

**THE CONVENTION ON THE RIGHTS OF THE CHILD :
PROSPECTS FOR INTERNATIONAL ENFORCEMENT**

by

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The children of the world are innocent, valnerable and dependent. They are also curious, active and full of hope. Their time should be one of joy and peace, of playing, learning and growing. Their future should be shaped in harmony and co-operation. Their lives should mature, as they broaden their perspectives and gain experiences. But for many children, the reality of childhood is altogether different. Each day, countless children around the world are exposed to danger that hamper their growth and development. They suffer immensely as casualties of war and violence; as victims of racial discrimination, apartheid, aggression, foreign occupation and annexation; as refugees and displaced children, forced to abandon their homes and their roots, as disabled; or as victims of neglect, cruelty and exploitation. Each day, millions of children suffer from the scourges of poverty and economic crisis, from hunger and homelessness, from epidemics and illiteracy, from degradation of the environment. Each day 40,000 children die from malnutrition and disease from the lack of clean water and inadequate sanitation and from the effects of the drug problem. These are challenges that we must meet.¹

Together, our nations have the means and the knowledge to protect the lives and to diminish enormously the suffering of children, to promote the full development of their human potential and to make them aware of their needs, rights and opportunities. The Convention on the Rights of the Child provides a new opportunity to make respect for children's rights and welfare truly universal.

1. This was the challenge of the world declaration on the Survival, protection and development of children : The World Summit for children held at the U. N. New York on 30 Sept. 1990, See UNICEF, *The State of the World's Children*, 1991, p. 53.

On 20 November 1989, the General Assembly of the United Nations unanimously adopted the Convention on the Rights of the Child. The result of 10 years of consultation involving governments UN agencies and more than 50 international voluntary organizations, the Convention aims to set universal standards for the defence of children against neglect, exploitation and abuse.²

The final document brings together in one comprehensive code the legal right of the child, which were previously scattered through scores of other international agreements of varying scope and status, and adds new stipulations.

The Origins of the Convention :

Logically, the origins of the Convention on the Rights of the child can be traced back to the five basic principles for child welfare and protection set out in the "Declaration of Geneva", which was promulgated in 1924 by the then "Save the Children Fund International Union." This first attempt to codify in one text the fundamental conditions to which children had a right was endorsed by the League of Nations that same year. It was revised and amplified in 1948, and the resulting text formed the basis of the ten point Declaration on the Rights of the Child adopted unanimously by the General Assembly of the United Nations on 20 November, 1959.

Declarations and Conventions :

As International instruments, declarations are what is known as "soft" law : they are statements of general principles accepted by governments but which carry no specific obligations as such. They contrast with Conventions, which are binding, "hard Law" requiring an active decision on the part of individual States to accede to or ratify them. These "States Parties" to a convention thereby signify their intention to comply with the provisions and obligations it contains. A mechanism for monitoring their compliance is normally established as an integral part of the Convention.³

2. UNICEF, *The World Summit*, p. 12.

3. UNICEF, "Convention on the Rights of the Child", *The Future of the United Nations*, p. 1.

Children in Human Rights Law :

Alongside the gradual development of universally accepted principles concerning responses to the special vulnerability, needs and situations of children, the body of international humanitarian and human rights law was also being constituted and, of course, is continually being supplemented. This "body" comprises a wide range of instruments. Some are binding, such as Red Cross, Geneva Conventions, the I L O Conventions, the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights. Others are non-binding for example, the Standard minimum Rules for the Treatment of prisoners, the Principles of Medical Ethics and, of course, the Declaration on the Rights of the Child itself. Many of the provisions of both the binding and non-binding texts in fact apply implicitly to children (by virtue of the latter's status as human beings) or make specific and explicit reference to the child. Indeed, one can identify over 80 International instruments that concern, in one way or another, the situation of children, and many of these are binding. At the same time, because these texts have been drawn up separately over a sixty-year period and without any over 11 and special concern for children's global needs, the rights they grant contain a number of inconsistencies and, in particular, are far from being comprehensive. In addition, those provisions that are not child specific, whilst being applicable to children, do not take account of the latter's special needs which often require in principle the setting of standards that are higher than for adults. Finally, the instruments in question are, a mixture of "hard" and "soft" law, meaning that by no means all the rights they implicitly or explicitly afford to children put any obligations on States.⁴

A Guide through the Convention

The following is a summary of the major issues covered by each article of the convention, and is intended to serve as an easy reference guide to the text :

4. Ibid. p. 1.

A Convention for all children

The Convention applies to all persons below the age of 18 unless, according to national law, they have attained majority at an earlier age (art.1)

The provisions of the Convention are based on the principle of nondiscrimination. They apply to all children regardless of race, colour, sex, language, religion, political or other opinion, national ethnic or social origin, property, disability, birth or other status (art. 2).

The Convention gives the child the right to a name and a nationality (art. 7) and states that every child has the inherent right to life (art. 6). States Parties shall ensure the survival and development of the child. Articles 24 and 27 give provisions for securing the right to the highest attainable standard of health and a standard of living adequate for the child's development. Article 26 recognizes the right of the child to benefit from social security.

In the Child's best interest...

According to article 3, the best interests of the child shall be a primary consideration in all actions concerning children. In connection with the various provisions of the Convention, the best interests of the child are referred to or further specified by reference to his or her family ties, continuity in the upbringing, and the child's ethnic, religious, cultural and linguistic background (e. g., articles 9, 17, 18, 20, 21, 40).

All children are entitled to the right of parental care and not to be separated from their parents (art. 9), and all applications for family reunification are to be dealt with in a positive, humane, and expeditious manner (art. 10).

If a child is temporarily or permanently deprived of his or her family environment, he or she is entitled to special protection and assistance provided by the State, and alternative care is to be ensured (art. 20). When searching for appropriate alternative care, due attention is to be paid to giving the child an environment as

similar as possible to that in which he or she has previously been living. Intercountry adoption should be regarded as a last resort, and adoption of any kind should be undertaken in strict conformity with rules set out by the competent authorities (art. 21). The Convention also applies to children in situations of armed conflict (art 38), and refugee children (art 22).

In the text of the Convention, there are several provisions to protect children from all kinds of exploitation, especially sexual and economic exploitation (articles 32-36) as well as guidelines for recovery and reintegration in cases where children have actually been the victims of cruelty or exploitation (art. 39).

A number of provisions deal with the right to education and the objectives of education (article 28 and 29). At the same time, the convention also makes it clear that children have a right to leisure and recreation (art. 31).

Children deprived of their liberty or who are in conflict with the law are given special attention in articles 57 and 40; the former also prohibits torture, life imprisonment or execution of children.

The implementation machinery of the convention (articles 42-45) is designed to give special emphasis to creating a setting for global cooperation and development in the realization of the provisions and ideals of the Convention.

Fourteen examples of improved rights

Among this vast array of provisions are many that constitute a significant upgrading of international norms applicable to children to date, as well as a number of interesting innovations in substance and approach. Several had their roots in the proposals put forward by the NGO Ad Hoc Group and UNICEF, and many were the result of government initiatives. The following are among the most notable improvements and additions to existing standards in this sphere.

The best interests of the child (art. 3): This article is fundamental to the whole Convention in that it stipulates that the

child's interests must be a "primary consideration" in all actions concerning children whilst the term "best interests" leaves room for interpretation, its inclusion as the guiding principle marks an important step forward in terms of the approach to be taken to children as a group as well as in individual cases when determining the most appropriate solutions to situations in which they find themselves.

From survival to adoption ...

Survival and development (art. 6) : The State's obligation to do everything possible to ensure child survival is a concept that has never before been recognised in international human rights law. It reflects the fact that special measures are required to prevent child mortality and disablement due to disease and malnutrition.

Preservation of Identity (art. 8) : This is another totally new obligation. Here the Convention underscores the Child's right to name and nationality by the careful protection of the child's identity. The Working Group included this provision at the suggestion of one government in the light of mass "disappearances" of children whose identity papers had been deliberately falsified and family ties arbitrarily severed. The provision is intended to prevent the recurrence of this phenomenon anywhere in the world.

The Child's opinion (art. 12): The right of the Child not only to express an opinion but also to have that opinion taken into account in matters that affect him or her is a highly significant recognition of the need to give children a greater say in their own lives.

Child abuse and neglect (art. 19): The feature of special interest in this article is the emphasis placed on the prevention of intra-familial abuse and neglect, which has never previously figured in a binding instrument.

Adoption (art. 21) : This article is of special importance because of the emphasis it places on the need for strong safeguards surrounding the adoption process-especially as regards inter-country adoption- and the fact that it brings into this binding instrument

principles that were adopted only three years ago by the United Nations in the framework of a non-binding declaration.

... health to education ...

Health (art. 24) : In addition to its explicit references to primary health care and to education regarding the advantages of breast-feeding as means of promoting access to the highest attainable standard of health, this article stands out because it mentions- for the first time in a binding international instrument- a State obligation to work towards the abolition of traditional practices.

Periodic review of placement (art. 26): The obligation to review periodically all institutional placements designed to ensure the care, protection or treatment of children, in order to determine whether or not they are still appropriate, responds to a recently-voiced concern and, again, has never previously figured in a human rights instrument.

Education (art. 28) : The novelty here is that, whilst corporal punishment is not explicitly outlawed, there is reference to the fact that school discipline must be administered "in a manner consistent with the child's human dignity", another "first".

... and drug abuse to awareness-building

Drug abuse (art. 33): This is the first time that specific mention is made of the need for protection of children from drug abuse and from being used in the production and distribution processes of illicit substances.

Deprivation of liberty (art. 37) : The aspect of special note in this article is the inclusion of the principle that deprivation of liberty must be looked upon as a last resort and, it is nonetheless ordered, must be limited to the shortest possible period of time.

Rehabilitative care (art. 39) : An important addition to the body of children's rights is this article which places an obligation on States to promote adequate treatment for children harmed

physically or psychologically as a result of violations of their right to protection, in particular, from exploitation and cruelty.

Administration of juvenile justice (art. 40) : Many of the essential principles of the 1985 UN Standard Minimum Rules for the Administration of Juvenile Justice- a non-binding instrument- have been incorporated into this article, the longest and most detailed of the whole Convention, with the result that international norms in this sphere have been significantly upgraded.

Making the Convention known (art. 42) : Strictly speaking, this article comes under the implementation provisions of the convention. It is well worth highlighting here, however, because it is the first time that specific and explicit recognition has been given to the need for children themselves to receive information on their rights. This is a further indication of the gradually changing attitude towards children that, overall, this Convention both reflects and helps to foster.

Implementation and entry into force :

These provisions notably foresee: (Art 43-54) (i) the setting up of a committee on Children's Rights composed of ten experts, which will consider reports that States Parties to the Convention are to submit two years after ratification and every five years thereafter. The Convention enters into force- and the Committee would therefore be set up - once 20 countries have ratified it.

(ii) States Parties are to make reports widely available to the general public.

(iii) The Committee may propose that special studies be undertaken on specific rights covered by the Convention, and may make its evaluations known to each State Party concerned as well as to the UN General Assembly.

(iv) in order to 'foster the effective implementation of the Convention and to encourage international cooperation the socialised agencies of the UN (such as the ILO, WHO and UNESCO)

and UNICEF would be able to attend the meetings of the Committee. Together with any other body recognised as "competent" including NGOs in consultative status with the UN and UN organs such as the UNICEF, they can submit pertinent information to the Committee and be asked to advise on the optimal implementation of the Convention.

Why special rights for children ?

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

- * reaffirm or reflect rights granted to human beings of whatever age, e. g. protection from torture, the right to a name and nationality, the right to social security.

- * improve, with regard to children, the standards applicable to human beings in general, e.g. special conditions of employment, administration of juvenile justice, conditions, of deprivation of liberty.

- * address issues that are solely or more especially relevant to children, e. g. adoption, primary education, contact with parents.

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

Everythings but political :

Human rights are traditionally classified under five headings : civil, political, economic, social and cultural. Although special, children's rights are an integral part of human rights, and they can also be classified in this way, except that the very status of a child means in principle that he or she has no political rights. Thus :

- * the civil rights of children include the right to a name and nationality, protection from torture and maltreatment, special rules governing the circumstances and conditions under which

children may be deprived of their liberty or separated from their parents, etc.

* the economic rights of children include the right to benefit from social security, the right to a standard of living adequate to ensure proper development; and protection from exploitation at work;

* the social rights of children include the right to the highest attainable standard of health and access to medical services, the right to special care for handicapped children, protection from sexual exploitation and abduction and the regulation of adoption;

* the cultural rights of children include the right to education, access to appropriate information, recreation and leisure, and participation in artistic and cultural activities.

The provisions of the Convention apply to four main areas of children's rights: survival, development, protection and participation. Underlying them all is the principal that the "best interests" of the child shall be used as the touch stone for all decisions affecting childrens, well being and dignity.

* *Survival* : The first specific right mentioned in the inherent right to life. States must ensure "to the maximum possible, the survival and development of the child". The convention recognizes the right to access to health care services (such as immunization and oral rehydration therapy), and to on adequate standard of living (including food, clean water, and a place to live). In addition, the child has the right to a name and a nationality.

* *Development* : To allow every individual the chance to develop to his or her potential, the Convention contains Provisions relating to the childs right to education, to rest and leisure, and to engage in cultural activities.

* *Protection* : Many of the Convention provisions are designed to provide protection for children in a wide range of circumstances. Some deal with mentally or physically disabled children, others with refugees or Parentless Childrens, or with children who are

separated from their parents. The Convention also covers economic, sexual and other forms of child exploitation, and requires that appropriate measures be taken to protect children from the use and sale of drugs. In addition, it sets out the rights of the children in times of armed conflict, and of children who are in trouble with the law.

* *Participation* : The Convention underlines the child's right to freedom of expression and information, and to freedom of thought, conscience and religion. It also stipulates that parents shall give "due weight" to the views of children in accordance with their age and maturity, and to raise them to be able to play an active role in society at large.

It is expected that the standards set by the convention will become the point of reference for everyone concerned with the health, development and protection of children. The Convention therefore provides a universally accepted basis for advocacy on behalf of children every where.⁵

The Implementation Mechanism :

No matter how innovative or progressive the convention looks on paper, it will change nothing if the rights it contains are not put into practice. Whether anything is achieved by the convention- in other words, whether the daily lives of children are actually improved by this treaty- depends on how it is implemented.

Like every other binding treaty, the Convention on the rights of the child has a built in implementation mechanism designed to ensure that states parties obligations are respected. Under this Convention a Committee on the rights of the Child is set up to consider reports submitted by gov't's regarding their compliance with the provisions of text, together with information from other authorised sources. The Committee is composed of ten independent experts elected by State Parties and serving in their personal capacity. If it has concerns about any aspects of the report or other information it receives, or if it wishes to respond to any difficulties

5. UN ICEF, *The World Summit for Children*, p. 12.

that governments have identified as hampering their compliance, it will initiate dialogue with officials of the country concerned in order to find means of improving the situation. The specialised agencies and organs of the UN (such as UNICEF) will be entitled to be represented at meetings of the committee., which may call on them, together with other competent bodies (including recognised NGO's) to provide expert advice. The Committee also retains the right to request further information from State Parties, recommend that studies on specific issues can be undertaken, and submit to the UN General Assembly comments and suggestions regarding States reports.

Although implementation is clearly the formal and ultimate responsibility of those individual government that ratify it, this does not mean that inter-governmental organisations and the non-governmental community-international, national and local-have little or no role to play. Similarly, whilst the official monitoring body will be the committee of experts, the non-governmental sector in particular will also surely need to be active in keeping track of gov't compliance with the rights set out in the Convention.

Whatever the initiatives that are finally decided upon, by individuals, local and national groups and the international community, they must all take account of an undeniable reality : the Convention is not unlike a motor car, if it is left standing idle in the drive-way, it serves no purpose other than ostentatious display. But if it is used, it becomes a vehicle-and in this case, a much-needed vehicle for improvement in the lives of children every where.⁶

Critical Analysis : Proponents of the Convention, including a variety of international and non governmental organizations, have hailed the completion of the Convention as a major step forward in the protection and promotion of children's rights. They argue that the Convention, if widely ratified, will serve as a tool for such organisations to use in urging governments to improve the welfare of the children.⁷ Educators have also asserted that they

6. UNICEF, *Convention on the Rights of the Child*, p. 2.

7. UNICEF, *Toward a UN Convention on the Rights of the Child* (1988).

can introduce the convention in School curricular worldwide as a basis for teaching children about human rights.⁸ This laudable goals may well be realized.

Relatively little attention, however, has focused on the prospects of legal enforcement of the norms set forth in the Convention. The Convention is, after all, a legal document that purports to set binding standard for ratifying states.

i) *Repetition of standards* : The United Nations has proved itself most capable of producing instruments proclaiming human rights standards. In general, the standards established in these instruments apply equally to children and adults. The question is, whether the entry into force of the Convention on the Rights of the Child will in fact promote greater observance of human rights of children? Since most of the standards contained in the Convention repeat almost verbatim standards' already applicable to children by virtue of prior instruments, what greater legal protection is the Convention, likely to afford to children?

Mere duplication of language from pre-existing instruments should not automatically detract from the promotion of the human rights of children. In fact, to the extent that pre-existing standards are contained in instrument subject to ratification, it is possible that more states, or different states, will ratify the convention on the Rights of the Child, and hence assure for the first time the express obligation to extend to children the protections in question.⁹

Moreover, the greater the repetition of standards, the more easily it may be argued that the standards themselves reflect customary international law. Moreover, in all cases, according to the Art. 38 1(b) of the Statute of the International Court of Justice, the standards established in human rights instrument must reflect general state practice accepted as law in order to constitute norms of customary international law.

8. *Castelle, In the child's Best Interest : A Primer on the UN Convention on the Rights of the Child* (1988).

9. *The Convention on the Rights of the Child : Prospects for International Enforcement* by David A. Balton in *Human Rights Quarterly* page. 120.

In Art 37 of the Convention on the Rights of the Child prohibits the subjection of children to "torture or other cruel, inhuman or degrading punishment." This prescription is hardly novel; Art. 5 of the Universal Declaration and Art 7 of the International Covenant on Civil and Political Rights make the identical prescription applicable to all human beings, including children.

Relying in Part on such a repetition of standards, the United States court of Appeal for the Second Circuit has held in the case of *Filartiger v. Pena - Irala*¹⁰ that: "In light of the Universal condemnation of torture in numerous international agreements, and the renunciation of torture as an instrument of official policy by virtually all of the nations of the world (in principle if not in practice), we find that an act of torture committed by a state official against one held in detention violates established norms of the International Law of human Rights, and hence the law of nations."

Similarly, it is at least possible that future courts and international tribunals will regard the repetition of standards in human rights instruments such as the convention on the rights of the child as evidence of Customary international law.

However, the repetition of standard entail one notable risk. Observing that the Convention repeats only selected standards from pre-existing instruments, future tribunals and others charged with interpreting and applying the Convention may conclude that the drafters of the Convention intentionally omitted other standards that had previously applied to children. Article 41 of the Convention does contain a savings clause to limit this danger:

"Nothing in this Convention shall affect any provision that are more conducive to the realisation of the rights of the child and that may be contained in

(a) the law of the State Party; or

(b) international law in force for that state".

10. 630 F. 2d 876, 880 (2d Cir 1980).

Moreover, the omission of a specific human rights from the Convention may lead to the conclusion that children simply do not "have" that right, or not to the same extent as adults.

To take an example, Article 6 of the Universal Declaration of the human rights states that "everyone has the right to recognition everywhere as a person before the law."

Similarly Article 16 of the International Covenant on civil and political rights provides that "everyone shall have the right to recognition everywhere as a person before the law."

Their language would indicate that children, along with everyone else, enjoy the right to recognition everywhere as a person before the law. The Convention on the Rights of the Child, however, contains no comparable provision. But it may be accorded to children under the saving clause (U/Art 41). On the other hand it may be that the Drafters of the Convention determined that the right to recognition as a person before the law does not apply to children, perhaps because such recognition entails the right to execute contracts or other rights incompatible with childhood.

II Derogation from Pre-existing Standards :

According to a General Assembly Resolution¹¹ it urged that new standards should - "be consistent with the existing body of international human rights law."

But the Convention on the Rights of the child includes provisions falling short of pre-existing standards. Consider Article 14 of the Convention. Incorporating language from prior instruments, this Article requires states parties to "respect the right of the child to freedom of thought, conscience and religion."

Article 14, however, omits the following additional language contained in prior instruments:

1. This right includes the freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or

11. G. A. Res. 41/120, UN Doc. A/Res./41/120.

belief in teaching, Practice, worship and observance (Article 18, of Universal Declaration); or

2. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching (Art 18, International Covenant on Civil and Political Rights;) or
3. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in Public or Private, to manifest his religion or belief in worship, obeservance, practice and teaching (Art 1, Declaration on the Elimination of All Forms of intolerance and of Discrimination Based on Religion or Belief, General Assembly Resolution 36/55)¹²

By failing to include comparable language, the convention on the Rights of the Child calls into question whether children in fact enjoy each of these specific rights. The Working group on the Draft Convention on the Rights of the Child¹³ decided that certain delegations no longer agreed that children enjoy the specific rights previously subsumed within the general right to freedom of thought, conscience and religion, especially the freedom to choose or change one's religion or belief.

The drafting of these instruments operates on the concensus principle, a shift in the view of one bloc of States can result in the undermining of previously accepted standards.

Sloppy drafting can also raise the danger of derogation from existing right. Whether international or not, derogation clearly does not serve the promotion of human rights.

12. UN Doc. Res./36/55.

13. Report on the Working Group on a Draft Convention on the Rights of the Child. U. N. doc. E/CN. 4/1989/48.

III Enforcement of Human Rights in the Convention :

The United Nations has developed an array of alternative mechanisms and procedures for enforcing human rights standards at the international level. They are:-

1. *Education*: Knowledge of human rights standards will promote their observance, the United Nations seeks to educate governmental officials and private citizens. Example of such efforts include the provision of advisory services to individual states by the UN Commission on Human Rights and the conduct of human right seminars.

2. *Fact Finding* : These efforts are generally based on threat of publicity which will prompt governments to improve their observance of human rights. The UN Human Right Commission and its Commission on prevention of Discrimination and Protection of minorities have appointed "special rapportours" to investigate and report on human rights situations and observance by particular states or several states.

Several UN human rights Conventions also require ratifying states to report regularly, to committees of independent experts on the measures they have taken to comply with those instruments. The Committee generally have the authority to require additional information from reporting states, and have the ability to subject official from those states to extended questioning.

3. *Conciliation*: The Secretary - General of the United Nations and his representatives are generally available for the purpose of recommending amicable solutions to human rights disputes.

4. *Complaint Procedure*: The United Nations has opened several avenues for the submission of complaints about human rights violation; both by individuals and by one state against another i. e., state to state complaints and individual petitions. The most commonly used is 1503 procedure, so named because of its origin in Resolution 1503 (XLVII) of the UN Economic and Social Council. Under this procedure certain individuals and organizations may submit confidential complaints that "reveal a consistent

pattern of gross and reliably attested" human rights violations to the UN sub Commission for prevention of Discrimination and protection of minorities. Finally, the International Court of Justice may hear cases between states arising under several of the UN human rights Conventions, or other human rights disputes between states, if those states have accepted the courts jurisdiction.

5. *Coercion*: Several of the UN organs, most notably the Commission of Human Rights and the General Assembly, annually pass resolutions criticising states for human rights violations. Although such resolutions lack binding legal force, they often carry significant political weight.

The UN Security Council, in addition, may pass legally binding resolutions in the event that it determines a human rights violations accounts to "Threat to the peace, a breach of the peace, or an act of aggression" - under the UN Charter Art 39.

The Convention on the Rights of the Child provides (U/Art. 43 & 44) two procedures of human rights enforcement commonly utilized by the United Nations, namely education (by virtue of the technical assistance provision) and fact finding (by virtue of the reporting requirement). Article 43 of the Convention established a Committee of independent experts. The power of the committee, however are circumscribed. Under Article 44, states parties must submit to the Committee periodic reports" on the measures they have adopted which give effect to the rights recognized" in the Convention. The Committee has the power to review the reports and to request additional submissions from reporting states. Based on this information and on information the Committee may receive from certain international organizations and non-governmental organisation, the Committee may "make suggestions and general recommendation" to the reporting states.

In addition, the committee must transmit to relevant international organisations and non-governmental organisations "any report from States Parties that contain a request, or indicate a need, for technical advice or assistance". The dialogue established between the supervisory committees and reporting states can lead to

improved observance of human rights by these states. On the other hand; the reporting - by other Human Rights bodies will also put minimal pressure on states parties to comply with their obligation under any convention. As for example "A human rights organisation (ASIA WATCH) accused India today of allowing gross and systematic human rights abuses in its crack down on separation in Kashmir, the country's only Muslim - majority state"¹⁴ reports Reuter. Asia Watch said it had asked the Indian Government to respond to the findings of the team it sent to Kashmir last December, but had received no reply.

The human rights group Amnesty International, in a report on April 19, Said Kuwaiti armed forces and former resistance fighters had killed scores of people, mostly palestenians, tortured many, and arrested hundreds more since a US - led force recaptured the Emirate in the February. Human Rights abuses are continuing in Kuwait despite government assurance that a Post war wave of Killings and torture has ended, Palestenians say reports Reuter.¹⁵

Moreover, when the State Parties are periodically reporting themselves to the Committee of Human Rights U/Art 43 & 44 of the Convention of the measures they have adopted, which give effect to the rights recognized in the Convention, they inevitably use their reports to cast themselves in the best possible light and does not give attention to Human Rights violations.

Thus, the implementaion mechanism created by the Convention does not establish any concrete means of enforcement at the international level. The Committee lacks the authority to receive any petitions alleging violation of the Convention, either from state parties or from individuals. Therefore, the Committee does not enjoy the Quasi-adjudicative powers of resolving disputes as granted to other committees established by other human rights instruments. Although the committee may make suggestions and general recommendations to states parties and must submit a public

14. "India/accused of human rights abuses in Kashmir.", the Bangladesh Observer, May 6, 1991.

15. "Human Rights abuse in Kuwait," The Bangladesh Observer, May 4,1991.

biennial report on its activities to the UN General Assembly, the Committee has no means of enforcing the standards of the Convention.

The convention does seek to involve UN specialized agencies, UNICEF, and other UN bodies, as well as "other competent bodies" (primarily non-governmental organizations) in implementing its provisions. These organizations may well accomplish a great deal in providing assistance and instruction to states parties. They will serve, however, strictly at the pleasure of the governments of those states, and will likely have little leverage to enforce compliance with the Convention.¹⁶

Conclusion :

The prospects for domestic enforcement of the Convention are more promising. By ratifying the convention, states undertake to "respect and ensure the rights set forth in the Convention to each Child within their Jurisdiction." and to take "all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the Convention" (Article 2 and 4 respectively).

Bangladesh has ratified the United Nations Convention on the Rights of the Child on 3 August 1990, one of the first twenty nations ratifying the Convention. Now that Bangladesh has ratified the Convention subsequent outside pressure will mount for the implementation of the Convention, it is expected that the laws of the country will one day be adjusted to the provisions of the Convention on penal measures as against violations of those laws will also be included in the Penal Code of the Country. But, the question of how much rights these measures and action will ensure for the children in a society where eighty percent of the people live miles below the poverty line will always be there.¹⁷

16. David A. Balton "The Convention on the Rights of the Child : Prospects for International Enforcement" in *Human Rights Quarterly*, 1990, pp. 120-129.

17. Shamsuddin Pearsa "Who will ensure the rights of the Child?" in *Touch VHSS Health Newsletter* Vo. IX No. 96, November, 1990.

To perceive the realistic prospects for international enforcement of the convention on the Rights of the Child, we must agree that the United Nations presently lacks the power to enforce directly upon the state parties the human rights standards it promulgates through instruments. According to the charter (Art 3 Para 7) "Nothing contained in the present charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state..."

The UN organization, as structured by the Charter, must evolve a sovereign authority, particularly a Police power and a Court of Universal jurisdiction without relying wholly on domestic or national enforcement. An association of the human rights situations throughout the world would reveal the failure of the state parties to comply with standards established in instruments such as the Convention on the Rights of the Child, even when they have ratified it. Is it not high time we focus on improving the international machinery for the enforcement of human rights?