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QUESTION OF A CONVENTION ON THE RIGHTS OF THE CHILD

Document submitted by Poland

STATUS OF A DRAFT CONVENTION ON THE RIGHTS OF THE CHILD

I. Articles agreed upon in the Commission on Human Rights

The States Parties to the Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations have, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that in the Universal Declaration of Human Rights, the United Nations had proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the basic unit of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that, as indicated in the Declaration on the Rights of the Child adopted in 1959, the child due to the needs of his physical and mental development requires particular care and assistance with regard to health, physical, mental, moral and social development, and requires legal protection in conditions of freedom, dignity and security,

Recognizing that the child, for the full and harmonious development of his personality, should grow up in family environment, in an atmosphere of happiness, love and understanding,

Bearing in mind that the need for extending particular care to the child has been stated in the Geneva Declaration on the Rights of the Child of 1924 and in the Declaration on the Rights of the Child adopted by the United Nations in 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in the articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in its article 10) and in the statutes of specialized agencies and international organizations concerned with the welfare of children.

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom and brotherhood,

Have agreed as follows:

Article 1

According to the present Convention a child is every human being to the age of 18 years unless, under the law of his state, he has attained his age of maturity earlier.

Article 2

1. The child shall have the right from his birth to a name and to acquire a nationality.

2. The States Parties to the present Convention shall ensure that their legislation recognizes the principle according to which a child shall acquire the nationality of the State in the territory of which he has been born if, at the time of the child's birth, he is not granted nationality by any other State in accordance with its laws.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, or administrative authorities, the best interests of the child shall be a primary consideration.

2. In all judicial or administrative proceedings affecting a child that is capable of forming his own views, an opportunity shall be provided for the views of the child to be heard, either directly or indirectly through a representative, as a party to the proceedings, and those views shall be taken into consideration by the competent authorities, in a manner consistent with the procedures followed in the State Party for the application of its legislation.

3. The States Parties to the present Convention undertake to ensure the child such protection and care as is necessary for his well-being, taking into account the rights and duties of his parents, legal guardians, or other individuals legally responsible for him, and, to this end, shall take all appropriate legislative and administrative measures.

4. The States Parties to the present Convention shall ensure competent supervision of officials and personnel of institutions directly responsible for the care of children.

Article 4

1. The States Parties to the present Convention shall respect and extend all the rights set forth in this Convention to each child in their territories without distinction of any kind, irrespective of the child's or his parents' or legal guardians' race, colour, sex, language, religion, political or other opinion, national or social origin, family status, ethnic origin, cultural beliefs or practices, property, educational attainment, birth, or any other basis whatever.

2. States Parties to the present Convention shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or other family members.

Article 5

The States Parties to the present Convention shall undertake all appropriate administrative and legislative measures, in accordance with their available resources, and, where needed, within the framework of international co-operation, for the implementation of the rights recognized in this Convention.

Article 7

The States Parties to the present Convention shall assure to the child who is capable of forming his own views the right to express his opinion freely in all matters, the wishes of the child being given due weight in accordance with his age and maturity.

Article 8

1. Parents or, as the case may be, guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern. States Parties shall use their best

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efforts to ensure recognition of the principle that both parents have common and similar responsibilities for the upbringing and development of the child.

2. For the purpose of guaranteeing and promoting the rights set forth in this Convention, the States Parties to the present Convention shall render appropriate assistance to parents and guardians in the performance of the child rearing responsibilities and shall ensure the development of institutions for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child care services and facilities for which they are eligible.

4. The institutions, services and facilities referred to in paragraphs 2 and 3 of this article shall conform with the standards established by competent authorities, particularly in the areas of safety, health, and in the number and suitability of their staff.

II. Revised text of remaining draft articles being submitted to facilitate the drafting process

Article 6

The States Parties to the present Convention shall recognize the right of the child to have his residence to be determined by his parents. If the place of residence specified by the parents is likely to be detrimental to the child's well-being, or in the case of disagreement between the parents, a competent public organ, guided by the child's well-being, shall determine his place of residence.

Article 9

1. The States Parties to the present Convention shall encourage opinion-making quarters to disseminate information which promotes the upbringing of children in the spirit of the principles as laid down in Article 16.

2. The States Parties shall also encourage parents and guardians to provide their children with appropriate protection if, on account of its contents, the disseminated information might negatively affect the physical and moral development of the child.

Article 10

1. A child deprived of parental care shall be entitled to special protection and assistance provided by the State.

2. The States Parties to the present Convention shall provide appropriate environment for the upbringing of a child who is deprived of his natural family environment or who, on account of his well-being, cannot be brought up in such an environment.

3. The States Parties to the present Convention shall take measures, where appropriate, to facilitate adoption of children, and shall provide favourable conditions for establishing foster families.

4. The provisions of the preceding paragraphs apply accordingly, if the parents or one of them cannot provide the child with appropriate care because of imprisonment or another similar judicial or administrative sanction.

Article 11

1. The States Parties to the present Convention recognize the right of a mentally or physically disabled child to special protection and care, commensurate with his condition and those of his parents or guardians, and shall extend appropriate assistance to such a child.

2. A disabled child shall grow up and receive education in conditions designed to achieve his fullest possible social integration. His special educational needs shall be cared for free of charge; aids and appliances shall be provided to ensure equal opportunity and access to the care services and facilities for which he is eligible.

Article 12

1. The States Parties to the present Convention shall ensure the child with health care facilities and, in case of need, rehabilitation facilities of the highest attainable standard.

2. In particular, States Parties to the present Convention shall undertake measures with a view to:

- (a) lowering the infant mortality rate,
- (b) ensuring medical assistance and health care to all children,
- (c) providing expectant mothers with appropriate health care services and ensuring working mothers a paid leave or a leave granting adequate social security benefits for a reasonable period of time, before and after confinement.

Article 13

The States Parties to the present Convention shall ensure to every child the right to social security benefits for which he is eligible on account of the situation of his parents or legal guardians or another situation and shall take appropriate legal and administrative measures in order to guarantee the implementation of this right.

Article 14

1. The States Parties to the present Convention recognize the right of every child to a standard of living which guarantees his normal physical, mental and moral development.

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2. The parents shall, within their powers and financial possibilities, secure conditions of living indispensable for a normal development of the child.

3. The States Parties to the present Convention shall take appropriate measures to implement this right, particularly with regard to feeding, clothing and housing, and, within their means, shall extend the necessary material assistance to parents and other persons bringing up children, special regard to be given to incomplete families and children deprived of parental care.

Article 15

1. The States Parties to the present Convention shall guarantee all children compulsory and free education, at least at an elementary school level.

2. The States Parties to the present Convention shall develop various forms of secondary, general and vocational education, aiming at a gradual introduction at this level of free education, so as to enable all children to develop their talents and interests in conditions of equal opportunity.

Article 16

1. The States Parties to the present Convention recognize that raising up and educating the child should promote development of his personality and intensify his respect for human rights and fundamental freedoms.

2. The States Parties to the present Convention shall ensure that the child be prepared for independent life in a free society, in the spirit of understanding, tolerance and friendship among all peoples, ethnic and religious groups and educated in harmony with the principles of peace established by the United Nations.

Article 17

The States Parties to the present Convention undertake to ensure to all children opportunities for leisure and recreation commensurate with their age. Parents and other persons responsible for children, educational institutions and state organs shall supervise the practical implementation of the foregoing provision.

Article 18

1. The States Parties to the present Convention undertake to protect the child against all forms of discrimination, social exploitation or degradation of his dignity. The child shall not be subject of traffic in any form.

2. The States Parties to the present Convention shall ensure that the child be not employed in any form at work harmful to his health or development nor dangerous to his life, and they undertake to sue persons acting to the contrary.

3. The States Parties to the present Convention shall comply with the law prohibiting employment of children below the age of fourteen years, in accordance with the ILO Convention No. 5 of 13 June 1921.

Article 19

1. The child undergoing penal procedure shall have the right to special treatment and privileges.
2. The child shall not be liable to capital punishment. Any other punishment shall be adequate to the subsequent phase of his development.
3. The penitentiary system shall be aimed at re-education and re-socialization of the sentenced child. It shall enable the child to serve the sentence of deprivation or limitation of freedom under special circumstances and, in particular, in separation from adult offenders.

Article 20

The States Parties to the present Convention every three years shall submit periodical reports on the implementation of the present Convention to the Economic and Social Council through the Secretary-General of the United Nations.

Article 21

The reports submitted by the States Parties to the present Convention under article 20 shall be considered by the Economic and Social Council, which may bring its observations and suggestions to the attention of the General Assembly of the United Nations.

Article 22

The present Convention is open for signature by all States.

Article 23

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 24

The present Convention shall remain open for accession by any State. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 25

1. The present Convention shall enter into force six months after the date of deposit of the fifteenth instrument of ratification or accession.

2. For each State ratifying or acceding to the present Convention after the deposit of the fifteenth instrument of ratification or accession.

3. For each State ratifying or acceding to the present Convention after the deposit of the fifteenth instrument of ratification or accession, the Convention shall enter into force on the day after the deposit by such State of its instrument of ratification or accession.

Article 26

As depositary of the present Convention, the Secretary-General of the United Nations shall inform all States of:

- (a) signatures, ratifications and accessions under Articles 22, 23 and 24,
- (b) the date of the entry into force of the present Convention under Article 25.

Article 27

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.
