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**THE PROTECTION OF CHILDREN'S RIGHTS AND THE UNITED
NATIONS CONVENTION ON THE RIGHTS OF THE CHILD:
ACHIEVEMENTS AND CHALLENGES**

JAAP E. DOEK*

INTRODUCTION

For the protection of children's rights under international law the United Nations (UN) Convention on the Rights of the Child is the most important legal instrument.¹ The CRC, adopted unanimously by the General Assembly of the United Nations on November 20, 1989, has been ratified by 192 of the 194 States that exist in the world; only two States have not yet to ratify it.² No other human rights treaty comes that close to universal ratification.³ The CRC is at the same time the human rights treaty with widest coverage. But paper does not change the reality. If one reads the text of the CRC, it is abundantly clear that there is an often wide gap between this text and the realities in the life of children. Let me give you some examples which can be complemented with thousands of other similar cases.

Article 2 CRC: "States Parties shall respect and ensure the rights set forth in the present Convention to each child within its jurisdiction without discrimination of any kind"⁴

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1. Convention on the Rights of the Child, adopted November 20, 1989, 1577 U.N.T.S. 3 (entered into force Sept. 2, 1990) [hereinafter CRC].

2. Since East Timor became independent in May 2002, the number of States went up from 193 to 194. East Timor has ratified the CRC but the formal ratification documents have not yet been submitted (as of March 1, 2003) to the office of the Secretary General, but will be soon. The only two States not yet Party to the CRC are Somalia (lack of formally recognized government) and the United States (lack of political will).

3. The treaty in second place is the Convention for the Elimination of Discrimination Against Women, opened for signature Dec. 18, 1979, 1249 U.N.T.S. 13 (entered into force Sept. 3, 1981) [hereinafter CEDAW], with 161 ratifications.

4. CRC, *supra* note 1, art. 2(1).

Article 28 CRC: “States Parties recognize the right of the child to education and with a view to achieving this right progressively and on the basis of equal opportunity, they shall . . . make primary education compulsory and available free to all.”⁵

Hula does not go to school in the Dominican Republic. She has been told it will make her less attractive if she is educated. Her parents will not even let her look at her brothers textbooks. She stays at home with her mother to cook and clean. Hula is 14 yrs old. There are another 68 million girls like Hula, who do not receive any education at all.

Article 24 CRC: “States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health.”⁶

Article 7 CRC: “The child . . . [has] the right to know and be cared for by his or her parents.”⁷

Monica is connected to a feeding tube. Her cheeks are puffy, her stomach distended, and she weighs only 10 lbs. She does not smile, laugh, or even cry. She lies there with a blank look on her face. She probably will not make it through the end of the month. She is a crack baby. Her mother left her on the front step of an American hospital. Again, this is one example of the many Monicas in this world. Many more children die before they can celebrate their first birthday. In fact, every 24 hours about 35,000 children die of preventable diseases.

Article 33 CRC: “States Parties shall take all appropriate measures . . . to protect children from the illicit use of narcotic drugs.”⁸

Micky started using heroin when he was 10. He uses any needle he can get his hands on. He’ll even sell his body. Three of his Canadian friends have died from AIDS in the last year.

Article 19 (1): “States Parties shall take all appropriate . . . measures to protect the child from all forms of physical or mental violence . . . including sexual abuse.”⁹

Article 27 CRC: “States Parties recognize the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development . . . States Parties shall . . . assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance . . . particularly with regard to nutrition, clothing and housing.”¹⁰

5. *Id.* art. 28.

6. *Id.* art. 24.

7. *Id.* art. 7.

8. *Id.* art. 33.

9. CRC, *supra* note 1, art. 19(1). Also Article 34 states that “States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse.” *Id.* art. 34.

10. *Id.* art. 27.

Jule was raped by a neighbor. She takes care of her infant daughter with the scant money she earns from making bread. The rest of her family died from AIDS. She has never been to school in Ghana. Jule is 13 years old.

Article 37 (a) CRC: "No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment."¹¹

Musa was about 16 years old when he was held in a detention center in Chernokovo, a town in Chechnya, from January 16, 2000 until February 5, 2000, and he was severely beaten and tortured every day. He was left with a fractured spine, which may cause permanent paralysis. Another boy (17 years old) was brought to prison; his teeth were sawn off with a metal file and his lips were shredded, leaving him unable to eat, drink, or speak. Unfortunately, many more examples of torture and inhumane and degrading treatment of children can be given. Organizations, like Amnesty International, Human Rights Watch, and OMCT (Organisation Mondiale Contre la Torture), regularly report on the many instances of violence against children, which happen in many different ways and in a wide variety of settings, such as families, foster care, schools, institutions, and facilities that serve law enforcement purposes.

These and many other examples of violations of children's rights seem to suggest that the CRC-operational for more than 10 years has had little or no impact. It may be true that the CRC had little, if any, meaning for many children, particularly the very poor and the most vulnerable. But at the same time, it is fair to say that a lot has been achieved in the last 10 to 15 years, a very short period given the misery hundreds of millions of children live in is the result of many decades of structural neglect of children and their rights. But, it is also true that a lot still needs to be done. Let me elaborate a little bit (more will result in a book) on these two elements: the achievements and the challenges, with particular attention to how these challenges can be addressed.

ACHIEVEMENTS SINCE 1990

Some General Achievements: A Change of Policy and Attitude?

The developments in the field of children's rights since 1990 (the CRC was entered into force on Sept. 2, 1990) can be characterized with words like awareness raising, training, change of laws, efforts to change attitudes, and the development of national plans of action. These activities, changes, and developments were and are the result of major and very visible international events and of less visible, but ongoing and rather structural, activities within the framework of the monitoring of the CRC implementation by the CRC

11. *Id.* art. 37(a).

Committee. The first, and very visible, event that should be mentioned is the World Summit for Children (WSC) organized by UNICEF in September 1990. Over 70 Heads of States and a large number of other State Representatives adopted a declaration and a plan of action for the survival and development of children. The WSC was important for various reasons. For example:

1. The WSC contributed unmistakably to an unprecedented level of ratifications. Within 7 years, 191 States Parties had committed themselves to the implementation of children's rights by ratifying the CRC. The importance of this almost universal and legally binding commitment to children's rights implementation should not be underestimated.

2. In many States, serious and often successful efforts were made to develop and implement a national plan of action in accordance with the WSC's plan of action. Sometimes plans of action were made for specific areas of concern. These plans were focused on education, health care, commercial sexual exploitation, street children, and/or child labor.

3. UNICEF became, and currently is, fully committed to the implementation of the CRC not only in the headquarters in New York, but also at the regional and at the country level. This commitment is the major factor in the progress made in the implementation of the CRC, particularly in the developing part of the world.

4. The WSC's plan of action provided an excellent instrument for the implementation of the CRC, although the CRC was only scarcely mentioned in the document.

The follow-up to the WSC, accompanied by end of the decade reviews from over 130 governments indicating the achievements and challenges for the years to come, was the Special Session of UN's General Assembly (UNGASS) which was held in May (8-10) 2002.¹² The Secretary General used the national end of the decade reviews and other documents in his report to the General Assembly, presenting the achievements over the past decade and perspectives for the future.¹³ Before giving more examples of the achievements in more concrete terms than in the first part of this paragraph, I have to mention another

12. This Session was scheduled for September 2001 but was postponed because of 9/11 attacks. Formally, it was not the 2nd WSC, because the first was organized by UNICEF and officially it was not a governmental meeting. The document adopted was not formally a UN document. However, the UNGASS was not only the first ever session of the UN's General Assembly devoted exclusively to children's issues, but also an official UN meeting of governments. The final document, *A World Fit for Children*, was officially adopted by the member States of the UN and became a UN document.

13. *We the Children: End-decade Review of the Follow-Up to the World Summit for Children, Report of the Secretary-General*, U.N. GAOR, 27th Sess., Agenda Item 8, A/S-27/1 (2001) [hereinafter *We the Children*].

factor (other than the WSC's plan of action) that has been important for the achievements: *the implementation of the CRC*.

It is not possible to present very concrete statistical data of the impact of this implementation. At the international level, the impact is very noticeable in the area of children in armed conflicts. It is furthermore very likely that some major events like the Stockholm (1996) and Yokohama (2001) conferences on commercial sexual exploitation, other international and regional conferences, and the adoption of ILO Convention No. 182¹⁴ would have not taken place and/or been less successful without the existence of the CRC. At the national level, the impact is again hard to measure in concrete figures and facts for many aspects of the implementation.

But, all States Parties should report the progress they make with the implementation of the rights of the child to the CRC Committee. This may seem to be an exercise in moving paperwork, but experiences have taught us that it is much more than that. The preparation of the report requires, given the broad content of the CRC,¹⁵ the involvement of many ministries and other governmental bodies, such as those responsible for health, welfare and education, justice, public order, defence, and the national budget. In addition, the NGOs in many countries submit their own reports (shadow, supplementary, or other types) to the CRC Committee. These reports are often the work of close cooperation between the various specialized NGOs in the country via the establishment of a national forum or coalition of NGOs. Finally, quite a number of specialized UN agencies, in particular UNICEF, submit their reports on the country to the Committee.

In short, reporting to the CRC Committee is a process that very much contributes to raising awareness among civil servants throughout the governmental bodies regarding the activities of NGOs. Furthermore, reporting fosters cooperation at the national level and provides valuable information to UN agencies, which are not limited to writing alternative and/or supplementary reports. The examination of a report results in the so-called Concluding Observations. In this document, the CRC Committee recommends the State Party to undertake specific actions in various areas. It is again a tool for initiatives by NGOs and UN agencies that not only puts pressure on the government – via such avenues as the media and parliament – to undertake the

14. See Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, June 6, 1999, available at <http://ilo.org/public/english/standards/ipe/ratification/convention/text.htm>. (last visited April 5, 2001) [hereinafter ILO Convention No. 182].

15. For the 8 clusters and the many questions that should be answered in the report, see *Guidelines Regarding The Form and Contents of Periodic Reports To Be Submitted by States Parties Under Article 44, Paragraph 1 (B), of The Convention*, U.N. CRC, U.N. Doc. CRC/C/58 (1996).

recommended actions, but also provides the government with very concrete help in terms of service provisions and/or technical assistance. In many countries, this reporting and follow-up process was more or less linked with the efforts to implement the WSC's plan of action.

The increased and growing attention for the CRC also contributed to important progress in the following areas: children in armed conflict, commercial sexual exploitation, and child labor.

A. *Children in Armed Conflict*

At the time of the drafting of the CRC, one of the most heavily debated provisions was Article 38. A number of States felt very strongly – supported by many, if not all, NGO's – that Article 38's minimum age for recruiting children to become soldiers at 15 years-old was much too low.¹⁶ Efforts to increase this age failed, and the States most concerned about this matter finally decided to accept Article 38 as it was (and is) because they did not want to endanger the unanimous approval of the CRC by the General Assembly. But they clearly had the intention to raise this issue again as soon as possible after the CRC was ratified by the 20 States necessary for the CRC to enter into force (on September 2, 1990). This explains why the Committee devoted its first day of General Discussion in 1992 to Children in Armed Conflicts. One of the Recommendations of this discussion was to undertake an international study on this matter.¹⁷ In 1993, the Secretary General appointed Graca Machel as the expert to conduct this study with the support of a secretariat provided to her by the UN. The report published in 1996 had at least two very visible consequences:

(1) The appointment of Mr. Otunu of Nigeria by the Secretary General of the UN as his special representative for children in armed conflicts. Mr. Otunu, who has an office in New York, has been and is very active visiting the countries where children are (and have been) recruited as soldiers or are (and have been) involved in armed conflicts in any other way. He also succeeded in making children in armed conflicts a topic for the agenda of the Security Council that now regularly (at least once per year) discusses the developments in this area covered by the CRC and its related Optional Protocol (see Resolution 1261(1999), Resolution 1314 (2000) and Resolution 1379 (2001) adopted by the Security Council).

16. *See, inter alia*, GERALDINE VAN BUEREN, *THE INTERNATIONAL LAW ON THE RIGHTS OF THE CHILD* ch. 12 (1995).

17. Formally this recommendation was addressed to the General Assembly, asking the General Assembly (GA) to request the Secretary General to undertake the study, *see* CRC, *supra* note 1, art. 45. The GA followed this recommendation, *see Protection of Children Affected by Armed Conflicts*, G.A. Res. 48/157, U.N. GAOR, 48th Sess., 85th mtg., U.N. Doc. A/RES/48/157 (1993).

(2) The drafting and adoption by the UN General Assembly (on 25 May 2000) of an Optional Protocol (OP) on Children in Armed Conflicts.¹⁸ This OP entered into force on February 10, 2002 and, as of March 2003, has been ratified by 46 States Parties. In this OP, the minimum age for non-voluntary recruitment (conscription) is 18 years; for voluntary recruitment the States Parties commit themselves to increase that age to above the minimum of 15 as set in Article 38 of the CRC. Another rule of this OP is that no child below 18 shall be directly involved (as a soldier or otherwise) in armed conflicts. States Parties also commit themselves to the development and effective implementation of programs for demobilization, recovery, and social reintegration of child soldiers.

The study and its follow-up (via special representative/optional protocols and other actions) have resulted in significantly more attention for children in armed conflicts, not only in terms of demobilization and social reintegration, but also in terms of prevention. Crucial in this regard have been, and still are, specialized UN agencies, in particular UNICEF¹⁹ and international NGO's (e.g. the Coalition against Child Soldiers) that provide technical, financial, and other assistance. Some of the concrete results of all this will be presented in the next paragraph.

B. *Commercial Sexual Exploitation of Children (CSEC)*²⁰

Since the end of the 1980's, the growing international attention resulted, inter alia, in the appointment by the Commission on Human Rights of a Special Rapporteur on the Sale of Children, Child Prostitution, and Child Pornography and in the establishment of an international NGO focusing on these phenomena: ECPAT (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes) with branches in quite a number of countries.²¹ This NGO supported by UNICEF, other NGO's, and

18. The U.N. General Assembly adopted the OP on May 25, 2000, and Annexes I and II contain this OP and the one on the Sale of Children, see *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*, U.N. GAOR, U.N. Doc. A/54/RES/263 (2000); see also Michael J. Dennis, *Newly Adopted Protocols to the Convention on the Rights of the Child*, 94 No. 4 THE AM. J. INT'L L. (2000).

19. See UNICEF, CHILDREN AFFECTED BY ARMED CONFLICTS: UNICEF ACTIONS (2002) [hereinafter UNICEF ACTIONS].

20. This term is increasingly used as the label for various form of sexual abuse/exploitation like child prostitution, child pornography and sale or trafficking of children for sexual purposes (see e.g., Second World Congress against Commercial Sexual Exploitation of Children, Dec. 17-20, 2001, available at <http://www.focalpointngo.org> (last visited May 16, 2003)).

21. ECPAT started in South East Asia with a focus on prevention and elimination of sexual exploitation of children in the tourist industry. Later it broadened its scope to commercial sexual exploitation in general. Its headquarters is in Bangkok, Thailand, and the organization has

governments, organized the First World Congress against Commercial Sexual Exploitation in 1996 in Stockholm. At this Congress, an Agenda for Action was adopted by 122 governments. About the same time, a working group of the UN Commission on Human Rights started the drafting of an Optional Protocol to the CRC on the Sale of Children, Child Prostitution, and Child Pornography.²² This work was completed in 2000, and the text was adopted by the UN General Assembly on May 25, 2000. This OP entered into force on January 18, 2002 and has been ratified by 45 States. As of March 2003, the OP requires States Parties, *inter alia*, to make all kinds of commercial sexual exploitation punishable under their criminal law, to introduce extra-territorial jurisdiction, to provide for the seizure and confiscation of products and benefits from such exploitation.

In addition to criminalizing CSEC, the States Parties should develop and implement programs to support the victims of CSEC, not only when they are involved in legal (criminal or civil) procedures but also after such procedures, by providing them with recovery, treatment/therapy, and social re-integration.²³ It is too early to present results of this OP because the first reports by States Parties on its implementation are not expected until 2004.²⁴

At the end of 2001, the Second World Congress against Commercial Sexual Exploitation of Children was held in Yokohama, Japan to evaluate results and to set an agenda for the next 5 years. In this agenda, the States committed themselves, *inter alia*, to address the root causes that place children at risk of sexual exploitation, such as poverty, inequality, discrimination, violence, armed conflicts and dysfunctioning families. Furthermore, they promoted networking among the key actors to combat CSEC, ensured adequate resources for the prevention and elimination of commercial sexual exploitation of children, and took adequate measures to address negative aspects of new technology, in particular child pornography on the internet.

branches and affiliates in many countries in all regions of the world. See ECPAT International, *at* <http://www.ecpat.net> (providing relevant statistics and information (last visited May 16, 2003)).

22. Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, opened for signature May 25, 2000, G.A. Res. 263, U.N. GAOR, 54th Sess., Annex II, U.N. Doc. A/RES/54/263 (2000) [hereinafter OP on Sale of Children, Child Prostitution and Child Pornography].

23. See also CRC, *supra* note 1, art. 39.

24. The States Parties to this OP (and the same applies to the OP on Children in Armed conflicts) are under the obligations to submit its first report on the implementation of the OP to the CRC Committee within two years after its ratification. This means that the CRC Committee may receive about 40 reports (on each of the OP's) before the end of 2004, see OP on Sale of Children, Child Prostitution and Child Pornography, *supra* note 22.

C. *Child Labor*

At the beginning of the 1990's, the efforts to prevent and eliminate child were given a very strong boost, not so much because of the CRC's entering into force but due to a very substantive donation from the German government to the ILO earmarked for elimination of child labor (50 million DM for a period of 5 yrs); labor, then, it was very limited and hardly visible.²⁵ This marks the beginning of the well known international program for the elimination of child labor, the International Labour Organisation (ILO-IPEC). This program is now financially supported by about 15 donor countries and different national programs carried out in about 75 Countries.²⁶

But, it is very likely that the ratification of the CRC by 191 states in 1997 contributed to the remarkable increase of international attention for child labor. The same fact may have been favorable to the ILO efforts to draft a new ILO Convention focusing on the Elimination of Worst Forms of Child Labour around 1997. These efforts were successful, and in 1999 the ILO adopted ILO Convention No. 182.²⁷

The CRC Committee regularly recommended that States Parties ratify ILO Convention No. 138, a recommendation, which in 1999 also included the ratification of ILO Convention No. 182. In this regard, it is important to note that the definition of the worst forms of child labor in Article 3 of the ILO Convention No. 182 lists various forms of exploitation of children already covered in the Articles 32-36 of the CRC.

I agree with the UN Secretary General that the CRC helped to enhance existing ILO standards (first ILO Convention No. 138 and later ILO Convention No. 182). The relevant provisions of the CRC have also helped to promote a growing recognition of the connections between the protection of children from economic exploitation and the enjoyment of their rights to education, health care, rest, play, and an adequate standard of living.²⁸

The awareness of the worst forms of child labor and the need for its prevention and elimination was not limited to governments. The tripartite structure of the ILO meant and means that employers' organizations and trade unions are involved in the fight against child labour. At the same time, many

25. For example, at the beginning of the 90's the major legal instrument regarding child labor was ratified by about 40 States: Concerning Minimum Age for Admission to Employment, June 26, 1973, 1015 U.N.T.S. 297 [hereinafter ILO Convention No. 138].

26. For more details, see ILO, IPEC Action against Child Labour 2000 – 2001: Progress and Priorities available at <http://www.ilo.org/public/english/standards/ipec/about/implementation/ipcreport.pdf> (last visited May 16, 2003).

27. Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, June 17, 1999, [hereinafter ILO Convention No. 182] available at <http://www.ilo.org> (last visited May 16, 2003).

28. *We the Children*, *supra* note 13, para. 333.

national NGO's were created in the field of child labor. These NGO's, UNICEF, other UN agencies and the ILO partners (governments, employers, workers), developed and maintained a momentum which, inter alia, resulted in a Global March against Child Labour²⁹ and in more awareness among consumers and international corporations. Awareness was the drive behind actions/programmes like the Rugmark initiative and agreements for the elimination of child labor from the garment industry in Bangladesh and the soccer ball stitching industry in Sialkot, Pakistan, as well as the development of codes of conduct by international corporations to include the prohibition of child labor in their production processes.³⁰

In light of the above and of many more activities which can be mentioned, it is fair to conclude that the CRC has created a movement with participants from all walks of life, from children and parents, to governments and all kind of organizations, including small, local, not-for-profit action groups, and large international corporations. The CRC has become a foundation for, and the driving force behind, a wide variety of activities aimed at improving the world of and for children. These activities have largely been devoted to increasing awareness and understanding the meaning of the child rights approach of the CRC in order to ultimately change the traditional attitudes regarding children. A change which I once summarized as "from charity to entitlement."

Although this can be considered a major and fundamental, achievement, one may wonder, is this all there is? Theoretically it sounds fine, but what about the children? Did they not benefit from the CRC and all the related activities?

Improvements for Children Since 1990

For those who expected the CRC to quickly make the world a better place for children, the results may be very disappointing. This kind of expectation is not very realistic. An international human rights instrument like the CRC cannot in and of itself improve the world for children. Even a serious and rigorous implementation will only produce visible and measurable results after some time.

The CRC has been operational since September 1990, and I think it is fair to say that the results in just 13 years are quite impressive, not only in terms of international action and policies as described in the previous paragraph, but

29. This Global March started in different continents, organized by groups meant to support the adoption of the new ILO Convention on the Elimination of the Worst Forms of Child Labour.

30. In this regard, see U.S. Department of Labor, *The Apparel Industries and Codes of Conduct: A Solution to the International Child Labor Problems Vol. III* (1996) in U.S. DEPARTMENT OF LABOR, BY THE SWEAT AND TOLL OF CHILDEN (A total of four important studies carried out in the second part of the 90s).

also for the children themselves. Let me briefly describe some of the improvements that can directly or indirectly be attributed to the implementation of the CRC.

A. *Legal Protection and Child Participation*

In the first reports on the implementation of the CRC now submitted by 175 States, one can find a wide variety of changes in laws enacted to strengthen the rights of children and their legal protection.

There is a growing trend – although not equally present in all States Parties – to recognize the child as a bearer of rights who should be given a fair opportunity to express her views and to participate in decision-making on matters relevant to her or him.

An increasing number of laws today explicitly provides the child with the right to be heard in civil procedures on e.g. custody, right of access, and child protection measures like out-of-home placements.³¹ In schools, children are increasingly being given the right to be heard and to participate in decisions relevant to their school environment. At the community level, youth councils are actively participating in the development and implementation of programmes and policies. Regional and national children and youth parliaments have been established allowing for a direct input in the political decision-making process. It may be time that some of these and other forms of participation have a high degree of decoration, tokenism, or symbolism, but it is also clear from recent developments that authentic child participation is growing at the local, national, and international level. This has been most recently illustrated by strong child participation to the Special Session on Children of the UN General Assembly.³²

In many States Parties, legal provisions for the protection of especially vulnerable children have been improved. This happened by increasing the minimum age for child labor through the introduction of more severe penalties and extra-territorial jurisdiction in cases of commercial sexual exploitation and trafficking.

Many legal and other measures have been taken to prevent and combat abuse of children in the family and in care institutions, including, inter alia, rules for child sensitive interviewing by well-trained professionals of victims of child abuse. The protection of girls from various forms of discrimination has improved via legal and other measures in quite a number of States Parties.

31. For a number of European countries, see Dr. Sharon Detrick, *Child Justice: Equal Justice: The Right to be Heard and the Issue of Discrimination against Children*, EURO. FORUM ON CHILD WELFARE, (March 2002).

32. See UNICEF, *THE STATE OF THE WORLD'S CHILDREN 2003 DEVOTED TO CHILD PARTICIPATION* (2002).

Many States Parties have changed or are in the process of changing their laws on juvenile justice in order to better protect juveniles suspected of having committed crimes throughout the prosecution process, including at the pre-trial detention stage, trial itself, and execution of sanctions stage with a growing preference for non-punitive alternatives for traditional custodial sentences.

But all these improvements of the rights of the child and his/her legal protection are not always implemented and sometimes even violated. The child therefore needs easy access to effective remedies.

It is encouraging to note that more and more children are being given a possibility to file complaints in cases of violation of their rights, either via specially created procedures (for example, the limited opportunities for children in institutions) or more generally via independent institutions for the monitoring of children's rights implementation like child commissioners or children's ombudsperson. There are a growing number of these institutions, particularly in Europe, as well as in other parts of the world.³³

B. *Improvements in Health Care, Education and Special Protection*

The improvements made during the first decade of the CRC's implementation (1990-2000) can also be presented in concrete figures and statistics. Keep in mind that factors other than the CRC, in particular the International Plan of Action of the WSC in 1990, have contributed to these improvements. While these improvements are perhaps not as good as one may want, they are nevertheless considerable.³⁴ Here are a few examples:

- the mortality rate of children under 5 years of age went down from 94 (1990) to 81 (2000) per 1000 live births;
- the children suffering from malnutrition, as measured by stunting or underweightness, decreased from 177 million in 1990 to 149 million in 2000, with about two-third of them living in Asia;
- polio has been eradicated in more than 175 countries;
- sustained routine immunization (three doses of combined diphtheria/pertussis/tetanus vaccine, DTP3) has reached a coverage of 75%.³⁵

33. See UNICEF Research Centre Florence, *Independent Institutions Protecting Children's Rights*, 8 INNOCENTI DIGEST (June 2001), and the website of the European Network of Ombudsperson for Children (ENOC) at <http://www.ombudsnet.org>. See also, *The Role of Independent National Human Rights Institutions in the Protection and Promotion of the Rights of the Child General Comment No. 2*, U.N. CRC, 32nd Sess., U.N. Doc. CRC/GC/2002/2 (2002).

34. For more information, see *We the Children*, *supra* note 13.

35. More and other types of immunization is promoted world wide via the Global Alliance for Vaccine and Immunization (GAVI), a partnership of UNICEF, World Health Organization (WHO), the World Bank, the Bill and Melinda Gates Foundation, and many other governments, NGO's, research institutions, and the vaccine industry. In 2001, GAVI approved the applications of 53 governments, worth more than 500 million US dollars in new vaccines and 250 million US

- the reported incidences of measles have declined by nearly two thirds;
- deaths due to diarrhoea have been reduced by 50%;
- about 72% of households in developing countries are using iodized salt (less than 20% in 1990). As a result 90 million newborns are protected yearly from significant loss of learning ability;
- in more than 40 countries, over 70% of the children receive at least one high dose vitamin A supplement a year. UNICEF estimates that, as a result, the death of one million children has been prevented in the period between 1998-2000;
- access to safe drinking water and access to proper sanitation facilities has improved for 816 million and 747 million people respectively;
- enrollment in primary education has increased and the global goal set in 1990 at the WSC (80% enrollment) has been achieved;
- in 2001, 21 countries reported that school enrollment and retention of girls increased (in South Asia the gender gap in school enrollment was reduced by 20%).

From these and other figures it is clear the implementation of the right to the highest attainable standard of health³⁶ and of the right to free and compulsory primary education has made considerable progress. But still a lot remains to be done (*see* The Challenges);

- in the period 2000-2001 more than 300,000 working children and almost 30,000 parents have benefited from the ILO-IPEC programmes;³⁷
- thousands of child soldiers have been demobilized thanks to actions by UNICEF and those supported by other UN agencies and NGO's. For instance, 2,400 in Angola, 2,600 in the Democratic Republic of Congo (Plan of Action 2002), 6,821 in Sierra Leone (since October 1999) and 3,351 in Sudan since February 2001. Education, psycho-social, and medical support was provided to the thousands of child victims of armed conflicts.³⁸

Improvements can also be recorded in the area of special protection, although they are still very moderate given the magnitude of the problems (*see* The Challenges); they are clearly less impressive than in the areas of health and education.

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dollars for immunization services over a period of five years. *See* UNICEF ANNUAL REPORT 8 (2002).

36. CRC, *supra* note 1, art. 24.

37. *See* ILO GENEVA, IPEC ACTION AGAINST CHILD LABOUR 2001-2002: PROGRESS AND FUTURE PRIORITIES (2002).

38. For more details and figures, *see* UNICEF ACTIONS, *supra* note 19.

Despite the achievements mentioned in the previous paragraph, the world is not yet a place fit for far too many children. Some facts to illustrate this:

- 600 million children have to live, that is to be fed, clothed, housed, and educated with less than \$1 US per day; even in the richest countries of the world one in every six children (about 47 million) live under the national poverty line;
- 211 million children aged 5-14 are engaged in some form of economic activity, and 186 million of them are engaged in the worst forms of child labor with the same applying for almost 60 million children age 15-17 years;
- about 110 million of those working children of primary education age do not receive any education at all;
- about 11 million children die every year of *preventable* diseases, that is about 20,000 *per day*, a fact that goes without any media attention;
- at the end of 2001, there were 2.7 million children under 15 years living with HIV/AIDS; in that year, 800,000 children under 15 years were newly infected with HIV and 580,000 children of that age group died of AIDS; the number of African children who had lost their mother or both parents by the end of 2000 is estimated at 12.1 million and is forecast to more than double over the next decade;³⁹
- polio is still endemic in 20 countries, while less than 50 percent of children under one year of age in Sub-Saharan Africa are immunized against DPT 3. In more than 15 countries, the measles vaccination coverage is less than 50 percent;
- in the past decade two million children died as a direct result of armed conflicts and an additional six millions were injured or disabled.

More facts and figures can be presented to show that the world is still and by far not a place fit for children. Think, for example, of the 11 million refugee children, the many million child victims of violence and abuse in their homes, their institutions, their schools, their work places and the streets.⁴⁰ The UN's General Assembly – following a recommendation of the CRC Committee – decided to request that the Secretary General conduct an in depth international study on violence against children. The Secretary General appointed Mr. Pinheiro to organize and supervise a study with the support of a secretariat established by UNICEF, the WHO, and the OHCHR.

From the above listed and many other overwhelming problems it is clear that the international community faces many challenges in its attempt to implement the CRC and make the world fit for children.

39. See UNAIDS/WHO, AIDS EPIDEMIC UPDATE DECEMBER 2001 (2001).

40. Just one example of the many publications on violence against children is HUMAN RIGHTS, EASY TARGETS: VIOLENCE AGAINST CHILDREN WORLDWIDE (2002).

The problems seem to be almost insurmountable, and it may be difficult to decide where to begin given the reality that not all problems can be tackled at the same time. The traditional opinion is that governments of States Parties need have to make their own choices and set their own priorities. This is rightly so, because the problems in the Netherlands, for example, are quite different from those in South Africa, which in turn are different from the problems in Brazil or Indonesia.

But the setting of priorities is not an arbitrary matter or a lottery. The goals that the 191 States Parties have committed themselves to are clear and can be found in the UN Convention on the Rights of the Child which they ratified voluntarily and wholeheartedly. These goals are elaborated upon in detail in the Declarations and International Plan of Action, *A World Fit For Children*, (WFFC) which was adopted unanimously by all members of the UN in May 2002, including those which have not yet ratified the CRC. In light of these commitments and taking into account national differences, the motto for the next decade could be: "Say what you do and do what you say."

The governments of all 189 United Nations Member States did say what they intended to do, not only in the WFFC, but also in 2000 by adopting the Millennium Development Goals.⁴¹ They all pledged to, inter alia:

- reduce by half the proportion of people living on less than a dollar a day by 2015 and reduce by half the proportion of people who suffer from hunger by that same year;
- achieve universal primary education and reduce by two thirds the mortality rate among children under five by 2015.

In their declaration, *A World Fit For Children*, the governments of 189 States said:

We reaffirm our obligation to take action to promote and protect the rights of each child – every human being below the age of 18 years including adolescents. We are determined to respect the dignity and to secure the well being of all children. We acknowledge that the Convention on the Rights of the Child, the most universally embraced human rights treaty in history, and its Optional Protocols contain a comprehensive set of international legal standards for the protection and well being of children.⁴²

The States call on all members of society to join them in a global movement that will help to build a world fit for children via upholding their commitments to the following principles and objectives:

1. Put children first
2. Eradicate poverty: invest in children

41. United Nations Millenium Declaration, G.A. Res. 55/22, U.N. GAOR, 55th Sess., 8th plan mtg., U.N. Doc. A/55/L.2 (2000).

42. *World Fit for Children*, *supra* note 13, para. 4.

3. Leave no child behind
4. Care for every child
5. Educate every child
6. Protect children from harm and exploitation
7. Protect children from war
8. Combat HIV/AIDS
9. Listen to children and ensure their participation
10. Protect the earth for children

These principles and objectives are translated in specific goals and measures that should be included in the Plan of Action. So, since all States have said what they intend to do, let us now turn to the question of whether they are they going to do what they said, and if so, how? It is too early to give an answer to these questions. The more cynical observer may tell you that he has heard similar commitments and promises before, and a world fit for children was not built then. For example, with reference to the problems described before, the promise was made about 30 years ago that the well-developed countries should allocate 0.7% of their Gross Domestic Product (GDP) for international development assistance to the developing countries. By 2003, only 4 countries had met this promise, and many well developed countries remain below even 50% of that standard.

The history so far may not be encouraging and the picture may be bleak, but not completely black. The achievements described in the previous paragraph show that progress has been and can be made.

Attempts to answer the question "What to do?" will not produce a magic bullet, and we have to accept that progress most likely will be slow. But at the same time, we should undertake all necessary and feasible measures to make this progress as quick and as massive as possible.

If the Global Movement for Children (GMC), the movement of all States in the world, UN agencies, international NGO's and members of society like children and parents, wants to build a world fit for children the first priority, in my opinion, should be *Reduction and Eradication of Poverty*.

"Chronic poverty remains the single biggest obstacle to meeting the needs protecting and promoting the rights of children. It must be tackled on all fronts . . . Children are hardest hit by poverty."⁴³ (In the WFFC Declaration, the 189 States members of the UN reaffirmed their vow to break the cycle of poverty within a single generation. They are also united in the conviction that investments in children and the realization of their rights are among the most effective ways to eradicate poverty.)

In its efforts to reduce and eradicate poverty, the GMC should remind States that they have committed themselves in the Millennium Development

43. *Id.* para. 18.

Goals to create a global partnership for development. This global partnership should do what the States said:

- further develop an open trading and financial system that is committed to good governance development and poverty reduction, both nationally and internationally;

- address the special needs of the least developed countries which includes, inter alia, enhanced debt relief for heavily indebted poor countries, cancellation of official bilateral debt, and more generous official development assistance (ODA) for countries committed to poverty reduction.

In this regard, by the end of the 90's the 41 most heavily indebted poor countries (HIPC's) owed about 205 billion dollars in external debt, accounts for about 130 percent of their combined gross national product (GNP). Due, at least partly, to heavy debt servicing, most of these countries under-invested in basic social services, making many of goals set for 2000 unreachable.

Most likely, poverty will also make many of the goals set for health care, education, and child protection in the Plan of Action WFFC for 2005 or 2010 unreachable for most, if not all HIPC's.

The global annual additional cost, which is in addition to the \$80 - \$90 billion spent annually for education, to achieve education for all in developing countries by 2015 is approximately \$9 billion per year. This represents less than 0.033% of the world's GNP and 0.14% of the combined GNP of developing countries. Poverty may hamper these kinds of expenditures, but it also indicates that reduction of poverty should go hand in hand with changing priorities at the national and international level. Poverty reduction is not enough; we should also invest in the children.⁴⁴

Development of a global partnership for development not only requires the actions mentioned above, but it also makes it a priority that all developed countries do meet the standard for ODA which they set about 30 years. This ODA should be increased as a matter of urgency to the promised 0.7% of the GDP. In addition, more serious efforts should be undertaken to achieve the full implementation of the 20/20 initiative: the commitment of developing countries to spend 20% of their national budget to basic social needs (health care, education, water and sanitation) and of the developed countries to match that with 20% of their ODA.⁴⁵

44. *Id.* at objective no. 2.

45. *See*, IMPLEMENTING THE 20/20 INITIATIVE: ACHIEVING UNIVERSAL ACCESS TO BASIC SOCIAL NEEDS (1998), a joint publication of UNDP, UNFPA, UNICEF, WHO and the the World Bank. In the 1990's, developing countries spent, on average, 12 - 14% of their budgets to basic social needs, and of the ODA, only 11% were allocated for these services.

This requires a reconsideration of current expenditures, such as defense spending. Spending in developed countries on defense is about 10 times the money allocated to ODA.

Poverty reduction and elimination should be given the highest priority. However, this does not mean that States should not try to make as much progress as possible in achieving the goals set in the WFFC, including improving protection of children against commercial sexual exploitation, abuse in the family, institutions, and on the streets. Many things that contribute to respect for the rights and dignity of the child can be achieved with little money. Poverty cannot be used as an excuse for doing nothing. Progressing towards the goals set by the State Parties themselves requires structures and resources that may not be immediately available. But States are nevertheless under the obligation to undertake as many of the technical and financial measures as possible via, *inter alia*, re-prioritisation of their expenditures.

CONCLUSION

All national governments in this world have committed themselves to build a world fit for children. In the Declaration and Plan of Action unanimously adopted by their representatives in the UN General Assembly on May 10, 2002 following a three day Special Session on Children, they have set out an ambitious programme with many concrete goals, set to be achieved in either 2005 or 2010.

The biggest challenge of the first decade of the 21st century is to turn these commitments into visible and considerable progress towards achievement of the goals set. In my opinion, the reduction and eradication of poverty should be given the highest priority. This cannot happen without a serious and, in some ways, drastic change of the current priorities at the national and international level. Children's rights implementation is not a matter of charity, but it requires political choices – sometimes perhaps difficult choices. The realization of children's rights is a matter of politics because so much more money should be invested in children. Poverty reduction can help us to do so. A war that in itself costs already close to \$100 billion is not a very promising beginning, but it also shows that, if the world really wants something, the money can be provided.

In other words, the Global Movement for Children, governments individually and collectively, UN agencies, NGO's and individual citizens, should continue to develop and implement effective actions to generate the necessary money and take all other measures to build a world fit for children. The CRC Committee — in close collaboration with the support of UNICEF, other UN agencies and NGO's — should strengthen its monitoring of the implementation of the CRC.

It is now and should remain important that an international body can regularly review and examine the activities of the States to see to what extent they meet the commitments they agreed upon by ratification of the CRC and adoption of the WFFC documents, as well as providing them with guidance and well-targeted recommendations for further action.

Progress in the next decade may not be as good as we would want and like. But there is a saying in the Netherlands: With a lot of perseverance the snail finally could reach Noah's Ark. With that kind of perseverance and with an unfaltering belief that we can build a world fit for children, we will make progress and achieve our goals.