

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL
E/CN.4/1983/NGO/33
17 February 1983
ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Thirty-ninth session
Agenda item 13

QUESTION OF A CONVENTION ON THE RIGHTS OF
THE CHILD

Written statement submitted by two non-governmental organizations
in consultative status: the International Federation of Women in
Legal Careers (category II) and the International Abolitionist
Federation (Roster)

The Secretary-General has received the communication reproduced below, which is distributed pursuant to Economic and Social Council resolution 1296 (XLIV).

[16 February 1983]

As a poignant illustration of the considerations which we wish to draw to the attention of the Commission on Human Rights and members of the Working Group established to prepare the Convention on the Rights of the Child, we would first of all quote the following staggering statistics: the under-15 age group represents more than one third of mankind - nearly 1.5 billion out of 4 billion people (see report by Mr. Bouhdiba: "L'exploitation du travail des enfants" ("The exploitation of child labour")). Fifty-two million children under 13 years of age work at hard and demanding jobs for over 12 hours a day. Over 12 million children died from hunger in 1981. Over 2 million children are engaged in prostitution in certain developing countries but also in the developed countries. These figures do not include those children who have been kidnapped or have disappeared for political reasons.

"Will a neglected, exploited and forgotten child whose life has been ruined by war or poverty find the strength and subsequently the motivation to claim those rights which, it is said and written, have been granted to all human beings?" (Charlotte Borga, United Towns Organization, non-governmental organization in Category I).

1. This is why we would venture, in the light of these facts and the gradual evolution of moral standards, to stress that the essential rights of the child must be proclaimed unambiguously. This wish has been expressed by several States (E/CN.4/1324), which have taken the view that the Convention should be drafted in more concrete and specific terms with a view to the incorporation of precise regulations into national legislation.

2. The recognition of rights also entails obligations and duties on the part of those who enjoy them. We would suggest that an additional article be added to the Convention setting forth the duties of children towards their parents and society.
3. The violation of the rights of the child should give rise to civil or criminal sanctions commensurate with the offence committed. This is not established as a general principle in the text of the Convention. We would like an article on this question to be included in the Convention also.
4. Since children are materially unable to assert their rights in person for several years, we would urge that the need for regular controls be restated, particularly in articles 3, 9 bis, 10, 13, 15 and 19 concerning responsibility for the welfare of the child, placement, standard of living, health and abuses to which they may be subjected in and outside the home, the aim being to preclude any recurrence of such abuses.
5. In view of the universal character which this Convention should have, we would emphasize that it is not directed only at children in the developed countries but that there are large numbers of underprivileged children all over the world whose vulnerability is particularly acute and calls for special mention in the Convention; account must be taken not only of their poverty, malnutrition and displacement but also of the consequences which such conditions have on their subsequent development and which place them in a position of inferiority from the outset where health, education, the right to vocational training and the right to work are concerned. These children must therefore be given additional protection so as to enable them to achieve a position of equality with other children. In this connection, we would suggest that courses or meetings should be introduced into school curricula to foster communication and fraternization between children of all groups.
6. We also wish to underline the concept of the emotional ties of the child; most of the articles refer to parents, guardians or institutions. We would like to see the concept of parents (article 8) extended to cover persons with whom children have a "meaningful relationship", for instance grandparents who are nowadays likely to live longer and are often called upon to provide the child with the love and care he needs.
7. We believe that the voice of children should also be heard in this international forum through, for example, children's committees under the leadership of a duly appointed representative. They could make known their views and comments in periodic reports submitted to the Commission on Human Rights.
8. Mr. Whitaker, Special Rapporteur of the Working Group on Slavery of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, has noted that the unwarranted abuse and exploitation of women and children has not until recently received sufficient attention and that this might be partly due to the underrepresentation of women at almost all international gatherings. We would therefore venture to express the hope that women will participate to a greater extent in the drafting of this Convention.

EXAMINATION OF ARTICLES

Article 1 (Age)

In view of the increasingly early development of children and the present tendency to include young people in discussions relating to family decisions or

outside problems, we consider that a second paragraph should be added, reading: "Account shall, however, be taken of the passage from childhood to adolescence, which will lead to a different approach to the rights and duties of the child."

Article 2 (Nationality)

Noting that in some cases the minor children of political refugees who have given up their nationality have to wait for a fairly long time to acquire the nationality of the country in which they are living, although in principle it should be theirs by right, we would suggest that the words "without delay or prior conditions" be added after the words "the principle according to which a child shall acquire" and before the words "the nationality of the State ...".

We would like to add the following paragraph 3:

"The acquisition of a name or nationality may not constitute grounds for discrimination against either of the parents or between children born in wedlock and children born out of wedlock."

Article 3 (Rights of children)

We support the amendment proposed by the Belgian delegation to the effect that paragraph 3 of the article read:

"The States Parties to the present Convention undertake to ensure the child the right to physical and moral integrity, as well as 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".

We would also suggest that paragraph 4 of the article read:

"The States Parties to the present Convention shall ensure that children are placed in institutions only in exceptional cases and that the officials and personnel of such institutions are properly qualified and subject to regular supervision."

Article 6 (Residence of the child)

Article 6 relates to the determination of the place of residence of children whose parents are separated and states at the end of paragraph 2: "Such determinations shall not be made until all interested parties have been given an opportunity to participate in the proceedings and to make their views known". We would like to add: "It shall be understood that the children will have the opportunity to express their preference".

Article 6 bis (Family reunion)

As we have said before, we would like to see provision made for appeal against decisions taken by States Parties, even if such decisions have been taken in a "positive, humane and expeditious manner". We would therefore suggest the addition of the following paragraph 3:

"Applications that have not been granted for any reason whatsoever may be renewed and reconsidered by the competent authorities."

Article 8 (Parental responsibility)

On the basis of article 16 of the Convention on the Elimination of All Forms of Discrimination against Women, which proclaims the equality of men and women and states that they have the same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children, we propose the addition of the following sentence after the second sentence of paragraph 1 of article 8:

"States Parties shall use their best efforts to uphold the principle that both parents have equal responsibility and pursue similar objectives with a view to fostering the growth and ensuring the development of the child".

We strongly support the amendments proposed by the United States and Canadian delegations in the form of article 8 bis. In view of the unduly high number of reported cases of violence against children in the home, the need for concrete measures of the kind specified in the articles referred to above cannot be over-emphasized. We would, however, also mention the need for regular supervision of the application of preventive measures and penalties to ensure that there is no recurrence of such acts in the future.

Article 12 (Handicapped children)

Bearing in mind the observations of Ms. Gindy, Director of UNICEF, regarding the importance of the rapid detection of handicaps in children, we would suggest that paragraph 3 of article 12 read: "Recognizing the essential needs of the handicapped child and stressing the need to take all possible preventive measures in this connection, the assistance granted (or rather the aid granted)

Article 13 (Child health)

We fully agree with the amendments proposed by the Canadian and Algerian delegations. We would, however, point out that WHO reports have underlined that, because of the cultural norms and attitudes that prevail in many societies, parents show a preference for boys, and this is reflected in particular in questions of nutrition, medical care, vaccinations and consultations at health centres. We would therefore like to add the words "without discrimination" to article 13, paragraph 2 (c). The paragraph would then read:

"Develop the system of health protection so that medical assistance and care shall be open to all children without discrimination".

Article 14 (Social security)

We believe it would be useful to include in the Canadian delegation's new proposals certain provisions regarding legally permitted work by children over 15 years of age and in particular:

(a) The need to ensure schooling or participation in training or educational programmes, account being taken of the provisions of other international instruments relating to employment;

(b) Freedom of choice of employment, the right to remuneration commensurate with work carried out and social protection as regards working conditions and accidents at work.

Article 17 (Education)

We would propose, as seems to be the intention of France, that courses on human rights should be included in school curricula.

Article 18 (Recreational possibilities)

We would suggest that provision should be included in this article for a reasonable period of time to be set aside for recreational activities, for an area to be reserved for sports and, if necessary, for green spaces to be created for the health of young children.

Article 19 (Exploitation of children)

In view of the disturbing incidence of assaults on the person, both physical and mental, we would suggest that the first two paragraphs of article 19 read:

"1. Taking account of the law as set forth in the Slavery Convention of 1926 and the Protocol thereto, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956 and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949, it is essential that the child should be protected from any form of discrimination or exploitation of his person, whether physical, intellectual or moral.

"2. States Parties shall undertake to sanction all such practices as exploitation by prostitution, the sale of children for the purposes of prostitution or forced labour, slavery, pornography, rape, mutilation or the administration of drugs or toxic substances".

Article 20 (Criminal proceedings)

We would like the following sentence to be added to this article:

"The personnel responsible for the re-education of juvenile offenders shall receive social and humanitarian educational training which will facilitate the reintegration of children into society".

Article 21 (Periodic reports)

We believe that such reports should be submitted at least every two years if they are to have a real influence on the position of children.

Lastly, we would echo the proposal already made in document E/CN.4/1982/L.41 recommending the establishment of a Committee on the Rights of the Child which would be responsible for settling disputes between States and, as Ombudsman, for receiving and considering communications from persons or groups of persons representing children who are victims of violations of the rights set forth in the Convention.