CHAPTER - II
The International Children’s Rights Movement has been traced as the work of the British-born Eglantyne Jebb, who founded the Save Children International Union (SCIU) in Geneva in 1919. In 1923, SCIU promulgated the Declaration of Geneva, which was later adopted by the League of Nations. It has not had a long history of recognition. The child was chattel under law, the human property of the parents and owed its total subservience to the parents who enjoyed an absolute right to the child’s services and earnings and full control over the child’s person and property.

Various organizations put forward covenants, declarations and conventions between 1921 and 1959, which ultimately took the form of human rights of child. The

4 C.P. Cohen,” The Human Rights of Children”, Columbia University Law Review, Vol.12, (1983), p. 369. League Convention prohibiting traffic in women and children (1921), and slavery and the slave trade (1926); Declaration of the rights of the child, (1924); Universal Declaration on Human Rights, (1948); Convention on the prevention and punishment of the crime against genocide, (1948); Convention relating to status of refugees, (1951); Convention relating to the status of statelessness persons, (1954); Convention
United Nations adopted the Declaration of the Rights of the Child in the year 1959\textsuperscript{5}, and in recognition of the Twentieth Anniversary of that declaration, designated 1979 the International Year of the Child\textsuperscript{6}.

The United Nations Declaration of the Rights of the Child of 1959 derived its inspiration from the Charter of the United Nations which has elevated human rights to the plane of International Law and stipulated legal obligations on the part of member states of the United Nations to promote universal respect for and observance of human rights and fundamental freedom for all\textsuperscript{7}.

The Universal Declaration of Human Rights of 1948\textsuperscript{8} is looked upon by a substantial body of international legal opinion as the \textit{jus constitendum} of the United Nations Charter with regard to the term "human rights and fundamental freedoms"\textsuperscript{9} and the prevailing view is that its principles are part of customary international law\textsuperscript{10}.

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\textsuperscript{7} U.N.Charter, arts.55 (c), 56..


It has already been noted that most of the rights of the Universal Declarations relates to children either directly\textsuperscript{11} or indirectly\textsuperscript{12}. Most of its provisions are particularly relevant to children\textsuperscript{13}.

\section{A. PRE-UNITED NATIONS INSTRUMENTS}

"Declaration of Geneva" or the 1924 Declaration of the Rights of the Child\textsuperscript{14}, recognised that "mankind owes to the child the best that it has to give". It conferred upon men and women of all nations the following obligations.

\begin{enumerate}
\item The child must be given the means needed for its normal development.
\item The child that is hungry should be fed; the child that is sick should be helped; the erring child should be reclaimed; and the orphan and the homeless child should be sheltered.
\item The child must be the first to receive relief in times of distress.
\item The child must be protected against every form of exploitation.
\end{enumerate}


\textsuperscript{11} See Art 3-15 and 18-20 for the Catalogue of Civil Rights applicable to all such rights as the right to emigrate and seek asylum would obviously be circumscribed in the case of Children to the extend that the consents of parent or guardian might be prerequisite.

\textsuperscript{12} See e.g. Art.16 on Marriage and the Family.

\textsuperscript{13} See, e.g. Art.25 which stipulates that "(m)otherhood and childhood are entitled to special care and assistance ", expanding on the provision in the same Article that "(e)veryone has the right to standard of living adequate for the health and well-being of himself and of his family ......". See also Art.26 which provides that "(e)everyone has the right to education.....", and goes on to detail the content of the right.

5. The child must be brought up in the consciousness that its best qualities are to be used in the services of its fellow men.

The 1924 Declaration was based on relief-oriented approach. The attitude was that the child in difficulty should receive help. The brutality experienced during the First World War had prepared mankind to appreciate the position of the weak in times of distress. There should not be hungry, sick or an orphan or homeless child who is not cared for. An erring child should not be treated as a criminal but should be rehabilitated. All means should be provided for the material and spiritual growth of the child so that he grows up to appreciate the human life and contribute to the well being of mankind. But the right to economic or political freedom was absent from the catalogue of the children. The declaration was only an expression of good will that the mankind felt towards the future and the very existence of a civilized world, and represented a feeling that children are part of the “sacred trust of civilization”.

B. THE UNITED NATIONS INSTRUMENTS

The General Assembly of the United Nations adopted the Universal Declaration of Human Rights on 10th December 1948. It recognizes the inherent

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15 G.A. Res.217 (III), U.N. Doc. A/810 at 71 (1948), See U.N., Human Rights: A Compilation of International Instruments( UN Doc.ST/HR/1/Rev. 1, 1978), which contains the text of all these instruments, including the Universal Declaration and the declaration of the rights of the child. See also B.G. Ram
dignity and equal and inalienable rights of all human beings as the foundation for freedom, justice and peace in the world. The Declaration was an embodiment of the freedoms that were necessary for every human person to develop a human personality and to enjoy a rich and happy life.

Special care and assistance to motherhood and childhood finds its reference in Article 25 of the Universal Declaration. All children whether born in or out of legal marriage are to enjoy the same social protection. Article 26 deals with the Right to Education. According to this article education shall be free and compulsory at least in elementary and fundamental stages.

When the Universal Declaration was proclaimed in 1948, it was considered as the first step in the formulation of an International Bill of Human Rights, which will have a legal as well as moral force. To give legal force to the provisions of the Universal Declaration, the United Nations adopted two International Covenants on Human Rights.

Articles 10, 12 and 13 of the International Covenant on Economic, Social and Cultural Rights, 1966\(^\text{16}\), refer to the needs of children. Article 10 guarantees

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the protection and assistance of family, expectant mothers, and children. Children and young persons are to be protected from economic and social exploitation. Their employment in hazardous work is harmful to their health or dangerous to their life and likely to hamper their normal development and should be made punishable by law. States are under an obligation to set age limits in which the paid-employment of child labour shall be protected and violations made punishable by law. Article 12(2) imposes a duty on state parties to provide for the highest attainable standard of physical and mental health of children and they are under an obligation to take necessary steps in this regard. Under Article 13 state parties recognise the right of every one to education and accept the obligation to direct education to the full development of human personality, dignity and strengthen the respect for human rights and fundamental freedoms.

The rights laid down in Articles 25 and 26 of the Universal Declaration find their full expression in Articles 10, 12 and 13 of the Covenant on Economic, Social and Cultural Rights. Further this Covenant prohibits discrimination of children in matters of special protection and assistance and it provides for the prevention of economic exploitation of children and young persons; their employment in jobs that are harmful to their development is made punishable by the states. The Right to Education provided in Article 26 of the Universal

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17. Art. 10(3).
Declaration is elaborated in Article 13 of the Covenant. The International Covenant on Civil and Political Rights, 1966, also seeks to safeguard the Children's Rights, especially through Articles 6, 10, 14, 18, 23 and 24, within the context of everyone's right to life. Article 6 deals with capital punishment, while calling for the abolition of the death penalty. It states that, "sentences of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant-women". Article 10(b) states that accused juvenile persons shall be separated from adults and shall be accorded treatment appropriate to their age and legal status and brought to trial as speedily as possible.

Article 14(4) also deals with juvenile delinquents and provides that in case of juvenile persons the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation. Article 18(4) of the Covenant requires the states to respect the liberty of the parents and legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

In 1956, the United Nations adopted the Supplementary Convention of Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to

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Slavery. It makes a mention about child slavery as well. Article 1(d) obligates the state parties to take all practicable and necessary legislative and other measures for the complete abolition of practices such as by any institution or practice whereby a child or young person under the age of 18 is delivered by either, or both his natural parents or by his guardians to another person, whether for reward or not, with a view to the exploitation of the child or young person, of his labour.

The UN Convention, Relating to the Status of Refugees, 1951, has a provision on the rights of ‘refugees’ children to public education. Article 22 of the Covenant provides that state parties are to provide the refugee the same treatment as is accorded to nationals with respect to elementary education.

The UN Convention on the Reduction of Statelessness, 1961, provides in Article 1, that in order to prevent children from being born as stateless, the state parties shall grant its nationality to a person born in its territory who would otherwise be stateless. Such nationality is to be granted at birth, by operation of law or upon application being lodged for that purpose. The UN Convention Relating to the Status of Refugees, 1951 and The UN Convention on the

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Reduction of Statelessness, 1961, together grant the refugees' stateless child, protection in matters of public education, labour legislations and nationality. A child is not to be discriminated simply because he happens to be refugee, or Stateless person.

The Proclamation of Tehran, adopted by the UN Conference on Human Rights in 1968, has a proclamation on children's rights. Having reviewed the progress made in the 20 years since the adoption of the Universal Declaration, the conference proclaimed that the protection of the family and of the child remains the concern of the entire international community.


The first draft of the 1959 Declaration was prepared in 1950 by the Economic and Social Council (ECOSOC) which forwarded the document to the UN Commission on Human Rights which had authored the Universal Declaration of Human Rights adopted in 1948. The Commission returned the Draft with

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23 Para 16 and 17 of the Declaration.
various recommendations to the ECOSOC after consultation with the Governments and non-governmental organizations.\textsuperscript{25}

Two main questions were discussed in the General Assembly in connection with the preamble and also in connection with the principles of the Declaration: (1) should the Declaration state, in positive terms, the needs of the unborn child for special protection; and (2) to what extent should the role of the State vis-à-vis the child be emphasized. One paragraph of the Commission’s text affirmed that ‘the child needs special safeguards, including special legal protection, by reason of his physical and mental immaturity”. Italy proposed a phrase to make it clear that “the child required special safeguards and care, including legal protection,” from the moment of his conception.” In support of this proposal, which was favoured by several representatives, it was maintained that the right of the child were inherent from before birth and that every child had a right to be born and a right to life. Several countries where abortion was permitted opposed this proposal.\textsuperscript{26}

As regard the second point, the USSR (former) was for a stronger role for the state in the protection of the rights of the child. It was argued that the child could not adequately be protected without the cooperation of the State and society and that only the State could guarantee many of the rights set forth. They believed that the text should contain provisions indicating measures that governments should take to give effect to the Declaration. It also wanted amendments to place greater emphasis on the role of governments and also to have the Assembly appeal all States to bring their legislations into conformity with the


\textsuperscript{25} For the detailed history of the declaration, See The Year Book of the United Nations, (1959), pp.192-196.

\textsuperscript{26} See n.24, pp. 193-195
principles of the Declaration and to guide by them in practice. Most of the members could not accept the amendments and it was argued that the family—especially the parents—and not the state should be primarily responsible for the child’s welfare. More, they felt that the Declaration should state principles without entering into the question of their implementation. The compromise was to call upon parents, individuals, voluntary organisations, local authorities, and national Governments to recognize these rights and strive for their observance by legislative and other measures progressively in accordance with the principles.

The preamble of the Declaration states that the child, due to physical and mental immaturity, needs special safeguards and care, both before and after birth and that individuals and groups should strive to secure children’s rights by legislative and other means. In carefully worded principles, the Declaration affirms that all children are entitled to:

1. The enjoyment of the rights mentioned, in the declaration without any exception whatsoever, regardless of race, colour, sex, religion or nationality.
2. Special protection, opportunities, and facilities to enable them to develop in a healthy and normal manner, in freedom and dignity.
3. A name and a nationality.

27 Ibid. p.194.
28 Ibid. para 2.
29 Ibid.
30 It was on the initiative of the Netherlands that the specific reference to “parents and voluntary organizations” was inserted in the preamble clause.
31 Principle 1.
32 Principle 2.
33 Principle 3.
4. Social security, including adequate nutrition, housing, recreation and medical services\textsuperscript{34}.

5. Special treatment, education and care if handicapped\textsuperscript{35}.

6. Love and understanding and an atmosphere of affection and security, in the care and under the responsibility of their parents whenever possible\textsuperscript{36}.

7. Free education and recreation and an equal opportunity to develop their individual abilities\textsuperscript{37}.

8. Prompt protection and relief in times of disaster\textsuperscript{38}.

9. Protection against all forms of neglect, cruelty and exploitation\textsuperscript{39}; and

10. Protection from any form of racial, religious, or other discrimination, and upbringing in a spirit of peace and universal brotherhood\textsuperscript{40}.

The General Assembly also resolved that Governments, Non-Governmental Organisations and individuals should give this Declaration the widest possible publicity\textsuperscript{41}.

\textsuperscript{34} Principle 4.
\textsuperscript{35} Principle 5.
\textsuperscript{36} Principle 6.
\textsuperscript{37} Principle 7.
\textsuperscript{38} Principle 8.
\textsuperscript{39} Principle 9.
\textsuperscript{40} Principle 10.
\textsuperscript{41} The Year Book of the U.N. (1959), p.199.
D. THE UN CONVENTION ON THE RIGHTS OF THE CHILD, 1989

The Declaration of 1959 prompted the UN Human Rights Commission to constitute a working group of representatives of the UN Commission to draft a Convention on the Rights of the Child. The Convention, drafted by the UN Commission on Human Rights and adopted by the General Assembly on 20th November 1989, came into force on 2nd September 1990 and has now been ratified by 191 countries at end of 2000. It represents the best ever articulation of child rights, setting high standards and procedure for the well being of children everywhere. The Convention represents a great normative progress in the field of codification and progressive development of Children's Rights.

The Convention contains 54 articles: 41 of them are substantive articles and the rest deal with the implementation measures and the miscellaneous provisions. It articulates five sets of basic rights, namely; civil and political rights, social and economic rights, cultural rights in abnormal or dangerous situations, and the right to due process of law. These sets of rights are based on certain principles of equality and non-discrimination (Article 2), the principle of the best interests of the child (Article 3), the obligation of states to protect all the rights of the child

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44 www.unicef.org/cre/cre.htm, USA and Somalia have not ratified the convention.
(Article 4): and obligation to respect parental responsibilities, rights and duties (Art.5).

The civil rights of the child include the following:

1. Child’s right to life and to survival (Article 21).
2. Right to a name and nationality (Article 7).
3. Right to preserve the identity, nationality and family relations (Article 8).
4. Right not to be separated from parents except through lawful procedure (Article 9).
5. Right to enter and leave the country for family reunion (Article 10).
6. Right to freedom of expression (Articles 12 and 13).
7. Right to freedom of thought, conscience and religion (Article 14).
8. Right to freedom of association and to freedom of peaceful assembly (Article 15).
9. Right against arbitrary or unlawful interference of privacy, family, home or correspondence as well as unlawful attacks on honour and reputation (Article 16).
10. Right of access to information and material especially to those aimed at the child’s social, spiritual and moral well being (Article 17).
11. Right not to be abused or exploited physically or mentally while in the care of parents or guardians (Article 19).
12. Right to the “best interest of the child” in adoption practices (Article 21).
13 Right to receive appropriate protection in case of refugee status (Art. 22).

The above thirteen rights declared in Articles 6 to 22 of the Convention are not exhaustive of all the civil rights and freedoms, recognized and assured by the state parties to the Convention.

The social, economic and cultural rights stipulated in Articles 23 to 31 and the special right in abnormal or dangerous situations mentioned in Article 32 to 39 are separable aspects of the total package of rights and freedoms intended to honour and protect the status of childhood. Special mention may be made in this regard to the child’s right to protection from all forms of exploitation (Article 34 and 36); and from torture and other cruel or inhuman treatment (Article 37 and 39), the child’s rights in situations of armed conflict (Article 38), and the child’s rights with regard to due process of law and special procedures in criminal proceedings (Article 40).

Under the Convention state parties are under an obligation to provide protection to children. The Convention records a point of great progress made in the field of codification of Children’s Rights. Almost all the human rights have now been extended to children with an additional provision for special protection and assistance with respect to child’s physical and mental maturity.
States have an obligation to take relevant and appropriate measures to implement the children’s rights\textsuperscript{45}. The Convention has a sharp focus and puts the states under a direct obligation to report to an international body about the progress in the implementations of children’ rights by establishing the Committee on the Rights of the Child and making states answerable to international scrutiny on the progress of implementation of the Convention\textsuperscript{46}. The Convention has definitely put the state parties under more pressure to perform.

WHO and UNICEF have been requested to intensify their activities and formulate creative methods to reach the rights to the least privileged child, to the last corners of the world\textsuperscript{47}. The main contribution of the Convention is the codification of Children’s Rights into one international document, recognising the aspirations which mankind has for its children.

Two optional protocols to the convention, are on the rights of the child, 1989, and on the involvement of children in armed conflicts and on the sale of children, child prostitution and child pornography, 2000 have also been adopted by the General Assembly, which will be discussed in the next chapter.

\textsuperscript{45} Art. 4.
\textsuperscript{46} Art. 44.
\textsuperscript{47} Article 45(a).
II. SPECIALISED AGENCIES OF THE UNITED NATIONS

The specialized agencies of the United nations whose functioning is of great relevance to the protection and of the rights of the child are International Labour Organisation, United Nations Educational, Scientific and Cultural Organisation, World Health Organisation and United Nations Children’s Emergency Fund.

A. The International Labour Organization

International Labour organization (ILO) is one of the eighteen specialized agencies of the United Nations. ILO has a distinction of being in advance of other international institutions in that its major concern is social justice and labour welfare. Its Preamble begins with a profound statement: “whereas universal and lasting peace can be established only if it is based upon social justice”. The ILO has played a predominant and pioneering role in setting labour standards in carefully drafted Conventions dealing with specific subject matters and keeping them in constant review.48. Till now, the ILO in the interest of the children all

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over the world has adopted 19 Conventions and 17 recommendations. These Conventions are as follows:

1. Minimum Age (Industry) Convention, 1919;
2. Night Work of Young Persons' (Industry) Conventions, 1919;
3. Minimum Age (Sea) Convention, 1920;
4. Minimum Age (Agriculture) Convention 1920;
5. Minimum Age (Trimmers and Stockers) Convention, 1921;
6. Medical Examination of Young Persons (Sea) Convention, 1921;
7. Minimum Age (Non Industrial Employment) Convention, 1932;
8. Minimum Age (Sea) Convention, (Revised) 1936;
9. Minimum Age (Industry) Convention, (Revised) 1937;
10. Minimum Age (Non-Industrial Employment) Convention, (Revised) 1946
11. Medical Examination (Sea-Farers) Convention, 1946;
12. Medical Examination of Young Persons (Industry) Convention, 1946;
13. Medical Examination of Young Persons (Non Industrial Occupation) Convention 1946;

In the declaration concerning the aims and purposes of the ILO adopted in 1944 at its Philadelphia conference, certain fundamental principles on which the Organization is based were affirmed. ILO believes that labour is not a commodity, and the freedom of expression and association are essential to sustained progress. Poverty anywhere constitutes a danger to prosperity everywhere. The Conference (one of the principal organs of the ILO) recognized the obligation to achieve, among other programmes, child welfare and, maternity protection, adequate nutrition, housing, facilities for recreation and leisure, and an assurance of equality of educational and vocational opportunities. The ILO has certain Conventions that specifically deal with children and young persons. The following is the portrayal select Conventions:

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This Convention\(^{50}\) has taken into consideration the Forced Labour Convention, 1930; the Minimum Age Convention, 1973; the Forced Labour (Industrial Compulsion) Recommendation, 1973; the Forced Labour (Regulation) Recommendation, 1930, and the Worst Forms of Child Recommendations, 1999. The new Convention applies to the children under eighteen\(^{51}\). It defines the worst forms of child labour as all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage or compulsory labour; forced or compulsory recruitment of children for use in armed conflicts\(^{52}\); use of children for prostitution or the production of pornography\(^{53}\); using children for illicit activities\(^{54}\); such as the trafficking of drugs; and work which is likely to harm the health and safety of children\(^{55}\). Article 7 states that each Member of the Convention shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention including the provision and application of penal sanctions or, as appropriate, other sanctions. The Convention further states that Members shall take appropriate steps to assist one another in giving effect to the provisions of the convention through enhanced international cooperation and / or assistance including support for social

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\(^{50}\) http://ilolex.
\(^{51}\) Article 2.
\(^{52}\) Article 3(a)
\(^{53}\) Article 3(b).
\(^{54}\) Article 3 (c)
and economic development, poverty eradication programmes and universal education\textsuperscript{56}. The Members to the Convention shall design and implement programmes of action to eliminate as a priority the worst forms of child labour\textsuperscript{57} and such programmes of action shall designed and implemented in consultation with relevant government institutions and employer’s and workers’ organizations\textsuperscript{58}. But on of the drawback of the Convention was that the Convention is binding only upon those members of the International Labour Organisation\textsuperscript{59}. Since the problem child labour is not only a problem of developing and under developed countries but also the problems of the industrialized countries. So, it should not be confine to only the members of ILO but also to the non-members of the ILO.

2 Minimum Age Convention, 1973 and Minimum Age Recommendation 1973.\textsuperscript{60}

This Convention has taken into account the Minimum Age (Industry) Convention 1919, the Minimum Age (Sea) Convention 1920; the Minimum Age (Agriculture) Convention 1921; the Minimum Age (Trimmers and Strokers) Convention 1921; the Minimum Age (Non Industrial Employment) Convention,

\textsuperscript{55} Article 3(d).
\textsuperscript{56} Art. 8.
\textsuperscript{57} Art.6.
\textsuperscript{58} Ibid.
\textsuperscript{59} Art.10.
1932; the Minimum Age (Sea) Convention (Revised) 1937; the Minimum Age (Non-Industrial Employment) Convention (Revised) 1937; the Minimum Age (Fisherman) Convention, 1959; and the Minimum Age (Under Ground Work) Convention, 1965. The 1973 Convention is to gradually replace the others aimed at achieving the total abolition of child labour. The minimum age limit is to be at least 15 years, which is the age of completion of compulsory schooling. The member-state whose economy and educational facilities are insufficiently developed may initially specify a minimum age of 14 years. Article 3 of the Convention provides that the minimum age for admission to any type of employment or work which by its nature or circumstances in which is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less then 18 years. These jobs are to be determined by national laws. However, the members are allowed to lower the age to 16 years with due regard to safety and morals of young persons and provided that the young persons have received adequate specific instructions or vocational training in the relevant branch of activity.

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60 ILO, International Labour Conventions and Recommendations (Geneva; ILO, 1985) p.730
61 Article 5 (3) of the Convention, the Convention shall be applicable to a minimum of the following: mining and quarrying, manufacturing, construction, electricity, gas and water, sanitary service, transport, storage and communication and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.
In the Recommendation concerning minimum age\textsuperscript{62} for eligibility to employment, state parties are to accord high priority to planning for and meeting the needs of children and youth in national development policies and programmes and the progressive extension of the inter-relates measured necessary to provide the best possible conditions of physical and mental growth for children and young persons. Minimum age is to be fixed at the same level for all sectors of economic activity. Members are to progressively raise the minimum age to the standard envisaged in the Convention. Measures are to be taken so that satisfactory standards, safeguards and supervision are maintained at work place and that vocational/technical training administered and labour inspection is to be strengthened to detect abuses. Special attention is to be paid to the enforcement of provisions concerning employment in hazardous type jobs.


The Convention applies to children and young persons employed for wages or working directly or indirectly for gain in non-industrial occupations\textsuperscript{63}. Children below the age of 14 and those who are still under compulsory schooling shall not be employed during night between 10'O Clock and in the morning 6'O Clock\textsuperscript{64}.

\textsuperscript{62} Ibid-p.736.
\textsuperscript{63} Art.6.
\textsuperscript{64} ILO; n.51., Article 2 (3).
But in Countries where the climate conditions and national needs compel, certain exemptions in the time factor during the night is allowed. According to the ILO recommendation, the Convention is applicable to public and private undertakings, commercial establishments, postal services, clerical works, newspaper undertakings and places of entertainment.


According to this Convention children below 16 years are not to be employed during the interval between 10'0 Clock in the evening and 6'0 Clock in the morning. But in some case of young persons who have attained the age of sixteen years but are under the age of eighteen years, this period shall include an interval prescribed by the competent authority of at least seven consecutive hours falling between ten o’clock in the evening and seven o’clock in the morning. The rest period shall include seven consecutive hours between 10 in the evening and 7 in the morning. Special provisions for certain countries has been provided under the convention in part II of the Convention.

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65 Art.4.
66 Ibid; Recommendation 80.
67 Article 1.
68 Article 2(2).
69 Art. 2(3).
70 ILO, n.51, p.745.
71 Art. 5.
5. Medical Examination of Young Persons (Industry) Convention, 1946.

This Convention stated that children and young persons employed in industries shall have medical examinations to determine their fitness for employment. Children and young persons under 18 years of age shall not be admitted to employment by industrial undertakings unless they have been fit for work which they are to be employed by a thorough medical examination. National laws or regulations shall either specify or empower an appropriate authority to specify, the occupations or categories of occupations in which medical examination and re-medical examinations for fitness for employment shall be required until at least 21 years. In occupations involve high health risks, medical examination and re-examination for fitness for employment shall be required until at least the age of 21 years.

In order to ensure the full efficiency of the medical examination of young workers, measures should be taken to train a body of examining doctors who are qualified in industrial hygiene and have a wide experience of the medical problems relating to the health of children and young persons.

72 ILO, n.51. p.752. Article 2(3).
73 Ibid. p.766. Article 3(1).
74 Art. 4(2)

Considering the health risks inherent in employment in under-ground mines, industrial standards require medical examination and periodic re-examination for fitness for under-ground employment in mines until the age of 21 years\textsuperscript{76}. The 1965 Convention has specified the nature of this examination\textsuperscript{77}. Until the age of 21 years thorough examination for fitness shall be carried out at least once in a year\textsuperscript{78}. In order to prevent children below 14 years from their employment during the school hours only those who are medically fit are allowed to work in industries and in underground. The medical examinations are to continue till the age of 21 years\textsuperscript{79}.

B. UNESCO

The Constitution of the United Nations Educational, Scientific and Cultural Organization (UNESCO) was adopted by the London Conference in November 1945, and entered into effect in November, 1946, when 20 states had deposited

\textsuperscript{75} Art. 4(1).
\textsuperscript{76} Ibid. p.766; Article 2(2).
\textsuperscript{77} ILO, n.51., p.766; Article 3.
\textsuperscript{78} Ibid. Article 2(1).
\textsuperscript{79} The Convention was adopted by the General Conference of the ILO on 25\textsuperscript{th} June, 1958, entered into force on 15\textsuperscript{th} June, 1960; For the Text..UNTS, Vol.360 p.31.
instruments of acceptance\textsuperscript{80}. According to Article I of its constitution, UNESCO's main functions are to collaborate in the work of advancing the mutual knowledge and understanding of people through all means of mass communications, giving fresh impulse to popular education and the spread of culture, maintain and or increase and diffuse knowledge and encourage the teaching and understanding of science. UNESCO's activities are divided into four major programme areas: education; the natural, social and human sciences; culture; and communications, as well as covering a number of cross-disciplinary areas such as environment, population and development, culture of peace, and action in favour of priority target groups such as women, youth, Africa and the least-developed countries\textsuperscript{81}.

Several aspects of the work of UNESCO concern human rights in particular and the problems of illegality in many countries. The Convention Against Discrimination in Education, 1960\textsuperscript{82}, can be compared with the 1958 ILO

\textsuperscript{80} UN Non-Governmental Liaison Service: Handbook, (UN Publication: 2\textsuperscript{nd} Ed. 1997), p.143; Now UNESCO has 184 member states.

\textsuperscript{81} Ibid, p.144.

\textsuperscript{82} The UNESCO Convention was adopted on 14\textsuperscript{th} December, 1960 and entered into force on 22nd May, 1962; For Text: UNTS, Vol.429, p.93., http:www.unesco.org/most/rr4.educ.htm. Article I: For the purposes of this Convention, the term "discrimination" includes any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality or treatment in education (...); Article 2: When permitted in a State, the following situations shall not be deemed to constitute discrimination, within the meaning of Article 1 of this Convention. (...); (b) The establishment or maintenance, for religious or linguistic reasons, of separate educational systems or institutions offering an education which is in keeping with the wishes of the pupil's parents or legal guardians, if participation in such system or attendance at such institutions is optional and if the education provided conforms to such standards as may be laid down or approved by the competent authorities, in particular for education of the same level.; Article 5: The State Parties to this Convention agree that: (a) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms; it shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United
Convention concerning discrimination in respect of employment or occupation.  
For the purpose of UNESCO Convention, discrimination includes; any distinction, exclusion, limitation or preference which being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has a purpose or effect of nullifying or impairing equality treatment in education.\(^{83}\)

UNESCO's Basic Education for All Programme focuses on the expression and diversification of the provisions of basic education to reach the largest number of potentials learners, especially girl and women and certain particularly disadvantaged groups. The reform of Education in the prospective of lifelong learning programme is on promoting the renovations and reforms of educations at all leads in the perspective of long education: secondary education, technical and vocational education, teacher education and higher education.

C. WORLD HEALTH ORGANISATION

In 1945, the United Nations Conference on International Organization, meeting in San Francisco, unanimously approved a proposal by Brazil and China

to set up an autonomous international health organization within the United Nations system. The constitution of the World Health Organization (WHO)\textsuperscript{84} was adopted by the International Health Conference, convened by the United Nations Economic and Social Council (ECOSOC) in New York in 1946. In July 1948, this organization was brought into relationship with the UN, finally on 1\textsuperscript{st} September 1948 it started functioning as a permanent organization.

One of the basic objectives of WHO is to promote maternal and child health welfare and to foster the ability to live harmoniously in a changing environment, Article 1(1). Health needs of the mankind have been the constant concern of WHO\textsuperscript{85}. WHO has serious concern over the drug testing and its effect on infants and children. Bottle-feeding in the developed countries for infants led to controversy. That is why the 1981, World Health Assembly representing over 150 governments adopted the International Code of Marketing of Breast Milk Substitutes to try to stop the irresponsible promotion of infant formulae and encourage the promotion of information about the advantages of breast milk\textsuperscript{86} and

\textsuperscript{84} The United Nations, \textit{Non-Governmental Liaison Service; Hand Book, 2\textsuperscript{nd}, eds, (Oxford: UN Publication, 1997), p.261. WHO now has 191 Member States and two Associate Members.

\textsuperscript{85} Health as defined in WHO's constitution is "a state of complete physical, mental and social well-being not merely the absence of disease and infirmity". In support of its objectives, the organization has a wide range of functions, including: acting as the directing and coordinating authority on international health work; promoting technical cooperation; assisting governments, upon request, in strengthening their health services; furnishing appropriate technical assistance and, in emergencies, necessary aid upon the request or acceptance of governments; stimulating and advancing work on the prevention and control of epidemic, endemic and other diseases; promoting, in cooperation with other specialized agencies where necessary, the improvement of nutrition, sanitation, recreation, economic and working conditions and other aspects of environmental hygiene; fostering activities in the field of mental health, especially those affecting the harmony of human relation.

a global strategy for health for all by the year 2000, but it could not reached that goals since it needs a huge amount of recourse and non cooperation from the states concern.

In many countries it is hoped that the potential of health technology to improve the lives of children will largely have been realized before the end of the 20th Century. Polio has already been eliminated, and guinea worm disease and iodine-deficiency disorders are dwindling. The greater use of Oral Rehydration Salts (ORS) means that diarrhoeal diseases such as cholera no longer represent the threat they once did. The great availability of antibiotics means that respiratory infections are on the run, other threats like malaria and AIDS still remain and search for prevention and cure is going on87.

By the year 2000, it is conceivable that in so far as it is technologically practicable the promise of health for all will be delivered. WHO reported on World Health Day, 7th April, 1995, that 146 countries have had no cases of Polio for at least a year previous to that date88.

88 UNICEF, n.82, p.20., In India, 1934 polio cases were reported in 1998 and 264 cases reported in 2000; Thus accounted for about 40 percent of the world polio cases. All children below the age of five will be
D. UNITED NATIONS CHILDREN’S EMERGENCY FUND (UNICEF).

The United Nations Children’s Emergency Fund (UNICEF) is not legally a specialized agency, as it was created by the UN General Assembly in December 1946 as one of its subsidiary bodies. Its initial mandate of three years was to provide large-scale emergency relief to child victims of World War II. In the early 1950s, UNICEF’s mandate was extended indefinitely and expanded to include children in the developing world.

In 1965, UNICEF was awarded the Nobel Peace Prize in recognition that the well being of today’s children is inseparable from the peace of tomorrow’s world. The UN General Assembly entrusted the UNICEF with the responsibility of coordinating all activities relating to the International Year of the Children in 1979.

UNICEF remains responsible for drawing the attention of industrialized and developing countries to the needs and problems of children throughout the world. At the World Summit for Children in September 1990, held under UN auspices with UNICEF acting as the secretariat, heads of state or government from

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89 G.A. Res. 57 (1) of 11th December 1946.
90 G.A. Res. 802 (VIII) of 6th October, 1953.
91 GA Resolutions, note 6.
71 countries met to consider the issue of children and development in the 1990s. The summit made children the unprecedented centre of public attention and is considered by UNICEF as the ‘first truly global summit’. The consensus achieved by world leaders at the summit led to the adoption of the Declaration on the Survival, Protection and Development for Children and a plan for its implementation. This Plan of Action and Convention on the Rights of the Child serve as the key framework for UNICEF activities during the 1990s.

The Declaration of the World Summit for Children and the Plan of Action for its implementation endorsed a fundamental set of “survival, protection, and development” goals for children by the year 2000. They are:

1. Reduction by 1990, under-five child mortality rates by one-third, or to 70 per 1000 live births, whichever is the greater reduction;
2. Reduction of maternal mortality rates to half the 1990 levels;
3. Reduction of severe and moderate malnutrition among under-five children to one-half the 1990 levels;
4. Universal access to safe drinking water and to sanitary means of excreta disposal;
5. Universal access to basic education and completion of primary education by at least 80% of primary school age children;
6 Reduction of adult illiteracy to at least half its 1990 level, with emphasis on female literacy; and

7 Protection of children in especially difficult circumstances, particularly in situations of armed conflict.

These goals provide the focus for UNICEF action in the 1990s, while the Convention on the Rights of the Child, provides a general framework of standards.

UNICEF as one of the co-sponsors of the 1978 Alma-Ata International Conference on Primary Health Care (PHC), is fully committed to health activities at the community level. Other major health interventions supported by UNICEF include Universal Child Immunization (UCI)\(^{92}\), Oral Rehydration Therapy (ORT)\(^{93}\), and the Baby-Friendly Hospital Initiative (BFHI)\(^{94}\). UNICEF recognizes that good nutrition is essential for child survival and development and promotes its nutrition strategy\(^{95}\) in all countries.

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\(^{92}\) The UCI target was to vaccinate 80% of the world's children before their first birthday against the six main child killer diseases.

\(^{93}\) Oral Rehydration Therapy is simple, inexpensive method of preventing or correcting dehydration caused by diarrhoeal infection, which is a major global cause of child death. The use of oral rehydration salts (ORS) rose by 6% to 44% around the world in 1994.

\(^{94}\) In cooperation with WHO, UNICEF launched the BFHI in 1991. The initiative aims at empowering women to breastfeed by implementing the WHO/UNICEF recommended Ten Steps to Successful Breastfeeding and ending the distribution of free and low-cost supplies of breast-milk substitutes in hospitals and maternity facilities. UNICEF also promotes enactment into national legislation of the International Code on Marketing of Breastfeeding.

\(^{95}\) UNICEF's Nutrition strategy has four main elements, includes, (i) control of the three major micronutrient deficiencies (iron, iodine and vitamin A); (ii) protection, promotion and support of breastfeeding; (iii) community participation and empowerment of households to find solutions to their nutritional needs by participating in cyclical 'triple A' processes of assessment, analysis and action; (iv) and effective use of information to improve national nutrition policies and strategies.
UNICEF has played a prominent role in emergencies\(^\text{96}\). It has a four pronged emergency approach (1) preventive actions, through which the acute threat or risks to children are identified, monitored and eliminated or reduced by addressing root causes; (2) readiness/preparedness measures, which will ensure that emergency assistance will be effective, timely and appropriate; (3) emergency assistance, through the provision of a range of goods and services in the midst of a crisis, necessary to assure the survival, protection and essential developmental needs; and (4) rehabilitation and recovery assistance to help victims toward physical, social and psychological recovery\(^\text{97}\).

UNICEF has co-sponsored the first ever World Congress on Commercial Sexual Exploitation of Children in Stockholm, held in August 1996. In industrialized countries, as well as in the developing world, UNICEF has become much more of an advocate for children injecting a new dimension into the work of its national committees\(^\text{98}\).

By far the most important normative achievement of the international community has been the adoption by the UN General Assembly in 1989, of the International Convention on the Rights of the Child, which will be the subject of the analysis in the next chapter.

\(^{96}\) In 1994 the organization disbursed more than US $ 183 million for emergency programmes in 13 major emergency countries (Afghanistan, Angola, Burundi, Ethiopia, Haiti, Iraq, Kenya, Liberia, Mozambique, Rwanda, Somalia, Sudan and former Yugoslavia).

\(^{97}\) Ibid.

\(^{98}\) Supra, n.80, p.195.
III. SOUTH ASIAN ASSOCIATION FOR REGIONAL CO-OPERATION (SAARC)

SAARC is not a specialised agency of the UN but is a regional organization that works in tandem with the UN. A quarter of the world’s children live in SAARC Countries, and about 37 million newborns swell their ranks each year, and more than 3.5 million under-five-years-old died from poverty-related causes, almost two-thirds of the region’s children were undernourished, and fewer than half the children were likely to complete five years of primary education. The main obstacles to child survival and development in the region is malnutrition, poor sanitation and hygiene, poverty and illiteracy.

The SAARC has, since the Bangalore Summit of 1986, called for concrete efforts to create an environment favourable to the realization of the rights

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99 SAARC is a region that comprises seven countries: Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. While these countries very significantly in their geography, resources and cultural environment, they share common religious and historical traditions, and linkages that go back to antiquity. European regimes established themselves as colonial powers in this region. One of the most significant impacts of the long period of colonial rule was the replacement of indigenous systems of government and with common norms and structures derived mainly from British colonial and policy. The post-independence days of this century have seen national governments struggling with similar problems of extreme poverty, civil unrest, and common, the breakdown of law and order. This common history and difficult socio-economic realities have inevitably touched the lives of the majority of children in all countries of the region.


101 Ibid. p.47.

of the child. The Organisation has incorporated the subject of children’s rights into several of its summit declarations, has called for annual country reports on the situation of children, and for the exchange of experiences. SAARC has in that sense set a precedent for the concept of international coalition on children’s rights, and for the World Summit Declaration of 1990 that followed the UN Convention on the Rights of the Child. The Year 1990 had been designated as the “SAARC Year for the Girl Child” in an effort to prioritise the problem and initiate policy interventions on behalf of a particularly vulnerable section of the child population in the region.

India took lead in formulating SAARC “Agenda for Child Development”. SAARC countries had promised to achieve following five goals by 2000: universal child immunization; universal primary education; child nutrition and provision of pure drinking water and shelter. The subject of children’s rights was high on the agenda for the SAARC Summit of 1991, and a Ministerial conference on this them was held in 1992. A regional panel of exports appointed

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104 Significant gains were also made against micronutrient deficiencies. Although the region did not achieve its target of universal salt iodination by 1995, striving towards the mid-decade goal helped accelerate progress in all countries. All states in India have banned the making of non-iodized salt, and UNICEF facilitated the drafting of a code for the import/export of iodized salt between SAARC countries.

105 Access to sanitation services remains low throughout the region.
by the SAARC Secretary General drew up guidelines for goals and targets. The 1991 Summit adopted a Regional Plan of Action for Children, with special focus on girl child, and the SAARC Conference in 1992 focused on strategies for implementation.

During the year 1995, the SAARC Technical Committee on Women in Development urged member countries to appraise the status and needs of girl in difficult circumstance. The appraisal was discussed in November at a meeting that developed recommendations for endorsement at the 1996 Summit of Heads of States. Proposals were made for reforms to harmonize national legislation with the Convention on the Rights of the Child and to establish 2005 as the deadline for the elimination of child labour in the region.

All the SAARC governments have made a commitment to uphold the United Nations Convention on the Rights of the Child (CRC). At the Male Summit in 1997, the governments agreed to pursue a holistic approach to address the problems of disadvantaged children in the region.

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106 The nutrition initiative for SAARC, established in late 1994, began efforts to improve understanding of malnutrition by governments and development agencies. Activities have included assessing nutrition projects, refocusing strategies and working with policy makers and donors, including the Asian Development Bank.

107 All countries gave greater attention to vaccination in 1995, although immunization rates fell below 1990 levels in some cases. National immunisation Day for polio resulted in 90 per cent turnouts in Bhutan, India, and Pakistan, but only 43 per cent of Pakistan children under 12 months were covered by other vaccines.
The leaders of the SAARC countries met at the South Asia High Level Meeting on Investing in Children in Kathmandu, Nepal on 22-23 May 2001\textsuperscript{108}. This meeting was preceded by consultations between Change Makers and corporate leaders. These meetings were organized as part of the Global Movement for Children and in preparation for the UN General Assembly Special Session to be held in New York 19-21 September 2001. The heads of the governments recognized that the corporate sector, civil society, young people, international organizations and media need to work in partnership to ensure adequate, timely and productive investments in fulfilling the rights and achieving the well being of all children in South Asia and in strategies towards poverty alleviation.

Leaders of the South Asian Association for Regional Cooperation (SAARC)\textsuperscript{109}, gathering for their annual summit in Colombo between 29 and 31 July, should place child rights at the centre of their agenda if they are really committed to a better future for the region. The situation of children in the region has not improved generally despite these declarations\textsuperscript{110} and some national


\textsuperscript{109} The Objectives of the Association as defined in the Charter are: to promote the welfare of the peoples of South Asia and to improve their quality of life; to accelerate economic growth, social progress and cultural development in the region and to provide all individuals the opportunity to live in dignity and to realize their full potential; to promote and strengthen collective self-reliance among the countries of South Asia; to contribute to mutual trust, understanding and appreciation of one another’s problems; to promote active collaboration and mutual assistance in the economic, social, cultural, technical and scientific fields; to strengthen cooperation with other developing countries; to strengthen cooperation among themselves in international forums on matters of common interests; and to cooperate with international and regional organisations with similar aims and

\textsuperscript{110} SHEER BUREAUCRATIC indifference has made mockery of a welfare scheme that could have brought cheers to perhaps the most helpless member of the Indian society, the girl-child. The “SAARC Decade of the Girl Child”, implemented during the 1990s, has left the Indian adolescent girl (11-17 years age-group) in a poorer condition than ever before. The scheme is to be implemented in 2,000 selected Integrated Child Development Services (ICDS) projects by the end of the ninth plan period. The scheme divides AGs into two age groups, 11-15 years and 16-17 years. The focus for the younger group is on the prevention of child labour and ensuring school education through the village-level community volunteer-based basic education. The Department of Women and Child Development, HRD Ministry, reveals in a recent assessment the
policies and programmes. SAARC declarations have not been followed by an action plan for shared regional commitment and initiative in prioritizing the interests of the children.

Leaders of the South Asia Association for Regional Cooperation (SAARC), gathering for their annual summit in Colombo between 29 and 31 July, should place child rights at the centre of their agenda if they are really committed to a better future for the regard.

shocking conditions of the AG scheme after the SAARC decade is over. To start with, the state governments were clearly in no hurry to implement the scheme, which was to have been put in practice through the ICDS. "Most of the states took time in implementing the scheme in different blocks within the stipulated period," says the department in its assessment. Half of the decade was nearly over by the time 27 Anganwadi Centres had started implementing the AG scheme; another 11 were added during the next year, 1995-96. In Assam and UP, the AG scheme was initiated for the first time during this year, at least four years behind schedule. See. Hindustan Times (New Delhi), 6th May, 2001.