

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/1983/NGO/53
4 March 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 the International
Social Service and the International Federation
of Women in Legal Careers, two non-governmental
organizations in consultative status (Category II)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[1 March 1983]

JOINT STATEMENT

The International Federation of Women in Legal Careers and the International Social Service are particularly interested in the problems that arise from international adoption and the civil-law transfers of children. They would like to draw the attention of your Working Group to the following points:

A. International adoptions

1. It would be useful if each Government could be asked about its position on the adoption of its citizens by foreigners and, more particularly, on the institution of full adoption in international legal relationships. We believe that some Governments are opposed to the institution in question, the effect of which is to break completely the links of the child with his country of origin and remove all trace of them.

The opposition of Governments should be taken into account by the courts which may have to decide whether or not to make an adoption order.

2. Full adoption in international legal relationships gives rise to a series of specific problems to which a clear and unanimous solution should be found in the interests of the protection by Governments of the person of the child.

These problems concern:

- (1) The circumstances of the abandonment,
- (2) The consent to the adoption,
- (3) The capacity for adoption of the potential adopters,
- (4) The international competence of the judge making the adoption order (Court of the adopted child and, where appropriate, the Court of the adopter) and the reliability of the guarantees offered.

At the moment, there are no internationally recognized principles on these various points. The result is that the adoption of foreign children often gives rise to trafficking and international legal abductions. It is also noteworthy that there is an absence of legal co-operation between States to settle these various questions, with the result that the adoption of foreign children is currently settled solely at the domestic level.

B. Civil-law transfers of children

Our two organizations have been engaged in combating illegal removals of children to other countries and illegal failures to return from foreign countries. They hope that, when the Convention on the Rights of the Child is being prepared, the following fundamental principles will be taken into account, in accordance with the Luxembourg Convention of 20 May 1980 and The Hague Convention of 25 October 1980 - both of which have been ratified by France - which will probably not come into effect until the first half of 1983.

The fundamental principles in question can be worded as follows:

1. A child whose parents, living in different countries, are separated has the right, if there are no exceptional circumstances, to maintain personal relationships with both his parents.
2. The States parties to the Convention shall adopt all measures to combat the illegal removals of children to a foreign country and illegal failures to return from a foreign country. Such removals or failures to return shall be regarded as illegal when there has been a violation of a court order or of the law of the State in which the child habitually resided immediately before the removal or the failure to return.

To that end, these States shall conclude legal agreements among themselves or subscribe to the existing conventions, such as The Hague Convention on the Civil Aspects of International Child Abduction, of 25 October 1980, accession to which is open to all States.