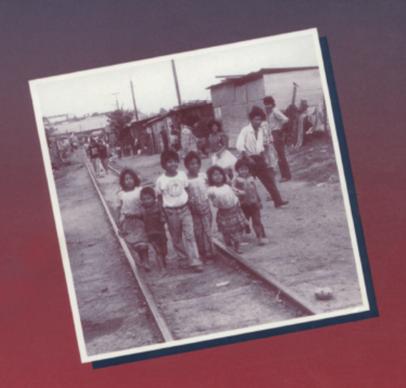# CITIES FOR CHILDREN

Children's Rights, Poverty and Urban Management

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Cities for Children

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Children's Rights, Poverty and Urban Management

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Contents

Part One
Understanding Children's Rights and Development

Part Two
Working for Urban Children's Rights

Part Three
Governance for Children's Rights

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Introduction

This book is intended as a source of information for local authorities and their partners as they work to make their cities better places for children and adolescents. It looks at the responsibilities that authorities face in this regard, and discusses practical measures for meeting these challenges in the context of limited resources and multiple demands.

Children throughout the world have much in common. They want to live among family and friends and to feel safe in their homes and communities. They want clean water to drink and enough to eat. Around the world they tell us that they want space for play, and places where they can escape from noise and smells and garbage. They would like to be respected by adults and to have a real part in the lives of their communities. And they want the kind of education that will give them a future. These are not unreasonable requests, but for more than one third of the world's children they are only a dream.

Twelve million children under the age of five still die every year, most of them from preventible causes.[1] Hundreds of millions live in appalling conditions, have too little to eat and little chance of effective treatment when they are ill or injured. Over a million children each year are forced into prostitution, and many millions more work in hazardous and exhausting conditions.[2] Vast numbers of children roam city streets and live by their wits, poignant reminders of the failure of their families and societies. This global scandal is a function not only of resources, but

[1] WHO (1995) The World Health Report 1995: Bridging the Gaps, Geneva: World Health Organization
[2] UNICEF (ed) (1997) The Progress of Nations 1997, New York: UNICEF

3 Children's Defense Fund (1997) *The State of America's Children Yearbook 1997*, Washington DC: Children's Defense Fund
4 Anand, S and Ravallion M (1993) 'Human Development in Poor Countries: On the Role of Private Incomes and Public Services', *Journal of Economic Perspectives*, 7 (1 Winter): 133–150
5 UNDP (1996) *Human Development Report 1996*, New York: Oxford University Press
6 UNDP (1992) *Human Development Report 1992*, New York: Oxford University Press
7 UNDP (1997) *Human Development Report 1997*, New York: Oxford University Press
8 UNCHS (1996) *An Urbanizing World: Global Report on Human Settlements 1996*, New York: Oxford University Press

of priorities. In the United States of America, the world's largest economy, a quarter of the children live in poverty.[3] But experience has shown that where political will is strong, high levels of social development are possible even in the absence of wealth, and with little or no economic growth.[4]

In the world at large, however, social development has *not* been a priority. The world economy has expanded dramatically over the last thirty years, but during that same period, disparities in per capita income between rich and poor countries have tripled.[5] By 1990, the income of the richest 20 per cent of the world's people was 150 times that of the poorest 20 per cent.[6] Far from eradicating poverty, the prevailing global economic model is exacerbating the political, economic and social exclusion of the majority of the world's population. In many countries, debt repayment has essentially taken the place of investment in human development. In this age of unprecedented wealth one third of the people in the world live on less than a dollar a day.[7] Almost half of them are children, and their numbers continue to climb.

These children cannot wait for some distant economic prosperity. It is an elementary moral responsibility to ensure that no child goes hungry, or sleeps in the street, or is submitted to violence, or excluded from school. This moral obligation also makes good economic sense. The cost of ensuring a child's basic rights are minimal compared to the lifetime costs of a failure to respond. And the necessary measures are quite feasible. Most of the requirements of children can be met by improved or reoriented management of the resources we already have. It is a question of rescuing some basic values of human dignity, of fighting for the right priorities.

This book deals with just a part of children's global predicament – it focuses on the everyday situation of the growing number of children who live in poverty in the cities of Asia, Africa and Latin America. It does not attempt to address the brutalities of war which affect the lives of so many children and families, but is limited to more silent emergencies that can easily be forgotten. Close to half of the world's population now lives in urban areas. Not all cities continue to grow, but the trend is still for rapidly increasing numbers of people to live and work in urban areas, especially in Africa and Asia.[8]

the underestimation of urban poverty

It has long been assumed that absolute poverty is concentrated in rural areas, and that urban populations earn more and are better provided with infrastructure and basic services. But official figures often distort and oversimplify reality. Many of the urban poor living in shanty towns around cities are excluded when city populations are counted. Those who are counted are lumped together with the city's wealthy, resulting in averages that fail to reveal the plight of poorer inhabitants. Nor do most national statistics take into account the higher costs of urban living. More sophisticated analysis indicates that the scale and depth of urban poverty has been underestimated in many nations, and that the worst disparities and deprivations exist in cities and towns.

Children in urban poverty are unquestionably at high risk. Many of them live on land unfit for habitation and under constant threat of eviction. They lack easy access to clean water, and their toilets, if they have them, are dark, foul, pit latrines or dirty communal facilities. In crowded areas where infectious disease can spread rapidly, the threats to

health are acute. If these children attend school, they find it overcrowded, understaffed, poorly equipped and of little relevance to their culture, interests or chances of future employment. Opportunities for play are almost always inadequate – outdoor space is contaminated with garbage and excreta, and indoor space may be insufficient for even the most basic family needs.

Cities are also places of social turmoil for children. When people are crowded together under conditions of deprivation and uncertainty, their dealings with one another can become marked by suspicion and hostility. Neighbourhoods are often torn by violence. Large-scale migration, rapid urban growth and high rates of urban poverty have contributed to the erosion of family and community structure. Old safety nets have disappeared, often leaving little to replace them. The capacity of adults to function adequately as caregivers can be stretched to the limit by the many burdens of poverty. Adrift in a confusing and uncaring world, many children are pulled into the streets, into prostitution, drug addiction and gangs.

high-risks for children

The responsibility for these endangered children is increasingly being delegated to local governments. Far from being simply the custodians of parks and drains, under worldwide processes of decentralization, local authorities are routinely becoming the primary guardians of human well-being. In many cases this is an overwhelming challenge. Many of the factors underlying urban poverty are a function of macroeconomic trends and sectoral priorities far beyond the control of local authorities. Even those factors that *can* theoretically be controlled at the local level are often beyond their practical capability to respond to comprehensively. Local authorities are frequently not allotted sufficient funds to discharge their responsibilities adequately. Nor do they always have the authority to raise revenues locally, or to make significant policy decisions.

social turmoil

Action at national and international levels is clearly critical in tackling the roots of poverty and exclusion. But this book focuses on what can reasonably and effectively be undertaken at the most local level. Even when urban authorities are seriously constrained by lack of funds, skills and power, they can still make a significant difference to the quality of children's lives. Every day at the local level, decisions are taken that have substantial implications for children, not only in critical areas such as education, health and social welfare, but also in areas not so commonly associated with children, such as land use planning and management, water and sanitation, policing and job creation. If cities are to be friendlier, safer, more supportive places for children and adolescents, people in all areas of urban planning, management and politics must consider the far-reaching impact that their decisions and activities have on children's everyday lives and on their long term welfare. Only when cities are managed from this perspective can they truly become places where children matter.

local responses

Creating cities that are supportive of children calls in many cases for new attitudes, new skills and new tools. For the last decade we have had available a powerful legal tool for supporting those engaged in this task, and for ensuring that the plight of children is no longer taken for granted. In 1989, the General Assembly of the United Nations formally adopted the Convention on the Rights of the Child, and as of 1997, 191 countries had taken the initiative of accepting these legal provisions that address

the concerns of children on every level. Taken seriously as a set of guidelines, the Convention becomes a document that can inform and drive public policy and action at every level. It is in this spirit that the Convention is used in this book – as a framework for defining obligations, goals, and strategies for meeting children's needs in urban areas.

The issue of rights may seem unnecessary in this discussion. Why not approach municipal action simply from the perspective of children's needs, rather than complicating the issue by introducing this added dimension? There is an important difference between a rights-based and **rights vs** a needs-based approach, and the key lies in the concept of citizenship, **needs** with its implications of both active involvement and entitlement. A rights-based approach promotes the opportunity for those who are excluded to negotiate from a position of strength and dignity. It means that poor children and their families are active participants in the processes that involve them, and not the passive and dependent objects of social policy. An emphasis on children's rights also ensures that the definition of basic minimum needs is broad enough not only to cover immediate survival, but to guarantee long term welfare.

Responding to children's rights is not a superficial or trivial activity. It means nothing less than tackling poverty and exclusion on every front, and mobilizing the whole of society to create a city-wide culture that is friendly and supportive for every child. This is a considerable undertaking, but it does not call for unusual strategies. An agenda that supports the Convention will also comply with the goals and standards of sustainable development, social justice and eradication of poverty. Implementing children's rights is not merely an extra task for overstretched officials. On the contrary, it makes good practical sense to put the collective needs of all our children at the forefront of our concerns. The well-being of children is a significant indicator of a healthy society. When the requirements of our youngest citizens are attended to, this enhances the quality of life for everyone.

urban Urban authorities unquestionably face great challenges. The concen-
challenges trations of people and economic activity in urban areas make enormous
and urban demands on the environment and on local inhabitants, and cities can be
opportunities sites of intense degradation and squalor. But these same concentrations create opportunities for improving the quality of life for everyone. Higher densities mean lower costs per household for water supply, the collection and disposal of waste, and most forms of health care and education. Specialized services become more feasible when larger numbers require them. Environmental standards can be monitored more easily and cheaply. Most urban residents are within media reach, and this presents a rich and constructive opportunity for raising awareness and promoting change. When citizens can gather easily, they can also mobilize more effectively on their own behalf. The concentrations in urban areas can give rise to levels of vitality and diversity that are hard to find elsewhere, and that enrich life. There is great potential for creative partnerships and innovative solutions.

Using the Convention on the Rights of the Child as a framework for defining the world that children deserve to occupy, this book offers a general understanding of the stresses of urban life for children in poverty, as well as a set of guidelines for practical action. The nature of children's lives, the opportunities available to them and the stresses they are subject

to can vary significantly between countries and even within cities. The understanding of children's best interests and the resources available for responding to them also differ from place to place.

This book cannot be a blueprint for action, and no single formula can possibly respond to the range of complex realities.in different cities and communities. But within the framework provided by the Convention, certain basic principles emerge and provide a perspective through which complexity and variation can be viewed. We hope that these principles, in combination with the rich diversity of examples from around the world, will inspire and support local actors as they work to find solutions for local problems and to create cities that sustain the rights of children and youth.

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Part One

Understanding Children's Rights and Development

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Part One

Some local governments have already been recognized for their committed championship of children and adolescents. But for many local authorities, becoming the guardian and promoter of children's rights is a new, challenging and perhaps bewildering role. In many cases some basic orientation is needed for this role to take on real meaning. These preliminary chapters provide the background information and perspective necessary for this undertaking.

Chapter 1 introduces the concept and the history of children's rights, and discusses some questions that are raised by a rights-based approach to children. A synopsis of the provisions of the Convention is followed by an account of the obligations they create, and the formal mechanisms for implementing children's rights.

Chapter 2 provides a brief introduction to the development of children and adolescents, and discusses the contribution of both social and physical environments to this process. While acknowledging the cultural, social and economic differences in children's lives and in the construction of their development, this chapter discusses some basic guidelines for meeting their requirements at different ages.

The Convention stresses that children's rights are best met within the context of stable, loving families. But family stability is seriously undermined by the pressures of urban poverty. Chapter 3 discusses the kinds of support local authorities can provide to make it possible for families to fulfill their responsibilities towards their children.

1 The Convention on the Rights of the Child

The Convention on the Rights of the Child, the most widely accepted
international treaty in the world, defines how children should be treated
in the various areas of their lives. It recognizes their rights to survival,
development and protection, and to an active role in matters that concern
them. The breadth of the Convention's provisions confers considerable
responsibility on local governments – along with other sectors of society,
other levels of government and the international community – but it also
provides a framework for action that has the potential for creating inclu-
sive and vital cities, not only for children but for everyone.

   The development of human rights during the last century has been
fuelled by a growing discomfort with the notion that any one group of
people can legitimately be considered the property of another, or be
excluded from rights extended to others. Slavery is no longer legally
tolerated, caste systems are being dismantled, and women are realizing
their right to self-determination in growing numbers. Children and youth
are the most recent group to become the focus of debates on rights, and
the history of children's rights reflects more generally the changing public
awareness of the meaning of childhood.[1]

   The situation of children is complicated by their biological lifestage
and the inherent complexities of the growing process. Young children in

[1] Therborn, G (1996)
'Child Politics:
Dimensions and
Perspectives',
Childhood, 3(1):
29–44

particular are dependent on their parents and others for protection and care. It is still difficult for many people to accept that children can be regarded as people with rights of their own, rather than as the property of their parents. For the most part, children are seen as lacking the status of full human beings and as being in training for adulthood.

But there is increasing recognition that our image of childhood is largely a social and cultural construction.[2] Children at different times in history, and in different parts of the world, have been the focus of very different expectations. Their capabilities and requirements are determined at least to some degree by the needs and assumptions of those around them. Both economic realities and cultural patterns shape the experience of childhood in a given time and place.

Because this understanding varies between and even within cultures, there has been considerable disagreement on the issue of children's rights. At one extreme it is argued that children, as human beings, should have the same rights as adults. At the other extreme are those who believe that children lack the competence to exercise rights, and that, protected as they are by their parents, they have no need for rights. Most of those involved in the child rights debate support an approach that recognizes both children's need for protection and their developing potential to act on their own behalf. The broad trend in the child rights movement has been from a primarily protective stance towards a growing acceptance of children's capacity to be active, contributing citizens, who deserve the rights to exercise that capacity.[3]

A BRIEF HISTORY OF THE CONVENTION ON THE RIGHTS OF THE CHILD

The Convention on the Rights of the Child (referred to in this book simply as the Convention or the CRC) was not the first international instrument to recognize the rights of children. The 1924 Geneva Declaration and the 1959 Declaration of the Rights of the Child, both broadly accepted within the international community, had considerable moral weight in promoting the rights of children to protection and care. But neither of these documents had the force of law, and a need was felt for a single legally binding convention.[4]

In response to a 1978 initiative by Poland, the Commission on Human Rights began developing such a legal treaty. After ten years of debate and preparation by an open working group, a final text was unanimously adopted by the General Assembly in 1989. This document went beyond the 1959 Declaration in a number of ways. Its provisions were more specific; it extended dramatically the civil and political rights offered to children, and it stressed the capacity of children to be not simply the passive recipients of protection, but active and involved bearers of rights.[5] Acceptance of the Convention was rapid and widespread. By September 1997 the Convention was in force in 191 countries, and only two had failed to become parties to it. One is Somalia, which is currently without government, and the other the United States of America. No human rights convention in existence has achieved such broad or rapid acceptance.

[2] James, A and Prout, A (eds) (1990) *Constructing and Reconstructing Childhood: Contemporary Issues in the Sociological Study of Childhood,* London: Falmer Press

[3] LeBlanc, L J (1995) *The Convention on the Rights of the Child: United Nations Lawmaking on Human Rights,* Lincoln, Nebraska:University of Nebraska Press

[4] Hammarberg, T (1992) 'Making Reality of the Rights of the Child' in Verhellen, E (ed) *Rights of the Child Lectures, Part 2,* Ghent: Children's Rights Centre

[5] Verhellen, E (1994) *Convention on the Rights of the Child: Background, Motivation, Strategies, Main Themes,* Leuven Kessel-Lo, Belgium: Garant

The Convention is a significant document largely because of this remarkable level of support. It has established in a highly visible and definitive way the fact that the world's children have a legal claim on the attention and resources of their governments and every sector of their societies. Not only has it clarified goals for children's well-being; it has also set in place a system for monitoring implementation, without which progress would be less likely. The Convention has been embraced not only as a set of legal guidelines, but also as an educational tool and a frame of reference for all serious discussion pertaining to children and youth. It has become a platform for action for international agencies focused on children, and for many kinds of organizations within civil society.

THE PROVISIONS OF THE CONVENTION

indivisibility of rights

Traditionally in the field of human rights there have been political pressures to distinguish between civil and political rights on the one hand, and social, economic and cultural rights on the other. In international law, these rights are enshrined within different covenants.[6] Rather than distinguishing between these classes of rights, the drafters of the Convention insisted on an integrated approach and emphasized the indivisibility of rights as a significant principle. Protection, provision, and respect for a child's capabilities are viewed from this perspective as complementary and mutually reinforcing supports for full well-being.[7] The fulfilment of social, economic and cultural rights creates the conditions for full compliance with civil and political rights, and vice versa.

The definition of the child

[6] The International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights, were both adopted by the General Assembly of the United Nations in 1966
[7] Le Blanc, 1995, op cit Note 3
[8] There is currently an initiative to encourage the adoption of an Optional Protocol to the Convention on the Rights of the Child to raise the minimum age for military recruitment from 15 to 18
[9] Hodgkin, R and Newell, P (1998) *Implementation Handbook for the Convention on the Rights of the Child*, New York: UNICEF

The Convention defines as a child every human being below 18, except in countries where majority is attained earlier (Article 1). This bill of rights is intended not only for young children, but also for adolescents who may already be functioning in many ways as adults. Adolescent mothers and working youth, for instance, deserve the level of support and consideration legally extended to children.

In a few areas the Convention sets specific age limits: it bars capital punishment and life imprisonment for children under 18, and it requires States to refrain from conscripting into armed services anyone below the age of 15.[8] But it permits individual States to determine the age of majority and, in most cases, the minimum ages at which children may legally become involved in various activities. The ages at which children may legally marry, leave school, begin work, consume alcohol and obtain medical treatment without parental consent may vary from one country to another. It is expected, however, that States will review their legislation regarding such age limits in the light of the Convention's general principles; nor may individual States absolve themselves from obligations to children under 18 even if they have reached the age of majority under domestic law.[9]

General principles

The Convention contains some fundamental principles which lay the groundwork for the document as a whole, and together define a particular attitude towards children and their rights.[10] All other provisions of the Convention must be considered in the light of these principles.

- The first is the principle of non-discrimination. Article 2 establishes that every child is covered by the Convention's provisions. Girls, children with disabilities, children on the street, and children of minority groups, for example, are all entitled by law to enjoy equal rights and opportunities.   **non-discrimination**
- The principle of the best interests of the child, presented in Article 3(1), asserts that when decisions are made or actions taken that affect children, the interests of the child should be a primary consideration rather than being placed after the concerns of either the parents, the wider community, or the State. This principle should particularly be applied when the Convention does not set a precise standard. It cannot be used to override other rights guaranteed to the child.[11]   **best interests**
- A related principle concerns the views of the child, in Article 12. When a child's interests are being considered, the Convention supports the right of that child to have his or her views taken into consideration, with due regard being given to age and maturity.   **the child's view**
- The final general principle concerns the child's right to survival and development. Article 6 is the foundation for all other social, economic and cultural rights provided by the Convention. Aside from asserting the child's inherent right to life, it makes explicit the fact that without adequate means for survival and development, the right to life is meaningless.   **survival and development**

Rights to care and provision

Children's right to the fulfilment of basic human needs is elaborated on in a number of other Articles which emphasize the full development of the child, and establish the ways in which this development must be supported. The Convention stresses that children should be raised in a loving and understanding family environment (Preamble; Article 9); and have the right to be protected from interference with family (Article 16). If children have been separated from family because of such factors as conflict, displacement or illegal adoption, the State must, where possible, promote reunification or contact with parents (Articles 9, 10, 11). If children are victims of family abuse, the State is responsible for ensuring alternative care that resembles a family home as far as possible, and that ensures respect for the child's cultural, ethnic, linguistic and religious background (Article 20.)   **family**

The Convention recognizes children's right to a standard of living adequate for their physical, mental, spiritual, moral, and social development (Article 27). This implies not simply enough food to prevent

[10] Hammarberg, 1992, op cit Note 4
[11] Hodgkin and Newell, 1998, op cit Note 9

standard of living

starvation, but adequate nourishment for healthy bodies and alert minds; not only shelter from the elements, but housing that can support health, emotional security, family stability and a sense of belonging. Parents are recognized as having primary responsibility for providing such a standard of living, but the State is obliged to ensure that this responsibility is met, and to provide material assistance and support programmes to children and parents where necessary (Articles 18, 26).

health

Children are guaranteed the right to the highest attainable level of health (Article 24). This means not only access to health care, but a living environment that promotes health. Disabled children are recognized as having the right to special care which, as far as possible, supports their potential for self-reliance and guarantees them a full and decent life as part of their community (Article 23).

education

The State is responsible for ensuring that primary education is free and compulsory, and that further education is available on the basis of equal opportunity (Article 28). This education should be directed to the child's fullest development, to respect for cultural values and identity, and to preparation for active adult life in a free society (Article 29). The Convention also recognizes children's right to play and leisure activities (Article 31), implying not only sufficient time for leisure, but also the

play

provision of safe and appropriate space within their communities for play and recreation. Access to cultural life and the arts is also recognized as a right (Article 31).

The Convention acknowledges that these levels of provision may be beyond the immediate capacity of both families and the State, but it stresses that they should be addressed as fully as possible, and to the maximum extent of the State's available resources (Article 4). Children's well-being must be a primary consideration in any decisions regarding allocation of resources, and where necessary the international community is expected to assist (Articles 3, 4).

Rights of protection

maltreatment

Children have the right to protection in a number of difficult situations, and from a range of abuses. The State is required to protect children from all forms of maltreatment from parents and others responsible for their care, and to offer them appropriate support and treatment when they have suffered from abuse or neglect (Articles 19, 39). Although the laws of most nations continue to sanction physical punishment for children, the Convention expressly bars the use of physical or mental violence.[12]

exploitation

The Convention takes a strong stand against sexual and economic exploitation. It recognizes children's right to protection from prostitution and pornography, abduction and trafficking, and involvement in the production, sale and use of narcotics, calling for both national and multilateral measures on these fronts (Articles 33,34, 35). The Convention also asserts the right of children to be protected from any work that interferes with their safety, health, education or development, and it calls on individual States to set minimum ages for employment, and to regulate working hours and conditions (Article 32).

The Convention ensures children accused of crimes the same legal guarantees that are extended to adults, but in addition, calls for adapta-

[12] Newell, P (1995) 'Respecting children's right to physical integrity' in Franklin, B (ed) *The Handbook of Children's Rights: Comparative Policy and Practice,* London/New York: Routledge, 215–226

tion of legal procedures and punishment appropriate to the age of the child. Capital punishment and life imprisonment are not permitted. Wherever possible, judicial proceedings are to be avoided entirely. While ensuring respect for human rights and legal safeguards, imprisonment is to be a measure of last resort, and for the shortest time possible. Conditions must be humane, and rehabilitation and social reintegration must be promoted (Article 40).

justice

The Convention grants special protection to refugee children and asylum seekers, and those who are displaced or exposed to armed conflict (Articles 22, 37). Proper humanitarian care is to be offered, and help in reuniting children with parents when necessary, and wherever possible. When children have suffered physical or psychological harm, they have the right to rehabilitative treatment aimed at their recovery and social reintegration (Article 39).

refugees

Rights of participation

The Convention does not extend to children the full range of political rights accorded to adults, such as the right to vote, but it grants them certain of the freedoms and protections that are considered to be more general human rights. Children have the right to a name, an identity and a nationality, and must be registered at birth (Articles 7, 8). They are protected by the Convention from invasion of their privacy and their family life (Article 16). The Convention grants children the right to express their opinions in matters that concern them, and to have these opinions weighed when decisions are made, in accordance with their age, maturity and understanding of the situation (Article 12). Children are also guaranteed the right to freedom of thought and conscience, subject to the guidance of parents or other guardians. They have the right to enjoy their own culture, religion and language without interference or discrimination (Articles 13, 14).

civil and political rights

Children have the right to seek, obtain and impart information, and to have access to informational material that is not deemed harmful to their well-being (Article 17). They have the right to associate with others and to assemble freely (Article 15). These civil and political rights unquestionably define children as active agents capable of exercising rights, and not simply as the recipients of protective care. This lays the groundwork for children's right to active citizenship, in spite of the fact that they are not yet granted the right to vote.

Implementation and monitoring

It is not enough simply to recognize rights. They must also be implemented. Article 4 of the Convention requires States to do all they can in this regard through legislative and administrative reforms, and the maximum possible allocation of resources. The Convention defines specific procedures for supporting and monitoring progress (Articles 42–54). It calls for the establishment of an international committee of experts, presented by member nations for election by the United Nations General Assembly. Each State Party is required to submit to this commit-

country reports

tee regular reports which are intended to be comprehensive and self-critical, and to discuss difficulties as well as progress in implementing the Convention. Pertinent information from non-governmental organizations and specialized agencies of the United Nations, such as UNICEF, is also accepted. As a result of the Committee's consideration of the material submitted, and their discussion with representatives of the country in question, concluding observations are drawn up which are intended to be widely disseminated within the country and to serve as the basis for further discussion and action. The Committee's function is not to respond in a punitive way to national shortcomings and failures, but to provide a constructive and collaborative opportunity to identify successes and difficulties, and to set goals.[13]

SOME QUESTIONS RAISED BY THE CONVENTION

Why we need a separate bill of rights for children

When work began on drafting the Convention, there was by no means general consensus on the need for such a document. Critics argued that a separate treaty would call into question the status of children as human beings by suggesting that they do not qualify for the protection routinely offered to all people through existing human rights instruments.[14] Those who supported a separate convention argued that the protection offered to children by general human rights provisions is inadequate. A number of instruments refer to the status of children, but both terminology and intent vary. Before the acceptance of the Convention, for instance, there was no universal age limit for children's legitimate involvement in armed combat. The inevitable inconsistencies pointed to a need for a single set of standards.

conditions faced by children

Conditions faced by children around the world served as the strongest argument for a separate convention.[15] Infant mortality, malnutrition, life on the street, child prostitution, intolerable working and living conditions, involvement in armed conflict, and the incarceration of children all called for an aggressive response by the international community.

The realities of children's developmental and social status also pointed to the need for a special treaty. Adult-oriented safety and health standards and provisions for health and emergency care often fail to offer children the protection they need.[16] Children are more vulnerable to disease, especially when young or malnourished, their rapidly growing bodies are more at risk from pollutants, and they are less able to guard against physical hazards. They are disproportionately affected by poor housing and the many other disadvantages that accompany poverty.

The dependence of children on adults makes them especially vulnerable to mistreatment and exploitation. Whether at home, at school, in the community or in the workplace, children need protections that take into account their disadvantage in relation to those who are older, stronger and more powerful. Early in their lives when their cognitive skills are less developed, children are considered to be more vulnerable to emotional harm. When faced with traumatic situations, they are more likely than

[13] Verhellen, 1994, op cit Note 5
[14] Le Blanc, 1995, op cit Note 3
[15] Hammarberg, 1992, op cit Note 4
[16] Satterthwaite, D, Hart, R, Levy, C, Mitlin, D, Ross, D, Smit, J, Stephens, C (1996) *The Environment for Children*, London: Earthscan
[17] Garbarino, J and Bedard, C (1996) 'Spiritual Challenges to Children facing Violent Trauma', *Childhood*, 3(4): 467–479

adults to suffer serious and debilitating stress with long term implications.[17] A special bill of rights creates the opportunity to recognize and respond to the developmentally specific requirements of children.

children's tenuous status

Children's status as human beings is also significant. To regard their rights as implicit within human rights fails to take account of the fact that children are not commonly respected as bearers of rights, nor considered capable of exercising them. Children do not have the vote and can exercise no direct political power. Although adults may try to ensure that children are well cared for, this often expresses the perception of them as adult property rather than as citizens with rights of their own. A separate instrument, which leaves no doubt that children have rights, is necessary in order to combat such assumptions.

For those who see no need for rights, but would leave the protection of children to their parents, it must be pointed out that parents cannot control every sphere of life. Even with the best of intentions, they cannot dictate the quality of the air they breathe, the availability of housing, or access to resources for children with special needs. They require broad social support to ensure that their children have the environments they need to prosper. For children without parents, the issue is even clearer. And there are, regrettably, those situations in which their parents are the very people from whom children most sorely need protection.

broad social support

Parents' rights and children's rights: balancing protection and participation

The tension between the protection of children and their competence to act on their own behalf is sometimes polarized by opponents of the Convention into a conflict between parents' rights and children's rights. A certain amount of protection is necessary for children, and must form a significant part of any recognition of their rights. But protection as an end in itself may deny children the right to take part in decisions that involve them, in keeping with their evolving capabilities. Some critics are reluctant to allow children an active voice in their own affairs, and feel that the rights of minors should always be exercised on their behalf by concerned adults.[18] There are two issues at stake here: the question of children's competence, and the implicit challenge to parental and adult authority.

The matter of competence is to some degree a question of expectations and experience. Very young children require adults to act for them. But the capacity to exercise responsibility and make important decisions is not suddenly acquired as children reach their majority. It is a gradual process, affected not only by the child's biological development, but by the actual experience of making decisions and taking responsibility. In their day-to-day lives, many children shoulder responsibilities that call on their skills as seasoned decision makers long before they are adults. There is little difference between older children and adults in this regard, except for the skills that are acquired in exercising this capacity. Children's right to have a voice in matters that concern them must be recognized for this very reason – in order to encourage and support the development of their growing competence.[19]

children's competence

Especially in societies where respect and obedience are the expected behaviour, the child's right to have a voice is likely to be contentious.

[18] Verhellen, 1994, op cit Note 5
[19] Hart, R (1997) *Children's Participation: The Theory and Practice of Involving Young Citizens in Community Development and Environmental Care*, London: Earthscan/UNICEF

the challenge to adult authority

This is true especially if adults have little chance to experience themselves as rights-bearing individuals. Promoting children's rights in this area is unlikely to be successful if it meets the angry resistance of parents and community members. Measures must be taken to ensure that parental rights are also understood and respected, and that parents have the opportunity to discuss and consider the implications of the Convention. Children are more likely to realize their right to participation if they are taught to express their views in ways that do not violate the expectation of respect for adults, and if there is a recognition that responsibilities complement rights. There are important implications for educational systems, which must give children opportunities for participatory and interactive learning (see p172).

Decisions about human rights almost always imply striking a balance between conflicting interests. Tension between protection and participation is not only part of the child rights debate; it is integral to the process of growing up, and to the relationship between parents and their children, adults and minors. Children's claims to independence are a matter of on-going negotiation within families and within societies. They cannot be simply resolved within a bill of rights. But by being presented within a single document, these often conflicting claims can best be put into productive relationship with one another in the attempt to find an appropriate balance in a given situation.

The issue of culture and children's rights

Human rights are based on the assumption that certain principles should apply universally regardless of differences in race, religion, culture, economic status, or gender. This assumption can be difficult to reconcile with the reality of a world in which beliefs, practices, social relations and economic realities vary widely between and even within different societies. This difficulty is particularly evident in the understanding and acceptance of children's rights.[20]

the threat of cultural imperialism

The issue is complicated by the perceived threat of cultural imperialism. The Convention, like other human rights documents, has philosophical roots in the European tradition of liberal individualism. It also approaches childhood through the lens of child development, which many critics have seen as biased by Northern theory and research (see p18). Despite the goal of universality, the children's rights project starts from a perspective on the individual which is more congenial to some groups than to others. The privileged position accorded to children by the Convention may be distinctly at odds with the values of societies where the rights of the extended family are given precedence over those of the individual, or where age is the basis for respect and rights.[21]

It is oversimplistic, however, to reduce this tension to a struggle between Northern values and the conservation of otherwise intact traditional systems. Few systems of belief are coherent and untroubled by conflict, be they 'traditional' or not. Culture is not rigid, but adapts, of necessity, to changing circumstances and lifestyles. Even within families, it is common to find disagreement on beliefs and goals, whether on the rearing of children or the spending of money. Relations between groups are equally complicated by conflicting sets of values. Nor are the values

[20] Alston, P (ed) (1994) *The Best Interests of the Child: Reconciling Culture and Human Rights*, Florence, Italy: International Child Development Centre, UNICEF and Oxford: Clarendon Press
[21] Burman, E (1996) 'Local, Gobal or Globalized? Child Development and International Child Rights Legislation', *Childhood*, 3(1): 45–67

espoused by the Convention universally endorsed in the North, where there may be widely divergent views on the role of parents and the capabilities of children.

Conflicts in values, then, are as much a phenomenon within, as between, societies, and are frequently expressed in societal ambivalence or disagreement on issues affecting children. Standards regarding the education of girls, for instance, or the appropriate relationship of children to labour, are hotly contested in many places. Throughout the world, long-accepted responses to childhood and children are being challenged for a number of reasons.

The decline in infant and child mortality during the 20th century, for instance, has had an impact on family structure and priorities. As child survival has become more of a certainty, there has been a growing preference in many countries for smaller families, which has permitted increased parental investment in individual children. The effects have been dramatically evident in China, where the one-child policy led to radical changes in the status of children.[22]

Changes have also occurred as a result of the spread of the global market economy and of impoverished urbanization. In many places the traditional fabric of society has disintegrated, and with it the validity of many traditional expectations for children. The fate of children is generally more visible, and has become increasingly a topic for concern. There is a widespread reconsideration of how best to respond both to children's present situations and to their preparation for the future.

For those intent on protecting local ways of life, the Convention may appear to be yet another frontal attack. A more realistic assessment will acknowledge that it offers an opportunity to address precisely the confusions and contradictions created by contemporary life in both the North and the South by defining a minimum basis for decision making where interests clash. All societies, including the wealthiest, need to make internal adjustments in order to come to terms with the high standards of this treaty.

The Convention does not promote a universal, rigid set of solutions to the problems confronting children. It contains certain core principles that demand a clear response – we are required to acknowledge and respect children, to ensure their survival, to protect them from harm, to equip them adequately for life, and to listen to them. In situations where accepted practices permit the oppression of children, these principles may be found unacceptable. But within the parameters of the Convention there is a great deal of latitude. Detailed implementation of these principles is never specified. On the contrary, the Convention is a flexible instrument designed to accommodate complexity and difference.[23] On most issues the Convention's stand is formulated in sufficiently general terms to leave considerable scope for accomodation to local standards, where these are not harmful to the well-being of children.

The best interests principle provides the basis through which the provisions of the Convention can be interpreted and applied to local conditions.[24] The Convention, for instance, may mandate an education that prepares a child adequately for life, but it does not specify the curriculum. Only local debate can determine the education that will best serve the interests of local children. This principle serves at the same time as a means for evaluating the merits of conflicting claims, whether within the family or the broader society. In a given context, it may well

[22] Tobin, J J, Wu, Y H, Davidson, D H (1989) *Preschool in Three Cultures: Japan, China, and the United States*, New Haven: Yale University Press
[23] Alston, 1994, op cit Note 20
[24] Ibid

be determined that a traditional or culturally specific response will best answer a particular child's interests.

negotiating the best solutions

Since a determination of children's best interests must necessarily be local and contingent, this provision runs the risk of being inadequately prescriptive and allowing convenient solutions to be justified. This is an unavoidable risk. A less elastic principle could not be genuinely responsive to the complexities of the world. The appropriate application of the best interests principle, and of children's rights in general, implies the involvement of a broad range of independent social actors in order to negotiate the best solution for local children. A free press, active NGOs, and independent advocacy organizations are critical supports for the interpretation of the Convention at a local level. Perhaps most important, families, who have the primary responsibility for managing children's rights, must be involved in dialogue in order to develop an understanding of the Convention within the context of local child rearing practices.

Children's rights and women's rights

Women's rights were formally adopted by the international community in 1979, and in many ways this recognition laid the groundwork for subsequent attention to the rights of children.[25] But the introduction of children's rights has generated concern among some advocates for women. The attainment of equity and justice for women has involved,

complementary rights

among other things, ensuring that their reproductive and caregiving roles do not interfere with their self-determination and their full and equal access to resources and opportunities. Children's right to protection and care is seen by some as a potential threat to the gradual gains being made by women. As Savitri Goonesekere has demonstrated, however, the two Conventions are quite compatible and contain no provisions which set the interests of the two groups in conflict with each other. On the contrary, they can be seen as complementary and mutually reinforcing.[26]

The implementation of children's rights has the effect of reducing the actual burden for most women and enhancing their quality of life. If the child's right to a healthy environment and to adequate health care is realized, it can only ease the responsibilities of mothers. The child's right to decent child care services, again supports the woman's right to work outside the family and to take part in community life. Far from increasing the load for mothers, the Convention requires that supports be in place to make their complex responsibilities more manageable.

The Convention to End All Forms of Discrimination Against Women (CEDAW) supports the protection of children in specific ways through the rights that it guarantees for their mothers. For instance, women have the right to prenatal and postnatal care, when necessary without cost (Article 12). Working women have the right to special protection during pregnancy, to maternity leave, and to social services (both for themselves and for fathers) that enable them to combine family obligations with work responsibilities (Article 11.2). Women also have the right to participate fully in political life (Article 7) – in many cases a guarantee that children's interests will be more fully addressed in the political arena.

A potential area of conflict concerns reproductive rights. The Convention preamble states that children have the right to legal protec-

[25] Therborn, 1996, op cit Note 1
[26] Goonesekere, S (1992) *Women's Rights and Children's Rights: the United Nations Conventions as Compatible and Complementary International Treaties*, Florence, Italy: UNICEF International Child Development Centre

tion before as well as after birth. This has been seen by some as a measure to limit woman's reproductive freedom. The history of this statement, however, and the consensus of legal commentary on it, make it clear that it is intended as a deliberate compromise, leaving the issue of abortion to the discretion of individual countries.[27] Nor does CEDAW confer a legal right to abortion.[28]

Most fundamentally, the children's Convention addresses the issue of gender discrimination at its roots by holding as a basic principle that children's rights apply equally to all children. By taking into account the developmental realities of childhood, the Convention is able to specify for girls as well as boys, the measures that must be taken to ensure the basis for equality in adulthood.

THE OBLIGATIONS CREATED BY THE CONVENTION FOR LOCAL URBAN GOVERNMENT

The legally binding obligations of the Convention are most frequently associated with formal agencies of the State at the national level, but in reality, obligation extends to the whole governing structure of a country, from national to community level. Local governments are as fully obligated by this treaty as their national counterparts (except in terms of the responsibility to submit reports, as provided in Article 44).

In some ways, obligations are even more pressing at the local level. Local authorities are on the front line: because of the trend towards both urbanization and government decentralization, they have in many cases become the primary actors in the provision of basic services which affect children's lives, in spite of the fact that their capacity has seldom kept pace with the growing needs. The Convention acknowledges that heavily resource-related obligations may be difficult to realize and may call for progressive implementation. But a lack of capacity does not mean that any provisions can be ignored. The Convention requires that obligations be implemented to the maximum extent of available resources (Article 4). Himes points out that this implies not only financial and material resources, but also human skills, knowledge, creativity, and time, as well as the wisdom to use natural resources efficiently and appropriately.[29] The pivotal role of urban authorities involves direct provision or support for other service providers, as well as adequate assessment, regulation, enforcement and monitoring.

No one group of actors can possibly bring about the fundamental changes in attitude and practice that are required to achieve the Convention's goals. This is a challenge that must involve everybody. The capacity of local government to raise awareness, coordinate action, support collaboration, and to enlist broad involvement is most significant for child well-being, especially for weaker and less well-funded authorities. A critical aspect of social mobilization is the effective use of mass communications, which reach the vast majority of people in urban areas and can have a profound effect in shaping public attitudes.

Changes in understanding must be accompanied by practical measures. Social and economic disparities which undermine the realization of rights for so many children must be addressed, and this cannot

local authorities on the front line

resources

social mobilization

happen effectively without a well developed framework of support from municipal government. Although non-governmental organizations and community groups are more frequently associated with poverty reduction, they do not have the capacity of municipal authorities to address systemic inadequacies. Only these authorities can develop the regulatory frameworks to promote health and safety, to establish building codes and planning norms, to assign responsibilities to other groups, and to be responsible for monitoring the cost and quality of private or community provision. Through collaboration and partnerships, local authorities can make the fullest use of all available resources.

redistribution

Although every society has at its disposal rich human resources, there are limits to reducing poverty in poor communities without funding from outside. Local government must find ways of investing in infrastructure and services for its poorest residents. Measures must be taken towards equality in provision, whether through taxation, cross-subsidization or other redistributive means. When local authorities lack the resources to provide the necessary services and infrastructure – whether directly or in support of other providers – they have the responsibility to turn not only to community members, but to higher levels of government and other partners. The Convention can be a powerful tool in supporting local authorities to fight for decision making authority, including the right to participate at national level in decisions regarding the allocation of aid. Strong advocacy and coalition building are critical in such efforts, and will be discussed in greater detail on p269.

Children's rights in the context of sustainable urban development

In theory, economic development should not conflict with human rights; but in practice there are often serious conflicts – for instance, over ownership of resources or access to them, over wages and working conditions and over social provision. Many governments have justified their contravention rights as necessary for rapid economic development. A concern with social justice and equity is not compatible with a single-minded reliance on market forces. Within this context, children's rights are no exception. Any reallocation of public funds towards the well being of children may increase taxes for citizens or businesses, or draw public resources away from funding the forms of infrastructure that primarily benefit businesses. Respecting children's rights also means limiting the rights of enterprises and users to pollute and destroy human environments, precipitate social and community disintegration, or exploit child labour.

sustainable development: resolving divergent interests

The principles of sustainable development promote a resolution between these apparently incompatible goals and divergent interests, for they demand the simultaneous achievement of economic, social and ecological goals by requiring that we meet the needs of the present generation without compromising the ability of future generations to meet their own needs, as described by the Brundtland Commission.[30] There is natural convergence between the principles of sustainable development and children's rights. Children are especially vulnerable to many environmental hazards, both in terms of their threshold for damage and the constraints that such hazards place on their freedom within their

[30] World Commission on Environment and Development (1987) *Our Common Future*, Oxford: Oxford University Press

surroundings. The goals of sustainable development support social equity, and hence the integrity of the social fabric, in ways that affect children more profoundly than anyone else. The connection between children's rights and sustainable development was formally articulated both in the Plan of Action that resulted from the 1990 World Summit for Children, and in Agenda 21, the action plan endorsed by the Earth Summit in Rio de Janeiro in 1992. In both documents special chapters are devoted to the interactions between child-centered development and environmental care, and children are acknowledged as having both the greatest stake in environmental stability, and the capacity to act as protagonists in achieving that stability. At the local level, the goals of sustainable development are best expressed through Local Agenda 21, in ways that are responsive to local conditions.[31]

Local Agenda 21

Any local authority committed to realizing children's rights will have to acknowledge that such a commitment cannot be expressed through the adoption of goals that only superficially enhance the lives of children. The achievement of children's rights means viewing the world from a different perspective, and radically altering some basic assumptions. Part of the change involves foregoing a commitment to economic growth as a virtually exclusive goal, adopting a commitment to greater social and economic equity and limiting social and environmental degradation within development. Only when systemic inequities are acknowledged and addressed, can children's rights be genuinely achieved.

changing basic assumptions

A call to action

In spite of broad acceptance of the Convention over the last decade, overall conditions for children have not improved dramatically, and in some countries have actually deteriorated. Many of the countries that were quickest to ratify the Convention at national level are failing to find ways to fulfill it through concrete local measures. For too many children around the world the Convention is only an empty promise. Basic health care has improved in most parts of the world, and children are more likely than ever to survive their early years, but they are surviving in a world that appears to be increasingly violent, hostile, and uncaring. Although we have proven our ability to achieve some focused goals, we still lack the political will to address successfully the overwhelming totality of the situation.

But it is also true that there are many instances of effective and inspiring progress. This book contains numerous examples of efforts that have been successful in radically changing the quality of children's lives. We can and must learn from these examples. The fact that children's rights continue to be violated must be a call to action, not a cause for despair. With the Convention in hand, we have a set of guidelines and goals which enable us to set our moral compass as we struggle to find acceptable ways of living together wherever we are, and working with our children for a future based on values of inclusiveness and solidarity.

[31] ICLEI (1996) *Local Agenda 21 Planning Guide: An Introduction to Sustainable Development Planning*, The International Council for Local Environmental Initiatives