepts of ‘liable, responsible, accountable’ translated by Susan Petrilli as ‘responsible in the legal sense (liable), responsible in the sense of accountability, responsible for one’s actions, said of a person’ (Jacob de Haan, dissertation, University of Amsterdam 1916); Susan Petrilli, *Signifying and Understanding* (De Gruyter Mouton 2009, The Hague) 757; Clara Chapdelaine-Feliciati, *The Status of the Girl Child under International Law: A Semioethic Analysis* (Cambridge University Press 2025, Cambridge).

²² Roberta Kevelson, *The Law as a System of Signs* (Plenum Press 1988, New York); Anne Wagner, Jan M Broekman, *Prospects of Legal Semiotics* (Springer 2010, Dordrecht); Susan Tiefenbrun, *Decoding International Law* (Oxford University Press 2010, Oxford); Clara Chapdelaine-Feliciati, ‘Semiotics in Law and Jurisprudence’ in Jamin Pelkey (ed), *Bloomsbury Semiotics* (Bloomsbury 2023, London, 259–276); Gabriele Aroni, ‘Games as Authorial Platforms? An Exploration of the Legal Status of Use-Created Content from Digital Games’ (2023) 36 *International Journal for the Semiotics of Law* 2021–2036.

²³ Jan M Broekman and Francis J Mootz III (eds), *The Semiotics of Law in Legal Education* (Springer 2011, Dordrecht); Jan M Broekman and Larry Catà Backer, *Lawyers Making Meaning: The Semiotics of Law in Legal Education II* (Springer 2013, Dordrecht); Clara Chapdelaine-Feliciati, ‘Students Making Meaning: Teaching Legal Semiotics in the Context of International Law’ in Frank Fleerackers (ed), *The Rearguard of Subjectivity* (Springer 2023, Cham, 63–78).

²⁴ Roberta Kevelson, *Peirce, Science, Signs* (Peter Lang 1996, New York) 51.

²⁵ Chapdelaine-Feliciati, *Status Girl Child Intl Law...* ch 1.

²⁶ *Ibid.*

Child lasted ten years, and the twin international covenants (on civil and political rights, the ICCPR, and on economic, social and cultural rights, the ICESCR), took over twenty years to be adopted.²⁷ The *travaux préparatoires* of these treaties, that is, the transcription of the official discussions that occurred between state delegations during the preparation of these instruments, reveal that certain terms and concepts caused significant debate. The drafters were aware that the terminology employed would impact the scope of States parties' obligations under these treaties and carefully reviewed how provisions would be formulated.²⁸ Yet while research has examined the negotiations leading to the words enshrined in those treaties, limited attention has been paid to the words that are missing and the concepts and values that are made invisible. The next section shall therefore examine the role of silence in the BIC under the Convention on the Rights of the Child.

III Silence as a sign in international law

As previously noted, Sebők's theory of global semiotics emphasizes that the science of semiotics encompasses several fields, such as biosemiotics, which comprise sound, and also its opposite, silence. Sebők noted the importance of all forms of human expression, both verbal and non-verbal signs, and the presence or absence of signs in various environments, and within various species.²⁹ Welby also recognized the importance of silence as a semiotic sign, noting that 'silence [...] often is not less significant than words themselves [...] for whether positive or negative, excessive or deficient, present or absent even, our words are of moment always'.³⁰ Indeed, the words enshrined in a treaty are as important as those that are missing. The absence of a word or concept in a treaty could indicate, for instance, that State delegations disregarded or neglected to address a specific topic. Silence could simultaneously signify that the drafters wished not to address an issue, or at least, not in strong terms. Article 3(1) of the CRC is characterized by its silence, as it stipulates that:

1. In all actions concerning children, 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.³¹

²⁷ CRC; ICCPR; ICESCR.

²⁸ See for example Sharon Detrick, *The United Convention on the Rights of the Child: A Guide to the Travaux Préparatoires* (Martinus Nijhoff Publishers 1992, Dordrecht).

²⁹ Thomas Sebeok, 'Nonverbal Communication' in Paul Copley (ed), *The Routledge Companion to Semiotics and Linguistics* (Routledge 2001, London, 14–27); Thomas Sebeok, 'Zoosemiotics' (1968) 43 *American Speech* 142–144.

³⁰ Welby, *Significs and Language*... 39–40.

³¹ CRC, art 3 (emphasis added).

Although the BIC principle is clearly stated under paragraph one, the actual content appears to be missing. The provision, as formulated, does not specify how one should go about making a decision in the best interests of a child. It does not offer guidelines or criteria. It moreover fails to explain how much the child shall be involved in decisions concerning her or him, if at all, in this context. From a semiotic viewpoint, silence constitutes a 'signifier' or 'representamen' that the overall concept or object intended to be 'signified', in the case at hand, the BIC, shall remain ambiguous or undefined.³² This provision moreover refers to the BIC as 'a primary' consideration rather than 'the paramount consideration' under all circumstances, allowing States parties to give precedence to other priorities, such as national security, when the latter clash with a child's best interests – a decision made by the drafters to offer more leeway for government practices.³³

Another general principle of the Convention, enshrined under Article 12, stipulates that children should have the right to be heard:

1. States Parties shall assure to the child who is capable of forming his or her own views the right to *express those views* freely in all matters affecting the child, *the views of the child being given due weight in accordance with the age and maturity of the child*.
2. For this purpose, the child shall in particular be provided with the *opportunity to be heard* in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.³⁴

One can observe that the child has the right to express his or her views and will have the opportunity to be heard in legal proceedings. This, however, does not equate with making actual decisions concerning several individual rights. The provision goes slightly further by specifying that the views of the child shall be given due weight in accordance with the age and maturity of the child. The Convention nevertheless does not clarify what is meant by 'due weight', nor does it provide a specific age after which the child's views will be considered more seriously. It also does not provide a definition of maturity: how and when a child is deemed mature. These two provisions, Articles 3 and 12, are especially important concerning decisions pertaining to the autonomy rights of children, from medical decisions to reproductive care, education, religious upbringing, civil and political rights and economic decisions such as controlling one's finances. Hence, the silence in both articles concerning respectively how decisions will be made in children's best interests, and to what extent children shall be involved in decision-making, constitutes an important semiotic sign.

³² See Charles Sanders Peirce, *The Collected Papers of Charles Sanders Peirce* (Arthur Burks ed, Harvard University Press 1931–58, Cambridge); Simon Bouquet and Rudolph Engler (eds), *Ferdinand de Saussure: Writings in General Linguistics* (Oxford University Press 2006, Oxford).

³³ Detrick 131–40; OHCHR, *Legislative History of the Convention on the Rights of the Child* (vol 1, United Nations 2007, New York) 335–348.

³⁴ CRC art 12 (emphasis added).

The wording of Article 3 was inspired by Principle 7 of the UN Declaration on the Rights of the Child (1959), which stipulates that ‘The best interests of the child shall be the guiding principle of those responsible for his education and guidance; that responsibility lies in the first place with his parents’, as proposed by France,³⁵ and Principle 7 of the same Declaration:

The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, *the best interests of the child shall be the paramount consideration*.³⁶

The *travaux préparatoires* of the CRC reveal that the drafters did not debate the actual substance of the BIC, for instance, how it would be assessed at the domestic level for each child or groups of children. The discussions centred on other issues, such as whether the BIC should be ‘the primordial’, ‘paramount’ or ‘a primary’ consideration, and where it should be located in the Convention, with the Dominican Republic proposing to place it as a final clause attached to the overall operative part of the treaty, while the working group decided instead to place it at the beginning.³⁷ Some drafters nevertheless emphasized their concern regarding the silence in the formulation of Article 3. Venezuela famously noted that:

[a]lthough her delegation was not opposed to the phrase ‘best interests of the child’ being included in the final text, *she however wished to draw attention to the subjectivity of the term*, especially if the Convention contained no prior stipulation that the ‘best interests of the child’ were his all-round – in other words, physical, mental, spiritual, moral and social – development. That would mean leaving the interpretation of the ‘best interests of the child’ to the judgement of the person, institution or organization applying the rule.³⁸

New Zealand also stated that the BIC:

will be open, through the general terms in which they are couched, to varied interpretations and will in fact be defined nationally in terms of the laws and the child-rearing practices which are adopted and acceptable in that nation.³⁹

³⁵ OHCHR 1:14.

³⁶ United Nations, ‘Declaration on the Rights of the Child’ (1959) General Assembly Resolution 1386 (XIV) of 20 November 1959.

³⁷ OHCHR 1:335.

³⁸ Commission on Human Rights, ‘Question of a Convention on the Rights of the Child: Text of the draft Convention as adopted by the working group at second reading’ (2 March 1989) UN Doc E/CN.4/1989/48, 22, para 120 (emphasis added).

³⁹ OHCHR 1:336.

Almost 40 years after the adoption of the CRC, the silence concerning the substance of the BIC in the CRC still causes significant issues in terms of implementation globally. Several scholars hailing from distinct legal systems, such as civil law, common law, sharia, hybrid and customary law, and many from the Global South, have been very critical of the subjectivity of the BIC as applied by domestic courts and legislatures.⁴⁰ The CRC Committee adopted a general comment clarifying the content of the BIC in 2013, in which it explains that the BIC constitutes a substantive right, a fundamental interpretative legal principle and a rule of procedure, and suggests procedural safeguards such as child legal representation and ensuring that assessments are carried out by qualified professionals, to attempt to clarify its content.⁴¹ The Committee further notes that decisions that would violate another right enshrined in the CRC would appear to contradict the BIC.⁴² The decision of the Committee to adopt this general comment constitutes a semiotic sign in itself, as it could indicate that States parties had interpreted its substance differently, or perhaps even that they had chosen to interpret the BIC to fit their own agenda. Indeed, the Committee notes that:

The flexibility of the concept of the child's best interests allows it to be responsive to the situation of individual children and to evolve knowledge about child development. However, it may also leave room for manipulation; the concept of the child's best interests has been abused by Governments and other State authorities to justify racist policies, for example; by parents to defend their own interests in custody disputes; by professionals who could not be bothered, and who dismiss the assessment of the child's best interests as irrelevant or unimportant.⁴³

Legal practitioners proposed to clarify the content of the BIC, and suggested checklists and clear criteria for determining how the BIC judgment is made, and by whom; for example, to examine what assumptions are made by those who make the judgment; how are the views of the child sought and do the same people who judge what is best for the child also make a judgement of the child's maturity; and how exactly are the commitments honoured.⁴⁴ It

⁴⁰ Ishaque, Khan; Yassari and others; Erica Salter, 'Deciding for a Child: A Comprehensive Analysis of the Best Interest Standard' (2012) 33 (3) *Theoretical Medicine and Bioethics* 179–198, DOI: <https://doi.org/10.1007/s11017-012-9219-z>; Erin Bajackson, 'Best Interest of the Child – A Legislative Journey Still in Motion' (2013) 25 *Journal of the American Academy of Matrimonial Lawyers* 311–355; Jane Fortin, *Children's Rights and the Developing Law* (Cambridge University Press 2009, Cambridge); Emily Keddell, 'Interpreting children's best interests: Needs, attachment and decision-making' (2017) 17 (3) *Journal of Social Work* 324–342, DOI: <https://doi.org/10.1177/1468017316644694>

⁴¹ CRC Committee, 'General Comment No 14 on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration (Art. 3, Para 1.)' (29 May 2013) UN Doc CRC/C/GC/14.

⁴² Ibid 14.

⁴³ Ibid para 34.

⁴⁴ David Archard, Marit Skivenes, 'Balancing a Child's Best Interests and a Child's Views' (2009) 17 *International Journal of Children's Rights* 1–21, 20–21.

is thus notable that the Committee on the Rights of the Child has chosen to remain silent on the matter of checklists and criteria, even in its general comment dedicated to the best interests of the child, thereby extending and prolonging the silence already present in the Convention.⁴⁵ Also, while the Committee adopted a general comment to clarify the meaning of Article 12, it failed to provide a specific age at which a child's view will be given due weight.⁴⁶ Moreover, general comments of the CRC are not legally binding, and states parties are therefore not required to apply them domestically. Hence, from a legal standpoint, the CRC does not clarify how the law shall distribute the decisional power between the child, the family, and the State.

IV Conclusion

Children's individual rights, although recognized to a certain extent under the Convention, are limited under both the subjective phrasing of the BIC in Article 3 and that of Article 12 on the participation of the child which requires one to give 'due weight' to a child's views according to her or his 'age and maturity', with all these concepts – due weight, age and maturity – undefined. Silence is thus omnipresent in the BIC, the main principle of interpretation of the CRC, and the general principle of child participation in the very Convention dedicated to child rights. While several provisions of the CRC clearly offer protection to children against violations such as sexual and economic exploitation, it does not appear to empower the latter to exercise autonomy rights under the treaty. The silence enshrined in the Convention creates a semiotic space within which varied interpretations of the best interests of the child can proliferate globally. It leaves several questions unanswered. Is it best for the child to be placed with the more dedicated parent, the wealthier or the stricter parent after a divorce? Does the best interests of the child support granting children economic independence and emancipation from their parents? Is it in a child's best interests to work as an 'influencer'? Can a boy consent to or refuse medical treatment? Should a girl be allowed to run for public office? Who decides, and according to which criteria? The silence concerning the substance of the BIC under the CRC constitutes a significant semiotic sign that generates a never-ending sequence of uncertainty in the lives of children worldwide.

⁴⁵ CRC Committee, 'General Comment No 14...'

⁴⁶ CRC Committee, 'General Comment No.12: The Right of the Child to Be Heard' (20 July 2009) UN Doc CRC/C/GC/12.