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## The Child in International Law: A Pathfinder and Selected Bibliography

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## The Child in International Law: A Pathfinder and Selected Bibliography

Christine Alice Corcos\*

### I. INTRODUCTION

Until recently children's rights have not been a perceptible body of law separable from the greater universe of individual human rights. If they recognized them at all, lawyers and legal scholars considered that children's rights derived from the rights of the parents or from individual human rights recognized by international or domestic law. Indeed, for centuries children did not have rights as we normally understand them; they were property to be disposed of at the whim of their (usually male) parents.<sup>1</sup> During the late eighteenth and early nineteenth centuries reformers began to agitate for the protection of children from exploitation through labor laws, compulsory schooling laws, child abuse and neglect laws and other forms of state protection against parental abuse. As the period of childhood lengthened, children escaped the duties that had traditionally constrained them and prevented them from escaping poverty and ignorance. Conversely, they continued to exist without the rights that adults acquired at majority—the right to choose a domicile, the right to marry, the right to engage in a particular profession, the right to practice a particular religion. Children's rights advocates in Europe and the United States began as early as the late 1880s to demand that children be granted at least some of these rights, in both the civil and criminal legal arenas.<sup>2</sup> Thus, children began to exercise certain rights, without the corresponding responsibilities, creating a tension in the laws ex-

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<sup>1</sup> See P. ARIES, *CENTURIES OF CHILDHOOD* (R. Baldick trans. 1962); D. HUNT, *PARENTS AND CHILDREN IN HISTORY* (1970). Although infanticide was not condoned, the early deaths of many unwanted children were a fact of life among both rich and poor. See Wrightson, *Infanticide in European History*, 3 CRIM. JUST. HIST. 1 (1982); Dingwall, Eckelaar & Murray, *Children as a Social Problem: A Survey of the History of Legal Regulation*, 11 J.L. & SOC'Y 207 (1984) and J. BOSWELL, *THE KINDNESS OF STRANGERS* (1990).

<sup>2</sup> See e.g., Margolin, *Salvation Versus Liberation: The Movement for Children's Rights in a Historical Context*, 25 SOC. PROBLEMS 441 (1978).

panding the child's expectation of liberty and the legal constraints still in operation.

The United Nations Convention on the Rights of the Child is a bold and innovative document, a consensus of international legal and political opinion concerning those rights which children ought to expect their national governments to recognize. However, a close examination of the language of the document reveals the tension still inherent in the area of children's rights between the control that parents, and to a lesser extent the State, maintain over children and the autonomy that children can claim through the rights recognized in this international agreement.

## II. GENERAL WORKS ON HUMAN RIGHTS IN INTERNATIONAL LAW

### A. *Treaties, Conventions, and Agreements*

Until the Convention was opened for signature, children's rights advocates funnelled claims for minors through other conventions and agreements such as the International Covenant on Civil and Political Rights;<sup>3</sup> these agreements still serve as an alternate mechanism for the application and enforcement of children's rights as a subset of individual human rights. Many international agreements focus on human rights in international law, and by implication encompass protection of the child's rights under international law. The United Nations Charter, for example, states as one of its goals "[t]o reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small."<sup>4</sup> The Universal Declaration of Human Rights,<sup>5</sup> which "reflects an international consensus on the basic rights of man and which signals the beginning of a struggle to create enforceable international norms"<sup>6</sup> and subsequent declarations reiterate and amplify the rights presented in the U.N. Charter, but since they are nonbinding, their influence has been limited to generating binding international covenants<sup>7</sup> such as the United Nations International Covenant on Civil and Political Rights,<sup>8</sup> the International Covenant on

<sup>3</sup> See e.g., Lysaght, *The Scope of Protocol II and Its Relation To Common Article 3 of the Geneva Conventions of 1949 and Other Human Rights Instruments*, 33 AM. U.L. REV. 9 (1983).

<sup>4</sup> U.N. CHARTER preamble.

<sup>5</sup> G.A. Res. 217A, U.N. Doc. A/810 at 71 (1948). B.G. RAMCHARAN, *THE CONCEPT AND PRESENT STATUS OF THE INTERNATIONAL PROTECTION OF HUMAN RIGHTS: FORTY YEARS AFTER THE UNIVERSAL DECLARATION* (1988), provides a learned study of the impact of the Universal Declaration and related covenants.

<sup>6</sup> Eekelaar, *Parents and Children—Rights, Responsibilities and Needs: An English Perspective*, 2 HUM. RTS. ANN. 81, 112 (1984).

<sup>7</sup> *Id.* at 113.

<sup>8</sup> G.A. Res. 2200A, 21 U.N. GAOR Supp. (No. 16), at 49, U.N. Doc. A/6316 (1966). There is also an *Optional Protocol to the International Covenant*, G.A. Res. 2200, 21 U.N. GAOR Supp. (No. 16) at 59, U.N. Doc. A/6316 (1966). For a discussion of the meaning and operation of the Cove-

Economic, Social, and Cultural Rights,<sup>9</sup> the European Convention for the Protection of Human Rights and Fundamental Freedoms,<sup>10</sup> the American Convention on Human Rights,<sup>11</sup> the African Charter on Human and People's Rights,<sup>12</sup> the International Convention on the Elimination of All Forms of Racial Discrimination,<sup>13</sup> the Convention on the Elimination of All Forms of Discrimination Against Women,<sup>14</sup> and the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>15</sup> The Universal Declaration of Human Rights,<sup>16</sup> and the Declaration of the Rights of the Child,<sup>17</sup> while lacking the status of international agreements are also statements of the rights of individuals in international law.

The most recent UN statement on the rights of the child appears in the Convention on the Rights of the Child, adopted without vote on November 20, 1989.<sup>18</sup> Its appearance indicates that children's rights have finally achieved a recognition and status equal to that of other minorities in international law. After seven years of drafts and discussion, the Convention was opened for signature in 1990.

## B. Secondary Literature on Specific Agreements

### 1. The United Nations Covenants<sup>19</sup>

The literature on the United Nations and the protection and imple-

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nant, see THE INTERNATIONAL BILL OF RIGHTS: THE COVENANT ON CIVIL AND POLITICAL RIGHTS (L. Henkin ed. 1981), which also reprints the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, and the Optional Protocol to the International Covenant. *Id.* at 371.

<sup>9</sup> G.A. Res. 2200, 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966).

<sup>10</sup> Nov. 4, 1950, 213 U.N.T.S. 222.

<sup>11</sup> Opened for signature Nov. 22, 1969, entered into force July 18, 1978, Organization of American States Treaty Series; 36 OEA/Ser. A/16 (1970).

<sup>12</sup> Adopted June 27, 1981, O.A.U. Doc. CAB/LEG, (reprinted in 21 I.L.M. 58 (1982)). The preceding are cited in Balton, *The Convention on the Rights of the Child: Prospects for International Enforcement*, 12 HUM. RTS. Q. 120, 121 (1990). See also Mbaya, *African Charter on Human and Peoples Rights*, 8 ENCYCLOPEDIA PUB. INT'L L. 1 (1985).

<sup>13</sup> G.A. Res. 1904, 18 U.N. GAOR Supp. (No.15) at 35, U.N. Doc. A/5515 (1963).

<sup>14</sup> G.A. Res. 2263, 22 U.N. GAOR Supp. (No. 16) at 35, U.N. Doc. A/6716 (1967). (reprinted in HUMAN RIGHTS: A COMPILATION OF INTERNATIONAL INSTRUMENTS 41 (1983) and 19 I.L.M. 33 (1980)).

<sup>15</sup> G.A. Res. 39/46, 39 U.N. GAOR Supp (No. 51), U.N. Doc. A/RES/39/46 (1984), E/CN.4/1984/72. G.A. Res. 3462, 30 U.N. GAOR Supp. (No. 34) at 91, U.N. Doc. A/10034 (1975). (reprinted in HUMAN RIGHTS, A COMPILATION OF INTERNATIONAL INSTRUMENTS 82 (1983)).

<sup>16</sup> G. A. Res. 2171 (III), U.N. Doc. A/810 (1948).

<sup>17</sup> G. A. Res. 1386 (XIV), 14 U.N. GAOR Supp; 16, U.N. Doc. A/4354 (1959).

<sup>18</sup> Cohen, *Introductory Note: United Nations: Convention on the Rights of the Child*, 28 I.L.M. 1448 (1989)[hereinafter *Introductory Note*].

<sup>19</sup> For the procedural workings of various United Nations organs, see U.N., REPERTORY OF PRACTICE OF UNITED NATIONS ORGANS (1955).

mentation of individual rights is vast. Some good sources are UN PROTECTION OF CIVIL AND POLITICAL RIGHTS,<sup>20</sup> *United Nations Machinery For Implementing Human Rights*,<sup>21</sup> and the *United Nations Yearbook on Human Rights*, an annual which began publication in 1947 (for the year 1946). For the procedural workings of various United Nations organs, see *United Nations, Repertory of Practice of United Nations Organs* (1955). A basic work is M. McDOUGAL, H. LASSWELL & L. CHEN, *HUMAN RIGHTS AND WORLD PUBLIC ORDER* (1980), a massive and erudite study of the philosophical and juridical bases of human rights, with instructive footnotes.<sup>22</sup> R. WALLACE, *International Law* 175 (1986) is a quick overview of the subject. *HUMAN RIGHTS: THIRTY YEARS AFTER THE UNIVERSAL DECLARATION* (1979) is also useful, but must be supplemented by B. RAMCHARAN, *THE CONCEPT AND PRESENT STATUS OF THE INTERNATIONAL PROTECTION OF HUMAN RIGHTS: FORTY YEARS AFTER THE UNIVERSAL DECLARATION* (1988). See also *THE INTERNATIONAL BILL OF RIGHTS: THE COVENANT ON CIVIL AND POLITICAL RIGHTS* (L. Henkin ed. 1981), *GUIDE TO INTERNATIONAL HUMAN RIGHTS PRACTICE* (H. Hannum ed. 1984), and *NEW DIRECTIONS IN HUMAN RIGHTS* (E. L. Lutz, H. Hannum & K. J. Burke, eds. 1989).

## 2. The European Convention for the Protection of Human Rights and Freedoms

Complaints brought under the European Convention for the Protection of Human Rights and Freedoms are heard by the European Commission of Human Rights. *The European Commission of Human Rights Document and/or Decisions*, which first appeared in 1959 with coverage of the years from 1955 to 1957, is a periodic review of the activities and decisions of the Commission. In addition to reproducing decisions and documents for each year, the volumes reprint relevant covenants and agreements. C. MORRISON, *THE DEVELOPING EUROPEAN LAW OF HUMAN RIGHTS* (1967) (European Aspects; Series E:Law) is a detailed, although somewhat dated, examination of the European Human Rights Convention. J. FAWCETT, *THE APPLICATION OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS* (1969) is another study of the Convention, and includes discussions of all sections of the Convention, including Article 8, concerning family life. F. CASTBURG, *THE EUROPEAN CONVENTION ON HUMAN RIGHTS* (1974) contains an entire chapter on the workings of Article 8,<sup>23</sup> including a discussion of the meaning of "family

<sup>20</sup> J. CAREY, *PROCEDURAL ASPECTS OF INTERNATIONAL LAW SERIES* (1970).

<sup>21</sup> Sohn, 62 AM. J. INT'L L. 909 (1968).

<sup>22</sup> For specific discussions of child labor and child marriage see McDOUGAL, LASSWELL, & CHEN, at 475-76, 480-81.

<sup>23</sup> F. CASTBERG, *THE EUROPEAN CONVENTION ON HUMAN RIGHTS* 138 (1974).

life."

### C. Research Aids

For a very general introduction to the area of international human rights, the *ENCYCLOPEDIA OF PUBLIC INTERNATIONAL LAW* is a useful source. For example, see the article by Philip Alston on *Children, International Protection*.<sup>24</sup> In addition, one part of the contents of volume 8 of the *ENCYCLOPEDIA* is devoted to human rights in international law. Included are articles on various international and regional conventions, including the African Charter on Human and Peoples' Rights,<sup>25</sup> the status of aliens,<sup>26</sup> the American Convention on Human Rights,<sup>27</sup> the status of human rights in Europe,<sup>28</sup> human rights in general,<sup>29</sup> the Inter-American Court of Human Rights,<sup>30</sup> and the International Covenant on Human Rights.<sup>31</sup> J. FRIEDMAN & M. SHERMAN, *HUMAN RIGHTS: AN INTERNATIONAL AND COMPARATIVE LAW BIBLIOGRAPHY* (1985) is also useful.

## III. NON-GOVERNMENTAL ORGANIZATIONS (NGOs) AND HUMAN RIGHTS

Non-governmental organizations whose major interests include the

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<sup>24</sup> Alston, *Children, International Protection*, 9 *ENCYCLOPEDIA PUB. INT'L L.* 18 (1986).

<sup>25</sup> See *supra* note 10.

<sup>26</sup> Arnold, *Aliens*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 6 (1985); Doehring, *Aliens, Admission*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 11 (1985); Doehring, *Aliens, Expulsion and Deportation*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 14 (1985); Doehring, *Aliens, Military Service*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 16 (1985); Seidl-Hohenveldern, *Aliens, Property*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 20 (1985).

<sup>27</sup> Buergenthal, *American Convention on Human Rights*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 23 (1985).

<sup>28</sup> Noergaard, *European Commission of Human Rights*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 178 (1985); Frowein, *European Convention on Human Rights (1950)*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 184 (1985); van der Meersch, *European Court of Human Rights*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 192 (1985); Strasser, *European Social Charter*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 211 (1985).

<sup>29</sup> Henkin, *Human Rights*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 268 (1985); Marks, *Human Rights, Activities of Universal Organizations*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 274 (1985); Bello, *Human Rights, African Developments*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 284 (1985); Partsch, *Human Rights and Humanitarian Law*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 292 (1985); Daoudi, *Human Rights Commission of the Arab States*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 294 (1985); Jonathan, *Human Rights Covenants*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 297 (1985); Salcedo, *Human Rights, Universal Declaration*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 303 (1985); Partsch, *Individuals in International Law*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 316 (1985).

<sup>30</sup> Farer, *Inter-American Commission on Human Rights*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 321 (1985); Buergenthal, *Inter-American Court of Human Rights*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 324 (1985).

<sup>31</sup> Tomuschat, *International Covenant on Civil and Political Rights, Human Rights Committee*, 8 *ENCYCLOPEDIA PUB. INT'L L.* 327 (1985).

promotion of one or more basic human rights include religious groups,<sup>32</sup> secular organizations devoted to the promotion of all human rights,<sup>33</sup> and those devoted to one particular right, for example, free speech.<sup>34</sup>

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Richardson, *The Right To Food: The International Perspective: Panel 1: 'Theory': The International Human Rights Response*, 30 HOW. L.J. 233 (1987).

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## IV. THE POSITION OF THE CHILD IN INTERNATIONAL LAW

### A. *A Brief History of the Children's Rights Movement*

Commentators trace the inception of the international children's rights movement to the work of the British-born Eglantyne Jebb, who founded the Save the Children International Union (SCIU) in Geneva in 1920.<sup>35</sup> In 1923, the SCIU promulgated the Declaration of Geneva, which was later adopted by the League of Nations.<sup>36</sup> Among the children's rights recognized in the Declaration were the right to emotional and physical well-being,<sup>37</sup> the right to a family,<sup>38</sup> the right to aid in time of war or national disaster,<sup>39</sup> the right to an education or training,<sup>40</sup> and

<sup>32</sup> The World Council of Churches, Christian Aid, the Methodist Church, and the Pontifical Commission. See Batt, *The Child's Right*, 2 HUM. RTS. ANN. 19, at 58.

<sup>33</sup> The International Committee of the Red Cross, the Women's League for Peace and Freedom. *Id.* at 58.

<sup>34</sup> Amnesty International; PEN; Americas Watch and Mid-East Watch are current examples of organizations primarily or currently concerned with the rights to speak and think freely.

<sup>35</sup> Cohen, *Freedom From Corporal Punishment: One of the Human Rights of Children*, 2 HUM. RTS. ANN. 95, 124 (1984) [hereinafter *Corporal Punishment*].

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

the right to recognition of their places and responsibilities in the human family.<sup>41</sup> Between 1923 and 1959, various organizations put forward covenants, declarations and conventions which took into account the human rights of children.<sup>42</sup> In 1959, the United Nations adopted the Declaration of the Rights of the Child<sup>43</sup> and in recognition of the twentieth anniversary of that adoption, named 1979 the International Year of the Child.<sup>44</sup>

As part of the celebration of the International Year of the Child, Poland suggested that the United Nations draft a covenant which would put into legal effect the principles pertaining to children set down in the non-binding Universal Declaration of Human Rights.<sup>45</sup> By authority of the General Assembly, the United Nations Human Rights Commission began drafting a Convention on the Rights of the Child.<sup>46</sup> As part of the thirty-year anniversary of the Universal Declaration, various groups began lobbying for a final version of the convention to be voted by 1989.<sup>47</sup> Some nations, however, saw a covenant on children's rights as redundant,<sup>48</sup> or worse, as a ploy by Eastern bloc nations to create rights out of public policy decisions.<sup>49</sup> Within three years, the Commission on Human Rights, a part of the Economic and Social Council of the United Nations, launched a working group whose mission was to study the rights of the child in international law.<sup>50</sup> Other U.N. agencies actively studying the rights of the child included the United Nations Children's Fund<sup>51</sup> and the World Health Organization.<sup>52</sup> A steady stream of reports from the Commission on Human Rights Working Group and from the NGO Ad Hoc Group on the Drafting of the Convention on the Rights of the Child<sup>53</sup> led to the presentation of the convention to the

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<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* See also Cohen, *The Human Rights of Children*, 12 CAP. U.L. REV. 369 (1983).

<sup>43</sup> 14 U.N. GAOR Supp. (No. 16), U.N. Doc. A/4054 (1959).

<sup>44</sup> *Corporal Punishment*, *supra* note 35, at 125.

<sup>45</sup> *Introductory Note*, *supra* note 18.

<sup>46</sup> U.N. Doc. A/34/424 (1979). See also *Corporal Punishment*, *supra* note 35, at 125-28, for a more elaborate account of the Working Group's activities between 1982 and 1984.

<sup>47</sup> *Corporal Punishment*, *supra* note 35, at 1449.

<sup>48</sup> *Id.* at 1450.

<sup>49</sup> *Id.* at 1449.

<sup>50</sup> The Commission on Human Rights Report, 38th Sess., UN Economic and Social Council, E/1982/12/add. 1; ECN 4/1982/30 add.1, March 1982; *cited in* Batt, *supra* note 32 at 67.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* Batt suggests other UN organizations with an interest in children's rights, including "the Commission for Social Development, the Commission on the Status of Women, the International Research and Training Institute for Women, the United States Development Programme, the Food and Agriculture Organization of the United Nations and the International Fund for Development Alternatives." *Id.* at 68.

<sup>53</sup> *Introductory Note*, *supra* note 18, at 1448-49.



General Assembly in 1989. Some of the rights directly attributable to NGO participation in the drafting process are "protection against 'traditional practices' (i.e. female circumcision), and against sexual exploitation, protection of rights of indigenous children, standards for the administration of school discipline and rehabilitation for victims of various types of abuse and exploitation."<sup>54</sup>

### B. General Works

Serious scholarly interest in an international law analysis and justification of children's rights is fairly recent. Among the articles that have appeared in the past ten years, most take the view that children's rights are derived from the human rights asserted in various international covenants. However, Batt, *The Child's Right To a Best Interest Psychological Development Under the Declaration of the Rights of the Child: Policy Science Reflections on International Law, Psychological Well-Being and World Peace*, 2 HUM. RTS. ANN. 19 (1984) discusses the jurisprudential effect of the Declaration of the Rights of the Child and takes the view that because of their particular vulnerability, children have rights that must be articulated forcefully and directly rather than through existing theories of human rights. Cohen, *The Human Rights of Children*, 12 CAPITAL U. L. REV. 369 (1983) is another commentator who views children's rights as deriving from the infant's dependent state.

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<sup>54</sup> *Id.* at 1449.

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## V. THE UNITED NATIONS DECLARATION ON THE RIGHTS OF THE CHILD

The predecessor declaration to the *United Nations Convention on*

the *Rights of the Child*,<sup>55</sup> the *United Nations Declaration on the Rights of the Child* (1959) first stated those rights which are guaranteed in the *Convention*.<sup>56</sup> The Batt article (discussed *supra*) analyzes the meaning of each clause of the *Declaration* at great length.

## VI. THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

This convention's major focus is the "best interests of the child" standard already familiar in U.S., British and other systems of domestic law.<sup>57</sup> The convention repeats rights already stated in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. However, the convention applies these rights directly to the situation of the child in international law. Some rights enumerated are peculiar to the situation of the juvenile, for instance Article 8 which focuses on the child's individual identity<sup>58</sup> and Article 21, which discusses adoption.<sup>59</sup>

The major features of this convention include recognition of the following rights of children:

Article 2: Non-discrimination;<sup>60</sup> Article 3: Best interests of the child standard;<sup>61</sup> Article 5: Right to remain with extended family or familiar community;<sup>62</sup> Article 6: Right to nationality;<sup>63</sup> Article 8: Right to personal identity;<sup>64</sup> Article 9: Right to remain with parents barring proof of abuse;<sup>65</sup> Article 10: Right to maintain contact with parents geographically separated from him/her;<sup>66</sup> Article 11: Right to intervention by the state in cases of child abduction;<sup>67</sup> Articles 12 and 13: Right to freedom of speech at an appropriate age;<sup>68</sup> Article 14: Right

<sup>55</sup> G.A. Res. 44/25 ; A/RES/44/25, Dec. 5, 1989; cited in 28 I.L.M. 1456 (1989); reprinted in 7 N.Y.L. SCH. HUM. RTS. ANN. 176 (1989).

<sup>56</sup> G.A. Res. 1386, 14 U.N. GAOR Supp. (No. 16) at 19, U.N. Doc. A/4354 (1959).

<sup>57</sup> For a short discussion of the history and structure of the Convention, see Hammarberg, *The UN Convention on the Rights of the Child—and How To Make It Work*, 12 HUM. RTS. Q. 97, 99 (1990).

<sup>58</sup> Cerda, *The Draft Convention on the Rights of the Child: New Rights*, 12 HUM. RTS. Q. 115 (1990) [hereinafter *Draft Convention*].

<sup>59</sup> *Id.*

<sup>60</sup> 28 I.L.M. at 1459.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.* at 1460.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.* at 1461.

<sup>67</sup> *Id.*

<sup>68</sup> *Id.* at 1461-62.

to freedom of thought and religion;<sup>69</sup> Article 15: Right to freedom of assembly and association;<sup>70</sup> Article 16: Right to freedom from arbitrary search and seizure;<sup>71</sup> Article 17: Right to information;<sup>72</sup> Article 18: Right to shelter and support from both parents;<sup>73</sup> Article 19: Right to freedom from abuse and neglect by any party;<sup>74</sup> Article 21: Right to adoption, within the laws of the affected state;<sup>75</sup> Article 22: Right to asylum in time of war;<sup>76</sup> Article 23: For disabled children, right to shelter, education, rehabilitation and protection;<sup>77</sup> Article 24: Right to medical treatment;<sup>78</sup> Article 28: Right to an education;<sup>79</sup> Article 32: Right to protection from forced labor;<sup>80</sup> Articles 34-36: Right to freedom from sexual abuse and harassment, Right to freedom from other forms of exploitation;<sup>81</sup> Article 37: Right to freedom from torture or unauthorized imprisonment;<sup>82</sup> Article 40: Right to due process in criminal cases.<sup>83</sup>

### *Selected Bibliography*

The convention has engendered a great deal of secondary literature. Below is a selected bibliography of recent publications:

- Anderson, *Toward a Global Law of the Family: The United Nations Draft Convention on the Rights of the Child*, 1 ANTHROPOS 125 (1985).  
 Balton, *The Convention on the Rights of the Child: Prospects for International Enforcement*, 12 HUM. RTS. Q. 120 (1990).  
 Barsh, *The Draft Convention on the Rights of the Child—A Case of Eurocentrism in Standard-Setting*, 58 NORD. J. INT'L L. 24 (1989).  
 Barsh, *The Convention on the Rights of the Child: A Re-Assessment of the Final Text*, 7 N.Y.L. SCH. HUM. RTS. ANN. 142 (1989).  
 Bennett, *A Critique of the Emerging Convention on the Rights of the Child*, 20 CORNELL INT'L L. J. 1 (1987).  
*On the Right Side: Canada and the Convention on the Rights of the Child: Proceedings From the CCCY's 1989 Presidential Consultation Examining the Potential Impact of the United Nations Convention on the Rights of*

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<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.* at 1463.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Id.* at 1464.

<sup>76</sup> *Id.*

<sup>77</sup> *Id.* at 1465.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.* at 1467.

<sup>80</sup> *Id.* at 1468-69.

<sup>81</sup> *Id.* at 1469.

<sup>82</sup> *Id.* at 1469-70.

<sup>83</sup> *Id.* at 1471-72.

*the Child on Canadian Legislation and Policies* (1990)(Policies For Children in the 1990s).

Cerda, *The Draft Convention on the Rights of the Child: New Rights*, 12 HUM. RTS. Q. 115 (1990).

Chen, *The United Nations Convention on the Rights of the Child: A Policy-Oriented Overview*, 7 N.Y.L. SCH. HUM. RTS. ANN. 16 (1989).

Clergerie, *L'Adoption d'une Convention Internationale Sur les Droits de l'Enfant*, 106 REVUE DE DROIT PUBLIC ET SCIENCES POLITIQUES 435 (1990).

K. CASTELLE, *IN THE CHILD'S BEST INTEREST: A PRIMER ON THE UN CONVENTION ON THE RIGHTS OF THE CHILD* (1990).

Clark & Gaer, *The Committee on the Rights of the Child: Who Pays?* 7 N.Y.L. SCH. HUM. RTS. ANN. 123 (1989).

Cohen, *Juvenile Justice Provisions of the Draft Convention on the Rights of the Child*, 7 N.Y.L. SCH. J. HUM. RTS. 1 (1989). Cohen cites many of the basic documents which went into the creation of the convention.

Cohen, *Elasticity of Obligation and the Drafting of the Convention on the Rights of the Child*, 3 CONN. J. INT'L L. 71 (1987).

Cohen, *The Role of Nongovernmental Organizations in the Drafting of the Convention on the Rights of the Child*, 12 HUM. RTS. Q. 137 (1990).

Defense for Children International—USA, *Proposed Convention on the Rights of the Child* (1985).

Fourie, *The UN Convention on the Rights of the Child and the Crisis For Children in South Africa: Apartheid and Detention*, 12 HUM. RTS. Q. 106 (1990).

Gomien, *Whose Rights (and Whose Duty) Is It? An Analysis of the Substance and Implementation of the Convention on the Rights of the Child*, 7 N.Y.L. SCH. HUM. RTS. ANN. 161 (1989).

Hammarberg, *Advocacy of Children's Rights—The Convention As More Than a Legal Document*, 12 HUM. RTS. Q. 148 (1990).

Hitch, *International Humanitarian Law and the Rights of the Child: Article 38*, 7 N.Y.L. SCH. HUM. RTS. ANN. 64 (1989).

Hitch, *Non-Discrimination and the Rights of the Child: Article 2*, 7 N.Y.L. SCH. HUM. RTS. ANN. 47 (1989).

INDEPENDENT COMMENTARY: UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD (C.P. Cohen ed. 1988).

Jonet, *International Baby Selling For Adoption, and the United Nations Convention on the Rights of the Child*, 7 N.Y.L. SCH. HUM. RTS. ANN. 82 (1989).

Miljeteig-Olssen, *Advocacy of Children's Rights—The Convention As More Than a Legal Document*, 12 HUM. RTS. Q. 148 (1990).

*New Convention on the Rights of the Child*, 14 AUST. J. EARLY CHILDHOOD 1060 (1989).

C. O'DONNELL, *CHILDREN'S RIGHTS IN INTERNATIONAL PERSPEC-*

TIVE: THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD 345 (1989)(Congressional Briefing Series Report, Center for Youth Research, Social Science Research Institute, University of Hawaii at Manoa).

Paust, *Human Dignity, Remedies, and Limitations in the Convention*, 7 N.Y.L. SCH. HUM. RTS. ANN. 116 (1989).

Porterfield & Stanton, *The Age of Majority: Article 1*, 7 N.Y.L. SCH. HUM. RTS. ANN. 30 (1989).

*Question of a Convention on the Rights of the Child: Report of the Working Group on the Rights of the Child*, U.N. Doc. E/CN.4/1989/48 (1988).

Quigley, *Territorial Applicability of the Convention: Article 2*, 7 N.Y.L. SCH. HUM. RTS. ANN. 35 (1989).

A quick scan of UNDOC also yields many primary citations to this crucial international agreement. Documents for the study of the development of the convention include the following:

*Adoption of a Convention on the Rights of the Child: Report of the Third Committee*, U.N. Doc. A/44/736 (1989).

*Adoption of a Convention on the Rights of the Child: Note By the Secretary General*, U.N. Doc. A/44/616 (1989).

United Nations Children's Fund Executive Board, *Summary Record of the First Meeting*, U.N. Doc. E/ICEF/1990/Sr.1 (1989).

United Nations Children's Fund, *Toward a United Nations Convention on the Rights of the Child* (1988).

## VII. PROSECUTING CHILDREN'S RIGHTS VIOLATIONS

Advocates have brought children's rights cases before the European Commission on Human Rights under the European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 3.<sup>84</sup> However, the only signatories to this Convention are the Member States of the Council of Europe.<sup>85</sup> The American Convention on Human Rights (also known as the Pact of San Jose) has established the Inter-American Court of Human Rights, which can hear children's rights cases under Article 5, Section 2.<sup>86</sup> Advocates can also bring cases from states not parties to the Convention before the Inter-American Commission via Article 20 of Chapter IV of the Statute of the Inter-American

<sup>84</sup> For an explanation of procedure and practice under the European Convention, see O'Boyle, *Practice and Procedure Under the European Convention on Human Rights*, 20 SANTA CLARA L. REV. 697 (1980); See also Jacobs, *The Extension of the European Convention on Human Rights to Include Economic, Social and Cultural Rights*, 3 HUM. RTS. REV. 166.

<sup>85</sup> *Corporal Punishment*, *supra* note 35, at 115.

<sup>86</sup> *Id.* at 116. See also Norris, *Bringing Human Rights Petitions Before the Inter-American Commission*, 20 SANTA CLARA L. REV. 733 (1980) [hereinafter *Human Rights Petitions*].

Commission on Human Rights.<sup>87</sup> However, claims brought under Article 20 must allege violations of the American Declaration on the Rights and Duties of Man<sup>88</sup> rather than violations of the Inter-American Convention on Human Rights.<sup>89</sup>

The United States allows claims to be brought under the Alien Tort Claims Act<sup>90</sup> for human rights violations, and alien parents have sued under this act for violation of their children's rights. Great Britain, for example, allows children's claims to be heard under the Children's Act 1989<sup>91</sup> and the Fatal Accidents Act.<sup>92</sup> Other nations such as Australia allow children to bring claims either for personal injury or for the death of a parent.<sup>93</sup>

The Sub-Commission on the Prevention of Discrimination and Protection of Minorities of the United Nations Human Rights Commission can accept and investigate any complaint alleging violation of the United Nations Charter's guarantee of human rights, based on Resolution 1503 of the United Nations Economic and Social Council (ECOSOC).<sup>94</sup> If it finds that the complaint warrants further investigation or a formal hearing, the Subcommittee can refer the matter to the Commission on Human Rights.<sup>95</sup> Thus, even citizens of states which are non-signatories to the conventions listed above can bring complaints to an international investigatory and judicial body. Examples of complaints which the Subcommittee has forwarded to the Commission include racial discrimination, arbitrary search and seizure, flagrant violation of personal rights, forced labor, and torture.<sup>96</sup> Other IGOs have also established procedures

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<sup>87</sup> *Corporal Punishment*, *supra* note 35, at 118. The Statute is reprinted in *Human Rights Petitions*, *supra* note 86, at 758.

<sup>88</sup> *Corporal Punishment*, *supra* note 35, at 118.

<sup>89</sup> See *Handbook of Existing Rules Pertaining to Human Rights in the Inter-American System, General Secretariat, Organization of American States* (1983), cited in Eekelaar, at 118, fn. 139.

<sup>90</sup> 28 U.S.C. § 1350 (1990).

<sup>91</sup> Children Act, 1989, ch. 41.

<sup>92</sup> *Fatal Accidents Act*, 1976, ch. 30. For cases upholding the right of children to sue under the *Fatal Accident Act*, see *Casey v. Brooks Contracting*, C.A. Civ., Jan. 23, 1991 (LEXIS, Intlaw library, UKCASE); *Jones v. Wright*, 1 All. E.R. 353 (1990); *Olejnik v. May*, Q.B., June 15, 1990 (LEXIS, Intlaw library, UKCASE).

<sup>93</sup> See *Noja v. Civil and Civil Party Limited*, 93 A.L.R. 224 (1990).

<sup>94</sup> *Corporal Punishment*, *supra* note 35, at 122. See also Newman, *The U.N. Procedures For Human Rights Complaints: Reform, Status Quo, or Chamber of Horrors?*, reprinted in *International Protection of Human Rights: Hearings of the House Subcomm. on International Organizations and Movements of the Comm. on Foreign Affairs*, 93rd Cong., 1st Sess., App. 15 (1973); Humphrey, *The Right of Petition at the United Nations*, 1971 HUM. RTS. J. 467; M. TARDU, *HUMAN RIGHTS: THE INTERNATIONAL PETITION SYSTEM* (1979).

<sup>95</sup> *Corporal Punishment*, *supra* note 35, at 122.

<sup>96</sup> See Tardu, *United Nations Response To Gross Violations of Human Rights: The 1503 Procedure*, 20 SANTA CLARA L. REV. 559, 567 (1980). Tardu also compares the United Nations and Inter-American petition procedures in Tardu, *The Protocol to the U.N. Covenant on Civil and Polit-*



to hear complaints of human rights violations.<sup>97</sup> The European Court of Justice also hears claims brought either under provisions of the Treaty of Rome<sup>98</sup> or under various European human rights conventions. Commentators such as Cohen have also documented children's attempts to bring corporal punishment issues before the world's courts.<sup>99</sup>

Commentators have also pointed out that independent, non-governmental organizations such as Amnesty International,<sup>100</sup> Americas Watch and others can be instrumental in focusing public attention on governmental practices and forcing errant states to curtail human rights violations. The statement by Robert Thomson, President of the Non-Governmental Organizations Committee on UNICEF, is also a powerful exposition of the steps that children's rights advocates maintain must be taken in the next decades. Thomson's concerns include the environment,<sup>101</sup> education<sup>102</sup> and the necessity for eliminating gender disparity.<sup>103</sup> Other non-governmental organizations interested in children's rights on an international scale include Helen Keller International<sup>104</sup> and the International Agency for the Prevention of Blindness,<sup>105</sup> whose interest is primarily in preventing the disability through the elimination of disease and the promotion of good nutrition, the La Leche League,<sup>106</sup> also interested in prenatal and postnatal care, the International Catholic Child Bureau Incorporated,<sup>107</sup> whose interest is primarily in the spiritual and family life of children, and the World Movement of Mothers.<sup>108</sup>

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*ical Rights and the Inter-American System: A Study of Co-Existing Petition Procedures*, 70 AM. J. INT'L L. 778 (1976).

<sup>97</sup> For detailed explanations of the petition and hearing procedures for various IGOs, see Landy, *The Implementation Procedures of the International Labor Organization*, 20 SANTA CLARA L. REV. 633 (1980); Alston, *UNESCO's Procedure For Dealing With Human Rights Violations*, 20 SANTA CLARA L. REV. 665 (1980); Marks, *UNESCO and Human Rights: The Implementation of Rights Relating to Education, Science, Culture, and Communication*, 13 TEX. INT'L L.J. 35 (1977).

<sup>98</sup> See *Gerhardus Leussink v. Commission of the European Communities*, 1986 E.C.R. 2801 (1986).

<sup>99</sup> *Corporal Punishment*, *supra* note 35.

<sup>100</sup> *Corporal Punishment*, *supra* note 35, at 124.

<sup>101</sup> *Statement by Robert Thomson, President, Non-Governmental Organizations Committee on UNICEF*, U.N. Doc. E/ICEF/1990/NGO/1 at 1 (1990).

<sup>102</sup> *Id.* at 2.

<sup>103</sup> *Id.* at 3.

<sup>104</sup> See *Statement By Helen Keller International*, U.N. Doc. E/ICEF/1990/NGO/2 (1990).

<sup>105</sup> *Statement by the International Agency For the Prevention of Blindness*, U.N. Doc. E/ICEF/NGO/3 (1990).

<sup>106</sup> *Statement By La Leche League International*, U.N. Doc. E/ICEF/NGO/4 (1990).

<sup>107</sup> *Statement by the International Catholic Child Bureau Incorporated*, U.N. Doc. E/ICEF/NGO/5 (1990).

<sup>108</sup> *Statement by World Movement of Mothers*, U.N. Doc. E/ICEF/NGO/6 (1990).

### VIII. DOING FURTHER RESEARCH ON CHILDREN'S RIGHTS IN INTERNATIONAL LAW

Below is a list of indices, databases and publications useful in investigating children's rights in an international context. Exclusion of a particular title is not a comment on its quality.

#### A. *Indexes*

Generally, articles on the rights of children in international law are indexed in general legal periodical indexes. Among these are:

*Current Law Index* and its associated index, LEGALTRAC. Also check the LGLIND file of the LAWREV library on LEXIS and the LRI database on WESTLAW.

*EC Index* (1984-1986 only, ceased publication 1986).

*Index to Legal Periodicals* and its associated indexes, WILSONDISC, WILSONLINE, and ILP (on LEXIS and WESTLAW).

*Index to Foreign Legal Periodicals*.

Some appropriate subject headings are Child Welfare, Parents and Children, Offenses Against Family and Youth, Guardianship, Illegitimacy & Legitimation, Surrogate Mothers.

*Index to Canadian Legal Periodical Literature*.

Specialized indexes such as *Kindex* cover all aspects of the law applicable to children.

Pittsburgh: National Center For Juvenile Justice, 1965/75.

#### B. *Databases*

LEXIS libraries of interest to researchers in children's rights include the INTLAW, LAWREV and NEXIS libraries. On WESTLAW databases of interest include the international law database and Legal Resource Index. Besides the traditional reference databases such as LCMARC, Books in Print, British Books in Print, GPO Monthly Catalog, and British Official Publications, DIALOG databases of interest include Child Abuse and Neglect (file 64), Exceptional Child Education Resources (file 54), ERIC (file 1), Family Resources (file 291), Dissertation Abstracts (file 35), Philosophies Index (file 57), and Population Bibliography (file 91). For materials on the history of children's rights, see *America: History and Life* (file 38) and *Historical Abstracts* (file 39). Note that many DIALOG databases are now available through a WESTLAW gateway as well (availability depends on the institutional contract).

#### C. *Bibliographies*

C. CAMPBELL, THE RIGHTS OF CHILDREN AND LEGAL INFANTS: A SE-

LECTED ANNOTATED BIBLIOGRAPHY (1973). B. HINITZ, BIBLIOGRAPHY OF SELECTED RESOURCES FOR THE INTERNATIONAL YEAR OF THE CHILD (1979).

LA PROTECTION INTERNATIONALE DES DROITS DE L'ENFANT; BIBLIOGRAPHIE (1979).

Singer, *Selected Bibliography on the Protection of Children's Rights*, 58 NORD. J. INT'L L. 110 (1989).

H. VON PFEIL, JUVENILE RIGHTS SINCE 1967: AN ANNOTATED, INDEXED BIBLIOGRAPHY OF SELECTED ARTICLES AND BOOKS (1974).

#### D. Periodicals

*Children's Legal Rights Journal*. Washington: Children's Legal Rights Information and Training Program, 1979—.

*International Children's Rights Monitor*. Began 1983. *Journal of Child Law*. London: Frank Cass, 1988—.

United States. *Office of Child Support Enforcement, Annual Report to the Congress*.

#### E. Digests

*Juvenile and Family Law Digest*. Reno, NV: National Council of Juvenile and Family Court Judges, 19—.

#### F. Selected Bibliography on Specific Rights

##### 1. Child Custody; Parental Abduction; Adoption

Bates, *Child Abduction: Australian Law in International Context*, 37 INT'L & COMP. L. Q. 945 (1988).

Bodenheimer, *The Hague Draft Convention on International Child Abduction*, 14 FAM. L. Q. 99 (1980).

*International Child Abduction: Hearing Before the Subcomm. on Human Rights and International Organizations and on International Operations of the House Comm. on Foreign Affairs*, 100th Cong., 2nd Sess. 1988.

*International Child Abductions: A Guide To Applying the 1988 Hague Convention, With Forms* (1989).

*International Parental Child Abduction Act of 1989: Hearing Before the Subcomm. on Civil and Constitutional Rights of the House Comm. on the Judiciary*, 101st Cong., 2nd Sess., 1990.

Krause, *Transition: Reflections on Child Support*, 1983 U. ILL. L. REV. 99.

*1986 United Nations Declaration of Social and Legal Principles Relating to the Protection and Welfare of Children With Special Reference to Foster Placement and Adoption Nationally and Internationally*, G.A. Res. 41/85, 41 U.N. GAOR Supp. (No. 53) (1986).

*Report of the Economic and Social Counsel: Draft Declaration on Social*

*Principles Relating to Adoption and Foster Placement of Children Nationally and Internationally: Report of the Secretary General*, U.N. Doc. A/35/336 (1980).

U. N. Department of International Economic and Social Affairs, *Report of an Expert Group Meeting on Adoption and Foster Placement of Children*, U.N. Doc. ST/ESA/99.

## 2. Fetal Rights and Abortion; Family Planning

Alston, *The Unborn Child and Abortion Under the Draft Convention on the Rights of the Child*, 12 HUM. RTS. Q. 156 (1990).

THE ADOLESCENT DILEMMA: INTERNATIONAL PERSPECTIVES ON THE FAMILY PLANNING RIGHTS OF MINORS (H. Rodman & J. Trost eds. 1986).

M. BLACK, BETTER HEALTH FOR WOMEN AND CHILDREN THROUGH FAMILY PLANNING: REPORT ON AN INTERNATIONAL CONFERENCE (Nairobi, Kenya, October 1987).

## 3. Health, Food, and Shelter

Connell-Thouez, *The Family in Contemporary Civil Law—Cooperative Developments in Alimentary Obligations and Parental Authority: Linking Traditional Rights and Responsibilities To Create an Integrated Structure For Solving the Child Care Dilemma*, 60 TUL. L. REV. 1135 (1986).

Cook, *Human Rights and Infant Survival: A Case For Priorities*, 10 COLUM. HUM. RTS. L. REV. 1 (1986).

*The Implementation Process of the International Code of Marketing of Breastmilk Substitutes*, 11 SYRACUSE J. INT'L L. & COMM. 161 (1984).

Weston, *Introduction to the Symposium on International Law and World Hunger*, 70 IOWA L. REV. 1183 (1985).

## 4. Criminal Sanctions

*Death at an Early Age: International Law Arguments Against the Death Penalty for Juveniles*, 57 U. CIN. L. REV. 245 (1988).

Fourie, *The UN Convention on the Rights of the Child and the Crisis For Children in South Africa: Apartheid and Detention*, 12 HUM. RTS. Q. 106 (1990).

Hartman, *Unusual Punishment: The Domestic Effects of International Norms Restricting the Application of the Death Penalty*, 52 U. CIN. L. REV. 655 (1983).

Queloz, *La Detention Sous l'Angle des Travaux des Nations Unies Pour l'Administration de la Justice des Mineurs*, 106 SCHWEIZISCHES ZEITSCHRIFT FÜR STRAFRECHT 303 (1989).

Vanore, *The Decency of Capital Punishment For Minors: Contemporary Standards and the Dignity of Juveniles*, 61 IND. L.J. 757 (1986).

Viccica, *The Promotion and Protection of Children's Rights Through Development and Recognition of an International Notion of Juvenile Justice and Its Child-Centered Perspective in the United Nations*, 58 NORD. J. INT'L L. 68 (1989).

#### 5. Child Witnesses

Gebler, *Regards Ethiques Sur les Droits de l'Enfant: La Parole de l'Enfant en Justice*, 1989 RECUEIL DALLOZ 118.

#### 6. Civil Rights

Batt, *The Child's Right to a Best Interests Psychological Development Under the Declaration of the Rights of the Child: Policy Science Reflections on International Law, Psychological Well-Being and World Peace*, 2 N.Y.L. SCH. HUM. RTS. ANN. 19 (1984).

*Explanatory Report on the European Convention on the Repatriation of Minors* (1971). Y. GONSET, *LA NATIONALITÉ DE L'ENFANT NATUREL EN DROIT COMPAR: ETUDE DES LEGISLATIONS EUROPEENES* (1977) (Comparativa 8)(Travaux et Recherches de l'Institut de Droit Compar, Faculté de Droit de l'Université de Lausanne).

King, *Parental Rights, Child Protection and the European Convention*, 15 FAM. L. 150 (1985).

Low, *No Child Should Be Without Love and Protection: The Legal Problems of Amerasians*, 26 HOW. L.J. 1527 (1983).

Plattner, *Protection of Children in International Humanitarian Law*, 240 INT'L REV. OF THE RED CROSS 140 (May-June 1984).

#### 7. Education; The Disabled Child

*The Child With Retardation Today—The Adult of Tomorrow: A Symposium Commemorating the International Year of the Child-1979*, (San Juan, Puerto Rico Nov. 12-16, 1979).

G. LEE, *SEXUAL RIGHTS OF THE RETARDED: TWO PAPERS REFLECTING THE INTERNATIONAL POINT OF VIEW* (1974).

Note, *Plyler v. Doe* (102 S. Ct. 2382) and the Right of Undocumented Alien Children To a Free Public Education, 2 B.U. INT'L L.J. 513 (1984).

H. SUCHARA, *THE CHILD'S RIGHT TO HUMANE TREATMENT: A POSITION PAPER WRITTEN FOR THE ASSOCIATION FOR CHILDHOOD EDUCATION INTERNATIONAL* (1977).

#### 8. Military Service and Armed Conflict

Elahi, *The Rights of the Child Under Islamic Law: Prohibition of the Child Soldier*, 19 COLUM. HUM. RTS. L. REV. 259 (1988).

Maher, *The Protection of Children in Armed Conflict: A Human Rights*

*Analysis of the Protection Afforded To Children in Warfare*, 9 B.C. THIRD WORLD L.J. 297 (1989).

Mann, *International Law and the Child Soldier*, 36 INT'L & COMP. L. Q. 32 (1987).

#### 9. Child Labor

Alston, *Implementing Children's Rights—The Case of Child Labor*, 58 NORD. J. INT'L L. 35 (1989).

Hyndman, *The Exploitation of Child Workers in South and South East Asia*, 58 NORD. J. INT'L L. 94 (1989).

W. KNIGHT, THE WORLD'S EXPLOITED CHILDREN: GROWING UP SADLY (1980)(U. S. Department of Labor, Bureau of International Labor Affairs, Monograph; 4). Various international commissions have also studied the child labor phenomenon. See for example publications listed in H. AUFRICHT, GUIDE TO LEAGUE OF NATIONS PUBLICATIONS: A BIBLIOGRAPHICAL SURVEY OF THE WORK OF THE LEAGUE, 1920-1947 (1966) under the entry "Child Welfare" and appropriate entries in UN-DOC, the index to United Nations Publications.

#### 10. The Best Interests of the Child Doctrine; The "Tender Years" Doctrine

Blynn, *In Re: International Child Abduction v. Best Interests of the Child; Comity Should Control*, 18 U. MIAMI INTER-AM. L. REV. 353 (1986).

S. FRAIBERG, EVERY CHILD'S BIRTHRIGHT: IN DEFENSE OF MOTHERING (1978).

J. GOLDSTEIN, A. FREUD, & A. SOLNIT, BEYOND THE BEST INTERESTS OF THE CHILD (1979).

J. GOLDSTEIN, A. FREUD, & A. SOLNIT, IN THE BEST INTERESTS OF THE CHILD (1986).

M. RIBBLE, THE RIGHTS OF INFANTS (1965).

Woods, *Foster Family Rights: Recommendations By the Council of Europe*, 28 VA. J. INT'L L. 561 (1988).

Among the recognized treatises on children in specific jurisdictions are H. BEVAN, CHILD LAW (2d ed. 1989)(the United Kingdom), J. GOLDSTEIN, A. FREUD, & A. SOLNIT, BEYOND THE BEST INTERESTS OF THE CHILD (1979)(the United States; the classic statement of the application of the "best interests of the child" doctrine), and L. FELDMAN, THE CHILDREN ACT 1989 (1990)(the United Kingdom).<sup>109</sup> Works of histori-

<sup>109</sup> The Children Act, 1989, is a massive rewriting of the law applicable to children in England and Wales. Members of Parliament and children's rights advocates, horrified by the alleged abuses in Cleveland in 1987, induced the government to introduce and back this piece of legislation, which restated the bases on which all issues relating to children are decided. See also Great Britain, *Children Act 1989* (J. Masson ed. 1990)(Current Law Statutes Annotated Reprints) for an annotated version of the Act.

cal interest include P. BINGHAM, *THE LAW OF INFANCY AND COUVERTURE* (2d Am. ed. 1849).

The idea of "children's rights" extends to obligations outside the family and criminal contexts. For example, some commentators are now advancing the position that the generic child is entitled to a certain standard of life and environmental health.

Weiss, *Agora: What Does Our Generation Owe To the Next? An Approach To Global Environmental Responsibility: Our Rights and Obligations To Future Generations For the Environment*, 84 AM. J. INT'L L. 198 (1990).

## IX. INTERNATIONAL ORGANIZATIONS

Many international and inter-governmental organizations specialize in the promotion of children's rights. A good source for names and addresses is the *Encyclopedia of Associations International Organizations*.<sup>110</sup> Representative organizations include:

International Organization for the Child's Right to Play  
c/o Jane Knight  
1391 Halifax Place  
Burlington, Ontario L7S 1J7

Central Union for Child Welfare  
Armfeltintie 1  
SF-00150 Helsinki 15, Finland  
Children of the Americas  
c/o W. O. Mills III  
P. O. Box 140165  
Dallas, Texas 75214

Defence for Children International  
Case Postale 88  
CH-1211 Geneva 20, Switzerland

(This organization publishes the CHILDREN'S RIGHTS MONITOR quarterly).

Food and Agriculture Organization of the United Nations (FAO)  
Via delle Terme di Caracalla  
I-00100 Rome, Italy

Numerous publications. Also maintains databases such as AGRIS (International Information System for the Agricultural Sciences and Technology).

Helen Keller International

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<sup>110</sup> Annual, published by Gale Research Company, Book Tower, Detroit Michigan 48226-9948.

15 West 16th Street  
New York, New York 10011

Inter-American Children's Institute  
Avenida 8 de Octubre 2904  
Montevideo, Uruguay

International Action for the Rights of the Child  
54, rue des Ecoles  
Boite Postale 427  
F-75233 Paris 05 Cedex France

International Agency for the Prevention of Blindness  
National Eye Institute  
Building 31, Room 6A03  
Bethesda, Maryland 20892

(Publishes *IAPB Newsletter* (twice yearly); *World Blindness and Its Prevention* (proceedings of quadrennial convention). Coordinates activities with UNICEF, WHO, other international agencies).

International Association of Juvenile and Family Court Magistrates  
c/o Tribunal Pour Enfants  
Palais de Justice  
F-75055 Paris France

International Committee of Children's and Adolescents' Movements  
Postaflok 147  
H-1389 Budapest.62, Hungary

International Society for Prevention of Child Abuse and Neglect  
1205 Oneida Street  
Denver, CO 80220

International Catholic Child's Bureau  
65, rue de Lausanne  
CH-1202 Geneva, Switzerland

International Committee of the Red Cross  
17, avenue de la Paix  
17-1202 Geneva, Switzerland

Publishes *ICRC Bulletin* (monthly); *International Review of the Red Cross* (bimonthly).

International Planned Parenthood Federation  
Regent's College  
Inner Circle  
Regent's Park  
London NW1 4NS England

Publishes *Open File* (semimonthly); *IPPF Medical Bulletin* (bimonthly),



*AIDS Watch* (quarterly); *Earthwatch/Eco-Monde* (quarterly), many other publications.

International Society of Family Law  
c/o Dr. David S. Pearl  
Fitzwilliam College  
Cambridge CB3 0DG England

Publishes a *Directory of Members*; *Annual Survey of Family Law*; *Newsletter* (annual); *The Child and the Law*, *Family Violence*; *Marriage and Cohabitation in Contemporary Societies* (monographs).

La Leche League International  
9616 Minneapolis Avenue  
P. O. Box 1209  
Franklin Park, IL 60131

Publishes *Leaven* (bimonthly); a catalog and directory (annuals), various helpful materials including a cookbook.

Oxfam  
274 Banbury Road  
Oxford OX2 7DZ England

Publishes *Oxfam News* (quarterly); various publications in health and welfare topics.

Save the Children Fund  
Mary Datchelor House  
17 Grove Lane  
Camberwell  
London SE5 8RD England

United Nations Children's Fund (UNICEF)  
3 United Nations Plaza  
New York, New York 10017

Publishes *State of the World's Children* (annual); *UNICEF Annual Report*, and several brochures.

United Nations High Commission for Refugees  
Palais des Nations  
CH-1211 Geneva 10, Switzerland

Publishes *Magazine Refugees* (monthly).

World Food Council  
Via delle Terme di Caracalla  
I-00100 Rome, Italy

A United Nations subagency. Publishes a *Report of the World Food Council* as part of the United Nations General Assembly proceedings.

World Food Programme  
Via delle Terme di Aracalla  
I-00100 Rome, Italy

A United Nations subagency. Publishes *World Food Programme News* (quarterly); occasional publications.

World Health Organization  
Administrative Committee on Coordination  
Subcommittee on Nutrition  
CH-1211 Geneva 27, Switzerland

World Movement of Mothers  
56, rue de Passy  
F-75016 Paris, France

Publishes *News and Documents* (annual); also bulletins twice a year and the proceedings of its symposia.

## X. CONCLUSION

While the United Nations Covenant on the Rights of the Child is a tremendous step forward in the direction of recognition of the problems which the particular legal and economic status of the child may cause, it still does not address some of the issues which involve children or some of the situations which continue to put children at risk, namely juvenile justice, including capital punishment, the rights of child non-citizens, the forced relocation of children and right of the child to refuse to medical or scientific experimentation.<sup>111</sup> Another novel idea omitted from the covenant as it was accepted is that of an International Ombudsman for children's rights.<sup>112</sup> Based on the experiences of various nations with one or more of these issues, one may expect to see them championing or refusing to implement various children's rights as posited in the Covenant and attendant documents.<sup>113</sup> Areas which continue to be hotly discussed include the rights of the unborn, the rights to freedom of religion and adoption, and the role of children in war.<sup>114</sup> Cohen points out that the mechanism for implementation of the covenant is slightly different from those used for previous covenants, in that the emphasis is on reinforce-

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<sup>111</sup> *Introductory Note*, *supra* note 18, at 1451.

<sup>112</sup> *Id.* at 1452.

<sup>113</sup> *Id.* at 1451. The Argentineans seem most interested in the question of relocation of children, through their experiences with the "desaparecidos." The Islamic countries most resist the adoption/custody clauses which conflict with their readings of the Koran. *See Id.* For other studies on "missing rights" of the child, see Cohen, *Inadequacy of Criminal Justice Rights in the Convention: Article 19*, in UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD: INDEPENDENT COMMENTARY (1988); Cerda, *Draft Convention on the Rights of the Child: New Rights*, 12 HUM. RTS. Q.

<sup>114</sup> *Introductory Note*, *supra* note 18, at 1450-51.

ment of the activities of complying states rather than on sanctions of non-complying states.<sup>115</sup> She notes as well that individual children have no means through which to lodge complaints with the Human Rights Committee.<sup>116</sup> All of these areas are likely to repay close study and analysis as the Convention is signed and put into effect by the nations of the world.

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<sup>115</sup> *Id.* at 1452.

<sup>116</sup> *Id.*