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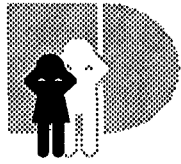
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The future United Nations Convention on the Rights of the Child

Document No. 1

The human rights of children

Why special rights for children?

The conceptualisation of global children's rights at the international level dates back to the "Geneva Declaration" of 1924. This five-point text, drawn up by the then "Save the Children Fund International Union", was taken on board by the League of Nations. It was expanded in succeeding years into the basis for what was to become the Declaration on the Rights of the Child adopted by the General Assembly of the United Nations in 1959.

In relation to human rights provisions in general, rights accorded to children may:

- reaffirm or reflect rights granted to human beings of whatever age, e.g. protection from torture, the right to a name and nationality, the right to social security.
- improve, with regard to children, the standards applicable to human beings in general, e.g. special conditions of employment, administration of juvenile justice, conditions of deprivation of liberty.
- address issues that are solely or more especially relevant to children, e.g. adoption, primary education, contact with parents.

Most of the "human rights of children" fall into the second and third of the above categories: they raise the standard of, or add to, rights afforded to human beings in general. They do so in order to take account of the particular needs of children as especially vulnerable, essentially dependent and developing human beings.

All kinds of rights

Human rights are traditionally classified under five headings: civil, political, economic, social and cultural. Although special, children's rights are an integral part of human rights, and they can also be classified in this way. Thus:

- the civil and political rights of children include the right to a name and nationality, freedom of expression and association, protection from torture and maltreatment, special rules governing the circumstances and conditions under which children may be deprived of their liberty or separated from their parents, etc.;
- the economic rights of children include the right to benefit from social security, the right to a standard of living adequate to ensure proper development, and protection from exploitation at work;
- the social rights of children include the right to the highest attainable standard of health and access to medical services, the right to special care for handicapped children, protection from sexual exploitation and abduction and the regulation of adoption;
- the cultural rights of children include the right to education, access to appropriate information, recreation and leisure, and participation in artistic and cultural activities.

■ Mutual reinforcement

In fact, the Convention makes no distinction between these different "kinds" of rights. On the contrary, by grouping them all together in one instrument, the attempt has been made to demonstrate their necessary inter-dependence and integrated nature if one is to enable children to fulfil their potential. The rights in the Convention are interwoven and mutually reinforcing. In other words, it is both pointless and reprehensible to ensure, say, that a child is adequately nourished (a social right) if he or she is not protected from arbitrary detention (a civil right), and a child has to be protected from exploitation at work (a socio-economic right) if he or she is to be able to benefit from education (a cultural right).

This is why there is a growing movement away from the "traditional" breakdown of rights and towards other classifications useful for analysing whether or not specific standards — and practices — are appropriate and adequate in meeting the needs of children. One such classification talks of rights related to survival, development, protection and participation. Again, the aim is not to prioritise the rights contained in any particular category, but to describe in the most pertinent manner the overall range of needs that rights have to address.

■ Survival, development...

Thus, "survival rights" might include nutrition, adequate standard of living and access to medical services. These are the basic rights that ensure that a child may quite simply live, but as such they are only necessary, not sufficient.

To them must be added "development rights", such as access to information, education and cultural activities, opportunities for rest, play and leisure, and the right to freedom of thought, conscience and religion.

■ ...protection and participation

The child also has to be assured "protection" — not only from the violation of the above rights, but also from all kinds of exploitation and cruelty, arbitrary separation from family, and abuses in the justice and penal systems. Some categories of children need special protection: the handicapped, refugees and those without a family. In addition the Convention acknowledges that society must be specially vigilant to ensure that the rights of minority children and indigenous children to their language and culture are respected.

Finally, it is important to ensure that the child has "participation" rights. These cover two areas: the right to express opinions freely and to have those opinions taken into account in matters affecting the child's own life; and the right to play an active role in the community and society, through freedom of association and other activities.

It is worth noting in passing, at this point, that this classification method clearly demonstrates the fallacy behind the criticism sometimes leveled against the concept and content of children's rights — that they are essentially paternalistic and over-protective. Protection is only one element among others as a basis for children's rights. Indeed, protection is a feature that is as important in overall human rights provisions, and in those concerning special groups such as ethnic, linguistic or religious minorities, as it is with regard to children.

■ "Universal" rights?

The question is often posed as to the extent to which human rights can be truly universal, given the wide range of socio-economic, religious and cultural realities throughout the world. Is it possible and useful, then, to set out standards that are applicable and applied worldwide? The problem is apparently compounded when it comes to the human rights of children. First of all, there is the fact of significantly divergent perceptions from one country to another regarding the age at which childhood ends and the child's role in the family and in society. And

then there is the fact that methods of upbringing and socialisation vary greatly, which is also seen as a major obstacle to drawing up global rules governing the treatment of children. Is the formulation of an international set of children's rights a feasible and worthwhile proposition?

In fact, the future Convention necessarily allows for local and cultural interpretations of "universal rights", provided the best interests of the child are safeguarded. Notwithstanding differences in culture, ideology and level of economic wealth, however, a whole range of children's rights are fundamentally shared by all peoples. Ways of achieving them may differ, and they may individually require or be given different priority according to time and place, but they remain indivisible pre-conditions for the child's harmonious and full development.

■ An integral part of human rights law

The future Convention will constitute the most comprehensive list possible of what the international community believes those fundamental rights to be. It will set an upper age limit for childhood, but equally will allow for exceptions for countries where the age of majority is set lower. It will not go into detail about, for example, how parents should bring up their children, but it will stipulate that children have the right to receive care and protection from their families and the State, and will set out the areas in which that care and protection is to be provided. For, whatever the country or the community, its reaction is the same when children are subjected to torture, are unjustifiably separated from their families, do not receive adequate nutrition or proper medical care, are deprived of a basic education vital for their future lives, are maimed for life as a result of exploitation, or are killed in armed conflicts. These are the kind of situations that the Convention attempts to address by setting out clearly the obligations of those States that ratify it and providing the backdrop for international solidarity and cooperation to foster compliance with them. These are also the kind of situations to which children throughout the world fall victim every day. The Convention will give a solid basis and, hopefully, an unprecedented impetus, for taking action to tackle them. In addition, it will set children's rights firmly where they should be: not in opposition or conflict with the rights of adults but an integral and necessary aspect of the body of international human rights law. ■

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