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to the United Nations



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UNITED NATIONS GENERAL ASSEMBLY  
44TH SESSION  
THIRD COMMITTEE

- ITEM 98: INTERNATIONAL COVENANTS ON HUMAN RIGHTS
- ITEM 108: ADOPTION OF A CONVENTION ON THE RIGHTS  
OF THE CHILD
- ITEM 112: TORTURE AND OTHER CRUEL, INHUMAN OR  
DEGRADING TREATMENT OR PUNISHMENT

STATEMENT BY THE PERMANENT REPRESENTATIVE OF CANADA

AMBASSADOR L. YVES FORTIER, O.C., Q.C.

NOVEMBER 10, 1989



Mr. Chairman,

I welcome the opportunity to speak to you on this group of agenda items which, this year, have taken on a special significance. Among these important topics is the Draft Convention on the Rights of the Child, which the General Assembly must consider and, hopefully, adopt.

Mr. Chairman,

Seventy-five years ago, the League of Nations, adopted the first Declaration of the Right of the Child, commonly referred to as the Declaration of Geneva. This instrument provided that has guided the international community's work in the field of the rights of the child. The Declaration states that "mankind owes to the child the best that it has to give". Sadly, one has only to read newspapers or UNICEF's report on The State of the World's Children to know of the world's failings in protecting and promoting the well-being of the child. But where misery and conflict exist, there is also hope. For many, that hope has focused on the United Nations and its efforts to define and protect the rights of the child and on the obligations of states to the world's children.

The fulfilment of that hope continues to be a fundamental objective of this Organization. This year, for example, we celebrate the 30th anniversary of the adoption by the UN of the Declaration of the Rights of the Child. We also mark the 10th anniversary of the International Year of the Child. It is my hope that this year we will create an even more fundamental milestone through the adoption of the Convention on the Rights of the Child.

Mr Chairman,

It has been ten years since the working group of the Commission on Human Rights commenced the drafting of the Convention. In so doing, the working group sought to address some of the most pressing problems facing children today. Provisions of the Convention deal with the very survival of the child, in obligating states to ensure that basic minimum health and nutritional standards are met. The problems of exploitation of the child are addressed in several articles, dealing with all forms of such exploitation including sexual, economic and drug abuse. Other important issues dealt with in the Convention are the child's basic civil rights, including the freedoms of expression, thought, conscience and religion, association, and the right to privacy. The question of adoption and appropriate

standards for day-care and other facilities established for the care of the child also represent important aspects of the Convention.

Of fundamental importance in the Convention is the recognition that the child is indeed a human being capable of having and enjoying human rights. This notion would seem self-evident and, indeed, one of the early criticisms of the Convention was that children already enjoyed rights set out in the Covenants and other international human rights instruments. More importantly, there was a recognition that the child needed special protection above and beyond that provided in other instruments - hence the need for this Convention. To ensure such special protection, an important concept was developed that provides a binding thread throughout the patchwork of the Convention. The notion of the "best interests of the child", although a subjective factor, is to be of primary consideration where the state must intervene to protect the rights of the child. It does allow intervention in those unfortunate situations where proper parental care is not being or cannot be provided. Another important thread of the Convention is its melding of different types of rights - economic, social and cultural with civil and political - while maintaining the vital recognition that each set must be implemented in a different manner.

Mr. Chairman,

I wish to pay tribute to some of the people, organizations and states that have worked so diligently and conscientiously to ensure that the Convention has reached this stage. The government of Poland deserve much credit for their longstanding commitment to the protection of the rights of the child. When speaking of the Polish contribution to the Convention, one is bound to mention the invaluable work done by Professor Adam Lopatka who served as Chairman/Rapporteur of the working group. Without his strong commitment and determined patience, there are many who doubt that there would have been a Convention.

A number of organizations also played an important role in the realization of this Convention. UNICEF has been extremely active in providing both substantive and logistical support to the working group and in promoting the Convention. Other UN organs and specialized agencies also played useful roles, as did the many non-governmental organizations which participated actively in the working group. These organizations are too numerous to mention, but I need only state that they can take pride in the fact that their valuable advice and support added

immeasurably to the improvement of the Convention. Finally, I pay tribute to all those states that participated in the drafting of this important instrument.

Mr. Chairman,

I am proud also of the contribution of my country in the drafting of the Convention on the Rights of the Child. At an early stage, Canada recognized the potential importance of this instrument and worked diligently towards its realization. Once adopted, my country will commence the process of considering the possibility of ratification as I hope all countries will. As a federal state, the process in Canada will require close consultations with the provinces and territories, since many of the provisions of the Convention fall within provincial or shared jurisdiction. However, discussions between the various levels of government were initiated early in the drafting exercise and I am optimistic that, in light of the extensive consultations that have already occurred, support for early Canadian ratification will be forthcoming.

Mr. Chairman,

However, I would be less than honest if I did not admit that the instrument is not a perfect one. There is probably no delegation in this room that does not have concerns about some provisions of the Convention. For its part, Canada is disappointed that no solution has yet been found to improve the standards in Article 38 on children in times of armed conflict. It remains Canada's view that the eventual wording of this article must not be interpreted as a lowering of those standards set forth in the 1977 Geneva Protocols. As well, we believe that Article 14 on freedom of thought, conscience and religion must be read in light of the provision in the International Covenant on Civil and Political Rights on which it is based. We must all recognize that no instrument can be perfect when you bring together, for drafting purposes, countries of different ideologies, religions, and social and economic structures. Given that reality, it is remarkable that an instrument of the high quality of the Convention was produced at all.

This fact should not hinder our support for its adoption. It should spur us to work together to ensure that the Convention lives up to its fullest potential. One way to achieve this objective is through the implementation mechanisms established in the Convention. The Committee on the Rights of the Child, once in place, can be and should be a tool through which the

standards set out in the Convention are both protected and enhanced. While this Committee will be similar in structure to other UN monitoring bodies, it has been imbued with certain features designed to make it an active protagonist in the defence and enhancement of the rights of the child. That active role can only be realized if two developments occur. We must accept the proposition that the Committee is a creation and instrument of the UN itself. As such, it must have both the moral and financial support of this body if it is to fulfill its mandate. Those states that eventually will nominate and elect the 10 members of the Committee must respect the independent, expert character of that body. Only through the election of truly independent, well qualified experts will the Committee serve as an instrument to assist the basic needs of the world's children.

Mr. Chairman,

My delegation, along with several others, has worked actively in recent years on the issue of effective implementation of international human rights. As we all know, the UN has been extremely active in recent years in standard-setting, a role in which my delegation continues to attach great importance. Nonetheless, it is my view that it is only recently that sufficient attention has been focused on the equally important issue of effective implementation of these standards. A number of attendant themes emerge from this general question, such as financing of UN monitoring bodies, reporting obligations of states, and the question of the role and nature of existing and future monitoring bodies. In my view, careful attention must be paid to these issues before the UN embarks on major new initiatives in the standard-setting field. For this reason, my delegation welcomes the impending release of the Secretary-General's note on effective implementation, which we believe will provide the necessary focus for further consideration of this important subject.

Effective implementation is an important factor in ensuring the protection of human rights. We must also, however, rededicate ourselves to achieving greater numbers of ratifications of existing human rights instruments and to compliance with the reporting obligations of those instruments. For example, the number of states parties to the International Covenants has remained largely static over the past few years. Those countries already party to these instruments have, I believe, a moral obligation to work within their regional groups and outside to encourage non-parties in adhering to these fundamental human rights instruments.

Mr. Chairman,

One of the instruments that Canada believes is vital to the protection of human rights is the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Canada ratified the Convention in 1987 and next week will present its initial report to the UN Committee Against Torture. I have the honour and pleasure to announce today that Canada has submitted to the United Nations, its declarations in respect of Articles 21 and 22 of the Convention, accepting the inter-state and individual complaint mechanisms. I believe that the making of these declarations is a critical step in Canada's continuing commitment to developing and adhering to effective procedures aimed at rooting out human rights abuses. In this regard, I reiterate Canada's traditional plea for other states to consider taking similar steps under the Convention Against Torture, as well as other UN human rights instruments. Our own extensive experience with the UN monitoring bodies has confirmed our view that they exist not to criticize, but to assist in pointing out certain problems and working with the states concerned to develop solutions to ensure more effective protection of human rights.

Mr. Chairman,

Those of us who work with the United Nations in the field of human rights are often asked whether our efforts are in vain, since abuses persist in all parts of the world. My response, which is one that I firmly believe in, is that we do make a difference. I believe that the ground-laying work we have done is fundamental to the building of strong structures based on peace and respect for human rights. That is what the Universal Declaration of Human Rights, the Covenants and the other UN human rights standards are all about. It is for this reason that my delegation strongly urges all states to support continued UN action in this field. This year, in particular, I urge all states to support a major development in the UN's work - the adoption of the Convention on the Rights of the Child.

Thank you, Mr. Chairman.

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