

Children's Rights and The Media

authored by Sami Mahkonen LL.D



Publication of AIBD supported by the Government of Finland

ACKNOWLEDGEMENTS

Photographs provided by courtesy of
UNICEF Office in Malaysia
UNICEF East Asia & Pacific Regional Office in Thailand
UNESCO Office in China

Cover page design by
Kiosk Design & Print
Off Jalan Bandar Hilir
75000 Melaka, Malaysia

Layout & Printed by
SP Muda Printing Sdn Bhd
45 Jalan Ipoh Kecil
Off Jalan Ipoh
50350 Kuala Lumpur, Malaysia

ISBN 983-41053-4-7

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After being nominated as a docent of family law in Helsinki University in 1981 he has published much research linked to, for example, divorce, unmarried cohabitation, the rights of women, secrets in families, the right to privacy, juvenile delinquency, parenthood, and childrens´ rights. He has written 12 books and more than 100 articles.

As a specialist in childrens´ issues in Finland, Dr. Mahkonen has also worked as a consultant for AIBD in 2002-2004 in connection with seminar-cum-workshops in Kuala Lumpur, Malaysia on the subject of childrens´ rights and the media.

AUTHOR'S NOTE

I have had both the honour and the pleasure of working as a consultant in seminars organised by the AIBD on three occasions in 2002-2004, at all three events the theme was the same as that of this book. On each occasion, I have had the opportunity to highlight what I see as being most essential. Firstly: we should have clear individual values. Secondly, we must realise these values in our own lives. Thirdly: putting values into action requires communal involvement.

Clarity of values comes from thinking about human rights and from honouring them. Every person always and without exception has absolute value. *Individual investment* means that we must be ready to give something up. But giving something up does not mean giving in, it means altruism. Sadly, this is usually lacking when people are pursuing careers. *Communal efforts* can be national, international, professional or voluntary.

The question dealt with in this book does not in the main concern work which is pleasurable, rather the opposite. This is because promoting childrens' human rights, and especially human dignity, leads to unavoidable stress and directly-opposed positions. In practice, it is a question of struggling for objectives in different directions, clashes of interest and above all else, the resolution of these. And where there are people, there will always be problems. But no matter - problems are realism flavoured by solutions.

Javad Mottaghi, Director of AIBD and Lauri Korpinen, the Finnish Ambassador to Malaysia provided valuable support while I was writing this book. My grateful appreciation to Mr Unto Turunen the predecessor to the present Finnish Ambassador, in whose term of office that the projects were implemented in Malaysia. Very warm thanks go to AIBD's Manil Cooray who initiated the series of training workshops with the support of the Government of Finland and Maniam Sinnasamy for sharing his expertise. Their contribution to the text was of fundamental importance. Rick McArthur is responsible for the English version. Thanks are also due to him for his eloquence!

DISCLAIMER

The author is responsible for the presentation of the materials and/or facts contained in this publication and for the opinions expressed therein, which neither imply the expression of any opinion whatsoever on the part of AIBD nor do not commit any other organisation.

FOREWORD

Most of our children are now born into homes where stories told do not come from parents, neighbors, schools, churches, communities, or even, from their native countries, but from a handful of global conglomerates. Millions of children in the world are growing up with Television programmes and Cartoons - no matter what their mother tongue or religion. All too often television has greater influence on children than do parents or teachers.

This has a radical effect on the way our children grow up, the way they live, and the way they conduct their own affairs. This is the case in most parts of the world, with both public and private television contributing to the sorry state of affairs as television scenes are characterized more by the number of channels than by the diversity of their content. The pursuit of similar commercial formats across both state and private channels has reduced the scope for programming which serves a public purpose.

The media has the greatest potential of bringing home the tragedies that befall children such as being drop-outs from schools due to poverty, exploited through trafficking or labour, abused or victimized by war, most of which are sadly, accepted as part of life. Television with its great potential to do good for the children is within the command of many of us broadcasters. Given such enormous power and influence of the medium we work with, we all have a special responsibility to harness the potential of television for the good of children. Television can help promote and protect the rights of children by taking a more pro-active role in helping to educate them and their families. These are facts that we all too often hear, and are aware of children having being denied their basic rights.

Therefore there is an absolute need to explicitly examine the vital role of the media which not only can create awareness on children's right to access to information and freedom of expression but also for their protection from harmful and violent media content as enshrined in the Convention on the Rights of the Child.

AIBD has taken a leading role to create an awareness, in-depth understanding of the sensitivities and issues related to children's rights and to conceptualise programme content within the framework of the Convention on the Rights by organizing regional, national and international forums .

In this context AIBD is grateful to the esteemed Government of Finland for supporting a series of training over a period of time followed by the publication of Children's Rights and the Media authored by Dr Sami Mahkonen who is an eminent lawyer in Finland and spent his entire life to promote Children's Rights in this region. He was supported by the dedicated contributions made by Ms Manil Cooray, Programme Manager of AIBD and the resource persons from Malaysia, Ms Tan Joo Lan and Mr Maniam Sinnasamy. This publication is their endeavour for the benefit of media practitioners as a guide and a framework on the Convention on the Rights of the Child. To all of them we acknowledge our sincere thanks.

It is with deep gratitude that I acknowledge the support rendered through Mr. Lauri Korpinen, The Ambassador of Finland to Malaysia including his predecessor Mr. Unto Turunen for their gracious contributions.

We trust that "Children's Rights and the Media" will serve as a valuable resource for media practitioners to gain a deeper understanding of the Convention on the Rights of the Child and to examine their role and responsibility in society.

Dr. Javad Mottaghi
Director
Asia-Pacific Institute for Broadcasting Development

PREFACE

Despite the fact that there is a worldwide understanding that every child, without any exception whatsoever, shall be entitled to the rights set forth in the UN Convention on the Rights of the Child, we still too often hear of the violations. Since year 2005 marked the fifteenth year of the entry into force of the convention, it is very timely to publish this kind of book on “Children’s Rights and the Media”. Archiving globally real children’s rights still remains a challenge. Therefore it is important that also international media takes a stronger and more clear action in this matter.

I would like to thank the Asia-Pacific Institute for Broadcasting Development for its valuable work and good cooperation. I also wish to thank Dr Sami Mahkonen who is the author of this important publication.

Lauri Korpinen
Ambassador of Finland

CONTENTS

ACKNOWLEDGEMENTS	ii
BRIEF BIOGRAPHY: SAMI MAHKONEN LL.D	iii
AUTHOR'S NOTE	iv
FOREWORD	vi
PREFACE	viii
I INTRODUCTION	
1. Point of view	1
2. Making the children's rights widely known	3
3. Outline	6
II FROM EARLY 1920'S TO LATE 1980'S	
1. Human rights, and the children's rights	7
2. Geneva Declaration of the Rights of the Child 1924	12
3. Declaration of the Rights of the Child 1959	14
4. Convention on the Rights of the Child 1989	17
III WHAT THE CRC ACTUALLY IS	
1. Overview	20
2. Who is protected, and how	27
3. Best interests of the child	33
4. Non-discrimination	38

IV IMPORTANCE OF THE CRC

1. Common rules, but different axioms	43
2. Domestic legislation	47
3. Reservations and declarations	49
4. Resources	55

V CHALLENGES OF MASS MEDIA

1. Most important articles of CRC	58
2. Some theses	61
3. Plans of action	64
4. Finally	66

APPENDIX

I The Declaration of the Rights of the Child (20 November 1959)	68
II The Convention on the Rights of the Child (20 November 1989)	72

I INTRODUCTION

1. Point of view

The availability of publications which include a detailed international comparison of how the rights of children are handled in the media is quite limited. One exception is *Children in the News* (2001) edited by Anura Goonasekera. It was published by the ***Asian Media Information and Communication Center*** which was established in 1971. The book is based on selected findings of a study conducted by AMIC in 1999. The book examines the portrayal of children in television programmes and newspapers in 13 Asian countries - *Bangladesh, China, India, Indonesia, Japan, Malaysia, Nepal, Pakistan, the Philippines, Singapore, Sri Lanka, Thailand, and Vietnam*. Based on country reports, Goonasekera argues that:

- most TV programmes are not produced with childrens' interests in mind
- the poorer the country, the lower the priority given to children by the mass media
- political elites can use children-related issues to gain political popularity and to discredit their political opponents
- leaders in many poor countries do not see the problems that children face in their countries as serious ones
- fashion, shopping, beauty contests, and other commercial considerations are foremost, but of the problems of children, child labour, street children and sexual exploitation are reported to only a limited extent
- if children are to become newsworthy, there has to be a sensational and tragic element (such as killing children)
- parents are unable to understand the true value of children
- boys are openly given preference in everyday life
- the voices of children are rarely heard - children are objects rather than active subjects
- when children are victims, their privacy is not respected
- violations of childrens' rights are used for political purposes - not in the best interests of children

- reporters and producers are seldom familiar with the 1989 UN Convention on the Rights of the Child.

These observations are evidence-based, so the question is one of facts rather than fiction. On the other hand, the possibility of their being disputed cannot be excluded. With good reason, it is possible to imagine that people who have political power are not prepared to accept the idea that they promote their own agenda at the cost of childrens' rights and needs. Canvassing for consensus or disagreement regarding these claims is not, however, a prime objective in this book - in essence, the claims pose challenges for the media.

Ever since the United Nations agreement concerning the rights of children (the Convention on the Rights of the Child; CRC) was adopted in 1989 and became an international agreement in September 1990, reporters and producers working in the media have begun to pay an increasing amount of attention to the needs, position and rights of children. An enormous number of different international conferences, seminars, symposiums and discussion events have been organised in connection with the CRC. It is quite clear that a wide variety of topics have been handled.

On the other hand, it is also true that presentation of the same kind of questions has been repeated: What can be done to develop the possibilities for children to participate actively in the media? What can be done to protect children from harmful influences emanating from the mass media? What can be done to encourage the media to contribute to improving the image of the child through their reporting? These and many other comparable subjects were at the forefront when the Committee on the Rights of the Child arranged a seminar to discuss childrens' rights and the media in Geneva in October 1996 in connection with Article 43 of the CRC. The following statement was then issued: "The Committee on the Rights of the Child believes that the media - both written and audiovisual - are highly important in the efforts to make reality the principles and standards of the Convention. The media in many countries have already contributed greatly in creating an awareness of the Convention and its content. The media could also play a pivotal role in monitoring the actual implementation of the rights of the child."

In this connection, the fundamental purpose was certainly to bring attention to the power of the media as a promoter of childrens' human and special rights, but not by focusing on those dimensions which, from the viewpoint of the methods and technical solutions employed by information providers, were regarded as essential. While, for example, television or radio people can employ sound, including music, representatives of the printed media cannot do this. These and other similar specific central aspects and factors in the everyday work of reporters and producers have been omitted from this presentation.

The on-going question is *not* how journalism in the television, radio or newspapers and magazines should operate. It is rather how reporters and producers should *be aware* of the CRC's background, objectives, substance and significance.

2. Making childrens' rights widely known

It is childrens' needs that define their rights, and discussions of childrens' rights is carried out against the background that these rights can be encroached upon. This is always the case. It is also always true that the needs of children are defined by and bound to everyday family life, their individuality, their gender and their age. For example, if a family has children of different ages, the needs of babies are very different to the needs of children who are starting school, and young people in the same family who stand on the threshold of adulthood have different needs again. Also, in the same family, children of the same physical age can have quite different needs dictated by the way in which their personality has been formed. One can be musical, their sister can be tone-deaf. One can be skilful with their hands while their brother is not. One can have good concentration skills while another is exactly the opposite. These considerations apply to both boys and girls.

The number of stories is as large as the number of families and their individual children. The number of possible variations is immense. For this reason, it is quite impossible to attempt to even imagine how the family and individual rights of children should be defined in different

situations and different circumstances. We are forced to accept definitions at a very general level of what childrens' rights have been, what they are now, and what they should be in the future.

Internationally, the rights of children were established more widely after World War I ended and the League of Nations was founded. In 1924, the League of Nations adopted the Geneva Declaration of the Rights of the Child (GDRC). The renewal of the GDRC became a current issue after the end of World War II when the United Nations came into being. This work bore fruit in 1959 when the earlier-published Rights of the Child was codified in the UN Declaration of the Rights of the Child (DRC). This declaration was effective at international level until it was replaced by the CRC.

Comparisons between the GDRC, the DRC and the CRC reveal both common and differentiating factors. The first of these commonalities, in addition to the supra-national character of the documents, was that the emphasis is on protection of people under 18 years of age. Differentiating factors appear in the documents' extent and legal status. The GDRC has five articles and the DRC has ten. The CRC, which has 54 articles, is a much-wider instrument concerning childrens' rights. In another significant departure from the approach adopted in the GDRC and the DRC, the CRC is no longer just a declaration of norms, as its ratification by UN States Parties is a binding commitment for directing policy concerning children.

What is clear is that even though the CRC has the status of a legally-binding agreement, it does not, as it stands, directly apply to people working in the media. In essence, they can independently decide which subjects are included and which subjects are excluded from public discussion. The term *freedom of speech* offers the possibility of release from binding commitments given by UN States Parties, particularly in connection with those exercising political power. In spite of this fact, the CRC highlights the important role played by the media as a promoter of childrens' rights. This is clear when we examine articles 42 and 17:

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 42 in CRC

The requirements of Article 42 can be complied with in many ways, such as highlighting childrens' rights at school and in similar places without media participation. On the other hand, television, radio and the printed media can help in disseminating information about what the CRC is and what it is not. In this context, Article 42 is central to media considerations. Compliance requires that:

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall: (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of Article 29; (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources; (c) Encourage the production and dissemination of children's books; (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous; (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 17 in CRC

Since references are made in both articles not only to defined childrens' rights but also to the CRC in general terms, media representatives should, for their part, know what the CRC actually is.

3. Outline

Ever since the CRC came into international force in September 1990, both reporters and producers have started to pay increasing attention to childrens' needs, their situation and their rights. As indicated earlier, this presentation deals with the CRC's background, purpose, contents and significance. Attention must also be given to the kinds of challenges that the CRC sets for people working in the media.

The focus of this chapter is on the background to the CRC. Its character as an agreement concerning human rights and its codification as childrens rights is analysed. When the DRC of 1959 was superceded by the CRC in 1989, it was natural to assume that the former was the technical legislative model for the latter. In some parts this was indeed the case, but on the other hand, the 54 articles in the CRC were not based on the ten articles of the DRC. The CRC has norms in many dimensions to which the DRC did not extend. The question was one of extending the particular rights of children and at the same time the result of a strengthening of the general "take" in international regulations concerning human rights, a feature of recent history.

The purpose and main contents of the CRC are handled in Chapter III. This specifies what the CRC actually is using the basis already established. As well as positioning the character of the CRC as a codification of childrens' rights, the task is to classify the contents of articles 1-45 of the CRC by indicating how they relate to each other. Using a diagrammatic portrayal of human dignity, the two central principles of the CRC are also clarified, i.e. the primary principle of childrens' priority and the central theme of childrens' equality. The task is thus to pin down the purpose of the CRC. Some may claim that the principle objective of the CRC is to improve the position of children regardless of age or domicile. In this presentation, things are viewed in a different way. The CRC was primarily conceived as a well-founded international instrument. It has left its mark on national policy towards children and thus on legislation at national level. Classified in this way, it is possible to claim that the primary target of the CRC is the protection of childhood, not the protection of individual children.

Child mortality is a subject given special attention in *The State of the World's Children*, the main publication by UNICEF, the United Nations Children's Fund. It is an annual review whose contents are linked to children's rights on one hand, and to certain statistics on the other. The statistics change year by year. A critical indicator of the wellbeing of children is the under-five mortality rate (U5MR). Countries and territories are listed in many ways. One of these ways is based on the highest and lowest U5MR, and the numbers show how many children out of a thousand die before their 5th birthday. The rankings are from 2001:

Highest U5MR; 20 countries

Sierra Leone	316	Chad	200
Niger	265	Burkina Faso	197
Angola	260	Mozambique	197
Afghanistan	257	Burundi	190
Liberia	235	Malawi	183
Mali	231	Mauritania	183
Somalia	225	Nigeria	183
Guinea-Bissau	211	Rwanda	183
Congo, Democratic	205	Central African Republic	180
Republic of the		Cote d'Ivoire	175
Zambia	202		

Lowest U5MR; 20 countries

Portugal	6	Korea, Republic of	5
San Marino	6	Luxembourg	5
Spain	6	Malta	5
Switzerland	6	Monaco	5
Austria	5	Slovenia	5
Czech Republic	5	Denmark	4
Finland	5	Iceland	4
Germany	5	Norway	4
Greece	5	Singapore	4
Japan	5	Sweden	3

The U5MR statistics have remained essentially the same over the last three decades. Compared to the situation in Europe, child mortality in Africa has been particularly high. Local differences have been huge, as the statistics show. In essence, the situation in 2001 was much the same as it was at the end of the 1970s in the International Year of the Child. High levels of infant and child mortality were then marked for attention. Reductions in these two figures were targeted by agreements which charged UN States Parties with the task of taking action to reduce child mortality. This is a central aspect of the background to the CRC.

Another background element is the fact that during preparation of the CRC, matters raised included the situation of street children, the exploitation of child labour, children participating in military activities and other weapon-related dimensions, trafficking in children and child prostitution. It was also considered to be important that the voices of children should be heard and that they had the right to be involved in the making of decisions that affected them. In this way, the significance of childrens' human and special rights in international regulation began to grow.

It is possible to say that a viewpoint that emphasises human rights is a return to the foundations of the United Nations and thus to work done to promote human rights (2 and 4 in the timeline). The special rights of children had been highlighted earlier in work already done under the auspices of the League of Nations (1). They were subsequently expanded (3 and 5). The framing of childrens' rights at the most general possible level could only be done in the declarations of 1924 and 1959 and in the convention of 1989, and could only start to be implemented following the last of these. While it is certainly possible to proceed in this way, clarifying the exact nature of the CRC like this will not succeed. Because this is the question we are actually trying to answer, we must also describe and pay attention to the historical context.

It is possible to position the CRC in relation to other matters by referring to other international instruments that touch on both adults and children. There are significantly more features which *unite* these than factors

which differentiate them. This is made clearer in, for example, the following articles:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 2(1) in 1948 UDHR

The child shall enjoy all the rights set forth in this Declaration. Every child, without any exception whatsoever, shall be entitled to these rights, without distinction or discrimination on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family.

Article 1 in 1959 DRC

The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 2(2) in 1966 CESC

Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 2(1) in 1966 CCPR

States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion,

political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

Article 2(1) in 1989 CRC

The content of these articles is almost the same, in some cases word for word. The reason is simple: human rights cannot be changed. They are not tied to time, place or culture. They are also age-neutral, they do not begin at the point in time when an individual reaches the age of 18 or becomes an adult at a younger or older age according to national legislation.

Childrens' rights are however mutable and very much tied to time, place and culture. In contrast to all the relevant agreements on human rights, codifications concerning children emphasise the significance of childrens' guardians and family as cultivators of their welfare. In this respect, childrens' rights are to a major extent defined via the agencies of their parents or families. Both childrens' individual rights and the rights and duties of their parents should be examined simultaneously.

When framing the CRC, models were taken from both the 1959 DRC and the 1948 UDHR. These confirmed all basic human rights, for both children and adults. As this declaration of human rights was broad – 30 articles in all – the following table is a practical way of characterising its content by stating the main points dealt with in each of the articles.

<i>Article 1</i>	equality	<i>Article 10</i>	fair trial
<i>Article 2</i>	non-discrimination	<i>Article 11</i>	innocent-presumption
<i>Article 3</i>	security	<i>Article 12</i>	privacy
<i>Article 4</i>	prohibition of slavery	<i>Article 13</i>	freedom of movement
<i>Article 5</i>	prohibition of torture	<i>Article 14</i>	asylum
<i>Article 6</i>	recognition before the law	<i>Article 15</i>	right to nationality
<i>Article 7</i>	equality before the law	<i>Article 16</i>	right to marry
<i>Article 8</i>	remedy by tribunals	<i>Article 17</i>	right to own property
<i>Article 9</i>	prohibition to arbitrary arrest	<i>Article 18</i>	freedom of conscience and religion
		<i>Article 19</i>	freedom of opinion

<i>Article 20</i>	freedom of peaceful assembly	<i>Article 25</i>	standards of living
<i>Article 21</i>	political rights	<i>Article 26</i>	right to education
<i>Article 22</i>	right to social security	<i>Article 27</i>	cultural rights
<i>Article 23</i>	free choice of employment	<i>Article 28</i>	social order
<i>Article 24</i>	right to rest and leisure	<i>Article 29</i>	duties to community
		<i>Article 30</i>	prohibition of power of stronger ones

“Human dignity”, “equality”, “non-discrimination”, “integrity”, “self-determination”, and “privacy” are some keywords when it comes to human rights. They are timeless, indisputable, and fundamental. In addition, human rights belong to everyone, not only to some. The basis for human rights instruments is therefore age-neutrality. In other words, human rights do not start at the age of 18 years, nor do they end at one’s 18th birthday.

Only on occasions is the situation otherwise. This becomes clear when we examine Article 13 (freedom of movement), Article 16 (the right to marry), Article 21 (political rights) and Article 23 (free choice of employment). They are all confirmed from an adult’s viewpoint. There are therefore adults’ special rights as well as childrens’ special rights.

2. Geneva Declaration of the Rights of the Child 1924

The League of Nations (1919 - 1946) was an international organisation founded by the countries who were victorious in the first world war. Its most fundamental purpose was to guarantee lasting peace, and the organisation’s objective was to resolve disputes by peaceful means, by the use of specific sanctions, reducing armaments, and disarmament. The United States did not join, and the Soviet Union only became a member in the middle of the 1930s, at the time when many states (such as Japan, Germany and Italy) resigned from the organisation. The Soviet Union resigned its membership in 1940, and the whole structure ceased operation in 1945 when the charter of the United Nations was confirmed.

An energetic search for instruments concerning human rights was not a central aspect of activities in the League of Nations. Instead, one of the primary targets was to secure the rights of women and the special rights of children who had been orphaned by the hostilities of World War I. After several phases, a declaration of explicit childrens' rights was published in Geneva, Switzerland on the 26th of September 1924. Pride of place in this declaration was given to children who did not enjoy the protection of a traditional family.

The introduction to the 1924 declaration stated: "By the present Declaration of the Rights of the Child men and woman of all nations, recognizing that mankind owes to the child the best it has to give." The declaration contained five articles which were given the title of principles. As their number is quite limited, their content can be repeated here in full:

Principle 1

The child must be given the means requisite for its normal development, both materially and spiritually.

Principle 2

The child that is hungry must be fed; the child that is sick must be nursed; the child that is backward must be helped; the delinquent child must be reclaimed; and the orphan and the waif must be sheltered and succored.

Principle 3

The child must be the first to receive relief in times of distress.

Principle 4

The child must be put in a position to earn a livelihood, and must be protected against every form of exploitation.

Principle 5

The child must be brought up in the consciousness that its talents must be devoted to the service of fellow men.

For their time, these principles were not only modern, they were wide in scope. From today's perspective, however, a specific reservation in terms of coverage is appropriate. It is, for example, quite clear that the GDRC places children in a lower category than adults. This can be seen in *Principle 5*. It is also not an accident that while adults are referred to as "he" or "she", children are referred to as "it". There is not perhaps any good reason to further emphasise linguistic aspects. It is however appropriate to point out that the GDRC was the first international instrument related to childrens' rights. This is its value and significance. Another central point is that the primary position of children was being highlighted already in the 1920s, even though the context for this was exceptional circumstances connected above all with war and its aftermath.

It is difficult to assess the real significance of the GDRC. Information concerning the relationship between the declaration and relevant legislation in member nations is not available, with the exception of how widely its principles were known to the general public in an age when the role of the media as a promoter of childrens' rights was essentially a marginal one. To subsequent generations, the GDRC has been very significant, both in ideological terms and in other ways. This is revealed above all by the fact that something in every United Nations document concerning childrens' needs, position and rights is reminiscent of the GDRC's importance as the first codification of childrens' rights.

3. Declaration of the Rights of the Child 1959

The second world war was of crucial importance in connection with human rights declarations, covenants, conventions and other agreements: Enormous tragedies resulted from military activity, both at individual level and in larger systems. The absurdity of war gnawed at the conscience of the democratic civilizations, and achieving a lasting peace was a subject of focus in many ways. The establishment of the United Nations and the conference of San Francisco were important events among many others. The Charter of the UN was authorized on

the 26th June 1945 in San Francisco. It is possible to argue that this date was, in a way, the “birthday” of human rights instruments. If this conception of the birthday for human rights instruments is not acceptable, another can be placed as the 10th Dec 1948 when the *Universal Declaration of Human Rights* (1948 UDHR) was adopted and proclaimed by United Nations General Assembly resolution 217 A/III.

The preamble to the 1948 UDHR was wide and comprehensive. Space does not allow it to be repeated in full. One quotation is well worth repeating: “Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women have determined to promote social progress and better standards of life in larger freedom.”

The preamble thus laid emphasis on not only the importance of human rights, but also on the rights of adults (“the equal rights of men and women”), not the human rights of children and the significance of their special rights. It was only after the rights of all human beings had been confirmed by this declaration that attention began to be paid to the rights of children. In this exercise, both the 1924 and 1948 declarations were taken into account. The final result: *The Declaration of the Rights of the Child* (DRC) was proclaimed by Resolution 1386/XIV of the United Nations General Assembly on the 20th November 1959.

As in the 1924 declaration, principles were used instead of articles. The difference was that the number of principles had doubled and that they had been extended, compared to the earlier declaration, by including a wider interpretation of the principle of childrens’ best interests. One other significant difference was that the importance of childrens’ rights (Article 1 in the DRC) was highlighted.

As the 1959 declaration is included in this book as Appendix I, it is not necessary to repeat its contents here. A summary of the content of its ten principles is sufficient:

- Equality without any kind of discrimination (Principle 1)
- The best interests of the child (Principle 2)
- Right to name and nationality (Principle 3)
- Benefits of social security (Principle 4)
- Disabled children and special care (Principle 5)
- Full development of personality, love and understanding (Principle 6)
- Free and compulsory education (Principle 7)
- The child as the first to receive protection (Principle 8)
- Protection against neglect, cruelty, and exploitation (Principle 9)
- Upbringing in a spirit of understanding, tolerance, and peace (Principle 10)

The DRC regulated childrens' rights in a more extensive fashion than the 1924 declaration. The latter did not extend into dimensions such as name and nationality, the benefits of social security, the position of children with special needs and the right to receive education. The DRC was a significant extension of the special rights of children. Also new was the fact that the principle of childrens' best interests permeated the 1959 declaration. This was touched on in Principle 2 and Principle 7. They state:

The child shall enjoy special protection, and shall be given opportunities and facilities - - 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 a paramount consideration.

Principle 2 in 1959 DRC

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.

Principle 7(2) in 1959 DRC

In the 1924 declaration, children were placed in a position different to that of adults, in the 1959 declaration, this was no longer the case. One

aspect of the 1959 declaration is however worth mentioning, the fact that boys have primacy - girls and boys were not treated equally. This aspect was given special attention when framing the CRC, and another requirement was that the principle of equality should be made clearly visible. And this is what happened.

4. Convention on the Rights of the Child 1989

It is clear that the 1959 declaration was not considered to be a sufficiently-powerful instrument in connection with childrens' rights. This conclusion can be drawn from the opinions voiced in the middle of the 1970s as plans were being drawn up for the International Year of the Child. It can therefore be presumed that the 1959 declaration did not match the requirements viewed as essential in connection with childrens' needs, their position, and their rights. It is possible that the biggest failing was seen as the fact that the DRC was no more than a declaration of intent. It could not be ratified and in that way included in national legislative systems. The DRC therefore lacked legally-binding status and obligations. In the DRC, if there was a desire to foster childrens' rights, it was certainly possible. If there was a wish to push human and particularly childrens' human and special rights aside, this was also possible.

These were the starting points for the codification that was framed in the 1970s and adopted by the General Assembly of the United Nations on 20th November 1989. Its contents are revealed by its structure:

<i>Article 1</i>	definition of the "child"	<i>Article 8</i>	identity
<i>Article 2</i>	non-discrimination	<i>Article 9</i>	separation from parents
<i>Article 3</i>	the best interests of the child	<i>Article 10</i>	family reunification
<i>Article 4</i>	implementation of CRC	<i>Article 11</i>	illicit transferee
<i>Article 5</i>	parents	<i>Article 12</i>	participation; right to be heard
<i>Article 6</i>	survival rights	<i>Article 13</i>	freedom of expression
<i>Article 7</i>	right to know the parents	<i>Article 14</i>	freedom of religion

<i>Article 15</i>	peaceful assembly	<i>Article 38</i>	armed conflicts
<i>Article 16</i>	right to privacy	<i>Article 39</i>	rehabilitation, and child victims
<i>Article 17</i>	media	<i>Article 40</i>	juvenile justice
<i>Article 18</i>	importance of family	<i>Article 41</i>	better standards and domestic legislation
<i>Article 19</i>	violence	<i>Article 42</i>	making CRC widely known
<i>Article 20</i>	substitute home	<i>Article 43</i>	Committee on the Rights of the Child
<i>Article 21</i>	adoption	<i>Article 45</i>	international co- operation
<i>Article 22</i>	refugees	<i>Article 46</i>	CRC is open for all states
<i>Article 23</i>	disabled children	<i>Article 47</i>	ratifications
<i>Article 24</i>	health services	<i>Article 48</i>	accession by any state
<i>Article 25</i>	review of foster placements	<i>Article 49</i>	how CRC enter into force
<i>Article 26</i>	social security	<i>Article 50</i>	amendments
<i>Article 27</i>	material assistance by parents	<i>Article 51</i>	reservations and declarations
<i>Article 28</i>	education	<i>Article 52</i>	denunciation of CRC
<i>Article 29</i>	aims of education	<i>Article 53</i>	Secretary-General of UN
<i>Article 30</i>	minorities	<i>Article 54</i>	the originals of CRC
<i>Article 31</i>	rest, leisure and play		
<i>Article 32</i>	child labour		
<i>Article 33</i>	drugs		
<i>Article 34</i>	sexual exploitation		
<i>Article 35</i>	trafficking		
<i>Article 36</i>	all forms of exploitation		
<i>Article 37</i>	cruel treatment of punishment		

As has already been shown, childrens' rights are based in part on universal human rights and partly on special rights for juveniles. Childrens' human rights are associated with equality, physical and mental inviolability i.e. integrity, self-determination and the right to privacy. These are essentially regulated by Article 2 (non-discrimination), Article 19 (violence), Article 36 (all forms of exploitation), Article 12 (participation; the right to be heard) and Article 16 (the right to privacy), and also indirectly in Article 8 (identity).

Special rights that belong to children are regulated in one way or another in articles 2-40 of the CRC. Sometimes the question is of individual rights, sometimes of collective family rights. The latter are handled in Article 5 (parents), Article 10 (family reunification), Article 18 (importance of family), Article 27 (material assistance by parents) and Article 30 (minorities). One of the particular special rights that belong to children is considered to be the primacy of childrens' 'best interests'. This is emphasised in Article 3, but also complemented in Article 9 (separation from parents), Article 18 (importance of family), Article 20 (substitute home), Article 21 (adoption), Article 37 (punishment) and Article 40 (juvenile justice). In other articles, the principle of childrens' best interests is not mentioned.

III WHAT THE CRC ACTUALLY IS

1. Overview

The complete text of the CRC is attached to this document as an appendix. Becoming familiar with it takes a considerable amount of time. The presentation of the main points which follows was assembled as a practical measure. It comprises the contents of Part I (articles 1-41) and Part II (articles 42-45) of the CRC stated in their simplest possible form. A concise indication of how the different articles relate to each other is also given. This catalogue does not bring us very much closer to the core question of what each article in the CRC deals with. It does however indicate who the CRC should protect, how and in what way.

Article 1 **Definition of the “child”**

- * A human being who has not yet reached the age of 18 years
- * Domestic legislation: majority can be attained earlier than at 18th birthday; if so, age limit of 18 is not in force.

Article 2 **Non-discrimination**

- * Boys and girls have equal rights
- * Does not necessarily mean that children and adults have equal rights

Article 3 **The “best interests of the child” principle**

- * Earlier confirmed in 1959 DRC
- * See CRC articles 9, 18, 20, 21, 37, and 40

Article 4 **Implementation**

- * States Parties shall take all appropriate legislative, administrative, and other measures
- * Depends on human, economic, and organizational resources

Article 5 **Parents**

- * Other human-rights instruments such as the 1966 Convention on Civil and Political Rights (articles 23-24) emphasise the importance of family and parents
- * See also CRC articles 7, 9, 10, 18, and 29

Article 6 **Survival rights**

- * Mostly linked to U5MR, also now to HIV-AIDS
- * Right to life before birth (e.g. the abortion question) left open

Article 7 **Birth registration: the right to know one's parents**

- * Main purposes related to trafficking in children
- * Minimum standards of registration: name, sex, date of birth, where born, names and nationality of parents

Article 8 **Identity**

- * Preparation of this article was connected with the disappearance of children under the regime of the Argentine junta during 1970s and 1980s
- * Identity is related to family history and relations between family members, e.g. siblings, parents and grandparents, other relatives, and extended families

Article 9 **Separation from parents**

- * Legally-confirmed criteria, grounds for interference
- * Children have the right to personal relationships, and direct contact with both parents

Article 10 **Family reunification**

- * Deals with many types of refugees such as people who have been tortured and violated, also so-called “economic” refugees
- * In connection with “anchor-children”, parents have the right to follow them

Article 11 **Illicit transferee, and associated non-return**

- * This article does not relate to financial motives, but to emotion-related action by a child's biological parents
- * Compare with CRC Article 35 (trafficking), which is linked to financial or commercial motives, and to sexual exploitation

Article 12 **Participation**

- * Meaning is, in a way, the right to be heard
- * No biological age limit: this article is based on cognitive age and on psychosocial maturity

Article 13 **Freedom of expression**

- * Includes freedom to seek, receive and impart information and ideas of all kind, also stated in Article 17
- * Some restrictions: public order (morality/religion)

Article 14 **Freedom of thought, conscience, and religion**

- * Freedom of thought and of conscience are perhaps odd principles in themselves – who knows what anyone else has in her or his mind?
- * Many reservations linked to freedom of religion

Article 15 **Peaceful assembly**

- * Articles 12-14 emphasise individual participation, Article 15 underlines collective participation
- * Adults have political rights but children do not. Art. 15 therefore offers some kinds of right as substitutes for political rights

Article 16 **Right to privacy**

- * It is difficult to be precise about what “privacy” actually means - it is close to integrity, self-determination, the right to control some issues, the right to secrecy and to human dignity

- * One possible definition: “Privacy is a social ritual by means of which an individual’s moral title to her or his existence is conferred.”

Article 17 **Media**

- * The only article in all human rights agreements which takes account of the mass media.
- * A rather restricted view of the main tasks of the mass media

Article 18 **Family**

- * It has been argued that many CRC articles are too “individual” because the family is the fundamental group in society
- * Article 18(1) anyway highlights the essential responsibilities of parents and the best interests of children

Article 19 **Violence**

- * Can be of four types: (1) physical, (2) mental, (a) active, and (b) passive; and four combinations: 1 + a, 1 + b, 2 + a, and 2 + b. This article covers all of them.
- * The primary article when dealing with violence in the home and bullying (for example at school).

Article 20 **Substitute home**

- * For children who cannot live temporarily or permanently with their parents (see also Article 19)
- * See CRC Article 25

Article 21 **Adoption**

- * Both national and international adoptions are covered in this article
- * See also CRC articles 10(2), 12, 25, and 35

Article 22 **Refugees**

- * States Parties shall take appropriate measures to ensure that children are given humanitarian assistance
- * See also CRC articles 9-10

Article 23 **Disabled children**

- * Disability includes many kinds of physical, intellectual or sensory impairment
- * Article 23 is based on special assistance and has nothing to do with negative discrimination.

Article 24 **Health services**

- * A main goal is U5MR levels in developing countries
- * International cooperation: WHO & UNICEF

Article 25 **Review of treatment**

- * Child abuse in foster placements, hospitals, adoption placements, boarding schools, etc
- * Periodic control by independent professionals

Article 26 **Social security**

- * This article is based on the model where society and the state are responsible for social security
- * Developing countries have different systems (social security is usually based on families)

Article 27 **Material assistance by parents**

- * Article 5 emphasises parents' responsibility
- * In many countries, the state provides direct support and demands repayments from non-contributing parents

Article 28 **Education**

- * Primary education compulsory and free for all children
- * Prevention of discrimination (girls vs. boys, dropping out of school)

Article 29 **Aims of education**

- * Achieving fullest potential offered by a child's personality, talents, and mental/physical abilities
- * Respect for parents' differing values

Article 30 **Minorities**

- * See CRC articles 8 (identity), 20 (ethnic, religious, cultural, linguistic background), and 29 (aboriginals)
- * Also based on CRC Article 2 (non-discrimination)

Article 31 **Leisure**

- * Covers free time, rest, leisure, play, and recreational activities
- * Hectic pace of life in some rich countries where children can be "small adults" – this is contrary to this article

Article 32 **Child labour**

- * CRC leaves biological age open, ILO has different rules
- * ILO deals with type of work (which industry, night work), certain general age limits

Article 33 **Drugs**

- * Includes alcohol, tobacco, narcotics, psychotropic substances
- * No rules in CRC regarding pregnant women (FAS/FAE)

Article 34 **Sexual exploitation**

- * See also the CRC's Optional Protocol
- * Trafficking and the so-called UN Palermo convention in 2000

Article 35 **Trafficking**

- * See also CRC Article 11
- * CRC Article 35 attempts to prevent not only sexual exploitation (Article 34) but also any kind of economic exploitation (child labour and sexual abuse)

Article 36 **All forms of exploitation**

- * Concrete rules are given in CRC articles 32-35, here they are stated in a very abstract manner
- * Covers for example, medical experimentation

Article 37 **Cruel treatment or punishment**

- * Corporal punishment is prohibited
- * As the death penalty is a possibility in the USA, it is often said that this is one of the main reasons for that country to remain outside the CRC

Article 38 **Armed conflict**

- * See also the CRC's Optional Protocol
- * Article 38(2) is not in line with the Article 3(1) principle of childrens' best interests

Article 39 **Rehabilitation**

- * See also CRC articles 19, 32, 33, 34, 35, and 36
- * All appropriate measures: physical, psychological, and social support and assistance

Article 40 **Juvenile justice**

- * This article relates especially to CRC Article 37
- * The question of biological age limits is left open

Article 41 **Existing standards and other human rights plus domestic legislation**

- * If other legal arrangements than the CRC are more efficient, the former apply
- * For example, according to national law X, only adults can participate in armed conflict, but Article 38(2) allows minors of age 15-17 years to do so. In such a case, X is in force, *not* CRC Article 38(2)

Article 42 **Making the CRC widely known**

- * Audience is both children and adults

- * Instruments such as brochures, posters, radio or television programmes, playing cards for children or other games, computer software, etc.

Article 43 **Committee on the Rights of the Child**

- * Comprises ten experts
- * Concentrates on certain specific issues which change from year to year, in 1996 the theme was “ The Child and the Media”

Article 44 **Reporting obligations of State Parties**

- * To the Committee on the Rights of the Child every five years
- * Reports shall contain adequate information linked to statistics, problems, violations, and measures of implementation

Article 45 **Cooperation with UN agencies and other bodies**

- * UNICEF is the most important
- * International meetings such as world summits for Children

As already pointed out, this catalogue does not bring us much closer to the question of what the CRC is all about. It does however serve as a customised list which can be used to locate specific articles and associated background factors.

2. Who is protected, and how

Articles can be examined according to whether they concern childrens' rights (articles 1-41) or administrative regulations concerning their enforcement. In the case of the former, the main observation is that they provide very comprehensive coverage of all the sectors that are usually realised in everyday life. From this perspective, the CRC can be considered to achieve comprehensive coverage. It is also possible to say that:

The CRC

- is an international codification of children's rights from a human rights perspective
- emphasises the importance of human dignity, equality, and non-discrimination
- is based on four types of rights: survival rights and rights linked to protection, provision and participation
- was adopted by the UN General Assembly on 20th November 1989
- entered into force internationally on 2nd September 1990
- superseded the 1959 Declaration of the Rights of the Child
- is based on the principle of the child's best interests
- contains 54 articles in three parts; Part I deals with children's rights, parts II and III with administrative rules
- is a binding human rights instrument for human beings who have not yet reached an age of 18 years
- is, from the legal-technical viewpoint, seen as being founded on some kind of norm-overlap system: the CRC is indivisible and its articles are interdependent
- has many primary rules, many exceptions and many additional exceptions to these exceptions (i.e. it is difficult to fully absorb)
- is a collective instrument – it does not allow an individual legal suit in a concrete case
- is primarily focused on children – but the importance of parents/family is mentioned on several occasions
- is not alone, the only agreement in force – there are two optional protocols (OP) relating to the (i) involvement of children in armed conflict (entered into force internationally on 21st February 2002), and (ii) the sale of children, child prostitution and child pornography (entered into force internationally on 18th January 2002).
- allows reservations and declarations

Every viewpoint opens further viewpoints and also on each viewpoint's relationship to others. This became clear in even the first characterisation, according to which the CRC is an agreement

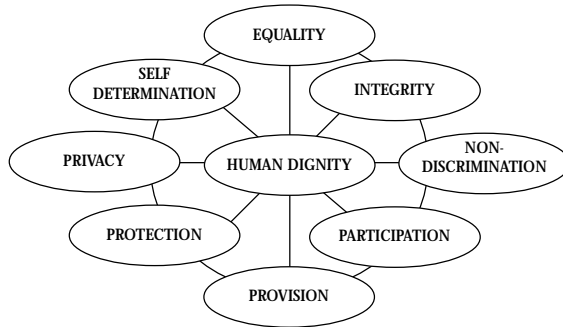
concerning human rights for juveniles. On closer examination, this turns out to be incorrect - human rights apply equally to all humans regardless of their age. It would be quite absurd to bluntly state, from an adult viewpoint, that children have had their own human rights confirmed. This is not the case.

If we start by opening up the individual points contained in each item in the highly-summarised catalogue above, the result is that answers to the apparently simple question *What is the CRC?* lead are so complicated that the information value they have is minimal. And since the single fundamental target of the presentation in this book is to improve the quality of the information, not to increase the degree of uncertainty, the appropriate course of action is to be satisfied with stating what is most essential about the CRC. Because estimation of significance leads to the presentation of subjective comments, there can, in principle, be many opinions concerning any chosen viewpoint. Also, from the author's viewpoint, the idea that the CRC emphasises childrens' needs, position and rights primarily targets the protection of children and the cultivation of their individuality. Respecting childrens' individuality requires that both human rights and the special rights that belong to juveniles are confirmed for under-18s.

It is customary to state that there are five types of human rights and three types of special human rights for children. Classified in this way, human rights consist of (1) economic, (2) social and (3) cultural rights, (4) civil rights and (5) political rights. For their part, childrens' special rights concern (a) protection, (b) childrens' rights to care and (c) childrens' rights to be heard in matters that concern them. It is possible to say that human dignity = (1) & (2) & (3) & (4) & (5) + (a) & (b) & (c).

As far as under-18s are concerned, the model has however failed, since children do not have the same rights as adults such as the right to emigrate or the right to freedom of travel. Under-18s do not even have political rights such as the right to vote in parliamentary elections and the right to stand as candidates. In this way, childrens' rights are more

restricted than the human rights of adults. It is therefore appropriate to abandon the “five-section” grouping of human rights and dimension the subject for children in the most universal manner possible. The diagram below shows how this can be done:



This diagram has a dual function. Firstly, it shows the author’s view of what constitutes *human dignity*. Secondly, if the label “HUMAN DIGNITY” is replaced by “CRC”, it shows the main elements that make up the CRC. The upper five elements (privacy, self-determination, equality, integrity and non-discrimination) are fundamental human rights, the lower three (protection, provision, and participation) are the main elements in childrens’ special rights.

Human and special rights are closely related (especially integrity <-> protection; equality <-> provision; self- determination <-> participation) and the lines in the diagram indicate this. When a child has the right to physical and mental integrity, this also means that he or she has the right to protection.

In clarification, it should also be stated that humans of all ages are entitled to physical and mental integrity: a central task in human rights, basic rights and rights to freedom is maintaining this. It is at the same time an individual right and a collective duty. The right to self-determination is *not*, however, a fundamental requirement for integrity. If this were to be so, for example, a baby could be treated as harshly as one wished. It is therefore easy to see that a choice between *either* everyone’s individual rights *or* collective rights and obligations is, in practice, impossible. A

baby has the right to protection, and the carer's duty is to ensure the baby's integrity. To put it another way: it is purely of academic interest to say that *either* individual *or* collective rights can exist – they are simultaneous and tightly linked.

Equality means that all children have the right to care and protection. For children, the adult's right to self-determination means that they have the right to be heard in matters that concern them. In spite of this right to be heard, children do not always have the right to make decisions concerning themselves. Authority in childrens' upbringing, care and protection lies with adults, primarily their biological or social parents. This is the essential reason why it is not possible to examine childrens' rights by ignoring the collective rights and obligations of adults. This is how the family viewpoint enters the picture.

In connection with the CRC, it is usual to speak not only of survival rights, but also the three "Ps": Protection (P1; childrens' right to protection), Provision (P2; childrens' right to care, attention and upbringing), and Participation (P3; childrens' right to be heard, i.e. the right to be heard in matters that concern them / childrens' right to co-determination). In terms of time, the question is one of extending childrens' human and special rights. With only a small degree of exaggeration, it could be said that while articles in the 1924 Geneva declaration concentrated on P1, the 1959 declaration explored P1 and P2, and the CRC is based on P1, P2 and P3. New is also the fact that the significance of the family and parents is given greater emphasis in the CRC than in the 1959 declaration, which itself laid more stress on the family viewpoint than did the 1924 declaration.

The catalogue of articles highlights the comprehensive nature of the regulations and shows, indirectly, that protection (P1) is essentially regulated by CRC articles 31-39, care and attention (P2) is dealt with in articles 17-26 and the right to participation (P3) is handled in articles 12-15. Viewed in this way, the CRC is a codification of childrens' special rights. Special rights are specifically mentioned in articles 12-15, 17-26 and 31-39. Taken together, they form an indivisible whole.

Time after time it is claimed that the CRC is a *binding* human rights agreement which incorporates the full range of human rights – civil and political rights as well economic, social and cultural rights. This is stated in spite of the fact that it is not completely true. Everyone knows that children do not have political rights. It is also a fact that childrens’ civil rights are significantly more restricted than corresponding adults’ rights. Actually, it would be against common sense for children in daycare facilities to have national voting rights and the right to stand as parliamentary candidates. Similarly, many rights of freedom, such as the freedom to exist and emigrate, and the freedom to follow a profession, do not, as they stand, affect children.

The continual references made to *binding* are also problematical, for many different reasons. Concretisation is associated with reservations, numerous interpretations of the essential elements of particular articles, slack regulation and the so-called “principle of greater efficiency”.

States Parties of the United Nations do not have to ratify the CRC, and both Somalia and the United States have not done so. Other States Parties have incorporated the whole of the CRC into their national legal systems. In doing so, they have been able to make reservations to individual articles or make limitations in scope and applicability. If a State Party has decided to make a reservation concerning a particular article, that article is not applicable. Seventy countries out of the total of 190 that ratified the CRC have made reservations and declarations. The majority of these are Islamic nations in which the position and rights of children are regulated by the Quran instead of the CRC.

Article 16 of the CRC provides an example of how there is space for interpretation in the regulations. This states that “no child shall be subjected to - - unlawful interference with his or her privacy - -”. What is “lawful” interference with a child’s privacy? What indeed is “privacy”? - the right to be and to be left alone (with parents or siblings)?, illegal encryption?, the right to control sensitive information concerning oneself?, the possibility to prevent publication of one’s name or photograph in a newspaper? The questions are rhetorical and intended

to be so. They do however indicate that the subject is a difficult one to analyse and that the article concerned can be interpreted in countless ways.

Slack regulation can, for example, be seen in Article 7 (nationality), Article 12 (taking account of childrens' opinions), Article 21 (adoption) and Article 24 (health services). Each of these emphasises different intentions that are specified in a conditional manner. States Parties *should if possible* strive to achieve, for example, healthcare services by degrees. The lack of any absolute requirement to do away with something that is clearly incorrect does not remove the corresponding obligation to do so.

Many CRC articles set only modest criteria for childrens' rights. This approach rests on strong foundations. If the minimum standards contained in the CRC were to be partly incorporated into national legal systems as part of the ratification process, this would also allow low-level criteria in national legislation. The background to this question is primarily the "principle of greater efficiency" adopted in the CRC. It is the observation in Article 41 that "Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in: (a) The law of a State Party; or (b) International law in force for that State."

With only a slight degree of exaggeration, it can be claimed that in those United Nations States Parties that *have not* made reservations or exceptions to the CRC, applicability is achieved through national legislation. The CRC can therefore be characterised as a normative plan for how the needs and rights of children should in most cases be taken account of, when, for example, media representatives are considering comprehensive operations that benefit children.

3. Best interests of the child

The 1924 and 1959 declarations and the 1989 convention all place the best interests of children before the best interests of adults. In the 1924

declaration, the best interests of children are referred to once, in the 1959 declaration they appear twice. In the CRC, the best interests of children are referred to in seven different places. The following articles illustrate (from a legislative viewpoint) this aspect.

The child must be the first to receive relief in times of distress.

Principle 3 in the 1924 GDRC

The child shall enjoy special protection, and shall be given opportunities and facilities - - 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 his purpose, the best interests of the child shall be the paramount consideration.

Principle 2 in the 1959 DRC

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.

Principle 7(2) in the 1959 DRC

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.

Article 3(1) in the 1989 CRC

Comparison of the texts brings out the marching order – first children, then adults. The articles also reveal that while the 1924 declaration emphasises unusual circumstances (i.e. the first world war), both the 1959 declaration and the 1989 convention take the viewpoint of “normal” circumstances. Viewed in this way, the concept of childrens’ best interests has expanded over time.

Differentiating factors are also revealed by comparing the DRC and the CRC. In the DRC, the best interests of children are tied to their

parents and family, the CRC makes them an obligation for government. Its task is to promote the primacy of childrens' best interests and to implement this outside the home.

As the 1924 and 1959 declarations were not binding agreements, they could not be ratified and incorporated into national legislation. The situation with the CRC is different, since its legal status is different to that of a declaration. During the process of ratification, it is possible for a State Party to make one or more reservations. Most commonly, the making of a reservation signifies a desire to exclude the contents of the article in question from national legislation.

In almost all United Nations States Parties, Article 3(1) of the CRC is incorporated as it was drafted and was adopted as is. What Article 3(1) actually contains, no-one can precisely state. In reality, it is possible to proclaim the "best interests of the child" at any time, by any means, and in any connection. Childrens' best interests resemble a distant horizon. We can see it quite clearly in front of us, but as we move towards it, it stays as far away from us as ever.

This metaphor is however unsatisfactory, since we are "burying our heads in the sand". We have to take a position on how the principle of childrens' best interests should be understood. The author's personal opinion is as follows:

If we start from the viewpoint that parents have the prime responsibility for a child's upbringing, care and attention, then consideration focuses on the best interests of an individual child *in concreto*. In such a case, the family meets certain basic requirements such as: (1) that economic security is guaranteed, (2) that each family member's individual needs are taken account of in the housekeeping, (3) that adults support each other regardless of whether the household has a single parent or two, or is an extended family, (4) that adults and children have their own roles, (5) that there is a clear generation gap between parents and children, (6) that even if there is conflict, there is also agreement, (7) that the family and its members interact with others outside the family, and (8)

that children experience acceptance as children (human being), not just because of what they can produce (human doing). “Best interests of children” *in concreto* is the summation of (1)-(8). This thought experiment is made difficult by the fact that children from the same family can be different at different ages. Their best interests may not therefore be common ones. Every child in every family will require different treatment to every other child – emotionally, knowingly and in other ways.

Precisely specifying the best interests of an individual child in a positive manner is an awkward thing to do. It is always easier to state what is not in a child’s best interests, i.e. what is the contrary. The question then concerns the other side of the criteria mentioned in the previous paragraph. In such a situation a family would display (a) economic insecurity, (b) inequality between the economic position of different family members, (c) mental and physical violence, and (d) continuing conflict as a consequence of marital or common-law divorce. It could also be that (e) a child would take responsibility for a parent rather than things being the opposite way round. Also evident would be (f) an inability to resolve differences of opinion, (g) disorder in social situations, and (h) children valued for human doing but not as human beings. If childrens’ best interests are specified as requirements (1)-(8), the corresponding contrary indicators should be viewed in the light of criteria (a)-(h). In cases where these are extant, childrens’ best interests cannot be realised.

In Article 7(2) of the 1959 declaration, the stated bundle of principles concerning childrens’ best interests was referred to as a child’s best interests in her or his own family circle. As Article 3(1) of the CRC gives best interests of the child as principles that should be incorporated in government operations, the question is no longer childrens’ best interests *in concreto*, but their best interests at a general level (*in abstracto*). These can be explained in two quite different ways.

One method of clarification is to return to what has already been stated, i.e. that in connection with the CRC, it is usual to speak not only of

“survival rights”, but also the three “Ps”: – Protection (P1: childrens’ right to protection), Provision (P2: childrens’ right to care, attention and upbringing), and Participation (P3: childrens’ right to be heard, i.e. the right to be heard in matters that concern them / childrens’ right to co-determination). The CRC is based on P1, P2 and P3. The best interests of children are then the sum of P1, P2 and P3.

Children have the simultaneous right to protection, care and attention, and the right to be heard in matters that concern them. When these rights are fulfilled, it means that the best interests of children have been realised. This type of concept of childrens’ best interests implies that the individual best interests of children in particular individual situations are not considered.

The alternative approach is to pay attention to childrens’ *needs*. They vary with age. It is quite impossible to start by assuming that babies, infants, young children, children just starting school or adolescents or young people on the threshold of adulthood have equivalent needs. Gender affects every situation concerning humans who are not yet adult. Girls can be in a different position to boys, and girls can have different needs to boys. Where children live also has significance. The situation in Asia can be slightly different to that in Africa or Europe or North, Central or South America. Regional differences – economic, civil and ideological – are great.

This results in childrens’ rights being understood in different ways in different parts of the world. In spite of this, there is good reason to keep childrens’ needs separate from their special rights. The latter are bound to time, place, culture and ideology. Childrens’ needs are not so bound. It is possible to characterise them as “having”, “being” and “loving”.

Having emphasises the material side, and the question concerns specific basic economic security. The primary source of this is the family, backed up by society. If a family is living in extreme distress, economic disaster or poverty, childrens’ “having” needs are not met. *Being* is related to the preservation of each individual’s dignity. Even though a child may

be only half grown, he or she has their own identity, individuality and integrity. *Loving* means showing feelings, attention, acceptance, respect and being liked. This always brings with it a dichotomy – are we paying attention to a child’s value as such (i.e. human being) or what he or she does (human doing). From the viewpoint of childrens’ needs, neither deliberate acts nor omissions play a decisive role. But a child as such – with all its defects and deficiencies – exists. Children require love when adults are unable to accept their doings.

In this way, the best interests of children are shaped *in abstracto* as the summation of having, being and loving. Article 3(1) of the CRC targets exactly this. It is a matter of opinion whether speaking of fulfilling the three “Ps” highlights this. It is not, however, a matter of opinion whether childrens’ best interests should be viewed *in concreto* or *in abstracto*. The CRC is not intended to be a set of norms designed for people bringing up children, it is a codification for shaping the machinery of government. It is for this reason that the best interests of children are emphasised at a fairly general level.

In fact, the leading principle is not protecting children, it is that decision makers remember the value and significance of *childhood*. When searching for the validity of the CRC and its general acceptance, the concept of childrens’ best interests can be successfully connected with in just this way. We will come to see that this statement has meaning when we look at how these matters are handled in the media.

4. Non-discrimination

In broad terms, the CRC contains two types of regulations. There are those which regulate childrens’ special rights and those which emphasise universal human rights. When it comes to childrens’ best interests / the protection of childhood, we are talking about childrens’ special rights. In its legal prohibition of discrimination and its promotion of equality, Article 2 of the CRC is a typical example of human rights principles. It is adopted almost word for word from the 1948 Universal Declaration of Human Rights in both the 1959 DRC and the 1989 CRC:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 2(1) in 1948 UDHR

The child shall enjoy all the rights set forth in this Declaration. Every child, without any exception whatsoever, shall be entitled to these rights, without distinction or discrimination on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family.

Article 1 in 1959 DRC

States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

Article 2(1) in 1989 CRC

It is possible to claim that Article 3(1) of the CRC which emphasises childrens' best interests is based on a particular form of age discrimination – the rights of someone who is under 18 years will always prevail over those of an adult. Take the case where, for example, a 17-year-old is economically, socially and emotionally well off while someone who has reached the age of 18 years is living in abject poverty and will suffer from psychological disorder in the absence of social interaction. The 17-year-old has rights even though he or she does not need special protection, while the 18-year-old's situation is just the opposite. The CRC therefore places the 17-year-old in a better position than someone who has achieved adulthood. Viewed in this way, it appears to be moving in the direction of specific discrimination.

Attention can be directed not only to children and adults, but also exclusively to the under-18s. In connection with this age group, Article 2 of the CRC forbids all forms of discrimination. It establishes a position of equality between all children. The essential formulation is not however so uncomplicated. And the reason is simple: there are children of different ages.

It is possible to approach questions of age by emphasising those viewpoints which psychologists, psychiatrists and educationalists consider to be important. It is very likely that they will stress in a fairly identical manner the biological, psychological and social properties of babies, infants, children starting school and those who are a little older, adolescents and people on the threshold of adulthood, and mature juveniles. They are also likely to emphasise that changes in young people's lives take place very quickly and that in later phases the situation becomes more stable. Adults do not really change: a "37-year-old" is both biologically and psychologically the same as a "47-year-old". But a "7-year-old" is a completely different person to a "17-year-old".

Growth can be analysed by saying that the question is the cultivation of a child's healthy self-esteem and guaranteeing the preservation of her or his dignity. We also come up against the need to pay attention to the manner in which a child's cognitive and emotional side is formed in small steps, and the way her or his conception of the cause-effect relationship develops. Another question is attachment and the affection that follows this.

Attachment and affection require that children be listened to. This is not tied to age, and it is not particularly anchored in speech development. Babies can and should be listened to. Normal whimpering or crying is a signal of something that should be reacted to in one way or another. In later phases, listening happens in an interactive way. The same thing can be detected in reverse. If a child's non-verbal messages are ignored, this alone will adversely affect that child's development of self-esteem. This aspect of the issue is overlooked in Article 12 of the CRC because

its significance is attributed to those who have achieved the age of cognition. In this respect, Article 12 is no more in line with Article 3(1) than it is with Article 2. If all children were to be positioned equally without any form of discrimination, the CRC would not make any difference between the extent to which children should be heard, without regard to their degree of cognitive development.

Ordinary national legislation contains regulations which address the significance of biological age as a shaper of the rights that children should have. Questions include at what age a child should go to school, becomes responsible for criminal acts, or can marry.

In the CRC, regulations concerning age are fairly abstract. Occasional references to biological age are made, but only in passing. This is revealed, for example, in Article 40 (juvenile justice), which mentions that biological age should be taken into consideration but is silent about what that age should be. The same observation can be made about Article 32 (child labour), where the question of what is or what is not a suitable biological age to start work is avoided.

From a wider perspective, one difficulty is that the CRC *delegates* the right to decide age norms to United Nations States Parties in a fairly-free manner, and always in accordance with the way that age-limit regulations are framed in each State Party. This has the result that the use of different criteria by different countries results in different conclusions. The principle rule in all cases is that the poorer the country, the lower is the age at which it is possible to enter working life (outside the home). In richer countries, children are given the opportunity to go to school. If and when this is so, according to Article 2 of the CRC, children are not in a position of equality.

In fact, the only exception to biological age is regulated by Article 38 of the CRC. According to this, States Parties should take all possible measures to ensure that children below the age of 15 years are not involved in conflict or in war. As this means that children aged 15-17 years can take part in hostilities, it also follows that this legal solution

is not based on the regulatory intention in Article 3(1), according to which everything in the document should be viewed as being in the best interests of the under-18s. It cannot be in the best interests of a 15-17 year-old that he or she can go to war. Since in several countries, access to weapons or a general duty to national service is only applicable to people who are 18 years or older, Article 2 of the CRC is problematical in this respect.

It is easier to explore this theme further, but there is no immediate need to do so. It is sufficient to note how difficult it is to control matters of this kind using a strict interpretation of CRC articles 2 and 3, either separately or together.

IV IMPORTANCE OF THE CRC

1. Common rules, but different axioms

It is now appropriate to present two questions of a very basic nature: What are childrens' rights? and: What should childrens' rights be? Articles 1-40 of the CRC primarily answer the second question and not necessarily the first. In principle, our starting point should be that the articles concerned are: targeting the achievement of a particular idealistic state of affairs; that they have been agreed by all United Nations States Parties; and that they are binding commitments. The situation is not, however, actually like this. That this is not so is a consequence of the fact that while the CRC was being formulated, an attempt was being made to ensure that it would be possible for all United Nations States Parties to join the relevant convention (Article 48 in the CRC). This would not have been the case if the CRC had set absolute specifications for the obligations of all countries. That would have resulted in several countries remaining outside the CRC for national economic reasons, and particularly those States Parties in which the U5MR statistics give a miserable picture of everyday life.

In addition to the attempts made during the International Year of the Child to reduce child mortality, child prostitution and the incorrect use of child labour, there was also a drive for common rules that would affect all children regardless of whether they lived in the east or the west, in the north or in the south. Different concepts of the family were also revealed. Native American children, for example, are not necessarily brought up by their biological parents, while many European countries (both Protestant and Catholic) hold tightly to the nuclear family model. Islamic countries, for their part, have their own Quran-based system, and African culture also differs in many respects. In addition to the search for common rules, it should be recognised that regional, economic and ideological starting points can differ greatly.

When shaping agreements, compromises must be made and an international consensus must be sought. In the light of the above-mentioned viewpoints, the search for a unanimous solution in preparing and ratifying the CRC was resolved in three ways.

Firstly, questions related to the period before a child is born were excluded from the scope of the regulations. For example, questions related to abortion were not included. If this had not been done, many United Nations States Parties would certainly have remained outside the agreement. *Secondly*, the approach taken was that internal criteria in different articles were set in a flexible way rather than being rigid and strict. Examples of this can be found in Article 7 (the child's right to know its parents), Article 12 (the child's right to self-determination) and Article 24 (healthcare services). These do not make categorical requirements that a child has an absolute right to knowledge, self-determination and healthcare. These rights are regulated using the "shall be / assure / ensure / pursue" model, and are at the same time quite relative about what principles should be striven for in the long term.

Thirdly, in shaping the agreement, reservations were made in advance that for ideological and religious reasons, not all States Parties would be able to accept the defined basic objectives, such as the one that children always have an inalienable right to choose their own religion (Article 14 in the CRC). This is in contradiction to the Quran. The CRC therefore incorporates reservation clauses, without which Islamic countries in particular would have remained outside the agreement. It was therefore seen as wiser to allow countries ratifying the CRC to make both reservations and declarations.

Some CRC articles have not been the subject of any reservations. These are articles 11, 18, 19, 23-25, 27, 31, 33-36 and 39. Their content can be briefly summarised as follows:

Article 11 emphasized that the States Parties shall take measures to combat illicit transfer and non return of children abroad. To this end States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 18 reminds the common responsibilities of both parents for upbringing and development of the child. Therefore States Parties shall render appropriate assistance to parents or other legal guardians.

Article 19 require the protection of the children against all forms of physical, or mental violence, injury or abuse, neglect or negligent treatment.

Article 23 recognizes that a mentally or physically disabled child should enjoy a full and decent life. The disabled child must have special care when the recourses are available.

Article 24 demands that States Parties shall strive to ensure that no child is deprived of her or his right of access to health services. The States Parties shall e.g. take appropriate measures to diminish infant and child mortality.

Article 25 says that the child who has been placed outside of the (original) family has the right to protection. The conditions of the placements must be the objects of periodic reviews.

Article 31 demands that the child has right to rest and leisure, to engage in play and recreational activities appropriate to age of the child and to participate freely in cultural life and arts.

Article 33 says that the state parties shall take all appropriate measures to protect children from the illicit use of narcotic drugs and psychotropic substances.

Article 34 emphasizes that the state parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, the member states shall take all appropriate national, bilateral and multilateral measures to prevent sexual abuse.

Article 35 is based on former article: the member states take all appropriate national, bilateral and multilateral measures to prevent the trafficking in children. The child is never a property of adults which have commercial interests instead the best interest of the child.

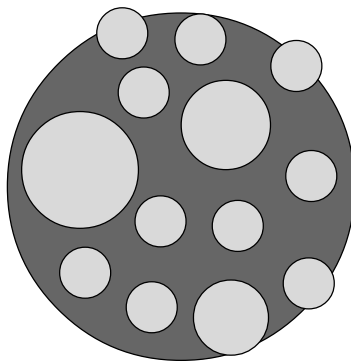
Article 36 covers a general clause relating to above mentioned: States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 39 emphasizes that the member states take all appropriate measures to promote the deprived children's physical and mental recovery and social reintegration. The child has right to self-respect, health and to human dignity.

The question concerns all common regulations to which the 190 United Nations States Parties have committed themselves. Articles mentioned above are in force in some parts of Sub-Saharan Africa (in most of them), the *Middle East* and *North Africa* (in only a few countries, such as Bahrain, Cyprus, Lebanon, Libya, and Yemen), *South Asia* (Bhutan, Nepal, and Sri Lanka), *East Asia* and *the Pacific* (most countries), *Latin America* and the *Caribbean* (most countries), and in *Central and Eastern Europe* (as a rule in the Russian Federation or in former Soviet states). Screening out the common regulations can at the same time localise the significance of the CRC. In these particular parts, the convention has furthered a supra-national consensus on achieving those things that the articles in question refer to. In this connection, it is a fundamental requirement that it is just these things that make it possible to take action in the best interests of children. At the same time, this is in spite of the fact that the starting points for States Parties making reservations when ratifying the agreement differ in regional, economic, ideological and also social terms.

2. Domestic legislation

According to Article 41 in the CRC “Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in: (a) The law of a State Party; or (b) International law in force for that State.” When the situation that is stated in this article exists, the significance of the CRC is severely reduced because its applicability does not come through the CRC’s own articles, but through principles and regulations enacted in national legislation. These have primacy over the articles of the CRC. On occasions, the situation can be that national legislation does not cover all those subjects (CRC articles 1-40) and administrative regulations (CRC articles 42-54) that have been taken into the CRC. In such cases, the significance of the CRC is that it complements regulations enacted in national legislation and thus brings added value from the viewpoint of a national legal system. This is one aspect of its central significance. From a legal viewpoint, experts unfamiliar with legislative questions may find this rather nebulous. It is therefore appropriate to make it more concrete by using a diagram.



The large circle represents the whole formed by the CRC’s different articles and the smaller circles within it represent national legislation. All the small circles signify Article 41 of the CRC. Together, they cover subjects such as those which are referred to at a very basic level in the different articles of the CRC and which are seen as strengthening the special regulations in individual laws. They can, for example, address issues such as

- a child's right to an upbringing
- the primacy of family protection
- the child's position following divorce
- a child's right to protection from violence
- foster care outside the home
- healthcare services
- the sexual exploitation of children
- education
- protection of children in employment
- juvenile delinquency

It is possible that these or other similar subjects are regulated in a significantly-more-individual and efficient manner in national legislation than in the CRC. In such cases, the CRC's general principles are left alone: they are replaced by the applicable national articles and sections (the small circles).

The diagram also takes into account the alternative in which the CRC covers those sectors in which national legislation has not been a subject of attention. The question then concerns areas within the large circle left when it is reduced by removing the whole represented by all the small circles. This subject can be illustrated by part of Article 3(1) in the CRC, which reads: "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." This type of general regulation does not really coincide with national legislation. It is therefore important that the CRC is kept in mind as a generally-valid method of acting in childrens' best interests

The same observation can be made concerning those articles which further childrens' rights in connection with information (articles 17 and 42 in the CRC). If and when they can, these specific articles add value to national legislation. Another consequence is that the CRC has equally-important significance in that it demands that attention be paid to

childrens' rights on a broad scale, and that the task of the media is to promote childrens' rights and cultivate childrens' values in particular. The alternative, i.e. that national legislation includes those regulations which are omitted from the CRC, is also not excluded. The small circles outside the large circle portray this aspect of the situation. The question can, for example, be that national legislation has norms for Internet use that are different to those in the CRC. The significance of the CRC is then that it stresses the requirement in Article 41 for the so-called "principle of *maximum efficiency*". There is a need to bring out this viewpoint because the significance of the CRC can be thought of as lying only in articles 1-40.

3. Reservations and declarations

No reservations or declarations allowed by Article 51 have been made in connection with approximately one third of articles 1-40 of the CRC. The position taken on the majority of the different articles has however been that of either a repudiation or a reservation. A total of 70 out of the 190 United Nations States Parties which ratified the CRC have made reservations or declarations. Some have been made for reasons connected with the national economy or technical legislative issues, but the vast majority are based on ideological grounds, above all on religious factors. In this sense, the articles of the CRC do not dictate the ideal, i.e. what childrens' rights should be if they were to be completely fulfilled. If this had been the case, no State Party would have made a single reservation. The situation is however otherwise, and is revealed in the table which follows:

<i>CRC article</i>	<i>Reservation/declaration committed by</i>
1	Argentina, Botswana, Cuba, Guatemala, Indonesia, Liechtenstein, and Malaysia
2	Bahamas, Belgium, Colombia, Cook Islands, Malaysia, and Tunisia
3	Luxembourg
4	Swaziland

- 5 Switzerland
- 6 China, France, Luxembourg, Tunisia
- 7 Andorra, Czech Republic, Kuwait, Liechtenstein,
Luxembourg, Malaysia, Monaco, Oman, Poland,
Switzerland, Thailand, Tunisia, and United Arab
Emirates
- 8 Andorra
- 9 Bosnia and Herzegovina, Croatia, Germany, Iceland,
Japan, Oman, Republic of Korea, and Slovenia
- 10 Cook Islands, Germany, Japan, and Switzerland
- 12 Kiribati, Poland, and Singapore
- 13 Algeria, Austria, Belgium, Holy See, Kiribati, Malaysia,
Poland, and Singapore
- 14 Afghanistan, Algeria, Bangladesh, Belgium, Brunei
Darussalam, Djibouti, Egypt, Holy See, Indonesia, Iran,
Iraq, Jordan, Kiribati, Kuwait, Malaysia, Maldives,
Mauritania, Morocco, Netherlands, Oman, Pakistan,
Qatar, Saudi Arabia, Syria, and United Arab Emirates
- 15 Austria, Belgium, Holy See, Kiribati, Luxembourg,
Malaysia, Poland , and Singapore
- 16 Algeria, Holy See, Indonesia, Kiribati, Mali, Poland,
and Singapore
- 17 Algeria, Austria, Indonesia, Singapore, and United Arab
Emirates
- 18 Germany
- 19 Singapore
- 20 Brunei Darussalam, Egypt, Holy See, and Jordan
- 21 Argentina, Bangladesh, Brunei Darussalam, Canada,
Egypt, Indonesia, Jordan, Kuwait, Maldives, Oman,
Korea (Republic of), Spain, Syria, United Arab Emirates,
and Venezuela
- 22 Germany, Indonesia, Mauritius, Netherlands, and
Thailand

- 24 Argentina, Kiribati, and Poland
- 26 Kiribati, Malta, and Netherlands
- 28 Kiribati, Malaysia, Samoa, and Singapore
- 29 Indonesia, and Turkey
- 30 Canada, France, Oman, Turkey, and Venezuela
- 32 India, New Zealand, and Singapore
- 37 Australia, Canada, Cook Islands, Iceland, Japan, Netherlands, New Zealand, Singapore, Switzerland, and United Kingdom
- 38(2) Andorra, Argentina, Austria, Colombia, Ecuador, Germany, Malaysia, Netherlands, Poland, Spain, Switzerland, and Uruguay; cf. article 41)*
- 40 Belgium, Denmark, Germany, France, Monaco, Netherlands, Republic of Korea, Switzerland, and Tunisia

In this connection, there is no point in starting to clarify on an individual basis the reasons why these States Parties have made reservations and given explanations. It is sufficient to give an example of what specific subject was the essential question. These are revealed in the following statements:

* The declarations linked to article 38(2) are relating to the age of 15-17 years, and to armed conflicts. Those member states has emphasized that they cannot accept the children below 18 years involved armed conflicts. – “The Colombian Government considers that, while the minimum age of 15 years for taking part in armed conflicts, set forth in article 38 of the Convention, is the outcome of serious negotiations which reflect various legal, political and cultural systems in the world, it would have been preferable to fix that age at 18 years in accordance with the principles and norms prevailing in various regions and countries, Colombia among them, for which reason the Colombian Government, for the purpose of article 38 of the Convention, shall construe the age in question to be 18 years.” – “The Government of the Federal Republic of Germany regrets the fact that under article 38 (2) of the Convention even fifteen-year-olds may take a part in hostilities as soldiers, because this age limit is incompatible with the consideration of a child’s best interest (article 3 (1) of the Convention). It declares that it will not make any use of the possibility afforded by the Convention of fixing this age limit at fifteen years.”

Iran “The Government of the Islamic Republic of Iran reserves the right not to apply any provisions or articles of the Convention that are incompatible with Islamic Laws and the international legislation in effect.”

Ireland: “Ireland reserves the right to make, when ratifying the Convention, such declarations or reservations as it may consider necessary.”

Kuwait: “Kuwait expresses reservations on all provisions of the Convention that are incompatible with the laws of Islamic Shari’a and the local statutes in effect.”

Mauritania: “In signing this important Convention, the Islamic Republic of Mauritania is making reservations to articles or provisions which may be contrary to the beliefs and values of Islam, the religion of the Mauritania People and State.”

Qatar: “The State of Qatar enter(s) a general reservation by the State of Qatar concerning provisions incompatible with Islamic Law.”

Saudi Arabia: “The Government of Saudi Arabia enters reservations with respect to all such articles as are in conflict with the provisions of Islamic law. “

The view has been expressed that the starting points for national legislation and the CRC are contradictory. Those favouring the first of the two wish to reject specific CRC articles. This applies to the media insofar as it concerns reservations to Article 17.

Austria: “Article 17 will be applied to the extent that it is compatible with the basic rights of others, in particular with the basic rights of freedom of information and freedom of press.”

United Arab Emirates: “While the United Arab Emirates appreciates and respects the functions assigned to the mass media by the article, it shall be bound by its provisions in the light of the requirements of domestic statutes and laws and, in accordance with the recognition accorded them in the preamble to the Convention, such a manner that the country’s traditions and cultural values are not violated.”

If we continue with religion, it would be a whole new story. It is enough to notice the crucial importance of the Quran, the Bible or other holy writings. There are at least two different and crucial norm-systems, one of which is stated in the CRC and the other which is based on religion.

In addition, there are also two other types of norm-system, social norms (how to bring up children in everyday life) and the system which is based on national legislation. All of them, not only the norm-system of the CRC, are in force *at the same time*.

In addition to reservation is it also possible for a State Party to make a “declaration”. The idea here is to clarify the interpretation of a particular article. Although from a purely-legal viewpoint declarations do not have quite the same “strength” as reservations, in practice, declarations can be just like reservations. If and when this is so, the “hidden message” given by a State Party in a declaration is this: no firm commitment to fulfilling the article in question will be given. The distinction between reservations and declarations is however not clear, quite the contrary. Two examples show this:

“The People’s Republic of China shall fulfil its obligations provided by Article 6 of the Convention under the prerequisite that the Convention accords with the provisions of Article 25 concerning family planning of the Constitution of the People’s Republic of China and in conformity with the provisions of Article 2 of the Law of Minor Children of the People’s Republic of China.”

“While fully subscribing to the objectives and purposes of the Convention, realising that certain of the rights of child, namely those pertaining to the economic, social and cultural rights can only be progressively implemented in the developing countries, subject to the extent of available resources and within the framework of international co-operation; recognising that the child has to be protected from exploitation of all forms including economic exploitation; noting that for several reasons children of different ages do work in India; having prescribed minimum ages for employment in hazardous occupations and in certain other areas; having made regulatory provisions regarding hours and conditions of employment; and being aware that it is not practical immediately to prescribe minimum ages for admission to each and every area of employment in India – the Government of India undertakes to take measures to progressively implement the provisions of Article 32, particularly Paragraph 2(a), in accordance with its national legislation and relevant international instruments to which it is a State Party.”

From the legal viewpoint, both China and India are obliged to fulfil the aims and objectives of Article 6 (China) and Article 32 (India). It is anyway correct to argue that these “declarations” are in fact reservations.

Some States Parties have even rejected the main principles supported by the CRC. Although Article 51(2) shows the kind of reservations that are prohibited, some States Parties do not attempt to hold on to its central idea. One example of this is Ireland, which “reserves the right to make, when ratifying the Convention, such declarations or reservations as it may consider necessary.” This and similar reservations essentially give States Parties “free hands”.

4. Resources

According to CRC Article 4, States Parties shall undertake all appropriate measures for implementation of the CRC. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their “available resources”.

The defining of “available resources” has been analysed by *Rachel Hodgkin* and *Peter Newell* in their excellent Implementation Handbook for the Convention on the Rights of the Child (1998, 680 pages). Available resources can be divided into three main categories - *human* resources (i.e. “people”), *economic* resources (i.e. “things”) and *organizational* resources (i.e. the “enabling environment”). Influenced by *David Parker* (see the note on Page 56), Hodgkin and Newell have classified the above resources into certain forms (stocks and flows). Here, it is sufficient to repeat in a restricted way what they have described using following table in relation to stocks:

Human resources	Economic resources	Organizational resources
skills, professionalism	land, natural resources	administrative structures
willpower, motivation	physical infrastructure	laws, regulations
knowledge, experience	equipment, tools	professional organizations
desire, commitment	technology, information	political power, control

The division into human, economic and organisational resources helps when making a general assessment of the significance of the CRC. When following discussions and writing concerning the CRC, it is difficult to avoid remarking that the most-common viewpoint is essentially CRC-centred, i.e. highlighting individuality and what originates from children, and what should also be given back to them. The thinking here is that children live without depending on resources as if they were completely on their own (“living on a desert island”), but adults and children cannot be isolated from one another in everyday life. It is for this reason that the significance of the CRC is tied to how external factors influence its implementation.

It is imperative to state that the CRC represents only one norm amongst others (such as organisational resources, laws, regulations). Different systems of norms do not, however, transform everyday actions as such.

The metaphor of a knife and bread is appropriate. The knife will not cut the bread until someone starts to slice with it. That is how it is nowadays. Some international organisation such as UNICEF or the Save the Children Fund or a national body should take care that the principles and regulations contained in legislative systems are put into action.

Performance is actually tied as much to one's own information skills, professionalism, commitment and desire to promote childrens' rights as it is to economic reality. The poorer the State Party, the more difficult it is to promote childrens' human and special rights. This particularly affects what are called "survival rights" and feature in connection with Article 6. Their significance is small in countries where levels of infant and child mortality are high. Paradoxically, the situation is much the same in those countries which have earlier been mentioned as focusing attention on low levels of child mortality. This conclusion is because other factors (such as economic resources) are of decisive significance rather than the factors regulated by Article 6 and other related articles in the CRC.

In connection with strengthening the rights of children to participation, the situation is otherwise, since listening to children and valuing them are not specifically connected with economic resources. In the final analysis, the question is whether children are to be listened to or not (human resources, and willpower plus motivation). Another factor is that in richer countries, modern technology can be exploited. For this reason, human and economic resources are linked.

The Internet does not however replace what is of primary importance to children, i.e. attachment and affection given by adults that are close to her or him. This is something that cannot be forced upon anyone, and this issue is not one of the primary principles of the CRC. This subject is visible even in Article 3(1), in which the primacy of childrens' best interests is emphasised and where attention is focused above all on the position of state power. Childrens' carers are not obligated to surrender their own benefits in the best interests of children. Some children receive love and affection, others do not. This will be true

regardless of what the CRC regulates. No single agreement alone can change the world and protect children. Above all, this means that law in books (the CRC) means something different to law in action (implementation of the CRC and particularly Article 4).

Since, regrettably often, genuine understanding is concealed by wilful ignorance, it is appropriate to highlight the following in this connection. What has just been said is in no way intended to compromise the importance and significance of the CRC. Exactly the opposite. The author emphasises the importance of the CRC. It is an instrument, one with which those who wish to do so can operate.

V CHALLENGES FOR THE MASS MEDIA

1. The most important articles in the CRC

There is not a single article in the CRC which does not have function or meaning. Each article has its own specific purpose. The significance of articles 1-41 is of course that they indicate what childrens' rights are and what they should be. The primary significance of the administrative regulations (articles 42-54) is naturally that without them, there would be no guarantee that the CRC articles concerned would be implemented.

In spite of this statement, it is possible to start by saying that seen from the viewpoint of the media, the weighting of articles differs. This becomes clear by comparing them with each other, for example Article 16 (right to privacy) and Article 17 (media) and Article 42 (making the CRC widely known), and on the other side Article 46 (the CRC is open to all states) and Article 49 (how the CRC enters into force) and Article 54 (original documents). From this it is possible to state that articles 16, 17 and 42 are of particular significance from the media viewpoint, while articles 46, 49 and 54 are not.

The weighting of different articles is different in spite of the fact that they directly concern reporters and producers. People working in the media hold differing opinions, even about the same article. A good example is Article 3(1), which emphasises the primacy of childrens' best interests. Some are, with good reason, of the opinion that this is the most important article, as it contains the CRC's most-supportable main principle. Others can claim, with just as much conviction, the opposite opinion, i.e. that the principle of childrens' best interests is itself confirmed in articles 5-40. In this, they are repeating in a concrete way what is generally confirmed in Article 3(1). The significance of this article is thus reduced.

The question is not now one of facts, only of fiction and the consequent problems. It is not possible to avoid this by adopting an “either-or” viewpoint. We must now decide whether we take an “in” or “out” position, since for people working in the media, it is important to seek out particular articles. By preferring some other article over Article 17 or Article 42, there is the specific risk that one’s own individual intuition could be misled. The author offers the following formulation. Although it constitutes a certain type of “top-ten” list, it does so in such a way that instead of placing articles in order of importance, they are in the order they feature in the legislative arrangement adopted by the CRC.

Article 2	non-discrimination
Article 12	right to be heard
Article 16	right to privacy
Article 18	importance of family
Article 19	violence
Article 28	education
Article 32	child labour
Article 33	drugs
Article 34	sexual exploitation
Article 35	trafficking

In Article 42, it is stated that “States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.” The *general* requirements thus confirmed can be fulfilled in many alternative ways, such as raising the matter of childrens’ rights at school and in other situations without interaction with the media. On the other hand, television, radio and the printed media disseminate information about what the CRC is and what it is not. In this context, Article 42 can be considered to be central to media activity. Compliance with its demands is also confirmed by Article 17:

States Parties recognize the important function performed by the mass media ---. To this end, States Parties shall: (a) Encourage the mass media to disseminate information and material of social and

cultural benefit to the child and in accordance with the spirit of Article 29; --- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous; ---.

In comparison to the attitude adopted in other articles and highlighted above, the author is sceptical about Article 42 and has reservations concerning Article 17. The first (Article 42) states that the task of the media is to take into account all of the articles contained in Part I of the CRC. This is almost impossible. If it were to be possible, the basic task of television, radio and the printed media would be much the same as that described in the CRC handbook. In such a case, it would be necessary to work through not only all the viewpoints already presented in this book, but also the CRC's rather-problematical legislative techniques, and at the same time, read through the main points article by article starting with Article 1 and finishing with Article 41.

Quite clearly, this challenge is one that the media is unlikely to meet. Choices have to be made and fairly courageous lines have to be drawn. One possibility is that the primary focus of attention is those themes referred to in the above list, such as childrens' equality, education, the primary significance of the family or the right to be heard, or to those where the leading principle is the gross violation of childrens' rights.

From the viewpoint of Article 42, Article 17 is subordinate and at the same time quite specific. In it, the role of the media is limited either consciously or in some other fashion. This can be observed, but it by no means belittles those goals that the CRC sets for education (Article 29), and which emphasise the basic rights of minorities to language rights (Article 30).

The task of the media is therefore either as broad as possible (Article 42) or rather limited (Article 17). This feels quite peculiar. The same can be said of the fact that official political power in States Parties should "encourage" the media to exploit its power, but in some marginal way. The challenge for the media is unlikely to lie here. Above all else,

it is that the media is freely permitted to use its freedom of speech while at the same time being subject to no restrictions other than those ethical considerations which apply to all journalism at national and international level. From this thesis, we move on to two more.

2. Some theses

It has been claimed that the CRC is not very familiar to people working in television, radio and the printed media. The interesting question is then what sort of information shortcomings may exist. Of central importance is to ponder how reporters and producers should, in one way or another, be well acquainted with the CRC's (a) background, (b) intentions, (c) main contents and (d) significance. In connection with this aspect of the matter, it is possible to present some theses based on the examination already carried out.

- (a) During the 1979 International Year of the Child, a major question was high levels of infant and child mortality. Reducing these was targeted through the achievement of a *binding* agreement which would oblige United Nations States Parties to take action to reduce child mortality. When framing the CRC, matters brought to the fore included the position of street children, the exploitation of child labour, childrens' participation in hostilities and other military activities, as well as trafficking in children and child prostitution. When examining the background, it also became clear that one of the basic ideas of the CRC was to strengthen childrens' rights of participation. The target was for childrens' voices to be heard more clearly and that under-18s should have the right to participate in decisions that affect them. In this way, the importance of childrens' human and special rights in national regulations began to grow. Previously, things had been quite different, as the 1924 and 1959 declarations of childrens' rights were not intended as binding international instruments.

In this way, the main principle had been both childrens' needs and above all the protection of childhood. As already stated, childrens' needs can be characterised as a three-way split: having-being-loving. The question

concerns a certain kind of basic economic security, the preservation of each person's value as an individual (human dignity), and the feelings of being cared for, accepted and valued for what one is (human being), not just for what one can do (human doing). Childhood is a phenomenon that we cannot touch, it is an abstraction which exists only in our imagination. And this phenomenon should also be kept in view in the United Nations Convention on Childrens' Rights. Its title could perhaps be better. Closer to the real target, for example, would be the "United Nations Convention on the Protection of the Childhood".

Once the starting points have been agreed, when the media are protecting childhood they can appeal to the CRC's legal status as an official binding agreement related to policy in States Parties towards children, no longer just as a publication that simply provides guidance. Politicians using political power cannot dispute this view of the CRC's background as a binding commitment.

The challenge is how media representatives can bring this aspect of the matter into the public discussion – it is unlikely that people who form the audience for television, radio or the printed media have any interest at all in abstract phenomena.

(b) In contrast to the 1924 GDRC and the 1959 DRC, the CRC attempts to provide comprehensive norms in all those sectors which are usually of significance in terms of childrens' needs and their position. The CRC can thus be taken as a comprehensive blanket charter for childrens' needs, their position and their rights. In this connection, it is therefore important that the CRC defines a list (worksheet) of all the viewpoints the media should investigate if they wish to promote childrens' human and special rights. If, time after time, it is necessary to sift through a variety of scattered material concerning childrens' rights and their position from a particular aspect, media representatives will have to spend a great deal of time and resources in the process. This task for reporters and producers is made much simpler by focusing attention on the intentions of the CRC and thus on a comprehensive view of what

childrens' rights are and what they should be. One snag, however, is that the so-called "greater public interest" is usually attached to severe infringement of childrens' rights rather than to the rights themselves. In such cases, the question usually concerns individual events such as violence within a family, the sexual exploitation of children, or, for example, juvenile delinquency. The challenge is how to transfer attention from concrete examples of the violation of childrens' rights to the abstract rights confirmed by the CRC.

- (c) Being acquainted with the main contents of the CRC is important because people often make the error of believing it has been implemented just as it is and in the same way in all United Nations States Parties. When we are, for example, at the point where national legislation (Article 41) can by agreement replace the regulations specified in CRC articles, no further attention is paid to the in a way "wrong" articles, i.e. those which are not officially in force in the State Party concerned. The same observation applies to reservations (Article 51). If a specific State Party has decided to make a reservation, it indicates that there is an official desire for such a choice. But the opposite is also true: if a reservation or declaration has not been made, then the CRC articles apply.

One fundamental problem from the content point of view is that the CRC requires that it be communicated not only to adults, but also to children (Article 42). The latter are primarily interested in themselves, each other and their idols. It is unlikely for children to be in any way interested in knowing what the CRC articles contain, not to mention those administrative regulations which feature for example in articles 41 and 51. How on earth would it be possible to make television or radio programmes or write articles about them?!

- (d) It is possible to view the CRC as an instrument. In many ways it can be seen as that, as a national tool for shaping policy towards children. In some countries, the situation can even be that national policy towards children cannot be practised at all, since "everything is linked to everything". From the viewpoint of the CRC this does

not hold, as can be seen in Article 44: “States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights: (a) Within two years of the entry into force of the Convention for the State Party concerned; (b) Thereafter every five years. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned. “.

According to this, States Parties are obliged to have a separate programme for policy towards children, whether they want to or not. As these programmes are not only official but also public contracts, modern technology allows media representatives to access these without problems. At the same time, this reveals the extent to which the principles which underlie the CRC and its articles have or have not been officially implemented in each State Party.

Users of political power of course allow public discussion of those matters where the human and special rights confirmed by the CRC have been implemented. In contrast, the situation is quite otherwise when these rights have not been implemented or when the system is based on the acknowledged violation of women’s and childrens’ rights. A bigger challenge is to establish a balance between complete freedom of speech on one hand and its use against ideological factors and political reality on the other.

3. Plans of action

The world’s first international consultative conference on journalism and childrens’ rights took place in May 1998 in Recife, Brazil. The closing public statement contains many kinds of action plans:

“All journalists and media professionals have a duty to maintain the highest ethical and professional standards and should promote within the industry the widest possible dissemination of information about the International Convention on the Rights of the Child and its implications for the exercise of independent journalism. Media organisations should regard violation of the rights of children and issues related to children’s safety, privacy, security, their education, health and social welfare and all forms of exploitation as important questions for investigations and public debate. Children have an absolute right to privacy, the only exceptions being those explicitly set out in these guidelines.

Journalistic activity which touches on the lives and welfare of children should always be carried out with appreciation of the vulnerable situation of children.

Journalists and media organizations shall strive to maintain the highest standards of ethical conduct in reporting children’s affairs and, in particular, they shall

1. strive for standards of excellence in terms of accuracy and sensitivity when reporting on issues involving children;
2. avoid programming and publication of images which intrude upon the media space of children with information which is damaging to them;
3. avoid the use of stereotypes and sensational presentation to promote journalistic material involving children;
4. consider carefully the consequences of publication of any material concerning children and shall minimize harm to children;
5. guard against visually or otherwise identifying children unless it is demonstrably in the public interest;
6. give children, where possible, the right of access to media to express their own opinions without inducement of any kind;

7. ensure independent verification of information provided by children and take special care to ensure that verification takes place without putting child informants at risk;
8. avoid the use of sexualized images of children;
9. use fair, open and straight forward methods for obtaining pictures and, where possible, obtain them with the knowledge and consent of children or a responsible adult or guardian;
10. verify the credentials of any organization purporting to speak for or to represent the interests of children;
11. not make payment to children for material involving the welfare of children or to parents or guardians of children unless it is demonstrably in the interest of the child.

Journalists should put to critical examination the reports submitted and the claims made by Governments on implementation of the UN Convention on the Rights of the Child in their respective countries. Media should not consider and report the conditions of children only as events but should continuously report the process likely to lead or leading to the occurrence of these events. “

To this, I have nothing to add.

4. Finally

In United Nations States Parties that have ratified the CRC without reservations, we lawyers emphasise its status as a binding agreement and simultaneously as something that invalidates the objective principles of a declared programme, i.e. the 1959 DRC. In spite of this, countless articles employ expressions such as “striving / by using the available resources / necessary measures”. As absolute and precise agreed obligations do not exist, it is quite natural to end by asking the following

question: Can the CRC change the world? Answers can take many alternative forms while at the same time being framed in a cynical, idealistic, optimistic or realistic manner.

Cynicism comes from the hugeness of the problems and the smallness of the articles. Environmental catastrophes, wars, expanding populations, over-indebted nations or desperate poverty are things that the articles of the CRC will never change. They can of course arouse temporary interest in what is happening to children. But they cannot do away with childrens' distress by turning them into wellbeing.

Idealism comes from regarding being and observance as identical: what things should be according to the CRC is the same as what they are. Since the CRC emphasises childrens' best interests and prohibits all forms of discrimination, it also follows that childrens' best interests are realised and that equality between children overrides any inequality.

Optimism is a question of the past, the present, and the future. As we know, great changes such as the end of apartheid have taken place during the period in which the CRC has been in force, and the position of children, particularly in South Africa, has improved in the long term. The same observation can be made about the U5MR, as levels of child and infant mortality are falling. From a wider perspective, we are still waiting to see whether the CRC will leave a positive mark on childrens' lives and their station.

Realism highlights the CRC as a tool at international and national level. Its value is not made greater or smaller by the efficiency of its articles. Their value is that of being instruments. Different articles can be exploited in national, situational, cultural or age-related circumstances to highlight childrens' needs and to promote childrens' human and special rights. Also, realism means that even though the CRC does not influence the lives of individual children, it does help to expand recognition of the value of childhood and its cultivation. This is one of the central messages of this book.

APPENDIX I

Declaration of the Rights of the Child

Proclaimed by General Assembly resolution 1386(XIV)
of 20 November 1959

Whereas the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Whereas the United Nations has, in the Universal Declaration of Human Rights, proclaimed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Whereas the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth,

Whereas the need for such special safeguards has been stated in the Geneva Declaration of the Rights of the Child of 1924, and recognized in the Universal Declaration of Human Rights and in the statutes of specialized agencies and international organizations concerned with the welfare of children,

Whereas mankind owes to the child the best it has to give,

Now therefore,

The General Assembly

Proclaims this Declaration of the Rights of the Child to the end that he may have a happy childhood and enjoy for his own good and for the good of society the rights and freedoms herein set forth, and calls upon parents, upon men and women as individuals, and upon voluntary organizations, local authorities and national Governments to recognize

these rights and strive for their observance by legislative and other measures progressively taken in accordance with the following principles:

Principle 1

The child shall enjoy all the rights set forth in this Declaration. Every child, without any exception whatsoever, shall be entitled to these rights, without distinction or discrimination on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family.

Principle 2

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.

Principle 3

The child shall be entitled from his birth to a name and a nationality.

Principle 4

The child shall enjoy the benefits of social security. He shall be entitled to grow and develop in health; to this end, special care and protection shall be provided both to him and to his mother, including adequate pre-natal and post-natal care. The child shall have the right to adequate nutrition, housing, recreation and medical services.

Principle 5

The child who is physically, mentally or socially handicapped shall be given the special treatment, education and care required by his particular condition.

Principle 6

The child, for the full and harmonious development of his personality, needs love and understanding. He shall, wherever possible, grow up in

the care and under the responsibility of his parents, and, in any case, in an atmosphere of affection and of moral and material security; a child of tender years shall not, save in exceptional circumstances, be separated from his mother. Society and the public authorities shall have the duty to extend particular care to children without a family and to those without adequate means of support. Payment of State and other assistance towards the maintenance of children of large families is desirable.

Principle 7

The child is entitled to receive education, which shall be free and compulsory, at least in the elementary stages. He shall be given an education which will promote his general culture and enable him, on a basis of equal opportunity, to develop his abilities, his individual judgement, and his sense of moral and social responsibility, and to become a useful member of society.

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.

The child shall have full opportunity for play and recreation, which should be directed to the same purposes as education; society and the public authorities shall endeavour to promote the enjoyment of this right.

Principle 8

The child shall in all circumstances be among the first to receive protection and relief.

Principle 9

The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be the subject of traffic, in any form.

The child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental or moral development.

Principle 10

The child shall be protected from practices which may foster racial, religious and any other form of discrimination. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.

APPENDIX II

Convention on the Rights of the Child
Adopted and opened for signature, ratification and
accession by
General Assembly resolution 44/25
of 20 November 1989

Preamble

The States Parties to the present Convention,
Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,
Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,
Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,
Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,
Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children, ‘ Bearing in mind that, as indicated in the Declaration of the Rights of the Child, “the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth”’,

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) ; and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child, Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

PART I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

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.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests. 4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would

be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.
2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

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 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.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others; or
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;

- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.
3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and

follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;
- (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

- (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child. 3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development
4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the

treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - (a) To diminish infant and child mortality;
 - (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
 - (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
 - (d) To ensure appropriate pre-natal and post-natal health care for mothers;
 - (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
 - (f) To develop preventive health care, guidance for parents and family planning education and services.
3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.
4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this

regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.
2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
 - (a) Make primary education compulsory and available free to all;
 - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
 - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
 - (d) Make educational and vocational information and guidance available and accessible to all children;
 - (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to

contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:
 - (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
 - (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
 - (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
 - (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
 - (e) The development of respect for the natural environment.
2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - (a) Provide for a minimum age or minimum ages for admission to employment;
 - (b) Provide for appropriate regulation of the hours and conditions of employment;
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed

conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.
2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:
 - (a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;
 - (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:
 - (i) To be presumed innocent until proven guilty according to law;
 - (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her

parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

- (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
- (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
- (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
- (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;
- (vii) To have his or her privacy fully respected at all stages of the proceedings. 3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:
 - (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
 - (b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of a State party; or
- (b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.
2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.
5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.
7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.
8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.
10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.
11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.
12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:
 - (a) Within two years of the entry into force of the Convention for the State Party concerned;
 - (b) Thereafter every five years.
2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.
4. The Committee may request from States Parties further information relevant to the implementation of the Convention.
5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.
6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

- (a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;
- (b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance,

along with the Committee's observations and suggestions, if any, on these requests or indications;

- (c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;
- (d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.
2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.
3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present Convention.