

# PROMOTING CHILD HEALTH AND THE CONVENTION ON THE RIGHTS OF THE CHILD

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I want to fashion a thesis which will not commend itself to some, because there is a kind of breezy dismissal, underscored occasionally by an unwarranted contemptuousness, insofar as the rights of children are concerned, there is also some considerable jaundice and skepticism about international conventions generally—a tendency to see them as a kind of intellectual rigor mortis of the multilateral system. Nevertheless, I will make an argument.

Let me use the Cold War as the context. It was impossible during the Cold War period to talk thoughtfully and rationally about rights. The western world promoted civil and political rights; the Eastern Bloc promoted economic, social, and cultural rights, and individual liberties were juxtaposed to the collectivist impulse. It was impossible to harmonize them; the positions were just too intransigent.

Then the Cold War ended, and suddenly there emerged, full-blown in 1990, the Convention on the Rights of the Child. It is the only binding international convention which fully embraces the principle of indivisibility. That is to say, every single right is equal: traditional economic, social, cultural, political, and civil. The rights to health and to education are equal in every respect to the rights to freedom of religion or freedom of speech. And these rights pertain to all children up to the age of 18, given the definition within the Convention itself.

For an agency like UNICEF, the Convention was a kind of godsend. We had embraced the goals which emerged from the World Summit for Children in 1990, goals which were largely appropriate for health and largely generic: health, nu-

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trition, water, sanitation, education as a bulwark for health. These were practical and necessary goals, suffused by a kind of moral imperative. And suddenly, with the Convention, they became legally binding as well. So that now, all of the goals that deal with the health and nutritional aspects of the Summit have the imprimatur of legitimacy, which they never had before. And what used to be described as simply aspirational rights or as needs—the health of children—has now become part of the human rights of children. The Convention on the Rights of the Child therefore is a hugely positive document. It does not derive its strength by responding to egregious violations of human rights. It affirms rights, in a fashion which is both apposite and compelling. And as you know, 187 out of 193 countries have ratified the Convention on the Rights of the Child. The implications are truly startling.

Consider Article 24, which deals with health. It declares: “States parties [that is to say governments] recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. [Governments] shall strive to ensure that no child is deprived of his or her right of access to such health services. [Governments] shall pursue full implementation of this right and, in particular, shall take appropriate measures.”

And then there is a litany of items: The first item speaks to diminished infant and child mortality. And now a vehicle like immunization has become a human right, which allows us to place national immunization days and the whole panoply of immunization before a government—not as a necessary requirement for children, but as an *obligation* under the Convention. It also allows us to go to a government like Angola, or to the warring factions in Afghanistan, or to the warring factions in Sri Lanka, and ask them to lay down their arms for a period of time and create a corridor of peace through which the immunization for children can be delivered. All in the name of the right, which is conferred by the Convention, and which we now use time and time again.

The second item speaks to nutrition, water and sanitation, and the right to breastfeeding. The third item speaks to prenatal and postnatal care and allows, again, an organization like UNICEF to join with World Health Organization in

the pursuit of the diminution of maternal mortality, one of the great scourges in the modern world. An estimated 600,000 women's lives are lost every year—unconscionably, indefensibly, unnecessarily—and now we have a legal instrument through which it becomes possible to change the objective circumstances, to deal with governments and to revamp health infrastructures in various countries, using the Convention on the Rights of the Child as a bulwark.

Or let us consider Paragraph Three of the Right to Health Article: “[Governments] shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.” By traditional practices, we know the drafters mean female genital mutilation. And so we now have a convention, ratified by 187 countries, which allows us to deal with female genital mutilation in a number of countries that are otherwise intractable. This means that these matters, which are culturally sensitive, can now be discussed in a variety of fora in which there had never before been access.

I remember vividly a little conference in Eritrea that I attended a few months ago with all of the political and religious leadership, all of the community activists, and an appropriately enlarged group of academics. They had come together to discuss a number of items flowing from the Convention on the Rights of the Child. A number of children were also present, including four young Muslim girls. One of these 11- or 12-year-old girls stood, faced these transcendent aristocrats, and said, “Why are you scarring our sexual and psychological lives forever by permitting female genital mutilation?” And the politicians said, “It’s not our fault. There’s no law mandating the practice.” And the religious leaders said, “There’s no religious basis for it.” And the young girl said, “Well, then why are you doing it? Why do you continue to do it?” And they said, “Well, it’s, it’s a traditional practice.” And the young girl said, “Well, as politicians you have a right to override those traditional practices.” It was an extraordinary exchange. And as I sat there and observed it, I thought, “How fascinating that an international instrument, a convention on human rights, should initiate this kind of exchange in a country like Eritrea, setting the basis for social change.”

Or let us read item Four of the Health Article, which says: "[Governments] undertake to promote and encourage international cooperation with a view to achieving progressively the full realization of the right recognized in this article. In this regard, particular account shall be taken of the needs of developing countries."

What does that mean? That means that the donor countries, the industrialized countries, have an obligation to contribute financially so that the health and human rights juxtaposition can be real in the developing world. It means that we are able to use the Convention to talk about the levels of foreign aid. It also means that we can use the Convention to talk about the direction of existing foreign aid into social sectors, like health and education, where profound human change can be effected. It means that we can use the Convention, as we are doing time and time again, to say to the World Bank and the International Monetary Fund, "If your contributions to the social sectors are contingent on the conditions which are allied with structural adjustment programs, therefore damaging further the present vulnerability of the various populations of Africa, we want no part of it. You are transgressing the Convention on the Rights of the Child and we'll not participate with you."

It allows us, in other words, to say that when you have sophisticated governments with sophisticated economic and social analyses, like Ghana and Uganda, like Senegal and Mali, and Tanzania and Botswana, and what they need, in order to implement beneficial social change, is a continuous supply of foreign aid, that the Convention is a basis on which to make the argument.

But it goes even further. The entire range of issues involving children in need of special protection measures have achieved a new international notoriety, and this is too driven largely by the Convention. At heart again is this joining of health and human rights. Consider the current consuming obsession with child labor internationally: do you think that it is some kind of coincidental moment in the course of human history? It is all coming together in a conference in Holland early next year; and then in Norway late next year; and in a State of the World's Children's Report which UNICEF will issue in December of 1996; and in much of the debate

internationally—all because of the Article in the Convention which denies the exploitation of children through child labor.

Do you think that the gathering in Stockholm in August 1996 on the commercial sexual exploitation of children just sprang forth? Not at all. It was brought together by the Article in the Convention which upholds the right to protection from any form of sexual exploitation.

On November 11, 1996, in the General Assembly of the United Nations, a report will be tabled on the consequences of war on children. The report is Graça Machel's study entitled, "The Impact of Armed Conflict on Children." Graça Machel is the former first lady of Mozambique, that country's Minister of Education, and a magnificent anti-apartheid activist, who has worked for two years producing this study as an expert appointed by the United Nations Secretary-General. The study will transform the way the nations of the world deal with children in conflict. It will have an impact on children equivalent to the impact Brundtland had on the environment. How did it start? From a day-long seminar on children in war which emerged from the Committee on the Rights of the Child, the treaty body appointed by the Convention.

For the last two days, I have been in Ottawa, in Canada, my home and native land, at a conference on landmines. When UNICEF was challenged for our criticisms of individual governments and their willingness to continue to produce and to trade and to use landmines, we simply reminded them of the Convention. And if ever there is something which violates the fundamental human rights and health of children, it is landmines! And we are not going to permit continued production in the name of malice and malevolence when we can say to governments, "The Convention makes it impossible."

It goes further. Countries everywhere are moving on implementation. They are putting the Convention into their constitutions and they are changing their laws; they are holding conferences, from the Philippines to Uganda to Belize to the Caribbean, dealing with the Convention on the Rights of the Child and the implications for governments.

It goes yet further. The Committee on the Rights of the Child, the treaty body that monitors the Convention, receives

reports from countries, provides concluding observations criticizing countries for noncompliance, takes a country like Canada and says, "The levels of child poverty are unacceptable; the treatment of aboriginal health on reserves is unacceptable; the nature of what you do to minority children is unacceptable," and suddenly, even within an industrial country, the objective circumstances alter.

In conclusion, we must be careful not to romanticize the Convention. It depends how far one wants to push the brief. UNICEF, the NGO community, the UN system, want to push it very far. The power and the implication of the Convention are striking. It can mean strengthening other human rights instruments, like the Convention on the Elimination of All Forms of Discrimination Against Women. The sophisticated economic and social underpinnings of the Convention on the Rights of the Child can mean—for a broad range of human rights instruments—a new kind of opening. It can be seen as a breakthrough in health and human rights, whether considering gender, HIV/AIDS, violence, sexual or reproductive rights. In an age of such fashionable cynicism, the Convention is a liberating instrument in the amelioration of humankind.