

THE UN CONVENTION ON THE RIGHTS OF THE CHILD, 1989 : TOWARDS A NEW WORLD ORDER

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THE UN Convention on the Rights of the Child, 1989 is the first convention of its kind, in that it specifically deals with the needs of children and has binding force on its State Parties. In the past, children's rights were read into the rights drafted for adults¹. Some attempts to codify global children's rights have given rise only to declarations² and no binding international instrument existed setting out a State's obligations towards children. The UN Convention on the Rights of the Child modifies and consolidates the existing standards and introduces a range of relatively new issues of major importance. It is a comprehensive Human Rights Convention consisting of 54 Articles drafted in full partnership between developed and developing nations.

Survival development, protection and participation

The new Convention sets standards which address the neglect and abuse which children face in all countries to varying degrees every day. It recognises their special vulnerability and addresses their civil, political, economic, social and cultural rights as elements of an interdependent or mutually reinforcing set of provisions.³ Under the Convention, Survival rights include adequate living standards⁴ and access to medical services.⁵ Development rights include access to information,⁶ education,⁷ play and leisure⁸ cultural activities and the right to freedom of thought, conscience and religion.⁹ Protection embraces all of the above but also covers all forms of exploitation and cruelty,¹⁰ arbitrary separatism from family¹¹ and abuses in the criminal justice system.¹² Participations¹³ rights include the freedom to express opinions and to have a say in matters affecting one's own life as well as the right to play and active role in society at large.¹⁴ Other pressing issues

covered by the Convention include the problems of refugee children,¹⁵ sexual and other forms of exploitation,¹⁶ drug abuse,¹⁷ children in trouble with the law,¹⁸ inter-country adoptions,¹⁹ and children in armed conflicts.²⁰ Also covered are the needs of the disabled²¹ and the children of minority or indigenous groups.²²

The main underlying principle of the Convention is that the best interests of the child shall always be the major consideration.²³ It states clearly that the child's own opinion shall be given due regard. The Convention thus recognises the child as an individual, with needs which evolve with age and maturity.²⁴ Accordingly, it goes beyond existing treaties by seeking to balance the rights of the child with the rights and duties of parents or others who have responsibilities for its survival, development and protection by giving the child right to participate in decisions affecting its present and future.

Flexibility of the Convention

The inherent strength of the Convention lies in its flexibility to accommodate the many different approaches of nations in pursuit of a common goal.²⁵ It has not shield away from thorny issues, but has found ways to accommodate different cultural, religious and other values which address universal child needs in their own ways by reservations.²⁶ Reservations are designed to enable States to become parties to the Convention, even if they do not agree with all of its provisions. By making a reservation a State can become a party to the Convention while altering in some way its obligations under the Convention. Reservations can only be made at the time a State becomes a party to the Convention and must be made in writing.

The provisions of the Convention concerning adoption were among the most

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which apply Islamic law, which does not recognise adoption, and some Latin American delegations, which were concerned with language in Article 21 (d) which might be interpreted as allowing intermediaries to exploit adoption as a profit making activity. Articles 20 and 21 have been the subject of more reservations and declarations than any other Articles. However, reservations and declarations have been made by various countries concerning to some other Articles of the Convention.²⁷

Ratification and implementation

The UN Convention on the Rights of the child proved that it is a unique human rights instrument. Adopted by the General Assembly on November 20, 1989, the Convention set new records for acceptance by the International community. When the signing ceremony was held in January 1990, a record number of sixty countries participated. By August the required 20 countries had ratified the Convention and it entered into force on September 2, 1990,²⁸ Surprisingly, the enthusiasm has not waned. The flood of ratification and accessions continues and, as of December 1993, there were 146 States Parties.²⁹

A vital issue relates to the implementation of the Convention. It is important to note that the States that ratified the Convention are obliged to ensure that the rights contained in the Convention are not only widely known³⁰ but also that the ratified States have to report regularly on their efforts to implement them.³¹ If the ratified countries fail to implement any of its provisions, they can be proceeded against in terms of the international legal provisions and procedures. The implementation of the Convention is effected through a Committee on the Rights of the Child. The Committee consists of 10 experts³² serving in their personal capacities. It will monitor compliance with the Convention by the ratifying countries by obtaining progress reports from such countries. The Committee also provides technical advice to countries, and make suggestions on the information received from individual States. The Committee began its examination of the first

round of reports from States Parties in January 1993.³³ India ratified the Convention on 11 December, 1992 and yet to make changes in national laws concerning to children according to the standards of the Convention.³⁴

Unless the necessary follow-up action is taken by the States Parties, to implement various provisions of the Convention it will remain a pious hope on the part of the World Body that the Rights of Children across the different continents will be respected and that the children will get what they deserve for their survival, development and welfare.

Towards a new world order

The year 1990 will be remembered for the epic event of the first ever World Summit for Children held at the UN headquarters in New York on 29 & 30 September. The Summit was unique for bringing together 159 nations and for making a common agenda for the World's Children. The following are some of the goals, to be attained by the year 2000, which were adopted by the World Summit for children on September 30, 1990. After widespread consultation among governments and the agencies of the United Nations, these targets were considered to be feasible and financially affordable over the course of the decade ahead.³⁵

1. One-third reduction in under-five death rates (or a reduction to below 70 per 1000 live births whichever is less).
2. A halving of maternal mortality rates.
3. A halving of severe and moderate malnutrition among the World's under-fives.
4. Safe water and sanitation for all families.
5. Basic education for all children and completion of primary education by at least 80%.
6. A halving of the adult illiteracy rate and the achievement of equal educational opportunity for males and females.
7. Protection for the many millions of children

in especially difficult circumstances and the acceptance and observance, in all countries, of the recently adopted Convention on the Rights of the Child. In particular, the 1990s should be rapidly growing acceptance of the idea of special protection for children in time of war.

It is therefore, obligatory, at this time, for all individuals and organisations charged with responsibility for such issues to enter as fully as possible into the debates that lie ahead. For a new page in world history is being turned, and if the needs of the poorest quarter of mankind, and of the children who are the most vulnerable of all, are again relegated to the footnotes of that page, then the new world order which is written there will be neither worthy of its times nor capable of meeting the challenges of the future.

Amid the many voices and the many clamorous issues that will compete for priority in the debates to come, the children's programme is a plea for the inclusion of the issues which tend to be ignored and the voices which are normally silent. It is a plea particularly, for the inclusion of those voices silenced by poverty and illiteracy, for those who are silenced by the effects of malnutrition and preventable disease, for those who are silenced by being born female, and for those many millions who are silenced by death almost before their lives have begun.

UNICEF provides 10 propositions for the consideration of all those, who are concerned to become involved in the discussion of the new world order. The ten propositions are: ³⁶

1. That the promise of the World Summit for Children should be kept and that a new world order should bring an end to malnutrition, preventable disease, and illiteracy among so many millions of the world's children.
2. That the principle of 'first call for children' - meaning that protection for the growing bodies and minds of the young ought to have a first call on societies' resources should become an accepted ethic of a new world order.

3. That if the issues of malnutrition, preventable disease, and widespread illiteracy, are not confronted as a new world order evolves, then it will be very much more difficult to reduce the rate of population growth and make the transition to environmentally sustainable development.
4. That the growing consensus around the importance of market economic policies should be accompanied by a corresponding consensus on the responsibility of governments to guarantee basic investments in people.
5. That increases in international aid should be based on a sustained and measurable commitment to meeting minimum human needs and for maintaining, in difficult times, the principle of a first call for children.
6. That international action on debt, aid, and trade should create an environment in which economic reform in the developing world can succeed in allowing its people to earn decent living.
7. That a process of demilitarization should begin in the developing world and that, in step with that process, falling military expenditures in the industrialized nations should be linked to significant increases in international aid for development and for the resolution of common global problems.
8. That the chains of Africa's debt be struck off and that the continent be given sufficient external support to allow internal reform to succeed in regenerating the momentum of development.
9. That a new world order should oppose the apartheid of gender as vigorously as the apartheid of race.
10. That the responsible planning of births is one of the most effective and least expensive ways of improving the quality of life on earth, both now and in the future, and that one of the greatest mistakes of our times is the failure to realise that potential.

Contrary to widely held opinion, this great cause is far from being hopeless. We have already travelled three quarters of the way

towards a world in which every man, woman and child has adequate food, clean water, basic health care and at least a primary education. And there is no technological or financial barrier to prevent the completion of that journey in our times.³⁷

Reaching these age-old goals is not a discrete cause and does not stand as a distraction from the new challenges of our times. Creating the conditions in which people can meet their own and their families needs for adequate nutrition, health care and education is an essential underpinning of efforts to meet those new challenges. As that investment liberates people's productivity, so it helps to stimulate economic growth: as it includes rather than excludes people from political and economic life, so it helps to nurture the democratic process: as it gives people the confidence and the means to reduce family size, so it helps to slow population growth, and as it gives the poor a stake in the future, so it helps to safeguard the environment.

For almost half a century, the world has been distracted from these great tasks by military conflict and ideological division. War and the threat of war have diverted our physical and financial resources, our science and technology, our ingenuity and imagination, and our human capacity and concern. That threat is receding. The time has therefore come for the world to re-commit itself to the task of ending the age-old evils of absolute poverty, malnutrition, illiteracy and preventable disease and to build again towards a new world order which will reflect mankind's brightest hopes rather than its darkest fears.³⁸

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4. *Id.*, article 27.
5. *Id.*, article 24.
6. *Id.*, article 17.
7. *Id.*, article 28.
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9. *Id.*, article 14.
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17. *Id.*, article 33.
18. *Id.*, article 40.
19. *Id.*, article 21.
20. *Id.*, article 38.
21. *Id.*, article 23.
22. *Id.*, article 30.

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