



## 19 November 2009 - Special CRINMAIL on the 20th anniversary of the CRC

CRIN is a global network coordinating information and promoting action on child rights. More than 2,000 member organisations and tens of thousands more activists from across the world rely on CRIN for research and information.

CRIN presses for rights, not charity, for children and is guided by a passion for putting children's rights at the top of the global agenda by addressing root causes and promoting systematic change. Its guiding framework is the UN Convention on the Rights of the Child (CRC).

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Your submissions are welcome if you are working in the area of child rights. To contribute, email us at [info@crin.org](mailto:info@crin.org). Adobe Acrobat is required for viewing some of the documents, and if required can be downloaded from <http://www.adobe.com/products/acrobat/readstep.html>. If you do not receive this email in html format, you will not be able to see some hyperlinks in the text. At the end of each item we have therefore provided a full URL linking to a web page where further information is available.

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## **Editorial**

### **The challenge for child rights**

The anniversary offers an opportunity to reflect on the impact of the Convention, and ongoing barriers to implementation. There is little doubt that the impact of the CRC has been profound. Ratified by all but two of the world's States, its provisions, based on children's fundamental entitlement to be treated with respect and dignity, have formed the basis of national legislatures and policies, regional human rights mechanisms and international guidelines.

But its value lies beyond the power of the law. Historically subordinated and viewed as second class citizens, or the property of others, the Convention demands that children are seen as rights-holders with sets of specific entitlements. In short, it offers the best blueprint for children's emancipation from harm and injustice.

*Over 18 years, 340 successive CRC reports from States have been examined. Governments have been held externally, publicly, accountable for their attitudes to children, and their respect for children's rights.*

The role of NGOs has been pivotal in the promotion and implementation of the CRC. They have submitted Alternative reports to the Committee, campaigned for its deployment in national courts, as well as in policy and practice, and held governments to account. However, the plight of millions of the world's children demonstrates that the existence of the CRC has not in itself been enough.

Peter Newell, Chair of the CRIN council and Vice President of the NGO Group for the Convention on the Rights of the Child, said: "The gross breaches of the child's right to life and maximum

survival and development, extreme discrimination in access to basic health, clean water and nutrition too easily become part of the scenery and make a mockery of us telling children they have rights. We need to equip ourselves now for a decade of insistence that the CRC is a legal instrument, bestowing legal obligations on states which must be enforceable by children and their representatives. It is going to be up to us, NGOs, and human rights institutions and individual lawyers, children's organisations and other advocates to be creative in invoking the legal force of the Convention."

There are encouraging signs for the future. The campaign for a complaints mechanisms to the CRC marches forward - [read a statement from the NGO Group on the CRC, supported by dozens of NGOs from around the world](#).

Here at CRIN, we are forging ahead with new projects, for example, on [discrimination](#), [strategic litigation](#) and the [use of the CRC in court](#). Read about our [petitions, toolkits, and other means of taking action on child rights](#).

Nonetheless, twenty years after the adoption of the CRC, the human rights movement is facing challenges on a number of fronts.

### **Financial threat**

Much has been said and written about the world's financial downturn, with particular concern for the economic and social rights of children once public budgets are slashed. For example, the right to food is threatened as increased poverty obliges people to lower the quantity and quality of their diet. More than 400,000 more infants are predicted to die each year as a consequence of the crisis (UNESCO, 2009), while the right to education – particularly that of girls – is threatened as families can no longer afford the direct and indirect costs of sending their children to school, requiring them instead to carry out domestic or paid work (ILO, 2008).

But less has been written of the potential violation of other rights. Thomas Hammarberg, Commissioner for Human Rights at the Council of Europe, argues that: "Increased unemployment will place a further burden on state budgets and there will be less space for social assistance at a time when needs will inevitably grow. This is likely to cause tensions and perhaps even social unrest. There is a risk that xenophobia and other intolerance will spread further and that minorities and migrants may become targets. Extremists might seek to exploit and provoke such tendencies."

Human rights are sometimes viewed as a luxury in time of economic instability. In fact, there is no greater need for the respect of human rights than during periods of social unrest or insecurity, since it is during these times that citizens, and children, are at their most vulnerable. A rights-based approach, for example to budgeting, can cushion the blow of financial hardship because it helps to ensure that there is a fair distribution of resources.

### **Spurning rights?**

Unfortunately, in spite of decades of human rights advocacy, it is often hard to predict large development organisations' approach to rights, with commitment seemingly dependent on the turnover of specific personnel. Media teams, driven by the need to reach the widest possible audience, too often recoil at the prospect of 'selling' child rights to the public, and prefer to invoke sensationalism and pity - often at the expense of understanding and empowerment. But choosing the path of least resistance undermines the achievements of the last 20 years. The Convention was instrumental in shifting such perceptions of children – from objects of benevolence to rights-holders with entitlements.

This makes the continued use of outdated constructions of 'charity' all the more disheartening. Campaigners focus on the more immediate and sensational stories, promising dramatic results in return for small financial commitments from individual donors. Unfortunately, promoting a child's access to healthcare or education, stemming violence or preventing recruitment into armed forces, can require the recognition of a complex set of economic, social, developmental and political factors. While the promotion of child rights may not appeal so easily to people's imagination, or prompt such emotive reactions, it is our best hope of promoting an enduring commitment to the wellbeing of children.

Of course, the competition for funds is fierce, so it is understandable that fundraisers, business-minded CEOs and managers well versed in political rhetoric might seek to navigate the clearest route to financial stability. It is easy to understand why NGOs might sway with the prevailing wind – donors, including government departments, tend to switch priorities according to the political colours of the party in power. Children's organisations cannot be expected to run on passion alone. But what is the real cost? As child rights advocate Peter Newell recently noted, “it is astonishing to find supposed children’s advocates avoiding the rights language because they feel it will be unpopular with governments, or with donors. That attitude is hardly in the best interests of children.”

Children's rights should no more be optional than the rights of women, the rights of those subjected to torture, or the rights of those imprisoned for political reasons. Yet some powerful development organisations have notably recently dropped rights-based approaches to their international policy work. While talk of children's rights may still occasionally feature in policy briefs or reports, their inclusion often seems more decorative than substantive. Legal mechanisms, discussion of remedies, or explanations of the benefits of a rights-based approach are often omitted in favour of assertions about 'simple' solutions and basic needs. Mr Newell argues: “We should collectively admit to ourselves and to children that children’s rights advocacy is still in its infancy; it is not in the same league as advocacy for women’s rights or environmental issues.”

It is easy to become impatient with rights as a means for addressing social injustice because they may be immediately unpopular, and require careful consideration and long term commitments. The legal and social recognition of children as rights holders helps societies to move beyond a perception of children as suitable subjects for exploitation or abuse. They may no longer be the last consideration when it comes to housing, sanitation, or the provision of food. They may be recognised as being entitled to equal access to healthcare, and be respected in schools as rights-bearing human beings, rather than potential adults in need of correction or moulding. If, on the other hand, children continue to be viewed as merely objects of charity, rather than rights-holders, they will continue to be marginalised voices in society. The Convention on the Rights of the Child is more than a piece of paper – it is the best hope we have of creating lasting change for children.

[Sources: ILO (2008) *The Financial and Economic Crisis: A Decent Work Response*; UNESCO (2009) *EFA Global Education Report*]

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## **1989: Beyond the CRC**

The year 1989 held considerable significance beyond the furtherance of children's rights. Superpowers America and Russia declared an end to the Cold War, while events in China, Burma and South Africa all had huge consequence for the ensuing 20 years.

On 7 January **Japan's Showa emperor Hirohito died** of cancer in Tokyo at age 87 after a 62-year reign. The emperor's death ended the Shōwa era. After the end of the second world war, Hirohito tried to apologise to the Allies for Japanese atrocities, but U.S. Gen. MacArthur reportedly ignored his request for a meeting.

On 2 February, **the last Soviet Union armoured column left Kabul, Afghanistan**, ending nine years of military occupation. On 15 February the last Soviet soldiers pulled out. They had been there for nine years, and 14,427 of them, and 576 KGB troops, had lost their lives. The enemies may have changed, but 20 years on, ordinary Afghans are still caught in the thick of bitter fighting.

Also on 2 February, **76-year old Paraguay's dictator Alfredo Stroessner was overthrown** in a bloody coup after a brutal 35-year "presidency". Soon after taking office, Stroessner declared a state of siege and suspended constitutional freedoms. It was renewed every 90 days for the rest of his term, and was only lifted during elections. While bringing some economic stability, he was also famed for pervasive human rights abuses, including torture and kidnappings. Good riddance?

On 14 February **Union Carbide agreed to pay USD \$470 million to the Indian government** for damages it caused in the 1984 Bhopal Disaster, when, astonishingly, more than 25,000 died following the release of toxic gases. The US-based company, whose 2008 turnover was \$7.33 billion, denied responsibility for years. Would we be surprised if it happened again?

Also on 14 February, Valentine's Day in English-speaking countries, Iran's Ayatollah Khomeini made the less-than-romantic gesture of offering a **\$3 million reward for the death of author Salman Rushdie** in a fatwa.

We are grateful to Tim Berners-Lee, who in March **outlined the concept of the world wide web** in a report. We have absolutely no doubt that a global information network on children's rights was at the forefront of his thinking.

On 9 April, **Georgian demonstrators were massacred by Red Army soldiers** in Tbilisi's central square during a peaceful rally; 20 citizens were killed, with many more injured.

On 2 May, **the first crack appeared in the Iron Curtain** (which symbolised the separation of East and West Europe). Hungary dismantled 150 miles (240 km) of barbed wire fencing along the border with Austria. On 23 May, Iran's Ayatollah Khomeini underwent surgery for internal bleeding from stomach cancer at Tehran. He died of a heart attack just after midnight on 3 June, aged 86.

The Executive Council of **the African Union adopted the Resolution on the Strategies for the Decade of the African Child** (1990-2000), which included urging African States to accept the adoption of the Convention on the Rights of the Child. Read the Resolution here: [http://www.chr.up.ac.za/hr\\_docs/african/docs/cm/cm115.doc](http://www.chr.up.ac.za/hr_docs/african/docs/cm/cm115.doc). A good start!

On 4 June, the **Tiananmen Square massacre took place in Beijing**. The official number of dead is 241. Foreign correspondents at the scene put it at 3,000.

Earlier in the year, **Burma's military government agreed to hold the nation's first democratic elections** in nearly 30 years and changed Burma's name to Myanmar. When the election returns in May saw overwhelming support for the opposition National League for Democracy party, the State Law and Order Restoration Council refused to yield power to the duly elected civilian government. Burmese **opposition leader Aung San Suu Kyi was placed under house arrest** on 20 July – where she remains to this day.

On 16 November, **South African President F.W. de Klerk announced the scrapping of the Separate Amenities Act**, which allowed the government and business to establish separate and unequal facilities for non-whites. A chink in the armour of Apartheid.

On 17 November, **East Germany opened checkpoints in the Berlin Wall**, allowing its citizens to travel freely to West Germany for the first time in decades. Since its construction in 1969, around 100 to 200 people were thought to have died trying to breach the divide. Crowds of East Germans celebrated with West Germans in a celebratory atmosphere. Over the next few weeks, parts of the wall were chipped away by souvenir hunters; industrial equipment was later used to remove most of the rest.

17 November – **Cold War, Velvet Revolution: A peaceful student demonstration in Prague, Czechoslovakia is severely beaten back by riot police.** On November 28, the Communist Party of Czechoslovakia announces they will give up their monopoly on political power (elections held in December bring the first non-communist government to Czechoslovakia in more than 40 years).

14 December - **Chile held its first free election in 16 years.** General elections had not been held since March 1973, six months before a military coup d'Etat.

22 December – After a week of bloody demonstrations, **Ion Iliescu became president of Romania, ending the communist dictatorship of Nicolae Ceaușescu**, who fled his palace in a helicopter to escape inevitable execution after the palace was invaded by rioters. The Romanian troops, who had followed Ceausescu's orders to attack the demonstrators, change sides and join the uprising.

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## **The birth of a Convention**

The drafting process for the Convention was not plain sailing for the team of State delegates, experts and NGO representatives, who met to begin work. While to some of us it might seem surprising that there could be disagreement on the scope of children's rights, the atmosphere in the meeting rooms was, at times, tense. In fact, the longest discussions concerned an article which, at first glance, might seem uncontroversial. The definition of the child (article 1) "caused a great deal of disagreement and argument", according to an account of the drafting process, largely over whether that definition should include a child before birth.

Other articles also stoked the fires. On the role of the mass media (article 17), two camps emerged: one prioritised a free flow of information, while the other emphasised the need to protect children from harmful information. It was the first view that, in the end, prevailed. Participants struggled to reach consensus on the provisions for adoption (article 21). Delegates of States with an Islamic culture found the suggested article difficult to accept, because adoption is not recognised in these countries.

Delegates from some countries were particularly concerned about the provision requiring that primary education be free and available to all. They argued they would not be able to fulfil such a requirement.

It is somewhat ironic, given their subsequent stark refusal to ratify, that the United States eagerly took a leadership position in the drafting process. In fact, writes Cynthia Price Cohen, the U.S. "was by far the most active, making proposals and textual recommendations for thirty-eight of the forty substantive articles." Moreover, the US was one of only six governments to propose additional provisions, ultimately contributing more new articles than the others combined.

The U.S. proposals focused primarily on individual rights and freedoms from expression and religion to association and privacy. Enshrined in Articles 13 – 16 of the final version, these “have now become a central element of international human rights law.” In many ways, argues Cohen, they “have laid the foundation for a growing ‘child participation’ movement,” bringing “beneficial effects around the world as children take more active roles in education, civics, and the media.” Indeed, says Cohen, “the most significant changes in the world view of children’s rights can be directly attributed to. . . the United States” and even that “United States participation. . . has resulted in an entirely new world for children.”

With such a ringing endorsement for the influence of the US on the furtherance of children's rights, does it seem reasonable to hope that Barack Obama's administration may after all be plotting to ratify the Convention?

[Sourced from The Legislative History of the Convention on the Rights of the Child (2007), OHCHR] Cohen, C. P., Role of the United States in Drafting the Convention on the Rights of the Child: Creating a New World for Children, 4 Loy. Poverty L.J. 9 (1998), Garman, J. J., International Law and Children’s Human Rights: International, Constitutional, and Political Conflicts Blocking Passage of the Convention on the Rights of the Child, 41 Val. U. L. Rev. 659 (2006)]

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### **From the Frontline: Laura Theytaz-Bergman**

Laura Theytaz-Bergman, 45, was coordinator for the NGO Group on the Convention on the Rights of the Child from 1992 until 2007. She now lives in Singapore and still acts as a consultant to the NGO Group and other child rights organisations. Early this year she authored the report [\*What Happened? A study on the impact of the Convention on the Rights of the Child in five countries: Estonia, Nepal, Peru, Uganda and Yemen\*](#), published by Save the Children Sweden.

**After the adoption of the Convention, pretty much no one knew where we were going and what we were going to do.** It was a confusing time. When I became involved there was the sense that a lot of energy had gone into drafting, but what do we do now?

**Both the political and technological environment was so different to how it is now.** It was very difficult to communicate outside of Geneva – there was no email, no internet, so we used fax and post. It's hard to imagine now.

**NGOs operate very differently today,** and the Convention made a huge difference to the involvement of human rights NGOs. NGOs were previously perceived as anti-government, and the Cold War environment meant that they were often viewed with suspicion.

The drafting process showed that NGOs could be worked with and that there could be collaboration. At the time, the base for the NGO Group already existed because NGOs had been brought together for the drafting process. They came from all walks of life – there were women's organisations, religious organisations, as well as the traditional human rights organisations. It was really thanks to Save the Children Sweden and Defence for Children International that work began on implementation of the Convention, rather than just the drafting.

**Everything that we take for granted now has been built up piece by piece.** Thankfully at the beginning the Committee was very dynamic and supported the involvement of NGOs. It was groundbreaking to have NGOs participating in pre-sessions, given that NGO involvement before had been quite limited. People were like 'wow'!

**We knew we had to ensure the Committee was** getting additional information because we knew that the State party reports were incomplete. The challenge for us was: How do we tap into what is happening nationally? And that's still a challenge today. Don't forget this was all pre-email, so getting hold of the major players at national level was a real challenge.

**The CRC revolutionised the involvement of NGOs in UN processes.** Before we had basically Human Rights Watch and Amnesty International submitting reports to Geneva, but this was cut off from any voices from the national level. We approached it in a completely different manner. We never stuck a logo on reports done by someone at national level, and it was important to get national NGOs involved in the process and actually present in Geneva.

**The UN can be a daunting place,** and we wanted to make sure it was comfortable for national NGOs to come to. I keep mentioning technology, but it really was so different. We were photocopying State party reports and posting them back to national NGOs. All of this work was very innovative, and we now take a lot of it for granted. If you speak with some of the NGOs that work with treaty bodies that have been around for a long time, they will tell you that it is a real challenge getting them to work differently and be inclusive.

**I really think we have come a long, long way in the last 20 years.** Sometimes I don't think we give ourselves enough credit. Every government used to come before the Committee and say "children are the future" - now you hardly see any governments do that because the Convention has helped people to see that children are the present and not just the future. That's an enormous achievement in itself. Implementation is a very difficult thing to accomplish, but of course there is still so much more that has to be done. It has to be looked at as a long term plan, not just 20 years but a lot longer.

**In the early days, a lot of the developed countries signed up to the Convention and thought "we're doing pretty good. We don't have any armed conflict, or street children, or even child prostitutes."** And so they were shocked when the Committee started asking them about violence, or about abuse, or bullying in schools. They thought everything was fine and dandy, so there was lots of education to be done.

**I will never forget the headline in a major UK national newspaper. It said: "How dare they?"** They were asking, how can people in the Philippines or in Brazil criticise us about child rights when you look at what is in going on in their countries? How dare they criticise us? I don't think you would ever see that headline now.

You even say it today with reporting for the Optional Protocols. States signed up to the one on armed conflict thinking they were fine, because they weren't involved in any armed conflicts. But then the Committee started asking about states of emergency, or refugees who had come from armed conflict situations, or ages for enlistment in the armed forces, and States start realising it applies to them after all. They are blown away.

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## **Establishing a communications procedure for the Convention on the Rights of the Child**

Twenty years after the adoption of the CRC, despite its almost universal acceptance by 193 states, it is clear that the rights of millions of children are not adequately respected. For rights to have meaning, effective remedies must be available to provide redress when they are violated. For children, given their traditional status in societies, there are particular difficulties in enforcing their rights.

Establishing a communications procedure under the Convention would ensure that when national systems fail to address violations of their rights, children and their representatives would be able to file a complaint with the UN Committee on the Rights of the Child. Why should another generation of children have to wait for this component in the promotion and safeguarding of their rights – acknowledged by the UN system as necessary for women, people with disabilities and other population groups?

The process of establishing the necessary procedure has reached a crucial point. In June 2009, thanks to the initiative of a cross-regional core group of States, a resolution was adopted by the Human Rights Council establishing an Open-ended Working Group to discuss the possibility of elaborating a procedure for the CRC.

The first session of this Working Group will be held from 14 to 18 December. In March 2010, the Working Group will report back to the Human Rights Council, when a new resolution is expected to be adopted, renewing the mandate of the Working Group.

Read the full statement [here](#)

More information about the Working Group meeting here:  
<http://www.crin.org/resources/infoDetail.asp?ID=21261>

#### **Further information**

- [More information about the campaign](#)
- [Sign the petition](#)
- [Website of the NGO Group for the CRC](#)

*The NGO Group for the CRC is a network of 80 international and national non-governmental organisations, which work together to facilitate the implementation of the United Nations Convention on the Rights of the Child.*

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#### **ENOC: Statement on 20th Anniversary of the CRC**

"It is not enough for our Governments to mark this anniversary by re-stating their commitments to the Convention and to children. We urge every state to carry out an urgent review – in collaboration with our institutions, children's rights NGOs and children themselves – on the status of the CRC in national law and whether children have real remedies for breaches of their rights.

ENOC is deeply concerned that the CRC is the only core international human rights instrument

which lacks a communications procedure to enable children to have complaints of violations of their rights reviewed by the Committee on the Rights of the Child. A Working Group of the Human Rights Council will be meeting in Geneva in December to consider developing such a procedure: ENOC urges States to move quickly to start drafting the necessary Optional Protocol: children should not have to wait any longer for this essential tool for the safeguarding of their rights." Read the full statement [here](#)

Visit: <http://www.crin.org/enoc/resources/infodetail.asp?id=21294>

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Visit: <http://www.crin.org/resources/infoDetail.asp?ID=21294>

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### Quiz! CRC20 special

Find out how much you know - try the quiz here: <http://www.crin.org/quiz/index.asp?quizID=1131>

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### \*\*News in Brief\*\*

**New:** Factsheet on child rights (CRIN)

<http://www.crin.org/resources/infoDetail.asp?ID=21300&flag=report>

**CRC20:** See CRIN's dedicated webpage

<http://www.crin.org/crc20/>

**Thomas Hammarberg:** Realising children's rights requires more than rhetoric – systematic and concrete actions are now needed

<http://www.crin.org/resources/infoDetail.asp?ID=21270&flag=report>

**Climate change:** Briefings on children's rights and climate change (18 November 2009)

<http://www.crin.org/resources/infodetail.asp?id=21285>

**Corporal punishment:** Full prohibition confirmed in Luxembourg (18 November 2009)

<http://www.crin.org/resources/infoDetail.asp?ID=21284&flag=news>

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