



The World Summit and Convention on the Rights of the Child: Landmarks for Children

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I. Introduction

THE CONVENTION on the Rights of the Child (CRC) is a landmark—a landmark for human rights, a landmark for children internationally and nationally, a landmark for human progress and the gradual establishment of universal standards for civilisation.

The Convention has also become a landmark in several other more specific respects:

- (a) in the speed with which the Convention first came into force, less than 11 months after it was adopted by the United Nations General Assembly, and in less time than any other human rights convention;
- (b) in the number of countries which have ratified it through national legislation—now 159. Indeed the goal has now been set for ratification by all countries by the end of 1995, with the objective of making it the first truly universal international convention; and,
- (c) in the development of a set of international priority goals to meet the basic needs of women and children in health, nutrition, education, water and sanitation, and family planning.

These were adopted

in September 1990 at the World Summit for Children (WSC), only a month after the Convention came into force. And these have by now been translated into National Programmes of Action by 92 countries and are in draft or under-way in 50 others. Thus over 90% of children in all continents (except Africa) now live in countries which have ratified the Convention and prepared a national programme of action to implement its priority goals by the year 2000.

Nearly 50 years ago, Arnold Toynbee, the visionary historian wrote that, “ours is the first generation since the dawn of history in which mankind dared to believe it practical to make the benefits of civilisation available to the whole human race.”

These developments encompassing the creation, adoption, ratification and with implementation of the Convention on the Rights of the Child are major milestones on the march towards the gradual realisation of this vision.

In this presentation the author would like to explore what is needed to take this vision forward. Four themes briefly highlighted are:

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- (a) the political and practical significance of the Convention at this time;
- (b) What needs to be done to accelerate action, including the role of the legal profession and legal institutions;
- (c) some difficult international issues, needing urgent attention; and finally,
- (d) some concluding remarks, with particular emphasis on priority actions for which India and the legal profession in India might give a lead.

Most of the emphases made and examples drawn are from an international perspective—that of UNICEF. Perhaps this is as it should be. Specific issues of the CRC as it applies to India can best be left to the many experts who have a wealth of rich and committed experience.

II. Political and practical significance of the Convention

The political and practical significance of the Convention today can be summarised in two words. The Convention on the Rights of the Child is a “moral minimum.”

Society like a family, must provide for the basic needs of children, the next generation, as a first priority for its own survival and development. Investment in children is the priority investment for the future of society. The recognition of this truth is imbedded deep in human culture, in religious values, in much family practice and tradition, indeed in most practice and tradition, except when families are under the extremities of inhuman stress. Care for the young is imbedded deep in the evolutionary imperatives of biology—reflected, for instance, in the instinctive self-sacrificing care for the young which most mammals display, the fact that a malnourished human mother can provide sufficient breast milk for the young infant even at the cost of her own nutritional status. Of

course this is far from desirable or acceptable—which is why one of the goals of WSC is to empower women with human support and adequate nutrition to enable them to breast-feed without such personal sacrifice.

This widespread and deeply ingrained concern for children is of enormous political significance for the adoption of the Convention. Children are the least controversial area in the ethics of development of human rights. Children’s rights—in the words in Urban Jonsson, UNICEF’s new Regional Director for South Asia—can provide a non ethnocentric frame for development ethics.

It was found in Vietnam, that in the transition from planned to market approaches to economic and social organisation, the Convention on the Rights of the Child provided a frame of human rights which avoided the controversies of human rights more generally, let alone the complexities of such areas as property rights and commercial law. Thus Vietnam became the first country in Asia to ratify the Convention—and, as mentioned earlier—the Convention has now been ratified by more countries than any other instrument of human rights legislation.

III. What needs to be done ?

Morality marches hand in hand with capacity. This is a favourite slogan of UNICEF. It serves as a practical reminder that in today’s world, we have the capacity, the resources, the experience and the know-how to make a reality of the most basic elements of the Convention in any country which chooses to give the task the priority it deserves.

At the World Summit of Children in 1990, seven major goals were adopted to give practical and specific expression to the most basic priorities:

- a) Between 1990 and the year 2000, reduction of infant and under-5 child mortality rate by one third or to 50 and 70 per 1,000

live births respectively, whichever is less.

- b) Between 1990 and the year 2000, reduction of maternal mortality rate by half.
- c) Between 1990 and the year 2000, reduction of severe and moderate malnutrition among under-5 children by half.
- d) Universal access to safe drinking water and to sanitary means of excreta disposal.
- e) By the year 2000, universal access to basic education and completion of primary education by at least 80 per cent of primary school-age children.
- f) Reduction of the adult illiteracy rate (the appropriate age group to be determined in each country) to at least half its 1990 level with emphasis on female literacy.
- g) Improved protection of children in especially difficult circumstances. These seven major goals were supported by 20 specific goals, dealing with health and nutrition, education, water and sanitation, family planning as well as a core of priority needs of girls and women. Among these specific supporting goals, mention is made of just two, both of which have since been targeted for achievement by 1995.
 - (i) *The virtual elimination of Vitamin A deficiency* by the addition of Vitamin A to the basic immunisation schedule. To achieve this will help prevent blindness in 120,000 children each year, as well as still births of another 3,000 and
 - (ii) *universal access to iodised salt* as a critical step to achieving the virtual elimination of iodine deficiency disorders. Universal iodation of salt would eliminate, almost at a stroke, the largest single cause of mental impairment in the world. Some 1,500 million persons are at risk.

Some 600 million suffer some degree of mental impairment due to iodine deficiency, some 7-10 million so seriously as to be cretins. Yet all of this is preventable by salt iodation—as was first brought into Switzerland in the 1920s and now is routinely provided in many industrial countries. Nutrition experts tell us that IQ among the affected population could increase by 7 to 13 points with the elimination of Iodine Deficiency Disorders (IDD).

The significance of this practical agenda of goals for the 1990s is that it is doable, achievable within existing resources, and with reasonable prioritisation. And the benefits would be enormous.

IV. What holds us back ?

The distinguished Indian economist Professor Amartya Sen, in his lecture on public policy and famine identified a critical problem—the pervasive belief that famine is a fact of life, that the poor are always with us, and that not much can be done. He noted that the professionals, in this case the economists, had themselves often contributed to this pessimism, including notably Malthus and Ricardo in the early 19th century. We hope that the legal profession can display a more visionary perspective than economists from “the dismal science.”

Yet as Sen pointed out, much of such pessimism is at variance with the facts, certainly with the broad facts of human advance in basic health and education over the last three or four decades. Consider the following from one of UNICEF’s most recent reports :

Progress of Nations:

The facts are that in little more than one generation, average real incomes have more than doubled; child death rates have been more than halved; malnutrition rates

have been reduced by about 30 per cent; life expectancy has increased by about a third; the proportion of children enrolled in primary school has risen from less than half to more than three quarters; and the percentage of rural families with access to safe water has risen from less than 10 per cent to more than 60 per cent. In the meantime, the portion of couples using modern contraceptive methods has risen from almost nothing to more than 50 per cent and average family size is now falling in almost every country.

Such statistics hide great failures and great disparities; poverty, oppression, and exploitation are alive and well. But by any realistic standards, the progress made in the last 40 years has been remarkable. And if the task of meeting minimum human needs had been given any real priority over that time, then it would by now have been largely accomplished: we would today be living in a world in which mass hunger, malnutrition, and preventable disease were things of the past, and it is fair to assume that it would also be a world with less civil conflict, slower population growth, and more manageable environmental problems.

V. What might the legal profession do ?

Let us return to the Convention more generally. What does the legal profession—and the individual committed lawyer—need to do to ensure its influence and implementation ?

A first critical need is to support the Convention openly—to emphasise its historic significance and its practical usefulness, in relation to the needs and priorities of children

today.

A second critical need is to publicise the Convention—in law journals, in the media, in legal education, in professional associations and meetings.

A third need is to demystify the Convention—to help members of the public to get behind the formalities of its language to the realities of its practical provisions.

Fourth, improve children's access to law—by making recourse to legal action easily available, affordable and effective.

And finally, to build on the Convention a formidable body of precedent and case law in ways which will truly help its practical application for human and social progress of children.

All this will require reviewing legislation, applying legislation, challenging outmoded statutes, and building new structures. It will be vital to maintain a perspective of social progress to avoid getting bogged down in the details or the dust.

There are three examples from other countries to show the breadth and the creativity of the actions required—and the actions possible.

Brazil—street children. The Convention has been used as the basis of training and awareness building for judges and lawyers as well as for law enforcement officers and the police. Indeed this is a major use of the Convention in many countries by government departments and by non-government groups especially when focused on the problem of children in especially difficult circumstances.

Ecuador—the first country to ratify the Convention. Six women, housewives, decided in 1990 that if the Convention was not to remain a hidden legal statute, children themselves must be made aware of it. So they approached the Electoral Commission in

May 1990 and proposed that the electoral machinery be used to allow one Sunday for a vote on the Convention by children in the capital city. The Commissioner agreed. But when the information was publicized, every newspaper in the country condemned the idea. What would children know of the Convention? Why would any child vote against the Convention—so would not it be simply a meaningless vote? Far from being deterred, the six women persisted—and listened. A committee of children, led by a 10 and two 12 year olds was set up to guide and lead the process. The voting approach was changed—not to vote yes or no, but to ask children to list the articles of the Convention in the order which children thought mattered most to them. National television was mobilised, to provide a week long series of programmes explaining the different articles of the Convention during the week before the vote. The result: 1,80,000 children between the ages of 8 and 17 went to the polls—three times more than expected. Children identified protection against violence and drug abuse as the articles they thought mattered most. And, perhaps most interesting of all, in a poll of *adults* shortly afterwards, 82 per cent were able to demonstrate correctly some knowledge about the Convention.

Third example concerns the role of a professional group in support of worldwide implementation of the goals: the **Rotarians** in the mid-1980s. The Rotarians committed themselves worldwide in support of the goal to eradicate polio—and to raise \$ 100 million towards this over the years until 2005. They raised finance, they helped mobilize action in their own towns, they became a trust force of social mobilization, contributing to the worldwide acceleration of immunization coverage and the achievement of 80 per cent worldwide by 1990. To date, the Rotarians have raised \$ 240 million—far in excess of their original target. Perhaps the lawyers of

the world might do something similar to help make a reality of implementing the Convention.

VI. Some difficult international issues needing urgent attention

There are three major areas of international action where the protection of child rights is not yet built into international law or practice. These are

- humanitarian relief,
- sanctions,
- economic adjustment policy.

The common element of these is that each is an area of active international intervention in the affairs of a particular country or territory. However, as yet no formal provision exists requiring that the provisions of the conventions be taken into account while defining the specifics of that intervention. Yet, on occasion, in all three cases, evidence exists that children have been negatively affected by some aspect of the intervention.

This may seem surprising in the case of humanitarian relief, but cases have arisen when food has been withheld from a specific area as a bargaining weapon by local coordinators of UN operations. Generally, humanitarian agencies like UNICEF and UNHCR are strongly against such actions—but these have taken place. Under the Department of Humanitarian Affairs, principles and guidelines are being prepared currently to avoid recurrence of such a situation.

In the case of sanctions the repercussions on young children, the most vulnerable of a country's population, are clear. There are several recent cases where sanctions have led to increases in malnutrition and child mortality. Of course, the legal, ethical and practical issues involved are complex because sanctions are often designed to put

non-democratic regimes under pressure to change. And in the long run, it can often be argued that the situation of children will improve greatly if sanctions force a change in regime. Nevertheless, the Convention of the Rights of the Child does not provide for putting under stress the most essential needs of young children in the short run in order to achieve long term gains.

Adjustment policy also raises complicated issues, with some similar elements, owing to the pressures on a country's consumption, employment and wage levels and its public expenditure on basic health and education which often follow from the conditionality of the adjustment process and the conditionalities of obtaining international finance to support the adjustment process. These issues have been much debated in the economic literature over the last decade, with strong and contradictory views expressed as to the extent to which children and other vulnerable groups have been affected. Our point here is a different one, hopefully less controversial. It is that nowhere in the principles of international action or adjustment is there recognition of the provision and priorities of the Convention of the Rights of the Child.

It is believed that the Convention on the Rights of the Child should be used to illuminate and influence all three of the above areas of international policy. As the Convention reaches almost universal ratification by individual countries, it would be strange indeed if its principles and provisions had no influence on the action of international agencies.

These are therefore areas where creative thought and writing is required by those concerned with international and child rights laws.

VII. Concluding remarks

India has made remarkable progress in several areas of human development since

Independence; yet, the country continues to face enormous challenges with respect to children.

There are nearly 2 million infant deaths every year. Around 60,000 children become blind every year due to Vitamin A deficiency. Close to 2.2 million children are afflicted with cretinism. An estimated 20 to 25 million children in the age group of 6 to 14 years are illiterate. More than 20 million of the children who are not in school are engaged in *work* which is characterised by conditions that are exploitative and harmful.

Also, nothing is more disturbing in India than the systematic deprivation and unequal treatment of girls *vis-a-vis* boys. That there are an estimated 4 million "missing girls" in the age group of 0 to 6 years in India is shocking. Girl children are deprived of equal opportunities, be it in survival, health, education or nutrition.

What might this conference set in motion? How can the legal profession in India, given its influence and the potential for leadership, work towards making the Convention on the Rights of the Child a reality?

It requires 6 basic actions.

First, review legislation systematically to ensure that the rights of children are protected and promoted.

Second, support the National Plan of Action—and the State Plans of Action.

Third, improve public awareness of the CRC by demystifying laws and also by incorporating CRC concerns into the curriculum in schools and colleges.

Fourth, improve children's access to law by making recourse to legal action easily available, affordable and effective.

Fifth, be more proactive in *monitoring* violations of children's rights and *reporting* on the CRC.

Sixth, as citizens, play and continue to

play a more active role as partners in building social awareness, forging alliances on children's rights, and mobilising public action in support of children.

All of these—and much more—we would do without hesitation to help or to provide for

our own children. Socially, nationally and internationally, we need to use our professional skills and professional involvements to ensure the same for all children.



