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THE EIGHTEENTH BIRTHDAY OF THE CONVENTION OF RIGHTS OF THE CHILD: ACHIEVEMENTS AND CHALLENGES

Jaap E. Doek*

Although the U.N. Convention on the Rights of the Child has produced positive results in many countries, the United States remains one of the few nations that has not signed on to this treaty. This Essay will begin by describing the content of the treaty. This Essay will discuss the achievements, challenges, and solutions resulting from the treaty in the areas of child poverty, violence against children, and child labour. Given the positive results produced in other countries, this Essay will conclude with an invitation to the United States to join the Convention on the Rights of the Child.

INTRODUCTION

AN INVITATION TO THE UNITED STATES TO JOIN THE CRC

On November twentieth of this year, the 193 State Parties to the U.N. Convention on the Rights of the Child (“CRC”) will celebrate its eighteenth anniversary. In the lives of children, an eighteenth birthday is a very memorable day because it represents a transition into legal adulthood. By its eighteenth birthday, the CRC has proven its importance and value for the children in the world—enough reason for the 193 members of the CRC family to throw a modest party.

Despite the positive track record of the CRC, the United States remains one of the few nations that has not joined the CRC family. This Essay presents some of the positive results brought about by the CRC in order to persuade the United States to join this important human rights treaty. It is of course impossible to give a full and detailed account of all of the positive results brought about by the implementation of the CRC in all member States. By way of example, this Essay will present achievements and remaining challenges in some of the most important areas covered by the CRC including poverty, violence against children, and child labour.

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I. THE U.N. CONVENTION ON THE RIGHTS OF THE CHILD ("CRC")

The CRC's central goal is the explicit international recognition that children are not just individuals who become human beings but are human beings with their own rights.¹ Article 24 of the International Covenant on Civil and Political Rights ("ICCPR"), for example, states that "[the child has] the right to such measures of protection as are required by his status as a minor."² Various articles of the CRC elaborate on this right to protection, and the two optional protocols to the CRC outline the contours of this right by prohibiting the involvement of children in armed conflict³ and child prostitution and child pornography.⁴

In addition, the CRC recognizes the child as a bearer of economic, social, and cultural rights, including the right to education, to health care, to social security benefits, and to an adequate standard of living.⁵ Article 12 of the CRC recognizes that the child's "right to express [her/his] views [should be] . . . given due weight in accordance with [her/his] age and maturity."⁶ Article 12 implies that the child should participate in all decisions affecting her/him and be recognized as a social actor. It also means that the child should not be excluded from societal activities because he has not yet reached the age of majority (in most countries age eighteen). This aspect of the CRC has given rise to many discussions on the competence of children to exercise their rights, and some authors have questioned the viability of giving children a role in decision-making.⁷

This criticism of the CRC is unfounded because the CRC adequately balances the competing concerns of children and parents. Article 5 of the CRC, for example, requires States to "respect the responsibilities, rights and duties of parents . . . to provide, in a manner consistent with the evolving capacities of the child, appro-

1. See U.N. Convention on the Rights of the Child, Sept. 2, 1990, 1577 U.N.T.S. 44 [hereinafter CRC].

2. International Covenant on Civil and Political Rights art. 24, Mar. 23, 1976, 999 U.N.T.S. 171.

3. Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts, G.A. Res 54/263, U.N. Doc. A/Res/54/263 (May 25, 2000) [hereinafter Armed Conflicts Protocol].

4. Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Pornography, G.A. Res. 54/263, U.N. Doc. A/Res/54/263 (May 25, 2000) [hereinafter Child Prostitution and Pornography Protocol].

5. CRC, *supra* note 1, arts. 24, 26–28, at 52–54.

6. *Id.* art. 12, at 48.

7. *E.g.*, Michael Freeman, *Why it Remains Important to Take Children's Rights Seriously*, 15 INT'L J. CHILD. RTS. 5 (2007).

priate direction and guidance in the exercise by the child of the rights recognized in the [CRC].”⁸ Article 5 clearly acknowledges the fact that childhood is a dynamic period during which the child develops from a dependent and vulnerable baby to an independent individual moving towards adulthood.⁹ The dynamic version of children’s rights encapsulated in Article 5 of the CRC is meant “to bring a child to the threshold of adulthood with the maximum opportunities to form and pursue life-goals which reflect as closely as possible an autonomous choice.”¹⁰ At the same time, a commitment to the concept of children’s rights does not mean that parents must forego their right to prevent their children from making dangerous short term choices, which threaten the child’s potential for long term autonomy.¹¹

Furthermore, the recognition of the child as a rights holder does not mean that he/she is a stand-alone individual. The CRC fully recognizes, in very explicit terms not found in any other human rights treaty, that parents have the primary responsibility for the upbringing and development of their child and that a family environment facilitates the full and harmonious development of the child’s personality.¹² By ratifying the CRC, States have committed themselves to rendering appropriate assistance to parents in the performance of their child-rearing responsibilities for the purpose of guaranteeing the rights enshrined in the CRC.¹³ This commitment means, among other things, that States “shall ensure the development of institutions, facilities and services for the care of children.”¹⁴ In addition, the CRC represents a commitment by States to assist parents, through financial aid and support programmes, with the primary responsibility of securing the living conditions necessary for the child’s physical, mental, spiritual, moral, and social development.¹⁵ In conclusion, the suggestion that the CRC does not respect parental rights or responsibilities is completely unfounded. There is no other human rights treaty more supportive of parents or more respectful of the important

8. CRC, *supra* note 1, art. 5, at 47.

9. *See id.*

10. John Eekelaar, *The Interests of the Child and the Child’s Wishes: The Role of Dynamic Self-Determinism*, 8 INT’L J.L. & FAM. 42, 53 (1994).

11. Jane Fortin, *Children’s Rights: Are the Courts Now Taking Them More Seriously?*, 15 KING’S COLL. L.J. 253, 259 (2004).

12. *See* CRC, *supra* note 1, art. 18, at 50.

13. *Id.*

14. *Id.*

15. *Id.* art. 27, at 53.

role of the family in the upbringing and development of the child.¹⁶

One of the other goals of the CRC is for every child to enjoy the full and harmonious development of her/his personality without discrimination of any kind.¹⁷ Consequently, the CRC expresses a particular concern for “leaving no child behind” and providing vulnerable children with extra protection and support.¹⁸ The CRC also seeks to develop respect among all children for human rights, fundamental freedoms, and different cultural identities.¹⁹ Indeed, under Article 29, State parties pledge to direct child education towards promoting the preparation of the child for a “responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples. . . .”²⁰

II. ELIMINATION OF CHILD POVERTY

In his 2001 report to the United Nations General Assembly, in preparation for the Special Session on Children, Kofi Annan stated that poverty remains the greatest obstacle to fulfilling the rights of children.²¹ At that time and today more than 500 million children suffer from absolute poverty, struggling to survive on less than one U.S. dollar a day.²² Subsequently, in May 2002, the General Assembly adopted an international plan of action inspired by the comprehensive set of standards contained in the CRC and known as “A World Fit For Children.”²³ The plan of action, which was endorsed by all U.N. Member States, declared that poverty:

must be tackled on all fronts, from the provision of basic social services to the creation of employment opportunities, from the availability of microcredit to investment in infrastructure, and from debt relief to fair trade practices. . . .

16. The importance of the CRC to these matters can be seen in provisions throughout the Convention. *See, e.g., id.* arts. 7(1), 9, 10, 20, 21, 22(2), at 47–48, 50–51.

17. *See id.* arts. 6, 23, 27, 29, at 47, 51–54.

18. *See id.* arts. 23, 30, at 51–52, 54.

19. *Id.* art. 29, at 54.

20. *Id.* art. 29(1)(d), at 54.

21. The Secretary-General, *We the Children: End-Decade Review of the Follow-Up to the World Summit for Children, considered by the Preparatory Committee for the Special Session of the General Assembly on Children, Third Session*, ¶ 30, U.N. Doc. A/S-27/3 (May 4, 2001) [hereinafter *We the Children*].

22. *Id.*

23. G.A. Res. S-27/2, U.N. Doc. A/RES/S-27/2 (May 10, 2002).

Eradication of poverty and reduction of disparities must therefore be a key objective of development efforts.²⁴

The U.N. member States adopted a set of eight ambitious Millennium Development Goals (“MDGs”); the first of which was to reduce by half the proportion of people living on less than a dollar a day by 2015.²⁵

A. Achievements

Inadequate data collection makes it impossible to present a full picture of the global reduction of poverty. The MDGs, however, have resulted in a variety of actions. Most notably, several countries have implemented poverty reduction strategy papers (“PRSPs”), promoted and supported by the World Bank among others. These PRSPs contain goals, targets, policies and strategies to give more coherence to efforts to fight poverty while providing a framework for official debt relief.²⁶ Unfortunately, many of these PRSPs only give cursory treatment to the problems of children and mention children only in very general and limited ways.²⁷ The CRC Committee therefore has recommended that State Parties to the CRC include in their PRSPs measures explicitly aimed at reducing childhood poverty.²⁸

24. *Id.* ¶ 18.

25. United Nations, U.N. Millennium Development Goals, <http://www.un.org/millenniumgoals/index.html> (last visited Sept. 5, 2007) [hereinafter Millennium Development Goals]. Other Millennium Development Goals include: reducing the mortality rate among children under five by two thirds, reducing the maternal mortality rate by three quarters, and ensuring that all boys and girls complete a full course of primary schooling. *Id.*

26. See 1 WORLD BANK, A SOURCEBOOK FOR POVERTY REDUCTION STRATEGIES: CORE TECHNIQUES AND CROSS-CUTTING ISSUES 2 (Jeni Klugman ed., 2002).

27. See KLAUS HEIDEL, POVERTY REDUCTION STRATEGY PAPERS: CHILDREN FIRST! 21–25 (2005) (criticizing various PRSPs for the failure to analyze the causes of child poverty and for the lack of an explicit child rights approach), available at <http://www.sarpn.org/documents/d0002048/index.php>.

28. See U.N. Comm. on the Rights of the Child, *Concluding Observations: Honduras*, ¶¶ 19, 20, U.N. Doc. CRC/C/HND/CO/3 (May 3, 2007); U.N. Comm. on the Rights of the Child, *Concluding Observations: Benin*, ¶¶ 59, 60, U.N. Doc. CRC/C/BEN/CO/2 (Oct. 20, 2006); U.N. Comm. on the Rights of the Child, *Concluding Observations: Senegal*, ¶¶ 15, 16, U.N. Doc. CRC/C/SEN/CO/2 (Oct. 20, 2006); U.N. Comm. on the Rights of the Child, *Concluding Observations: Tanzania*, ¶¶ 17, 18, 54, 55, U.N. Doc. CRC/C/TZA/CO/2 (June 21, 2006); U.N. Comm. on the Rights of the Child, *Concluding Observations: Uzbekistan*, ¶¶ 52, 53, U.N. Doc. CRC/C/UZB/CO/3 (June 2, 2006).

B. Challenges

Unfortunately, with the exception of several emerging South East Asian economies, such as Malaysia and Vietnam, significant results in the battle against poverty have generally been slow and elusive.²⁹ One of the major problems is that poverty reduction programmes are chronically under-funded compared to what is needed to achieve the MDGs.³⁰ In addition, debt relief may only have a very limited impact on the lives of the poor.³¹ There is reason to believe that the financial benefits (no interest and no debt repayment) are only in limited ways used to improve the lives of the very poor. This is especially true in sub-saharan Africa where a high percentage of children still live in extreme poverty.³²

At the same time, it must be noted that poverty is not a problem that only exists in the developing parts of the world. A recent UNICEF study presented evidence that many children in the very rich countries live in a family with less than fifty percent of the median income in that country.³³ It is obvious that this is not the extreme poverty of less than one dollar a day, but nevertheless, in the context of these twenty-five members of the Organization of Economic Cooperation and Development ("OECD"), it is a poverty that seriously hampers a child's enjoyment of her/his rights. Under this definition of poverty, twenty-two percent of children in the United States live in poverty and sixteen to seventeen percent of children live in poverty in countries like Portugal, Spain, Italy, the United Kingdom, and Ireland.³⁴ Only in the Nordic countries is the child poverty rate at or below five percent.³⁵ An overall ranking of the child's well-being³⁶ in these twenty-five OECD countries revealed the United Kingdom and the United States as ranked twenty-fourth and twenty-fifth, respectively.³⁷ By contrast, the Netherlands is ranked first, with an average score on the six dimensions

29. See *We the Children*, *supra* note 21, ¶ 50, 63.

30. JEFFREY D. SACHS, *THE END OF POVERTY: ECONOMIC POSSIBILITIES FOR OUR TIME* 270 (2005).

31. *Id.* at 298.

32. See *We the Children*, *supra* note 21, at 17–18 box 1; SACHS, *supra* note 30, at 49–50.

33. See INNOCENTI RESEARCH CTR., UNICEF, *CHILD POVERTY IN PERSPECTIVE: AN OVERVIEW OF CHILD WELL-BEING IN RICH COUNTRIES, REPORT CARD 7* (2007) [hereinafter *CHILD POVERTY IN PERSPECTIVE*], available at http://www.unicef-irc.org/publications/pdf/rc7_eng.pdf.

34. *Id.* at 6 fig.1.1.

35. *CHILD POVERTY IN PERSPECTIVE*, *supra* note 33, at 8 fig.1.1.

36. The child's well being was measured on six dimensions including the child's material well-being, health and safety, education, peer and family relationships, behaviours and risks, and the subjective feelings of the child. *Id.* at 2.

37. *Id.*

of 4.2, followed by Sweden at 5.0, Denmark at 7.2, and Finland at 7.5.³⁸ The average scores of the five countries lowest on the list are Portugal with 13.7, Austria with 13.8, Hungary with 14.5, the United States with 18.0, and the United Kingdom with 18.2.³⁹

C. Solutions

Current efforts to reduce poverty via, inter alia, PRSPs and debt relief must be linked with more concrete and immediate targets at the national level, in order to make more significant progress towards achieving the MDG by 2015. At the same time, it is necessary that the World Bank and IMF “restore their international role . . . so that they are no longer the handmaidens of creditor governments, but the champions of economic justice and enlightened globalization.”⁴⁰

In addition, the rich countries of the world must meet the commitments they made thirty-five years ago to devote 0.7 percent of their Gross Domestic Product (“GDP”) to international development assistance by the end of 2010.⁴¹ Currently there are only five countries that have met this commitment,⁴² and the United States, for example, devotes less than 0.2% of its GDP to international development assistance.⁴³ Rich countries must also undertake more targeted and time-bound measures to reduce the poverty of children within their own countries. An increased focus on reducing poverty would bring a wide range of benefits. Poverty is one of the major causes of death for about 30,000 children per day, or 2.88 children per second, due to preventable diseases.⁴⁴ Poverty also results in the exploitation of more than 218 million child labourers,⁴⁵ the malnutrition of approximately 150 million

38. *Id.*

39. *Id.*

40. SACHS, *supra* note 30, at 366.

41. *Id.* at 338, 339. The countries repeated these promises at the 1992 Rio Summit on Sustainable Development and again in the 2002 Monterrey Consensus. *Id.*

42. See United Nations Development Programme, Human Development Report 2006, <http://hdr.undp.org/hdr2006/statistics/indicators/160.html>.

43. In 2004, the USA devoted 0.14% of its GDP to International Development Assistance. SACHS, *supra* note 30, at 218. The repeated promise to raise it to 0.7% would mean that the contribution would increase from around \$15 billion in 2004 to \$75 billion per year. *Id.* Further, Jeffrey Sachs is of the opinion that the United States can afford such an increase. *Id.* at 304–308.

44. See World Fit for Children, <http://www.worldfitforchildren.com> (follow “Child Poverty” hyperlink) (last visited Sept. 6, 2007).

45. See INT’L LABOUR OFFICE [ILO], THE END OF CHILD LABOUR: WITHIN REACH 6 tbl.1.1 (2006) [hereinafter END OF CHILD LABOUR].

children,⁴⁶ and the complete lack of education of more than 100 million children.⁴⁷

III. VIOLENCE AGAINST CHILDREN

Violence against children is the other major obstacle to the enjoyment of children's rights. Children are victims of violence in institutions, in schools, in the workplace, in the juvenile justice system, on the streets, and even in their homes—surprisingly the most common location of violence against children.⁴⁸ Violence against children, from minor violence to extreme forms of torture, is committed by governmental officials, professionals expected to care for children, teachers, paramilitary groups, and too frequently, by close relatives and parents. Violence against children is committed in ways that often defy human imagination.

There is an incredible wealth of reports and research confirming the devastating impact of violence on the child's development. The U.N. Study on Violence Against Children, for example, surveyed more than 130 countries (an absolute record in the history of the U.N.), consulted representatives of nine regional governments and non-governmental organizations ("NGOs"), and interviewed countless children.⁴⁹ The study, which was presented to the U.N. General Assembly in October 2006, concludes with an impressive list of recommended actions to be taken by member States of the U.N.⁵⁰

A. Achievements

The CRC contains various articles requiring State parties to protect the child from all forms of violence, abuse, and exploitation.⁵¹

46. *We the Children*, *supra* note 21, ¶ 27.

47. *Id.*

48. PAULO SÉRGIO PINHEIRO, WORLD REPORT ON VIOLENCE AGAINST CHILDREN 6-7 (2006), available at <http://www.violencestudy.org/r229>. The report submitted by Mr. Pinheiro to the U.N. General Assembly is also available. The Secretary-General, *Report of the Independent Expert for the United Nations Study on Violence Against Children, delivered to the General Assembly*, U.N. Doc. A/61/299 (Aug. 29, 2006).

49. *Report of the Independent Expert for the United Nations Study on Violence Against Children*, *supra* note 48, ¶¶ 11-15, at 6-7.

50. PINHEIRO, *supra* note 48, at 92-96, 153-56, 216-19, 268-71, 335-38.

51. CRC, *supra* note 1, arts. 19, 23, 30, 32-38, at 50-52, 54-56. See also Armed Conflicts Protocol, *supra* note 3 (raising the standards set forth in Article 38 of the CRC); Child Prostitution and Pornography Protocol, *supra* note 4 (elaborating on the measures that should be taken to implement in particular Articles 34 and 35 of the CRC). Both Optional Protocols

Almost all 193 State Parties have taken legislative or social measures to meet these requirements and protect children from violence in various settings. Considerable progress has been achieved in the legal prohibition of corporal punishment and other forms of violence against children in school and in the juvenile justice system.⁵² In addition, special national plans of action have been developed and implemented to end child abuse, parental neglect, the sale of children, child pornography, and child prostitution.⁵³ It should also be noted that the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography has been ratified by more than 110 States, including the United States. Many of these States are strengthening their laws to improve the protection of children against these crimes by establishing extra-territorial jurisdiction and effective rules for extradition, and by increased international cooperation.⁵⁴ These efforts have already brought about positive results especially with the use of extra-territorial jurisdiction to prosecute offenders and provide victims with financial compensation.⁵⁵ In addition, public awareness campaigns, growing out of the CRC, have also had positive results. For

have been ratified by the United States and more than 110 state parties have ratified the CRC. Office of the United Nations High Commissioner, Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, http://www.ohchr.org/english/bodies/ratification/11_b.htm; Office of the United Nations High Commissioner for Human Rights, Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, http://www.ohchr.org/english/bodies/ratification/11_c.htm; Office of the United Nations High Commissioner for Human Rights, Convention on the Rights of the Child, <http://www.ohchr.org/english/bodies/ratification/11.htm>.

52. See U.N. Comm. on the Rights of the Child, *General Comment No. 8: The Right of the Child to Protection From Corporal Punishment and Other Cruel or Degrading Forms of Punishment*, U.N. Doc. CRC/C/GC/8 (2007). The CRC Committee issued General Comment No. 8, which contains specific recommendations for protecting the right of the child to be free from corporal punishment and other cruel or degrading forms of punishment. *Id.* See also GLOBAL INITIATIVE TO END ALL CORPORAL PUNISHMENT OF CHILDREN, ENDING LEGALISED VIOLENCE AGAINST CHILDREN (2006), available at <http://www.endcorporalpunishment.org/pages/pdfs/reports/GlobalReport.pdf>. See generally INNOCENTI RESEARCH CTR., UNICEF, U.N. HUMAN RIGHTS STANDARDS AND MECHANISMS TO COMBAT VIOLENCE AGAINST CHILDREN (2005); INNOCENTI RESEARCH CTR., UNICEF, COUNCIL OF EUROPE ACTIONS TO PROMOTE CHILDREN'S RIGHTS TO PROTECTION FROM ALL FORMS OF VIOLENCE (2005).

53. For more information on these national plans, see the State parties' reports to the U.N. Committee on the Rights of the Child, Treaty Body Documents, available at <http://www.ohchr.org/english/bodies/crc/index.htm>.

54. See *id.* See also INNOCENTI RESEARCH CTR., UNICEF, TRAFFICKING FOR SEXUAL EXPLOITATION AND OTHER EXPLOITATIVE PURPOSES 15–19 (2005).

55. See ARIEL GUSTAVO FORSELLEDO, REPORT BY THE INTER-AMERICAN CHILDREN'S INSTITUTE ON THE SITUATION OF COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN AND ADOLESCENTS IN THE AMERICAS (2001), available at http://www.csecworldcongress.org/en/yokohama/Background/Regional_analyses.htm (follow "Situation Analysis—The Americas" hyperlink).

example, in several states, these campaigns have resulted in the establishment of training programs for parents and professionals on the negative impact of violence, as well as on non-violent alternatives for disciplining children.⁵⁶

Despite some sizable gains in the area of corporal punishment—eighty-one percent of children in the juvenile justice system and forty-two percent of children in school settings are legally protected from corporal punishment—children still receive almost no protection in alternative care (four percent) and in the home (two percent).⁵⁷ As Secretary General Kofi Annan explained in his preface to the report on the U.N. Study on Violence Against Children: “Violence against children is never justifiable. Nor is it inevitable. If its underlying causes are identified and addressed, violence against children is entirely preventable.”⁵⁸ The U.N. Study on Violence Against Children contains recommendations for addressing violence in the home and the family, in schools, in the work place, and in the community through prevention and intervention. There are two time-bound targets contained within the recommendations: 1) establish a comprehensive plan to prevent and respond to violence against children by the end of 2007, including the identification of a focal point for this plan at the ministerial level; and 2) initiate the development of a reliable national data collection system by the end of 2009.⁵⁹ The U.N. Member States who have expressed, in flowery rhetoric, their commitment to eliminate violence against children,⁶⁰ must follow-up these commitments with action.

IV. ELIMINATION OF CHILD LABOUR

Article 32 of the CRC recognizes “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 for the child’s . . . development.”⁶¹ In 1973, the International Labour Organization (“ILO”) adopted

56. See *Report of the Independent Expert for the United Nations Study on Violence Against Children*, *supra* note 48, ¶ 88, at 23.

57. PINHEIRO, *supra* note 48, at 11 fig.1.1.

58. *Id.* at xi.

59. *Report of the Independent Expert for the United Nations Study on Violence Against Children*, *supra* note 48, ¶ 116, at 32.

60. G.A. Res. 61/146, ¶¶ 13–19, U.N. Doc. A/RES/61/146 (Jan. 23, 2007).

61. CRC, *supra* note 1, art. 32, at 54.

Convention 138 establishing a minimum age of employment.⁶² Initially, this Convention was not very successful; as of 1995, less than fifty countries had ratified it.⁶³ But driven by the momentum created by the CRC, the ILO developed and adopted another convention, No. 182, on the elimination of the worst forms of child labour.⁶⁴ Convention 182 was much more successful than Convention 138 in terms of ratification; as of this writing more than 150 State Parties have ratified Convention 182 (the United States being among the first to do so).⁶⁵ In the slipstream of this success Convention 138 is now also ratified by about the same number of States.⁶⁶

In 1990, Germany donated 50 million Deutsche Marks earmarked for the elimination of child labour. This donation was the start of the world-wide operating ILO Programme for the Elimination of Child Labour ("ILO/IPEC").⁶⁷ Last year the ILO reported that the programme had achieved very significant results. For example, the number of children aged five to fourteen years old involved in the worst form of child labour has been reduced by 33.2%, from 111.3 million to 74.4 million in the four year period from 2000–2004, and for the total group of children aged five to seventeen years old, this reduction was 25.9%, from 170.5 million to 126.3 million.⁶⁸

A. Challenges and Solutions

The goal of reducing child labour by another twenty-five percent in the next four to five years is certainly achievable if efforts by the international community are increased, especially given the ILO/IPEC's expectation that the worst forms of child labour can be eliminated by 2016. First, the framework of the PRSPs should be used to better monitor child labour practices and

62. International Labour Organization, Convention Concerning the Minimum Age for Admission to Employment, 1973, June 26, 1973, 1015 U.N.T.S. 297.

63. International Labour Organization, Convention No. C138, available at <http://www.ilo.org/public/english/employment/skills/hrdr/instr/c138r.htm>.

64. International Labour Organization, Convention Concerning the Prohibition and Immediate Elimination of the Worst Forms of Child Labour, June 17, 1999, 38 I.L.M. 1207.

65. International Labour Organization, Convention No. C182, available at <http://www.ilo.org/ilolex/cgi-lex/ratifce.pl?C182%20>.

66. International Labour Organization, Convention No. C138, available at <http://www.ilo.org/public/english/employment/skills/hrdr/instr/c138r.htm>.

67. END OF CHILD LABOUR, *supra* note 45, ¶¶ 326–27, at 73–74; see also International Labour Organization, International Programme on the Elimination of Child Labour: Donors, <http://www.ilo.org/ipec/programme/donorcountries/lang-en/index.htm>.

68. END OF CHILD LABOUR, *supra* note 45, at 6 tbl.1.1.

mainstream elimination of child labour. Currently, an explicit concern for the elimination of child labour is often missing from the PRSPs. In the coming years, more targeted measures are needed to mainstream elimination of child labour in the poverty reduction strategies. The ILO has been actively attempting to focus more resources on the reduction of child labour and has recently reported that a growing number of countries have incorporated child labour indicators in the monitoring of their poverty reduction policies, including Bangladesh, Chad, Honduras, Pakistan, Senegal, and Tanzania.⁶⁹ Furthermore, given the fact that sixty-nine percent of the total number of working children are involved in agricultural activities,⁷⁰ it is important and encouraging that many PRSPs put an emphasis on agriculture and rural development.⁷¹

Secondly, there is a clear and well-recognized link between education and reducing child labour.⁷² One of the MSGs is to ensure that by 2015 all boys and girls complete a full course of primary schooling,⁷³ and Article 28 of the CRC advocates for free and compulsory primary education.⁷⁴ If we achieve either of those goals it would translate into a very significant reduction of child labour. According to a study published by the ILO, it would cost only 760 billion dollars to replace all forms of child labour with education by 2020.⁷⁵ An investment in eliminating childhood labour would pay sizable dividends; for every dollar invested the return would be 6.7 dollars,⁷⁶ an internal return of 43.8%.

CONCLUSION

The CRC has now been operational for just over eighteen years, and its impact in the 193 States Parties has been impressive. In addition to the gains made regarding poverty, violence, and child labour, there has been significant progress in many other areas as well. For example, progress has been particularly impressive in: promoting child autonomy, protecting children involved

69. *Id.* ¶ 252, at 56.

70. END OF CHILD LABOUR, *supra* note 45, at 8 fig.3.1.

71. *Id.* ¶ 253, at 57.

72. *Id.* ¶¶ 254–65, at 56–60.

73. Millennium Development Goals, *supra* note 25.

74. CRC, *supra* note 1, art. 28(1) (a), at 53–54.

75. INTERNATIONAL LABOUR OFFICE, INVESTING IN EVERY CHILD: AN ECONOMIC STUDY OF THE COSTS AND BENEFITS OF ELIMINATING CHILD LABOUR 4 tbl.1.2 (2003).

76. *See id.* (noting that the estimated benefit of educating these children would be \$5106.3 billion).

in armed conflicts, developing family-type care as an alternative to institutionalization of children, and improving juvenile justice systems. The lack of systematic data collection has made it impossible to use global figures (e.g., on the reduction of the number of children in orphanages or in institutions for juvenile delinquents) to show that children have reaped a substantial benefit from these activities, and consequently, the legitimate question remains of whether or not children have benefited in tangible ways from all these efforts. But there are many examples of good practices at the national level that not only protect children but also empower them.⁷⁷

It is clear that increased efforts are needed to further protect the rights of children, in particular children who belong to vulnerable groups, such as children of ethnic minorities, indigenous peoples, street children, institutionalized children, refugee children, children with disabilities, and girls (e.g. the abolition of female genital mutilation). It will be a long road with many obstacles, but the implementation of the CRC has become obtainable, especially with the increased participation of national NGOs, international NGOs, and UN agencies, in particular UNICEF with its offices in approximately 150 developing countries. The CRC is an instrument that has made and will continue to make a very significant difference in the lives of many children.

AN INVITATION TO JOIN THE CRC FAMILY

This invitation is addressed to the United States, a country that is no stranger to children's rights. The United States has already undertaken many of the commitments contained within the CRC. For example, the United States has ratified the two optional protocols to the U.N. Convention on the Rights of the Child,⁷⁸ and in May of this year, the United States submitted its reports on the implementation of these Protocols to the U.N. Committee on the Rights of the Child.⁷⁹ The participation of the United States in these protocols indicates the importance that the United States

77. E.g. MINISTRY OF HEALTH & SOCIAL AFFAIRS, STRATEGY TO IMPLEMENT THE UN CONVENTION ON THE RIGHTS OF THE CHILD 1-4 (2004) (Swed.), available at <http://www.sweden.gov.se/sb/d/574/a/23818>.

78. Armed Conflicts Protocol, *supra* note 3; Child Prostitution and Pornography Protocol, *supra* note 4.

79. U.N. Committee on the Rights of the Child, Treaty Body Documents, <http://www.ohchr.org/english/bodies/crc/index.htm> (last visited Aug. 15, 2007) (follow "Treaty Bodies Database" hyperlink; select "CRC-OP-AC" or "CRC-OP-SC in the Convention box and "United States of America" in the Country box).

attaches to protecting the rights of children and its willingness to engage in an international discussion. In addition, the United States has committed itself to implementing A World Fit For Children,⁸⁰ which includes a political commitment to improve health care for children, both nationally and internationally, with a special focus on reducing HIV/AIDS and infant mortality.⁸¹ Finally, the U.S. Department of Labor has played an active role in raising awareness of child labour and contributed its significant financial might towards efforts to combat the worst forms of child labour.⁸²

One of the central obstacles to U.S. ratification frequently cited by representatives of the U.S. State Department is the fact that the United States is a federal republic composed of semi-autonomous states and the issues covered by the CRC would traditionally be considered within the sphere of state regulation. But this problem should not be insurmountable considering the actions of other federal republics such as Australia, Canada, and Germany. In addition, this obstacle did not prevent the United States from ratifying either the ICCPR⁸³ or the CERD.⁸⁴

As part of the movement towards ratification, it is important that lawyers, judges, and other actors dealing with youth in the juvenile justice system begin to incorporate the substantive concepts of children's rights, contained in the CRC, into their work.⁸⁵ The General Comments of the U.N. Committee on the Rights of the Child contain guidance, suggestions, and recommendations, which can serve as a starting point for the process of incorporating children's rights into U.S. law. Moreover, NGOs can and should play an important role in raising awareness of the positive impact an emphasis on children's rights can have in improving the lives of children and the justice system generally.

There are many reasons why the United States should ratify the CRC. The experiences thus far of the 193 States that have implemented the CRC demonstrate that it is an important tool in creating a society in which no child is left behind. The CRC inspires policy-makers, NGOs, and other members of civil society to undertake concrete and targeted measures to improve the plight of the most vulnerable children and to strengthen the respect for

80. G.A. Res. S-27/2, *supra* note 23.

81. *Id.* ¶ 7, at 2-3.

82. See International Labour Organization, *supra* note 67.

83. International Covenant on Civil and Political Rights, *supra* note 2.

84. Committee on the Elimination of Racial Discrimination ("CERD"), Monitoring Racial Equality and Non-discrimination, <http://www.ohchr.org/english/bodies/cerd/>.

85. Bernardine Dohrn, "I'll Try Anything Once": Using the Conceptual Framework of Children's Human Rights Norms in the United States, 41 U. MICH. J.L. REFORM 29 (2007).

human rights of children in general. The implementation of the CRC can contribute significantly to creating a society fit for children that is free of poverty and violence. Moreover, the ratification of the CRC is not necessarily a statement of full compliance with its provisions but rather a commitment to respect and implement the human rights of children by taking all appropriate legislative, administrative, and other measures to that effect.⁸⁶

Ratification is also a matter of international solidarity; ratification demonstrates a concern and connection with the rest of the international community. One important feature of the CRC is that it calls for international cooperation in general⁸⁷ and more specifically in areas such as the care of children with disabilities,⁸⁸ health-care,⁸⁹ and education.⁹⁰ As a country that so often proclaims itself the leader of the free world, it is long overdue for the United States to accept this invitation and join the international community in its efforts to make this world a place fit for all children.

86. See CRC, *supra* note 1, art. 4, at 46.

87. *Id.*

88. *Id.* art. 23, at 51–52.

89. *Id.* art. 24, at 52.

90. *Id.* art. 28, at 53–54.

