

CHAPTER IV

INTERNATIONAL LEGISLATIONS ON RIGHTS OF CHILD

4.1 PRELUDE

Barristers and solicitors have traditionally looked to case law as an important source of interpreting domestic law. With the increasing globalization of world trade, tourism, the breaking down of language barriers, and improvements on international relations, international law has emerged as a further important influence. International law has traditionally focused on governing relations between independent nation states.

However in the aftermath of second World War, the United Nations was formed on the basis of a Charter which committed the members of the UN to "take joint and separate action in cooperation with the Organization" to achieve "the purposes set forth in Article 55(of the Charter). Article 55 committed the UN to promote" universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

One important consequence of this major development in international relations has been the demise of Oppenheim's doctrine that 'States solely and exclusively are the subject of International Law. Presently the case is that inter-state treaties are increasingly concerned with the 'trans-national' affairs of private individuals and companies. As far as the right of child is concerned, it is of Universal importance and large number of declarations and conventions made at the International plethora is morally binding on member states.

The world's culture and future are shaped by the practical policies and legal prescriptions relating to the worth and growth of the Child. Its environment and

opportunities for development. The fledglings, if properly educated and brought up with sound initiatives, will be the wealth, not the 'illth', of the country and the century. John Ruskin has rightly observed:.

4.2 HISTORY OF RIGHTS OF CHILD

Not long ago, the idea of statesmen sitting at a conference table to discuss the well-being of children would have been greeted with amazement if not with derision. Compared with the waging of wars, strength of the dollar, the price of oil and the signing of NAFTAs and Maastrichrs, the subject of children is trivial. Or so it was thought if not spoken. At elections, babies might be kissed and rhetoric about our children, the future flow freely. **But to expect a Prime Minister to take an interest in nursery education or a President to concern himself with infant diarrhoea was to imagine the absurd.** Times have changed.

Over the past few years, children's emergence as topic of public and political concern has been striking. At national and international levels, leaders in all parts of the world have begun to identify themselves with family and children's issues. In this process, the World Summit for Children, which took place in New York in September 1990, was a landmark. The Summit was a symbol of the way in which children had gained a new degree of prominence in public affairs, and it also served to consolidate their presence in political and social debate. At this meeting, 71 Head of State and Government signed the World Declaration on the Survival, Development and Protection of Children and a Plan of Action for its implementation by the year 2000. No higher level of political commitment to children could be given.

Thus it would be wrong to suggest that children have been ignored by policy makers in the past. But the frameworks within which their problems have traditionally been noticed have **tended to be confined to humanitarianism and social welfare.** In both these contexts, children's profile has risen over the course of the 20th century. In times of war and disaster, the situation of 'innocent' and



helpless children is today an axiomatic target of humanitarian concern. This has by no means always been the way of things in some setting, the non-fighting and weakest members of the population used to be regarded as the least valuable and most expendable; in a few, this may still be the case. However, **the principle of children first as recipients of relief in emergencies- first proposed in the wake of the First World War- has gained so much moral and intellectual ground over the century that it is today almost universally accepted as a norm.**

Today, children are the target of much more serious attention. And this is not simply because they lay an important part in demographic statistics or constitute a significant charge on the social budget. This attention is accorded to children not as a subset of something else but as a category of humankind who deserve consideration in their own right. Children are still minors, still under age, still dependent on adult care, guidance and economic support. But what is happening to them- from their earliest moments of supreme vulnerability, through the long voyage from infant, to toddler, to youngster and adolescent- is today subject to intense public and professional scrutiny.

In every country, rich and poor, developed and developing, children are constantly in the news. Stories about them no longer consist of pretty or poignant distractions from the real issues of the day. Children are among the real issues of the day, *en masse* and as individuals. Child safety, child survival, child health, child victims of violence and warfare, child heroes, child criminals, school children, street children, Marginalized children and children, abused and displaced children- the list goes on and on. Behind the scenes, a growing number of researchers are examining the drama of modern upbringing and childhood. The world, it seems, is looking at its offspring - at their tragedies, their promise, their expectations - in a new light and with a different order of commitment.

Thus the increased importance of the individual child- which reverberates on the public policy agenda- stems from a number of converging factors. These include changed parental expectations and levels of investment in childhood and the

impact on society of the modernization and industrialization process. These combined with the ongoing transformation in gender relations that has marked recent decades and - of even longer duration- changing personal and state reactions to the vastly improved rates of child survival that have marked the 20th century.

Whatever the underlying trends that have altered social values and perceptions in what could be called the century of the child, their encapsulation at the international level in certain events and documentary expressions had played its own role in the advancement of children as an issue. There has been in the period since the 1979 International Year of the child- one of the more successful 'Years' dedicated by the United Nations system to a given subject - a **sustained and concerned effort to promote children's concerns.**

This effort connects with another: the determination by activists for children to articulate and codify their rights to match a vision of childhood acceptable in all cultures and across all ideological and religious divides. This was achieved by the passage in 1989 of the UN Convention on the Rights of the Child, which has subsequently been ratified by an extra-ordinary number of States - 181 at the last count. This gradual legal development at the international level has been discussed here.

4.3 THE GENESIS: THE GENEVA DECLARATION, 1924

The rights of child need to be proclaimed, but also and first of all the duties of adults towards children. How could these two concepts best be conciliated and united? Eglantine Jebb suggested that a short title should be adopted- "Declaration of Geneva" - followed by explanatory preamble laying down in Principles of the Rights and Duties.

The Declaration of Geneva met with almost unanimous approval by all sides and among the first to sign it were the Swedish Minister of Social Affairs, Prince Waldemer of Denmark and Elizabeth Queen of Belgium. On 26th September

1924, the Fifth Assembly of the League of Nations unanimously adopted the following resolution: "The Assembly endorse the Declaration of the Rights of the Child, commonly known as the Declaration of Geneva, and invites the States, Members of the League to be guided by its principles in the work of Child Welfare." **In endorsing the Declaration of Geneva, the Assemble of the League of Nations consecrated it as the "World Child Welfare Charter".**

A copy of the Declaration which was originally written in French was translated in 37 languages and sent out to all members of the Assembly and many representatives.

4.3.1 DECLARATION OF GENEVA

1. The child must be given the means requisite for its normal development, both materially and spiritually.
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 succoured.
3. The child must be the first to receive relief in terms of distress.
4. The child must be put in a position to earn a livelihood, and must be protected against every form of exploitation.
5. The child must be brought up in the consciousness that its talents must be devoted to the services of its fellowmen.

But unfortunately in 1939, World War broke out once again, and rendered the League powerless. **Its Declaration became mere "Scraps of papers"**. In 1946 it was recommended to the ECOSOC to revive the Geneva Declaration to "bind the people of World today as firmly as it did in 1924".

4.4 THE UNITED NATIONS INTERNATIONAL CHILDRENS EMERGENCY FUND {UNICEF}: 1946

The creation of the United Nations in 1945 represented the coming of age of an ideal of international cooperation. Although the **immediate inspiration was the**

carnage of the Second World War, behind this lay a long-term desire to promote harmony between the nations on a range of issues and within a variety of different institutions. There was, however, no idea of setting up within this constellation a special organization for children. The creation by the UN General Assembly in December 1946 of a UN International Children's Emergency Fund - and ICEF - came about as an accident of cold war politics.

The postwar emergency in Europe and the Far East was very protracted and in the bitter winter of 1946-47, millions of People were still without proper shelter, fuel, clothing or food. Children in particular were suffering in some famine-affected areas, half of all babies born alive died before their first birth-day. But the descent of the Iron Curtain doomed the continuation of relief and rehabilitation under the auspices of the UN. In 1944, when the 'United Nations' constituted the Allied powers, they had set up the UN Relief and Rehabilitation Administration (**UNRRA**). UNRRA's aid went to all countries devastated by war on both sides of the growing East-West divide. In late 1946, the United States refused to go on bankrolling this kind of neutral relief operation, later substituting the Marshall Plan for Western Europe only.

However, at the final session of UNRRA in Geneva, voices- particularly those of the delegates of Poland and Norway- were raised in protest at the fate of Europe's children. For children, an exception had to be made. The proposal that **UNRRA's residual resources should be handed over to a special fund for children was accepted**. This idea went forward through the new UN machinery and on 11 December 1946, resolution number 57(1) of the UN General Assembly brought UNICEF into being. There was no idea at the time that this ICEF was anything other than a temporary expedient for the postwar emergency. Fortuitously therefore, UNICEF became a part of that great experiment in international cooperation that has since constituted the structured anarchy of the United Nations system.

When the time eventually came in 1950 for the UN to close down its 'ICEF', a **successful lobby was mounted to save it.** This time, it was the new nation of the 'developing' world that spoke up. How, asked the delegate of Pakistan, could the tasks of international action for children be regarded a complete when so many millions of children in Africa, Asia and Latin America languished in sickness and hunger,, not because of war, but because of the age-old problem of poverty? Again, the plea did not go unheard. **In 1953, the General Assembly confirmed UNICEF as a fixture in the UN system.**

UNICEF at this time dropped 'International' and 'Emergency' from its formal title- becoming simply the **United Nations Children's Fund.** Yet it never abandoned the children of crisis- those affected by war, conflict, drought, famine or any other emergency. However, its mission was to expand and change in succeeding decades.

Since than UNICEF has engaged itself in many projects for protection, care and rehabilitation of children. In 1947, UNICEF extended its assistance to the Scandinavian Red Cross societies for an international tuberculosis campaign that aimed to immunize all uninfected European children. This campaign set the tone for **UNICEF involvement in health care beyond emergency child feeding.** Indeed, as the 1940s gave way to the 1950s, the predominant motif in international public health campaigns generally was the struggle to control or eradicate epidemic disease.

The mass disease campaigns certainly succeeded in reducing the levels of infection. But, as experience was beginning to show, they had their limitations. The campaign had been conceived as a means of holding some forms of ill health at bay until such time as regular health services could be set up. However, it was precisely this lack of health support network that made the operation very difficult and expensive to mount and sustain

In January 1961, the **United Nations resolved that the decade of the 1960s would be the Decade of Development.** The climate was one of excitement and hope. The countries of the Third World which had rapidly been casting off their colonial status, now also needed to cast off their poverty, and to do this they needed aid in the form of funds and know-how from their richer neighbours. Thus was born the push for 'development'.

The turning-point for UNICEF was a special survey it initiated in 1960- Children of the Developing Countries. The final report argue that children's needs should be built into national development plans. This had major implications for the programmes UNICEF supported, which could no longer be confined to those run by sub-departments of Ministries of Health and Social Welfare. **The situation of children would have to be discussed within Ministries of National Planning.** The importance UNICEF attached to planning for children was confirmed in a special 1962 declaration of policy for the Development Decade endorsed that year by the UN General Assembly.

The early 1970s saw two events of particular significance for international development. One was the OPC oil shock, other was the world food shortage. In 1974 the UNICEF Executive Board made a formal declaration of an "emergency for children". It was believed that even before the crisis, some ten million children world wide suffered severe dietary shortage. And as the price of food continued to rise, child hunger and malnutrition were bound to increase.

UNICEF was also urgently considering what kind of Programme strategy would reach children more cost-effectively. It concluded that development was failing to reach large segments of the poor because existing services were modeled along industrialized-country lines. **UNICEF proposed instead a range of integrated 'basic services', depending much more on community participation.**

In 1978, at an international conference in Alma Ata in the then USSR, Ministers of Health from all over the developing world agreed that their health delivery

systems, must be radically restructured to provide 'primary health care' for all their citizens. as with 'basic services', ordinary people would be enlisted in their own preventive care. This radical vision set an ambitious goal: **Health for all by the Year 2000.**

The 1980s - dawned, the countries of the developing world were beginning to feel the chill of global recession, with serious repercussions for their poorest people. For the children's cause, however, there were atleast some signs of hope, and the success of IYC suggested that the time was right for a further initiative.

In December 1982, in "*The state of the World's Children report*", UNICEF's **Executive Director, James P. Grant, launched an innovative known as the 'child survival revolution, later to include child development.** This campaign reversed conventional wisdom. Rates of infant and young child mortality had previously been seen as a measure of a country's development. Now UNICEF suggested a direct attack on infant and child mortality as an instrument of development.

In a throw-back to the great disease campaign of the 1950s, UNICEF proposed to vanquish common infections of early childhood using simple medical technologies. From the **primary health care package**, it singled out for techniques, which collectively were referred to a '**GOBI**' 'G' for growth monitoring to keep a regular check on child well-being. 'O' for oral dehydration therapy, treat bouts of childhood diarrhea; 'B' for breast feeding as the perfect nutritional start in life; and 'T' for immunization against the six vaccine-preventable childhood killer, tuberculosis, diphtheria, whooping cough tetanus, polio and measles. One of the strengths of GOBI was that all the techniques were low cost.

Of the four '**GOBI**' elements, the expanded programme on immunization was taken up with the greatest enthusiasm in the largest number of countries.

During the 1980's nutritional status improved in every region, and extraordinary progress was made in access to safe drinking water. By the end of the decade, the child survival and development revolution' was estimated to have saved the lives of 12 million children.

At the same time, there was mounting pressure for the rights of children- and for the needs of children who were under particular stress- including the disabled, those living and working on city streets, victims of mass violence and warfare and children suffering from exploitation- as workers and laborers, or as objects of commercial sexual gratification. In the mid 1980s, UNICEF coined a new term to cover all these categories of childhood disadvantage- children in especially difficult circumstances (CEDC).

Almost simultaneously, the campaign for child survival and development reached a peak when on 30h September 1990, 71 Heads of State and Government took their seats at a **world Summit** for children and signed a World Declaration. This contained a 10 point Plan of Action with child-related human development goals for the year 2000.

The children's summit in 1990 was a star-studded and spectacular event. But it has not been allowed to vanish into the past as a one-off occurrence. Instead, it was used as a launching pad for a process of planning for children. Within three years of the World Summit for Children, 105 industrial and developing countries, covering a total of 88 percent of the world's children, had prepared national programmes of action for meeting the Summit goals. In addition, a set of mid-decade goals for children were established.

The Convention on the Rights of the Child has already proved to be an effective framework for international action.

The key underlying, advance was the recognition of the child as a complete individual. The convention establishes that the child has an identity distinct from those of parents or nurturers and that the community has a duty to protect

that identity and to enable the child to express it in matters such as guardianship or custody. In these areas, the overarching consideration should be 'the best interests of the child'. In the years following 1990, the Convention has become the most widely recognized and ratified international human rights instrument in history. As of end September 1995, 179 countries had become 'States Parties'

The post-Summit process and the Convention on the Rights of the Child have helped maintain the momentum on behalf of children. In the 1990s, however, the prospects for the fight against poverty generally appear less promising. Starting in the 1980s, Africa, in particular, has suffered from a seemingly endless succession of emergencies-mostly caused by, or associated with, drought. Worse was to follow in the form of political breakdown. In the 1990s, the collapse of frail political and administrative structures has pushed a number of countries-Liberia, Rwanda, Sierra Leone and Somalia-towards the ultimate condition of post-colonial breakdown the failed state.

In these emergency arenas, the children's agenda has been dominated by the combination of war with ongoing economic and environmental disaster. This has dashed developmental prospects and redirected attention towards issues concerned with children in war.

Nowadays, the fight against world poverty, can no longer be viewed uniformly. Effective responses of problems of poverty have to derive from regional, national and local realities. And even at the local level, the development challenge has become more complex. In many countries, the potential of health technology to improve the lives of children will largely have been realized before the end of the century.

Polio, guinea worm disease and iodine deficiency disorder are dwindling fast. The greater use of oral rehydration salts (ORS) means that diarrhoeal diseases such as cholera no longer represent the threat they once did, and the spread of antibiotics means that respiratory infections are on the run. Other threats-

malaria and AIDS- still remain. But by the year 2000, it is conceivable that in many countries,, the promise of 'Health for All' will have been delivered.

UNICEF and its many partners in the children's movement can claim to have played vital part. Without their championing, children's cause could not have been propelled to its current height of visibility and policy commitment. In the years ahead, UNICEF'S challenge is to sustain that visibility –and put it to work on behalf of future generation.

4.5 THE UNIVERSAL DECLARATION OF HUMAN RIGHTS 1948

The Universal Declaration of Human Rights (UDHR) is an advisory declaration adopted by the United Nations General Assembly on 10th December 1948 at Palais de Chaillot, Paris. It consists of 30 articles which outline the view of the United Nations General Assembly on the human rights guaranteed to all people. The document is laid out in the civil law tradition, including a preamble followed by thirty articles. It was conceived as a statement of objectives to be followed by governments. Eleanor Roosevelt, first chairwoman of the Commission on Human Rights (CHR) who drafted the Declaration, said, "It is not a treaty...[In the future, it] may well become the international Magna Carta.

The Declaration has been hailed "as an historic event of the profound significance and as one of the greatest achievements of the United Nations. "The Declaration".....is the mine from which other conventions as well as national constitutions protecting these rights have been and are being quarried. When Universal Declaration of Human Rights was adopted, it was a most eloquent expression of the hope by a world emerging from the most devastating war in the history of human race. The experience gave the Universal Declaration a momentum that is reflected in the oldness of this document, destined for a world of peace where the right to live in peace has become a reality for all. On December 10, 1998, 50th anniversary of Universal Declaration of Human Rights was celebrated all over the world.

That the document is more than just words: It's a global **testament of humanity**, a standard by which any humble person on Earth can stand in judgment of any government on Earth."

Universal Declaration of Human Rights is a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Universal Declaration of Human Rights is general in nature, in a sense that it is addressed to individuals of all nations. It is not directed towards any particular Nation, Organisation or institution but to all human being irrespective of caste, sex, religion , colour, birth, nationality etc. Everyone (including children) by virtue of its human being 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. No distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Everyone has the right to life, liberty and security of person. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Since its adoption the Universal Declaration has exercised a powerful influence, both internationally and nationally. It has been rightly pointed out that "Whatever its legal quality, the Declaration has set a standard by which national behaviour can be measured and to which nations can aspire. The Declaration has helped to give contour and content to the generalities of the charter reflecting the

spirit and the needs of the day."²⁹² As a result of the Universal Declaration, the subject of human rights has fostered so much International legislation of the highest value that as legal topic it has no parallel today.

The rights and freedoms enshrined in the Universal Declaration of Human Rights have been incorporated in various Declarations and conventions adopted by the U.N. ,such as, Declaration on the Rights of the child (1959) ; Declaration on the Elimination of all forms of Racial Discrimination (1963); Declaration on Elimination of Discrimination against Women (1967); Declaration on the rights of Child (1975); International Convention on economic Social and Cultural Rights(1966); International Convention on civil and political rights (1966); Convention on the Rights of Child, etc..

Under this Declaration **Articles directly pertaining to children are as follows.**

Article 25(2) says that "Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection".

This Article has two parts, in the first part it is talking about providing assistance to mother and child. Assistance maybe in form of providing medicinal, nutritional, educational or recreational. The second part is not making any distinction between legitimate and illegitimate children all over the world. Considering no fault of child, Children of all nations are given equal protection.

Article 26:

1. Everyone has the right to education. Education shall be free, atleast in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible all on the basis of merit.

²⁹² Lous Henkin, "The United Nations and Human Rights" Int. Orgn, Vol XXI, No,3 (Summer,1965) p. 504)

Under this Sub clause State Parties recognize the right of the child to education and with a view to achieve this right progressively and on the basis of equal opportunity, they shall in particular,

- (a) make primary education compulsory and 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 free education and offering financial assistance in case of need;
 - (c) make higher education accessible to all on the basis of capacity by appropriate means;
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups. and shall further the activities of the United Nations for the maintenance of peace.

This sub clause says that State 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. Parents have a prior right to choose the kind of education that shall be given to their children.

Thus we see that children have the right to go to school and everyone should go to school. Primary schooling should be free. One should be able to learn a profession or continue his studies according to his wish. At school, child should be able to develop all his talents and should be taught to get on with others, whatever their race, religion or the country they come from. Further it also says that parents have the right to choose how and what will be taught at school. All children have the same rights, whether or not the mother is married.

For the realization of such rights Declaration has casted duties towards the State Parties and communities within which ones personality can fully develop. In all parts of the world, no society, no human being, should take it upon her or himself to act in such a way as to destroy the rights which you have just been reading about²⁹³.

In a speech on 5 October 1995, Pope John Paul II called the UDHR "one of the highest expressions of the human conscience of our time". We believes that this is a good document – even a great document-which is considered as the international Magna Carta of all men everywhere.

Statement by Marcello Spatafora on behalf of the European Union on 10 December 2003 said, "Over the past 55 years, humanity has made extraordinary progress in the promotion and protection of human rights thanks to the creative force generated by the Universal Declaration of Human Rights, undoubtedly one of the most influential documents in history. It is a remarkable document, full of idealism but also of determination to learn lessons from the past and not to repeat the same mistakes. Most importantly, it placed human rights at the centre of the framework of principles and obligations shaping relations within the international community."

4.6 THE DECLARATION OF THE RIGHTS OF CHILD 1959

In the aftermath of the Second World War, in 1946 a year after the United Nations was formed and it was recommended to the Economic and Social Council of the United Nations that the Declaration of Geneva to be revived.

²⁹³ Universal Declaration of Human Rights, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948).
Reference: The United Nations and Human Rights 1945-1995, Department of Public Information, United Nations, New York (ISBN 92-110560-4²⁹³)

Two years later, in 1948, the United Nations General Assembly approved the adoption of a Universal Declaration of Human Rights. In this Declaration the freedom and rights of children were implicitly included, but it was thought that this was not enough, the **special needs of children justified an additional separate document**. Therefore, in 1949, it drew up a preliminary draft of a new declaration of children's rights.

In 1948, the General Council of International Union for Child Welfare (IUCW) accepted the revised text counting seven points and including an additional clause on non-discrimination, based on race, nationality and religious faith – concept previously contained in the preamble – and another implying the concept that the child should be helped with due respect for the integrity of his family. Some further specifications were also added, mainly relating to provisions for Social Welfare and Security.

In 1957, the Human Rights Commission of the Economic and Social Council took up the question of adopting a Declaration of the Rights of the Child which would tie in with the Universal Declaration of Human Rights. After a preliminary discussion, this Commission drafted a declaration which it submitted to its 21 member-states, asking for their comments. Some of the members states said they would prefer a legally binding convention rather than a simple declaration, but the majority of the members favoured a brief declaration proclaiming general principles without providing methods of enforcing them.

On 20th November, 1959, the General Assembly with representatives of 78 countries meeting in plenary session-adopted the Declaration of the Rights of the Child unanimously.

The Declaration of the Rights of the Child is not a mere "Scrap of paper", even though the rights it extols are not yet available to all –or even, unfortunately, to most children. The universal recognition that these rights exist is a very

important first step in achieving them, and the fact that so many countries, of such diverse social conditions and cultural traditions, have agreed on the importance of these basic principles is an extremely encouraging omen of future progress.

In the modern world, with its highly, developed technology that makes possible destruction (and construction) on an unprecedented scale, peace is no longer a luxury either, but an increasingly urgent necessity. Children must be helped to enjoy the right to grow up healthy (physically, mentally, morally, spiritually and socially, in freedom and dignity as Right 2 of the Declaration asserts). If not, they will never be able to or willing to join together in helping to build a better world tomorrow, a safer and happier and more peaceful world, in which their children can enjoy their "rights".

When we protect and foster the rights of every child everywhere, we are protecting and fostering everyone's happiness and everyone's peace, including our own, racial, religious and any other form of discrimination. He shall be brought up in a spirit of understanding, tolerance, friendship among people, peace and universal brotherhood and in full consciousness that his energy and talents should be devoted to the services of his fellow men.

Finally, the General Assembly resolved that governments, non-governmental organizations and individuals should give this Declaration the widest possible publicity as a means of encouraging its observance everywhere.

The Declaration of the Rights of child, 1959 recognizes requirements for normal development of child, viz;

1. The child shall enjoy and shall be entitled to the rights set forth in these principles with out any distinction or discrimination.
2. Ensures special protection and facilities for proper and integrated development of human personality.
3. The child shall be entitled from his birth to a name and nationality.

4. Special protection for his healthy growth and development.
5. Rights to adequate nutrition, housing, recreation and medical services.
6. Special treatment, education and care suiting to a handicapped child.
7. Shall be ensure of love, atmosphere of affection and material security for the proper development of his personality.
8. Shall be protected against all forms of neglect, cruelty and exploitation.
9. Shall not be subjected to traffic in any for, and .Shou'd not be admitted to employment in his childhood.
10. Shall be protected from any racial, religious and any other form of discrimination.

This Declaration appears to be the consolidation of Geneva Declaration and Universal /declarartion of Human Rights. The repeated rights are found in more elaborate and expressive form and some new Articles(Right to have name and nationality right from the birth) are also added. The goals set down in the Declaration, serve as inspiring beacons which remains largely to be achieved.

As principles, all the 10 principles of the Declaration are ideal and have universal applicability. Although great efforts have been made by governmental, non-governmental agencies to make these a reality. But it has become extremely difficult to achieve these goals on account of the limitations of suitable material as well as manpower resources. Thus for a large majority of the children of India these principles still remain a dream.

What is needed is not changes in the Declaration, but rather considerable thought as to the immense problems being faced by countries such as ours in making these principles a reality. The principles are universally applicable, provided they are actually implemented, it is important to take up in-depth the response for the ineffective implementation of these principles, if they are to have any meaning at all, for a majority of children, ways of overcoming contribution factors such as illiteracy, lack of sufficient awareness particularly on the part of the parents, and a suitable enforcement machinery will have to be

thought of. Evolution of an international enforcement possibly through a system of voluntary agencies or through the UN may be a possible solution. This would require the individual countries to act as members, and enlist a joint effort in terms of cooperation between the member-countries, as well as pressure on the Governments to implement the suggestions made to it.

4.7 THE INTERNATIONAL CONVENTION ON CIVIL AND POLITICAL RIGHT: 1966

At the San Francisco Conference where the U.N. Charter was drafted and opened for signature and ratification in 1945, a proposal was made to embody a Declaration on the Essential Rights of Man but could not be examined because it required more detailed consideration than was possible at that time. However many of the delegates considered that the idea of promulgating an "International Bill of Rights" was implicit in the Charter. Immediately after the closing session of the Conference, the Preparatory Commission of the United Nations recommended that, the Economic and Social Council should establish a commission on Human Rights as envisaged in Article 68 of the U.N. Charter. The Economic and Social Council accordingly established the commission on Human Rights in 1946.

The Commission on human rights, with the help of draft Committee and Working Group, at its 1951 session commenced the work of drafting articles on economic, social and cultural rights. The draft of the covenant was then submitted to the Economic and Social Council for its consideration. During the consideration of the draft by Economic and Social Council, several countries did not like the idea of inclusion of articles on economic, social and cultural rights, in the covenant dealing with civil and political right. Therefore two separate covenants one on civil and political rights and other on Economic Social and Cultural Rights was drafted. And the General Assembly finally and unanimously adopted these two International Covenants on December 16th 1966.

The keystone of the two covenants is the Universal Declaration on Human rights which was adopted by the General Assembly on 10th December, 1948. The Covenants generally elaborate on the rights set forth in the Universal Declaration on Human rights, 1948.

International Covenant on Civil and Political Rights, 1966 comprises of 53 Articles and is divided into VI Parts. Provisions pertaining to children generally falls under part III of the Convention, which is better classified as Substantive Rights and particularly under Articles 10(3), 14(1), (4) and 24.

Article 10(3); This Article says that juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

By keeping the juvenile offenders away from other professional criminals in prison children will neither be influenced nor be encouraged to commit the offence again. Rather by keeping them separate, proper treatment and counseling may be provided to them, so as to bring him in the main stream of the society. Thus a valuable asset of the nation will be protected from destruction.

Article 14(1); All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order or national security in a democratic society, or when the interest of private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interest of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of the juvenile persons otherwise requires or the proceedings concern matrimonial dispute or the guardian of children.

Article 14(4); In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

This Article states that if the interest of juvenile persons otherwise require or the proceedings concern to the guardianship to children, public hearing may be excluded. In determination of any offence against juvenile-offender, the procedure shall be such as will take into account their age and the promotion of their rehabilitation.

Article 24; (1) Every child shall have without any discrimination as to race, colour, or sex, language, religion, national or social origin, property or birth the right to such measures of protection as are required by his status as a minor on the part of his family, society and the state.

(2) Every child shall be registered immediately after birth and shall have a name;

(3) Every child has the right to acquire nationality.

This Article confirms the right of children to registration after birth and to acquire nationality. As these rights can not be claimed by the children himself the obligation is casted upon the family, the society and the State. In addition to this it also mentions that no discrimination as to race, colour, or sex, language, religion, national or social origin, property or birth is to be made while exercising these obligations.

Article 8, puts a complete prohibition on slavery and slave trade in all their forms. It also prohibits to be in servitude by any person. Further it puts a bar on forced or compulsory labor. Thus we see that it no where mentions about children but we can say that it is directly pertaining to children because children are an easy prey for becoming commodity of international and domestic slave trade. Thus by prohibiting slave and slave trade it is protecting the children.

4.8 THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS : 1966

Besides preamble the International Covenant on Economic Social and Cultural Rights comprises of 31 Articles divided into five parts. Provisions pertaining to children are found in part III of the Covenant *viz*; Article 10(1), (3), 12(1), (2)(a), 13(1), (2), 14.

Article 10(1);The States Parties to the present Covenant recognize that the widest possible protection and assistance should be accorded the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children.

This Article casts an obligation upon the States Parties to the convention, to give widest possible **protection and assistance to the family**, as it is the fundamental unit of the society and moreover the care taker of children who are fully dependent on family for their needs till childhood or adulthood. Thus protection and assistance to the family is ultimately going to help the children its physical, mental, or spiritual growth.

Article 10(3); Special measures of protection and assistance should be taken on behalf of the children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labor should be punishable and prohibited by law.

This Article says that Sate Parties should adopt such measures or enact such laws which **protect the children and young persons from economic and social exploitation at work**. At work place conditions should not be harmful to his

health, morality, life o to his normal development. Further it says that age limit should be fixed below which employment of children should be prohibited.

Article 12; Under this Article State Parties to the Covenant must strive for the highest attainable standard of physical and mental health. For this purpose state should make provisions for reducing infant mortality rate and for the healthy development of child.

Article 13; This Article recognizes every ones right to education. Further education should be directed to the full development of the human personality and the sense of this dignity, and shall strengthen the respect for human rights and fundamental freedoms. The quality of education shall enable all persons to participate effectively in a free society, promoting understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

For the realization of above right The States Parties should ;

- make primary education compulsory and free to all;
- 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 free education and offering financial assistance in case of need;
- make higher education accessible to all on the basis of capacity by appropriate means;
- encourage or intensify fundamental education for those who have not received or completed the full period of primary education;
- take steps for development of school at all levels, for improvement of the conditions of teaching staff and for ensuring the attendance in school.

According to Article sub clause (3) of Article 13 the covenant recognizes the right of parents and legal guardian to choose the school of their choice

for their children to ensure the religious and moral education of their children in conformity with their own convictions.

Here I would like to mention that this particular Article is drawn from Article 26 of Universal Declaration of Human Rights, but here the provisions are in more elaborate form. Along with Article 26 of UDHR something new is added, viz; In Article 13(1) last two bulleted points and in sub clause(3) the right to choose the kind of school for their children is extended to legal guardians and the school can be selected according to their religious moral requirement.

Article 14; This Article puts an obligation on the member state to the convention; if at the time of becoming a party, has not been able to secure, to prepare a detailed plan of action for the progressive implementation of the principle of the compulsory primary education free of charge for all, within a reasonable period of time.

4.9 THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, 1966

Optional Protocol to the International Covenant on Civil and Political Rights, 1966; came into force on 23 March 1976, in accordance with Article 9 of the Convention, with the purpose of the implementation of the provisions of the Covenant. It enables the Human Rights Committee set up in part IV of the Covenant to receive and consider, as provided in the present Protocol, communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant.

The Committee is authorized to receive the communications of those states who are party to the present protocol, otherwise not. It will not consider the application which is anonymous, or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of the Covenant.

Individuals who claim that any of their rights enumerated in the Covenant have been violated may submit a written communication to the Committee for consideration provided all available domestic remedies have been exhausted and the same matter is not being examined under another procedure of international investigation or settlement.

The communications submitted to the Committee is brought to the attention of the State Party to the present Protocol alleged to be violating any provision of the Covenant. Within six months, the receiving State has to submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

The Committee considers the communications received under the present Protocol in the light of all written information made available to it by the individual and by the State Party concerned. After holding the closed meeting The Committee forward its views to the State Party concerned and to the individual.

The drawback of all this Instrument is that views of the Committee is not binding on the violating state party. It is advisory in nature. It is upon the conscience of the nation to adopt the advice or not.

4.10 THE CONVENTION ON RIGHTS OF CHILD, 1989

“Mankind owns to the child the best it has to give”. This was proclaimed by the declaration on the rights of child adopted by the general assembly on November 20,1959. The declaration on the rights of child set forth in 10 principles, a code for the well-being of every child. Earlier the Universal Declaration of Human Rights proclaimed in Article 25(2) that motherhood and childhood are entitled to special care and assistance.

International Covenant on Civil and Political Rights also showed its concern for the protection of rights of child in Article 23 and 24. Article 23 which is mainly concerned with as the natural and fundamental group unit of society refer to the children in para 4 of the Article. It provides that in the case of dissolution of marriage provision shall be made for the necessary protection of any children. Article 24, which is fully devoted to the protection and rights of the child provides that every child shall have, without any discrimination as to race , colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of the family, society and the State. Besides this every child shall be registered immediately after birth and shall have name. Moreover every child has the right to nationality.

These references in important international convention, show that the international community was well aware of the problems of children all over the world. Yet these scattered references were considered not adequate for the protection and welfare of the children; It was proposed that there should be a separate Convention the rights of child which should deal exhaustively with all aspects of the problem of children.

In 1976, The General Assembly proclaimed the year 1979 as the **International Year of the Child** and decided that the year would have as its objective :

- (a) To provide frameworks for advocacy on behalf of children and for enhancing the awareness of the special needs of children on the part of the decision makers and public.
- (b) To promote recognition of the fact that programmes for children be an integral part of economic and social development plans.

After 10 years of negotiation the 54-Article Convention on the Rights of Child was finally adopted by consensus by the General Assembly adopted the Convention on 20 November 1989, 30 years after the adoption of the Declaration on the Rights of the Child. The Convention makes States, which accept it, legally

accountable for their actions towards children. The question on the Convention on the Rights of the Child was first proposed in 1978 by the Government of Poland as one of the initiatives to be undertaken during International Year of the Child (IYC). The Economic and Social Council of the United Nations (ECOSOC), referred the proposal to the UN Commission on Human Rights, which created the "Open-Ended Working Group" in 1979. This working group met annually since then.

On February 5, 1988 the Open-Ended Working Group finished the first reading of the future UN Convention on the Rights of Child. The Chairman of the working group, *Prof. Adam Lopatka* of Poland, ensured that the technical review be completed by August 1988, so that there can be discussions on the recommendations, in The General Assembly for its consideration in November 1989.

It was considered necessary and important to stress that special privileges and protection for children which are included in many preceding international instruments. **The novelty, however, is that the Convention attempt to codify provisions of International Law pertaining to children under one title.** So that the Convention is an important and easily-understood advocacy tool for those who work for the benefit of the children.

This convention modifies and consolidates the existing standards and introduces a range of relatively new issues of major importance. It is a comprehensive human rights convention drafted in full partnership between developing and developed countries. It represents the international community's first universal and binding policy statement on Children's rights.

The Convention was opened for signature on 26 January 1990. That day, 61 countries signed it, a record first-day response. It entered into force just seven months later, on 2 September 1990.

The convention on the Rights of Child must be read within the framework of the

International Bill of Human Rights, composed of the 1948 Universal Declaration, and the 1966(date of adoption) International covenant on Economic, Social, and Cultural Rights (ICESR) and International covenant on Civil and Political Rights (ICCPR) with its optional protocol. It can be argued out that it follows the example of the 1979 Convention on the Elimination of all forms of Discrimination Against Women in so far as it singles out a second group of individuals who deserve special protection.

Ratifying the Convention entails reviewing national legislation to make sure it is in line with the provisions of the treaty. The Convention stipulates, among other things, that every child has the right to life, and that States shall ensure the maximum child survival and development; that every child has the right to a name and nationality from birth; and that when courts, welfare institutions or administrative authorities deal with children, the child's best interests shall be a primary consideration. The Convention recognizes the right of children to be heard.

The Convention highlighted the following rights of child:

1. Right to life,
Right to a name,
Right to acquire a nationality,
Right to know and be cared for by his or her parents.,
2. Right to freedom of expression, thought, conscience and religion, association and peaceful assembly, education, rest and leisure, social security.
3. Right to have a standard of living adequate for his or her physical, mental, spiritual, moral and social development.
4. The child shall be registered immediately after birth.
5. Children shall not be separated from their parents against their will.
6. Right to get protection from economic exploitation and from hazardous work, drug use and trafficking, sexual exploitation and sexual abuse.
7. Right to his or her own culture, religion or language.

8. Right to enjoy a full and decent life though he is mentally and physically disabled child.
9. Right, not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.
10. The best interest of the child shall be 'the paramount consideration' for adoption.

The convention is divided into three main sections: (i) **The Preamble**, which sets out the major underlying principles of the question that the Convention is tackling; (ii) **the substantive Articles**, which spells out the obligation of those states that ratify it in due course²⁹⁴; (iii) **the implementation provisions** that define how compliance with the Convention is to be monitored and fostered and specifies the condition under which it comes into force.²⁹⁵

Beneficiaries of the Convention are children. According to the Convention "a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier"²⁹⁶

The Convention articulates **five sets of basic rights**, namely: **civil and political; social and economic; cultural; rights in abnormal or dangerous situations; and right to due process of law**. These sets of rights are based on certain guiding principles of; Equality and non-discrimination²⁹⁷; The best interests of the child²⁹⁸; Obligation to protect all the rights of the child²⁹⁹; and Obligation to respect parental responsibilities and rights³⁰⁰. Respect for the views of the child³⁰¹.

²⁹⁴ Part I—Articles 1 to 41 of CRC

²⁹⁵ Part II and III— Articles 42 to 54 of CRC

²⁹⁶ Article 1 of CRC

²⁹⁷ Article 2 of CRC

²⁹⁸ Article 3 of CRC

²⁹⁹ Article 4 of CRC

³⁰⁰ Article 5 of CRC

³⁰¹ Article 12 of CRC

The Convention stipulates, among other things, that every child has the right to life, and that States shall ensure the maximum child survival and development; that every child has the right to a name and nationality from birth; and that when courts or welfare institutions or administrative authorities deal with children, the child's best interests shall be a primary consideration. The Convention recognizes the right of children to be heard.

Furthermore, States shall ensure that each child enjoys full rights without discrimination or distinction of any kind, and shall ensure that children should not be separated from their parents, unless by competent authorities for their well-being. In addition, States shall facilitate reunification of families by permitting travel into, or out of, their territories; and States shall protect children from physical or mental harm and neglect, including sexual abuse or exploitation.

Also according to the Convention, disabled children shall have the right to special treatment, education and care; primary education shall be free and compulsory and discipline in school should respect the child's dignity; capital punishment or life imprisonment shall not be imposed for crimes committed before the age of 18; no child under 15 should take any part in hostilities and children exposed to armed conflict shall receive special protection; and children of minority and indigenous populations shall freely enjoy their own cultures, religions and languages.

Thus we see that Convention covers a variety of aspects and does this more or less satisfactorily. Some of the happiest Articles are required to be mentioned here. Article 3 deserves a mention. It states that "in all actions concerning children... the best interest of the child shall be a primary consideration." That is to say that whenever a child's right is in the process of being affected the focus must be on the child's welfare and on its parents or legal guardians.

The extraordinary importance of Article 3 lies in the fact that for the first time it grants children the right to their best interests. By doing that this concept becomes autonomous, it is no longer a tool in the hand of parents or legal guardians or whoever. It follows that from now on children ought to be accorded also the right to the judicial review of cases in which there are apparent abuses of interpretation of the interests clause.

Article 28 and 29 of the Convention require countries to provide free, compulsory basic schooling that is aimed at developing each child's ability to the fullest. Access to school and high-quality education are vital to this. Articles 28 and 29 are buttressed by four other articles that assert overarching principles of law: Article 2, on non-discrimination; Article 3, on the best interests of the child; Article 6, on the Child's right to life, survival and development; and Article 12, on the child's right to have opinions and express them freely.

The vision of education enshrined in the Convention and other human rights instruments recognizes the right to education as the underpinning for the practice of democratic citizenship. The Convention is thus a guide to the kind of education that is essential both to children's development and to social progress

The broad outlines of an education revolution within the Convention's framework can be discerned. It has five key elements that interweave with and reinforce each other: **Learning for life; Accessibility, quality and flexibility; Gender sensitivity and girl's education; The State as key partner; and Care of the young child.**

Learning for life includes helping children develop the literacy, numeracy and psychosocial skills and the knowledge base that will equip them to be active and effective participants in the events of their lives. To be successful, such an approach calls for curricula and pedagogies that take into account such factors as gender, language and culture, economic disparities and physical and mental

disabilities, and enable children to deal with them in a positive way. It prepares children to appreciate their own rights and respect those of others.

Accessibility, quality and flexibility of the education requires that education should be such that reaches to unreached class. The conventional education systems in many countries are too rigid to reach the children who, because of gender, ethnicity or poverty, have least access to school. The study has revealed that not only do fewer girls than boys go to school, fewer rural children go than city-dwellers, fewer from ethnic minorities than from the dominant ethnic group – and the educational needs of the disabled are barely considered. Children caught in emergency situations often face years of disrupted schooling. But Education For All cannot be achieved unless these children are reached.

Gender Sensitivity and Girl's Education: Girls have a fundamental right to a high-quality education that serves their needs. This is too often denied even for those who have managed to reach the class-room and then find their learning and their self-esteem undermined by lessons and textbooks full of messages suggesting that girls are less important than boys or by teachers who reward boys with more attention and offer them more opportunities for leadership.

To protect children's right to education, schools and education systems must be 'gender-sensitive' and girl-friendly'. Key measures that have proven to promote girl's schooling, and that also enhance the quality of the school experience for all children, include: offering a learning experience that is child-centered, relevant and conducted in the local language; recruiting and training teachers to be more sensitive to gender and child-rights; locating schools closer to children's homes; ensuring that schools are places of safety, with a supply of safe water and latrines; and rooting out gender bias from textbooks and materials.

The State as key partner: The State has a vital role in the education revolution. But its role is changing rapidly. Instead of acting as an omnipotent central authority, the State is finding it must work in partnership with multiple sectors

of society in order to have a better chance of achieving the goal of Education For All. It is mobilizing and co-ordinating the effort of others, as well as passing power to lower levels of the system to improve its efficiency and responsiveness.

Care of the young child: Learning begins at birth, and new research continues to add to our understanding of the way children develop. This is growing evidence that the quality of a child's experience in the first two year of life – including care and stimulation as well as health and nutrition – has a long-lasting effect on the development of the brain. By the age of six, when children generally start school most of the brain's neural connections are already made children's ability to prosper in the education system has to an extent, already been determine.

Given this understanding of the importance of the early years, any meaningful conception of 'basic education' has to include programmes promoting early childhood care for child growth and development (ECCD). There is consensus that child care and early education are inseparable. Children cannot be well cared for without being educated.

Another contribute of the utmost importance to the cause of children's protection comes from Article 35 which requires States Parties to take all appropriate measures to prevent the abduction, the sale of or traffic in children for any purpose or in any form. Article 35 finally covers grey area of national and international legislations which had witnessed repeated and too often unpunished violation of basic rights.

Unfortunately there are also provisions that cannot be seen as real improvements. The most notorious one is Article 38 which fixes minimum age for children to fight in wars at fifteen years. This obviously does not represent any sort of guarantee for children worldwide. A UNICEF report showed that in 1986 in 25 countries young men were eligible to go to war at an earlier age than they were eligible to vote. It is not foreseeable an inversion of tendency so long

as countries like, for instance, the USA or the United Kingdom lobby to keep the threshold for children to go to war so low. There is the moral responsibility of any casualty affecting child soldiers.

Another contested provision is Article 21 which deals with adoption. A look at the *travaux préparatoires* show that, due to the pressure exercised by Muslim countries, its version was revised and completely restructured just before the whole Convention went to the plenary meeting for final lecture. That hurried drafting resulted in a vague and unprecise article which disregards the gravity of the matter it is supposed to regulate.

But the truth remains that Convention is based on varied legal systems and cultural traditions and is a universally agreed set of non-negotiable standards and obligations. These basic standards—also called human rights—set minimum entitlements and freedoms that should be respected by governments. They are founded on respect for the dignity and worth of each individual, regardless of race, colour, gender, language, religion, opinions, origins, wealth, birth status or ability and therefore apply to every human being everywhere. With these rights comes the obligation on both governments and individuals not to infringe on the parallel rights of others. These standards are both interdependent and indivisible; we cannot ensure some rights without—or at the expense of—other rights.

However the aim of the convention is to set certain rules for the protection of minors whose application will be monitored by a UN body. The hope is that by throwing the rights of the child into the Human Rights arena they will be given major consideration.

Most of the above rights of the child find prominent place in the charter of rights guaranteed under the Indian Constitution. An Indian citizen enjoys today many more fundamental rights than those which were believed to have been available at the time when the Constitution was enacted. This enlargement of human

rights jurisprudence was made possible because of the practice of judicial review and the constitutional obligation entrusted to the higher judiciary to be the guardian of peoples' basic rights. The Supreme Court has been adopting an activist, creative and dynamic role which has led to an expansive regime of rights to freedom to citizens particularly to the weaker sections amongst them.

It may be concluded that the process of sensitizing and mobilizing all sections of society around issues of children's rights has commenced in our country. The Convention revalidates the rights guaranteed to children by the Constitution of India and is therefore a powerful weapon to combat forces that deny these rights. There is a need to further support and strengthen people's initiatives around children's issues, collect and disseminate information, mobilize public opinion and build a climate for active interventions in support of children's rights.

In May 2000, the General Assembly adopted by consensus the two Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography. The Optional Protocols entered into force in 2002.

4.11 THE COMMITTEE ON RIGHTS OF CHILD

Article 43 of the Convention talks about the establishment of the Committee on the Rights of Child. Committee shall consist of 10 experts of high moral standing and recognized competence in the field covered by the convention. One such Committee was formed in 1991 to monitor the implementation of the Convention on the Rights of the Child which gives a comprehensive collection of children's rights the force of international law. States parties to the Convention send their representatives to the Committee to present periodic reports on national efforts to give effect to children's rights.

From 1991 to 2004 the committee had held 35 sessions for considering the reports of participating states. The last session was held in Geneva from 12 to 30

January 2004 to review the promotion and protection of children's rights in Indonesia, Guyana, Armenia, Germany, the Netherlands (including Aruba), India, Papua New Guinea, Slovenia and Japan. The Committee's 18 Experts started the session by approving their agenda and programme of work.

Concerning the initial report of India, which was considered in March 1997, the Committee noted among positive aspects the existence of a broad range of constitutional and legislative provisions and institutions for the protection of human rights and children's rights. The Committee was deeply concerned at the widely disparate levels of enjoyment of the rights in the Convention by children living in different states, living in rural areas, living in slums and belonging to different castes, tribal and indigenous groups. The Committee encouraged the State party to ensure the enforcement of protective laws against the persistence of discriminatory social attitudes and harmful traditional practices towards girls. It also encouraged the State party to continue its efforts to carry out comprehensive public education campaigns to prevent and combat gender discrimination, particularly within the family.

4.12 THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was adopted on 25th May 2000 and it came into force on 18 January 2002. Though the convention on the Rights of Child deals exhaustively, with all aspects of rights of child, but it was lacking to give direct protection to children from international child trafficking, prostitution and pornography. The cases of sale of children, child pornography, child prostitution and practice of sex tourism was increasing. The prey for all these sort of exploitation are the girl child but the empirical study reveals that among the sexually exploited class the girl child is disproportionately represented.

Thus realizing the importance of the implementation of the provisions of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography, and the Declaration & Agenda for Action adopted at the World Congress, against Commercial Sexual Exploitation of Children, held in Stockholm from 27 to 31 August 1996, and the other relevant decisions and recommendations of pertinent international bodies.

This Optional Protocol is influenced by International Conference on Combating Child Pornography on the Internet, held in Vienna in 1999, in particular its conclusion calling for the worldwide criminalization of the production, distribution, exportation, transmission, importation, intentional possession and advertising of child pornography, and stressing the importance of closer cooperation and partnership between Governments and the Internet industry.

Other International legal instruments relevant to the protection of children, by which this protocol is influenced are; the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, the Hague Convention on the Civil Aspects of International Child Abduction, the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children, and International Labor Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor,

Besides this, this protocol was adopted to achieve the purposes of the Convention on the Rights of the Child and the implementation of its provisions, especially articles 1³⁰², 11³⁰³, 21³⁰⁴, 32³⁰⁵, 33³⁰⁶, 34³⁰⁷, 35³⁰⁸ and 36³⁰⁹, and it puts the obligation

³⁰² Child-age defined- a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.

³⁰³ Illicit Transfer Abroad-States Parties shall take measures to combat the illicit transfer and non return of children abroad.

³⁰⁴ Adoption- States Parties which recognize and/or permit the system of adoption shall ensure that the best interest of the child shall be the paramount consideration.

³⁰⁵ Protection from Economic Exploitation.

³⁰⁶ Protection from illicit use and trafficking of harmful substances.

on the state parties to abide by it. It also aims at protecting the child 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.

The State Parties to the Protocol Believes that the sale of children, child prostitution and child pornography will be eliminated by adopting a holistic approach, addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structure, dysfunctioning families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking in children.

Further it says that efforts to raise public awareness are needed to reduce consumer demand for the sale of children, child prostitution and child pornography, and believing further in the importance of strengthening global partnership among all actors and of improving law enforcement at the national level.

4.13 THE WORLD CONFERENCE ON EDUCATION FOR ALL: 1990

The 1990 World Conference on Education for All was held in Jomtien (Thailand), set out to accomplish for education. what the International Conference on Primary Health Care (Alma Ata, 1978), had achieved for health. It called for universal quality education, with a particular focus on the world's poorest citizens.

Jomtien marked the emergence of an international consensus that education is the single most vital element in combating poverty, empowering women,

³⁰⁷ Protection from Sexual Exploitation.

³⁰⁸ Prevention of Abduction, etc- Stated Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffick in children for any purpose or in any form.

³⁰⁹ Protection from other Forms of Exploitation- States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

protecting children from hazardous and exploitative labor and sexual exploitation, promoting human rights and democracy, protecting the environment and influencing population growth.

Previously, education had been assessed in terms of gross enrolment rates at primary, secondary and tertiary levels. At Jomtien, it became clear that as essential as access is, counting the number of children sitting on school benches is only part of the picture. Moving forward, education was to be assessed in terms of its quality and certain key elements. The expanded vision of education embraced at Jomtien includes an emphasis on basic education, early childhood care and development, and learning through adolescence and adulthood. Essential elements also include: making girl's education a major priority; the recognition that learning begins at birth; and the acknowledgement that new partnerships among governments and groups at all levels are necessary to achieve Education for All.

Modeled on some of the principles that had driven the child survival revolution that UNICEF had sparked in 1980s, the Jomtien conference established six key goals:

1. Expansion of the early childhood care and development, especially for the poor;
2. Universal access to and completion of primary education by the year 2000;
3. Improvement in learning achievement based on an agreed-upon percentage of an age group (e.g., 80 percent of 14-year-old) attaining a defined level;
4. Reduction of the adult illiteracy rate to half its 1990 level by the year 2000, with special emphasis on female literacy;
5. Expansion of basic education and training for youth and adults;
6. Improved dissemination of the knowledge, skills and values required for better living and sustainable development.

4.14 THE WORLD SUMMIT FOR CHILDREN (1990)

The World Summit for Children (WSC), held at United Nations Headquarters, was an unprecedented gathering of world leaders to promote the well-being of children. The high point of the occasion, held under the auspices of the UN in New York, was the joint signing of a World Declaration on the Survival, Protection and Development of Children and a Plan of Action comprising a detailed set of child-related human development goals for the year 2000. These included targeted reductions in infant and maternal mortality, child malnutrition and illiteracy, as well as targeted increases in access to basic services for health and family planning, education, water and sanitation. Of the 159 Governments represented at the Summit, 73 signed the joint Declaration and Plan of Action on behalf of the world's children. The total of signatories had risen to 167 countries as of October 1996.

The goals established at the 1990 World Summit for Children have had an extraordinary mobilizing power, generating a high level of commitment on behalf of children around the world, and creating new partnerships between Governments, NGOs, donors, the media, civil society and international organizations in pursuit of a common purpose.

The Children's Summit also served as an important organizational model for global mobilization, later adapted by the Earth Summit in Rio de Janeiro (1992) and the Social Summit in Copenhagen (1995). Its involvement of world leaders and its establishment of time-bound, measurable goals were pioneering endeavors, helping to mobilize resources and commitment and shape new initiatives with clear aims and directions.

4.15 APPRAISAL OF ILO CONVENTIONS

The view of the ILO is that child labor grossly violates the Human Rights as conceived by the International Conventions and National Legislations. The World Health Organization has also expressed the view that working children suffer significantly as compared to the children in schools. The UNO had convened a Human Rights Conference in the year 1993. This conference specifically refers to child labor, child prostitution, female infanticide as well as other form of sexual abuse. It calls upon the states to initiate steps to ensure the effective protection and promotion of Human Rights of the children engaged in hazardous occupations.

The Fundamental objective of ILO Policy is the abolition of child labor. The policy of ILO on child labor is set out in the preamble of the Constitution. Since its inception ILO has adopted a number of Conventions on child labor. International Labor Organization has adopted 18 conventions and 9 recommendations pertaining to children. India has ratified six out of 18. These are: No.5-minimum Age (Industry) Convention, 1919 ; No. 6- Night work of young persons (Industry) 1948 ; No 15-Minimum Age (Trimmers and Stockers) Convention,1921; No. 16- Medical Examination of young persons (Sea) Convention, 1921 ; No. 90(Revised)- Night work of young persons (Industry) 1948 ; and No. 123- Minimum Age (Underground Work) Convention, 1923. Its first Convention on child labor was adopted in the year 1919. Under this convention, a child below the age of 14 years is prohibited to work in any industrial establishment. The most important Convention of ILO on child labor is the Minimum Age Convention, 1973 (138). This Convention has been ratified by 87 members out of 173 members states of I.L.O. as on 31st March, 2000.

This Convention cast a duty upon its ratifying states to fix a minimum Age for entry to employment. It also calls upon member states to design a National policy for abolition of child labor. **In this Convention, the basic rule is stated**

that the minimum age of entry to employment should not be less than the age for completing compulsory schooling. This Convention permits young person between the age of 13 and 15 to be employed in light work. This Convention maintains that the minimum age should be progressively raised to a level consistent with the physical and mental development of children. It makes a provision of flexibility for countries whose economic and educational facilities are not adequate. Such countries may prescribe a general minimum age of 14 years instead of 15 years and a minimum age of 18 years for hazardous work. Such flexibility of age relaxation has been given almost in every ILO Conventions.

4.16 CONCLUSION

Over the past decade, children's emergence as topic of public and political concern has been truly striking. The 1990 World Summit for Children, the passage of the Convention on the Rights of the Child, and Declaration on the rights of child have served to consolidate the presence of children and young people in political and social debate.

This is also of course a reflection of long-term changes in societies. Decades of modernization and urbanization have changed many attitudes. Following this century's vast improvements in child survival and development, parents have greater hopes for their children and they expect more for them. And society is investing much more in their education and training. Seldom has the international community been so united as it is on the priority for universal primary education.

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