

# The Rights of the Child

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# The Rights of the Child



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### **Institute of the Brothers of the Christian Schools**

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# Introduction

Historians who have studied changes in mental outlooks tell us that our understanding of human reality comes about gradually: our awareness grows in a fragmentary and haphazard fashion; the explanations we find are provisional and fluctuating; we feel our way forward, and our understanding is never complete nor definitive. This is true of our understanding of childhood and adolescence – two stages in human life whose existence is recognised almost everywhere today. Awareness of them emerged during the course of history, in specific circumstances, in favourable situations, and in close dependence on the culture and traditions of a social group. It is in fact the social group which defines the role and value of each stage of life, inspired by a profound instinct of survival and transmission, and in obedience to the laws governing the species. Even if we think there are invariables in human nature, we have to admit that an understanding of this nature does not come about in an immediate and definitive manner. The form it adopts and the way in which it expresses itself develop both during the life of the individual and the succession of generations which give this nature a plasticity which is perhaps such as to modify its very definition.



At the present time, international organisations such as Unesco, Unicef, BIT and BICE are the forum where the great issues affecting the future are considered. Their task is to promote international awareness and an ethical framework for relations and exchange, and to facilitate peaceful cooperation between nations. At the same time, however, these organisations have to resist pressure from forces of opposing interests: on the one hand, those who wish to preserve their traditional views regarding life and social ties; and on the other, those who want to increase the standardisation of behaviour and reflexes. Today, the trend is to standardise. Dominated by the standards of the rich countries of the North, and by their individualistic and consumeristic approach, all countries are drawn as by a magnet to adopt this standardisation, which some confuse too easily with a new form of brotherhood of nations. This is the ideological context in which international organisations work; and it is in this context that the international Convention was born.

The Convention has now been signed by all countries except the United States of America. This genuine success was achieved in the space of 13 years, and it is something that calls for praise, because countries have given this text the force of law. But, does this mean that everyone speaks with a single voice where children and adolescents are concerned? And does this mean that certain national legislation and practices inherited from the past, have been amended, modified, suppressed? No, of course not. It is not that simple. We have to realise that the statute concerning children and adolescents could not exist without reference to other social statutes. While some praise the Convention for attributing so much importance to little children; others regret that these little children have been uprooted from their original society, and defined as entities in themselves, because, they say, it is the bonds of belonging which constitute them, mould them, and give them a name, independently of any universal theoretical definition.

The authors of the Convention were clear-thinking. They were aware of the difficulties posed by a text addressed to the whole world and speaking of a subject very close to our hearts: children and the future they give us. This text, born of the upheavals of two world wars, was drawn up by men and women with strong convictions, in touch with everyday reality, who were very careful to consider children and adolescents as unique beings, as well as active partners in the society which receives them. And to avoid being sucked into the arguments of the past, they accepted the challenge of looking at children and adolescents in global terms, in terms of the future - a future we have to prepare, and asked such questions as: "What place will children have tomorrow in a globalised world, children who are persons with roots, but who have still to acquire their freedom? How will they participate in a right and suitable way in a social context which wants them, acknowledges their birth and sees them grow up? While encouraging their overall development, how will society accept them in its midst so that they are active partners, capable, in their turn, of being powerful promoters of ideas, change and progress?"

This is a generous but daring utopia. As parents, educators and teachers, we know this: we know it from our daily experience at home, in the classroom, in the street. And so the Convention questions our learned reflexes and our mental habits, which are often lazy. This is exactly what the founders and foundresses of educational institutes did: they dared to affirm by their practices, which were ahead of their times, that little boys and little girls were neither animals, nor objects, not a work-force, nor a simple component of a family, but developing persons, gifted with reason, capable of making choices and decisions, capable of taking part in society in a degree suited to their age. The Convention, therefore, ought to enable us to question once more our practices and our ways of seeing things.

As Christian and Lasallian educators we may think we have dealt with this question once and for all, all the more so as we are heirs to three centuries of experience of working with young people and children. Paradoxically, however, this history, which has taught us a lot, is also perhaps a rut created by our excessively strong and too often repeated convictions. The Convention should lead us to take a fresh look at our sources, and to envisage a future in which the child and the adolescent will have a greater part to play in their own development and in ours.

In the 42nd General Chapter held in 1993, the Brothers from Asia drew our attention to this Convention (cir. 435, p 23), and then in 1999, Br John Johnston, Superior General at the time, appealed to the Institute in a letter that was widely read and commented on, to let itself be touched by the numerous sufferings of the children and young people of our times, and to set out on the path traced by the international Convention and by national and international organisations which fight for them and with them. The 43rd General Chapter of 2000 gave an immediate and reasonably enthusiastic welcome to this appeal when proposition 14 reached the Plenary Assembly. The General Chapter adopted the following text:

#### *PROPOSITION 14*

*In order that the rights of the child be considered as a major focus of concern for the Lasallian mission of education during the next seven years, each District, Sub-District and Delegation should include this question in its plan of action. It will appoint at least one Brother or Partner who will help it:*

- to cooperate with local organisations which work for the promotion of the rights of the child*
- to detect local violations of the rights of children;*
- to alert local authorities when children's rights are violated;*
- to ensure that its schools and universities teach and observe the rights of the child; to maintain contact with the secretariat for the educational mission.*

*This project will be evaluated periodically.*



Since then, things have started to move in the Districts of the Institute as a whole. In the last 2 years certain steps have been taken: the appointment of a delegate for the Rights of the Child in each District, congresses, information campaigns, activities involving young people, adults and parents, contacts established with regional, national and international organisations.

In the present issue of the Bulletin we offer an interim report and a working document to stimulate further effort, for it should be understood that the Institute's commitment needs to be increased and to be pursued to the point when it becomes something significant, and we are identified with the cause of children and young people, and, in particular, of those who are suffering.



### **The Bulletin contains two long chapters**

In the first we hear the voices of suffering children, and we read of the decision of the Institute, which has matured over these last few years

In the second, we see how the Institute has not remained inactive in response to the appeals of the men and women who drew up the international Convention, and we see some of the measures it has taken.

We hope you will make much use of this Bulletin and make it known to others.

The Secretariat for the Lasallian Educational Mission is at your disposal. It will be happy to receive any contribution or comment and, in particular, any suggestion regarding what we can do to affect those who make decisions, for we have to work at that level also.

We thank the authors of this Bulletin – those who wrote the articles and activity reports – and, in particular, Mr Alain Damiani, a Lasallian teacher and journalist, and the Publications service.

*The Editorial Committee*

# Conversation with Brother Álvaro Rodríguez Echeverría, Superior General

**Alain Damiani:** *The subject we are concerned with is the one you are most familiar with: a concern that goes back to the very beginning of your Institute...*

**Brother Alvaro:** The Congregation was born for children. Instead of thinking that John Baptist de La Salle was its founder, we should rather say that it was founded by the children. It was in them that the founder found his inspiration: the children are our founders. The Rights of the Child as stated in the international Convention correspond to a new need. Children have been marginalised for a long time, even in biblical history, in both the Old and the New Testament.

If this had not been the situation from the very beginning, perhaps there would have been no need to proclaim these Rights, and we would now be speaking of the rights of persons, and children would be included in these rights. It is because children were not recognised as persons that the need arose to define their rights as those of real people. On the other hand, the characteristics of children are quite different from those of adults, and so perhaps it is a good thing, from the pedagogical point of view, to speak of the rights of children. It can be said that today in society interest is focused on children. This is an ambiguous assertion, because as we know, children today are under great threat, perhaps more so than in the past. And so possibly our need to show concern for children and to do something for them stems from a guilt feeling.

**A.D.** *Something similar to what is happening regarding the environment: the sacralisation of nature because it is in danger of dying...*

**Br. A** I recently read an article translated from French in a review published by the Jesuit University of Managua, Nicaragua. It spoke of "sun-children". Nowadays in our



society, especially where it is most developed, in Europe, in the United States, children are the centre of interest, and that often means that everything is at the service of children, and this prevents them from living, from learning to cope with disappointments, difficulties and the problems of life. With that kind of education, children have no chance of developing. It is important

for the education of children to avoid adopting an attitude which, by making children the centre of everything, making them "sun-children", makes them incapable of suffering, of sharing with others, of coming out of themselves, of being open, of facing the problems of life.

**A.D.** *Is not this attitude the symptom, the proof of a dilution, a weakening of adults, cultures and societies as we know them?*

**Br. A** Yes, I think that it reflects a noticeable disorientation in families and in schools where no one any longer knows what to do; it reflects a lack of security, an uncertainty about what approach to adopt. Often, the solution is not to do anything: people and things will take care of themselves. This is not good for children who may take this attitude for indifference, or a lack of interest. It is probably better to express one's will even to the point of punishing children rather than say nothing, because if we do that, it gives children the feeling that they do not exist.

**A.D.** *One problem regarding the identity of adults, and quite a serious one, is that they no longer even know how to love precisely those whom they love..*

**Br. A** That is why I think that one cannot treat separately the Rights of the Child and the family and the formation of the family. The rights of children begin with the adults. It was said

during the last General Chapter that Lasallian universities must concern themselves with the rights of the child. One of the capitulants pointed out there were no children in the universities. He was quite right, but there are adults and professionals in the universities who will have dealings with the rights of children: the rights of children have their source in adults. These adults must be aware of the needs of children in order to have a relationship more suited to these needs.

**A.D.** *Do you not think that what children need, even more more than understanding on the part of adults, is above all to live among persons who really exist? I have always been surprised to see children grow up and become persons even though they come from a very poor background. And I always thought the explanation for their growing up lay in the solidity of the adults who surrounded them, adults who took less notice of the children than one might in so-called developed societies; for the existence and the strength of family and social ties guarantee the child protection and a sense of belonging, and provide a model. You are very close to your Indian friends in Guatemala. What do you think about what I have said?*

**Br. A** Yes, it is a real problem...This year, for example, I happened to visit 14 countries in Africa. My Latin American experience was confirmed and increased by what I saw in Africa, where children occupy a very importance position, a position also because of the number of children in each family. Children are the greatest gift heaven can give, even if the family lives in such great poverty that it sometimes prevents them from growing up with dignity. Children represent an asset, a great asset, and families, however limited their resources, show concern for their children.

At the back of my mind there are, of course, the Indians of Guatemala. Their children may seem oppressed by the adults, but this comes from the great feeling of respect which exists in this culture for the elderly: the authority of the grandparents, in particular, is recognised. It is a culture also in which traditions are transmitted orally. The mother, perhaps, has less influence than she has in the West, in Europe, for example. The mother remains very much in the background, and it is often the grandmother or grandfather who has the most important role in the education of the children. Basically, that is how it works: an attitude of respect, love, a relationship, always proximity...

Having said that, I think that what has been done in the West is enriching for everybody, because the develop-

ment of a greater awareness of the needs of children can help everybody whatever their culture. But the West, in its turn, must try to remain very open, and take and learn from other cultures, and from other dimensions of the needs of children. It must not only teach and impose, but also take and learn.

**A. D.** *Can we say that globalisation is dangerous because it is only the western model that is spreading and taking the lead?*



**Br. A** Yes, globalisation, which has such great potential, can stifle cultures which are weaker but which, like all cultures, have values to offer.

I think that globalisation should consist in a sharing of cultures and not in the imposition of one single cultural model. And regarding children, to understand who children are and how to relate to them, it is important to take into account cultural differences, and to learn from everybody. The point of departure is always to observe children and learn from them who they are and what are their real needs. Very often our attitude is that of a teacher who exercises his profession. It is just as important for us to be pupils and learn from children.

**A. D.** *Let us return to what you said about cultures, and how they all offer values. Do you think there is a commonly shared fund of values, of fundamental characteristics, of invariables, we could say, on the basis of which, some kind of universally usable statement could be made (such as the Convention on the Rights of the Child)?*



**Br. A** I think that situations vary. In Europe, for example, children need love, affection; they need parents who have a close relationship with them, but most parents work and are absent from the house every day. Also, families are very small, offering no possibility of relationships between brothers and sisters. This explains the great need, in Europe, for love, deep affection and interest in children.

Elsewhere, in Africa, for example, the main problem is poverty and malnutrition.

In other countries there are conflicts, the drama of child-soldiers, and victims of the war.

Children depend very much on the state of the society in which they live, hence the importance of knowing this society well in order to understand the needs of the children, their priorities, their problems, with a view to resolving them. So, there are variables...

*A. D. My question was concerned really with what we can learn, by observing the various situations faced by children in the world, about the fundamental needs of children, whatever the situation in which they live.*

**Br. A** Yes, we can learn a great deal about the fundamental needs of children.

It is not enough to satisfy certain needs, such as material ones. Children have other needs, such as the need to affirm their personality, to acquire self-awareness.

I think that their first need is that of affection, before everything else. And security, living without fear. The need of a reassuring family. We adults need to take into account children in all the aspects of their life - their body, heart, mind, soul, the whole range of their feelings, their emotions..

*A. D. And also the imaginary dimension...*

**Br. A** Yes, this dimension is important when they are so young, and so are their dreams, the imaginary friends they invent for themselves and with whom they speak.

The dimension of the imaginary is important. We live in a civilisation in which the image is more important than words and writing. This age is, in this sense, much more accessible to children who live above all on images. The new factor is that, more and more, we adults too live on images.

*A. D. Is there not a danger of depriving children of adults who live a more real life?*

**Br. A** Yes, more and more adults model their lifestyle on that of young people, as well as on the fashions they fol-

low, their interests, what they speak about. Adults are becoming more and more adolescents and young people. There is a lack of balance: one should live to the full the current stage of life, with all its possibilities. But there is a positive side to this: we can learn from children and young people to be open-minded about life, to keep our illusions, in the current sense of the term, our dreams and our positive utopias.

But at the same time, an adult must assume his own values, those of his age, with realism and wisdom.

This is what "modern" adults often deprive children of. The adult world has lost its dimensions. That is why elderly people are more formative for children, because they have lived through, and gone beyond the stage of their life when they wished to identify with young people. This has been very striking in my experience: it is often easier for children to relate to an elderly person than to a middle-aged one. Especially where adolescents are concerned.

*A. D. A sort of africanisation of the family: the grandparents become the real educators of children...*

**Br. A** They have the time, they can give their time, they are always there, and they keep a certain distance..

*A. D. And the Christian aspect of an education? What has the Christian to say?*

**Br. A** Personally speaking, the two sources which inspire me are the Gospel and the Founder. On the one hand there is the Gospel. We see Christ in his relations with children, children in a society, as I have said, in which they did not count. For Jesus children are important, to the point that he calls on us to become as little children by imitating their virtues and especially their trust in the Father. Trust is a fundamental Christian attitude. It is essential in this world where there is very little trust in others, and where competition prevails.

And there is also John Baptist de La Salle's reading of the Gospel. In his Meditations he constantly says "touch hearts". We have to touch hearts, it is not simply a case of filling heads. He says: "Your mission is to touch hearts", and to do this, Christians, Brothers, Lasallians have to be in contact with God and be totally receptive to children who are God's sacrament.

Children must be God's sacrament for adults. The Founder makes a very meaningful statement when he tells us we must adore God beneath the poor rags of the children we teach. The act of adoration is the greatest we can make. For the Founder, meeting a poor child is a

sacred moment in which we can adore God. What I find marvellous is that touching hearts is the most important act we can perform.

On the other hand, the Founder invites us to have the firmness of a father and the tenderness of a mother: he invites us to be a father and mother for the children.

**A. D.** *Firmness, a tender strictness*

**Br. A** Yes, the Founder speaks of the firmness of the father and the tenderness of the mother. The Christian educator in his relations with children must have this dual dimension. Spiritually speaking, children are icons which invite us to have a trustful relationship with God, to purify our intentions, to be more disinterested and not to have the kind of adult relationship that is so often characterised by hidden interests.

**A. D.** *I note that in all you say, you never treat the aspects of a problem separately, whether it involves children, culture or teachers: instead you always try to treat them together as a whole. It is never this or that, but this AND that, that we have to do and be concerned about. Is this compatible with the extreme radicalisation, even in its presentation, of the Convention of the Rights of the Child?*



**Br. A** As I said, I think that, if there is so much talk today about the rights of children, it is because something has not been done. Under normal circumstances, we ought not to be talking in terms of rights: we should be speaking about children as persons. It is the same for the Rights of Man. If the need was felt to talk about rights, it was because something had gone wrong. Rights are a remedy; they are a recognition of failure. A French film comes to mind, in which a family adopts a lit-

tle Peruvian. To begin with, the little French boy hated his adopted brother, but at the end of the film it is he, and he alone, who understands him. And the film ends with a quotation from Albert Camus: "My only duty is to love".

I think that where there is love there is no need to speak of rights.

In many regions of the world – in Africa, Latin America (especially Indian), Asia and in other parts of the world also – little or nothing is said about the rights of children because there is no need to do so: children have their place, they are recognised for what they are, and above all, children have their share of affection.

But nothing is simple: these peoples too have their problems. All cultures need to be purified, including western culture, which cannot claim to be the one and only model. Trying to impose a single model, that is the problem with globalisation. For me, globalisation means communion; its value lies in inter-cultural communion, the meeting of cultures, learning from one another. This is the great value of an international Institute such as ours, which makes it possible to

share different cultures, different nationalities, and to enrich one another. The last thing we should think is that there could be a single model. The search must go on, there must be dialogue.

**A. D.** *And your Institute which has already done much in this connection seems to have decided to go even further. This is very encouraging for all those men and women who work side by side with you.*

**Thank you Brother Alvaro**

## **Chapter 1 Cries... a decision**



Throughout its history, the Institute has always been stimulated to act by the situation of the children and young people it encountered on its way. It is always their CRIES that move it deeply and lead it to make courageous decisions.

The University of Aravaca, Madrid, conducted a survey among the local children. Today it lets us share in their sufferings, harsh sufferings that surface and emerge from clumsy and naive but highly evocative drawings and paintings. They reflect other sufferings which are hidden and not expressed, but which are all around us every day.

In response to these undeserved sufferings, this chapter offers two documents which corroborate the decision of the General Chapter of 2000 and the wish of Brother Superior which we have just read.

The first is a short extract from one of the pastoral letters written by Brother John Johnston when he was Superior General. In 1999, he made a very strong appeal. Many people took it to heart.

The second is a letter from the Secretariat for the Lasallian Educational Mission written in October 2001. It recalls the spirit of our commitment and suggests some forms of action, several of which have already been adopted.

# The defence of children, the Kingdom of God and the Lasallian Mission

## Thesis of this letter

The thesis of this pastoral letter is that the situation of poor children in today's world is an unspeakable scandal and that our Lasallian charism invites us to make solidarity with neglected, abandoned, marginalized, and exploited children a particular focus for our mission.

This position is consistent with that of the Pope when he challenges consecrated men and women "to show concern for what the world neglects, and to respond generously and boldly to new forms of poverty through concrete efforts, even if necessarily on a small scale, and above all in the most abandoned areas." (VC, 63) John Paul II wrote those words while reflecting on the impact that declining numbers are having on current apostolates and even on the future of some Institutes. His context explains the phrase, "even if necessarily on a small scale." Yet viewed in the context of "shared mission" - and our force of 67,000 Lasallian teachers and many thousands more of other partners - our response to the needs of poor children can be "on a large scale."

The Declaration says that the Institute will find in its attentiveness to the needs of young people today "an indispensable source of renewal." (Decl. 23.1) We Brothers of the Christian Schools - and all other members of the Lasallian Family - should be in solidarity with disadvantaged children on the local, national, and international level, clearly identified with their struggle, and creatively and effectively active for them through our mission of human and Christian education. This focus can enable us to make a major contribution in the quest for justice for children. At the same time it can be a significant source of renewal of the Institute and of the Lasallian mission.

Sister and sociologist Patricia Wittberg says that "if there is to be religious life within the Catholic Church in the twenty-first century, then its basic charism - the fundamental definition of what it is and why it exists - must resonate with the deepest anguish, discontinuity, or strain" of at least one aspect of contemporary culture. (Pathways to Re-Creating Religious Communities, p. 77) I am suggesting that one aspect of contemporary culture that provokes anguish, frustration, and anger is that of exploited and neglected children.

Experiences of the past few days confirm my position. Italian police have discovered the existence of child slaves. They are undocumented children who entered the country clandestinely with adults who have become their "masters." Several nights ago Italian television projected an extraordinary film on the life of Iqbal Masih, the young Pakistani whose destitute parents sold him into child bonded labor at four years of age. He escaped at the age of ten and began to speak out against child slavery and for freedom of all Pakistani children. In 1995 persons profiting from this aberration brutally murdered him at the age of twelve years of age. Such situations - and so many others are sources of anguish, frustration, and anger.



We Brothers of the Christian Schools should be in the vanguard of the struggle for justice for such children. This focus can give us new life. It will, I think, attract to our Institute brave, generous, idealistic young people who believe in Jesus Christ and are ready to follow him as consecrated religious.



## Solidarity with Poor Children

Solidarity with poor children is a concrete way of responding to our vow of association for the education of poor children. Solidarity gives all of us a way of living our fourth vow, whether or not we are in direct contact with poor youth. It is not enough that some Brothers and Lasallian partners educate the poor. All Brothers and all Lasallian partners, whatever their particular ministries, must be in solidarity with the poor. "It is important that every Brother make his own the decision of Saint John Baptist de La Salle to go to the poor with the heart of a poor person." "Whatever their specific educational commitment, the Brothers will want always to be in solidarity with the poor and with the activity of the Institute that favors the poor." (Decl. 32.1, 34.2)

Calling solidarity a Christian virtue, John Paul II defines it as "a firm and persevering determination to commit oneself to the common good; that is to say, to the good of all and of each individual, because we are all really responsible for all." (*Solicitudo Rei Socialis*, 38, 40) This letter is a call to all of us - Brothers and partners - to commit ourselves with firm and persevering determination to the good of children who are victims of human depravity.

We express solidarity with poor children when, by word, action, and quality of presence, we manifest to them profound love and reverence. In solidarity, we strive to help them grow in "resilience." Experts on the care of disadvantaged children describe resilience as the capacity to do well in spite of stress or adversity. Resilience resists destruction of the human spirit. It cultivates the capacity to construct a positive life in spite of difficult circumstances.

Nevertheless, concern for the needs of individual persons and apostolic activities in favor of the poor "can never dispense with efforts to establish a just social order aimed at the elimination of poverty." (Decl. 30.3). Consequently we have to cultivate the consciousness of our students by teaching them the social doctrine of the Church and by encouraging them "to participate effectively in the struggle for justice and peace." We are obliged to help them "become aware of human suffering in its concrete forms" and to grow in a "sense of universal brotherhood and sisterhood." (Decl. 32.1, 2).

Solidarity with the poor - poor children especially ought to be evident in the mission statements of every district, school, and apostolic center and in their annual programs. It must be evident also in the community annual program and in our personal programs. Moreover, solidarity with the poor and with neglected children ought to become a dominant and determining factor in the decisions that Visitors, district chapters, school boards and administrators, religious and educative communities take regarding the present and future mission of the district. (Decl. 34.2,4)

*(From the Pastoral Letter of Br. John Johnston, Superior General, January 1999)*

# The Rights of the Child

## Letter from the Secretariat for the Lasallian Educational Mission, October 2001

The lasallian international year for the Rights of the Child (0 to 18 years of age) is intended to bring about the present realisation of an undertaking which, on many points, has been that of lasallians for a long time. For us it is a way of reawakening our personal and collective energy and to reactivate our support for the people and organisations who are fighting for the Rights of the Child. This lasallian international year is clearly just a starting point because the benefits become apparent only after a long time. The international Convention will certainly scrutinise our thinking and practices. It is no longer only a question of 'protecting' or 'working for' ... but rather of entering into dialogue with a PLAYER and 'working with'.

In a way we are already going along this road, but it is good for us to look beyond our customs and join other participants. This Letter, written by several people, is intended to show the direction of our action.

*Br. Nicolas Capelle  
MEL Secretary*

## I. At the service of the child and of youth

*By Philippe Richard (U.C.L., Lyon, France) and Br. Othmar Würt (Neuchâtel, Switzerland)*

### A History

In Mr De La Salle's day there was no talk of "Human Rights", and still less "Rights of the Child". In the language of the time there was an idea of particular attention to the poor. Such attention was fleshed out in observing the realities of XVIIth century society. Everyone knows that this society suffered from very great social inequality, an inequality of which proof lay in the catalogue of complaints drawn up in the following century, a few years before the great Revolution of 1789.

John Baptist De La Salle's special concern for the poor denotes a spiritual attitude first of all. It emphasizes the strong, loving regard for a section of the population which was in need. Today we would say that it is "humanitarian", meaning that it is interested in humanity in distress. In this respect, it is following the Christian tradition of love of one's neighbor, which is itself an image of God: "what you do to the least among you, you do it to me".

It also reveals the Lasallian spirituality of relationships with oneself, God, others which one is aware of in the formula "Faith, Service, Fraternity". Special concern for the

poor is no more nor less than a mission which does not arise out of us, but is "a gift of God".

Deep concern for the poor does not come by itself. We need to be called in various ways, to rub shoulders with the poor, and going so far as to dare, gradually, to be immersed in the world of the poor. This is precisely what John Baptist De La Salle did. This step, spread over a period, caused it to become for him not only an intellectual fact, but a moral obligation of conscience as well.

### Present commitment

The question facing us today is to recognize the paths along which this spirituality which we share is leading us. If opening schools by the first communities of Brothers can be seen as putting into practice the special concern for the poor, we must find an up-to-date means of putting our commitment to the service of the poor through education into practice.

This is when the idea of human rights and especially rights of children becomes visible. With the onset of the industrial society, the idea of right appeared little by little and asserted itself. The declaration of human and civil rights in 1789 followed by the drawing up of Laws as well



as the declaration of great Public Freedoms at the end of the XIXth century are so many stages which marked the movement of codification of rights and duties in France. The peak of this movement was reached in 1948, with the creation of the UNO and the proclamation of the Universal Declaration of Human Rights, the first list of human rights with universal appeal. This Declaration includes in particular, an article 28, which states that all people have a right to social and international order so that the present rights and freedoms can be applied.

The contents of the commitment would gradually become precise: civil and political rights, economic, social and cultural rights, collective rights. From the universal the commitment would be extended to the regional level. It would take on more precise forms, better adapted to the regional political cultures. Then, certain subjects would change to more specialized commitments: fight against discrimination, fight against torture, etc. Lastly, certain classes of people would gradually benefit from a special protection, regarding their situation as potential victims: workers, victims of armed conflict, women, and what concerns us, children.

In 1989, the United Nations proclaimed a Convention for the rights of the child. This was greeted at the time as a major advance in human rights. This text is the culmination of long preparatory work, in which the BICE (Bureau International Catholique de l'Enfance) played an important part (cf. infra). It bears witness to the



evolution of the image of the child in society. In fact, "if the child as a weak human being to be protected as bequeathed to us by the XIXth century is very present there, the Convention shapes a completely different image of the child, that of the future citizen, placed at the heart of a system of rights and responsibilities, of practical citizens who foreshadow their adult life".

The Convention had been preceded by a first Declaration with five points (1924) entitled "Declaration of Geneva", then by a second Declaration with ten points in 1959, in which the wording of a scarcely juridical right appeared, but which is very close to Lasallian spirituality touched on above: the right to love. We can now pause a while to call to mind the general dynamic of this Convention which allowed the international right of the child to pass from a declaratory statute to a binding one.

The Convention on the rights of the child contains 54 articles and it is intended to promote a truly legal statute of the child, itself promoted to the level of subject of rights. The Convention affirms the basic principles, among them being the right of the child to a family, or the necessary taking into account of the higher interest of the child. We will come back later to these two principles around which we can develop our proposals for new work. Beyond these principles the Convention contains measures which bring a change of perspective. The need for protection is no longer at the heart of the plan, even though a certain number of rights in social, cultural, eco-

The **BICE** was founded in 1948 to answer the call by the Pope in the Encyclical *Quemadmodum* for children who were victims of deportations, sickness and famine during the second world war. It is the brain-child of Father Gaston Courtois, Director General of the UOCF (Union of Catholic workers in France) and several chaplains of the *Coeurs Vaillants* (Brave Hearts) movement. Many Christian movements in Europe and beyond were consulted. The founding Congress of BICE was held in Paris from 17th-19th January 1948 under the auspices of Cardinal Suhard and the Nuncio Roncalli. Priests and lay people from eight countries were present and representatives from four organizations: the Pontifical work of the Holy Childhood, the Salesians, the Brothers of the Christian Schools, and the Jesuit review *Lumen Vitae*. Since then it has been unceasing in extending its action to the most disadvantaged children on the earth irrespective of belief or denomination. BICE stresses the psycho-social and spiritual needs of the child: self confidence and spiritual development. It works in the medium and long term and makes each child the actor in its own development. The Institute of the Brothers of the Christian Schools is a founder member and holds the vice-presidency. (<http://www.bice.org>)

conomic and penal matters refer to it. The most salient innovations concern the measures relating to fundamental freedoms: the child is recognized as having rights of opinion, expression, thought and association.

The text, it is agreed, breaks new ground by foreseeing a system of control of application. Article 43 of the Convention sets up a Committee of the rights of the child, charged with examining the reports of States with regard to the measures of application taken in the law of the country. These reports are examined and discussed by a group of ten independent experts. The NGOs, with a consultative statute under the United Nations, have the responsibility of producing alternative reports, which "complete" (not to say contradict) state reports which are often too flattering. This is the case with BICE for example. Taking into account the importance given to participation of the NGOs at the heart of the Committee of the Rights of the child in Geneva, the question of a specific presence of the Brothers of the Christian Schools, who represent almost a million young people in the world, becomes very pertinent.

## Lasallian intention

The General Chapters of 1966 and 1976 asked the Brothers to work for the promotion of Justice and Peace (Rule, §7, §14 which invites the Brothers to strive resolutely through education for the promotion of justice and human dignity). This concern also drives the activity of the Brothers when it addresses a more comfortable social class. These two Chapters also made the Brothers more aware of the situations of injustice in which the poor are often victims. So it is in §40 that we read that "the Brothers prepare their pupils for creating more just relationships and help them to commit themselves effectively to action for justice and peace".

From the time of its last General Chapter, in 2000, the Institute of the Brothers of the Christian Schools has made the question of the rights of the child a central



plank for work and reflection. It is a priority and has been put to all the districts. A document entitled "Associated to answer the challenges of the 21st century" takes up these avenues of work and suggests directions. In the paragraph entitled "Matters of educational urgency", can be found a certain number of proposals referring to the rights of the child:

1. The Brothers and their Partners need to be more aware of the contents of the UNO

Convention on the rights of the child of 1989;

2. Putting them into practice should be adapted to local conditions;

3. The lasallian educational mission should be directed towards the children whose rights are not protected;

4. The answer of the Brothers and their Partners to the demands of the Convention should be made with an evangelical perspective.

To give these directions a specific content, the document suggests that "the rights of the child should be considered as an urgent aspect of the lasallian educational mission for the next seven years; that each District, sub-District, Delegation should include this theme in its plan of action for which at least one Brother or partner would be named who would help"

– to collaborate with local organizations who are working for the promotion of the rights of the child;

– to identify violations of the rights of the child in its immediate area;

– to alert the local authorities when the rights of the child are infringed;

– to be vigilant about the awareness and putting into practice of the rights of the child in its schools and Universities;

– to keep in touch with the Secretariat for the Educational Mission".

The rights of the child represent an excellent way of raising the awareness of the members of our educational communities to the lasallian educational plan, and further, to our evangelical plan. What do the rights of the child represent and what do they speak of?

On reading the first part of this text, we become aware with greater or lesser definition potential situations of violation of the rights of the child such as lack of a civil state, separation from parents against their will, privation of family environment, trafficking in and selling of children, lack of freedom of expression, ill treatment, all kinds of exploitation including sexual abuse, slavery, torture, lack of medical care. So, the rights of the child, as they have been formalized by the Convention of the United Nations, represent the sum of the sufferings and lack of attention towards children, all forms of culture and levels of economic and social development. Beyond that, this Convention reveals the face of millions of children across the world who are suffering in a thousand and one ways, and always find themselves unable to act.

Every member of our educational communities (teaching and non-teaching staff, pupils and parents) should be brought back to the Lasallian Educational Project by this attention to the poor re-echoed in the demands of the promotion of the rights of the child. Experience has

shown that in our establishments, many teachers (to mention only them) are unaware of this Lasallian Educational Project, and know very little of the life of the Founder and his spirituality. How can this lasallian spirituality and commitment to the educational service of the poor be lived in these conditions? The rights of the child represent a sufficiently open dialogue to allow it to be heard by the greatest number with excellent reception. By calling to mind humankind (the child) and its anguish, and by laying out the outlines of a more just world and more respectful of human dignity, by speaking of equality, protection, well-being, health, safety, inviolability of the human person, solidarity, co-operation, responsibility and whole development of the child, the rights of the child will point the road which links up with the Lasallian Educational Project. What common values there are between the rights of the child and lasallian spirituality! : What team work for announcing the Word! To make our educational communities more aware of the rights of the child comes back to starting again on the path of values and sense, without in any way having to impose on the members of our communities an act of Christian faith. From this point of view, the campaign of raising awareness of the rights of the child could prove to be a real opportunity for a renewed explanation of the lasallian commitment to the service of the poorest.

## II. Some points to bear in mind

*Br. Diego Muñoz, Secretary for Education, District of Venezuela*

It is essential to grasp properly the full meaning of the Convention. It goes far beyond the simple protection of the Child and the young person. Through an exhaustive, progressive and prioritized presentation, one which is consistent with the rights, it bestows on the Child and the young person a role of subject and player. Many attitudes are brought to evolve because of it.

The main aspects which will help our understanding of the new international approach are as follows:

A) The child as the possessor of rights: The Convention assigns specific rights to the child and adolescent but not special exclusive rights. The adjective 'specific' implies a strengthening of the rights held by human beings no matter how old they are, and adapting them to children and adolescents according to the state of development

they have reached. They may be grouped into four categories:

– The right to survival: right to life (art 6); to health (art 24); to a sufficient living standard (art 27); to social security (art 8); to protection in armed conflict (art 38); also, that parents be given the help they deserve to bring up their children (art 18).

– The right to development: right to education (art 28 and 29); access to information (17); to the preservation of their identity (art 8); to a name and a nationality (art 7); not to be separated from their parents (art 9); to freedom of thought, conscience and religion (art 14); to recreation and culture (art 31); protection of mentally or physically handicapped children (art 23); protection against abuses of the penal system (art 37 and 40);

against sexual abuse (art 34); against the selling of or trading in children (art 35); against the illicit use of drugs (art 33).

– The right to sharing or participation: right to freedom of expression (art 13); to express opinions and to be listened to in matters which concern them (art 12); freedom of association and the right to hold peaceful meetings (art 15); the right to undertake an active Lasallian educational project within society in general.

B) The greater interest of the child: this principle is basic to interpreting and applying norms for the child and adolescent, and establishes obligatory lines of action in all aspects of society and sets limits to personal interpretation in their accomplishment.

C) Absolute Priority: children come first; therefore it is essential to cater above all to their needs and basic rights. This follows from children's intrinsic value, since they are human beings at a specific stage of development, which makes them completely human in every stage of their growth; moreover they have value prospectively, because all children are the continuation of their family, their people and of humankind.

D) Sharing: In order to make children's legal rights effective, it is necessary to ensure full sharing by and control of persons, families, organized societies to which children and adolescents belong as well as of children themselves. Only by following this principle will it be possible to create effective means to enforce and guarantee the Rights of the child. Groups responsible for this are the State, the Family, the Community.

E) The fundamental role of the family: The family is privileged as the natural and primary means of guaranteeing the development and protection of the child and adoles-



cent. Parents have the primary responsibility for their children's care and education. To ensure this, the State must give families the assistance they need to fulfill their responsibilities. Help given to families is help given to the child. Therefore this principle avoids measures which separate the child from its family, in the broadest sense of the word 'family' which includes its closest relatives.

We are committed to being aware of the Convention, to acting on it correctly in the family and school and to choosing from among ourselves persons who will cooperate with one another in the public defense of children whether they are in Lasallian institutions or in educational centers near our own.

### III. What needs to be done?

Each country, each region has a culture, traditions and a way of thinking which, in the course of time, have shaped a personal and collective approach to the reality of the child and the young person. Societies are very different on this point.

As lasallians though we can suggest several possible avenues of commitment.

#### 1. Know our national or regional reality.

That means: contacting the national or international bodies which are working on the topic. In each country which has signed up, a government group is working solely on the Convention, its application, its consistency with the national laws. Each country has had to face

up to the Convention. It is useful to know what reserves your country has set aside for ratifying the Convention and why.

Furthermore, it can be very worthwhile to contact specialist jurists who are reframing national laws or are members of the body supervising what each country has had to put in place.

This first step is important. It ensures one's participation in the long term and in the structural changes because the defense of the Rights of the Child is made mainly in the juridical field. We have to be there.

In certain countries the municipalities have all the representatives of the Rights of the Child. We could be there in a systematic way, consistent with a district plan.

## 2. Make aware and form.

The Convention is hardly known among us; we think that our ordinary educational commitment is sufficient. It certainly has its importance and shares in the defense and promotion of children and young people. It can, however, receive new blood in the Convention procedure and can be enriched by a universal consensus.

It seems very normal to suggest the organization of a cycle of improving awareness of and formation in the rights of the child to the profit of the members of the educational communities. As this effort in increasing awareness is founded in lasallian spirituality, it ought to concern all members of the lasallian family: communities of Brothers, establishments, bodies of lasallian formation, etc.

## 3. Know the needs

We can go about this work of finding needs within each of our establishments, but also outside them, case by case, in order to bring adapted answers (for example, search out the youngsters who do not eat in the morning or at midday;

those who arrive tired in the morning because they work before class or late in the evening; those who are responsible for the family; those who carry burdens which are too heavy to speak about...).

It is, though, equally proper to draw up a state of the more general areas of needs of young people within each of the Districts, in the form of a report. Such a locating is written into the logic of proposal 14 already quoted: "to identify the violations of the rights of the child in the immediate locality". The proposal speaks in terms of violation, but to start with it may be easier to speak in terms of locating needs.

In this respect it can be stated that the Australian lasallians have worked remarkably for 12 years with the telephone line Kids/Help Line which is open 24 hours a day: 80 operators receive 30,000 calls a week from all over the continent!

## 4. Participate in the restoring of self-esteem

Studies have shown how certain youngsters who were among the most disadvantaged and excluded underwent real narcissistic suffering: who am I that society does not respect me, and does not give me a chance? Living in difficult areas, often from immigrant backgrounds, these youngsters, feeling excluded from society, with no self-esteem, end by dropping out of school at an early age. They see no future for themselves, and quickly descend into drug-taking, delinquency, etc. Some of these young people are in our establishments. The narcissistic suffering can also stem from painful family situations: who am I that my parents take so little account of me?

These young people must



be helped to regain their self-confidence and to raise their self-esteem above their sufferings and their frustrations: "you are so precious in my eyes". This task requires among other things that members of the educational community should be trained in the techniques of resilience. To see a child through spectacles of resilience helps us not to reduce him to a problem, never to make "a case" out of him, but to reveal and develop his potential, to use it to help him to rebuild his life. It is to be hoped that there would be at least one person, trained to listen to the young, present in each of our establishments.

## 5. Comfort the families

To help the young recover their self-esteem can also mean helping their parents to face up to the new challenges whatever form they take.

There lies a real urgency and the Colloquium 'The Families' has already given possible lines of action (cf N° 245 of the Bulletin of the Institute p. 14-17).

Moreover, why not go further down the little known road of "schools for parents" which would offer parents who wished a place for reflection where they would be helped to solve one or other problem? The lasallians of Andalusia in Spain have a lot of experience in this.

Ireland has provided educators to ensure the link between college and family. Brothers are working among them.

## 6. Help young mothers in distress

Article 6 of the Convention declares that 'every child has an inherent right to life'.

This article has been the object of discussion. We are going further by saying that 'the unborn child has a right to life'. It is a great debate in which we have very little



presence; and yet we must take our place there, respecting personal decisions.

Lasallians have developed very conclusive initiatives for young mothers seeking their bearings and immediate help: in France the teams of Br Auguste Thérond give information, find accommodation, listen and give legal help; in Australia lasallians have opened a day centre and a crèche for 25 mothers and a small residential centre for 11 mothers and their babies.

It is a vital stage for a welcome worthy of the unborn child or already born.

## 7. Promote courses of sexual and affective education

It is often in the years at college, high school, university, higher education that convictions are formed about loving relationships, respect for partners, commitment as a couple, responsible parenting... a whole human ecology waiting to welcome the child.

In the Cameroon a project of long duration has been organized by Brother Roque Delud.

We have a serious educational and Christian responsibility in these matters. What are our policies in the educational establishments and in the district? What process have we in place? With whom?

## 8. Promote the education of girls

This is a great international concern.

For two reasons: firstly because developing countries, bogged down with financial problems, overlook the formation of girls; then because it is proved that lasting social changes, particularly in these countries, are the result of patient, specific, determined action by groups of educated women.

We see a good example in India with the work of Brother Sebastian and his teams who work with 10000 women.



An estimated 78% of women in Afghanistan cannot read or write. Worldwide, an estimated 580 million women and girls cannot read or write.

With reference to our local situation, what must we decide?

## 9. Put culture within the reach of the most disadvantaged groups and those who are excluded.

This is exactly what the first Brothers did, in company with John Baptist de La Salle in Rheims, Rouen, Paris and elsewhere. Our schools are certainly fulfilling this mission in part today, by admitting young people of all sociological-professional categories and offering them formation in general, technological and professional teaching. In these schools, though, we must make these young people more welcome, improve the ways of helping their education when they have a great deal to catch up, or are excluded from the educational system or are having difficulty in integrating socially.

In certain cases a good quality boarding school can be a good substitute for a deficient family life. It is true that more and more social educators prefer to leave young people in the family. However, it has to be admitted that sometimes the youngster needs to rebuild his life in a more peaceful and structured environment. The lasallians of the Balearics and Australia have pondered this question.

Equally, a welcome can be arranged for young members of social minorities who are often victims of discriminatory practices: travelers, youngsters in the suburbs, young who are handicapped, children who are in hospital for long periods, youngsters in prison... For each of these groups there can be one proposal or another adapted for teaching or accompaniment. The lasallians of New Zealand have adapted for the numer-



ous minority groups they receive in their three establishments: as also the lasallians of Papua-New Guinea, of Cameroon. Examples could be multiplied from Bolivia, Guatemala, Colombia, India, the Philippines, the Ivory Coast, Italy, Palencia in Spain...

There are some prophetic actions seen occasionally, such as the uprooting of an establishment in the town centre towards a suburb or the opening of small primary schools as the lasallians of Turkey have done voluntarily with their eight recent elementary schools.

Some help and school support by associations can certainly be easily started and responsibility accepted and maintained by an establishment (not simply on a financial level, but a human one too: calling on the older students for some teaching, on teachers for organizing, etc.) Facilities of this kind exist in France, Belgium, California with the Leo Center, and elsewhere.

## 10. Make basic experiences happen.

Before becoming someone in the town, the child needs to grow, to be surrounded by adults who suggest aims and plans. The Convention certainly gives the family this role in education, but the young person - especially the most disadvantaged - must complete family support by basic experiences outside the family circle. This young person must be urged on, called upon at his/her liveliest: that is done by projects. taking risks, an appeal to share in, to his/her own strengths.

The network of San Miguel Schools in the United States has gambled on this vital dynamism. And it is working!

## 11. Educate for solidarity, for social justice and peace.

Finally, all that has been said would have no meaning if a true education for solidarity, social justice and peace were not at the heart of our establishments. Education for solidarity represents the corollary of all pedagogy based on

the welcome of the most disadvantaged young people: what use would it be to pay particular attention to the poor without at the same time educating the body of pupils we receive, to solidarity with them? Particular attention to the poor and educational service of the poor, the promotion of rights of the child and respect for his dignity must not be written into a vertical structure of the exchange, which would amount to no more than a form of outdated paternalism. We must be constantly seeking a horizontal exchange. This horizontal exchange means that if our attention is attracted by poverty, it must also be attracted by a solidarity which we are edu-

cating towards. Poverty is not solely a measurable objective reality, it is also and above all the object of a struggle and a fight to make this evil disappear on a long-term basis.

What programs and processes are we developing in the educational centers? What projects of solidarity are we suggesting to the young people we live with? In these areas the work being done by inter-district exchange groups (France, England, USA with Asia, Africa, Central America...) bear lasting fruit in the minds of the young people and adults who benefit from it.

## Conclusion

While finishing this letter written by four people, I want to stress five aspects of this campaign for the Rights of the Child.

a) I have met Brothers and Partners who were annoyed by this campaign insisting on Rights. I was told: 'what about the rights of adults, of teachers? and the duties of the child?...' This annoyance can be understood and sometimes has good reason to be expressed. We must, though, look further on. In fact as you go through the Convention you realise that the title **Rights** of the Child does not do justice to the philosophy of the text. A title which would encompass it completely would be **Responsibility** of Adults. That is where we must begin. It opens with our responsibility; then the Rights of the Child; then the **Duties** of the Child are put down when he has understood he is welcomed and respected. We must not turn the process upside down.

b) I notice that our concerns are very similar to those of BICE, with which we are very closely associated. BICE stresses the psycho-social and spiritual needs of children: education, family environment, sense of responsibility and education as citizens, self-confidence and spiritual development. It has also greatly developed the concept of resilience.

c) This campaign is envisaged for 2001-2002, but it is very evident that a continuous commitment is needed in order to bear fruit. This is also the sense of other campaigns foreseen by the circular N°448 p.29. You will notice that the following campaigns are seen as a

strengthening of this campaign for the Rights of the Child: the approaches are different.

d) There is one question. Once the districts have done work according to their local situations, should we take an international symbolic and political initiative? We will certainly have to discuss it with the delegates from the different districts when the time comes.

e) I would like to finish with a reflection I heard in Madurai, India.

"When we were speaking about the Rights of the Child, ten years ago, we did it in a context of demands, and aggressively. Today we have left that attitude behind. Now we are doing it in a calmer way as a celebration of life. It is not now a question of fighting but of making people understand that every human being, and particularly the Child, is a gift of life, a gift to the whole of humanity and that we have the sacred duty of allowing this fragile plant to grow, to attain its full being, to go to the end of its celebration of life in itself; and we have to receive the present which it makes of its intelligence, its liberty, its responsibility, its zest for life.

To fight for the Rights of the Child is to celebrate the Life in it, but also to celebrate the Life in us. That is what the celebration of Life means. Everyone can understand that."

*Br. Nicolas Capelle*  
*MEL Secretary*

# Le cri d'un pinceau

## The value of art and drawing as a therapy for and indicator of child abuse

Béatriz López Romero, Professor of Art Therapy, CSEU La Salle, Aravaca, Madrid

From November 19 - 23, 2001, the reception area of the La Salle Advanced Center for University Studies was transformed into an exposition hall where one could see paintings and drawings done by children and adolescents who were victims of abuse. The exposition exhibited thirteen drawings by children who suffered physical, psychic or sexual abuse. Monsters, ghosts, skulls and devils had been drawn. These represented times of sadness, confusion, loneliness and rage. Upon seeing these images, no one could be unmoved. Better than words, these images are a painful proof of the aggression these children suffered.

In contrast, the exposition exhibited six drawings from children who were not abused and who also used drawing as a means of expression. The strokes and colors used were much more gentle, they showed families in happy surroundings and they also displayed some of their minor concerns...all of this verified the fact that drawing is a very important instrument of expression and communication and that it reveals an entire world of hidden feelings.

The third part of the exposition showed the vision of an adult, Consuelo Suárez, "Consuelo" (Consolation), who found in art a way of expression to free her from distress and to overcome the traumas that marked her childhood.



**Drawing No 1 :**

*This was done by a 7-year old girl.  
She was psychologically mistreated.*

*The drawing exhibits no aggressive stroke but  
the expressions on the faces are very significant.*

**To raise adult awareness of the need to protect the young and to promote social commitment concerning the problem of child abuse is one of the primary objectives for this exposition and conference-colloquium.**

The exhibition is fortunate to be located within a school where future teachers, social educators and therapists study. As future adults they will be very close to the world of children and their work at prevention and detection will be notably important, along with other groups of professionals, that of health personnel, psychologists, etc.

**Another objective is to become familiar with the therapeutic value of art.**

What is art therapy? It could be defined as the utilization of art and other visual means within treatment or in a therapeutic environment. It is a combination of therapy and psycho-therapy where each of these parts is encouraged in its union with the other.

Artistic therapy covers, in addition to painting, music-therapy, psychodrama and the therapy of dance or movement.

The objective of art therapy is to develop a deeper **self-awareness** which will allow one to change or to accept characteristics that are preventing a person from leading a normal and independent life. It can help persons who suffer from psychological problems, so that they search their feelings in the hope of developing relationships with others. The talent itself is not important since we are not talking about becoming an artist but only **persons better integrated within society**. Finding the artistic means for each person can turn out to be particularly beneficial and appropriate.

**Art therapy takes care of finding a language that will allow one to express what cannot be expressed verbally.**

Emotional imbalance can find its origin in sad experiences that have been repressed, but are found in the unconscious and may influence our lives.

Art therapy acts on the principle that art is cathartic. This means that it can be used to gain access to the unconscious part of the mind in a way that is not controlled by our reason nor by our awareness and because of this, it contributes a kind of very valuable information about our inner world. There is a certain similarity to how psychoanalysis uses dream recall and symbols that appear in them.

It is important for the individual to be able to identify with what he does, to know himself, to know how he thinks, to express how he feels and to contribute to the world which surrounds him in order to be able to develop positive attitudes towards himself and others. This is what we can call the need for self-identification. Another parallel need comes up as well: identification with others, which is only reached through the first one.

To be a well-adapted member of society and to contribute to it in some way are objectives of psychotherapy and they ought to be the most important objectives of education.

By means of self-expression we reflect the feelings, emotions and thoughts of our own level of development.

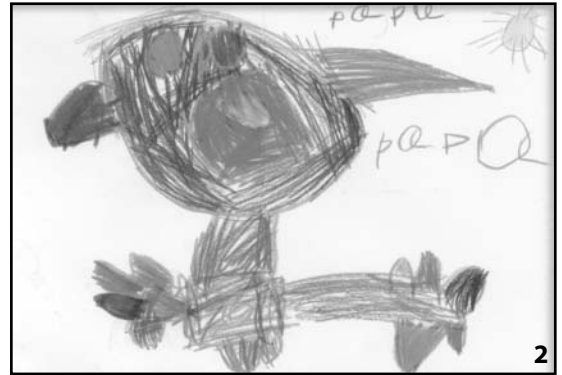
Art, through self-expression, can develop the "I." And so what is really important is the confidence and trust in oneself that this promotes, since the majority of affective or mental imbalances are associated in some way with a lack of confidence in oneself.

Art encourages the individual's own abilities, it develops his creativity and individual expression as a means of satisfaction and personal improvement.

Art allows for planning inner conflicts and it offers the possibility of being able to resolve them.

**Knowing the value of expressive language as a means of expression is another of the aims.**

By means of expressive language we can express our inner world, our thoughts and feelings of joy, distress, fear, anger, etc.



**Drawing No 2:**

*This was the work of a 5-year girl. She was sexually abused by her father. The figure appears to be shouting "Dad, Dad!" The stroke is very aggressive and the stress is on the rectangle around the genital area.*

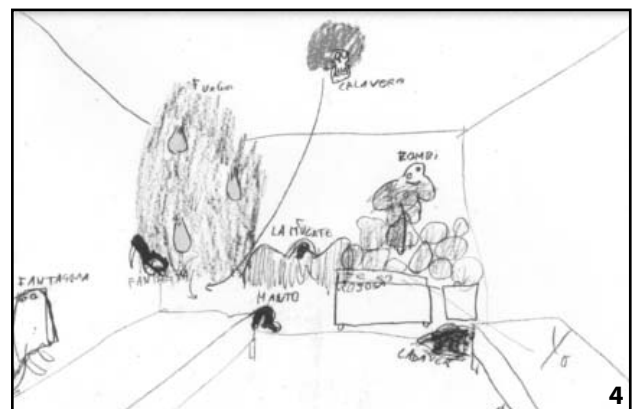


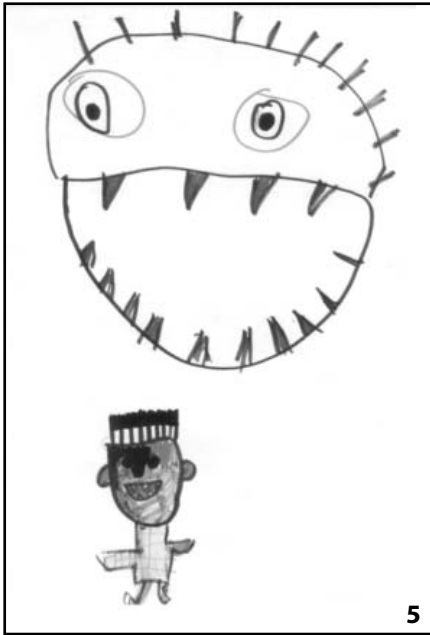
**Drawing No 3:**

*This was done by a 9-year old boy. He suffered sexual abuse by his father and he was forced to abuse his younger siblings. He drew himself as a drooling monster with six eyes. The absence of color here is noteworthy.*

**Drawing No 4:**

*This was the work of an 11-year old boy. He was sexually abused by his father and by members of a sect to which the father belonged. The drawing shows his room inhabited by death and full of ghosts. The child appears to be hiding underneath the bed, only his feet are visible.*





Expressive language allows for the detections and prevention of abuse in infancy. The child does not usually tend to externalize verbally what is happening because of fear, or of feeling threatened, feeling ashamed in his situation or feeling guilty.

Drawing is a good diagnostic means because the child communicates his problem in an unconscious way and the adult offers him the all-important possibility of getting to know the problem and intervention.

**Drawings allow for the discovery of psychic disorders by means of certain graphic characteristics:**

- Very strong pressure swings with weak strokes.
- Absence of color.
- Repeated cross-outs.
- Frugal content.
- Significant swings in the drawing of the human figure: without hands, mouth, eyes or with closed eyes...
- Omitting family members, drawing them and erasing them afterwards or not drawing them at all.
- Aggressive strokes and colors.
- The layout itself and the size of the drawing elements within the space.

These graphic characteristics always need to be looked it within a context. It is important to know that a drawing can never be evaluated in an isolated way. It is necessary to know the facts about the how and in what circumstances the drawing was done, as well as the facts about the child's behavior, etc. These are aspects that must be kept in mind in order to be able to interpret a drawing correctly.

In psychology there are **projective tests** that use drawing as a diagnostic means: the family test, the human figure test and the thematic perception test, the Rorschach test, etc. These tests are often used as part of a broad-based solution of a great variety of practical problems, which include not only emotional, motivational and inter-personal traits, but intellectual aspects of the individual's behavior.

Finally, there must be pointed out the educational responsibility for detection and prevention of abuse in infancy and the teacher's responsibility for this should be highlighted.

This conference-colloquium attempted to provide adequate information so that the teacher might acquire guidelines for putting this into action.



**Drawing No 5 :**

*This was done by a 6-year old boy. He was psychologically mistreated by his mother. The mother is shown with sharp teeth and eyes popping out of her head while assuming a threatening posture.*

**Drawing No 6 :**

*This drawing was done by a 15-year old adolescent who was mistreated psychologically. The drawing was done at the beginning of an anorexic disorder.*

By way of contrast, a drawing done by a girl who was not mistreated (see **back page** of this Bulletin).

*This was the work of an 8-year old girl. The scene depicts mother and daughter in a happy environment. There are cheerful colors, there is a lot of detail and there are no aggressive strokes. All this shows a good emotional balance.*

## Chapter 2

# The Convention The commitment of the Institute



This chapter is concerned with the International Convention and the lasallian commitment it has stimulated.

First of all, the Convention. This is treated in two sections:

- In the light of the sociological context which conditions the educational world today, we examine the Lasallian colloquia launched in 1993 and discover the major trends which affect education, and we decide to put some questions to adults and young people.
- A series of 71 questions and answers help us to grasp the originality of the Convention.

All this is followed by the complete texts of the 1989 Convention and of the 1959 Declaration, which is a declaration concerning the protection of the child. A comparison between the two texts is instructive and makes it easier to understand the growth in international awareness of the question in the last 30 year



## Next, the Lasallian commitment

Proposition 14 of the last General Chapter set in motion a movement in Districts, and increased awareness of the question. This be seen more or less everywhere, and not only in the 16 Districts which have sent in a report on their activities to the Secretariat for the Lasallian Educational Mission. The following will give you some idea of what we know is going on.

- Almost all Districts have appointed a delegate for the Rights of the Child: a useful way of ensuring something is done.
- Congresses have been organised for educators, teachers, parents, in particular at Madurai, India, for the 10 Lasallian countries of southeast Asia, North Mexico, USA and Argentina.
- Youth gatherings have been held in Philadelphia, Cairo.
- Specific and very detailed studies have been made on Vietnam, the Spanish Basque Country, Lebanon.
- Districts have set up programmes for the animation and the formation of educational, executive and administrative teams (Argentina, North Mexico, Australia, Brazil, Belgium, France).
- Districts have organised vigorous awareness-raising programmes in all the classes of their establishments, using reflections, stories, calendars, question boxes (Valencia, Andalusia).
- Awareness-raising campaigns always leading to a concrete commitment have been organised in a great number of schools and classes (in the 6 Lasallian establishments in Egypt, in the schools in Lebanon, in the school at Compostela).
- There has been a widespread diffusion of information among parents and friends thanks to various cultural activities: centres for the handicapped in Alexandria and Cairo, the Lazaristes college in Lyons, France, Varenne (Quebec); by concerts (Lebanon); by exhibitions open to the public at large (Madrid).
- A courageous and political initiative in the form of:
  - qualitative questionnaires on the practices of Lasallian establishments: Andalusia, Philippines
  - reports on violations and contacts with competent legal authorities
- Creation of strong links with national and international organisations: Belgium, Australia, Egypt, France, Andalusia, Argentina, Ivory Coast, USA, India, Philippines...
- Creation of primary schools for people in great need: Argentina, Turkey.



All this demonstrates a will to implement proposition 14 of the General Chapter in a concrete manner. What is more, in the majority of the reports received and contacts made, it is clear that people concerned wish their initiatives to be long-lasting, so that a lasting transformation of the living conditions of children and young people comes about, and the Institute can collaborate even more with organisations which pursue the same aim of rendering service to children.

# The Convention and its context

## Children, the focus of influences

Children - not this one, nor that one, but children everywhere - grow up as much by their own strength as by osmosis with their environment, and as a result of education. This is an age more susceptible than any other to all the influences which surround it

Hence, where their education and protection are concerned, the need to know the children, but also, and to the same degree, the need to know the persons and the things that surround them, all the influences to which they are subject.

Hence also the need for us to question ourselves regarding the easily observable changes in the contemporary world, and the effects they have had on the constituent elements of the matrix in which children are born and grow up..

Up to some time ago, societies had been stable, transmitting the same cultural model from one generation to the next; but now, even the most important constituents of the different societies of the world are being modified, upset, overturned.

What is even more serious is that sometimes it seems that some of these constituents disappear, leaving children to fend for themselves, and depriving them of what is useful for their growth and development.

These profound changes in the present-day world were studied by the Institute of the Brothers of the Christian Schools following a decision taken in 1993 by the 42nd General Chapter.

A standing committee of five Brothers organised a series of international colloquia which sought to define the most urgent problems affecting critically educational situations.

The basic conclusion of these colloquia was the observation that no part of the world was unaffected by these problems: the same destabilisation affected all societies, all cultures, despite all the things that continued to make them different.

Intense globalisation of the economy and of information and communication technology had the same effect everywhere on behaviour. Places that had up till then been organised in a naturally coherent manner by a slow process characterised by harmony between people and their particular environment, had given way to the world of unrestricted urban sprawl, artificial worlds which deprived their inhabitants of the necessary coherence between man and nature.

The same identity crisis affected all societies by the destruction of the links which up till then had seemed to be the most sacrosanct.

The family, the "first democratic cell" - whatever particular form it took - was not called into question, but deprived of the elements that gave it cohesion.

While people continued to think of the family in terms of the usual model, this model was damaged everywhere; it was threatened or destroyed by population movements, by the reduction of family living-space and of the number of its components (reduction to only the father and mother, reduction in the number of children), by the splitting up of families or their vague reconstitution. Sometimes it is only children that make a huge effort to provide some unity to this patchwork of selective links.

And everywhere too, the set of recurring images produced by the cinema, the television, advertisements and video games, secretes the same derisory virtual models which draw their power to seduce from their longed-for immediacy and their game-playing character. The most serious of the observable modifications is no

doubt the ethereal youthfulness of adults in so-called "advanced" civilisations, who borrow from children their games, their fashions and even their language. The much greater proximity produced in this way deprives children of their need for real models which they would seek almost instinctively to reproduce. This lack of fixed landmarks, added to the absence of a real relationship with nature, produces a dilution sometimes apparently happy, but so superficial and so instantaneous, that it precludes roots or durability. And at this point, when added to the dilution of the family, there takes place a dilution of cultural, social and political dimensions.

The "blurring" of the modern world abandons children to themselves, producing the "latchkey-children" of western societies, who come and go as they please, living in a family home where appearances are maintained but which in reality is an empty shell.

Or it produces the "street-children" of the urban sprawl of developing countries, living like savages, learning from one another's behaviour, and recreating in a brutally anarchic manner primitive clans and tribal rites. Adults everywhere are astonished at this and are afraid: they no longer recognise themselves in their own children.

This same disorientation characterises all the societies of the world. At times it leads to a re-assertion of identity by an exaggerated consolidation of the former model and of extreme ideological or religious positions.

The international Convention of the Rights of the Child indicates therefore a major source of concern. Its ratification by almost all countries proves both the realisation of the specificity of children and of the threats that hang over their head.

According to the Convention, children cease to be simply natural components of the family, and deserve to be considered with more attention and respect, which is no doubt progress.

But children are also turned into a cause, to support them is a duty, like supporting the preservation of biological and environmental balance: children are seen as a threatened species.

The Convention of the Rights of the Child concentrates on two areas: a more profound recognition of the specificity of children, children seen already as persons; and the evils that the world inflicts on children, and the good the modern world so cruelly deprives them of.

In order to deal with these two areas, we have to bear both of them in mind, without allowing either one to obscure the other. What the mind cannot express except in a sequential form has to remain in our thinking as a whole; and we should beware of all temptations to over-rationalise. The state of childhood, while being clearly a particular state, is also the genesis of a future state, only accessible by growing up and identifying with existing adult models.

And so we have the problem of what children are in themselves, for they are already clearly someone; and the problem of what they are called to become as a result of the multitude of educational influences that will affect them. The reasons behind the choice of the rights children have cannot in any case let us forget the necessary tension that exists between rights and duties. Without this tension, their life could not develop freely, because what is at stake here is children becoming the unique beings they are called to become, and of becoming capable of exercising co-responsibility for the world of which they are called to take charge.

From this point of view, there was never any golden age nor perfect model. The way the world evolved in the distant past towards the appearance of man - a period to which certain "primitive" societies (or "primary", to fall in line with semantic changes regarding the art of these societies) still bear witness - proves to us that the condition of children has always been complex and contradictory: children protected because of their weakness, often cherished, and sharing in the difficulties of life; children carefree and slaves of the economic situation; children sent out to work very young or children becoming soldiers. A part of the education of these children is the abrupt leaving behind of the state of innocence, children condemned to gro-

wing up through a series of very hard rites of passage. Some of these rites are judged useful by western societies, while others are condemned as crimes against the dignity of children.

As in the case of any judgment, we need to ask ourselves: from which place is judgment being given? and what is the competence of the judge?

It is the West, of course, which has set itself up as judge of everything. The international Convention of the Rights of the Child has compelled recognition from everybody, but remains by its inspiration and its form (logical and juridical) a western production. It remains for this West to evaluate its own practices, to check in its own part of the world to see if the promulgation of these rights, in the form expressed in the Convention, corresponds with the observable reality of its own area.

The West ought to exercise greater relativity in its judgment and give other societies in the world and other cultures a little more credit. Because perhaps it is less serious to make children work when they are very young, than to free them from all work, and restrict their life to an excessively long period of school learning, without any real application, and to periods of leisure filled with emptiness. Perhaps it is less serious also to look after children in the family, and to satisfy other, very fundamental needs of the child, which other cultures and societies are always able to do, that is: provide adult models, a united family, respect for those who are older, all good things which western society has gradually destroyed or lost, inflicting on its children evils which are not less cruel than those it condemns.

Who would want to impose a universal code of behaviour without accepting that each society, each culture, would participate in its own way by promoting at least one aspect of this code?

Generosity is not restricted to the West. All cultures are founded on positive values which enable them to perpetuate themselves, that is, to inculcate a correct attitude towards life and living in society in their children: these children will be capable of assuming the value system of their society, and of transmitting it in their turn.

All effort should be directed to an anthropology of childhood, and it is from this common basis that efforts to bring about improvements could be made by each culture, in a way consonant with its own particular way of life.

The work on the six mega-trends of the colloquia, which follows, can no doubt help to some extent: they are a sufficiently accurate assessment of our everyday situation that a great sociologist such as Edgar Morin was able to write in June 2001 to the organising committee of the colloquia: "It is with great pleasure that I read the report on your work. I am in complete agreement with the conclusions it has reached".

*Alain Damiani*



# General Conclusions of the 5 Colloquia: 1994-98

## 1.1 Rereading reality

This is an Institute custom: John Baptist de La Salle ingrained it in us and we find it continually throughout the last three centuries.

John Baptist de La Salle was not a sociologist nor was he a specialist in social analysis; but his priestly concern developed within him a great attentiveness to situations and events and a pertinent imagination to carry out specific choices (dealing with persons, relationships, methods, decisions, reticence) strategically in accord with the purposes indicated in his program.

The rereading of situations is at the very center of the Lasallian process; we cannot escape it. Carrying out the colloquia has shown that this rereading must be done while keeping in mind four interdependent elements. We would point out that each one of them can be treated as a separate element for purposes of discussion, but it is quickly evident that each element needs to be connected to the other three.

The four elements are:

- the end of the Institute;
- specific realities of the contemporary world;
- basic texts and history;
- humble, simple, significant and legible practices carried out by Brothers and by their collaborators.

This having been said, there is not one reading of reality but there are readings of realities. Clearly, if one looks at reality based on the Lasallian view alone (with its historical roots and mission awareness) one might have the illusion of understanding reality rapidly, clearly and effectively as well as the forms of updating which are capable of transforming it in order to make it conform to our Lasallian nature. Only a strong central mentality concerning our Lasallian identity would produce this tenacious illusion.

The reality of situations is very complex and requires - without denying who we are and what our mission is - abandoning the center of things and examining them with a minimum of formality and at a distance. And for that purpose one excellent technique is to assume the successive point of view of the rest of the elements which, along with ourselves, make up the reality which we all experience together. So then we have a methodological requirement that makes us understand that other readings of reality are possible and legitimate and which, finally, our worn out eyes should reju-



venate if we want to perceive the works of God today: God ceaselessly creates new things and his knocking on the world's door has previously unknown forms. It is the other specifics (systems, persons, organizations) which are going to help us in rejuvenating our view of the context in which we live together.

## 1.2 Changes and ruptures

The general context of our realities is marked by change. This is the very essence of our society. We have no reason to be sorry about this. We are caught in a fluidity of information, experiences, wants, unexpected back and forth movements produced by financial murmuring, natural disasters, a political decision made at one end of the planet, readily available new technologies, scandals, a product promoted over the airwaves, etc. The general mentality of our contemporaries and even of ourselves is immersed in a widespread feeling of that which is provisional, precarious, an unexpected outbreak. Why? This is the result of the interdependence of nations, societies and economies. From now on we are no longer alone. The consequences of this are considerable for our structures and our undertakings as Institute. Our action plans have now been changed.

Often we are accustomed to notice gaps, deficiencies and contradictions in our training and educational situations. We then look for corrective activities in order to apply them voluntarily according to our clear and well-known purposes. This lineal strategy based on a cause-effect relationship has its value but also it has its own surprises (adverse effects, a partial view, focusing on false issues, easy solutions, hiding the deepest causes...).

Yet another type of strategy could restore the balance between analysis and action. It is also necessary to keep in mind the interests, ideals, the open or hidden purposes of our collaborators and the components of the systems that surround us and that shape reality as well as ourselves. They shape reality often more intensely than we do because they are rooted more deeply in persons, customs, lifestyles, basic interests and other more commonly shared elements. We find in all of this a deterministic mechanism. The first four Colloquia were constructive in this regard. Our ideals and our educational and Christian strategies may be very beautiful and bountiful; but they are counter-productive if we have not placed them again in their general context made up of family relationships, new technology, financial interests, urban or popular contexts.

But this should not give us cause for alarm. Effectively, we find some Brothers and Lasallians in all places throughout the world who have integrated this way of analyzing the complexity and doing it along with all sorts of their colleagues and creators of restlessness. But the power and the witness of our educational initiatives bring that price with them.

At the same time, all this can be topped off by a healthy questioning that we force ourselves to look at (institutions, processes, signs, lectures, commitments) and which perhaps no longer is part and parcel of the origins because the world changes and life is replete with ruptures. And this deals with persons as well as with organizations.

### 1.3 What we are demonstrating

We are talking about the understandability of what we are doing in the educational area. How is the message that we are emitting received? Our intentions may be abundant but what do our collaborators say? This issue was often raised during the Colloquia. And it is an important one. In effect, we are not a multi-nation entity which develops its educational tapestry wherever it will. In the world of education we are a voice that has something specific to propose; and that should be done by means of a powerful witness which is not always subject to an impressive, strong institution which is sure of itself; Gospel practices teach us something else.

Here is something which forces us to undertake a renewed discussion about implementation and site location, methods, solidarity, functioning, personnel, etc.

In each Colloquium Brothers who came from all over the world reminded us of the witness of humble, simple, modest educational processes which are seen by the poor and by the rich.

## 2. With regard to powerful trends which impact the educational arena

While listening to the members of the Colloquium, observing the reactions of experts who had come from the five continents to deal with the task of making use of other pertinent studies, little by little we saw some important trends surface - trends which seem to pervade the general environment today, the environment in which young people, families, the Brothers, Lasallians and other collaborators live and in which the process of human and Christian education is carried out and to which we have consecrated our lives.

Those trends seem to be in practice on the five continents. Obviously they are represented in different ways and their presence does not have the same import in all places. Nevertheless, during the course of the 5 Colloquia, the participants were able to underscore them and recognize their influence on educational practices.

Those trends are clearly seen from the perspective of a



Lasallian prism which looks at the world in a particular way and especially at the world of education. Other observers probably would not have been able to sense the same degree of urgency on this point, but our view finds its legitimacy in our specific mission and in the objectives that this analysis can bring to bear with more precision.

We have identified 6 trends that seem to condition our educational efforts.

- A. Supervised finances - Money - Violence
- B. Migration - Wandering - The Marginalized
- C. Individual acts - Collective conscience
- D. Families - Man/Woman - Parents/Children
- E. Young people - School - Formation - Educators
- F. Search for meaning - Doubts - Wisdom

### A. Supervised finances - Money - Violence

- Societies are becoming more and more organized, supervised, subject to financial rules dictated by international organizations which transcend borders.

- The way in which finances work is not understandable for the majority of people: multi-national entities absorb, buy and sell at the world level for reasons that escape even a minimal understanding.

- Nevertheless it is easily understood that the engine for all this financial agitation and which alarms everyone is, quite simply, the domination of power over the markets, over consumer customs, over the monetary flow which travel by means of stock markets and by immediate electronic techniques.

- Money has become the center of concern because its necessity is imperative and no one knows how to act or think apart from it. It is the first criterion for relationships, commitments, lifestyles, the taking of power.

- Therefore national governments (the very G7) have less and less room in which to maneuver: international organizations dictate their laws. In this way democracy becomes devoid of content and nations are at the mercy of some financiers and masked players.

- All of this fosters the development of parallel, illegal finances which permit many to survive and a smaller number to become rich. Corruption is carried out on all levels and infects all societies.

- In poor neighborhoods, each is permitted to establish a certain type of "justice" and to limit the development of violence towards those who have nothing, or who escape to the network of social organization or the law of the market and the formation of expendables.

- In the megalopolises antagonistic groups are allowed to find a modus vivendi which the official doctrine of social equality does not feel itself called to establish. Each entity, then, has need of



someone poor who in turn has need of someone who is poorer than he is...in order to consolidate his power and to realize small benefits which will allow him to survive. Because quite simply survival is what is at stake; what is moral has nothing to do with anything here.

– On the trans-national scale clandestine corporations with identical interests are being established in order to go forward in the operation imposed by banks, governments, international organizations, multi-national entities..., all of them with an appearance of official legitimacy and of which no one knows anything about to the point where they take advantage of this opaqueness of the world economic system.

These corporations transcend countries and blur the former North/South separation. From now on the North is in all the places where the South is and vice-versa. These secret corporations with common interests are rushing headlong into new forms of consumerism and they are present where easy money is king (drugs, tourism, prostitution, the clothing market, electronics, forging industries...). Who can escape them?

- There they are then, finally, all the necessary ingredients for the explosion of sporadic, sudden violence, apparently irrational, that the social organization cannot foresee and about which causes are not sufficiently known in order to anticipate and control them; very often one is obliged to repress without really understanding. This phenomenon little by little bores into even organized societies which, by their very organization, are the most vulnerable when facing the development of violence which casts into doubt the future possibility of "human togetherness."

## B. Migration - Wandering - The Marginalized

- Financial precariousness, the search for work, ethnic conflicts, wars which leave entire families strewn by the highways, children left alone. More and more refugees are concentrated on the borders. And it is predicted that within 30 years, there will be created 10 border cities which will be centers for misery and violence, while 90 other cities will develop, especially in the southern hemisphere.

- In many countries the cities are exploding. They receive immigrants from within and without who arrive with many needs but without the competent authorities having had time to plan and to organize services and indispensable structures. These cities are growing out of control and they juxtapose very diverse populations, whose codes of "human togetherness" are not adapted to one another, if indeed they do exist at all.

- Today people live amidst a generalized precariousness and their future is unforeseeable. Psychologically a sense of wandering pervades the current mentality, beyond the imposed migrations. No longer is it known where the permanent and the solid are rooted: work is precarious, the political situation is precarious, mar-

riage is precarious, relationships are precarious. More and more persons live with a sense of the immediate, the passing, the ephemeral, with a free-flowing of information, they sense that which is impalpable, multiple, consumable, throwaway. They have a sense of a life governed by insecurity and one which no longer

has traits of an historic drama that has its stages, progression, orientation, duration; but life shows a semblance of a tragic future that cannot be overcome, that is imposed and which inclines one to say with resignation: "What has to happen will happen". We are no longer in a tension towards the future, something inherent in Christianity, but we are faced with a cyclic concept of time, which is proper to paganism. This is our destiny!

- In addition, certain societies are in a certain way so marked and regulated that they provoke a defensive reaction: individuals tend to escape, enjoy themselves, once in a while they deny the daily subjection and its routine. The year is then measured by vacation, happenings (games, sports, demonstrations), surprising meetings, unexpected events, singular events (Carnival, Halloween...), former rhythms...as a way of forgetting the boredom and the organization of modern society.

- But this may also give rise to the commonly shared sense of an imbalance between real life and a dreamed life, between a real or an imagined marginality. More than others, young people from all environments are aware of this marginality.

- In the very poor areas: they experience it physically and every day they see social images that stir up insolence in them.

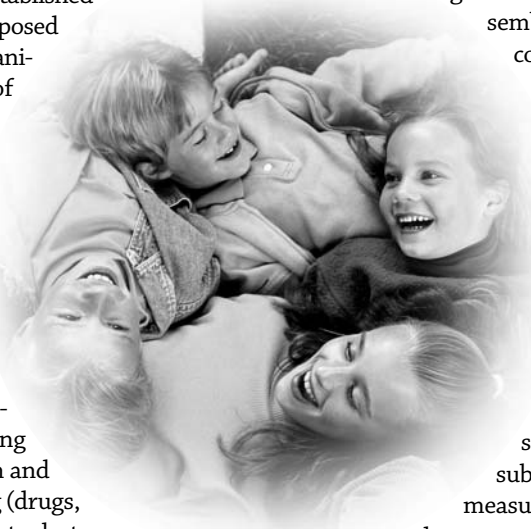
- In the middle class: they transport it in their imagery because unemployment is waiting for them and the social position of their very own parents can vacillate abruptly the next day. They themselves are not certain of being able to get a firm grip on the social scale.

- In the privileged classes: they feel it in the depths of their being because, they who have everything, have never had to fight in order to live or to really exist. They are afraid that tomorrow they will turn into dust, because of their lack of resistance and fight they have no consistency in these areas, but only an outward appearance of human beings.

There is a collective schizophrenia that lies in wait for everyone and which is fed by publicity, television serials, a certain type of cinema, Internet services, courtrooms, videos...

## C. Individual acts - Collective conscience

- Societies are required more and more to keep individuals in mind. It is not enough for them to administer to groups, but they ought to take care of the diversity of persons within those groups. Relationships between strengths and conflicts are more difficult to administer.



- This is not the only consequence of what is unwillingly called "individualism" and the fact that it is a conquest in which Christianity has itself played a role should not be surprising. All societies have not assimilated this as yet.

- It is also the result of being more respectfully aware of persons, their subjectivity, their personal choices, their expressions, desires, their freedom. It is now understood better that the person has dignity and that he should realize a process of individualization. But all societies do not subscribe to this idea yet.

- In spite of everything, that personal process often appears to be risky and dangerous. In effect, the great philosophical and religious stories might be thrown out, unappreciated, made relative and, as a result, the individual finds himself very much alone in facing the great issues that pursue him. And truth is fragmented into points of view, philosophical references no longer structure research, relativism pervades everything and the individual becomes discouraged, closes in on himself or abandons the internal process which he had begun with courage.

- Nevertheless this individualization does not wipe out the need for encounters or the need for others. On the contrary the formation of "tribes" has been noted, groups with like affinities, groups which are interested in searching for intimacy, solidarity. Even in the big cities, some neighborhoods are organized as a type of "village", each one contributing his originality and coming away with security and recognition.

- Thanks to the means of rapid communication each one has the possibility of being open to the world's problems in greater ways. Entire countries, entire continents are capable of being emotional about and sensitive to some distant squalid conditions, to the point where an emotive and concrete solidarity is encouraged and which is remembered for a long time.

- But, if solidarity exists, it nonetheless is difficult to maintain this in the long term and commit to a lasting effort of discussion about the structures and causes of injustice, misfortunes and conflict. Instant unity is also one aspect of "entertainment" and of "wandering".

- To conclude let us note that little by little a common conscience is being developed: human ecology is becoming a concern:

Man, his dignity, his freedom, no matter his location;

The abandoned and socially excluded;

The sick, the feeble, the victims;

The planet and what we will pass on tomorrow to our children;

Deprived and exploited populations.

This common conscience unites men and women from all tendencies and from all religions. It probably expresses what is most authentic about present-day humanity and it allows for a reasonable hope.

## D. Families - Man/Woman - Parents/Children

- All societies are worried about the FAMILY. Everywhere the family is being shaken up and the causes are many: unemployment, migration, consumerism, means of communication, individualism, the loss of ethical and religious points of reference... The forms of the family institution are changing and sometimes the forms mix with one another. Certain discussions would lead one to believe that the Family is disappearing. On the contrary, this is not true.

- In effect, when there are more difficulties, so much more does the Family become the point of reference, the last refuge for protection, where to take shelter in order not to die. It is guarding or rediscovering one of its primitive purposes: to be the first and last place in which to survive. All societies are alike in this no matter what great technical and social progress has been achieved. But when certain family societies can no longer maintain their children and they toss them into the street, those family societies cry out in desperation and they are seen as dispossessing their very dignity and their reason for being; the drama is complete.

- As a result, all societies have a keen consciousness of the family reality and its basic value. They know that the will to live has its origin in the family, there it places its trust, as well as in others and in the future. They will also attest that within the family are the roots of violence, exploitation, hate. Therefore they very often permit a considerable effort to be made to sustain families, to help them and to protect them (social aid, legislation, juridical devices, legal recognition...).

International organizations have worked very hard in this respect, supporting efforts by countries and non-governmental organizations (NGO's) which fight for the right of families and children. Little by little they create the conditions for an international conscience.

- But individuals are not far behind. Each knows very well that his personal work of humanization depends upon the family reality that he builds by means of changing forms and sometimes successive forms that are given to him to live, pushed by the circumstances and encounters that pile up as never before in human history.

- Therefore we look after the development of considerable activity in order to give human meaning to family reorganization, to the new "adoption" between marriages and children from various families, to technical resources for assisted procreation and to the freedom to procreate. We see in all this a gigantic effort to not merely put up with the event but, based on the event itself, to build a life that has meaning, that allows for the finding of paths towards humanization and to develop immense resources of human conscience and its creative possibilities. We can perceive in all this a co-creative participation in God's work.



- Within this environment the Church has much to say to contemporary man. Unfortunately the Church might be interpreted as a judge and not as a companion who helps one along the journey and to make new journeys. The means of communication greatly simplify the Church's discourse, but she herself does not always hit the mark in her formulation and at times one can get lost in the labyrinth of a complex thought. But beyond the language difficulty or the grasping of issues, don't we feel here the most radical struggle foretold by the Gospel?: the struggle between the "world" and the Kingdom, between darkness and light. This struggle penetrates deep into the hearts of men until reaching the most vulnerable part: that part in which relationships are created which lead to talent, possession, life, death. And the first place for this human and Christian struggle is precisely within the family. The Church cannot be but interested in this. And neither can Christian educators.

- At the center of the family, obviously, is the married couple. No other era in history has scrutinized with such determination male-female relationships in terms of their usual studies, but also in terms of what was previously unknown with regard to family life, social life, the concept of association and even in the life of the Church. This is in part due to the progressive disappearance of traditional social roles observed in certain favored societies, but it is also due to a general sharpened consciousness of the basic role of women in social activities.

Clearly this basic role is not new. On the other hand, the awareness of this role which is becoming more and more clear is relatively recent. It is clear that there is a certain resistance to this in certain areas, there is evidence of some unrest in male societies which want to protect themselves... but groups of women are being established that want to take up the reins of the future of communities, build new financial relationships, new networks of solidarity, a new social understanding. The next century will tell if the planet is administered better by women than by men.

- In some places in the world the role of women has become the predominant issue especially in the life of the family, which diminishes or takes away the role of the father. Single parent families are a common phenomenon and many women are becoming accustomed to living without a husband, thus creating families where a man does not enter the picture. These female societies are shelters where the imaginary and a sense of stillness are exacerbated to the detriment of distancing by means of difference and law. Education should keep this in mind.

- These important relational issues (male/female relationships, heterosexuality, homosexuality, fusion, separation, single parent families, adoption, homosexual families, bi-sexual relationships with regard to the child, etc.) are often lived out in a rough

type of arrangement that is entrusted to the good will of individuals. An exaggerated respect for persons and situations keeps one from providing instruments for discussion and discernment on the philosophical, anthropological, theological and spiritual order.

This general observation is also valid for young people (adolescents and young adults) who find themselves abandoned while facing structure questions involving sexuality, otherness, the development of love, acceptance of the child. The Church and the Christian school must transmit their messages as part of the basis of these issues.

- On the other hand, all of this has an impact on the parent/child relationship. On one side adults argue almost in isolation concerning relational issues previously unknown while on the other side children are being shaped by means of communication, the street, friends and merchandising initiatives. Sometimes it seems that there is an impassable trench separating parents and children.

But, although the interests and mentalities may collide, children always hope for much from their parents, even when they have failed in their mission. In the majority of cases children and young people expect their parents to watch over them and offer them some words: they are eager for this type of communication and although there may be confrontation, it always serves to give them structure. Parents should foster this conviction which may give them strength and trust as they deal with their children.



## E. Young people - School - Formation - Educators

- In the area of formation and school, parents search for what is best for their children. They ask the school for quality instruction and training; they invest in the school and they often request that the school fulfill the role that they themselves do not accomplish within the family.

- School and educational programs are very much dependent on the social concerns of countries. Three realistic aspects can be underscored among these which sometimes get hidden beneath a barrage of ceremonial lexical trappings:

- The financial need for markets with their technological wars and hunt for intelligence;
- The need for filling jobs and obtaining employment;
- The need for social relationships which one must create or regulate, keeping in mind the displacement of populations, some frustrations expressed in the means of communication, the conflict between cultures and their opposing interests.

These three anxieties are the continual concern of political leaders; they compress their long-term educational and humanistic approach, they impose continual reforms which discourage educational agents and discredit the efforts of those who are in

daily contact with children in places of training.

- But at the same time one observes the abandonment of commitments on the part of leaders of poor countries who no longer invest in primary instruction and who are disinterested in the layers of the population from which they cannot expect to receive a profit in the short term.

These policies are criminal: for a long time they have thrown obstacles in the future of entire regions. All the more so because they begin to sacrifice first and foremost the education of girls and women. In effect, the educational policies that have been laid down in favor of girls and women have experienced an undeniable cultural progress and a lasting change.

- To some degree everywhere middle school or secondary school instruction (high school and institute level) is the weak point in educational systems. The children come full of energy and they are bored at these levels; they have the impression that they are wasting their energy while achieving nothing, doing useless exercises for an uncertain future (employment or unemployment?) as they finish their schooling which very often will not provide them the economic means to enter society or to marry and raise a family.

- This is why they settle in a social "no man's land" that has its own set of rules, culture, signs, and which feeds into the electronic culture, fashion and music. In that context the school tends to become an unavoidable life space that young people turn to more and more in order to transform it into a place of encounter among friends, a place of interchange, a place of experience. They are able to forget that they are within a place of culture and formation.

- But if they are encouraged by responsible adults, young people learn to make themselves protagonists in their own schooling and education. They long for this because to some degree everywhere, they have a culture of discussion, critique, negotiation. It is possible for them to create within this culture dynamic "positive" educational environments albeit in the measure in which organization, necessary obligations and numerical balance maintain the human dimension.

- Given all this, the great number of students should not be forgotten who -in silence - every day give up middle education, disgusted by structure, by difficult relationships, by a sense of repeated failure and by the uselessness of their existence.

This phenomenon tends to increase in countries where a diploma and social position imperceptibly corrode human relationships. Sometimes this leads to child suicide; often they take their own lives without explanation, leaving parents, friends and teachers abandoned.

All of this expresses a primary truth: everywhere, young people wish to encounter adults. They want to meet educators and persons who are human, not just teachers.

So then, will the job of teacher change naturally? We are not speaking only about giving students a summary of knowledge and information (available in libraries and by means of electronic devices), but of putting into their hands critical instruments for discerning, differentiating, judging, highlighting, choosing... This is the ability that the teacher is called upon to have today. Obviously that teacher will also know how to listen, receive, raise up, integrate and respect. The teacher in this way becomes a mediator of knowledge, respectful of human journeys. Thus the evangelical pedagogy can proceed.

## F. Search for meaning - Doubts - Wisdom

- The freedom of persons and the respect for their free will is a belief which is nearly universal; all countries make reference to it although their practices may be dubious. Nevertheless that belief from the Enlightenment more and more affects the great traditional religious systems and especially those which - like Christianity - have established hierarchies and beliefs.

There is a great mistrust towards these systems and they are designated as free-thinking. All the more reason that it is suspected that they are the ones who promote wars and conflicts in the name of divinities or superior beliefs. And in fact, a superficial examination of the international situation tends to demonstrate that many power, interest and ethnic conflicts have their origins in supposedly religious causes.

- But some hope that the established religions might be a factor for peace and concordance, softening some of the doctrinal, moral and other aspects pertaining to discipline. Religions would therefore be a new inspiring wisdom for "human togetherness". But many others no longer have these dreams: nothing can be expected from religious systems, but one has to expect everything from individual transformation and the network of good will which inhabit the earth.

Therefore a strong attraction is observed - among the middle and privileged classes - toward like groups, adept at psychological, spiritual and bodily techniques, inspired in former pagan discourses which were believed to have disappeared and about which St. Irenaeus of Lyon seemed to have pronounced definitive words. At the same time this reveals a great personal uncertainty, but also an authentic thirst for spirituality.

- This personal uncertainty has its origin in the abandonment of the "great stories". Now modern man is faced with himself and he searches his very self for meaning which will lift him from himself: he has a taste for the eternal but he is incapable of realizing this by himself.

- Then everyone asks him for help and this upsets him: he is bombarded by different information that gives witness to a multitude of values, ideals, lifestyles that come and go at the beck and



call of different styles. His reasoning with its critical, philosophical, theological, scientific equipment...was not prepared for life; therefore he no longer has a natural guide to make judgments with a minimal of common sense.

- Many of the more popular religious groups also feel attracted by new, more agile systems which are closer to their existential difficulties. They are looking for a warm atmosphere, security, a close solidarity that will minimize the hard knocks of destiny and the growing insecurity which is the result of various migrations occasioned by poverty, unemployment, exploitation and natural disasters.

- Contrasted with this, the approach of the Catholic Church seems distant, complicated, abstract and focused on problems.

In reality its approach is broad-based and it deals with basic problems in detail (life relationships, economic balance, political systems, faith/reason issues, approaches to life, death, work, the unique vocation of the human being, the contribution of religion to "human togetherness", scientific progress, solidarity...) but this urgent discussion is not sufficiently circulated and neither do thinkers, popular leaders, executive authorities, nor even Christians themselves and especially Christian educators take advantage of this approach.

- Nevertheless societies, one after the other, realize perfectly well that religious sentiment and religious culture have a social role that affects the collective memory of nations but it also affects "human togetherness". It is a basic challenge if humanity wants to have a future.

Even the more secular societies have shown interest in

recent times in the culture of religion and they are reintroducing it in school programs.

- In addition, an important mixture of cultures, strengthened by communication methods, approaches religious systems, becomes familiar with them, compares them and simplifies them. This puts entire populations into a relationship which were formerly thought to be separate, distinct, original. It deals with forms of living and fulfills the encounter between more complete human persons thanks to its more authentic religious practices. True discoveries are made between systems as well as between persons. And little by little religious systems talk to one another and listen to one another. Sometime they irritate one another. But a new way of thinking about other religions is springing up and a new syncretism is being established.

- Finally, many young people who are at the same time critics with regard to the great religious traditional systems, are asking religions about the meaning of life and about its contribution to the universal "human togetherness."

They enjoy only the religious approaches that respect the individual and his freedom, that have a minimal number of doctrinal and hierarchical rules and that interfere in the least possible way in their personal ethics.

Nevertheless religions, which present model men and women who have clearly surrendered themselves to others, even the very gift of themselves, always produce the same fascination. And in those cases young people are capable of being united to them.

*(Bulletin of the Institute, No 245, pag. 115-121)*

These are the most important conclusions as perceived by the Colloquia Committee. Nevertheless these conclusions cannot achieve their objective (the second proposition from the General Chapter of 1993) if they are not taken again, re-read, dealt with and re-interpreted by each Lasallian community. In effect, if the Institute is one, it is also diverse in terms of its local expressions; the mission is the same but the children and young people we meet are distinct; global analysis can help us to observe better the current educational landscape, but our specific responses depend on our own environments.

### Questionnaire on work

The reader who wishes to learn more, either personally, or as part of a group, about such or such conclusion, should refer to the work sheets proposed by the Institute Bulletin N°245 on pages 18, 40, 55, 76, 96.

# The Convention in 71 questions

The text of the International Convention has a long history. It begins after the first world war and was drawn up by tenacious men and women who, in the face of contrary winds, followed through with their convictions: children are persons who must take their right place in society and prepare the future with us. A reading of the text raises a great many questions among young people and adults. To make the text more accessible to everyone - we give the complete text - we introduce it by 71 questions and answers which normally occur in any debate on the Convention.

We wish to thank the Institute for Childhood and the Family, and in particular its former president Madame Denise Cacheux, who authorised us to use her work freely.

## 1. When was the Convention for the Rights of the Child adopted?

On November 20th 1989, the anniversary of the signing of the Declaration of the Rights of the Child in 1959. After examining the draft submitted by the Secretary General, the General Assembly of the United Nations adopted the international Convention on the Rights of the Child.

This event was welcomed throughout the world, all the more so as it did not seem very likely that the work started ten years previously would successfully cross the final hurdle of adoption by the General Assembly.

Fortunately, it did. After a few minutes of discussion, consensus was reached, and from that point onward, the international Convention for the Rights of the Child existed in law.

On January 26th 1990, during a solemn ceremony, the Convention was signed by 60 States.

It had been decided that the Convention would assume its juridical value, when 20 States had not only signed it but had also ratified it. This point was reached on August 3rd 1990. The Convention has had, therefore, the force of law in the 20 States concerned since September 2nd 1990. A number of States have joined them since.

## 2. On whose initiative was the Convention drawn up?

It was Poland which, in 1978, took the initiative to undertake this work. Initially pushed by private individuals, and then adopted by the Polish government, the idea was first tabled in the UN in 1979, in the context of the International Year of the Child.

The concern of the Poles, was no doubt explained by the particularly dramatic situation of the children in this country in the aftermath of the second world war, and by the influence of well-known persons such as Dr Janusz Korczak (1879-1942).

Fearing that, like his father, he would be afflicted by a mental illness, he renounced being a parent but dedicated his whole life to children. He established two mixed orphanages, organised on the lines of veritable "children's republics", with a court of law and a parliament, in which the same rules applied to everybody, including staff and principals. In 1926, he founded the Little Revue, a weekly for children and, for several years, ran a very popular radio programme. He developed his ideas in his numerous books: King Matthias 1st (1923), The Right of Children to Respect (1929), etc. He refused to abandon the Jewish children he had in his charge, and died with them in the Trblinka concentration camp.

## Declaration of the Rights of the Child

Proclaimed by General Assembly resolution 1386(XIV) of 20 November 1959

### Preamble

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

Whereas the United Nations has, in the Universal Declaration of Human Rights, proclaimed that everyone is entitled to all the rights and freedoms set forth therein, 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,

Whereas the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth,

Whereas the need for such special safeguards has been stated in the Geneva Declaration of the Rights of the Child of 1924, and recognized in the Universal Declaration of Human Rights and in the statutes of specialized agencies and international organizations concerned with the welfare of children,

Whereas mankind owes to the child the best it has to give,

Now therefore,

### **The General Assembly**

Proclaims this Declaration of the Rights of the Child to the end that he may have a happy childhood and enjoy for his own good and for the good of society the rights and freedoms herein set forth, and calls upon parents, upon men and women as individuals, and upon voluntary organizations, local authorities and national Governments to recognize these rights and strive for their observance by legislative and other measures progressively taken in accordance with the following principles:

#### **Principle 1**

The child shall enjoy all the rights set forth in this Declaration. Every child, without any exception whatsoever, shall be entitled to these rights, without distinction or discrimination on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family.

#### **Principle 2**

Janusz Korczak was the first to affirm, in the 20's, the specific rights of children, and to demand for them a Charter from the Society of Nations.

### **3. Why draw up an international Convention for the Rights of the Child?**

Our age is increasingly sensitive to the fate of too many children in the world. 40,000 of them die every day. The first to die in armed conflicts, they are subjected to all kinds of torture and cruelty. They are exploited for work, and even for sexual purposes. They are the victims of trafficking. They are separated from their parents or their family. This injustice cannot be ignored, and it calls for a worldwide effort to put an end to it. How is it possible to induce States to assume all their responsibilities when sometimes they themselves have brought about particularly painful situations? A document with worldwide standing would help all those who defend the cause of the children, and that is the principal justification for drawing it up.

Also it was becoming indispensable to bring some coherence to the various texts concerning children

single texts (multilateral or bilateral agreements)

texts without any binding power, such as the Declaration of the Rights of the Child, 1959.

And so what was needed was a general binding legal document applicable the world over.

### **4. Was there not already a declaration of the Rights of the Child? (cf. Appendix)**

Yes. On the initiative of an Association, the International Union for Aid to Children, the League of Nations adopted the Declaration about the Rights of Children on February 28th 1924 in Geneva.

This text was revised and completed in 1948. It served as the basis for the Declaration of the Rights of the Child, adopted unanimously on November 20th 1959 by the then current 78 member States of the UN.

This declaration is still in force, with its good points and its limitations. It contains a series of major general principles. It is true, this text is not binding, but it should serve as a reference. From this point of view, it remains interesting, all the more so, that not all States - far from it - would sign the Convention, or would sign it without ratifying it. Generally speaking, international juridical instruments prior to November 20 1989 - and there are more than 80 - remain valid; but for the States which signed the Convention, the Convention becomes a higher-order text which takes precedence over previous ones.

The Convention of the United Nations on the Rights of the Child, dated November 20th 1989, is a much more important text for two reasons: on the one hand, it is precise and binding for the States which signed it; on the other, since 1959, many new members have joined the UN.

### **5. Are there not already international texts in support of children, imposing obligations on states ?**

Certainly. There are numerous international juridical instruments concerning directly or indirectly children. It is estimated there are almost 80 of them.

The majority are binding but...only for the States that signed them and ratified them, and within the limits of the reservations they were able to make in those days. It has to be said that there are States which signed these texts through the intermediary of their representative at the UN, but which did not have them ratified by their competent local authorities, which, in the final analysis, made their commitment ineffective.

In addition, drawn up in response to historical circumstances, these documents are ill-assorted, sometimes incoherent, and clearly not exhaustive.

Finally, the provisions applicable to children do not always take into account their specific needs, which often need stricter norms regarding adults. One cannot be satisfied with saying that it is enough to respect the Rights of Man to respect, by this very fact, the Rights of Children.

## 6. Why did it take ten years to write this text?

The Polish draft did not initially attract general support. It was said even that this kind of work was not opportune. Some pointed out that a Convention would be valid only for the States signing it, whereas the Declaration of the Rights of the Child of November 20th 1959 was valid for everyone. Others did not agree it was necessary to make a special case out of children, since on principle the Rights of Man were applicable to them.

And then, it was not easy on a worldwide scale to define the concrete contents of the principles on which agreement was sought.

There is no lack of examples. In one country, to prevent children from working is to guarantee them access to education; in another, it means depriving them and their family of a minimum income. Parents and families mean different things in different cultures: the European household is not the same as an African community group. The tenacity of those who worked on this project prevented it from coming to a grinding halt.

The fact that it was completed in 1989 is due in large measure to the efforts of NGOs and diplomatic pressure from certain States.

In the present context, and given the importance of the document which goes much further than expected, 10 years is both little and a lot.

## 7. Why is this text so long and so complicated?

It is true, with its 54 articles, the Convention is a long document. Its juridical and even philosophical language may make it difficult to understand. How could it have been any different if it was going to achieve its three aims?

1°- A comprehensive text

The intention of the writers of the text was to cover all the problems relating to children: protection of their person against possible attacks on their physical or psychological integrity; a definition of the principal services they have a right to; the affirmation that they have a right to manage their own life, depending on their age and their degree of maturity.

2°- A practical juridical document

Unlike the Declaration of the Rights of the Child of November 20th 1959, the Convention was intended to go into details and not restrict itself to some general statements of principle, in practice difficult to use in court. The Convention does not always avoid this last stumbling block, as for example, with respect to life. It states obligations for States, rather than advocate directly applicable subjective rights. All the same, it is a document that is more incisive than the 1959 Declaration.

3°- A binding text

The mechanism for applying this international treaty had to be clearly defined: this was a necessary guarantee, even if inadequate and imperfect, in order to ensure that the Convention never became simply a pious wish.

## 8. Which are the most important provisions of the Convention?

This is the first time an international juridical text deals with the status of children as a whole, and it is difficult to say that one aspect is more important than another.

What is more, what appears essential for one country or a group can be less so for

The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration.

### Principle 3

The child shall be entitled from his birth to a name and a nationality.

### Principle 4

The child shall enjoy the benefits of social security. He shall be entitled to grow and develop in health; to this end, special care and protection shall be provided both to him and to his mother, including adequate pre-natal and post-natal care. The child shall have the right to adequate nutrition, housing, recreation and medical services.

### Principle 5

The child who is physically, mentally or socially handicapped shall be given the special treatment, education and care required by his particular condition.

### Principle 6

The child, for the full and harmonious development of his personality, needs love and understanding. He shall, wherever possible, grow up in the care and under the responsibility of his parents, and, in any case, in an atmosphere of affection and of moral and material security; a child of tender years shall not, save in exceptional circumstances, be separated from his mother. Society and the public authorities shall have the duty to extend particular care to children without a family and to those without adequate means of support.



Payment of State and other assistance towards the maintenance of children of large families is desirable.

### **Principle 7**

The child is entitled to receive education, which shall be free and compulsory, at least in the elementary stages. He shall be given an education which will promote his general culture and enable him, on a basis of equal opportunity, to develop his abilities, his individual judgement, and his sense of moral and social responsibility, and to become a useful member of society.

The best interests of the child shall be the guiding principle of those responsible for his education and guidance; that responsibility lies in the first place with his parents.

The child shall have full opportunity for play and recreation, which should be directed to the same purposes as education; society and the public authorities shall endeavour to promote the enjoyment of this right.

### **Principle 8**

The child shall in all circumstances be among the first to receive protection and relief.

### **Principle 9**

The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be the subject of traffic, in any form.

The child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental or moral development.

others. The recognition of the right to life and to health goes without saying in developed countries: it is a much more daring idea to advocate elsewhere. On the other hand, it is the personal rights of children, such as freedom of thought and opinion, and freedom of association which attract attention and give rise to discussion, because some fear lest all the specificity of childhood - a special period that is carefree and irresponsible - be erased.

The Convention enshrines three types of civic, economic, cultural and social rights: the right to protection (e.g. respect for physical integrity) the right to certain services (e.g. health, education, social security) the right of children to act independently according to their means, and to share in decisions concerning their life (freedom of thought, expression, association, etc). On the other hand, the Convention does not speak of political rights.

## **9. Which points have led to most discussion?**

Initially, the principle itself of having a Convention was challenged. Two types of arguments were used:

- Why have a special text for children since the declaration of the Rights of Man applies also to them? Their rights had to be stated explicitly.

- Why have a Convention when there already exists a Declaration of the Rights of the Child? A text was needed that would bind States.

In discussion, at last three major topics have divided countries and made compromise necessary.

- The voluntary interruption of pregnancy, according to some, should have been firmly condemned. The preamble, which is not binding, affirms that the Child has need of special protection "before and after birth". Article 6 restricts itself to speaking in general terms of an "inherent right to life". By refusing to indicate when life begins, the Convention, as far as imposing an obligation is concerned, intentionally avoids speaking clearly where the voluntary interruption of pregnancy is concerned.

- Adoption is a topic which also has led to lively discussion insofar as a number of States, especially Muslim countries, have no experience of this type of institution which modifies the juridical filiation of children.

- Involvement of children in armed conflict is another point on which there is a serious divergence of views.

## **10. How can we accept that children can be enrolled in the armed forces at the age of 15?**

This provision, contained in article 38, paragraph 2, was one of those which, up to the very last moment, led to the most lively discussions among the various bodies responsible for preparing the text.

First of all, we have to note that, by fixing a minimum age limit for the enrolment of children, the Convention has been innovative. Signatory States will abstain from involving all children below this age in armed conflict. The application of this measure will be real progress.

Many, in particular representatives of western countries, wanted a higher age. They had to accept a compromise with countries which either refused the very idea of an age limit, or proposed a lower minimum age limit.

On various other points, the Convention is a text born of compromise. For example, article 24 condemns in general terms "traditional practices prejudicial to the health of children", but does not mention clitoridectomy explicitly, as several members of the working party had requested. The adoption of the text by the General Assembly of the United Nations had to be ensured, that is, adoption by most if not by all the States. We could add that there is nothing to prevent a State having legislation which affords greater protection than the Convention, which represents, in some

way, the minimum below which one must not go.

### 11. Who worked on this text?

The UN Commission for the Rights of Man set up an ad hoc group open to all countries on a voluntary basis. The group was formed of members from 43 countries representing all the continents. Other countries were associated with the work of the group.

Inter-governmental organisations such as OIT (International Organisation for Work), the HCR (High Commission for Refugees) and UNICEF followed the work of the group.

Non-governmental organisations with a consultative mandate to the UNESCO were represented in the group, and were able to take full part in the discussions on the project.

We should like to recall that what the UN designates as a non-governmental organisation (NGO) is a private group or movement, which does not speak in the name of the State.

Some of these NGOs have an international aim and structures. These, on the strength of their representative nature, obtain a consultative status in such or such institution, and participate in its activities or contribute to its work.

### 12. What is UNO?

In some ways it is a Parliament of the Nations of the World.

Created in 1945, at the end of the second world war, the United Nations Organisation is open to all States which accept its rules. Almost all States are members.

Its aim is the Peace in the world

The General Assembly is its deliberative forum, in which the member countries are on an equal footing, and where each State has one vote.

The Security Council, composed of 15 States, of which 5 are permanent members with the right of veto (USA, Russia, Great Britain, France, China), has special responsibility for watching over international security.

The Secretary General directs the services of the UN and animates their activities. He is elected for 4 years by the General Assembly.

To complement its work, the UN has created specialist institutions such as:

- UNICEF, for children
- UNESCO, for education and culture
- FAO, for food and agriculture,
- etc.

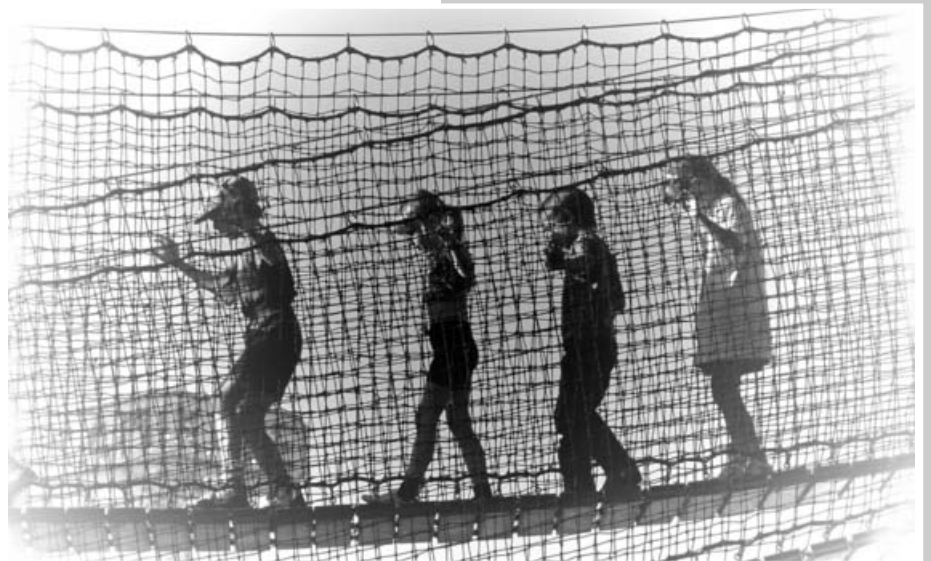
### 13. Did NGOs really take part in writing the Convention?

It is one of the original features of the international Convention for the Rights of the Child that it benefitted from a permanent and important contribution from various NGOs, whose international sections or movements were able, in addition – and some made good use of the opportunity – to put pressure on the public authorities of their respective countries.

Keen not to waste an historic opportunity, the NGOs concerned (about 50 in number) took the initiative in 1983 to constitute a formal group to prepare the annual meeting of this ad hoc

### Principle 10

The child shall be protected from practices which may foster racial, religious and any other form of discrimination. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.



# International Convention on the Rights of the Child

1989

## Preamble

The States Parties to the present Convention, Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, 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,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, 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,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed

group. They set up a permanent secretariat which they installed in Geneva. Responsibility for this secretariat was entrusted to the Association for the Defence of Children International.

Aware of the significance of this step and of the value of the contribution of the NGOs, UNICEF gave its material support to this coordination and financed the permanent secretariat.

It is generally agreed that on numerous points, and sometimes on complete articles, the contribution of the NGOs was decisive for the technical constitution of the Convention, but also for the creation of an energizing momentum which made it possible to complete the work.

The Convention obviously relies considerably on NGOs to promote the implementation of its contents and provide follow up to ensure its application.

## 14. Which NGOs took part in writing the Convention?

- International Alliance of Women
- International Alliance of "Save the Children" organisations
- Amnesty International
- International Association for Penal Law
- International Association of Democratic Jurists
- International Association of Magistrates for Juveniles and the Family
- International Association for the Right of Children to Play
- World Association of Guides and Senior Guides
- World Association for the "instrument of peace" Schools
- International Catholic Childhood Bureau (BICE)
- World Consultative Committee of the Society of Friends
- International Commission of Jurists
- Bahai International Community
- World Jewish Congress
- International Council for Social Action
- International Council of Women
- International Council of Jewish Women
- Defence of Children - International
- International Abolitionist Federation
- International Federation of Men and Women Social Workers
- International Federation of Women with Liberal and Commercial Careers
- International Federation of Women with Juridical Careers
- International Federation of Women Jurists
- World Federation of Democratic Youth
- Human Rights International
- International ADT Quart Monde Movement
- World Organisation for Pre-schooling Education
- Raddaa Barnen
- Redd Barna
- Anti-Slavery Society for the Protection of the Rights of Man
- World Union of Rural Women
- Zonta International
- The NGO Group Secretariat is run by: "Défense des Enfants - International"

## 15. What part did UNICEF play in the drawing up of the Convention?

Contrary to what is generally believed, the Convention was not a Unicef initiative. The very first version originated in Poland.

However, Unicef was very quick to note the value of this initiative. It took over the project and provided its support to the NGOs concerned, to enable them to

pursue their work.

At the same time, by means of documents (dossiers and exhibitions) it made every effort to publicise and defend the initiative in progress.

We recall that the UNICEF (United Nations Children's Emergency Fund) is one of the UN specialised bodies. It has its headquarters in New York:

## 16. Did children take part in the writing of the Convention?

No. The Convention was written by an ad hoc group from the UN Commission for the Rights of Man. Even if their participation had been wanted, it would have been difficult to associate the children of the whole world with this work. Some of the NGOs concerned with children, which collaborated in the writing, served in some way as their spokesmen.

Certain countries enabled children to express their views in "complaints books". These books gave rise to much discussion and many meetings for and with young people. They proved to be a real success. The books were examined and analysed by politicians at the various local and national levels.

In July 1989, a dozen children, representing all the continents, travelled from Gorée to New York by yacht to hand over to the Secretary General of the UN a message expressing support for the Convention.

Children attended the Summit Meeting of Heads of States and governments on September 29th and 30th 1990.

## 17. In brief, what were the various stages in the production of the Convention?

1978: Proposition presented to the UN by the Polish government to draw up a Convention on the rights of children.

1979: International Year of the Child

\* The UN accepted in principle a Convention on the rights of children.

\* An ad hoc group to draw up the text is created by the UN Commission for the Rights of Man. It met once a year in Geneva.

1983: NGOs form their own group, set up their own permanent secretariat in Geneva to be run by the Defence of Children - International

1989: Adoption of the text of the Convention by the UN Commission for the Rights of Man.

November 20th 1989: Adoption of the Convention by the UN General Assembly.

January 26th 1990: Signature of the Convention in New York by 60 States,

August 3rd 1990: The number (20) of ratifications necessary to bring the Convention into force is reached.

September 29th and 30th 1990: First Summit of Heads of State and governments on childhood held in New York.

## 18. In what does the originality of this text consist?

The Convention is a treaty between States: it remains subject to the limitations, silences and compromises typical of diplomatic relations. All the same, it is an innovative document in a number of ways:

In its form:

\* it is binding on the participating States

\* it gives NGOs an important role

\* it outlines a methodology to remove obstacles to its implementation. A Committee of experts, responsible for seeing it is applied, serves also to advise and help States to conform. Of course, the task that is normally given to such a body to report violations and impose sanctions, remains, but the spirit of the text is such that it attaches great importance to an understanding attitude and

in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children, '

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) ; and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

## PART I

### Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

### Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

### Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

### Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized

a willingness to explain, leading where necessary to cooperation.

In its contents, the Convention clearly looks to the 21st century.

1. Children are persons and, in this capacity, can appeal to the Rights of Man. What was once implicit, is now expressed explicitly.

2. For the first time, a global and therefore coherent text treats all the aspects of the status of children: the right to be protected, to benefit from various services, to share depending on their maturity in basic decisions which concern them.

3. The place of children is defined in their relations with their family, their community and the State, in terms of universal values which go beyond the cultural and local specificities without negating them.

## 19. How is this text innovative?

The Convention, taking as its point of departure the idea that children are first of all individuals, recognises explicitly that they have the rights proper to all human beings (to be respected in their integrity and their identity, to have freedom of thought and expression, etc). As children, they must benefit also from strengthened rights: their needs regarding health care and education are greater than those of adults. Finally, they have specific rights: when abandoned, they have to be found a new family.

A number of provisions improve the content of international law. Some are innovative. Others which previously were only recommendations become binding.

And so the affirmation of the superior interest of children constitutes essential progress and becomes the directing principle of juridical thinking.

The obligation for States to do all they can to ensure the survival of children, the protection of their identity; the need to listen to and take into consideration their opinion; the stress laid on the prevention of mistreatment; the obligation of States to take steps to abolish traditional practices prejudicial to the health of children; the need to apply school discipline in a way compatible with the dignity of children as human beings; the necessity to defend children against the ingestion of psychotropic substances, etc. are so many new rules.

## 20. Is not this text too general?

This is not the main complaint that can be made against the Convention, even if certain formulations appear very vague. When this is the case, it obliges States to take steps to apply the principles stated in their internal legislation. An example among others, is article 22, paragraph 1: "States parties shall take appropriate measures that a child who is seeking refugee status...receive appropriate protection and humanitarian assistance..."

It was necessary to leave enough margin for interpretation, to let time and various concrete juridical practices lead gradually to more rigorous concepts and the clarification of certain types of situations. French law is not above adopting this approach: basing the implementation of measures to protect children on notions the writers of the texts intentionally left imprecise, as, for example, speaking of physical, moral or affective "danger", or of "seriously compromised" education..

## 21. Is not this document unrealistic given the economic and social situations in many states?

Many people think this text goes far, very far, too far.

It should be noted first that, in the case of numerous points, it repeats what had already been adopted in other international texts, adding simply a more global viewpoint and the coherence that was lacking previously.



We should stress also that for the reader who is willing to respect its spirit, it is valuable and demanding for all States.

On certain points, it is true, the countries of the Third World will find it difficult to implement the Convention, and will encounter serious material difficulties. Hope lies in the increase of international cooperation to which the text refers to often.

On the other hand, on other points, certain industrialised countries, characterised by an individualistic and competitive idea of social relations, or by an abusive "infantilisation" of children, will have more difficulty than poor countries to put in practice the principles of the Convention. Cultural obstacles are not necessarily more easy to overcome than material hindrances.

## **22. How does the Convention organise cooperation among states?**

The mechanism for applying the Convention is conceived in such a way as to encourage cooperation among States so that they can all come closer to the ideals contained in the text.

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance along with the Committee's observations and suggestions, if any, on these requests or indications...Article 45

## **23. What specific points of the rights of children are noticeably strengthened?**

in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

### **Article 5**

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

### **Article 6**

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

### **Article 7**

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

### **Article 8**

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

## Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests. 4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

## Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

Let us mention a few

- the protection of the identity of children
- the right to express their opinion and to see their opinion taken into account (by administrative or judicial authorities, for example)
- the prevention of violence towards children
- the adoption of children born abroad
- the abolition of traditional practices such as clitoridectomy, or the preferential treatment of boys to the detriment of girls
- the periodical revision of children in care by judicial or administrative authorities.
- protection against ingestion of psychotropic drugs and narcotics
- the abolition of the death penalty for children
- the affirmation that imprisonment should be a last recourse when laws are broken
- the adaptation of ways of applying judicial law to children

## 24. Do not the rights of children infringe on those of the family?

Some contradictory points of concern have surfaced.

For some, the Convention lays too much stress on the part played by the family and community in the education of children and in the formation of their mind. It is true that "children do not belong to anybody", but how could the Convention have ignored the importance for children of the setting in which they were born, and should it not have stressed the responsibility of the parents?

For others, the individual rights attributed to children, and especially those they can exercise by themselves, *proprio motu* (freedom of thought, of religion, opinion, association, etc.) seem dangerous: how will parents be able to continue to protect their children and guide them in their education? Is this not going too far? Are not these rights, in a way, weapons to be used against parents and teachers?

To be truthful, the Convention does not fall into either of these two traps. It recognises that children have the same rights as are inherent in everybody (right to a name, to a nationality, to a home, to be respected in their integrity and intimacy, etc.) for themselves and not against anybody. We should not forget that children also have duties, and that a number of their rights are exercised by their parents.

How could it be any different when children are full members of a family; when by their very presence they bring life and meaning to the family? But it remains true, nevertheless, that they are a subject and not an object.

## 25. Does not giving freedom of expression to children savour of demagoguery?

It seems difficult to accept that children can have freedom of thought or expression at a period when this thought or this expression are in the process of being formed, and under the influence of parents and other teachers.

On the one hand, the Convention, like our own internal laws, does not treat very young children and adolescents in the same way.

Are not sufficiently old children capable of expressing their opinion regarding problems which affect them in the first place, like the separation of their parents?

On the other hand, to express oneself is not to decide.

Is it then so shocking for a judge to listen to their opinion and to take it into account when making a decision, as he did in the case of each of their parents? There is a danger that adolescents will abuse of their freedom of expression in

a school magazine or in some other form of communication. When the Convention outlines the individual rights of children, it also indicates the limits. Adolescents must, like everybody else, respect the rights of others and those of the society to which they belong.

By associating, as is proper, freedom and responsibility, there seems to be a big risk of making childhood - that especially carefree period - disappear. However, is not the very existence of the Convention a confirmation of the fact that the state of childhood is different from that of adulthood? Children have to be accountable for their actions, but in a way that is suited to children.

## 26. Is this not a step towards having boy-kings?

No one objects to children having extra and specific protection. Between that and recognising they have the right to think for themselves, to express themselves, and to associate, there is a gap! Does not this bring them too quickly to adulthood, and create the risk of making them assume excessively heavy responsibilities?

The Convention does not overstep due limits..

\* Children have rights, but some of them are exercised by their parents or with their help.

\* They are allowed to exercise new rights by themselves, but limits are imposed (respect for others and for public order).

They will have to account for their actions, but as children.

The Convention makes a clear distinction between children and adolescents, basing itself on the notion of discernment used in article 12.

The very existence of this text is a clear sign that the universal community has no intention of suppressing the state of minority, or of repudiating the specificity of childhood. It simply considers children as human beings who, as such, think, have opinions, and a capacity to act by themselves, which increases as they mature. By choosing to stimulate this capacity and to develop a critical sense, the Convention has in mind the primary aim of protection: independent children who are better armed against the risks of life.

And so, we are very far from having boy-kings, who still exists in fables...for children.

An international Charter is, most often, a fundamental document defining the aims and operating procedures of an international body, as in the case of the Charter of the United Nations.

The aims are based on essential principles which partners commit themselves to observe under pain, obviously, of being expelled.

A Declaration adopted by the United Nations or by some other international body is generally a petition of principle on which the member States agree. It serves as a reference for their jurisdiction, their legislative bodies, and more generally, for world opinion. States, whether or not they have voted for the declaration, do not make a precise commitment regarding the implementation of the guidelines they have drawn up.

An international Convention is a multilateral treaty. It is a contract, that is, a statement of intent agreed upon by party States which commit themselves to precise obligations, generally accompanied by means to check on implementation.

## 27. What form does the Convention take?

The Convention has three main parts:

1° The Preamble - not binding on the signatory States - recalls the philosophical, political and juridical background:

Recalling that, in the Universal Declaration of Human Rights, the United Nations

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

### Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

### Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

### Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:



(a) For respect of the rights or reputations of others; or

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

#### **Article 14**

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

#### **Article 15**

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

#### **Article 16**

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

2. The child has the right to the protection of the law against such interference or attacks.

#### **Article 17**

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental

has proclaimed that childhood is entitled to special care and assistance, Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance ...

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration, Taking due account of the importance of the traditions and cultural values of each people Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries...

2° Forty-one basic articles define the rights which signatory States recognise that children have, and which they undertake to respect.

3° Twelve articles indicate provisions for implementing these rights: a Committee for the Rights of the Child, composed of independent experts, is charged with watching over respect for the terms of the Convention.

### **28. What are children according to the Convention?**

For the purposes of the present Convention, a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier. Article 1

The Convention fixes an upper age limit for childhood, it says nothing about when life begins. When does one become a "human being" - a sensitive question raised in discussions about voluntary interruption of pregnancy.

It should be noted that individual States can legislate to lower the age of majority to below 18. This would make access earlier to all the Rights of Man, but would run the risk of reducing the right to childhood.

### **29. Will all children have identical rights?**

No discrimination can exist on the basis of the conditions of birth, and the personal and family circumstances of children. The Convention recalls here with great solemnity one of the great general principles of the Rights of Man.

States Parties shall respect and ensure the rights set forth in this Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members. Article 2

To take an example, the Convention refuses all discrimination between children whose parents are married and those whose parents are not (children resulting from a free union, adultery, incest). This concerns in a practical manner problems of consanguinity, parental responsibility and inheritance.

### **30. What provision does the Convention make for the children of**

## the poorest countries?

In a number of passages, the Convention calls upon signatory nations to develop cooperation among themselves, and in its preamble, "it recognises the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries".

Regarding health and healthcare "States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries".

Regarding education "States Parties shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teach-



ing methods. In this regard, particular account shall be taken of the needs of developing countries". Article 28 para. 3

### 31. What does the "superior interest of children" mean?

The superior interest of children is the key-idea of the Convention. It takes on all its significance when we think how children can be a reason of conflict or of a power-struggle between their parents, but equally between other adults (grandparents, host families, social institutions, etc.) Other interests can intervene in a situation involving children, that are ideological, cultural or economic. The Convention affirms that all these other interests, however legitimate, are secondary to that of children, which is considered a "superior interest", that is, one that has priority.

Of course, each case has to be considered on its own, to see what in practice this means. The needs of children can vary from one stage to another of their physical, psychological or affective development. What we have here is rather a guideline, a philosophical point of view rather than a hackneyed response.

The interest of children is superior to other interests, and it must be respected not only now, but in the long term.

Who will judge? One can hope that common sense and love on the part of both parties in the conflict will make it possible to find a good solution. As a final

health. To this end, States Parties shall:

(a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;

(b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;

(c) Encourage the production and dissemination of children's books;

(d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;

(e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

### Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

### Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or

exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

### **Article 20**

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

### **Article 21**

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or

recourse, there are the law courts which will decide. Children or those who defend their interests will possibly have to go to court. In a democratic country, it is for the courts to arbitrate between contradictory rights and freedoms, if someone feels unjustly treated.

## **32 what are the principal rights of children?**

1. Their civic rights

\* the right to be recognised as a child, to have a name, a nationality

\* the right to a family

\* the right to be defended against all violence and exploitation, and particularly against sexual exploitation

\* the right to act in a juridically valid way under certain conditions.

2. Their cultural rights

\* the right to education, to leisure

\* access to information adequate for their age and their degree of maturity; freedom of thought and expression

3. Their social rights

\* the right to the best state of health possible

\* the right to public funding of the healthcare they receive.

\* the right to special care when particular circumstances require it, as in the case of handicapped or refugee children

\* in the case of children placed in care or adopted, the right to special vigilance by the State

4. Economic rights

\* the right to a sufficient living standard

\* the right not to have to work in order to live

It should be noted that the Convention does not envisage political rights for children. Children are not citizens in the strict sense, and their freedom of expression or of association cannot be considered to be a political right.

## **33. What are the individual rights of children?**

Like every other individual, children must have essential personal rights: a name, a nationality, a culture, family relations

1. "The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality, and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless". Article 7

1. "States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to speedily re-establishing his or her identity". Article 8

These provisions were necessary because of the mass disappearance of children whose identity documents had been deliberately falsified and family ties broken arbitrarily because of dramatic political events.

## **34. Does the Convention bear in mind the children who die each day through lack of care and food?**

A number of countries today are not in a position to ensure the essential care



children have a right to. The articles of the Convention on this subject are not written as a series of rights that juridical bodies can use as a reference, but as a programme of measures States Parties commit themselves to implement.

"1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

- (a) To diminish infant and child mortality;
- (b) To ensure the provision of necessary medical assistance...
- (c) To combat disease and malnutrition
- (d) To ensure appropriate pre-natal and post-natal health care for mothers;
- (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breast-feeding, hygiene and environmental sanitation and the prevention of accidents;
- (f) To develop preventive health care, guidance for parents, and family planning education and services" Article 24

### **35. In what does the right of children to have a private life consist?**

Children have a right to the protection of the law against unwarrantable interference in their private life.

This right extends to public and to private interference: their family, their home, their correspondence must be respected by all the public authorities of their country as well as by the parental authorities on which they depend.

"1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

2. The child has the right to the protection of the law against such interference or attacks". Article 16

"This is a fundamental text in that it recognises that children have a area of

an adoptive family or cannot in any suitable manner be cared for in the child's country of origin; (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

### **Article 22**

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

### **Article 23**

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's

active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child. 3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

#### **Article 24**

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

- (a) To diminish infant and child mortality;
- (b) To ensure the provision of necessary med-

autonomy in their private life which is determined in the first place by the individual.

Up till now, the law on parental authority left the task to parents, as a last resort, of ensuring that the private life of their children was respected, but it did not oblige them to do more than that.

Children can appeal to a court itself, accompanied or defended by the person of their choice, to ensure that this right is respected". (Pierre Noel, jurist).

#### **36. How should we understand the freedom of thought and of conscience of children?**

This provision stems from the principle according to which children are persons. By affirming first that "States Parties shall respect the right of the child to freedom of thought, conscience and religion" Art. 14, para. 1, the Convention states a universal principle which had never been enshrined in law before. A State cannot therefore force its views on children. Children have a right to resist directly or with the support of those who are bringing them up.

It adds that States Parties "shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child". Art. 14, para. 2..

The family or the community group must be able to raise children according to their values and their culture. The State must not oppose this: it even has the obligation to create the conditions to make it possible, as long as public order is not disturbed. We emphasise that children are only "guided" by their teachers, which means that children can quite legitimately reject the values they propose and choose their own.

Depending on their development, they have the right to express their religious convictions which "may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others". Art. 14, para. 3.

#### **37. Is it not dangerous to say that children will be able to express their opinion?**

The Convention affirms that children are clearly minors, but are nevertheless able to think and feel.

"1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law". Art. 12.

Direct expression without the intermediary of a representative will depend, then, on the maturity of children. The Convention does not indicate a minimum age limit. In fact, there could not be any absolutely rigid rules in this matter: it all depends on the case. Depending on the problem, the situation, children can be more or less capable of giving a well-founded opinion. It is normally thought that children with good mental health are capable of discernment around the age of 7 or 8, the age of reason !

In any case, to take into account the opinion of children does not mean that a decision will depend totally on it. It means adding their point of view to those of others whenever a decision concerning them has to be made. We should note

finally that the Council State in its report dated May 15th 1989, complements the right to give an opinion by the right to silence: children have also the right to refuse to give their opinion, if they prefer.

### 38. What is discernment and who will judge?

It is the capacity of the individual to judge between good and evil. The meaning given to discernment by the Convention is very broad. It can be applied to all jurisdiction, to school, to doctors, to social services, etc..

As a final recourse, it is up to magistrates to say if children have enough discernment, for example, to state their views in the divorce proceedings of their parents, or in a case where grandparents demand visiting or accommodation rights.



Generally speaking, the question of discernment will be raised more and more in the future, and it will be up to States to define areas in which it applies.

### 39. Is it imaginable that children will form an association?

"States Parties recognize the Rights of the Child to freedom of association and to freedom of peaceful assembly". Art. 15, para. 1

Children, therefore, have the right to belong or to create associations, and equally - and this dimension is essential for some countries - the right to refuse to join associations. This article 15 should be understood in the light of article 12: it refers to children with discernment. We should note that the Convention grants only the law the right to define the limits where freedom of association is concerned, and this is an important guarantee: a simple circular from the government is not enough, nor the objection of parents, nor a judicial decision.

Members of the association have to choose a president and a treasurer. How can children take on responsibilities within the framework of an association when, on a personal level, they are "juridically incapable"?

Their penal responsibility, if they violate the rules of respect due to others, or respect for public order, they will be judged according to established norms for juveniles.

Their civic responsibility poses more problems, because parents could believe themselves responsible if only to prove that they have not been personally at

ical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

### Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

### Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and

the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

#### **Article 27**

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

#### **Article 28**

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(a) Make primary education compulsory and available free to all;

(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the

fault regarding the education and the supervision of their children. In what way can parents be held responsible if they are deprived of the right to object to the attitude of their children?

#### **40. What are the rights of children belonging to a minority group?**

"In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language". Art. 30.

This article condemns policies of forced assimilation still recently implemented by certain States (destruction of villages, rehousing but dispersing the villagers, persecution of use of "non-approved" languages, etc.).

Children have the right to have their family around them, and to find in it their primary source of values and culture. When this family belongs to a minority group, the State cannot deprive children of the right to be part of the historical group which gave them birth, and to perpetuate it, on condition, of course, that they show respect for others and do not disturb public order.

The rider to the above is that the minority group to which children belong cannot deprive them of their right to extend constantly their cultural horizons and to make their own choices. Thus, children have the right "to seek...information and ideas of all kinds, regardless of frontiers". Art. 13.

#### **41. Is the right of all children to have a family enshrined in the Convention?**

Yes. The Convention affirms that a child has "as far as possible, the right to know and be cared for by his or her parents" Art. 7, para. 1.

It adds: " States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence" Art. 9, para. 1

"States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned". Art. 9, paras 3 and 4.

#### **42. Is it allowed to hide from children their origins?**

The child has "as far as possible, the right to know... his or her parents" Art. 7. In general terms, it is clear that, in the absence of material obstacles, children

should not be prevented from knowing who their parents are.

This poses the problem of access to origins for children abandoned at birth by a mother who gives birth anonymously, or for children born as a result of artificial insemination by a donor. In a more general sense, thanks to scientific progress which makes it possible to ascertain positively or negatively genetic filiation, the principle affirmed by the Convention makes it possible for all children to check that their juridical or social filiation corresponds with their biological filiation.

### **43. Does the Convention establish a difference between parents?**

No. The Convention states that : "1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child....

2. States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from childcare services and facilities for which they are eligible". Art. 18.

The Convention indicates clearly the joint responsibility of the father and of the mother, whether or not they are married, whether together or separated.

### **44. What happens when the circumstances of life separate the members of a family?**

Frontiers must not prevent relations between children and their two parents.

"Applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicant and for the members of their family". Art. 10, para 1.

"A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents.

Towards that end and in accordance with the obligation of States Parties under Art. 9, para. 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order, public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention". Art. 10, para. 2

These articles refer to families dispersed by immigration or circumstances over which they have no control. They are also relevant taken together with other provisions of the Convention, as in the case of bi-national couples. Care must be taken that frontiers that come down when a couple marries do not go up again when a couple separates, each one possibly being tempted to take the children as hostages, with the law of his own country in support.

### **45. Does the Convention speak of adoption?**

The Convention attributes to States the duty of protecting children deprived of parents.

introduction of free education and offering financial assistance in case of need;

(c) Make higher education accessible to all on the basis of capacity by every appropriate means;

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

### **Article 29**

General comment on its implementation

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.



2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

### **Article 30**

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

### **Article 31**

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

### **Article 32**

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular: (a) Provide for a minimum age or minimum ages for admission to employment; (b) Provide for appropriate regulation of the hours and conditions of employment; (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

"A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State". Art. 20, para. 1.

Adoption is presented as one solution among others for children without parents.

"Such care could include, inter alia, foster placement, Kafala of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background". Art. 20, para. 3.

"Article 20 of the Convention cannot be analysed without reference to the general principle contained in article 9, which affirms the right of children to live with their parents, unless this is seen as incompatible with their superior interest.

The family is the natural place for the development and education of children, and the intervention of the State is justified only by the absence of the family". Sylvie Perdrille.

## **46. Does the Convention encourage international adoption?**

No, it takes care to define its context.

The adoptability of children is judged in the light of the law of their country of origin: "States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary" Art. 21, beginning.

It is in the country of origin of children that a solution has first to be sought before envisaging adoption by foreigners.

"(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin" Art. 21, contd. Adoption by foreigners calls for even greater vigilance.

"(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it". Art. 21, contd.

## **47. Are there special measures to protect the physical and moral integrity of children?**

Yes. The Convention recalls the prohibition of violence towards children, but the originality of its approach lies in the fact that the State Parties commit themselves to set up programmes for the prevention of family violence or violence outside the home.

"States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or

exploitation including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child". Art. 19, para. 1. The Convention concerns itself therefore with moral, physical and sexual violence in the family and by others.

In articles 34 and 35, the signatory States commit themselves also to run programmes to fight the sexual exploitation of children – prostitution or pornography – and trafficking of which they may fall victim.

#### **48. How are children protected against sexual exploitation and violence?**

All States are concerned and not only the countries of Asia or Latin America.

"States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials". Art. 34.

#### **49. Does the Convention condemn clitoridectomy?**

Despite vigorous action by various human rights movements, the word "clitoridectomy" does not figure in the Convention

"States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children" Art. 24, para. 3.

It is not only clitoridectomy that is covered by the compromise expression "traditional practices": included also are the innumerable mutilations, deformations and other ritual scarifications, as well as circumcision which hygienic reasons justify only very rarely.

It remains true that the Convention restricts itself to practices "prejudicial to the health of children". We have to be ready, therefore, for conflicting interpretations,

certain States being perhaps tempted to set up programmes concerned solely with the hygienic conditions of these traditional practices, pretending to be unaware of the fact that these practices damage seriously also the psychological health of the children.

"It is absolutely necessary to concern ourselves with clitoridectomy which affects 30 million little girls. This absolute necessity has obviously to take into account cultural aspects" (Pr Minkowski)

#### **50. What are the obligations of the state to ensure that children are not the object of trafficking?**

The kidnapping, the sale and traffick-



#### **Article 33**

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

#### **Article 34**

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

#### **Article 35**

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

#### **Article 36**

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

#### **Article 37**

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the

shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

### Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

### Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration

ing in children (or in the organs of children) are formally forbidden and must be combatted by all States: children are human beings not a commodity.

"States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form" Art. 35.



"States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare". Art. 36.

## 51. Is child labour forbidden?

Children do not have a recognised right not to work, but they are specially protected. The Convention did not go so far as an absolute prohibition, even if child labour is incompatible with the right of children to education and play. It would have been illusory to have done so, when so many families need the work of their children in order to survive, and when many States find it impossible to ensure education for their children. On the other hand, the Convention condemns the exploitation of children in their work, and imposes sanctions on the exploiters.

"State Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development. States Parties shall in particular:

(a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article". Art. 32.

BIT is in favour of the prohibition of child labour. In 1973 it adopted Convention 138 on the minimum age.

## 52. Can children fight in wars?

No children can become soldiers before the age of 15. Western countries want the minimum age limit to be higher. Nevertheless, the application of this article will already serve to put an end to a situation imposed on many children all over

the world.

"1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of 15 years do not take a direct part in hostilities.

3. States Parties shall refrain from recruiting any person who has not attained the age of 15 years into their armed forces. In recruiting among those persons who have attained the age of 15 years but who have not attained the age of 18 years, States Parties shall endeavour to give priority to those who are oldest.

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict". Art. 38.

### **53. When do children have a right to international humanitarian aid?**

Refugee children or those wishing to obtain this status have right to protection and humanitarian aid.

States should collaborate to help them look for their parents and their family.

If no member of their family is found, children must be protected by the State like any other children deprived of their family circle.

"1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, cooperation in any efforts to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention". Art. 22.

### **54. Does the Convention indicate any measures to protect children from drugs?**

Children must be doubly protected against drugs.

\* so they do not ingest them

\* so they are not induced to produce or to sell them

These two provisions appear for the first time in international law concerning children: "States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances". Art. 33.

"I am not persuaded that the simple illicit use of drugs should be made a crime.

A study should be made on behavioural conditioning by licit use.

Article 33 does not touch the problem of licit solvents which are not psychotropes.

Apart from legislative measures, work needs to be done educating parents and health professionals" Prof. C. Olivenstein

shall take place in an environment which fosters the health, self-respect and dignity of the child.

### **Article 40**

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority.

ty or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings. 3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

#### **Article 41**

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

(a) The law of a State party; or

(b) International law in force for that State.

## **PART II**

#### **Article 42**

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

#### **Article 43**

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall

### **55. Whose responsibility is it to watch over the education and development of children?**

The Convention recalls in several places the primary role of the parents in the education of children. If the family or community fails in its duty, it becomes the responsibility of the State to take the necessary measures to see to the needs of children.

"States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures". Art. 3, para. 2.

"States Parties shall respect the responsibilities, rights, and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention". Art. 5.

"The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes particularly with regard to nutrition, clothing and housing" Art. 27, paras 2 and 3.

### **56. Are children obliged to go to school?**

Yes, primary education is obligatory.

It is the opposite of a punishment: it is on the guaranteed right to an education that the development and future life of all children depends. It enables them to develop their potential qualities and, by vocational training, prepares them for a profession.

We know that many countries at present find it impossible to fulfil this obligation because of their economic situation. The Convention complements, therefore, the affirmation of the rights by specifying a programme signatory countries commit themselves to implement.

"1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(a) Make primary education compulsory and available free to all;

(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child...

(c) Make higher education accessible to all...

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates". Art 28, para 1.

### **57. What does the Convention say about corporal punishment in schools?**

"States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and

in conformity with the present Convention". Art. 28, para. 2.

The Convention does not condemn corporal punishment, which is traditional in certain countries.

It is innovative, however, by making a specific reference to the need to respect the dignity of children.

## **58. What are the aims of all education?**

The Convention does not restrict itself to affirming the right to education, but defines its objectives in a veritable educational programme:

"1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment". Art. 29.

## **59. Do children have the right to receive an education other than that provided by the state?**

The Convention does not fail to remind us that education takes place above all in the family.

It devotes an article to children belonging to a cultural minority. While receiving a "national" education, children must be able to have their own cultural life. They must be able to speak their own language with other members of their community and to practise their own religion.

"In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language". Art. 30.

Children, in fact, are not the property of the State, nor of the Church, nor of a school of thought, nor of their parents. They are, of course, children of a family, of an age, of a nation, but above all, they are individuals with all the rights naturally due to an individual. As such, children must be respected, accompanied, protected, and loved for their own sake, in the same way as the paternity and maternity must be protected". Roger Burnel

## **60. Which institutions have a vocation to contribute to the education of children?**

"No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State". Art. 29, para. 2.

## **61. Do children have a right to leisure and to play?**

carry out the functions hereinafter provided.

2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

#### Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

"1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to fully participate in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity". Art. 31.



Let us emphasise the expression "to participate freely", which means children cannot be forced by public authorities, as was the case in all too many countries, to participate in activities called cultural, sports or artistic.

### **62. And what about handicapped children?**

Yes. For the Convention, handicapped children are first children, and then handicapped persons.

\* as children they must enjoy all the rights of children with no restrictions

\* Because of their handicap, the State must guarantee they receives special care.

"1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance, and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

4....In this regard, particular account shall be taken of the needs of developing countries". Art. 23.

### **63. How does civil law apply to children?**

Children suspected or guilty of breaking laws must be defended and benefit from a special procedure which takes their age and maturity into account. According to the Convention, prison must be an exceptional sanction: any other educational measure is preferable.

Young persons have a right to be treated "in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration

and the child's assuming a constructive role in society". Art. 40, para 1. Children must have "legal or other appropriate assistance in the preparation and presentation of his or her defence" Art. 40, para 2, b ii. However, if the Convention devotes much space to the area of the civil rights of children (name, filiation, patrimonial interests), it hardly treats their relations with penal justice, except to say that their opinion must be registered, that they must be defended and, in the case of being put in care, their situation must be reviewed regularly.

#### **64. What does the Convention say about delinquent children?**

The Convention guarantees all children suspected of having committed a crime that elementary rights of defence will be respected (use of lawyers, defence, appeal, etc.) As for any other defendant.

Also, bearing in mind the youth of the accused, the Convention states as a principle that educational measures should be sought prior to imposing sanctions. If sanctions have to be imposed, special guarantees have to be given the young convict: "States Parties shall ensure that: [...] (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time; (c) [...] In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances" Art. 37.

#### **65. Is it possible to send children to prison?**

Yes. The Convention accepts prison for children, but asks States for "the establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law" Art. 40, para. 3a..

It forbids torture, the death penalty and life imprisonment for children who are minors at the time of their crime: "States Parties shall ensure that: (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below 18 years of age". Art. 37, para. a.

It stresses the need not to mix children with adult prisoners, to encourage contact between the children and their families, and to give them as soon as possible legal aid to take up their defence. States must help children find their place in society on leaving prison.

#### **66. Will we ever see again the condemnation to death and execution of a child?**

The Convention is absolutely clear: "...Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below 18 years of age". Art. 37, para. a.

#### **67. When did the Convention come into force?**

In the last three months of 1989, the most optimistic observers thought that 30 or so States were prepared to sign the Convention, but that they would have to wait 2 or 3 years before they obtained the first 20 ratifications.

We recall that the executive bodies of each State must after the signing of the Convention submit the text to their legislative bodies to obtain the necessary authorisation for its ratification.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

#### **Article 45**

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.



### PART III

#### Article 46

The present Convention shall be open for signature by all States.

#### Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

#### Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General

All the pessimist forecasts were swept away by the impetus that was created:  
\* On January 26th 1990, in the course of a solemn ceremony, 60 States signed the text.

\* By August 3rd 1990, 20 States had ratified it and, according to article 49, this gave the text juridical status as of September 2nd 1990.

"For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession". Art. 49, para. 2.

\* By January 14th 1991, 134 States had signed the Convention and 69 had ratified it.

\* On February 27th 1991, the UN Secretariat General called together the member States for the election of 10 experts to form a Committee to watch over the application of the Convention.

### 68. Which states have signed the Convention as of october 1st 2002?

All countries, apart from the USA, have ratified the Convention..

The USA has problems about accepting the Convention as it stands, basically because of their position relating to the use of child soldiers, capital punishment and adoption.

The USA Bishops' Conference has called upon American representatives to ratify the Convention.

This is a record without precedent in the history of signing treaties concerning the rights of man. No other international Convention has been ratified to such an extent. This Convention was adopted unanimously by the UN General Assembly in 1989, and came into force nine months later.

"This century which began without any guarantee for the rights of children, ends with the existence of a powerful juridical instrument which recognises the existence of their rights , and guarantees respect for them", declared Carol Bellamy, Director General of UNICEF.

The Convention is the first international treaty regarding the rights of man which combines civic and political rights with rights of an economic, social and cultural nature for children.

### 69. Can the text of the Convention still be modified?

No and yes. It is possible for States Parties to propose amendments,

"1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a twothirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted". Art. 50.



## 70. Can a state withdraw from the Convention?

Yes, in law, a State can renounce its participation in a Convention. In practice, this rarely happens.

"A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General".  
Art. 52

## 71. What happens if a state violates the terms of the Convention?

It assumes its own juridical and political responsibility.

Persons, including children, who consider themselves victims of violation of the Convention will have the possibility to appeal to their national jurisdictions. It should be noted that the Convention did not institute international jurisdiction. States Parties need to harmonise their internal laws with the Convention, and take practical measures to ensure that these terms are respected in practice. They have to send in a report every 5 years to the Committee for the Rights of the Child, set up by article 43.

This Committee for the Rights of the Child, composed of ten international experts, appointed by the States Parties, has the responsibility of ensuring the application of the Convention. These experts, elected for 4 years (renewable) act in their own capacity.

This Committee makes observations and recommendations on the basis of information it collects, and of reports sent to it by States Parties, UNICEF and NGOs.

Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

### Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General

### Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

### Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

### Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present Convention.

# Lasallian commitment

Come close to



India  
Philippines  
Guatemala  
Argentina  
Kenya

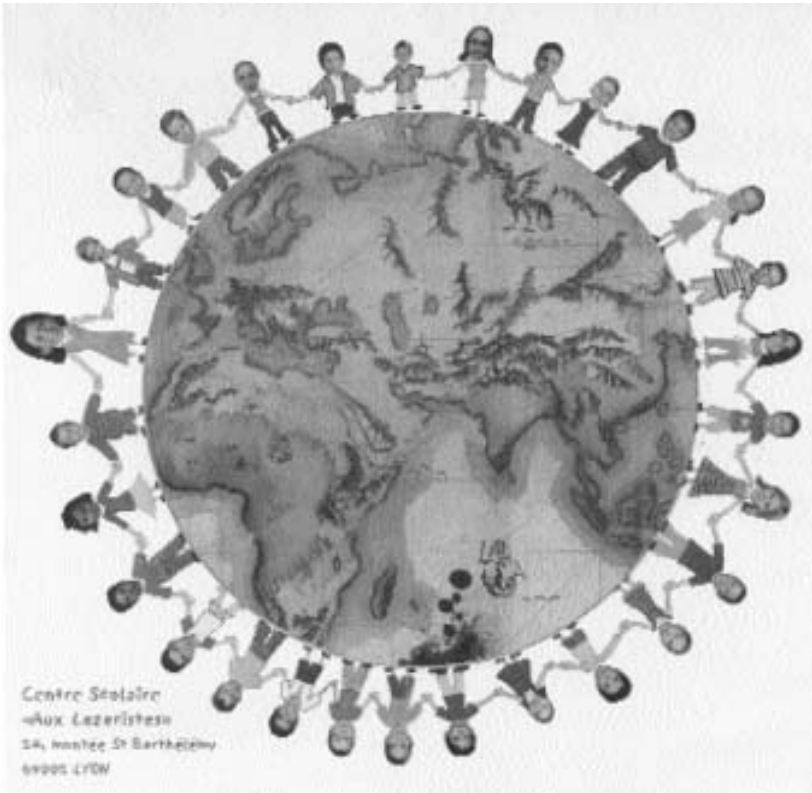


Listen to



Australia/NZ  
Egypt  
France  
Pakistan

Work with them





Always be available



Togo  
U.S.A.  
Spain  
Lebanon  
Mexico



## Conclusion

# The first right of children: The right to peace, a need more than a right



It seems there will be no end to the proclamation of the Rights of the Child. The Convention is there for that. Its merit is to stimulate reflection and action. This age, the most fragile and precious that there is, has every right. But these children are born into an existing situation, a relative situation: there's a father here, a mother there, an uncle, a godfather, a grandfather and their relations. And then, there's the air, the water, the ground, nature, or there's the concrete, the walls, offensive or pleasant noises, roughness or the sweetness of honey, there are harmonies of permanently peaceful transitions, but also the sudden breaks, full of fury and noise.

And already, even before they are born, there is the influence of these orders and disorders.

And at a more intimate level, there is the order and disorder of their most intimate constituents: a missing chromosome, badly connected neurons, biological accidents which provide children either with a fund of health or weigh them down with a disability.

There is nothing children can do about it.



They never undergo, they assume. In life, there is this chance of improbable determining factors...And it is up to them to do what they can for themselves, as their heart or their talents decide.

That is the situation everywhere, but, in the meantime, as we wait for the sciences, the arts, political ideals and educational understanding to clone an ideal child successfully, what do these children, who are all different, need? What general rules, what absolutes about respect, what rules should we promulgate? What could be said that would be valid for all the children of the world, and for all those who feel they have some responsibility for them?

The Convention claims to do that: it offers the tables of a law, respect for which are thought to guarantee children happiness and dignity.

But what works in one place is useless in another; what is true here is a mistake there; everything is relative - situations, the state of individuals and of social groups...

What perhaps could be said about children is probably much simpler: it is more a question of needs than of rights.

And to know what the needs of children are, we should turn to the child in ourselves, to what we still feel, and feel are, in our own selves, the most profound and dominant needs. Needs of all kinds for which the adult is responsible: children as the primary and supreme responsibility of adults, with their litany of needs all of which need to be satisfied simultaneously: a need for love, affection, security, freedom to play, to express themselves, a need of security and peace.

There is one single age that forgets children - the age that is called mature or adult, most often intent on material success, dedicated to the production of wealth, or suffering from the privation of this wealth.

A good question to ask is whether the "stupid or ungrateful age" is less likely to occur at the pre-adolescence stage, than much later, at an age when a person suffers from the world or considers himself its master; taking on all kinds of functions, collecting titles and honours, always posing, indifferent to the needs of the child which he was once and which he will become again at an advanced age.

Perhaps we should try to see that, what makes old age similar to childhood, is what life aspires to in its very depths.

Instead of speaking of this or that article of a law, we should dare to use more general words, dare to use three words: love, justice and peace.

There is a great temptation to treat the first of these words as if it contained the other two.

And yet we have to keep the two others: they



are more explicit, more common, more prosaic, easier to check.

And if we could keep only one of these two words, would it not be peace? There is nothing without real, lasting peace. There is no peace without justice, no peace without love. But peace comes first.

Perhaps it is only where there is peace that the rights of all children can be respected and guaranteed; peace meaning the end of all wars of whatever kind; peace that means living together, peace between parents, without which children will live separated from themselves; peace among all the adults who are close to children – children need them all, and cannot take from each one of them what suits them, if they are not united by peace; for if they do, when they choose one and not another, they will feel they are traitors.

Children are born of multiple sources, but they live their life desiring only one, their need for unity.

This peace, born of true tolerance, which is not fearful self-effacement, nor cowardly acceptance: it represents the assurance which comes with an identity strong enough to rejoice in the knowledge that other strong identities exist also.

This deep peace which is not a dilution of contraries, but the proof of a possible unity of all differences. Emphasising that peace is the first condition for the growth and development of children is a call to promote peace for children, but it is also an appeal to ordinary citizens, civic and political authorities to promote the same in the world.

These views coincide with those of the Association of Lasallian Universities (which represents 62 higher education institutions in the world) in the scheme launched in 2002: ALL BUILDING PEACE. And we are happy to repeat here some of what they said. Because, when all is said and done, to love children is perhaps above all to work for the establishment, the growth and the maintenance of a lasting peace.



*Alain Damiani*



# Appendix : A dream of peace begins in the heart: Peace initiatives from the Lasallian Universities

This century will always remember the horrors of the September 11 bombing of the World Trade Center. Billows of smoke rose in the air as terrorists' planes sliced and razed to the ground the lofty twin towers, leaving many people dead or injured, their loved ones bereaved, shocked and irreversibly broken.

Fourteen of the surviving Nobel Prize recipients for peace have each issued a statement in relation to this catastrophe. Taken together, these statements are a resounding plea for sobriety, wise judgment and caution against retaliatory acts that will only feed a vicious cycle of violence.

The Philippines is not a stranger to violence. Bomb scares and actual bombings happen in public places and in broad daylight. Adding insult to the injury sustained by innocent victims is the ineptness of the authority to pin down the true perpetrators of these ruthless acts invariably meant to destabilize the Arroyo administration.

Other threats to peace in the Philippines include the thriving New People's Army (NPA) – the military arm of the Communist Party of the Philippines (CPP) – which, despite absentee leadership, is still a force to contend with.

The complicated plunder case of the ousted president, Mr. Joseph Estrada, deepens the divide between the rich and the poor who continue to perceive him as an icon, a father and liberator of the Filipino masses.

The peace and order problem in the country lurks an uglier head in Mindanao, particularly in Basilan and Zamboanga which are the strongholds of the most prominent terrorist group in the Philippines, the Abu Sayyaf. This group has established links with Osama Bin Laden's Al Qaeda network manifested by its superior warfare skills, inexhaustible financial resources and belligerent schemes and principles.

There is, however, a greater violence, albeit silent, that takes place in the





hearts and minds of the excluded and the marginalized sectors of Philippine society. If St. John Baptist de la Salle will walk the streets of Manila and other urban centers of the metropolis, his heart will grieve at the sight of swarms of street children- thin and unkempt- whose eyes, at so tender an age, have lost the radiant glow of innocence and youthful expectations. These children live out their childhood on the road selling strings of sampaguita, or selling themselves to foreign pedophiles. Others are engaged in plain mendicancy, begging and sniffing rugby at the same time. Needless to say, these boys and girls open themselves to risks of pedestrian accidents,

vile maneuvers of ubiquitous pimps and handlers of an underground network of organized mendicancy.

Peace is not only the absence of violence. Peace is also a life lived in dignity and on a fair opportunity to bring to full fruition all of God-given potentials. Without an environment of peace, growth is not possible. Without social justice, peace is an empty rhetoric.

As a member of the civil society, the academe can contribute to peace-building efforts by its own unique capabilities, resources and sphere of influence.

The De La Salle University-Dasmariñas (DLSU-D), Cavite, Philippines, in true Lasallian spirit, has popularized quality education through its collegiate scholarship programs for poor but deserving students and through offering skills-based, certificate-granting, short-term courses that will ensure immediate employment to students who, because of financial constraints, cannot pursue a four-year course program.

The university has, likewise, an in-campus, tuition-free Balik-Aral (back to school), program meant for school drop-outs who want to finish the elementary and high school levels through evening classes and get proper accreditation from the Department of Education, Culture and Sports (DECS) upon conclusion of the program. Out-of-campus, mobile schools with volunteer DLSU-D faculty conduct weekend functional literacy classes for children of school age in resettlement areas and other villages in Dasmariñas and nearby municipalities where education loses out to more pressing needs.

Inside the university classrooms and eschewing the banker-approach to education, teachers facilitate the students' acquisition of critical thinking skills and their application in the contexts of the

current lesson and the existing social realities of which they are part.



Participation in public discourse continues to be a rich ground for keeping alive democratic ideals of peace, social equality, the rule of law and respect for human rights and dignity. The DLSU-D, under its Liberal Arts program, sponsors symposia, debate- fora and lectures where faculty, students and speakers from the tri-media, the House of Representatives and the business sector gather for cross-fertilization of ideas and awareness-raising toward better citizen participation in local and national governance.

The influence of education cannot be gain-said. St John Baptist de la Salle exhorted his teachers to touch the hearts of their students, thus spelling out the academe's sphere of influence. Questions arising from the interlocking relationship of peace, social equality and human dignity are varied and many. The answers are not easy. But at the bottom-line of human societies and human relationships is a bedrock truth: love is the highest law and the wellspring of all harmony and goodwill. Such law is enshrined in minds and hearts free from bigotry and from dark vagaries they are heir to in the absence of a value-grounded education.

*Susan Refalda-Mercaida*



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