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Introduction

In this year 1993, International Year for Indigenous Peoples, much attention focuses on the draft declaration of indigenous peoples' rights. This is quite rightly so. But this declaration is still in draft form, it has yet to achieve international approval and legal status. The draft declaration, which we may have seen or contributed to as indigenous people, is but one step on the way to achieving international recognition and protection of indigenous peoples' rights. As the international community comes to grips with the draft declaration, it will be modified. The final declaration may turn out to be a much modified document.

In the meantime, we wish to make some observations on the Rights of the Child, and seek to reconcile the principles which have been developed in respect of children’s rights with the draft declaration of the rights of indigenous peoples, as they affect education provision, especially in the early years.

The UN Convention on the Rights of the Child

International meetings of states have made declarations and agreements about the rights of children at least since the 1924 Geneva Declaration of the Rights of the Child (the League of Nations). The United Nations refined this in 1959 when the UN General Assembly proclaimed the Declaration of the Rights of the Child which has since been ratified by a majority of member states of the UN. In 1989, the 1959 Declaration was superseded by the International Convention on the Rights of the Child. New Zealand did not accede to this later Convention until 1992.

In the thirty years from 1959 to 1989 the ten principles in the 1959 declaration, have all been important in promoting the best interests of the child. They are fundamental rights and freedoms based on recognition of the dignity and worth of the human person and each person’s right to social progress and a better standard of living. They should apply to all children without distinction of any kind such as race, ethnicity, colour, sex, language religion or social origin. These rights and freedoms of the child are consistent with other provisions of the UN Declaration of Human Rights.

The UN Declaration of the Rights of the Child was designed to protect the vulnerable. In its preamble it states that:

– Whereas the child, by reason of his physical and mental immaturity needs special safeguards and care, including appropriate legal protection before as well as after birth, and
– Whereas mankind owes it the child the best it has to give,
– Now therefore, the General Assembly proclaims this Declaration of the Rights of the Child to the end that he may have a happy childhood and enjoy, for his own good and for the good of society, the rights and freedoms herein set forth, and calls upon parents, upon men and women as individuals and upon voluntary organisations, local authorities and national governments to recognise these rights and strive for their observance by legislative and other measures progressively taken in accordance with the following principles.

Through the principles of this 1959 Declaration, all children have the right:

– to grow up in a healthy and normal way – free and with dignity
– to have a name, and to be a member of a country
– to good food, housing and medical care
– to special care if handicapped in any way
– to love and understanding, preferably from parents
– to go to school free, to play and to have an equal chance
– to be what they are and to learn to be responsible and useful
– to be amongst the first to get protection and relief
– not to be harmed, or to be hired for work until old enough
– to be brought up in a spirit of peace and friendship

(Pettman 1984: 49)

The 1989 Convention is a much wordier document, it contains 54 articles rather than 10, which are presented in a preamble and three parts. The preamble outlines what the member states of the UN General Assembly accept as the necessary background to children’s fundamental human rights, including the need to respect the cultural values of the child’s community. Part one (consisting of articles 1 to 41) specifies the rights that children have and the obligations of member states of the UN to recognise, guarantee and promote those rights.

The articles of part one cover rights over a broad range of categories e.g.