

# the united nations convention on the rights of the child

*'South Africa has not ratified a single treaty on rights. The human rights ethic is disregarded point blank...'* (Brian Currin, national director of Lawyers for Human Rights). How can we make this present Convention a first? For a start: don't wait for the movie - read the book! A 'briefing kit' prepared by Defence of Children International/UNICEF is available and gives a readable account of the provisions of this vital document. A few questions only are answered here.

## Why seek special rights for children?

By virtue of their status as human beings, children are protected by the same laws, declarations and treaties which affirm and uphold the rights of people in general. Might it not be unwise to target children for special rights, for example, if to do so affects the rights of other groups? And who are 'children'? Definitions of childhood vary widely from country to country, and even within countries according to

factors such as gender and (in South Africa) race.

The groups charged with drafting a Convention (see box) had to resolve these and other questions before they could fairly start. In the end they agreed to base their approach on the propositions that:

- 'children have special human rights rather than special rights as opposed to other humans';
- where the rights of children and adults coincide it is generally necessary to ensure higher standards for children;
- the notion of 'universal rights' will be interpreted variously, according to the socio-economic and cultural realities which exist;
- nevertheless, important perceptions of children's rights are widely shared.

## A short history of the campaign to promote the human rights of children

- 1924** - Children's rights conceptualised at international level in the five-point Geneva Declaration, endorsed by the League of Nations
- 1948** - Geneva Declaration revised and amplified as part of the process of creating an umbrella human rights text, the Universal Declaration of Human Rights (the first step towards a legally enforceable International Bill of Rights)
- 1959** - Declaration of the Rights of the Child adopted unanimously by the General Assembly of the United Nations
- 1966** - International Covenants adopted by UN General Assembly (another step towards a binding International Bill of Rights)
- 1976** - International Covenants entered into force with respect to signatory states
- 1979** - International Year of the Child: proposal for a UN Convention on the Rights of the Child, to supplement the 1959 Declaration and create an international instrument binding on those states which ratify it; establishment of a Working Group to draft a Convention
- 1983** - formation of a 50-member Non-Governmental Organisation (NGO) Ad Hoc Group to assist the UN Working Group
- 1989** - International Year of the Rights of the Child: adoption of the Convention on the Rights of the Child by the UN General Assembly; commencement of ratification process; recommendation by the S.A. Law Commission to the South African state to endorse the Convention

## What rights does the Convention seek to secure?

In finding how the special needs of children can be served, the UN Working Group together with the NGO Ad Hoc Group arrived at a new concept of human rights. They have preferred an integrative approach in preference to the categories - civil, political, economic, social and cultural - which have been considered hitherto.

By giving primacy to children's needs they have noticed that traditional rights combine in various ways in order to secure such fundamentals as survival (nutrition, health services, etc.), development (access to information and education, freedom of thought, religion and so on), protection (from exploitation and cruelty, of family life, or by means of special care) and participation (letting children's views be heard, enhancing their status in society).

### How will the Convention work to secure children's rights?

The draft is a fully-fledged Convention from the moment the General Assembly adopts it, but it must wait to come into force (i.e. become a treaty which is binding on signatories) until it has been ratified by 20 states. It is not certain how long that may take: for example, although all the states have signed the Universal Declaration of Human Rights except for Saudi Arabia and South Africa, the ratification of the International Covenants by the required number of states proved a much slower process (see box).

The Convention applies to all children under the age of 18, except where adulthood is defined at an earlier age under national laws. A

key statement of intent is contained in Article 3 which stipulates that 'In all actions concerning children...the best interests of the child shall be a primary consideration'. Important innovations concern the right of children to have their opinions taken into account in matters which affect them and the duty of states to promote child survival and development. As governments review their commitment to the wellbeing of children; as parents, child care workers and specialists of many sorts employ the Convention as leverage in securing children's rights; and as children themselves become more aware of their entitlements, it is expected that improvements in the lives of children will take place. □



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*An Ovahumbu speaking boy with SADF ammunition found near his home, Ruacana, 1988.*