

THE CONVENTION ON THE RIGHTS OF THE CHILD AND THE IDEA OF (LEGAL) PROGRESS

TEN AFFIRMATIONS

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1. The decisive aspect of the human way of living is its design for self-determined action. Human beings have the ability on principle to “lead” their lives in the exact meaning of the word, that is, to shape it for their own purposes and objectives in a way that seems right and good to them. – This conception of the nature of human existence is at the core of the human rights. From it results the whole of the claims and opportunities for action which are to be maintained, protected, and implemented by specifically formulated legal standards as irrevocable claims of each individual against all arrogations by forcible powers and control authorities of a government and non-governmental nature.

2. Human beings are complex players with manifold possibilities and needs. This is why the definition of those fundamental entitlements, which are to safeguard the protection of these possibilities and needs in a fair way that is acceptable and useful for all, is also a complex matter. Unfolding the normative content of the human rights idea and its concrete implemen-

tation within the context of human life worlds and fields of action is a task set time and again. It is never solved once and for all.

3. For the permanence and logics of this task, the formulation and realization of the specific (human) rights of children are an exemplary instance. And that both at the level of their exact codification and comprehension of its content as well as at their factual implementation within given politico-cultural orders.

4. Children are human beings in that special phase of life in which the possibilities that are inherent to human nature can be grasped and realized via the stages of development, from the completely dependent, helpless infant in need of protection to the young adult – and which have to be developed if they are not to become stunted and destroyed.

5. This is why the actual and basic human right of the child is the right to become the person he or she is not yet, but may become some time in the future with the necessary affection and help. The Convention on the Rights of the Child expresses this in the briefest possible way

in its Articles 6 and 7: Every child has the inherent right to life – to live its own life, in keeping with its greatest possible development potential; as a unique person and as a member of a political nation, which protects and meets his/her special rights and needs.

6. Children are autonomous persons, but on the one hand they depend – as every human being – on a political community of rights, and on the other they need – as a consequence of their being children – affection and fostering under different points of view. It is clear that the primary right in this context is the child's right to parental care.

7. Children's rights therefore encompass both the family as well as the political-state community. And under both aspects the relationship between the child in custody and the person responsible for the child is asymmetrical: The child has rights and claims; his/her parents and other guardians of his/her well-being have the corresponding obligations. The precise formulation of these obligations is essentially covered by Articles 8–42.

8. The Declaration and Convention on the Rights of the Child documents a fact of the greatest moral and legal-historical importance: The growing, worldwide awareness for the actual validity of a truly comprehensive, normative infrastructure, a world constitution and universal idea of what is the original right of each human being in the different phases of his/her existence – a right that may be asserted bindingly against all the powers that be and across all cultural barriers, that ought to be protected and must be implemented.

9. The Declaration and Convention on the Rights of the Child furthermore shows that the realization of this world constitution requires extraordinary efforts, time and again; efforts of

comprehension between peoples and cultures – human and children's rights can only be understood as universally equal at an elementary level; efforts of adaptation to new historical situations – the exploitation of children may take ever new forms (as proven by the sad example of child soldiers); efforts of putting them into practice – in the end, it is not the states alone, but even more the planetary civil society and its institutions, which see to it that the required ideals of the universal legal concept are indeed as mundanely real as they could be in fact.

10. For good reasons, children's rights define an asymmetrical relationship. But because children turn into adults sooner or later, this asymmetry will sooner or later turn into the aging person's own responsibility for the destiny of the younger generation – and into obligations to the ones who had to look after them in the past. Children's rights protect the future of us all. If we fill the bill.

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