The child's right to life, survival and development

DOUGLAS HODGSON
The University of Western Australia, Nedlands, Western Australia, Australia

"... 40,000 children under the age of five die every day in the developing countries, largely from preventable causes, often for lack of little more than a dollar's worth of health care, a regular supply of nutritious food, or clean water and sanitation."

1. Introduction

In 1982, the Director of what is now the United Nations Centre for Human Rights informed the United Nations Commission on Human Rights that "the protection of human life is one of the most urgent priorities on the human rights agenda; the deliberate killings of human beings rank amongst the most severe, extensive and shocking violations of human rights in the world today". The passage of twelve years since this assessment was made has arguably enhanced its applicability to contemporary international society. Children are included among the victims, perishing in armed conflicts and through such acts as infanticide, euthanasia, execution of the death sentence, enforced and involuntary disappearances and summary executions. Of perhaps increasing moment are the 'passive killings' of children in cases where governments fail to deliver the basic survival requirements alluded to in the foregoing quotation. Article 6 of the Convention on the Rights of the Child states:

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

This article will focus on the effectiveness of Article 6 in protecting the child's right to life and addressing the issue of the 'death by omission' of children as well as that concerning the abolition of capital punishment for persons under eighteen years of age.

2. Recognition of the right to life under Conventional International Human Rights Law

The right to life is one of the oldest recognised civil rights, featuring prominently in the Virginia Declaration of Rights of June 12, 1776 and the Declaration of Independence of the United States of America of July 4, 1776.¹ The sanctity of life was mentioned in a preambular paragraph concerning human rights in the United Nations Declaration signed by twenty-six nations on 1 January 1942 after the commencement of hostilities in the Pacific.² The right to life is protected by the International Bill of Rights. Article 3 of the Universal Declaration of Human Rights states: “Everyone has the right to life, liberty and security of the person”,³ Article 6(1) of the International Covenant on Civil and Political Rights provides in part that “[e]very human being has the inherent right to life”.⁴ A number of United Nations-sponsored ‘narrow focus’ human rights conventions also recognise and seek to protect the right to life. Article II of the Convention on the Prevention and Punishment of the Crime of Genocide⁵ defines ‘genocide’ as meaning “... any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: ... (a) Killing members of the group ...”. Article II of the International Convention on the Suppression and Punishment of the Crime of ‘Apartheid’⁶ describes “the crime of apartheid” as applying “to the following inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them: (a) Denial to a member or members of a racial group or groups of the right to life ...”. More recent pronouncements on the right to life have been made by United Nations organs and bodies. In 1982, the General Assembly reaffirmed its conviction that all peoples and individuals possess an ‘inherent’ right to life and that the protection of this ‘foremost right’ is essential for the enjoyment of the entire range of economic, social and cultural, as well as civil and political rights.⁷

² (1942) 36 American Journal of International Law 191.
³ Article 1 of the American Declaration of the Rights and Duties of Man uses virtually identical language.
⁷ General Assembly Resolution 37/189A, paras. 1 and 6. See to the same effect the Commission on Human Rights Resolution 1982/7 adopted on 19 February, 1982.