# Children: Rights and Responsibilities

## The Minority Rights Group    Report No.69

MRG

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is an international research and information unit registered in Britain as an educational charity under the Charities Act of 1960. Its principal aims are —

- To secure justice for minority or majority groups suffering discrimination, by investigating their situation and publicising the facts as widely as possible, to educate and alert public opinion throughout the world.

- To help prevent, through publicity about violations of human rights, such problems from developing into dangerous and destructive conflicts which, when polarised, are very difficult to resolve; and

- To foster, by its research findings, international understanding of the factors which create prejudiced treatment and group tensions, thus helping to promote the growth of a world conscience regarding human rights.

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# Children: Rights and Responsibilities

## By Jo Boyden and Andy Hudson

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*'Children begin by loving their parents; as they grow older they judge them; sometimes they forgive them.'* – Wilde

*'Even lawyers were children once.'* –Lamb

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# THE UNITED NATIONS
# UNIVERSAL DECLARATION OF HUMAN RIGHTS

*Whereas* recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

*Whereas* disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from any fear and want has been proclaimed as the highest aspiration of the common people,

*Whereas* it is essential, if a man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

*Whereas* it is essential to promote the development of friendly relations between nations,

*Whereas* the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

*Whereas* Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

*Whereas* a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

*Now, Therefore,*

### THE GENERAL ASSEMBLY
*proclaims*

THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

*Article 1.* All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

*Article 2.* Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

*Furthermore*, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

*Article 3.* Everyone has the right to life, liberty and security of person.

*Article 4.* No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

*Article 5.* No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

*Article 6.* Everyone has the right to recognition everywhere as a person before the law.

*Article 7.* All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

*Article 8.* Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

*Article 9.* No one shall be subjected to arbitrary arrest, detention or exile.

*Article 10.* Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

*Article 11.* (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

*Article 12.* No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

*Article 13.* (1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

*Article 14.* (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

*Article 15.* (1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

*Article 16.* (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

*Article 17.* (1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

*Article 18.* Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

*Article 19.* Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

*Article 20.* (1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

*Article 21.* (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

*Article 22.* Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

*Article 23.* (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interest.

*Article 24.* Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

*Article 25.* (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

*Article 26.* (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

*Article 27.* (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

*Article 28.* Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

*Article 29.* (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

*Article 30.* Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

## FOREWORD

The definition of 'child' used in this report follows that adopted in a new United Nations Convention on the Rights of the Child currently being drafted. According to the convention, a child is 'every human being to the age of eighteen years unless, under the law of his/her state he/she has reached his/her age of majority earlier'.

There are, however, a number of difficulties with a broad chronological definition such as this, since during 'childhood' the child's abilities and relationships with the adult world change radically as he/she grows older. Furthermore, most people would agree that child maltreatment is more serious when it involves immature young children and infants rather than young teenagers. Some observers might even argue that our sole concern should be with the very young since they are much more vulnerable than older children and cannot protect themselves. It is clear that many children assume adult responsibilities before the age of majority and this highlights the need to be as specific as possible about the age and level of maturity of the victims of maltreatment.

The advantages of linking the definition of childhood with the age of majority is that this emphasizes young people's status as minors. Minors are denied *access to the decision-making process* in society and it is far harder for them to protect themselves from abuse than adults. This is both the strongest argument for a continual assessment of age limits at national and international levels, and the starting point for international advocacy on children's rights.

## INTRODUCTION

Some people may be surprised that a Minority Rights Group report should concern itself with children. It could be argued that children are an unusual minority: almost nowhere do they form a homogeneous and clearly demarcated group; the circumstances of children in any one country can vary enormously; and in many countries children are, in fact, the majority.

Others believe that children ultimately have no rights; in general adults provide for children and children depend upon them.

However, in view of the distressing reality of many children's lives that unfolds in the press and courts, in aid agencies' experience and in a growing body of serious literature openly examining forms of maltreatment and abuse, there is an undeniable need to challenge adults' attitudes towards children and to examine the problems arising from their subordination and dependence.

The aim of this report is to link this challenge to common acceptance of fundamental human rights, and to explore ways of requiring adults to meet their responsibilities to children. It also examines the case for increased obligations to children whether through advocacy, legislation, social policy or the provision of services. Furthermore it sets out the arguments for increased representation and the need to give children a greater say in all judicial and administrative procedures affecting them.

While some children are extremely privileged, others are forced to live in degrading and intolerable circumstances; these latter should be the concern of human rights organizations such as the Minority Rights Group.

Jo Boyden and Andy Hudson

## PART 1: ADULTS PROTECT CHILDREN... BUT DOES PROTECTION EQUAL WELFARE?

*'When I was a child, some fifty to sixty years ago, childhood was looked upon as the most harmonious part of life. Parental love was always close to perfection. Child abuse was not recognized, not even by the medical profession, in spite of the fact that hundreds of children in practically all countries, including the most developed ones, were killed or incapacitated for life by physical abuse every year... We know today beyond doubt that children are often abused, physically as well as mentally, and that children are often neglected. We also know that there are parents who are indifferent, or even actively hostile, to their children.'* [1]

The welfare of the child is identified closely with that of the family, and protected by the state. It is assumed that adult caretakers will protect children's interests. From this general premise, the suffering of countless children worldwide can be explained away as unavoidable; the result of overwhelming forces beyond the control of their adult protectors.

It is becoming increasingly clear that the reality is quite different; certainly many children *do* fall victim to extremes of poverty, hardship, political oppression and instability, and yet large numbers are victims of their adult 'protectors', either through serious civil-rights violations perpetrated by governments or through physical and psychological abuse often by familiar adults.

Before moving on to look at the global picture it is important to understand something of the background.

The French historian, Phillipe Aries, has suggested that in medieval Europe children were not distinguished from adults in any particular way, being regarded simply as adults in miniature (Aries, 1962). The rates of infant mortality were high and children were awarded no special care or protection. Childhood was thought to be an unimportant transient period of physical and mental immaturity, terminated at an early age by the assumption of adult responsibilities. During the 19th century, children were gradually to become the focus of family life, increasingly segregated from adults and romantically coveted by them. Children came to be seen as innocent and weak, in need of adult guidance, care and control. Authority was vested in the father: the state offered no protection against child abuse and it was taken for granted that a father had complete freedom to treat his children as he saw fit.

With the rapid development of industrialization, the state began to interfere for the first time in family life (Meyer, 1983). Industrial production demanded a compliant and diversified labour force. Thus, the state became concerned with establishing acceptable norms of adult conduct and with preparing and training children for work. Technological advance was to prompt the separation of adults and children at work, thereby weakening paternal authority over children and facilitating statutory control. In the name of promoting their physical, moral and religious welfare, children became the prime objects of statutory intervention; restrictions were placed on children's working hours, compulsory education was introduced and, eventually in the early 20th century, a separate system of juvenile justice was developed.

Deprivation, and especially the moral and social deprivation which, it was claimed, characterized many working class communities, was at this time believed to underlie most juvenile crime and vagrancy (Morris, Giller, Szwed and Geach, 1980). Parents were blamed for the deviant behaviour of their offspring, and the ultimate threat against adults who failed in their role as parents was to remove their children and place them in one of the special institutions that were set up for the reform and rehabilitation of young people in trouble. Initially the two categories of children, the delinquent and the destitute, were clearly distinguished, but with the expansion of child care services and the development of preventative social work in the early 20th century, all children in trouble became subject to the same treatment.

'Couched in the language of "welfare" and supported by an army of professionals, attention was continually diverted from what children *do* to what children *are*. Children became the *object* of our concern, rarely its subject. Consequently children became ensnared in a series of discretionary processes within which the safeguarding of the rights of individual children was subordinated to what were seen as wider social problems.' *(ibid, p 7)*

The association made between children in trouble and ideas of protection and rescue has had a strong influence on subsequent thinking about childrens rights. The children's rights movement owes a great deal to the pioneer work of Eglantyne Jebb, founder of the Save the Children Fund, who through her relief work with Balkan children affected by the First World War became convinced of the need for permanent action on behalf of children. In collaboration with a group of concerned individuals she laid the foundations for 'The Declaration of the Rights of the Child' adopted by the general assembly of the League of Nations in 1924. It was later revised and in 1959 adopted by the United Nations; it remains the most important text on children's rights:

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**UN Declaration of the Rights of the Child**
- The right to affection, love, and understanding.
- The right to adequate nutrition and medical care.
- The right to full opportunity for play and recreation.
- The right to a name and nationality.
- The right to special care, if handicapped.
- The right to be among the first to receive relief in times of disaster.
- The right to learn to be a useful member of society and to develop individual abilities.
- The right to be brought up in a spirit of peace and universal brotherhood.
- The right to enjoy these rights, regardless of race, colour, sex, religion, national or social origin.

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However, the declaration is concerned with very generalized principles or moral entitlements and does not extend to children's enabling rights. It is not a legally binding instrument and there exists no procedure for enforcement. Furthermore the declaration contains certain worthy principles such as a child's right to love and understanding which cannot be guaranteed under any circumstances, and it fails to recognize the unequal distribution of world resources that makes even the most fundamental welfare rights – housing, nutrition, recreation, medicine – impossible in many developing countries.

The 'Rights of the Child' is a problematic idea in itself since the term 'right' implies a relationship between two people, one asserting a claim and the other recognizing or guaranteeing it. In the case of children the 'claim' is usually against parents, and evokes strong reactions:

'... observe the number of adults/parents who feel genuinely threatened by the mention of children's rights, as if there were a finite quantity to "rights" in each family and giving some to children would mean taking some from parents.' (Smyke, 1978).

It is, perhaps, hard to concede children's rights when it appears that by doing so parental or family interests are undermined. In the context of a loving and stable family, children may have no real need of rights. But surely in cases of child abuse and neglect, it is clear that children must have a right not only to protection, but also to proper independent representation in legal proceedings, and the right to express their views, even though these will inevitably infringe parental autonomy and family privacy.[2]

Others would argue 'How can you talk about rights inherent in people who are unable to exercise them? Instead, we should be concerned with requiring adults to meet their obligations or duties.' (Freeman, 1983, p 38). This may well be the correct approach for the very young but the child's capacity for independent action is not universally agreed. Throughout the world and especially in developing countries there are children well below the age of majority, sometimes no more than six or seven years old, who can and do act on their own behalf: these are working children who often carry the additional responsibility of caring for younger siblings.

'Despite the evidence of a high capacity of children in the Third World for social and economic independence, few reformers are sufficiently free from their paternalism to press for a genuinely greater autonomy and self-organization of working children.' (Goddard and White, 1982, p 472).

However even this view does not go unchallenged, since it has been argued that all age-related disabilities should be abolished on the grounds that they are discriminatory; children should not require 'special' treatment but equal treatment (Cohen, 1980; Carson, 1978; Holt, 1975).

The distinction between children and adults is given as a basis on the one hand for granting additional rights (for instance, the first to

receive relief in times of distress), and on the other, for restricting both the enjoyment of certain rights and the exercise of certain obligations.

The rights corresponding most frequently to adulthood and commonly denied to children, focus on the distribution of domestic authority, social prestige, political responsibility, ritual knowledge, economic independence, procreation, marriage and participation in sexual activity.

Childhood, like adulthood and old age, is a social construct and is therefore defined differently from one country to another. The critical ages at which society assigns adult rights and responsibilities vary too.

In many countries the age of majority varies as a threshold for different rights and responsibilities. Furthermore, majority does not necessarily coincide with the age of franchise and this can result in serious anomalies within individual countries – a child may be held criminally responsible or be conscripted for war before he or she is allowed to drive a vehicle or to marry. Gender differences can also affect chronological criteria: the age of majority being different for boys and girls. All of this makes general adherence to an international chronological definition of childhood unlikely at the present time and raises serious problems for the application of international agreements on children.

During the International Year of the Child, 1979, widespread support was given to the ideals embodied in the 1959 Declaration and children worldwide were promised greater priority in humanitarian law and social policy.

## PART 2: THE MALTREATMENT OF CHILDREN

The broadest definition of child abuse and neglect emphasizes 'any adverse social or environmental condition which interferes with the normal health and development of the child'.

### i) Collective Maltreatment: Poverty

'Conditions such as poverty, inadequate housing, poor health care, inadequate nutrition and unemployment have been seen either as contributing powerfully to the incidence of child abuse and neglect in western nations, or as to outweigh the proportion of child abuse and neglect which occurs because of parental psychopathology' (Korbin, 1981, p 5 of introduction).

Poverty is a condition shared equally by all ages, but because of their greater developmental needs, it places children at far greater risk. In many areas, the level of poverty and the scarcity of resources are so overwhelming as to be beyond the capacity of either parents or the local government to resolve; international help is necessary.

The impact of poverty on child welfare is dramatically illustrated in a number of different indicators: comparison of nutritional levels or rates of infant mortality, or life expectancy at birth are collated annually in UNICEF's publication, *The State of the World's Children.* Table 1 shows the clear relationship between poverty (as measured in per capita income), calorie intake and levels of infant

### Table I – The impact of poverty upon children

| Country | Basic Indicators | | | | |
| | Infant mortality (0-1 years) | GNP per capita ($US) | Life expectancy at birth (years) | Calorie intake (as % of 1980 need) | Annual child death rate (1-4) |
|---|---|---|---|---|---|
| Senegal | 140 | 430 | 44 | 100% | 31 |
| Kampuchea | 190 | 70* | 39 | 88% | n.a. |
| Ecuador | 80 | 1,180 | 62 | 88% | 8 |
| Bangladesh | 130 | 140 | 48 | 84% | 20 |
| Chad | 150 | 110 | 43 | 74% | 32 |
| Yugoslavia | 31 | 2,790 | 71 | 140% | 2 |
| Australia | 10 | 11,080 | 74 | 117% | 1 |
| Sweden | 7 | 14,870 | 77 | 119% | – |

* (1974)

Source: UNICEF, *The State of the World's Children*, 1984.

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mortality. In the poorest countries, such as Chad or Bangladesh, with less than 1000 dollars per capita income and a deficient calorie intake, over a quarter of children die before they reach 12 years of age; more than 10% failing to reach their first birthday. Life expectancy for the population as a whole in the poorest countries represented in the table is almost half that of wealthier nations like Sweden and Australia.

Whilst the causes of ill health and death among infants and children in developing countries are usually multifactorial, the most important underlying factors are low birth weight and malnourishment. More than 23 million babies a year are born weighing less than 2500 grammes (approximately 5.5 pounds); 90% of these are born in the developing world ... where one child in four is also seriously undernourished (Shah, 1984, p 101). As a consequence of low birth weight and malnourishment, resistance to disease is low and infection both frequent and severe. Diarrhoeal diseases are particularly common in poor communities and because they inhibit the body's capacity to absorb the nutrients contained in food, actually cause malnutrition. In 1980, an estimated 5 million children under 5 years of age died of diarrhoeal disease and in the same year a further 2,200,000 died from measles (UNICEF 1984, *ibid*, p 42, Figures 1·13). Other immunizable diseases like diphtheria, poliomyelitis, neo-natal tetanus and whooping cough are also major causes of death among young children in developing countries. It follows that the failure in the delivery of essential services and particularly health care and sanitation is a major contributing factor in mortality and morbidity amongst children.

However, the indicators used in *The State of the World's Children* cannot offer a full picture. A great deal of preventable death and injury is rarely recorded in statistics, infrequently reaches the public eye and yet is of major importance. A hidden but large number of children die from fire, accident, toxic substances and domestic or industrial injury. Very often the causes are poor housing, inadequate safety measures in the street or at the child's work place: children from poor families are frequently forced into potentially exploitative and dangerous relationships with adults, especially at work.

The International Labour Organization has estimated that there are 52 million children under the age of 15 in the world who are economically active (Blanchard, 1983). This is an extremely conservative estimate, and includes only full-time workers. Bouhdiba, in his 1982 report to the UN Human Rights Sub-Commission on Prevention of Discrimination and Protection of Minorities, puts the total at 145 million for the 10 to 14 age group alone. Official statistics also fail to account for huge numbers of children working in the informal sector. Whilst there is no direct correlation between poverty and child work (in most economies children from virtually all sectors of society work at some time or another even if only during school holidays or at weekends), the concentration of child workers, their employment full-time and their exploitation are all far greater in poor communities.

Child labour is preferred by many employers because it is cheap and helps the small enterprise retain a competitive edge in the market. At many tasks, children are also more efficient than adults. They are nimble and have keen eyesight and their size enables them to crawl into spaces adults cannot reach. Because children are unable to assert themselves as well as adults, have no collective organization (being often unprotected by trade unions) and are usually unaware of their rights (where these exist), they are often made to work excessive hours, frequently under conditions detrimental to their health.

## II) Collective Maltreatment: Politics

The violation of children's fundamental human rights for political ends is a particularly sinister form of abuse. There are many instances where children have been victims of repression and violence, persecution, involuntary and forced disappearance, detention, torture, capital punishment and killing.[3] The evidence suggests that many governments are not simply failing to act as custodians of children's rights but are actually abusing them in contravention of the Charter of the United Nations and all human rights covenants, conventions, declarations and other instruments.

Politically motivated maltreatment of children takes many forms, from systematic and premeditated policies of discrimination to 'accidental' violations of children's rights occurring during

emergencies. Although most violations of this nature take place at times of domestic tension or armed conflict, a number of states are founded on discriminatory and oppressive policies.

South Africa provides a useful example. Here black children are deprived of an adequate or appropriate education; school attendance is poor and most are forced to work as unskilled labour in agriculture or casual trades.[4] They are isolated from the services which benefit whites by a strict system of apartheid. The events which took place in June 1976 in the black township of Soweto when 400 young blacks were arrested and detained in cells (where many were tortured) after student protests against the education system were the outcome of systematic repression and human rights violations (Amnesty International, 1979, p 12). Most recently, uprisings and violence in black townships has often involved large numbers of children and young people as have subsequent retributions and imprisonment.

There are many other examples of premeditated violence against children by government forces, usually under military regimes. These include the killing of unarmed children and young people in Chile during recent protests and in Morocco during demonstrations which took place in 1981 and 1984 (*International Children's Rights Monitor*, 1984, pp 6-7). Young teenagers probably predominate among the child victims of political violence, but there is growing evidence that much younger children are sometimes involved. In Argentina, for example, a large number of young children and babies were secretly abducted by governmental forces in the late 1970s along with their parents. Most of these children are still missing, their fate and whereabouts unknown. The evidence indicates that their parents were killed and that most of the children were adopted (*International Children's Rights Monitor*, 1983 Vol 1, No 1, p 8 and Amnesty International, 1979, *op.cit.*). However, the discovery of mass graves containing children dating from that era suggests that some of them were killed. There is growing international concern about enforced disappearances. A draft declaration has been drawn up for ratification by United Nations member states with the aim of eliminating 'unacknowledged detention and related practices'. In 1983 the Organization of American States adopted a resolution condemning such practices as a crime against humanity.

Armed conflict usually results in the suspension of all human rights for civilian populations; during war there are no guarantees and even the most elementary needs – food, health care and shelter – are threatened. Some child maltreatment at times of conflict may seem inevitable. Welfare services are disrupted, civil liberties removed and repressive emergency powers enacted. But armed conflict also results in unrestrained violence against civilians – killings, rape and torture. For children war brings many dangers; not simply the threat to life, but also the emotional trauma and physical deprivation caused by bereavement or material loss and, perhaps even more disturbing, the possibility of direct involvement in combat. Parents cannot protect their children during conflict, nor can they compensate for the loss of a home, an education, friendship, a nationality, or many other elements fundamental to a child's security and wellbeing.

In 1974 the United Nations General Assembly adopted a special declaration on the Protection of Women and Children in Emergencies and Armed Conflict, which condemns attacks and bombings on civilian lives during armed combat. In World War I, for example, civilian victims accounted for just 5% of the total, in World War II 50% and in the Vietnam War 80% to 90% (unpublished internal manuscript, UNICEF). The attacks in recent years on Palestinian refugee camps in Lebanon demonstrate that civilian populations, far from being the accidental victims of conflict, can become the prime targets. Possibly one of the most brutal recorded attacks on children – in this case mounted by their own government during a period of domestic strife – was the massacre of an estimated 500 children and young people in one evening by the Ethiopian Provisional Military Government during the 'Red Terror' campaign against counter-revolutionaries on 29 April 1977 (Amnesty International, 1979, *op.cit.*).

During armed conflict children face the risk of a double abuse: the violation of their fundamental human rights and of their status as minors. Both governments and resistance groups, historically and in the present, have found many uses for children at times of conflict, thereby increasing their vulnerability to mistreatment. Children and young people have been indoctrinated, used to deliver

messages to war zones and undertake intelligence work, enlisted as combatants and arrested and tortured to death in conflicts throughout the world. At least 45 children have been sentenced to death and executed or tortured to death in Iran and it is alleged that an unknown number of children have also been used as mine detectors (*International Children's Rights Monitor*, 1984, *op.cit.*). Children are agile, can develop a strong commitment to a cause and have a keen sense of loyalty. They are valuable witnesses and can provide vital military information, whether knowingly or unwittingly, voluntarily or under torture. Children and young people informed in the past for the Khmer Rouge (sometimes against close relatives who were subsequently executed) and now provide military intelligence for the Iranian armed forces.

International law prohibits the active participation in combat of children under the age of 15, and yet the use of children as combatants in resistance groups is widespread. Child soldiers are enlisted in Ulster and Beirut and they fought on both sides in Kampuchea (Rosenblatt, 1984). They were recruited in Nicaragua to help remove Somoza and enlistment into the Sandinista Youth Group and the Association of Sandinista Children continues today. It has been alleged that young people are being recruited for *Sendero Luminoso*, a Peruvian resistance group (Amnesty International, 1985). Defence for Children International argues that the use of child soldiers in Iran is a particularly worrying case since it represents official recruitment on a large scale, with the Iranian Government directing propaganda at school children, openly encouraging enlistment.

Given the active recruitment of young people in armed conflicts, it is hardly surprising that they, like adults, come under suspicion and fall prey to the violence of security forces deployed to root out insurgents. Child combatants captured in battle are not, in principle, covered by the provisions of international law, since they are neither classified as civilians nor recognized as soldiers being below the minimum prescribed age.

### iii) Child Abuse and Neglect

One of the major misconceptions about child abuse is that it is a rare occurrence. In West Germany alone, around 1000 children die each year from blows inflicted by parents (*International Child Welfare Review*, Sept. 1983). The German Federal Office of Statistics found that in 1981 the courts dealt with 2539 cases of child abuse, 1741 of which were sexual abuse. In the United States child abuse is reported 320 times per million population (Kempe and Kempe, 1983, p 20). Given that a large number of incidents, possibly most, go unreported, it is evident that, at least in the countries where the problem has been researched child abuse is disturbingly common.

The Declaration of the Rights of the Child, and indeed much national legislation, fails to recognize the problems of child abuse and neglect and makes no provision for the protection of children from their adult caretakers. The new Draft Convention of the Rights of the Child is a significant step forward in this respect in that it specifically refers to the need for protection against 'all forms of physical or mental injury or abuse, neglect or negligent treatment, maltreatment or exploitation' by parents, legal guardians or any other person who has the care of the child.

Although it has probably always existed in human society, child abuse has not long been identified as a social problem. Physical abuse was first described on the basis of autopsy findings in 1868 by Ambroise Tardieu, a professor of legal medicine in Paris (Tardieu, 1868). At that time most medical practitioners who encountered evidence of physical abuse, such as repeated bone fractures, attributed it to rickets. It was not until diagnostic techniques were improved with the use of X-rays that the traumatic nature of these injuries was understood. In 1961, the paediatrician Dr Henry Kempe first drew major attention to the problem of physical abuse, terming it the 'battered child syndrome' (Kempe, 1962). Initially the phenomenon was thought to be restricted to physical violence, but further research has widened the definition of child abuse to include other behaviour patterns, such as physical and emotional neglect and psychological and sexual abuse.

Most of the research on child abuse and neglect has been restricted to industrialized countries, the collection of studies edited by Jill Korbin being a notable exception. The book explores the phenomena in areas as diverse as New Guinea, sub-Saharan Africa, South America, rural India, Turkey, Japan, Taiwan and Polynesia (Korbin (ed), 1981, *op.cit.*). However, all societies have criteria for establishing what is normal and acceptable practice in child-rearing; just as they have ideas about what forms of behaviour depart from the norm. Henry and Ruth Kempe stress that historically the values expressed towards children in Western society sanctioned many practices (such as infanticide, which was seen as a legitimate means of controlling family size and eliminating unwanted children) which we would now call abusive.

Similarly, the definition of abusive child-rearing practices varies considerably in contemporary cultures. In many non-Western societies, practices such as isolating infants and small children in rooms of their own at night would be defined as abusive (*ibid*, p 4). Research from Japan, Turkey and lowland South America indicates that the incidence of the main forms of child abuse recognized in Europe and North America is very low (see Johnson, Olsen, Wagatsuma in Korbin, 1981, *op.cit.*). In Turkey children are highly valued and parents receive considerable support in child-rearing from neighbours and kin. And yet there are certain traditional Turkish practices, such as the custom of swaddling babies for the first six months of life or manipulating the genitals of small boys, that Western observers believe to be abusive. In Japan some parents tend to abandon or kill children more often than keep and abuse them. Infanticide, especially of neonates, is seen as an extension of artificial abortion, which was widely practised after World War II as a measure of population control. Equally, Orna Johnson talks of 'institutionalized infanticide' among the Tapirape of the Brazilian Amazon, where there is a strict rule that no woman should have more than three living children, and no more than two should be of the same sex.

Thus, when we talk about child abuse, we must be clear that our principal concern is with behaviour patterns that depart from those defined as acceptable within a given culture, rather than behaviour classified as abusive or neglectful on the basis of cultural differences.

Child abuse involves a hurt child, but its web of cause and effect is imperfectly understood (Kempe and Kempe, 1983 *op.cit.* p 18. See also Bourne and Newberger, 1979; Giovanni and Becerra, 1979). Explanations of the phenomenon rest on the interaction of a number of factors: parental psychopathology, environmental or social stress and the attributes of the child victim. The classic interpretation is a medical one, in which abusive behaviour is attributed mainly to the psychological disorder of the adult caretaker and the early rejection of the child. Management of the problem is confined to treating the abuser. Abuse is normally identified by examining physical and emotional symptoms displayed by the child victim and/or assessing the behaviour of the adult caretaker. Most children who are continual victims of abuse or neglect suffer serious psychological trauma. Some exhibit signs of severe behavioural disturbance by becoming completely withdrawn and unresponsive and others become disruptive or violent.

'The aggressive "hyperactive" children, who represent so many of the abused children we see, are often reacting with disorganized behaviour to what seems to be an overwhelming anxiety, bordering on panic'.

(Kempe and Kempe, 1983, *ibid*. p 115)

The physical symptoms commonly found in cases of wilful injury are severe bruising, burns, bone fracture and poisoning. Physical abuse can be hard to distinguish from accidental injury and detection relies on assessing whether wounding has occurred on parts of the body normally damaged in accidents and whether the nature of the injury is consistent with explanations as to how it occurred. Physical neglect is especially difficult to identify. It includes nutritional neglect, which results in a failure to thrive (a potentially fatal condition), the failure to provide medical care or to protect a child from physical and social danger. The most extreme form of emotional abuse is, perhaps, isolating a child in a locked room, but it can also include terrorizing or rejecting a child. Sexual abuse is the involvement of 'dependent, developmentally immature children and adolescents in sexual activities that they do not fully comprehend, to which they are unable to give informed consent, or that violate the taboo of family roles' (*ibid*. p 60).[5] It includes paedophilia and incest. The abusive behaviour can range from exhibitionism, genital fondling or orogenital contact to violent molestation and rape. Sexual abuse sometimes causes physical damage, such as hymen rupture, rectum tears or a gonococcal infection which aids detection. But often evidence of sexual interference can only be obtained from psychosomatic symptoms,

many of which do not appear until a long time after the incident. Links between child abuse and neglect and psychosomatic illness are not yet clearly understood, but one study in Britain found that two-thirds of anorexic patients were incest victims (Taylor, 1984).

A number of experts are dissatisfied with overconcentration on clinical and psychological rationale of abuse and neglect, arguing that maltreatment is attributable primarily to environmental stress and deprivation (Gil, 1970 and 1979). Research in Western society has correlated the high incidence of maltreatment with factors such as socio-economic status, unemployment, indebtedness, family size, corporal punishment, marital discord and age of mother at the birth of the child.[6] In a British study, for example, the social class distribution of sexual abuse was found to be far less significant than physical abuse which, it is claimed, is more prevalent in poor families (Creighton, 1984). Some observers have argued that idiosyncratic child abuse is not so much attributable to environmental stress and deprivation as characteristic of a particular type of society: urban industrial society. For example, Peter Tacon, UNICEF's specialist in children without families, argues that child abandonment is the result of 'the destruction of previously held values, the disintegration of both the extended and then the nuclear family and . . . the de-dignification of people in general' in the urban areas of the middle-level developing and developed countries (UNICEF, 1981, p 3). To the extent that in modern urban society the family, and especially the poor family, lacks many of the traditional support systems essential for its welfare, it may well be the case that children are at greater risk of abandonment. But the lack of comparative information from rural areas of the developing world means that it is precipitous to draw any conclusions about differences in the incidence of abandonment between rural and urban areas.

Further research is needed particularly into the characteristics of the child victims of abuse and the way society's attitudes towards certain children can affect the incidence of abuse. The indications are that gender, physical and mental handicap, birth order, illegitimacy and rules of inheritance and descent make some children far more vulnerable to abuse and neglect than others (Lynch, 1976). For example, a strong preference for male children has been revealed in China under the 'one child per family' policy, which has resulted in an apparent increase in the rate of infanticide for female children (*International Herald Tribune* 12.7.84). On the other hand, it has been found that in Britain, boys are far more likely to be abused physically or neglected than girls, whilst girls are at more risk of sexual abuse (Creighton, 1984, *op.cit.*).

## iv) Child Exploitation

Children are a valuable commodity in the transactions between rich and poor; their exploitation demonstrates the vulnerability of the poor to abuse by those more powerful and rich. The exploitation of child labour, the commercial exploitation of children for pornographic or sexual purposes and the traffic in children and babies are all directly or indirectly the outcome of the growing need for the poor to earn income, the contraction of the labour market and the increase in contact between privileged and disadvantaged sectors of society. Children from impoverished homes, abandoned children or runaways living on the street, migrant children and orphans are at particular risk of exploitation. Any child who works is at risk and in cases of their commercial exploitation for sexual purposes, older children and young teenagers (pre- and post-pubescent) are specially vulnerable.

Child exploitation has many facets. In the majority of cases it implies the involvement of children in activities which are beyond their physical and mental capacity. Except perhaps in the case of child prostitutes who are free of adult patronage, child exploitation normally generates considerable income for controlling adults, there being in many situations (and particularly in instances of sexual exploitation) a special premium on youthful or childlike qualities. The child, on the other hand, receives minimal wages or no payment at all. In many cases children are forced into situations in which they are unable to give their informed consent and which may be morally and physically damaging. Some of the most exploitative situations involve children in activities (such as drug trafficking) which are illegal, or at the very least prohibited to minors (as with much child work). In these situations children have no protection.

The context for most child exploitation is work. Because children cannot join unions and have no representation or legal protection at work, they tend to be subjected to the most exaggerated forms of control and exploitation:

'The major concern in the sphere of child labour is the exploitation of children at work rather than the simple fact that children are working'
(*International Children's Rights Monitor*, 1984, *op.cit.* p 10)

Children are found working in the more marginal sectors of the economy, in the cities and the countryside. They are active in the formal and informal sectors: in industry, service establishments, plantations and in sweatshops. They are very important in the street trades and domestic service. Rarely is their employment secure. Many work on a piece-rate basis or as subcontractors. Others find seasonal employment and large numbers are bonded labourers (pledged by their parents against a debt or a benefit) or apprentices who receive only subsistence rations.

Case studies of child work reveal multiple abuses and deprivation. The Anti-Slavery Society, in a survey of the situation of child workers in South Africa for example, found that as both casual and under-aged workers, black children suffer double exploitation (Anti-Slavery Society, 1983, and White, 1985). They receive the lowest wages of any sector and enjoy no protection of any kind. Children working in the carpet industry in Morroco are controlled by craftswomen who are employed by the factory owners and paid per square metre worked (Anti-Slavery Society, 1978). Obviously it is in the interest of the craftswoman to extract from the children the maximum amount of work for the minimum possible payment. She has absolute control over their lives and can recruit or discharge them as she wishes. Children as young as seven years old have been found working in these factories. The majority of those under 12 are classified as apprentices and therefore receive no wage. In Thailand employment agents recruit children from poor rural areas with advance payments to their families. In 1979, the Bangkok Bank disclosed that 3.5 million Thai children aged between 11 and 16 years were in the labour market. This number involves children working with their parents in rural areas as well as those working in cities in small factories, gas stations, brothels and massage parlours, selling flowers and newspapers, collecting money in minibuses, collecting rubbish . . . (Coordinating Group for Religion in Society, n/d). Many of these children find themselves working in conditions of near slavery in sweat shops, garment factories or brothels. They eat and sleep in the rooms where they work, are very poorly paid and fed meagre rations.

India has the largest incidence of child workers of any country in the world.[7] In some parts of the country the workforce of certain industries consists largely of low-paid juvenile labour. For example, in the dangerous match and firework industries of Sivakasi, a town in Tamil Nadu State, 45,000 workers out of a total of 100,000 are under the age of 15 (International Commission of Jurists, n/d).

In his final report on the exploitation of child labour made in 1982 to the UN Human Rights Sub-Commission, the Special Rapporteur Abdelwahab Bouhdiba maintained that one of the most widespread and least researched areas of child work is domestic service. Isolated from society at large and recruited through ties of fictive kinship such as godparenthood or quasi-adoption arrangements, most work under a powerful moral obligation without receiving a wage. In addition to working all day they are normally expected to be available at any time during the night. The Anti-Slavery Society reports that in some areas of Brazil nearly one third of the domestic workers are minors, many of whom are taken on at three to four years of age (*International Children's Rights Monitor*, 1984, *op.cit.* pp 11-14).

Employers throughout the world fail to observe safety standards on their premises. This can be especially dangerous for children, who are often assigned tasks beyond their physical capacity and made to work with machinery designed for adults. Many children work with toxic substances or are involved in industrial processes which cause impairment in hearing, sight or bone formation, skin diseases or bronchial problems.

'Rheumatism, heart disease, damage to the respiratory organs, deformations of the pelvis, spinal column and joints, are the ailments which have been systematically diagnosed in children who work.'
(Valcarenghi, 1981, p 26).

But there can also be considerable psychological damage and intellectual impairment in children who work. Many commence

work too young and, employed in unskilled, monotonous and repetitive tasks, lack the stimuli and recreation necessary for normal emotional and intellectual development.

The International Labour Office, which for some time has been monitoring the problem of child labour at an international level, is concerned to distinguish between children working for their families at home or in subsistence agricultural production and the harmful exploitation by avaricious employers outside the domestic group. Their view is that children working under the guidance and protection of their families do not suffer the extremes of exploitation experienced by those working outside the family. However, it has been argued that unremunerated work in the home, or for a family enterprise, can be extremely oppressive: parental authority, of all forms of adult authority, being easily misused.

We should be wary of the ingrained assumption that exploitative relations do not exist within the family. Many children make a deliberate choice in favour of working outside the home – where they may gain control over their earnings as opposed to working long hours without remuneration, under their parents' control. Additionally, a number of studies show that children are commonly assigned domestic tasks in order to release their parents for paid employment. These tasks entail long hours of work and involve the denial of education and recreation just as much as wage employment. It may be significant that so many so-called street children *chose* to live and work independently of their families (Goddard and White, 1982, *op.cit.* p 467; Ennew, 1982, pp 551 and 563; Munos and Pachon, 1980).

Of growing concern to human rights and child welfare agencies is the commercial exploitation of children for pornographic and sexual purposes. This is an area of child abuse about which little is known. Bouhdiba's 1982 report on child labour makes special mention of child prostitution as one of the worst forms of child economic exploitation. His comments led Radda Barnen, the Anti-Slavery Society and Defence for Children International to initiate studies of various aspects of sexual exploitation: child prostitution, child pornography, sex tourism and the sale of children for sexual purposes:

'Sexual exploitation goes hand in hand with other forms of exploitation, and cannot be divorced from the economic exploitation of children in general, or the exploitation of female sexuality. It is therefore important to remember that the sexual exploitation of children is a double or even triple abuse, involving the misuse of economic power, age relations and sexual oppression'[8]                    (Anti-Slavery Society, 1984).

The commercial exploitation of children and young people for sexual and pornographic purposes is a universal phenomenon and not, as popular belief has it, restricted to certain parts of the developing world such as South East Asia. The organization S.O.S. Enfants estimated that there are as many as 5000 boys and 3000 girls working as prostitutes in Paris alone and a study of the phenomenon in the United States suggests that in that country there may be as many as 300,000 boy prostitutes (Anti-Slavery Society, 1985, pp 26-7). In Western societies child prostitution tends not to be socio-economically significant; prostitutes come from all walks of life. However, it has been suggested that laws preventing children and young people from seeking full-time employment force many of them into prostitution, especially with growing adult unemployment and the need for young people to contribute more to family income. The general prevalence of prostitution in South East Asia has been linked with United States military presence in the area over a long period (*ibid* and Taylor, 1984 (b)). During the Korean and Vietnamese wars the provision of sexual services became an essential element in the rest and recuperation of military personnel and designated recreation areas where prostitutes were available were built in Vietnam, Thailand, the Philippines, Korea and Taiwan. After the Vietnam war ended, prostitution largely ceased, but it remains widespread in many other parts of South East Asia.

More recently certain sectors of the media and the tourist industry have significantly encouraged the commercial exploitation of sex in South East Asia. A number of travel agents in Europe, Japan and the United States offer package holidays which cater specifically for tourists interested in seeking sexual gratification. Brochures and advertisements in the press publicize not only brothels, but also special bars, beaches and hotels where prostitutes are available. While there may be no direct link between sex tourism and child prostitution many prostitutes catering for tourists are under the age of 18, and many may be under 16 (Anti-Slavery Society, 1985). Moreover, a number of publications have begun to provide information on how and where tourists might gain sexual access to children. The Spartacus Gay Guides, for example, publish information for homosexual paedophile tourists on where to stay, where boys are available, how to make contact with them, and how much to pay for their services, as well as giving legal advice. It has been estimated that in Bangkok there may be as many as 30,000 prostitutes under the age of 16 and there are believed to be 2000 male prostitutes between the ages of 7 and 17 in Sri Lanka (*ibid* and *International Child Welfare Review*, 1983 *op.cit.* pp 5-6). Many of the Thai children are from rural areas, recruited by agents from their parents on payment of a fee. The understanding is that they will be given good jobs in the city. Unknowingly, the parents commit their offspring to a life of degradation and suffering. The Coordinating Committee for Civil Rights in Thailand reports that child prostitutes in Southern Thailand service on an average between five and ten clients a night and work twelve hour shifts. For their services they earn just 25 to 50 cents a shift. A report on conditions for child prostitutes on the resort island of Phuket, south of Bangkok, states that young girls are beaten, drugged and forced to work as virtual slaves in the brothels (CCHROT, 1984).

The expansion of the commercial and private use of visual media such as films, videos and photographs since World War II has facilitated the exploitation of children in pornography. Children, including pre-pubertal children, have been used in the portrayal of both real and simulated sexual acts. While many countries have passed laws against the production and distribution of pornography, there is no generally accepted legal basis for prohibiting the involvement of children. Indeed, in many countries such as the Netherlands, which has no law against pornography, child pornography is readily available in shops. Little is known about the people who produce child pornography, although it is unlikely that many large-scale organizations are involved. Nor are the numbers of children used thought to be very great; the same children tend to appear in a range of different films, videos and photos. However, there have been allegations that coercion and even abduction are used to involve children in pornography (Anti-Slavery Society, 1985).

In February 1985 the International Association of Democratic Lawyers raised the issue of trafficking in children before the United Nations Commission on Human Rights. Hitherto, attention has mostly been confined to enforced disappearances of a political nature, but the association has called for further investigation into instances of child trafficking. This involves the abduction of children with the expressed purpose of exploiting them, isolating them from their families and in some cases depriving them of their nationality (IADL, 1985).

There is insufficient information available on child trafficking to assess the destiny of the majority of children: a significant number of the children of 'boat people' leaving Vietnam are said to have been abducted by pirates and sold into slavery or prostitution. Interpol has evidence that some of the babies made available for inter-country adoption are also victims of enforced disappearance. In the case of trans-national adoptions, it is partially to eliminate child abduction that responsible agencies worldwide are seeking guidelines on procedures and controls over practice. By providing well regulated channels for trans-national adoption, it is hoped to remove the price tag on babies and eliminate illicit trading. There have, for a number of years, been reports of the abduction and sale of children for adoption in Latin America and South East Asia, but recent evidence indicates that the practice could be far more widespread.

Not all the cases of children sold for adoption involve enforced disappearance; there is evidence that parents sometimes collude with intermediaries to sell their children. For example, it has been reported that since the outbreak of war in Lebanon at least 20 young Lebanese children have been sold to adoptive parents and in one of the cases the natural father conspired to remove his daughter from her mother's protection and sell her (Middle East Council of Churches, 1984). Most of the Lebanese children sold for adoption have been Shiite Moslems. Under Islamic law adoption is prohibited and so – to overcome this obstacle – the children's papers are falsified, and their names and their religion changed. The International Association of Democratic Lawyers also claim that in one (unnamed) country alone, child trafficking is worth approximately 7 billion dollars per annum and that in developing countries, in particular, hundreds of thousands of children are still

disappearing without trace (IADL, *op.cit.*, 1985). Interpol has issued a publication for United Nations member states providing information on persons suspected of involvement in international exploitation of child prostitution and child trafficking (INTER-POL, n/d). Efforts have also been made to harmonize preventive legislation on child trafficking among member states and a permanent procedure has been proposed whereby offending countries could be brought before the International Court of Justice.

# PART 3: IMPLEMENTATION AND REPRESENTATION: CHILD PROTECTION

Since the International Year of the Child, human rights and welfare agencies have been especially concerned to identify and eradicate the major forms of child maltreatment at both national and international levels. Research has revealed a particularly high incidence of abuse, extra-familial exploitation and politically motivated maltreatment in countries throughout the world. While it is appropriate that most cases of child maltreatment should be resolved by the state, national legislation and provision for children is extremely variable. Furthermore, the systematic and premeditated violation of children's rights by governments can only be resolved by recourse to international law. There is still no effective guarantee of children's rights in the international arena.

## i) International Legislation

*The Universal Declaration of Human Rights* and the more specific *Declaration of the Rights of the Child* are conceived of as a common standard of achievement in the field of rights and are the basis for national and international efforts for protection and promotion of rights. But there exists no legally binding international instrument to bring children's rights into force. Moreover, while some forms of child maltreatment may be diminished by the adoption of new regulations or the enforcement of existing regulations, legislation is usually only a partial solution. Some experts have argued, for example, that in the case of child labour, legislated abolition is more likely to increase exploitation (Standing, in Goddard and White, 1982, *op.cit.* pp 611-31). Children who work illegally have no protection. Legislation may force them out of controlled sectors of the economy and further into unregistered enterprises or out into work on the streets.

Legislative change must take full account of all the ways in which children might be affected, including the possibility that by the outlawing of an activity juvenile exploitation may be increased.

The *United Nations Economic and Social Council* has undertaken a major move to improve international legislation on children's rights. Following a proposal by the Polish government in 1978, a working group of representatives of the *United Nations Commission on Human Rights* is preparing a Draft Convention on the Rights of the Child. The Convention will apply the principles of the Declaration of the Rights of the Child in specific instances and will be legally binding on the signatory states. The draft is still in preparation, but will be more far-reaching than previous declarations and covenants concerning children. As well as setting out rights to special protection, it extends to children certain enabling rights, such as allowing those capable of forming their own views the right to a voice in all judicial and administrative proceedings affecting them (Cantwell, 1984). The most serious difficulty confronting the Convention is the wide variation in attitudes, ideologies and social and cultural conditions of the member states of the United Nations. Some observers argue that such a convention could only have application within a single geo-political area (Lejeune, 1984). Quite apart from this major hurdle, the drafting of the Convention has been beset by delays and there remain a number of important articles to be discussed before the various stages of approval and ratification. In any case, legislative measures should only be seen as an adjunct to other activities which are often far more effective, such as advocacy, representation, welfare services, aid-funded programmes and support for non-governmental initiatives. As in so much human rights work, prevention of abuses is preferable to attempting remedial action.

## ii) Inter-Governmental Organizations

A number of bodies in the international community are empowered to address various aspects of child maltreatment: The *World Health Organization* (WHO) and the *United Nations Childrens Fund* (UNICEF) are committed to reducing infant and child mortality in the developing countries by providing resources and expertise at a national level to complement those controlled by governments. *The International Labour Organization* (ILO) is the principal international body concerned with child labour and has adopted various conventions, recommendations and resolutions dealing with the minimum age for employment in different activities, and hours and conditions of work. The *UN Economic and Social Council* (ECOSOC) and its subsidiaries are concerned with the drafting of conventions and observance of human rights in accordance with the relevant human rights instruments and standards. The *UN High Commission for Refugees* (UNHCR) has a particular interest in the provision for unaccompanied and refugee children in armed conflicts and natural disasters and the *UN Educational, Scientific and Cultural Organization* (UNESCO) promotes educational and cultural programmes.

The *United Nations Children's Fund* (UNICEF) acts as the lead agency for children within the UN system and, as such, is the only inter-governmental body that exists to serve children's interests specifically. While many observers believe that UNICEF should assume a far more active role in advocacy, others hold that there are serious constraints on the organization becoming involved in human rights issues. (It is UNICEF's duty to act but only when *invited* by governments. The debate centres around whether UNICEF would jeopardize its other work through involvement in advocacy.) To date UNICEF has worked mainly with the under-5's in the areas of development and child survival. However, at the 1984 session of the Executive Board, it was announced that UNICEF would prepare a report on 'Children in Especially Difficult Circumstances', to be presented before the 1986 session of the Board. This report will serve as the basis for discussion and review of policy and many hope that it will broaden the scope of the organization's activities.

In addition INTERPOL would seem to be pursuing cases, and two other UN bodies: this *Human Rights Sub-Commission on the Prevention of Discrimination and Protection of Minorities* and its *Working Group on Slavery* have been active in addressing specific areas of child maltreatment, child exploitation and the politically motivated violation of children's rights. In its 37th session in 1984, this UN Human Rights Sub-Commission agreed to include children's rights as a specific and permanent item on future agendas. While the Sub-Commission cannot resolve cases of human rights abuse, it can bring pressure to bear on offending countries by reporting to the *UN Commission on Human Rights* and by the publicity of its hearings and reports.

Thus, while we can see that a number of significant steps have been taken at the international level in the field of children's rights, there is still no guarantee of implementation; there is still no provision within the UN system for monitoring the circumstances of children in individual countries and no organization empowered to enforce observance of established standards and instruments.

## iii) Non-Governmental Organizations

Much of the impetus for confronting child maltreatment and the abuse of children's rights comes from the non-governmental sector which suffers less constraints than inter-governmental agencies. Several thousand national pressure groups and non-governmental organizations have been formed to deal with specific forms of abuse. *The Children's Communication Centre in the Philippines*, for example, has initiated a nationwide programme in the advocacy of proper child and youth care. *The Mothers and Grandmothers of the Plaza de Mayo* are the Argentinian relatives of children who disappeared in the 1970s under the military regime and are committed to tracing the missing children and raising public awareness of the problem. *The National Center for Missing and Exploited Children in Washington* acts as a clearing house for information on the estimated 1.5 million young people who run away or who are kidnapped each year in the United States. Five Peruvian non-governmental organizations have mounted a permanent campaign in the media to press for greater awareness

nationwide of the problems of child abuse and neglect, and especially of the plight of children caught up in the present emergency. The *Children's Legal Centre* in Britain acts as an informal 'ombudsperson' on behalf of British children in legal and welfare policy.

A number of international non-government organizations have been consulted in the drafting of the new UN Convention and several of their ideas have been taken up. *Amnesty International, Radda Barnen, The International Union for Child Welfare, The International Catholic Child Welfare Bureau, The Anti- Slavery Society* and *The International Commission of Jurists* are among the many international non-governmental organizations who have researched various aspects of child maltreatment and inform and lobby, both within and outside the UN system. *Defence for Children International* is the one international organization concerned specifically with the rights of children. One of the general aims of this agency has been to demonstrate that the violation of children's rights is a universal problem affecting millions of children. In addition, it provides information on specific instances of abuse, lobbies organizations in the international community and promotes effective action in defence of children in trouble.

But notwithstanding the important work carried out by non-governmental organizations, in the absence of a binding and enforceable system of international law, ultimate responsibility to represent the interests of children and provide for their welfare rests with the modern nation state. The doctrine of *Parens Patriae* legitimates state intervention on behalf of children whose families are unable to care for them and underlies the moral obligation of the state to give children priority in social policy and legislation.

There are three main levels at which state provision affects children. The state is charged with using tax revenue to extend services such as health and education which benefit children directly. It has a more indirect impact on child development by establishing physical infrastructure and employment opportunities. It can also give support directly to the family through the social services and sometimes provide alternative care for children.

### iv) Giving Children a Voice

In developing countries the protective and supportive roles of the state are far less evident than in Western societies. For example, many of the procedures considered part of normal social work practice in cases of child abuse and neglect in industrialized countries are luxuries available to very few in the developing world. In developing countries resources are extremely scarce; at best social services are fragmentary, and often they are absent altogether. Provision is usually particularly weak in rural areas, where all the important welfare functions are performed by members of the extended family or the local community.

However, the quality and extent of provision for children does not depend on resources alone, but also on political will:

'Why have children's rights never been implemented? Why has a world full of parents been unable to keep any of its promises to children? Because children have no votes. They have no political power. They lack even the other kind of power which comes from the barrel of a gun.'

(Vittachi, 1984 p 2)

Tarzie Vittachi, Deputy Executive Director of UNICEF, implies that there is a direct link between the accountability of government and suffrage. Of course children's rights should be respected, regardless of whether or not they can vote. However, the problem is not so much suffrage, but more society's attitude towards children and young people (Smyke, personal communication). While it is unlikely that children will be given the right to vote, a great deal more could be done to promote their interests and general welfare. *Streetwise International*, for example, is a new non-governmental organization set up to promote improvement in the lives of children living and working in the streets.

There are many circumstances in which it would be appropriate to give children a voice. A situation affecting many children, and one in which they are largely powerless to influence events, is the dissolution of their parents' marriage. It has been suggested that divorce is one of the areas of life that most exemplifies the treatment of children as property rather than persons (Freeman, 1983, *op. cit.*). They can become the objects of negotiation and

transaction between conflicting parties, their future being decided without their consultation and their best interests either overlooked or ignored.

A number of British children have expressed their feelings about not being consulted during their parents' separation and divorce and not having the situation properly explained to them. Not allowing children the right to express their views in divorce proceedings can be extremely serious; consider the case of three children sexually and physically abused by their father who tried to fight his application for access. In the words of one of the children:

'In our case which started over two years ago six different people, closely involved with us and the divorce case, did not attempt to find out what our wishes or points of view were or totally disregarded them and us. They were: our doctor, two different solicitors, a local court welfare officer, a senior court welfare officer and the official solicitor. You will see how badly young people are treated by people they should have been able to trust and get help from.'    (*Childright*, June 1985, No 18 pp 12-13).

However, the system of family courts established in Australia and New Zealand demonstrates that adversarial litigation, which can be so damaging to children, is not an inevitable feature of divorce proceedings (Children's Legal Centre, 1984). The family court is far more sensitive to the child's wishes and feelings than other more conventional judicial settings. In New Zealand in all proceedings as to guardianship, custody and access to children, the court must appoint a lawyer to represent the child's interests. The Australian courts have a similar discretion to order separate representation.

There is growing support in a number of countries for creating administrative structures to represent children, both collectively and as individuals. Dividing responsibility for children between various government agencies, as is the norm in most countries, can result in serious inconsistencies and sometimes direct contradiction. In response to this commentators have argued for a minister with sole responsibility for children, or perhaps a task force made up of representatives from a number of government bodies. In 1981 the Norwegian government created the office of Children's Ombudsperson on the grounds that 'children constitute a weak and vulnerable group within society' (Flekkog, 1985, pp 19-21). The Ombudsperson's duties are defined by statute and include promoting the interests of children both in the private and public sectors and continually assessing the conditions under which children are growing up in Norway. The Ombudsperson can act either on her/his own initiative or at the request of others and is assisted by a small team of permanent staff members and an advisory panel. The power of the office, though, is restricted. It cannot, for example, handle conflicts between an individual child and his or her parents or between parents.

The inability to assist individual cases other than in an advisory capacity is a serious limitation in any statutory body. A British non-governmental organization, The Children's Legal Centre, has suggested (mainly with the United Kingdom in mind) that local networks of Ombudspeople or child advocates could represent individuals more effectively than a national body (Children's Legal Centre, 1984, *op. cit.*). An alternative would be to establish complaints procedures within those public institutions (schools, hospitals, the care system) which work closely with children.

Imaginative techniques used in obtaining information from children for use in court in cases of sexual abuse indicate that there is considerable scope for self-representation for children. In the United States, teaching aids are being developed to help children talk about sexual abuse. They are given anatomically accurate dolls to enable them to portray what they have experienced, thereby overcoming difficulties associated with limitations of vocabulary. Law courts in many states in America are making it easier for children to testify against abusers. In Minneapolis, police record interviews with children secretly from behind one-way glass and these are submitted in court. Most experts insist that young children, in particular, never lie or exaggerate about sexual abuse since, in the main, what they experience goes beyond what they are able to imagine, or are likely to see on television. Another way of advancing children's interests is through self-advocacy, in which groups of children or young people with a shared perspective or problem unite to promote their cause. Such bodies already exist in a number of countries and represent groups as diverse as students, disabled children and young people, young gays and lesbians, and ethnic or religious minorities. The development of self-advocacy has one obvious constraint: its appropriateness depends very much

on the age and level of maturity of the children concerned. Moreover, its success depends on adults being willing to listen.

It is perhaps one of the more unfortunate results of children and young people's status as minors that they are given no channel or forum for self-advocacy. As a result, they tend to be forced to demonstrate their views in informal public settings. For example, schoolchildren were in the majority in a recent protest by 10,000 people in Manila against child prostitution and exploitation of Filipinos by foreigners. But under repressive regimes this form of demonstration can only increase children's vulnerability, as the events that took place in Soweto in 1976 and again in 1985 show.

## PART 4: DELIVERY OF SERVICES: CHILD WELFARE

Over the past decade world economic recession has become firmly entrenched, affecting both primary producers and industrial manufacturing countries. Recession is the main threat to child welfare and survival, and governments all over the world have introduced policies of retrenchment, reducing public spending drastically.

Manufacturing countries, faced with the very real prospect of economic stagnation, are engaging in widespread industrial restructuring, replacing traditional sources of energy and raw materials and developing innovative labour-saving devices. While most developing countries rely for their export earnings on a very narrow range of primary products subject to declining demand, they are forced to import manufactured goods and foodstuffs which are becoming increasingly expensive. The outcome for the majority of countries is a serious negative trade balance which can only be covered by extensive borrowing on the international money market.

Commerce and industry are usually extremely restricted in developing countries and pricing policies tend to be damaging to agriculture. Most governments concentrate their resources in the rural sector on research and credit to facilitate export production in the hope that foreign exchange earned from export crops will help meet the rising costs of imports and finance industrialization. Farmers are paid low prices for food crops to keep costs down for consumers in the cities. As a result, food production is diminishing steadily and a growing number of countries are becoming dependent on food imports. On the other hand, production of cash crops for export is expanding to the extent that it is both damaging to the environment and increasingly less profitable.

In most developing countries there is a marked concentration of land ownership in rural areas and export revenues benefit only a few. Equally, there is a growing shortage of fertile irrigated land. Population growth, poor distribution of land and over-exploitation of fragile tropical soils result in a serious labour surplus. This, in turn, undermines rural wage rates, causing unremitting and widespread poverty, and resulting in large-scale migration to the cities. Outside the planned socialist economies, few governments can control the high rates of domestic inflation and severe currency fluctuations. Most have responded to the economic crisis by introducing public spending cuts as a deflationary measure, reducing services and removing subsidies on transport and basic

## Table 2 – Children as a proportion of population

| Country | Population 1982 (millions) | GNP per capita ($US) 1982 | Average annual rate of growth 1970-82 | % population below age 15 | Population below age 15 (millions) |
|---------|------|------|------|------|------|
| Brazil | 127 | 2,240 | 2.4 | 45 | 57.15 |
| China | 1,196 | 310 | 1.4 | 38 | 454.5 |
| Ethiopia | 33 | 140 | 2.0 | 48 | 15.84 |
| India | 717 | 260 | 2.3 | 43 | 308.81 |
| Kenya | 18 | 390 | 4.0 | 51 | 9.18 |
| Nigeria | 91 | 860 | 2.6 | 50 | 45.5 |
| Sri Lanka | 15 | 320 | 1.7 | 40 | 6.0 |
| UK | 56 | 9,660 | 0.1 | 23 | 12.88 |
| USA | 232 | 13,160 | 1.0 | 23 | 53.36 |

Source: The World Bank, *World Development Report 1984*, Oxford University Press.

foods. This is made all the more serious because the industrialized nations are cutting aid to the developing world and setting up protectionist barriers.

World recession has a particularly devastating effect on children, if only because of the sheer size of the child population in the poorer parts of the world. Table 2 shows that in many developing countries, between 40% and 50% of the population is under the age of 15.

While, as we have seen, the child population in the developing world may not be economically dependent – since most children in the low income areas work – the more children there are in both absolute terms and in relation to the total population, the greater is the burden on certain services. Countries with a high population growth rate, such as Kenya, for some years to come will have to cope with a large child population. On the other hand China and Sri Lanka have both managed to reduce the rate of population growth, thereby decreasing the percentage of the population under 15 years of age and reducing the strain on children's services. For many countries the growth in the child population is matched by low, and frequently deteriorating national incomes and levels of productivity which result in low per capita gross national product. If these trends continue, the quality and coverage of services will deteriorate further. Population growth is often seen as the single most important cause of poverty. Indeed, the developing countries which at the present experience low levels of productivity per person also tend to have the highest rates of population growth (United Nations Department of International and Social Affairs Population Studies, No 71, 1979 p 18).

A national family planning programme has emerged as the principal policy instrument that governments apply to attain lower fertility. For many governments, family planning policy is seen as a crucial aid to social and economic development, an integral part of the process of development planning. Some countries, most notably China and India, have introduced formal population policies and a substantial number have established quantitative targets in relation to population.

A lowering of population growth rates and an overall decrease in the child population at a national level would undoubtedly lessen the financial burden for many states. However, the UN Department of International Economic and Social Affairs has reiterated

### Table 3 – Investment in human resources in the developing world, 1972-81
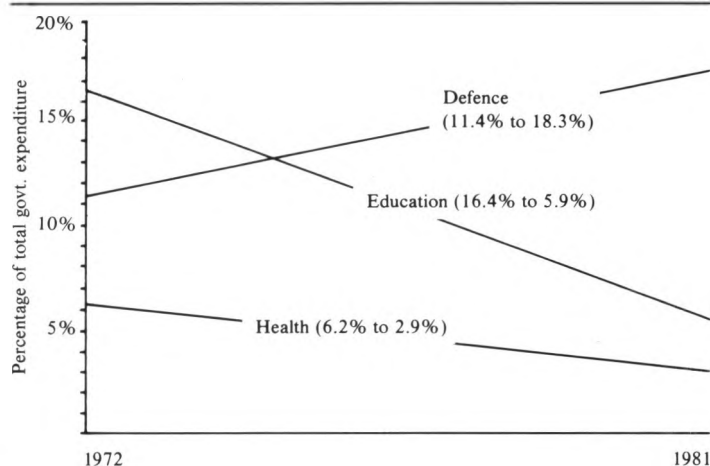


Source: UNICEF *State of the World's Children 1985 (statistics derived from World Development Report 1984*, The World Bank, Washington DC, 1984).

that 'population policies are constituent elements of socio-economic development policies, never substitutes for them' (*ibid*, p 39). When confronted by the overwhelming scarcity of resources it becomes too easy to overlook other issues, such as the priorities in government planning and expenditure and how these affect the lives of children. For example, many governments lay far less emphasis on social reform and economic redistribution in the alleviation of poverty than population control.

Possibly, if taken in isolation, cuts in public expenditure (especially in health and education) could be seen as an inevitable result of recession, but not when compared with defence expenditure. Table 3 shows a dramatic increase in military spending as a

11

percentage of the total government expenditure in the developing world in the years 1972-81: during the same period spending on education and health as a percentage of the total has been drastically reduced.

Further examination of broad statistics for the developing world reveals that the distribution of services at a national level is extremely inequitable.

For example, while universal primary education is a stated aim for most developing countries, tertiary and, to a lesser extent, secondary education receive far more funds (Buchanan, 1975 and McPherson, 1982). Between 1960 and 1975 the total number of children in the developing world aged between 6 and 11 not attending school rose from 110 million to 121 million (UN Department of International Economic and Social Affairs, 1979, *op. cit.* p 15). Increases in non-enrollment have been especially serious in Africa and Asia. The number of children failing to enrol, dropping out of school or repeating years is much higher in the poorer and more isolated sections of the community and the rates of all three are much higher for girls than for boys. These problems tend to be far more serious in rural areas than in cities.

The failure of services in developing countries to meet the needs of the poor is to a large extent the result of the transfer from Western societies of inappropriate models and forms of delivery:

'Education systems have been irrelevant to the needs of developing countries during the last two decades because educational policies were often keeping company with overall development strategies which were themselves irrelevant to the societies and conditions of developing countries. Emphasis on the development of the modern economic sector, providing employment to a small and intensively trained elite, leads to the neglect of 60-80% of the population living in sectors characterized by traditionally lower productivity. Consequently, a large part – often more than 50% – of their resources is devoted to secondary and higher education although the student enrollment at those levels is generally less than 20% of the total.'

(World Bank, Education Sector Paper quoted in MacPherson, *op. cit.*, p 269)

The conventional school setting provided by the state is particularly inappropriate for working children, abandoned children and runaways, living on the streets, with a highly academic curriculum, inflexible hours and expensive textbooks and utensils. Most schools are located in residential areas a long way from the place of work, and are therefore inaccessible to working children. Provision for working children has, in the main, been left to non-governmental organizations. For example, pavement schools have been set up in India for children working on the streets and the *Underprivileged Children's Education Program* (UCEP) works with approximately 16,000 street children in Bangladesh and Nepal.

Children attend school in four daily shifts according to their work routine. The programme works in close collaboration with the children's parents or guardians (if they have them) and employers, and social workers watch over the pupils' welfare. Although each shift lasts only two hours in the primary and secondary level schools and three or four hours in the technical schools, the children are able to pass through two grades a year because they are highly motivated, classes are small and attendance is for more than 290 days a year. At all levels of schooling lessons are given in hygiene and older children receive nutrition education and are taught about planned parenthood. The programme also offers technical education where children learn skilled trades, accounting, book-keeping and basic business management.

State welfare provision has become an essential service, even a right, for the needy in modern industrial societies. This is in part a response to the emergence of the nuclear family as the basic unit of society and the destruction of traditional patterns of obligation and social support, but also to the perceived increase in the numbers of families in crisis. However, it is questionable whether the traditional social services are any more appropriate than conventional educational provision. The priority has always been to provide remedial and rehabilitative treatment for individual families in difficulty rather than to deliver preventative services at a community level. Take professional response to child abuse and neglect within the family in Britain for example: many of the resources for 'prevention' go largely to providing in-service training for professionals who are involved with child welfare (such as teachers, social workers and medical practitioners), in the detection of abuse. Children who are considered to be at risk are entered on a special (non-statutory) register which is used to keep concerned professionals informed and alerted to possible abuse. While such measures may be important in relieving the suffering, or even saving the life, of individual children, most experts agree that the provision of adequate child-care facilities at the community level would be a far more effective preventive intervention.

Formal children's services can be divided mainly into the treatment of offenders and substitute care. Both forms of provision assume that the norms of acceptable behaviour are given and treat deviance by removing children from the family. The earliest form of substitute care was the institutionalization in special children's homes, although many countries now favour adoption and fostering as alternatives. Experts have raised serious doubts as to whether institutionalization can bring any benefit to children. Michael Freeman, an English lecturer in law, has argued that children have a right not to be in care since 'in most cases locking children up in care is merely blaming the victims' (Freeman, 1983, *op. cit.*, p 177).

We have already seen that historically in many Western countries insufficient distinction was made between young offenders and abandoned or destitute children. There is great concern among many observers that institutions worldwide still confuse their main function, whether it be correctional, rehabilitative or the provision of special care. Particularly where resources are lacking, children who come under official control for many different kinds of reasons such as criminal acts, the absence of identity papers, vagrancy or parental abandonment or abuse, may be held together in the same establishment. For example, it has been argued of the institutions established in India as a result of the Children's Acts that they are more concerned with correctional services than child welfare and 'do not distinguish between the various categories of destitute children but treat all as delinquents in a regimented and highly circumscribed environment' (de Souza, 1979, p xvii). Is it perhaps the case that legislation placing children in care aims at protecting society from children, rather than the other way around?

The other service that has a very significant impact on children's lives is health. In most countries, rather than being established in accordance with dominant domestic disease patterns and the health needs of the population (and especially the poor), the stress in planning and funding is on secondary curative care in privileged urban areas. In recent decades national and international non-governmental organizations and inter-governmental agencies, such as WHO and UNICEF, have been pushing for the creation, in developing countries particularly, of primary health care at the community level based on low-cost preventive techniques. UNICEF's 'Child Survival Revolution', for example, promotes oral rehydration therapy, growth monitoring, breast feeding and immunization; all simple measures that can have a dramatic impact on child survival (UNICEF, 1984, *op. cit.*). The aim is to persuade governments to establish primary health measures at a national level. For example, the Colombian government, with the collaboration of the media and a number of popular national figures, mobilized 120,000 volunteers over a three-day period last year to immunize 800,000 children.

Measures such as these are extremely important and their effects can be demonstrated. And yet it can be seen from areas of extreme poverty, such as the Horn of Africa and the Sahelian countries, that the principal concern in child welfare and survival is not so much the lack of services, but the absolute shortage of income and food and the inequality in the distribution of resources. If policy formation and implementation are to affect fundamental changes in the area of child maltreatment and children's rights in all countries, rich and poor, there needs to be far more emphasis on measures that are truly developmental and preventive, increasing employment and improving the distribution of income and resources.

# PART 5: RECOMMENDATIONS

Measures that are truly developmental and preventive, increasing employment and improving distribution of income and resources seem desperately elusive at the current time. The suggestion that changes in child maltreatment and children's fundamental human rights must await an economic upturn is indefensible. It is heartening, nevertheless, to acknowledge the growing recognition since the International Year of the Child of the need to identify the conditions faced by (in particular, deprived) children, to establish the number of children that fall into this category, why they are in such a position and how they might be helped.

It is important that UNICEF, as the major international agency on children's welfare, should accelerate its activities in confronting the social problems affecting children as an addition to its achievements in fighting high rates of infant mortality and morbidity. Equally, development workers involved in programmes for alternative and appropriate forms of provision for child workers, and so-called 'street children' and other children at risk, should become more centrally involved in UNICEF's future policy.

The challenge of trying to work with child labourers and young people living on the streets is immense. Increased support must be given to non-formal education based on children's free time, more open door refuges and centres offering short-term shelter, food, recreation, counselling and advice.

When children are inescapably obliged to work, they can be helped and protected from the worst excesses of exploitation by vocational training in fields where there are employment possibilities. Alternatively, support can be given to self-help enterprises run by children themselves. Non-governmental organizations need to adjust their responses to this 'most vulnerable and voiceless minority of all', and to address their efforts to targetting development programmes in ways that involve children in planning and implementation.

The organization Children in Development at present is working principally through OXFAM's field contacts to explore and disseminate this approach and to investigate existing programmes and possibilities. UNICEF has recently taken evidence for a report entitled *Children in Especially Difficult Circumstances*; pressure should be put behind this as a pointer to further development work.

Agencies in turn must recognize that much development work without human rights is ineffective. In recent years there has been growing concern at an international level about the circumstances of children held in institutions and penal or substitute care in many countries throughout the world. Children in institutions feel isolated and abandoned. They have special need of an independent system of redress against institution staff, social workers and others in positions of authority. This would give children access to their files, a right to attend and participate in review meetings deciding their future, and to complain about decisions with which they do not agree. In Britain Lambeth Council is considering something of this nature with the country's first Charter of Rights for Children in Care. Building on the experience in Scandinavia and elsewhere, a model form of ombudsman to protect children's rights should be developed. Meanwhile we should all act as trustees.

Many entirely innocent children are held in adult prisons simply because they have been incarcerated in association with a parent – there being nowhere else to send them. Since most of these children are not recognized officially, no allocation is made to feed or educate them and there is no provision for health or recreation. In 1983 Defence for Children International initiated a study of the situation of children held in penal facilities with adults throughout the world. Representatives from 29 countries met in Florence in November 1984 to compare the results of the investigation. The major concerns were to question the very principle of the practice, examine alleged abuses and assess the long-term effects on children. The recommendations included the abolition of status offences and of the incarceration of children with adults. The conference also called for the adoption of internationally acceptable minimum standards for the treatment of children in custody, and the monitoring and reporting of the circumstances of children held in penal institutions.

Reports on conditions in children's penal establishments are also disturbing: poor lighting and sanitation, inadequate food rations and many other forms of deprivation are common. In Colombia, it is alleged that children in remand homes have been subject to widespread and serious abuse (Munos Vila, 1983). Similarly, an investigation into a juvenile detention unit in Oklahoma, United States, alleges that there also children were subjected to solitary confinement in 'dimly lit five by eight foot cells with no view to the outside and solid metal doors with only an eight inch square observation panel'. Other investigations report the use of severe disciplinary measures against children which include shackling (*International Children's Rights Monitor*, 1983).

However, it is easier to identify and publicize flagrant abuse than to promote common acceptance of fundamental human rights. The rapidly growing catalogue of child abuse in institutions, in situations of armed conflict, and in work relationships clearly add up to a growing need for national and international bodies with enforcement of children's rights as a specific mandate. These should come into effect in conjunction with the Convention on the Rights of the Child, but delay must cease.

At an international level there could be a wide-ranging international independent commission for children (like the Brandt Commission). A more long-term need is to create a new UN Commission specifically for children, to act as a permanent monitor and safeguard for all matters affecting children and young people.

Bearing in mind the fact that protective legislation becomes merely rhetorical without courts to enforce it and that international legislation takes years to ratify, the above proposals may go only part way to addressing the issues of this report. How much UNICEF could be doing more immediately in this connection is an issue for debate at the highest level.

A great deal of international concern for children falters in the contradiction of much libertarian/democratic thinking. Legislation to protect children or uphold their rights inevitably infringes 'parental autonomy', 'freedom' and 'family privacy'. More recent developments, however, emphasize adult *duties* towards children, and hence children's rights in the sense of claims and not children's 'liberties' or 'freedoms'. The emphasis needs to be on a concern for children rather than the suggestion that children are persons with full entitlement. In other words, much of the talk about *rights* should really be about *obligations* and *duties*.

Strenuous efforts should be made at national and international level to support self-advocacy, self-representation and autonomous organizations for children. In part this means opening up our institutions to a much greater degree and in part it means responding to the demands of children and young people whose experience of adult patronage has been disturbing. In the interests of these children and of countless other children worldwide who operate outside of families, the time is surely right to start to view children's rights as separate from those of the family.

In our own research and experience and in the light of work from other organizations, it can be demonstrated that international legislation to protect children and secure their fundamental rights is defective and neglected, and that despite a number of imaginative operational programmes, children as a priority group remain inadequately served by non-governmental organizations and government bodies alike. It is hoped that this report will stimulate international awareness and generate pressure to help achieve a substantial – and long overdue – improvement in the reality of children's lives.

# The Reports already published by the Minority Rights Group are:

- **No. 1** Religious minorities in the Soviet Union (Revised 1984 edition) — 'systematically documented and unemotionally analysed'[1]; 'telling'[2]; 'outstandingly good and fairminded'[3].

- **No. 2** The two Irelands: the double minority (New 1984 edition) — 'a rare accuracy and insight'[4]; 'lucid . . . without bias'[5]; 'the best pages on Ireland's contemporary political problems that have found their way into the permanent literature . . . excellent'[6].

- **No. 3** Japan's minorities: Burakumin, Koreans, Ainu and Okinawans (New 1983 edition) — 'sad and strange story . . . a frightening picture'[7]; 'expertly diagnosed'[3].

- **No. 4** The Asian minorities of East and Central Africa (up to 1971) — 'brilliantly sketched'[12]; 'admirably clear, humane and yet dispassionate'[8].

- **No. 5** Eritrea and Tigray (New 1983 report) — 'one of the best short works on the Horn of Africa'[42].

- **No. 6** The Crimean Tatars, Volga Germans and Meskhetians: Soviet treatment of some national minorities (Revised 1980 edition) — 'brilliant'[11]; 'great accuracy and detail'[12].

- **No. 7** The position of Blacks in Brazilian and Cuban society (New 1979 report) — 'another important contribution . . . from this increasingly important group'[1].

- **No. 8** Inequalities in Zimbabwe (Revised 1981 edition) — 'outlines all the thorny problems'[10].

- **No. 9** The Basques and Catalans (Revised 1982 edition) (tambien en castellano) ('The Basques' aussi en français, auch auf deutsch) — 'very valuable'[15].

- **No.10** The Chinese in Indonesia, the Philippines and Malaysia (Revised 1982 edition) — 'a well-documented and sensible plea'[14].

- **No.11** The Biharis in Bangladesh (Fourth edition, 1982) — 'a significant fusion of humane interest and objective clear-headed analysis'[17]; 'a moving and desperate report'[18].

- **No.12** Israel's Oriental Immigrants and Druzes (Revised 1981 edition) — 'timely'[8].

- **No.13** East Indians of Trinidad and Guyana (Revised 1980 edition) — 'excellent'[19].

- **No.14** Roma: Europe's Gypsies (Revised 1980 edition) (aussi en français) (also in Romani) — 'the first comprehensive description and analysis of the plight'[18]; 'one of the worst skeletons in Europe's cupboard'[14].

- **No.15** What future for the Amerindians of South America? (Revised 1977 edition) (aussi en français) — 'a horrifying indictment . . . deserves a very wide readership'[20].

- **No.16** The new position of East Africa's Asians (Revised 1984 edition) — 'a comprehensive analysis'[9].

- **No.17** India, the Nagas and the north-east (Revised 1980 edition) — 'India has still not learned for itself the lesson it taught Britain'[16]; 'a lucid presentation of the very complex history'[21].

- **No.18** Minorities of Central Vietnam: autochthonous Indochinese people (New 1980 report) (aussi en français) — 'perhaps the most vulnerable of all the peoples MRG has so far investigated'[18].

- **No.19** The Namibians (New 1985 edition) — 'excellent . . . strongly recommended'[22].

- **No.20** Selective genocide in Burundi (aussi en français) — 'a report exemplary in its objectivity, thoroughness and force'[14]; 'a most valuable report'[21].

- **No.21** Canada's Indians (Revised 1982 edition) — 'excellent'[1]; 'fascinatingly explained'[14].

- **No.22** Race and Law in Britain and the United States (New 1983 edition) — 'this situation, already explosive, is likely to be aggravated by the current economic plight'[24].

- **No.23** The Kurds (New 1985 report)

- **No.24** The Palestinians (Revised 1984 edition) — 'particularly welcome'[1]; 'a calm and informed survey'[16].

- **No.25** The Tamils of Sri Lanka (New 1986 edition) — 'a warning that unless moderation and statesmanship are more prominent, terrorism could break out'[18].

- **No.26** The Untouchables of India (Revised 1982 edition) — 'discrimination officially outlawed . . . remains as prevalent as ever'[18].

- **No.27** Arab Women (Revised 1983 edition) (aussi en français) — 'skilfully edited, treads sensitively through the minefield'[25].

- **No.28** Western Europe's Migrant Workers (Revised 1984 edition) (aussi en français) (auch auf deutsch) — 'compassionate . . . plenty of chilling first-hand detail'[14].

- **No.29** Jehovah's Witnesses in Africa (Revised 1985 edition) — 'a terrible fate . . . deserves widespread protest'[26].

- **No.30** Cyprus (New 1984 report) — 'excellent . . . unhesitatingly recommended'[42].

- **No.31** The Original Americans: U.S. Indians (New 1980 edition) — 'excellent'[12]; 'timely and valuable . . . well-researched and highly readable'[27].

- **No.32** The Armenians (Revised 1981 edition) (auch auf deutsch) — 'an able and comprehensive account'[18]; 'the hard historical information contained makes reading as grim as any that has passed across my desk'[16].

- **No.33** Nomads of the Sahel (Revised 1979 edition) — 'cogent and convincing'[18].

- **No.34** Indian South Africans (New 1985 edition) — 'outstanding'[9]; 'masterful'[48].

- **No.35** Aboriginal Australians (New 1982 edition) — 'standards of health, housing and education remain abysmal'[3].

- **No.36** Constitutional Law and Minorities — 'possibly the MRG's most important single report . . . it can hardly be faulted'[27].

- **No.37** The Hungarians of Rumania (aussi en français) — 'fair and unbiased'[14]; 'compulsive reading'[22].

- **No.38** The Social Psychology of Minorities — 'must be greeted with enthusiasm . . . extremely important'[13].

- **No.39** Mexican-Americans in the U.S. (también en castellano) — 'another excellent pamphlet from MRG'[28].

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- **No.41** The International Protection of Minorities — 'timely'[1].

- **No.42** East Timor and West Irian (Revised 1982 edition) — 'well-documented'[29].

- **No.43** The Refugee Dilemma (New 1985 edition) — 'the outlook appears to be a cumulative nightmare'[14].

- **No.44** French Canada in Crisis: A new Society in the Making? (Revised 1982 edition) — 'a readable narrative'[29].

- **No.45** Women in Asia (Revised 1982 edition) — 'women have often suffered rather than gained from development'[33].

- **No.46** Flemings and Walloons in Belgium — 'we have come to expect a high standard from MRG reports, and the 46th does not disappoint. Hopefully its lessons will not be confined to those interested in Belgium'[32].

- **No.47** Female circumcision, excision and infibulation: facts and proposals for change (Revised 1985 edition) (aussi en français, also in Arabic and Italian) — 'a tremendously good pamphlet'[34]; 'a horrifying report'[35].

- **No.48** The Baluchis and Pathans — 'sets out all the basic facts'[9].

- **No.49** The Tibetans (New 1983 report) — 'one of the best reports by the MRG'[2].

- **No.50** The Ukrainians and Georgians — 'a fascinating study'[12].

- **No.51** The Baha'is of Iran (Revised 1985 edition) — 'very balanced and informative'[13]; 'all credit to the MRG . . . timely and objective'[14].

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# Victims without a voice

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ISBN 0 946690 34 0

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