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**A HUMAN RIGHTS  
CONCEPTUAL  
FRAMEWORK  
FOR UNICEF**

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# A HUMAN RIGHTS CONCEPTUAL FRAMEWORK FOR UNICEF

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The opinions expressed are those of the author and do not reflect  
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I warmly welcome the explicit reaffirmation of the United Nations Children's Fund, UNICEF, to base its work on the Convention on the Rights of the Child, and this important position paper which describes that decision and its implications with clarity, knowledge and understanding. UNICEF's adoption of the Convention as the basic reference for its work is a major step forward in converting the undertakings of international law into day-to-day reality for children.

UNICEF is to be commended for its strong support for the Convention through its drafting phase and the campaign to achieve universal ratification. UNICEF continues to provide crucial assistance to the Committee on the Rights of the Child and, on the country level, to those assisting in preparing submissions to the Committee.

This position paper shows clearly the impact of adopting a rights-based approach to UNICEF's work. The rights of every child must be analysed and a response provided. This helps direct the focus to those children who are too often invisible; the poor, those belonging to minorities or those living in neglected rural areas. The recognition that each child has an individual right to access to education, for example, is a significant shift in the debate over methods of delivery and must have an important impact on how resources are allocated. Further, the Convention requires that all the rights of the child be addressed in a holistic approach which recognizes the child as a human being with growing capacity and responsibility in decisions affecting her or his life.

The rights-based approach, which is being adopted by other United Nations programmes, means describing situations not in terms of human needs, or areas for development, but in terms of the obligation to respond to the rights of individuals. This empowers people to demand justice as a right, and not as charity. And legitimizing those demands provides balance against other, less positive, forces.

This also implies the direct involvement of people in decisions relating to their own development. Internationally, a rights-based approach provides the community with a sound moral basis on which to claim assistance and to advocate a world economic order respectful of human rights.

UNICEF, by adopting the Convention as the basic framework for its work, responds to the special responsibility placed on it by the text of the Convention itself. Not only does this significantly increase the forces working for the Convention, but it forms the basis for increased cooperation between UNICEF and the Office of the High Commissioner for Human Rights. OHCHR, particularly in its technical cooperation programme, has many activities aimed at the implementation of the Convention and the impact of these will be enhanced by strengthened cooperation with UNICEF.

The Convention on the Rights of the Child includes the express obligation of international assistance for the realisation of its rights. The more fortunate are called upon to assist the less fortunate as an internationally recognized responsibility. UNICEF, with its networks in developed and developing countries is particularly well-suited, with its capacity for advocacy and mobilization, to achieve this objective.

The challenges which face us all in improving respect for the rights of children no matter where they live is daunting, but the commitment of UNICEF to the Convention on the Rights of the Child, and the possibilities for working together, enable us to face these challenges with increased expectations for success.

Mary Robinson

*High Commissioner for Human Rights*

*Geneva, May 1999*

## 1. UNICEF, the leading agency for children

The United Nations Children's Fund, UNICEF, is the leading agency for children within the United Nations system. Its role in the protection of children's lives over the past 50 years makes it an essential reference for political authorities, development institutions, research centres, community organisations, as well as families and children all over the world. Its commitment to children in times of peace and in times of war, to promote consensus, to encourage action, to advocate in favour of the most disadvantaged and shed light on the forgotten, are now hallmarks of UNICEF's identity. Already active in emergency and development activities for years, in the last decade UNICEF has become an essential actor in the field of children's rights.

This evolution is a very natural transition for an organisation so active in development activities and so concerned with the situation of children and women; an organization which has, to some degree already been implementing human rights standards. The fact that we could do more and do it better led to the development of this conceptual framework – a roadmap of sorts to address the basis for UNICEF's human rights work and, in turn, the expectations that flow from the adoption of a system-wide human rights approach. In outlining the legal and moral foundation for UNICEF's human rights approach, the paper also attempts to draw the common ground between traditional development thinkers and human rights advocates, an area which still presents challenges and provokes debate in the UN and beyond. In reality, of course, there is no dichotomy between human rights and development.

Human rights are not simply an "attachment" one adds to development. Rather, they should inform and guide development policies. Human development is only meaningful and sustainable when it is designed to ensure the realization of human rights.

**First** it must be clear that human rights are not just an 'option' in the United Nations system. They constitute the very foundation of the work of the UN, and have been identified by the UN Charter as one of

three basic purposes of the organization. Human rights are relevant for both the normative and operational activities and all UN agencies and bodies are required to periodically assess the impact of their policies and strategies on the enjoyment of human rights, as stressed in the Vienna Conference on Human Rights and the 1998 ECOSOC session.

**Second**, human rights are neither abstract nor some remote set of inspirational principles. They have a tangible meaning and a relevance to everyday life; they need to be practised and experienced. They have clear implications for *what* needs to be done towards their effective realization, and *the way* this needs to be achieved with the active and free participation of individuals.

**Third**, all human rights, civil, political, economic, social and cultural are inherent to the human dignity of every person. They have been recognized and reaffirmed in universally accepted standards, from the Universal Declaration on Human Rights to the almost universally ratified Convention on the Rights of the Child. They do not constitute an option, they are not open to a free and arbitrary interpretation and cannot be referred to only within an environment of like-minded partners, governments or organizations.

Finally, human rights are not neutral. They stand for clear values and they require commitment to make them work; a commitment to act and promote actions to ensure their realisation; a commitment to express concern, voice criticism and foster change in cases of denial and neglect.

Human rights add 'weight' to our development goals and strategies. States have a special responsibility to protect and promote universal respect for, and observance of, these rights in their individual and joint action. Thus, human rights must inform both national policies and international cooperation. At the same time, civil society is a critical partner in the design and implementation of these policies, and plays a decisive public scrutiny role.

These principles set the context within which a human rights approach is defined and are essential for its operationalization.

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## 2. The foundation for UNICEF's human rights approach

The foundation for this development is the **United Nations Charter**. The Charter identifies the promotion and encouragement of respect for human rights for all without discrimination of any kind as one of the three purposes of the organization. It further stresses the need to promote better standards of living, improved conditions for economic and social progress and human development together with universal respect for, and observance of, human rights. And it recognises the instrumental role played by international cooperation to attain these goals.

As well as being guided by the Charter, UNICEF is guided by the **Universal Declaration on Human Rights** and by the human rights instruments it has inspired, including the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). The Universal Declaration was proclaimed as a common standard of achievement for all peoples and all nations towards the advent of a world in which every member of the human family shall enjoy freedom of speech and belief and freedom from fear and want. As the Universal Declaration recognises, everyone is entitled to the rights and freedoms set forth therein, rights and freedoms which are equal and inalienable, inherent to the dignity of the human person and which constitute the foundation of freedom, justice and peace in the world.

UNICEF's work is also informed by the **World Conference on Human Rights**<sup>1</sup>. The Conference, held in June 1993 in Vienna, recognised that the human rights of children constitute a priority for United Nations system-wide action. It recommended that UN bodies and specialized agencies periodically assess the impact of their strategies and policies on the enjoyment of human rights and called for the situation and human rights of children to be regularly reviewed and monitored by all in accordance with their specific mandates. The Conference further reiterated the principle of the *First Call for Children* and urged the UN to undertake measures to the maximum of its available resources to

achieve the goals set at the World Summit for Children in 1990 – the Plan of Action.

## 3. A summit and convention focusing on children

In September 1990, committed to making children's rights truly universal and a high priority, UNICEF promoted and gave its full support to the World Summit for Children. Using what was, at the time, an innovative approach, the Summit resulted in the adoption of a Plan of Action for Children. The Plan of Action was designed to give visibility to children, to encourage a full assessment of their situation and develop means to address it effectively. Carefully tuned to mobilise political will and foster decisive action, the Plan also identified specific benchmarks for the effective assessment of progress.

The timing of the World Summit coincided with the entry into force of the Convention on the Rights of the Child, and in effect constituted an important strategy to achieve the fundamental aim of the Convention - the realization of the human rights of all children.

While UNICEF played a significant role in the organization of the Summit and its follow-up, the major signal for UNICEF's role in human rights came with the Convention on the Rights of the Child, which identified UNICEF as a major partner in the implementation process<sup>2</sup>.

In its commitment to promote human rights, UNICEF is also pursuing the call made by the Secretary General in his recent Programme for Reform for the integration of human rights into the broad range of activities of the United Nations. As a cross cutting issue, human rights should inform the development *and* humanitarian agendas, guide the debate on peace and security and be enhanced in the human rights programmes and activities. The fascinating reality is that all of these areas are relevant to UNICEF's work and in each and every one of them human rights, particularly those of children, are gaining an increasing relevance.

## 4. Children's rights – a concern for the UN system

Like UNICEF, many other United Nations bodies are becoming increasingly involved in children's

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<sup>1</sup> The Vienna Declaration and Programme of Action were adopted on 25 June 1993 and may be found in the United Nations General Assembly document A/CONF.157/23.

<sup>2</sup> See article 45 of the Convention on the Rights of the Child.

rights. Following the adoption of the Convention on the Rights of the Child, the International Labour Organization (ILO) has renewed its interest in the area of child labour and is engaged in drafting a new convention to eliminate the most extreme forms. The Guidelines for Refugee Children adopted by the United Nations High Commission for Refugees (UNHCR) were informed by the general principles of the Convention, namely non-discrimination, best interests and participation. The United Nations Educational, Scientific and Cultural Organization (UNESCO) is developing work in the field of human rights education for children using the Convention as an illustration.

But for UNICEF, unlike other UN bodies, children's rights are not just one concern among many. They represent the essential value of UNICEF's mandate and, in fact, of the identity of the organization itself.

## 5. UNICEF's mandate for human rights

### a) UNICEF's Mission Statement

This identity is captured in the UNICEF Mission Statement, which mandates the Organisation "*to advocate for the protection of children's rights and strive(s) to establish children's rights as enduring ethical principles and international standards of behaviour towards children.*"

It further stresses that UNICEF "*aims through its country programmes, to promote the equal rights of women and girls and to support their full participation in the political, social and economic development of their communities.*" Thus, this component of UNICEF's work also needs to be taken into consideration, emphasizing a strong call for gender equality, equity and non-discrimination in the activities of the organization.

### b) CRC and CEDAW

In view of this mandate, the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) gain a particular importance for UNICEF's work. Both have been widely ratified<sup>3</sup> and they are mutually reinforcing, especially in the promotion and protection of the human rights of girls and women and in the prevention of discrimination on the basis of gender. As the World Conference on Human Rights has stressed, and the Fourth World Conference on Women held in Beijing in 1995 reaffirmed, "*the human rights of women and the girl child are an inalienable, integral and indivisible part of universal human rights; the eradication of all forms of gender discrimination are priority objectives for the interna-*

<sup>3</sup> As of April 1999, the CRC has been ratified by 191 countries and CEDAW by 161.

Following a recommendation of the World Conference on Human Rights, the General Assembly created the post of High Commissioner for Human Rights and assigned to it principal responsibilities for United Nations human rights activities under the direction and authority of the Secretary General. The High Commissioner participates in the Executive Committees and the Senior Management Group.

The UN human rights programme has, inter alia, the following objectives:

- to provide the leading role on human rights issues
- to emphasize the importance of human rights on the international and national agendas
- to promote international cooperation for human rights
- to stimulate and coordinate action across the United Nations system
- to promote universal ratification and implementation of international standards
- to assist in the development of new norms and support human rights organs and treaty monitoring bodies
- to emphasize preventive human rights action and to address violations of human rights
- to provide advisory services and technical assistance in the field of human rights.

Building national capacity to protect and promote human rights is a priority of the human rights programme, an important contribution being made by national institutions.



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*tional community and the equal status of women and their human rights should be integrated into the mainstream of the UN system-wide activity.”* At the same time, the principles and provisions of the two conventions need to be considered in the broader context of other human rights standards.

*c) Universal Declaration of Human Rights*

Special mention should be made, for example, of the Universal Declaration of Human Rights (adopted in 1948) and of the United Nations conventions adopted thereafter, in particular:

- the two International Covenants on Human Rights - on Civil and Political Rights and on Economic, Social and Cultural Rights (adopted in 1966);
- the Convention on the Elimination of all Forms of Racial Discrimination (adopted in 1965);
- the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (adopted in 1984).

All of these human rights conventions are relevant to children and women. They apply to all members of the human family and their consideration becomes critical in the interpretation and implementation of the CRC and CEDAW.

*d) Other human rights guiding principles*

It is important to recall that, in addition to these legally binding instruments, there are important United Nations human rights declarations, bodies of principles, codes of ethics and guidelines that may be of special interest as guiding principles for the adoption of policies on children and women.

The other important human rights standards adopted by the United Nations include:

- Declaration on the Right to Development (1986)
- Declaration on Social and Legal Principles relating to the Protection and Welfare of Children with Special Reference to Foster Placement and Adoption Nationally and Internationally (1986)
- Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment (1988)
- United Nations Guidelines for the Prevention of Juvenile Delinquency (1990)
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990)

- Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities
- Standard Rules on the Equalization of Opportunities for Persons with Disabilities (1993)
- Declaration on the Protection of all Persons from Enforced Disappearances (1993)

*e) Influence of United Nations conferences*

The cycle of major United Nations conferences, of which the World Summit for Children is a special illustration, has contributed to the development of an important substantive agenda for the realization of human rights. The Conferences reflect a growing recognition that democracy, development and respect for human rights are interdependent and mutually reinforcing. All of them recognise the value of children's rights and the need to promote their realization. States have committed to honour and implement the agendas of these conferences by establishing national plans of action with specific targets on the basis of which progress can be monitored. Thus, in UNICEF's work, and beyond the World Summit for Children, it is also important to take into consideration the following major United Nations conferences:

- World Conference on Education for All (Jomtien, 1990)
- World Conference on Environment and Development (Rio, 1992)
- International Conference on Nutrition (1992)
- World Conference on Human Rights (Vienna, 1993)
- International Conference on Population and Development (Cairo, 1994)
- World Summit for Social Development (Copenhagen, 1995)
- Fourth World Conference on Women (Beijing, 1995)
- Second United Nations Conference on Human Settlements (Istanbul, 1996)
- World Food Summit, (Rome, 1996).

In the light of their substantive agenda, other recent international meetings are of special relevance for UNICEF's work. These include the Stockholm World Congress against the Commercial Sexual Exploitation of Children (1996) and the Amsterdam and the Oslo International Conferences on Child Labour (1997).

In 41 substantive articles, the Convention on the Rights of the Child recognizes the human rights of children, defined as persons up to the age of 18 years. In the light of the CRC, children's rights should be implemented without discrimination of any kind, all actions and policies guided by the best interests of the child, the participation of children should always be sought and all actions aiming at the promotion of the survival and development of children.

The Convention was negotiated over a lengthy period of ten years. Initial indifference and political confrontation gave way to an environment of openness and convergence, eventually leading to the adoption of this charter on children's rights. As its Preamble recognizes, the Convention takes into account the importance of tradition and cultural values for the protection and harmonious development of the child. It reflects the principal legal systems of the world and acknowledges the specific needs of developing countries. Based on the richness of such diversity, the Convention affirms the value of the universality of human rights, a fact that undoubtedly contributed to its rapid entry into force in less than a year.

Overseeing the implementation of these standards, the CRC established the Committee on the Rights of the Child, a group of independent experts entrusted with the task of monitoring progress made by States in the realization of children's rights.

### **1. Most widely accepted human rights convention**

The Convention on the Rights of the Child is the most widely accepted human rights convention within the United Nations system. It has been ratified, or acceded to, by 191 States (all but two, Somalia and the United States). For the first time ever in the history of international standard-setting we benefit from a universal normative consensus, freely accepted and shared by virtually all countries around the world. In expressing commitment to bringing the principles of the Convention of the

Rights of the Child into practice, States are provided by the Convention with a framework in which to develop an agenda for children.

At the same time, the Convention constitutes a common reference against which progress can be assessed and results compared. UNICEF can use its principles and provisions as guidance for its programmes of cooperation, for advocacy and for the development of partnerships designed to create a wide alliance in favour of children, as well as to monitor progress in the situation of children.

### **2. A new ethical attitude towards children**

In the light of the Convention on the Rights of the Child, children are no longer envisaged as mere recipients of services or beneficiaries of protective measures. Rather, they are subjects of rights and participants in actions affecting them. They need to be respected in their individuality and in their evolving capacity to influence decisions relevant to their lives. Even in countries where democratic institutions have been established, a look at the situation of children made us realize that systems supposedly based on participation and public scrutiny had failed to listen to the voices of the most vulnerable. They were not prepared to take into real consideration the special needs and the unique potential of children. With the advent of the Convention, this has changed and we now realize that the views of children need to be respected and taken into account when policies are shaped, actions undertaken, and results assessed.

Respect for children's rights cannot be perceived as an option, as a question of favour or kindness to children, or as an expression of charity. Children's rights generate obligations and responsibilities that must be honoured. They need to be perceived as an expression of solidarity and partnership, empowering children to participate actively in the improvement of their situation and in the broader process of social change.

For these reasons, UNICEF's focus is no longer limited to meeting children's needs, but on the

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recognition and realization of their human rights.

Recognizing children's rights means acknowledging human rights as a question of entitlement and of a consummate responsibility to ensure their effective enjoyment. As members of the human family, children - all children - have inalienable human rights and freedoms that are inherent to the dignity of the human person. They are entitled to benefit from special protection and assistance, to be informed about their rights in an accessible and active manner, to develop their personality, abilities and talents to their fullest potential and to grow up in an environment of happiness, love and understanding.

Entitlement is not simply a question of abstract recognition by the law - even if such recognition is critical for rights to be claimed and safeguarded. In fact, entitlement has practical implications. It implies the creation of conditions in which children can effectively enjoy their rights (i.e. to grow up in a family environment, to be protected against discrimination, neglect, abuse and exploitation, to have a name and a nationality, to enjoy the highest attainable standard of health).

Entitlement implies benefiting from the action of others - the State, the society, the family - for the rights of the child to become a reality, to be experienced and practised. Such actions include the creation of spaces for children to play; the establishment of birth registration offices and the training of birth registration officials to acknowledge the existence and identity of the child, the adoption of legislative measures prohibiting discrimination; the creation of independent mechanisms to defend children's interests; the allocation of adequate resources to ensure effective access to health care and education; the development of advocacy campaigns to create a child friendly society.

It further implies the recognition of the increasing capacity of children to exercise their rights and to make valid claims for their observance and respect. For example, children have a right to be creative and engage in play and recreational activities, to express views and share ideas, to influence decisions, to participate in associations but also to have access to mechanisms and proceedings that may provide for effective remedies or to consider complaints in the case of exploitation or ill-treatment.

The exercise by children of their rights is very closely linked to their age and maturity. It will differ naturally from early childhood to adolescence.

As the Convention recognizes, in a manner consistent with their evolving capacities, children have the right to an increasing autonomy and a growing ability to intervene as actors, becoming less and less dependent on the direction, assistance, or intervention of others. At the same time, in all stages of their childhood, children need to be protected against exploitation and abuse, including participation in hostilities, sexual exploitation or work in dangerous activities.

And entitlement imposes a general duty on everyone, including the State, to respect those same rights and to abstain from any action that may preclude their enjoyment or violate them. Any measure designed, for example, to exclude children belonging to a minority from accessing school, to prevent girls from having equal opportunities in education or nutrition, to induce or engage children in prostitution, to unlawfully deprive children of liberty, to traffic in children, or to deliberately retard or halt the progressive realization of the right to health or education, constitutes a violation of children's rights.

For an organization like UNICEF, the new ethical attitude of the Convention implies a renewed commitment to intervene as advocates for children. Thus, when there is passivity, UNICEF's role is to recall the commitment made by States to honour the Convention and turn it into reality. When children are absent from the political or social agenda, UNICEF needs to act as a catalyst and promote the consideration of children as a priority. When children's rights are neglected, UNICEF needs to voice its concern and encourage action to ensure the effective enjoyment of their rights. In each and every circumstance there is a need to promote the involvement of children in decisions affecting their lives.

### **3. Universality of the human rights of children**

The Convention stresses the importance of the human rights of every child. Each and every child has equal and inalienable rights, wherever he or she may live. For this reason, UNICEF recognizes that, while it is important to improve the situation of children as a group, it is essential to go beyond good averages or a high rate of progress. It is necessary to consider the specific reality of those children who have not been affected by the wave of general progress, who have remained invisible or

forgotten and who are becoming increasingly vulnerable and marginalized. Similarly, while international goals or national targets remain important tools to mobilize action and resources for children, to promote improvement of their situation and achieve tangible results in a particular time frame, they must be considered within the broader context of a long-term process of the universal realization of the human rights of children.

The fundamental goal of the Convention on the Rights of the Child is in fact to achieve the realization of all the rights of each and every child under the jurisdiction of the State. Achieving this requires a consideration of the reality of all children, to promote support to those in greater need, and to narrow prevailing social, economic or geographic disparities. It is necessary to address younger children as well as adolescents, girls as well as boys; children in rural and urban areas, including those living in the poor peripheric areas; children placed in institutions and children belonging to minority or indigenous groups, asylum seekers and refugee children. The Convention also stresses that it is important to consider all areas that are relevant to children's lives, including those previously neglected in research, data collection and policy making, such as:

- child sexual exploitation;
- child participation in armed conflicts;
- child labour in the informal sector or in domestic service;
- the right to grow in a family environment;
- birth registration;
- juvenile justice;
- the right to play and leisure;
- the right of freedom of opinion.

In brief, with the new ethical vision the Convention has brought, there is a need to address realities insufficiently considered so far, while sustaining achievements made in the traditional areas of our work. For this to be possible, the systematic collection, analysis and dissemination of relevant data on all these areas become essential. Moreover, relevant indicators need to be identified to enable trends to be assessed over time, to recognize and narrow disparities, understand and address the root causes of prevailing difficulties, to measure progress and to reflect human rights values, including those of equity, non discrimination, social justice, participation and empowerment<sup>4</sup>.

#### 4. A comprehensive philosophy – a practical guide

The Convention indicates in an unequivocal manner that children's rights are human rights. They are not special rights: they are simply the fundamental rights inherent to the human dignity of every person. The rights of the child are indivisible and inter-related; all are important and essential to the harmonious development of the child.

With the realization of the rights of the child we are in fact promoting the advent of the world proclaimed by the Universal Declaration where everyone enjoys his or her economic, social, cultural, civil and political rights.

The General Assembly has often emphasized that *“all human rights and fundamental freedoms are indivisible and interdependent. Equal attention and urgent consideration should be given to the implementation, promotion and protection of both civil and political and economic, social and cultural rights. The full realization of civil and political rights without the enjoyment of economic, social and cultural rights is dependent upon sound and effective national and international policies of economic and social development.”*<sup>5</sup>

Thus, the indivisibility of children's rights becomes of essence. In reality, can we ignore the value of information and awareness on children's rights to ensure their wider compliance and respect and the prevention of violations? Can we neglect the relationship between the enjoyment of the right to education and the eradication of child labour? Can we question the importance of birth registration to ensure children's school enrolment or access to health and welfare services, to prevent their early recruitment into the armed forces and generally to promote equity and protection against discrimination?

The Convention on the Rights of the Child does not establish any categorization or hierarchy of rights. As the Committee on the Rights of the Child has often stressed, all the rights are interrelated and each of them is equally important and fundamental

<sup>4</sup> With this purpose in mind, important steps have been undertaken; see for example the Summary Report of the International Meeting on *Indicators for Global Monitoring of Children's Rights and the Implementation Handbook for the Convention on the Rights of the Child*, both available from the Division of Evaluation, Policy and Planning, UNICEF, New York.

<sup>5</sup> Resolution 32/130, 16 December 1977.

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to the dignity of the child; the implementation of each right should take into account the implementation of, and respect for, all the other rights of the child.

Introducing an innovative holistic approach, the Convention avoids the traditional dichotomy between civil and political rights, on one hand, and economic, social and cultural rights, on the other. It addresses the whole child and all children's rights, including the child's fundamental freedoms of expression, of religion, of peaceful assembly and association; civil rights, as in the case of the right to a name and a nationality; economic and social rights, including the right to health and social security; and cultural rights, including the right to education and participation in cultural life.

For some time, there has been a debate on the difference between civil and political rights, on the one hand, and economic, social and cultural rights on the other. Different arguments have been put forward, including the progressive realization of economic, social and cultural rights, as opposed to the immediate implementation of civil and political rights. The use of this criterion does not provide for an absolute distinction. In fact, States are required to take immediate and concrete steps in the implementation of both categories of rights, whether legislative, educational or social, as in the case of the protection of children against discrimination or of the general obligation to refrain from actively violating children's rights. Moreover, the progressive realization of economic, social and cultural rights cannot be interpreted as an excuse to defer efforts to ensure their enjoyment by children, or to mean that only once a State has reached a certain level of economic development can such rights be realized. Progressive realization simply recognizes that the full and universal realization of economic, social and cultural rights will generally not be achieved in a short period of time (for instance ensuring that each and every child enjoys the highest attainable standard of health<sup>6</sup>) and requires an on-going effort towards steady improvement. It is not, however, compatible with passivity.

Another argument often used to distinguish these two groups of rights is the resource dimension of economic, social and cultural rights. Article

4 of the Convention on the Rights of the Child recognizes that States need to undertake measures "to the maximum extent of their available resources" to achieve the realization of economic, social and cultural rights. Again, this is not a definitive argument. In fact, the implementation of civil and political rights often has resource implications too. As an illustration, reference can be made to the right of every child to be registered after birth. This is clearly dependent on the existence and accessibility by families to birth registration offices, or on the adequate number and training of registration officers. In addressing this resource dimension it is, however, important to stress that regardless of the level of economic development of any State, it is always necessary to give children "first call" on available resources and allocate them to the maximum extent to ensure the realization of their economic, social and cultural rights. In reality, the principles of the best interests of the child and first call for children play an essential role in all these situations, even in periods of severe resource constraints.

As has often been recognized, "resources" means much more than those of a financial or budgetary nature. Technological, organizational or human resources should also be considered. Moreover, it is important to note that by referring to resources, the Convention means not only those existing at the national level, but also those made available by the international community, in the context of programmes of technical cooperation and assistance. All of these need to be considered when the realization of the economic, social and cultural rights of the child is at stake. It is in this spirit that the Convention refers to "*the framework of international cooperation*"<sup>7</sup> and acknowledges, for instance, that the special needs of developing countries should be taken into consideration in the areas of health and education.

The holistic approach of the Convention addresses human rights while placing the child at the centre of its considerations. This child-focused perspective guides its call for action and progress towards the realization of all the rights of the child, and stresses that the best interests of the child should always be a guiding reference.

The fact that the Convention does not establish a hierarchy of rights and recognizes that they are all equally important, interrelated and indivisible, does not mean that actions to ensure their realization should not be prioritized. In fact, in view of the spe-

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<sup>6</sup> See, as an illustration, the reference in CRC articles 24 para. 4 and 28 para. 1, "with a view to achieving progressively the full realisation" of the rights to health and education respectively.

<sup>7</sup> See in particular articles 4, 23 para. 4, 24 para. 4 and 28 para. 3.

cific national or sub-national reality of each and every concrete situation according to the specific existing circumstances, priority actions should be identified to ensure the realization of children's rights, to address the most urgent areas of concern, and to stop and address existing violations. Such prioritization becomes of essence if interventions are to be effective and if the best use of available resources is to be ensured. It becomes possible whenever an accurate assessment and understanding of the situation of children is ensured.

*a) A multi-disciplinary and cross-sectoral approach*

The holistic approach of the Convention emphasizes the importance of promoting a multi-disciplinary and cross-sectoral perspective when consideration is given to policies, programmes or actions in favour of children. The aim is to focus on the whole child and to promote the effective realization of all his or her rights. It is essential, therefore, to foster an increasing synergy amongst the various sectors which are relevant to the child's life, and prevent fragmented interventions. With a cross-sectoral and inclusive perspective the value of each specialized sectoral component will be taken into consideration, but a common context will be further promoted where complementarity and interrelationship will prevail. As the efforts to combat child labour have shown, it is essential to go beyond a simple intervention in the area of employment. Success has only been possible through a comprehensive policy which promotes a clear legal framework, an effective and quality system of education, the registration of children, advocacy and awareness campaigns, alternative incentives for the family, mechanisms for monitoring and inspection and the allocation of adequate resources to ensure that the process of enforcement is effective.

In accordance with the holistic approach of the Convention, the Committee on the Rights of the Child has avoided an article by article approach to its work. Instead, the Committee groups the rights set forth in the Convention into major themes, while reaffirming the close relationship between them all. In its Guidelines for States parties reports on the

implementation of the Convention, the Committee identifies eight thematic areas (see p.10):

1. general measures of implementation (articles 4, 42 and 44 para. 6)<sup>8</sup>
2. definition of the child (article 1)
3. general principles (articles 2, 3, 6, 12)
4. civil rights and freedoms (articles 7, 8, 13, 14, 15, 16, 17, 37 a)
5. family environment and alternative care (articles 5, 9, 10, 11, 18, 19, 20, 21, 25, 27 para. 4, 39)
6. basic health and welfare (articles 6, 23, 24, 26, 27 paras. 1 to 3)
7. education, leisure and culture activities (articles 28, 29, 31)
8. special protection measures (22, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40).

*b) General principles of the Convention*

To ensure a common philosophical approach to the spectrum of areas addressed by the Convention, the Committee on the Rights of the Child identified underlying and fundamental values that are relevant to the realization of all children's rights. In the view of the Committee these constitute the **four general principles** of non-discrimination, best interests of the child, survival and development, and respect for the views of the child (right to participation). These overarching principles are a guiding reference for the implementation of the Convention and they constitute decisive criteria to assess the progress made in that process.

**Non-discrimination** (article 2): In the light of this principle, the realization of the rights recognized by the Convention, cannot be nullified or hindered by any distinction, exclusion, restriction or preference based on any ground, including gender, race, colour, language, religion, national or ethnic origin, disability or birth. This principle implies that girls and boys, poor and rich children, living in rural or urban areas, belonging to a minority or indigenous group should enjoy the rights recognized by the Convention on an equal footing. For this reason, the disaggregation of data by gender, age group, geographic or ethnic origin becomes of special relevance.

**Best interests of the child** (article 3): This principle indicates that in all decisions affecting children, in the implementation of all rights set forth in the Convention, the best interests of the child should be given primary consideration. The inclusion of this principle in the CRC has helped crystallize the per-

<sup>8</sup> This section includes, inter alia, the consideration of legislative reform, allocation of resources for children, existence of national coordination and monitoring mechanisms for children's rights, the involvement of the civil society in the design and implementation of policies for children, the promotion of awareness, information and education campaigns on the rights of the child.

## UNICEF'S ROLE ON THE EIGHT THEMATIC AREAS

### 1. General measures of implementation (articles 4, 42 and 44 para. 6)

UNICEF supports efforts towards:

- ratification of, and withdrawal of reservations to, CRC and CEDAW;
- the preparation of reports for Committee on the Rights of the Child;
- the publication of an Implementation Handbook for the CRC and dissemination of information on the CRC, CEDAW and other human rights standards;
- the training of judiciary, police and professionals working with children;
- the formation of coalitions of NGOs to promote and monitor child rights;
- consideration of the 20/20 initiative to ensure budget allocations for children's social, economic and cultural rights;
- institutional and legislative reform;
- behaviour change in favour of children's rights.

### 2. Definition of the child (article 1)

UNICEF supports efforts to set up a minimum age for access to employment and recruitment into armed forces and participation in hostilities.

### 3. General principles (articles 2, 3, 6, 12)

UNICEF supports:

- outreach to marginalized, rural, indigenous and disadvantaged children;
- attempts to disaggregate data more effectively;
- greater focus on girls' education and health concerns specific to girls such as FGM;
- efforts to improve the access of disabled children to schools and other basic services;
- provision of relevant information to children on their rights and the promotion of children's participation in decisions affecting them.

### 4. Civil rights and freedoms (articles 7, 8, 13, 14, 15, 16, 17, 37 a)

UNICEF supports the organization of children's elections and student councils; the promotion of birth registration; and the provision of legal representation and support to juveniles in conflict with the law.

### 5. Family environment and alternative care (articles 5, 9, 10, 11, 18, 19, 20, 21, 25, 27 para. 4, 39)

UNICEF promotes awareness on, and support to:

- the child rearing responsibilities of families;
- the protection of children in adoption cases, particularly against abuse in intercountry adoption;
- the protection of children from abuse;
- the reunification of refugee and displaced children with their families;
- the situation of children in institutions.

### 6. Basic health and welfare (articles 6, 23, 24, 26, 27 paras. 1 to 3)

Examples abound of UNICEF's work in the areas of water and sanitation, nutrition and health care. UNICEF promotes the 20/20 initiative and has initiated research into the impact of globalization on poverty and the enjoyment of children's rights.

### 7. Education, leisure and culture activities (28, 29, 31)

UNICEF promotes:

- free, compulsory primary education;
- actions to improve quality of education and to make schools child friendly;
- efforts to improve access to schools by girls, children in rural and remote areas and children belonging to minorities.

### 8. Special protection measures (22, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40)

UNICEF's work in this area ranges from addressing in UN and international meetings relevant issues, such as child protection against sexual exploitation and child labour to activities supporting children living and/or working on the streets, children involved with the system of juvenile justice, refugee and displaced children and children in armed conflict.

ception of the child as a real person in his or her right, someone who must be considered autonomously. It has placed the child at the centre of the equation, on behalf of whom and because of whom decisions must be taken and taken in a particular direction. The principle applies to actions undertaken by the State, by courts of law, administrative authorities, legislative bodies, private social welfare institutions and even within the family<sup>9</sup>. The principle focuses on finding the best solution for the child, including to guide policy decisions, allocate resources for the implementation of the Convention, and assess their impact on the enjoyment of children's rights. And it becomes vital in decisions concerning conflicts of interest between the child and others<sup>10</sup>, or between different conflicting rights of the child<sup>11</sup>.

**Survival and development** (article 6): With this principle, the CRC envisages child development as a holistic concept. Thus, the enhancement of the child's health and nutrition must be associated with his or her spiritual, moral and social development, where the child's personality, talents and abilities are promoted to their fullest potential in a manner that is compatible with the dignity of the human person. In this context, the access of children to basic social services, on the basis of equal opportunity, becomes of essence. So does affirmative action undertaken by States to provide special assistance to those in greater need. But international cooperation is equally important. In fact, it ensures a universal movement of solidarity around children, where required resources are made available to the maximum extent possible to ensure the realization of children's rights, including to health and education.

**Respect for the views of the child** (article 12): This principle affirms, very strongly, the value of the child as a fully-fledged person having the right to access information and freely express views in all matters affecting him or her, having those views respected and given due weight. It indicates the right of the child to access and participate in decision-making processes affecting his or her life and influence decisions taken on his or her behalf within the family, in the school or in the community. For this reason, this principle is often presented as a right of the child to participation.

### *c) Promoting coordination of activities*

The consideration of a holistic and cross-sectoral approach to children's rights has paved the way for

the coordination of activities by relevant organizations, departments and structures dealing with children's issues. It has also led to the creation and enhancement of national institutions on children's rights. In different parts of the world inter-ministerial commissions have been set up, parliamentary committees developed and coalitions of NGOs formed, all of them guided by the CRC. UNICEF contributes to this movement of convergence, alliance and partnership between State and non-State actors, central and local authorities, who come together to promote and monitor the improvement of the situation of children. Such a movement plays a decisive role in creating a child friendly society - a society that cares and is engaged in the realization of children's rights and is committed to transforming the CRC into a lively reality.

A similar movement towards coordination is occurring in the international arena. In fact, in the spirit of the Convention, and particularly article 45, there is increasing cooperation between United Nations bodies and organizations, international, regional and national institutions and NGOs. The Convention provides a unique opportunity to develop programmes of technical advice and assistance in the context of its principles and provisions, devoted to the common aim of ensuring the realisation of children's rights. This opportunity has gained a new dimension with the process of the UN Reform, which calls for closer collaboration and coordination of efforts and for the mainstreaming of human rights in all activities of the organization. In this regard, the United Nations Development Assistance Framework (UNDAF) has a particular relevance for UNICEF.

## **5. The Convention creates a system of State accountability**

Upon ratification of, or accession to, the Convention on the Rights of the Child, States parties commit themselves to respect the principles and provisions of the Convention and to transform them into a reality for all children.

States may freely decide to ratify or not to ratify,

<sup>9</sup> See articles 18 para.1 and 9 para. 1.

<sup>10</sup> As in the case of article 9 para. 1 of the CRC.

<sup>11</sup> For instance the right to be cared for by his or her parents (article 7 of the CRC) and the right to be separated from them in the case of abuse or neglect (article 9 para.1).



to accede or not to accede, to the Convention on the Rights of the Child or to any other human rights convention. This aspect remains an important reflection of the sovereignty of the State. But once the decision to accede or ratify is taken, States become responsible for the process of implementation and accountable for the obligations that arise. In reality, ratification or accession is not just a moment in time without further consequences. It reveals a commitment - a commitment to act in accordance with the object and purpose of the treaty concerned. In the case of the CRC, it means achieving visible and meaningful results for children and creating a cultural and social context where their rights can be respected and experienced.

In the context of the Convention on the Rights of the Child, ratification or accession are the sources of three main obligations: an obligation of result, an obligation of conduct and an obligation of transparent assessment of progress.

#### *a) An obligation of result*

What are States parties required to achieve? In general terms, they are required to ensure the realization of the rights recognized by the Convention to every child under their jurisdiction. As article 2 of the Convention stresses, States are required to “*respect and ensure the rights set forth in the Convention to each child within the jurisdiction*” of the State.

This may be achieved by refraining from any act that may preclude the realization of children’s rights (such as the adoption of a law limiting the access of minority children to education); or by creating the necessary conditions for children’s rights to be effectively enjoyed, including the prevention and combating of any violation (e.g. preventing the stigmatization or ill-treatment of poor or abandoned children by law enforcement officials); or by positively promoting their rights (i.e. allocating adequate resources to the maximum extent to progressively achieve the right to education; developing a network of registration offices to ensure the birth registration of children; including in the law a minimum age for access to employment, including in the school curricula the values of the Convention)<sup>12</sup>.

#### *b) An obligation of conduct*

How are States required to act? In the light of article 4 of the CRC, States are bound to act, to adopt all appropriate measures (legislative, administra-

tive, social, economic, budgetary, educational or other necessary measures) to ensure the implementation of the Convention.

In this regard, legislative reform gains a particular relevance to ensure that national laws are fully in conformity with the principles and provisions of the CRC. But legislation is in no way sufficient to ensure the realization of children’s rights. An essential role is also played by advocacy and awareness campaigns to make the principles and provisions of the Convention widely known and respected by society as a whole, or to enable children to become actively involved in the realisation of their rights (influencing decisions affecting their lives, for example, or participating in cultural activities). Also of relevance is the requirement that States allocate adequate resources to the maximum extent possible for the realization of children’s economic, social and cultural rights. This could mean, for example, making primary education compulsory and free for all and to introduce free secondary education, or the establishment of mechanisms to intervene on behalf of children and to defend their rights, such as an Ombudsman. In each and every case, the State is required to assess which are the necessary and appropriate measures to transform the Convention into reality.

#### *c) An obligation of transparent self-assessment*

States parties are also required to submit periodic reports to the Committee on the Rights of the Child<sup>13</sup> containing information on the process of implementation of the Convention. Reports should include information on the measures adopted by the State, on the results achieved and on the factors and difficulties hindering further progress. They are

<sup>12</sup> The CRC mentions in its article 2 (an umbrella provision for the implementation of the whole Convention), the State’s obligation to “*respect and ensure*” the rights of the child. This broad expression encompasses various forms of State’s obligations, as other provisions of the CRC illustrate. The same wording is used in article 2 of the International Covenant on Civil and Political Rights (ICCPR). But both in other articles of the CRC and in other human rights treaties and documents some different expressions are used to reflect in more detail the implications of the obligations of the State. Thus, the CRC also addresses the obligation to **protect** (art. 19 “*to protect from all forms of (...) violence, injury or abuse*”; art. 33 “*to protect from the illicit use of narcotic drugs*”); to **provide and assist** (art. 22 para. 2 “*to provide (...) cooperation in any efforts by the UN (...) to assist such a child*”); to **secure** (art. 27 para. 4 “*to secure the recovery of maintenance for the child*”); article 2 of the International Covenant on Economic, Social and Cultural Rights refers to the obligation to **guarantee**; the Maastricht Guidelines on violations of economic, social and cultural rights, formulated in 1997 as a complement to the Limburg Principles on the implementation of the International Covenant on Economic, Social and Cultural Rights, consider the obligations to **respect, protect and fulfil**.

<sup>13</sup> See article 44 of the CRC.

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intended to be self-critical and objective, giving the Committee a comprehensive understanding of the reality in the country and enabling it to make suggestions and recommendations aimed at the improvement of the situation of children and at the effective realization of their rights.

Above all, the reports are an important political tool to promote social change. They should reflect an accurate assessment of the reality of children, make an appraisal of policies adopted to improve their situation, an evaluation of the degree of success achieved, and provide an identification of areas where future priority action should be focusing.

With the same concern for transparency, States are further required to make the implementation reports widely available to their own populations<sup>14</sup>. Thus, the reports play an important catalytic role, contributing to the promotion of a national debate on children and their rights, encouraging the engagement and participation of the civil society and generally fostering a process of public scrutiny of governmental policies in this area.

The distinction made on the nature of State obligations becomes of critical importance for the identification of relevant child rights indicators to measure the level of progress achieved – of result (what is to be achieved) and indicators of progress (how it should be done).

## **6. The role of the family in promoting the enjoyment of children's rights**

The Convention recognizes the essential role played by parents and more generally by the family, as the primary caregivers of the child. The Convention acknowledges the responsibilities, rights and duties of parents, legal guardians and others responsible for the child in ensuring the well being and development of the child<sup>15</sup>. Being the most fundamental group in society, and the natural environment for the development of all its members, the family is to be afforded the necessary protection and assistance by the State. For its part, the State is required to render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities, thus ensuring that the capacity of families to act as the first line of protection of children is enhanced.

According to the CRC, parents and legal

guardians should always be guided by the best interest of the child, “*which will be their basic concern*”<sup>16</sup>. Thus, children should be cared for by their parents and grow up in a family environment, in an atmosphere of happiness, love and understanding. If circumstances indicate, however, that the child may be at risk within the family, as in the case of neglect, abuse or ill-treatment, then the separation of the child from his or her parents should be considered, guided by the principle of the best interests.

The Convention also recognizes the role of the parents and the family in providing appropriate direction and guidance in the exercise by the child of her or his rights, in a manner consistent with the child's evolving capacities. The family is in fact the first environment where children are introduced to the values, culture and norms of their society. It is also the first opportunity for the child to experience tolerance, mutual respect and solidarity. Thus, the CRC acknowledges the balance between the rights and responsibilities of the family on the one hand, and the individuality and capacity of the child on the other, to increasingly become the main actor in the exercise of his or her own rights and in decisions relevant to his or her life.

In this context, the Convention constitutes a framework for the consideration of United Nations programmes designed to support the role of the family in the realisation of children's rights - both to enhance the family's capacity to care for and protect the child, and to empower the family in providing opportunities for the child to gain increasing confidence and experience in the exercise of his or her rights. For UNICEF, this framework provides an opportunity to support, strengthen and empower families to assume their child rearing responsibilities, while being guided by the best interests of the child.

## **7. A system of international cooperation and solidarity**

In the spirit of the United Nations Charter<sup>17</sup>, the Convention promotes international cooperation and assistance to achieve the realization of the rights of the child. As previously mentioned, it recognizes

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<sup>14</sup> See CRC article 44 para. 6.

<sup>15</sup> See article 27 para. 2 of the CRC.

<sup>16</sup> See CRC article 18 para. 1.

<sup>17</sup> See in particular articles 1 para.3, 55 and 56 of the UN Charter.

the role of international cooperation, in particular to ensure the implementation of the economic, social and cultural rights of children<sup>18</sup>, and it pays close attention to the special needs of developing countries<sup>19</sup>. The Convention addresses this reality in the context of the right of the child to information and the production, exchange and dissemination of information to promote the child's social, spiritual and moral well being and physical and mental health<sup>20</sup>. In relation to the rights of the child with disabilities<sup>21</sup>, the Convention aims to promote a full and decent life in conditions that ensure dignity, promote self-reliance and facilitate the child's active participation in the community; as well as the rights to health and education<sup>22</sup>.

International cooperation and assistance are an expression of the international commitment made by Member States of the United Nations to take joint and separate action *"to achieve the promotion of universal respect for, and observance of, human rights and fundamental freedoms"*<sup>23</sup>. It is in this context that multilateral and bilateral cooperation become instrumental to the realisation of children's rights. In its absence, children's rights remain an unfulfilled aspiration for many countries and an ignored opportunity for millions of children.

The Convention on the Rights of the Child associates States' accountability for the realisation of children's rights with international cooperation. Thus, it calls on all States, both donor and receiving countries, to give priority to children and to channel maximum resources to the realization of children's rights. It requires States to identify factors and difficulties affecting the degree of fulfilment of the obligations arising from the Convention, and it encourages them to formulate requests or indicate a need for technical advice or assistance<sup>24</sup> to overcome them. In this process, the Committee on the Rights of the Child plays the role of a catalyst. In the context of the examination of States parties reports, the Committee may acknowledge the relevance of States parties' requests and encourage the international community to take them into consideration. In particular, it may forward those requests to UN organizations and other competent bodies<sup>25</sup> with a view to promoting their follow-up through relevant programmes of cooperation of the organizations and bodies concerned.

A particular responsibility lies with the United Nations in this regard. As the World Conference on Human Rights stressed, *"international cooperation*

*and solidarity should be promoted to support the implementation of the CRC, and the rights of the child should be a priority in the UN system-wide action on human rights"*.

This is of critical importance for UNICEF, an essential partner in the implementation of the Convention. In the light of the specific situation of each country and taking into account UNICEF's mandate, expertise and comparative advantage, UNICEF has been requested to become involved in various areas to support national efforts designed to effectively implement the CRC.

## 8. Children at the centre of development

With its child-centred approach and through the promotion of a system of international cooperation framed by, and devoted to, the realisation of children's rights, the Convention on the Rights of the Child places children at the centre of the development agenda.

The Convention envisages human rights as the foundation for development and in this regard is a lively illustration of the principles proclaimed by the United Nations Declaration on the Right to Development<sup>26</sup>, namely the universality, indivisibility and interdependence of all human rights; the central importance of the human person as the main actor and beneficiary of development; the essential value of an active, free and meaningful participation in development; and the responsibility of States in fostering national and international development policies aiming at the promotion of all human rights.

In this context, the UNDAF process becomes a special opportunity to transform these principles into reality - certainly for UNICEF's work, but beyond that, in the broader framework of UN-wide action at the country level.

<sup>18</sup> See article 4 of the CRC.

<sup>19</sup> See the last paragraph of the Preamble and the specific references made in the context of the rights of children with disabilities (article 23 para. 4), the right to health (article 24 para. 4) and the right to education (article 28 para.4).

<sup>20</sup> See article 17 para. b of the CRC.

<sup>21</sup> See article 23 para. 4 of the CRC.

<sup>22</sup> See respectively articles 24 para. 4 and 28 para. 3 of the CRC.

<sup>23</sup> See the Preamble of the Universal Declaration, para.6 and the Charter of the UN (including articles 55 and 56).

<sup>24</sup> See articles 44 para.2 and 45 b of the CRC.

<sup>25</sup> With this expression, the CRC addresses all international, regional or national institutions and organisations which may be relevant to the realisation of children's rights, including non-governmental organizations.

<sup>26</sup> Adopted by the General Assembly Resolution 41/128 of 4 December 1986.

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## 9. Operationalization of a human rights approach in development cooperation

The operationalization of a human rights approach in development cooperation constitutes a challenge for all of us – governments, intergovernmental organisations, non-governmental organisations, the UN system. It is recent, it is innovative, it is being experienced. There is no model one can simply and fully replicate. But some lessons can be drawn from the process undergone so far:

### *a) Operationalization implies a commitment to human rights*

This seems an obvious requirement, but it is important to affirm it and proclaim it formally, incorporating it into the Mission of each and every organization. The expression of a solemn commitment to human rights legitimizes our work and constitutes a catalyst for our actions. Similarly, it is important to reflect it in the code of ethics of those working in the organization, where the individual and collective responsibility of staff to be guided by, and to promote human rights, are acknowledged.

### *b) Operationalization means more than a political commitment*

The operationalization of human rights must be more than just the expression of a political commitment – otherwise, it remains a nice but merely rhetorical statement. It is a long and cyclical process of engagement, participation, reflection, debate and practice, in a continuing search for further learning and improvement. It is an interactive process of conceptualisation and experience that refines the thinking and translates it into tangible actions at the national and sub-national levels. It is a process that enhances the sense of ownership and commitment to human rights by all actors in any given organization.

There are two requirements for this process to be effective:

- A serious effort must be made to raise awareness and promote capacity building in human rights among all those working in international cooperation. The normative value and the ethical imperative of human rights needs to be internalised through a process of understanding, engagement and commitment - if we fail to do so, we may gain a nice slogan, but we will not make a difference. Motivation will be lacking and commitment missing.

- Specific guidance needs to be provided to the staff on what needs to be done differently, which realities need to be taken into consideration and which results are now gaining visible expression. Without such guidance, the human rights approach may become subjective, arbitrary or never overcome the simple resistance to change.

### *c) Operationalization means turning a commitment into a clear agenda*

Operationalization means translating commitment into a human rights agenda, with clear human rights principles – universality, indivisibility and inalienability – based on the active participation of the persons affected; and also with a clear navigation chart identifying what needs to be done and acting as a visible reference for the assessment of the achievements made and the difficulties encountered. Experience has shown how positive it has been to use a human rights treaty as the framework for such a chart - the CRC constitutes a valuable example and has been instrumental in UNICEF's work. Using a human rights treaty as the reference is positive for many reasons:

- It gives a vision to our work: the actions undertaken are meaningful in as much as they contribute to the implementation of the treaty
- It provides a precise agenda, not a simple set of general principles
- It prevents our commitment from becoming diluted in fragmented actions
- It allows us to set benchmarks and to identify the measures required to achieve them in a particular timeframe
- It provides an opportunity to promote a self-critical and transparent monitoring process, which, in turn, constitutes a leverage for progress and improvement.

### *d) A meaningful national agenda*

Operationalization also means flexibility, adjustment to the specific reality of each country. But this should not challenge or compromise universally accepted human rights values and principles. They constitute a minimum core that is valid everywhere and which is not subject to negotiation. Hence, it is essential to develop a meaningful national agenda, anchored on an accurate assessment of the reality, on the identification of areas of priority concern, on the potential role of various actors, on the opportunities to enhance national capacity and to achieve sustainable results.

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In all this, an important dimension needs to be taken into consideration - the specific legal commitments made by each State to ensure and respect human rights, in particular upon ratification of human rights conventions.

States' human rights obligations need to be acknowledged as an expression of State sovereignty. At the same time, they provide an opportunity for international cooperation to assist in these endeavours.

## How?

- In the development of a comprehensive Human Rights National Plan of Action. This should pursue a holistic approach, promote cross-sectoral interventions, foster the active involvement of civil society, and set benchmarks to be achieved in a particular timeframe.
- In the adoption of human centred policies, and in the systematic assessment of their impact on the enjoyment of human rights.
- In the development of an effective national monitoring system. This would be based on the collection of accurate and reliable data, including the identification of indicators to reflect trends, assess disparities, and identify levels of vulnerability, and on the wide dissemination of such results, to inform policy making, to foster social change and to promote popular participation and public scrutiny
- In the serious consideration of the reporting system to human rights treaty bodies, both to portray a realistic picture of the national reality and to ensure a serious follow-up to the concluding observations and recommendations by each committee concerned — including through technical assistance programmes.

UNICEF's Implementation Handbook for the Convention on the Rights of the Child is just one, although very important, illustration of this overall process — a process of social change promoted by this human rights treaty – and of the role some UN actors have played in supporting national efforts.

For the UN System, as well as for development cooperation partners, the operationalization of a human rights approach is not limited to providing assistance to State efforts. It implies the need to clarify our distinct contributions, to identify the

results we want to achieve, the benchmarks we want to reach and the process we want to pursue. This includes the steps designed to create an enabling environment for human rights to be placed at the centre of the agenda, both at the international and national levels, through advocacy campaigns, through specific programmatic interventions, through partnerships with other actors, Governments, NGOs, development agencies, and the private sector.

## A note on UNDAF

In the UN System, the Secretary General's Programme for Reform has provided a special opportunity to promote a human rights approach to development. This opportunity gains a special dimension in the United Nations Development Assistance Framework (UNDAF) process.

UNDAF presents a meaningful occasion for the UN family to collaborate meaningfully, enriching the process with their diversity and to stand for the United Nations shared human rights values of the UN in its cooperation with governments.

It is encouraging to note that in the pilot phase of implementation, human rights have been an important component and have helped shape the agenda of the country teams. The conventions in force in each country concerned, particularly CRC and CEDAW, ratified by all pilot countries, has been a relevant reference.

In the preliminary UNDAF assessment human rights are recommended as an essential cross-cutting issue. In the guidelines, specific wording has been proposed to fully reflect human rights values and ensure that the legal commitments undertaken by Governments upon ratification of human rights treaties are duly considered.

Moreover, a specific recommendation has been made for the Common Country Assessment, which defines the context within which the UN will intervene at country level, to take into account the concluding observations adopted by treaty bodies upon examination of State parties reports.

Much remains to be done. But if this opportunity is used, we will have decisively contributed to the promotion of a national process of development informed by human rights and designed to enhance their realization.

#### 1. CRC and CEDAW as decisive references

Human rights standards and in particular the Conventions on the Rights of the Child (CRC) and on the Elimination of all Forms of Discrimination against Women (CEDAW), are a decisive reference for the work of UNICEF. They permeate the organization's activities:

- in advocacy, through publications, participation in major international conferences<sup>27</sup> or in public statements;
- in its cooperation with governments, both with donor governments and those in the developing world;
- in the context of its cooperation with other international organisations, particularly those within the UN system as the UNDAF process illustrates;
- in its collaboration with international financial institutions;
- in the building of partnerships with relevant actors of the civil society.

#### 2. UNICEF is well placed to pursue this mandate

Unlike many other organizations, UNICEF has a presence in almost every country, either through its Country Offices or its National Committees. This gives UNICEF the opportunity to promote universal respect for the principles and provisions of the CRC and CEDAW, enriched by the diversity of the different economic, social or political contexts within which they are implemented. UNICEF's role in this area has highlighted the meaning of universality, showing that the realization of children's rights and women's rights are not dependent on a particular economic or social system. Rather, they constitute the foundation for development, a reference for policymaking and law reform, an imperative for the mobilisation and allocation of resources, and an agenda for advocacy and awareness campaigns.

In its collaboration with other international partners, including international financial institutions and development organisations, UNICEF has an

opportunity to play a catalytic and leading role in placing the rights of children and women at the centre of the cooperation agenda, in promoting an impact assessment of their policies and programmes, monitoring progress achieved, and preventing overlap as well as streamlining activities and resources.

In this process, the increasing movement towards ratification of human rights conventions, especially the CRC and CEDAW and the resulting normative and ethical framework has provided UNICEF with a very special opportunity to act in close collaboration with States parties to these treaties. Opportunities have been seized to develop national agendas, informed by human rights values, where progress can be promoted and seriously assessed against the precise context provided in these treaties. In the case of the Convention on the Rights of the Child, UNICEF has a specific mandate to act as an advocate for children and to ensure the realisation of their rights - making UNICEF a universal ethical voice for children.

The efforts of UNICEF to develop its approach and to increasingly work within a human rights framework, have been recognised as forging new important ground within the UN system-wide action. In particular, the active involvement of the organization in this process has encouraged the High Commissioner on Human Rights to build upon UNICEF's experience and lessons learnt and broaden efforts to ensure the universal promotion and protection of all human rights. In her report to the Commission on Human Rights, the High Commissioner stressed that UNICEF has adopted the CRC as a basis for dialogue with Governments and continues to be a strong supporter of the work of the Committee on the Rights of the Child and other child rights initiatives.

#### 3. Implications for UNICEF's country programmes

It affects the way the situation analysis is envisaged while broadening the framework for its develop-

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<sup>27</sup> Such as the Stockholm Congress and the Oslo Conference.

ment. Being guided by a human rights approach, the reality of all children needs to be assessed; the areas where priority interventions are required, identified; advocacy opportunities considered; situations that are insufficiently understood studied; and partnerships widened to enhance the social support for the cause of children.

It is vital to study and understand the context in which children and women live, through these new human rights lenses. Only after an accurate consideration of this reality is it possible to envisage adequate interventions and promote lasting improvement.

*a) Importance of the institutional, economic and social environment*

It is important, inter alia, to identify the most relevant actors and their role in the design and implementation of policies for children and women. What is the role of, and synergy between, the various departments of the government, and between central, provincial and local authorities; what is the role of the Parliament in law making, for example, or budget allocations?

It is also necessary to understand whether civil society, including the NGO movement and relevant institutions, are associated with the efforts deployed by the State and given the opportunity to influence and scrutinise its action; whether a national coordinating mechanism has been set up and a comprehensive agenda for the realization of children's and women's rights promoted; whether there is an independent institution acting on behalf of children and women, such as an Ombudsman.

Attention should be paid to the priority given to children and women in resource allocation in the national, provincial and local budgets. Has an impact assessment of policies and actions been undertaken? Are there international and bilateral development and financial partners in the country actively involved in the realisation of the rights of children and women? What role is played by the system-wide action of the United Nations?

It is important to assess the national legal framework. Such an assessment should consider whether the constitution has acknowledged the rights of children and women and whether there has been a comprehensive law review within which the provisions and principles of the conventions, including non-discrimination, participation and best interests of the child, are incorporated. Can the provisions of

the conventions, or of the national laws incorporating them, be directly invoked before, and applied by, the courts and national authorities? An assessment should also examine whether enforcement mechanisms and procedures have been made available to ensure the effective implementation of the conventions, and whether traditional and cultural values prevailing in the society are impairing or promoting the realization of children's and women's rights.

Moreover, it is important to assess how seriously the ethical values of the conventions are regarded by the society as a whole, particularly the degree to which children and women are perceived as real citizens and active participants in the development of their communities. Have advocacy, information, education and training campaigns been launched to create awareness of, and respect for, the rights of children and women? Has research been promoted on areas insufficiently studied, and does a movement of social mobilization back a public debate on the situation of children and women?

*b) Need to assess the situation of women and children*

In the light of the principle of universality, all children, from birth to childhood and adolescence, boys and girls, of whatever colour, race, language or religion and wherever they may live, need to be considered. Special attention should be paid to the most vulnerable groups in society<sup>28</sup>. Understanding their situation calls for a special effort, but it is an imperative guided by the values of equity, solidarity and social justice. We clearly need to understand who they are, the conditions in which they live, the most urgent problems affecting them and the root causes for their vulnerability. Only by ensuring visibility to their situation will it be possible to formulate effective and relevant policies and envisage adequate strategies to address their vulnerability. Failing to do so, we will simply increase their marginalization and fail to honour the commitment made to the universal rights of children.

These same principles apply to women. They need to be considered in all stages of life, from birth

<sup>28</sup> See UNICEF's Mission Statement, "UNICEF is committed to ensuring special protection for the most disadvantaged children - victims of war, disasters, extreme poverty, all forms of violence and exploitation and those with disabilities; in everything it does, the most disadvantaged children and the countries in greatest need have priority."

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to adulthood, but in their own right as active citizens, rather than simply as daughters, sisters or wives.

The situation of children and women cannot, however, be perceived in a vacuum, but rather in the context of the various areas which are relevant to their lives. It is important to understand the extent to which their rights are effectively enjoyed and where major challenges remain - from their right to a name and a nationality to their ability to access relevant information; from education and health to the administration of justice; from their rights within the family to their protection against discrimination, neglect or abuse. The principles of indivisibility and interdependence should however guide this process, since all human rights are equally important and closely interrelated. As the Committee on the Rights of the Child has pointed out, a sector by sector, or article by article approach should be avoided, and a thematic approach considered, thus helping to preserve a holistic and human-centred perspective<sup>29</sup>.

The general principles identified by the Committee on the Rights of the Child constitute an effective tool to promote a human-centred perspective and monitor progress in the realization of all children's rights. Although conceived in the context of the Convention on the Rights of the Child, the principles of **non discrimination, best interests, respect for the views of the child** (participation), **survival and development** are equally relevant for the implementation of the Convention on the Elimination of all Forms of Discrimination against Women. In reality, considering them in relation to both treaties may help to emphasize and operationalize their complementarity.

The accurate and objective consideration of the reality of children and women in any given country leads to the identification of major areas where priority interventions are required, as well as to the consideration of the best strategies to address them. This approach will shape the strategic role of UNICEF in such a specific context.

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<sup>29</sup> See above the thematic clusters identified by the Committee in its Guidelines for Reporting.

<sup>30</sup> The concluding observations constitute an assessment by the Committee concerned of the process of implementation of the respective convention in a particular country. They are an authoritative statement by the Committee where positive achievements are acknowledged, areas of major concern identified, and recommendations made for the future actions that the State should undertake.

### *c) Relevance of the reporting process*

It is important to consider the close relationship between this process and the reporting system established under the Convention on the Rights of the Child and the Convention on the Elimination of all Forms of Discrimination against Women.

In reality, both systems are mutually reinforcing. Both require:

- a dynamic and periodic assessment of the situation of children and women;
- the monitoring of progress achieved;
- the identification of major factors hindering improvement;
- a consideration of opportunities to introduce adjustments;
- the development of an agenda for action where more demanding benchmarks can be set for the future.

At the same time, both are designed to enhance the national capacity and the sense of ownership of efforts aimed at the promotion of children's rights and women's rights.

While the situation analysis may be used as an important basis for the preparation by the government of reports on the implementation of both conventions, the concluding observations<sup>30</sup> adopted by the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination Against Women which monitors observance of CEDAW, provide an important insight into areas where progress is lacking or insufficient. The concluding observations may signal where adjustments to the country programme may be required or where priority action should be focused in the future. They constitute a golden opportunity for UNICEF to enhance its dialogue with the government on sensitive areas, identified as major concerns by the treaty bodies. And they further indicate the areas where international cooperation to support national efforts might be most effective. This synergy becomes instrumental to promote constant progress towards the universal realization of the rights of children and women.

In reality, the close interaction between the two processes introduces a common agenda and a common approach on the basis of which UNICEF, together with governmental and non-governmental partners, and in collaboration with international organizations and UN sister agencies, can address



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the situation of children and women. A common agenda will facilitate the effective participation of the civil society and enhance the national capacity to improve the situation of its most vulnerable members.

States parties' reports to the two Committees<sup>31</sup> are not a simple formality. They constitute a special opportunity for the State to make a comprehensive review of the measures undertaken for the implementation of the Conventions and to assess their effective impact on the situation of children and women. This exercise encourages States to acknowledge difficulties encountered, assess progress achieved and to introduce adjustments in national policies to ensure a steady improvement in the realisation of children's and women's rights. The reporting process establishes the groundwork for the design of a long-term and holistic national agenda where specific benchmarks are set to mobilize action forward and where opportunities are created for an effective and meaningful participation of the civil society.

*d) Value of advocacy and social mobilization*

In this process, UNICEF's support to, and involvement in, public information campaigns, through awareness and advocacy, becomes of critical importance. In fact, these activities help promote greater understanding of, and respect for, the rights of children and women; they foster social mobilization around them, enhance the country's commitment to act on their behalf and promote their visible inclusion in the political agenda. They are instrumental in changing existing prejudices and harmful cultural practices detrimental to their rights. And they further promote a system of information that is comprehensive, reliable and objective, on the basis of which policy making is promoted, equity and solidarity advanced, and progress monitored.

Public information campaigns, when associated with the promotion of relevant education and training activities, will help build a culture of observance and respect for human rights and a society that cares for children and women. Such a society assumes the role of critical partner, promoting action, encouraging improvement and monitoring achievement. It does not remain indifferent when violations occur.

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<sup>31</sup> The same in fact also applies to reports submitted in the context of other relevant conventions, including the two international covenants on human rights, the Convention on the Elimination of Racial Discrimination and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.



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