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QUESTION OF A CONVENTION ON THE RIGHTS OF THE CHILD

Report of the Working Group on a draft convention on  
the rights of the child

Chairman-Rapporteur:

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GE.84-16338

## INTRODUCTION

1. The Commission on Human Rights, by resolution 1983/52 of 10 March 1983, decided to continue its work on the elaboration of a draft convention on the rights of the child at its fortieth session, as a matter of the highest priority. The Commission also requested the Economic and Social Council to authorize a one-week session of an open-ended working group prior to the fortieth session of the Commission to facilitate and speed up the completion of the work on a draft convention on the rights of the child. This request was approved by Economic and Social Council resolution 1983/39 of 27 May 1983. At its thirty-eighth session, the General Assembly, by resolution 38/114 of 16 December 1983, requested the Commission on Human Rights to give the highest priority at its fortieth session to the question of completing the draft convention and to make every effort to submit it, through the Economic and Social Council, to the General Assembly at its thirty-ninth session, as the Commission's tangible contribution to the commemoration of the twenty-fifth anniversary of the Declaration of the Rights of the Child.

2. The Working Group held 11 meetings from 30 January to 3 February, and on 2 March 1984. It adopted articles 7 bis, 8 bis, 9 and 13. In this connection, it should be recalled that the open-ended working group established prior to and during previous sessions of the Commission had adopted a number of articles. The text of the articles adopted so far may be found in annex I to the present report. During the session, representatives of States proposed draft articles and amendments which were not discussed by the Working Group for lack of time, and which appear in annex II to the present report.

## ELECTIONS

3. At the first meeting of the pre-sessional working group, on 30 January 1983, Professor Adam Lopatka (Poland) was elected Chairman-Rapporteur by acclamation.

## PARTICIPATION

4. The meetings of the Working Group, which were open to all members of the Commission on Human Rights, were attended by representatives of the following States: Argentina, Brazil, Bulgaria, Canada, China, Cuba, Cyprus, Finland, France, German Democratic Republic, Germany, Federal Republic of, India, Italy, Japan, Netherlands, Spain, the Ukrainian Soviet Socialist Republic, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

5. The following States, non-members of the Commission on Human Rights, were represented at the meetings of the Working Group by observers: Australia, Denmark, Greece, Holy See, the Islamic Republic of Iran, Lebanon, Morocco, Norway, Peru, Poland, Sweden, Switzerland and Venezuela.

6. The International Labour Office and the United Nations Children's Fund were represented at the Working Group by observers.

7. The following non-governmental organizations sent observers to the Working Group: Amnesty International, Baha'i International Community, Defence for Children International Movement, Friends World Committee for Consultation, Human Rights Internet, International Association of Juvenile and Family Court

Magistrates, International Catholic Child Bureau, International Commission of Jurists, International Federation of Women in Legal Careers, International Social Service, International Union for Child Welfare, Minority Rights Group, Rädda Barnen International and Zonta International.

#### DOCUMENTS

8. The Working Group had before it a number of documents including the report of the working group on a draft convention on the rights of the child to the Commission on Human Rights at its thirty-ninth session (E/CN.4/1983/62), the document submitted by Poland on the status of a draft convention on the rights of the child (A/C.3/36/6), amendments submitted by the delegation of the United States of America (E/CN.4/1983/WG.1/WP.3, WP.4 and WP.8), a proposal by the Union of Soviet Socialist Republics (E/CN.4/1983/WG.1/WP.7), a proposal submitted by Canada (E/CN.4/1983/WG.1/WP.9), a proposal submitted by Poland (E/CN.4/1983/WG.1/WP.10), a proposal submitted by Belgium (E/CN.4/1983/WG.1/WP.21), new proposals presented by Canada (E/CN.4/1983/WG.1/WP.26), and proposals by Algeria (E/CN.4/1983/WG.1/WP.27).

#### GENERAL CONSIDERATIONS

9. The representative of the United Kingdom stated that, even as a State participating in the work of the open-ended Working Group, his delegation continued to have difficulties with some of the articles already adopted (e.g., articles 2, paragraph 1, 3, paragraph 1, 4, paragraph 1, 6, and 8, paragraphs 1 and 2). Article 2, paragraphs 1 and 2, caused difficulties in relation to United Kingdom nationality law. Article 6, paragraph 1, as currently drafted was not compatible with United Kingdom immigration legislation because the parents of a child who did not have rights of residence in the United Kingdom could not determine that he should live there unless he qualified for residence under United Kingdom immigration rules. In addition, draft articles 3, paragraph 1, 4, paragraph 1, 6, paragraphs 2 and 3, 6 bis, paragraphs 2 and 3, and 8, paragraphs 1 and 2, all posed problems in relation to United Kingdom immigration law. Certain of those draft provisions were difficult or even impossible to reconcile with his country's law and practice. Nevertheless, his delegation had joined the consensus at the Working Group in recognition of the efforts made by other delegations to get an acceptable draft completed and available for comment by Member States with as little delay as possible. However, the United Kingdom thought it important that all States, including those which had not participated in the Working Group, should have an opportunity to consider and comment on those articles after the current drafting exercise was concluded. If, after the drafting was completed and notwithstanding that certain parts of the text remained substantially as they were now, the United Kingdom authorities were nevertheless to consider that they could proceed to signature and ratification, his delegation foresaw that there would be a need to enter reservations and declarations, in particular to deal with the aforementioned difficulties over immigration and nationality.

10. The Netherlands delegation believed that a convention on the rights of the child would only be effective if it were broadly acceptable to a large number of States. It was therefore considered important that all States should have an opportunity to comment on the Working Group's draft before it was submitted to the Commission on Human Rights for finalization. Accordingly, the Netherlands delegation supported the United Kingdom's proposal to that end.

11. The representative of the Federal Republic of Germany stated that his delegation shared the concerns of the United Kingdom delegation particularly with regard to article 2, paragraph 2, and article 6, paragraphs 1 and 2. Article 2, paragraph 2, posed problems with regard to his country's nationality law. As in the case of the United Kingdom, the provisions of draft article 6, paragraphs 1 and 2, were not compatible with the Federal Republic's immigration legislation. Should article 2, paragraph 2, and article 6, paragraphs 1 and 2, be retained in their present form during the forthcoming deliberations in spite of the concerns of some delegations, and should the draft convention be opened for signature and ratification in that form, his Government might feel obliged to enter reservations to both articles. The representative of the Federal Republic of Germany also expressed his support for the United Kingdom proposal that all States be given an opportunity to comment on the Working Group's completed draft before its submission to the Commission on Human Rights.

12. The Japanese delegation asked whether, for the purposes of article 1 of the draft convention, an 18-year-old human being was to be considered a child.

#### CONSIDERATION AND ADOPTION OF ARTICLES

##### Article 7 bis

13. There were three texts for consideration by the Working Group to be taken as the basis for discussion. Firstly, there was the amended text, submitted in 1983, of . . . an original United States proposal made in 1982, as set out in paragraph 57 of document E/CN.4/1983/62. Secondly, the delegation of Canada proposed the following text:

"The States Parties to the present Convention undertake to ensure the freedom of thought, conscience and religion of the child in accordance with the Universal Declaration of Human Rights and other international instruments that relate to this freedom and subject to the authority of the parents or legal guardian to provide direction to the child in the exercise of this freedom in a manner consistent with the evolving capacities of the child and not incompatible with public order and morals."

Thirdly, the representative of Sweden introduced the following text elaborated by the delegations of Denmark, Finland, Norway and his own:

"1. The States Parties to the present convention shall ensure to the child the right to freedom of thought, conscience and religion.

2. These rights shall include in particular the right to have or to adopt a religion or whatsoever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief, and the right to have unimpeded access to education in the matter of religion and belief of his choice.

3. The States Parties shall, subject to the evolving capacities of the child, respect the wishes, freedoms and rights of the parents or legal guardians in the exercise of these rights of the child and shall ensure the freedom to manifest religion or belief, in a manner not incompatible with public safety, order, health and morals."

14. The representative of the Ukrainian SSR accepted the Canadian proposal which he considered constituted a common denominator of the views presented by delegations at the Group's 1983 session.

15. The representative of the Holy See expressed his hesitancy with regard to the various proposals notwithstanding their individual merits. The Canadian text was particularly appreciated due to its conciseness, but his delegation did not think that the right of the child to have or to choose a religion or belief was explicit enough. The United States proposal, although acceptable, did not meet with his delegation's full approval because the right of the child was not sufficiently affirmed in relation to the right of the parents to give the child a religion or a philosophical belief and to educate him therein. His delegation made similar observations with regard to the Scandinavian text, although it had some positive aspects, because the relationship of rights and the respect for the family environment were not adequately acknowledged and emphasized.

16. A lengthy debate followed regarding the choice of the text to be utilized as a basis for discussion. The representatives of the Netherlands and the Ukrainian SSR suggested that a compromise text be elaborated after consultations, and the delegations of Canada and Sweden joined them in this suggestion. The Chairman therefore requested that a new draft be prepared by an informal open-ended working party, and it was so decided.

17. The draft was introduced by the delegation of the United Kingdom and read as follows:

"1. The States Parties to the present Convention shall recognize the right of the child to freedom of thought, conscience and religion in accordance with the principles of the Universal Declaration of Human Rights, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and the International Covenant on Civil and Political Rights, and of other relevant international instruments.

2. These rights shall include in particular the right to have or to adopt a religion or whatsoever belief of his choice, and freedom, either individually or in community with others and in public or private to manifest his religion or belief, in conformity with public safety, order, health and morals.

3. This right is subject to the authority of the parents or legal guardians to provide direction to the child in the exercise of this right in a manner consistent with the evolving capacities of the child.

4. The States Parties to the present Convention undertake to have respect for the liberty of the child and his parents, or, when applicable, legal guardians, to ensure the religious and moral education of the child."

This consolidated text was generally considered to be a useful basis for discussion.

#### Paragraph 1

18. Many delegations viewed the enumeration of international instruments as unnecessary. Some suggested that reference be made to the Universal Declaration of Human Rights only, while others proposed adding the phrase "and other relevant

international instruments". The representatives of the Federal Republic of Germany and of the German Democratic Republic wished that at least a reference to the International Covenant on Civil and Political Rights be included in the text, while the delegation of the Islamic Republic of Iran requested a reference to the International Convention on the Suppression and Punishment of the Crime of Apartheid.

19. The representative of the United States proposed adding the phrase "and ensure" in the first line of paragraph 1, after the word "recognize". Some delegations found difficulty in accepting this proposal, if account was to be taken of the separation of Church and State in many countries, and preferred to keep the word "recognize".

20. The United Kingdom delegation suggested that the word "recognize" should be replaced by the word "ensure", and several delegations agreed with that proposal. The United States representative expressed her preference for the words "shall ensure", and explained that if the right of freedom to unimpeded religious beliefs was ensured, that did not mean that the State would be obliged to provide religious education; she therefore agreed with the United Kingdom proposal.

21. The opinion of the Group was divided among those who supported the inclusion of the word "ensure" and those who wished to retain the word "recognize". Finally, the representative of the Islamic Republic of Iran proposed that the words "and respect" be added after the word "recognize".

22. The representative of the Holy See drew the attention of the Working Group to the fact that the Holy See used the words "to promote respect" in its "Charte des Droits de la Famille" of 22 October 1983. The representative of Australia then suggested that the word "recognize" be replaced by the word "respect", and that proposal found acceptance among most delegations, including those of the United Kingdom and the United States which preferred that wording.

23. The representative of the Netherlands expressed his belief that there should be no enumeration of international instruments and that consequently the first paragraph should end with the word "religion". Many delegations were sympathetic to his proposal and the Working Group proceeded to agree to paragraph 1 as amended.

#### Paragraph 2

24. The representative of the Ukrainian SSR drew the attention of the Group to the fact that paragraph 2 began with the words "These rights", which should be amended to read "This right"; this amendment was accepted. The delegation of the United States suggested the insertion after the word "choice", of the phrase "and to be free from coercion which would impair his freedom in this respect". After the words "to manifest his religion or belief", the United States delegation requested the inclusion of the phrase "subject only to such limitations as are prescribed by law and are necessary to protect the" instead of "in conformity with". The delegation of the Ukrainian SSR was in favour of that amendment.

25. The United States delegation also proposed that the phrase "and the right to have unimpeded access to and freedom from coercion with respect to education in the matter of religion or belief" be added at the end of the paragraph. The delegation

of Australia suggested that the last proposal made by the representative of the United States be amended to read "and the right to have access to education in the matter of religion or belief".

26. With respect to a query from the representative of the Ukrainian SSR as to whether such a reference to access to a right would create a precedent requiring a similar insertion in subsequent articles, the representative of the United States said that it would not, because it was only necessary to ensure access to a right, in addition to the right itself, in cases where it was particularly relevant to the right to protect access to it, as the Working Group had considered was the case in 1983 with regard to article 12.

27. The delegation of the Netherlands proposed replacing the word "right" in the first line by the word "freedom". The Working Group was also reminded of the Ukrainian SSR proposal to begin the paragraph with the expression "This right". The delegation of the Netherlands also proposed the deletion of the word "the" between the words "to protect" and "public safety", and the placing of a comma between the phrases "in public or private" and "to manifest his religion". The representative of the United States then withdrew her first amendment to paragraph 2, namely the insertion of the phrase "and to be free from coercion which would impair his freedom in this respect".

28. The Working Group agreed to the second paragraph as amended.

#### Paragraph 3

29. The representative of Finland proposed that the word "authority" in the first line of the paragraph be replaced by the phrase "rights and duties", and this proposal was found acceptable by a majority of delegations. The United States delegation proposed that in the first line the phrase "This right is subject to" be replaced with the words "The States Parties shall respect".

30. The representative of the Netherlands suggested that the word "or" between "parents" and "legal guardians" be replaced by the phrase "and, where applicable,". The United States delegation proposed that the words "this right" between the words "exercise of" and "in a manner" be amended to read "his right". All these amendments were accepted by the Working Group which agreed to paragraph 3.

#### Paragraph 4

31. The representative of Canada proposed that the words "to the present Convention undertake to have" be replaced by the words "shall equally" in the first line of the paragraph and that the word "for" be deleted between the words "respect" and "the liberty of the child". The delegation of the United States suggested that the word "or" between the words "parents" and "when applicable" be replaced by the word "and"; it also proposed the addition of the phrase ", and unimpeded access thereto, in conformity with their own convictions" at the end of the paragraph. The representative of Finland proposed that the phrase "when applicable" should read "where applicable".

32. All the amendments mentioned above met with the acceptance of most delegations with the exception of the proposed addition at the end of the sentence made by the United States delegation. The representative of the United States therefore withdrew part of the proposed phrase leaving only the words "in conformity with their own convictions".

33. The delegation of the Netherlands considered that if the United States representative was referring to the convictions of the child, then such a phrase was unnecessary. The United States representative explained that the phrase was meant to make it clear that the education was to be in conformity with both the parents' and the child's convictions, in order to provide a buffer for the family and to prevent a religious belief and education from being foisted on the child, possibly by State interference. The delegation of Finland then pointed out that another possibility would be a reference to "convictions of their choice", and both the delegations of the Netherlands and the United States accepted the Finnish proposal. Accordingly the Working Group agreed to paragraph 4 as amended and adopted article 7 bis.

Article 8 bis

34. At the Working Group's 1983 session, the representative of Canada proposed the following text for article 8 bis:

"The States Parties to the present Convention shall take all appropriate legislative and administrative measures to protect the child from all forms of physical or mental injury or abuse, neglect or negligent treatment, sexual abuse or exploitation or maltreatment while in the care of parent(s), legal guardian(s) or any other person caring for the child."

This proposal was reintroduced and met with general support from the delegations of France, the German Democratic Republic, the Netherlands, Poland and the Ukrainian SSR for use as a basis for discussion.

35. The representative of the Defence for Children International Movement, speaking on behalf of the Informal NGO Ad Hoc Group on the Drafting of the Convention on the Rights of the Child, stated that more emphasis should be placed on the need for preventive action, and recommended a reference to "social and educational measures" in the text under consideration. This suggestion was taken up by the representative of the Netherlands who proposed the inclusion of those words after the word "administrative", and met with the approval of several delegations.

36. The delegation of Sweden proposed that paragraph 2 of an article dealing with intra-familial child maltreatment as contained in the report of informal consultations among international non-governmental organizations on the draft convention on the rights of the child, be added to the Canadian proposal as a second sentence of the article under consideration.

37. The representative of the Islamic Republic of Iran expressed concern that there was no provision in the Convention to protect children who were not in the care of their parent(s) or guardian(s), and he therefore suggested that the Working Group might wish to address itself specifically to such a situation when drafting article 8 bis.

38. The representative of Canada thought that it would be more suitable to have some other wording such as "who has the care of" instead of "caring for" between the words "person" and "the child" in the last line of the text. Both the Australian and Netherlands delegations agreed with this proposal by the representative of Canada which was later taken up by the Group.



39. After some disagreement between member delegations over whether "sexual" should modify only the word "abuse" or also "exploitation" and "maltreatment" in the fourth line of the paragraph under consideration, the representative of Finland proposed that the expression "sexual abuse or exploitation or maltreatment" be replaced by "maltreatment or exploitation, including sexual abuse". Following the suggestion by the delegation of India to delete the comma after the word "exploitation" and its acceptance by the Working Group, the text of the paragraph under consideration was adopted.

#### Paragraph 2

40. Following on the Swedish proposal outlined in paragraph 36 above, most delegations agreed on the following text, contained in the aforementioned report of informal consultations among non-governmental organizations, as the basis for discussion for a second paragraph of the article under consideration:

"In order to guarantee the protection called for in paragraph 1, States Parties shall support those responsible for the child's well-being and shall ensure and facilitate the effective prevention, identification, reporting, referral, investigation, treatment and follow-up of all such acts and omissions."

The representatives of the German Democratic Republic and the Union of Soviet Socialist Republics, however, were of the opinion that article 8 bis should be confined to the text just adopted by the Group.

41. The Netherlands delegation proposed deleting the words "States Parties shall support those responsible for the child's well-being", while the United Kingdom delegation suggested the deletion of the word "ensure" in the third line of the new paragraph, because, in its view, States parties would not be prepared to go that far.

42. The delegation of France which, like most delegations, was not opposed to the inclusion of a provision concerning measures to be taken by the State to guarantee the protection of the child from anything that could be detrimental to his present or future welfare and development, proposed including the phrase "and encourage co-operation among all partners concerned" at the end of such a provision. The representative of Finland supported a suggestion made by the United Kingdom delegation to delete the word "ensure" and suggested that it be replaced by the words "promote and encourage".

43. The United States representative then introduced a proposal for a second paragraph of article 8 bis based on its 1983 proposal for paragraph 2 regarding procedures for dealing with child abuse that States could adopt as protective measures, and stated that her delegation was interested in establishing co-operation among judicial and other appropriate officials concerning measures against the maltreatment of children. The new proposal read as follows:

"Such protective measures should include, inter alia, effective procedures for prevention, identification, reporting, referral, investigation, treatment and co-operation among officials from law enforcement and health and human services agencies, as well as for appropriate judicial involvement in the matter."

44. The representative of the Ukrainian SSR did not support the United States proposal for focusing principally on judicial procedures and punitive measures, and indicated that, unless it was withdrawn, his delegation would table an amendment providing that protective measures were mandated to include effective procedures for the implementation of social programmes to look after children in need. But the United States representative indicated that her proposal did not deal only with judicial and punitive action, since it incorporated all the preventive measures suggested in the proposal put forward by the non-governmental organizations; she also indicated that there was nothing about punishment stated or inferred in her proposal and that it was not the case that punitive or criminal measures were stressed in procedures to prevent child abuse in the United States.

45. With regard to the courses of action introduced by the American proposal, the representative of the Defence for Children International Movement felt that co-operation between health and law enforcement agencies, as well as recourse to judicial authorities, were, when necessary and appropriate in the interests of the child, implicit in the range of services, from prevention to follow-up, that States parties would be urged to provide under the second sentence of the non-governmental organizations' proposal, as well as in the administrative, legal, social and educational measures they would be bound to take in accordance with the paragraph already adopted by the Group. In view of the above, he put forward the following as a revised proposal for the second paragraph of article 8 bis:

"Such protective measures shall include effective procedures for providing support to those who have care of the child, as well as for all other forms of prevention, and for identification, reporting, referral, investigation, treatment and follow-up of all instances of child maltreatment described heretofore."

46. The representative of the Union of Soviet Socialist Republics reminded the Working Group of his proposal to the effect that the second paragraph of the article should be omitted, but, if it was not, his delegation would submit the following proposal:

"States Parties shall also promote and encourage all necessary and adequate procedures to make the measures prescribed in paragraph 1 of this article effective."

47. The representative of the Ukrainian SSR suggested that in the amendment contained in paragraph 45 above, after the words "care of the child", the following text should be inserted:

"in particular, the implementation of such social programmes as aid to large families and to single mothers, establishment of specialized institutions for abandoned children, boarding schools for children from unemployed and homeless families, scholarships for students from poor families,".

48. In this context, the United States representative proposed modifying the article put forward by the non-governmental organizations by deleting the word "and" before the word "follow-up" in the fourth line, placing a comma after "treatment" and adding a comma after the word "heretofore" as well as the following text:

"co-operation among all appropriate public officials and, as appropriate, for judicial involvement wherein the child's interests will be fully represented".

49. An impasse followed in the deliberations which was subsequently resolved through informal consultations between the Ukrainian SSR, the Union of Soviet Socialist Republics and the United States in which a compromise proposal was agreed upon and introduced to the Group by the representative of the Ukrainian SSR, as follows:

"Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have care of the child, as well as for all other forms of prevention and for identification, reporting, referral, investigation, treatment, and follow-up of all instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement wherein the child's interests will be fully represented."

50. The representative of the Netherlands found the compromise proposal agreeable, but wished to insert the word "the" in the third line between the words "who have" and "care of the child". At the same time he suggested that the last phrase of the paragraph which read "wherein the child's interests will be fully represented" be deleted. The delegation of the United Kingdom also accepted the compromise proposal but had misgivings regarding the use of the word "all" in the fourth and sixth lines of the text and consequently suggested their deletion. The authors of the compromise proposal agreed to the changes proposed by the delegations of the Netherlands and the United Kingdom and the text of a second paragraph was adopted.

#### Article 9

51. The Polish delegation submitted article 9 as contained in document A/C.3/36/6, which read as follows:

"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."

In addition, proposals submitted by the Baha'i International Community in 1983 and by the Informal NGO Ad Hoc Group on the Drafting of the Convention were brought to the attention of the Working Group.

52. Some delegations shared the view that the original Polish proposal stressed some negative aspects of the mass media and should not be used as the basis for discussion, while other delegations deemed the texts put forward by the non-governmental organizations too detailed for the purposes of discussion.

53. The representative of the United States, in retabing a proposal from 1983, stated that that proposal recognized the educational function of the mass media and that it would be consistent with both the public and private sector of a country. It read as follows:

"Recognizing the important educational function performed by the mass media, States Parties shall ensure that the child has access to information from a diversity of sources, in particular by not impeding the free flow of information across international borders and the availability of such information, as well as by assuring freedom of expression and opinion for all."

Further, the representative of the United States stated that any article on this subject should take into account the concerns of States where the private sector was involved in the mass media and it was not possible or desirable for the State to ensure or guarantee anything in that field. The United States proposal stressed, however, that the State should and could guarantee the free flow of information.

54. Following the suggestion of several delegations and the Chairman's request that a compromise text be elaborated after consultations, an open, informal working party prepared, for use as a basis for discussion, a redrafted proposal that attempted to consolidate many delegations' views. This proposal was submitted by the representative of Canada and read as follows:

"Recognizing the important function performed by the mass media and the need to ensure that the child has access to information and material from a diversity of sources aimed at the promoting of his social, spiritual and moral well-being and physical and mental health, the States Parties to the present Convention shall:

- (a) Encourage the mass media agencies to disseminate information of social and cultural benefit to the child and in accordance with the spirit of the article 16;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and shall not impede the free flow of information across international borders;
- (c) Encourage the mass media agencies to have particular regard to the linguistic needs of minority groups;
- (d) Encourage the development of voluntary guidelines for the protection of the child from material potentially injurious to his well-being bearing in mind that the primary responsibility for such protection rests with the parents or guardians of the child."

55. The representative of the Ukrainian SSR introduced another proposal which read as follows:

"1. The States Parties to the present Convention shall use their governmental bodies and encourage private mass media agencies to develop and disseminate information designed to promote the health and welfare of the child, his social and cultural upbringing. Information shall be produced and disseminated in both the official language(s) of the State and the language(s) of the State's minority groups and indigenous peoples.

2. The States Parties shall encourage international co-operation in the production, exchange and dissemination of information from different cultural, national and international sources compatible with the ideals of peace, humanism, liberty and international solidarity and all other ideals promoting international understanding and co-operation.

3. The States Parties shall also encourage all those concerned with the care of the child, to protect him from material injuries to his physical or mental health or to his social, spiritual or moral well-being."

56. After an exchange of views, it was agreed that the proposed redraft by the informal working party would be used as the basis for discussion.

#### Introductory part

57. The introductory part of the article reminded the representative of Finland more of a preambular paragraph and consequently he suggested the following amendments: the sentence should begin with the words "The States Parties recognize", the words "the need" should be replaced by "shall take the necessary steps", and the sentence should end with the word "health". Further, the words "the States Parties to the present Convention shall" should be replaced by the words "To this end the States Parties to this Convention shall". The delegation of the United States requested that the words "the need to" should be replaced by the word "shall".

#### Sub-paragraph (a)

58. The Working Group proceeded to consider subparagraph (a) which was provisionally agreed to with a reference to article 16 of the revised Polish draft.

#### Subparagraph (b)

59. As the Group went on to subparagraph (b), the representative of the Ukrainian SSR proposed inserting the phrase "compatible with the ideals of peace, humanism, liberty and international solidarity and all other ideals promoting international understanding and co-operation" after the phrase "free flow of information", as contained in the amendment proposed by his delegation, and the deletion of the words "across international borders". The delegation of the United Kingdom suggested the addition of the word "such" between the words "free flow of" and "information", and his proposal met with the approval of many delegations.

60. The delegation of the Union of Soviet Socialist Republics then requested, in a spirit of compromise, that subparagraph (b) be deleted and that subparagraph (d) of the text of the Informal NGO Ad Hoc Group be used instead. The proposed new text was as follows:

"Encourage international co-operation in the production, exchange and dissemination of child-oriented material from a diversity of cultural, national and international sources."

61. The Canadian delegation agreed with the above text with the exception of the words "child-oriented material". The representative of the United States rejected the proposal put forward by the delegation of the Union of Soviet Socialist Republics but suggested the insertion in subparagraph (b) of the informal working party's redraft of the words "for this purpose" between "information and" and "shall not impede" in order to relate the concept concerning the free flow of information more closely to international co-operation.

62. The representative of the United Kingdom suggested that the word "child-oriented" be replaced by "such" in the text proposed by the delegation of the Union of Soviet Socialist Republics, and the Canadian delegation agreed to this proposal. The Australian delegation proposed that the phrase should read "such information and material". For the purpose of consistency the representative of Canada suggested the introduction of the words "and material" in subparagraph (a) as well as subparagraph (b).

63. The United States delegation subsequently proposed that, in subparagraph (b) of the informal working party's redraft, the word "facilitate" should replace the words "not impede", or that the word "facilitate" should appear in brackets. The representative of the United States also proposed including the idea in the introductory part of the article with the following opening line: "The States Parties recognize the importance of the mass media and the free flow of information across international borders and shall ensure", and indicated that, if the Working Group accepted her suggestion, she would not insist on having the word "facilitate" retained in subparagraph (b). In the course of the exchange of views that ensued, the delegation of Australia proposed replacing the phrase following "dissemination of such information" by the words "and shall use their best endeavours to facilitate the free flow of such information across international borders".

64. With regard to the question of the free flow of information across international borders, delegations continued to manifest divergent views. Some delegations deemed it a question worthy of separate consideration while still others saw its inclusion as a recognition of the importance of the concept of free flow of information.

65. Pursuant to the Chairman's request that the delegations of the Ukrainian SSR and the United States engage in consultations to produce a compromise text, a consensus was reached between the two delegations with regard to the introductory part and subparagraph (b). The compromise proposal read as follows:

"The States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of international and national sources, including those aimed at the promoting of his social, spiritual and moral well-being and physical and mental health. To this end, the States Parties to the present Convention shall:

...

(b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources."

The United States delegation stated that the words "international and national" had been added before "sources" as well as "including those" after "sources" and that it had been agreed to delete "and shall not impede the free flow of information across international borders", and requested that the compromise proposal be accepted as drafted.

66. The Chairman suggested the addition of the words "to the present Convention" after "States Parties" in the first line of the text and their deletion in the following sentence; the representative of Canada supported this suggestion.

67. The representative of the United Kingdom requested that the sequence of the words "international and national" be reversed and the delegations of the Netherlands and the Ukrainian SSR supported his request. The Working Group agreed to the text of the introductory part and subparagraph (b).

#### Subparagraph (c)

68. The Canadian delegation requested that, if there was to be a clause with the expression "minority groups" in subparagraph (c), the words "or indigenous peoples" be added to it, explaining that indigenous peoples disliked being referred to as "minority groups". Some speakers questioned the appropriateness of the word "peoples" as opposed to "populations"; reference was made to the terminology used by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, namely "indigenous populations", and the Group agreed on the use of the word "populations".

69. The representative of the Netherlands proposed the insertion of the expression "the child belonging to" between the words "linguistic needs of" and "minority groups", and the representative of the United Kingdom suggested that "or" should replace "and" after the words "minority group". The delegation of Australia then proposed that the phrase being discussed should read: "the linguistic needs of the child who belongs to a minority group or an indigenous population". With these amendments, subparagraph (c) was provisionally agreed to by the Working Group.

#### Subparagraph (d)

70. The representative of Canada reminded the Group that subparagraph (d) was based on subparagraph (e) of the text of the Informal NGO Ad Hoc Group, and that it was intended to encourage the development of guidelines to protect the child but without any indication as to who would develop them. The delegation of Australia suggested the insertion of the words "information and" between the phrases "protection of the child from" and "material potentially injurious" as well as the addition at the end of this subparagraph of the phrase "or any other person who has the care of the child".

71. The representative of the Ukrainian SSR, although agreeing with the inclusion of the subparagraph under consideration in article 9, believed that the phrase after "well-being" was superfluous and accordingly recommended its deletion, so that the subparagraph would end with the word "well-being". In this connection, the delegation of the Netherlands explained that the phrase following "well-being", namely "bearing in mind that the primary responsibility for such protection rests with the parents or guardians of the child", was fully in line with article 8 of the draft convention already adopted some time ago.

72. The representative of the Ukrainian SSR then proposed placing the following phrase after "well-being": "bearing in mind that the responsibility rests on all those concerned with the care of the child". The Canadian delegation suggested ending the subparagraph with the word "well-being" as had been previously recommended by the Ukrainian SSR delegation. The United States delegation proposed adding the phrase "in accordance with article 8" after "well-being" and ending subparagraph (d) in that way. The Swedish delegation suggested adding the words "and physical and mental health" after the word "well-being".

73. The representative of the Union of Soviet Socialist Republics agreed with the proposal made by the delegation of the United States but objected to the word "voluntary" qualifying "guidelines" and suggested its deletion.

74. The Chairman then suggested that the subparagraph should end with the phrase "well-being and physical and mental health", but the representative of the United Kingdom pointed out that anything injurious to a child's physical and mental health would be injurious to his well-being also. The Swedish amendment was consequently withdrawn.

75. Furthermore, the delegation of the United Kingdom proposed that the words "voluntary guidelines" in the first line should be replaced by the phrase "appropriate guidelines and codes of conduct"; the representatives of Finland and the Union of Soviet Socialist Republics supported the United Kingdom amendment.

76. The representative of the United States did not agree with the inclusion of "codes of conduct" and suggested that the Group might consider deleting "voluntary" and leaving only "guidelines". The delegation of Canada proposed instead replacing "voluntary" by "appropriate" and eliminating reference to "codes of conduct". Many delegations supported the Canadian proposal and the delegation of the United Kingdom withdrew its amendment regarding the inclusion of "codes of conduct".

77. Returning to the question whether subparagraph (d) should end with the word "well-being", the representative of France stated that, although the word "well-being" was sufficient, she would also wish to see a reference to article 8 in subparagraph (d). This proposal, which met with the support of many delegations, was reinforced by the representative of Canada who referred again to the United States proposal that such reference should read "in accordance with article 8".

78. After an exchange of views regarding the best wording for the reference to article 8 at the end of the subparagraph, the Chairman suggested the expression "bearing in mind the provisions of article 8". The Group accepted the Chairman's proposal and subparagraph (d) was provisionally agreed to.

79. The Working Group adopted article 8 bis as a whole.

### Article 13

80. The representative of Poland proposed that article 13 as contained in document A/C.3/36/6 could be the basis for discussion. The revised Polish draft article read as follows:

"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."

81. The representative of the International Labour Office referred to the fact that the wording in the Polish text did not appear to reflect the true position with regard to entitlement to social security benefits; in general, the right to receive benefits was granted to the parent or guardian, by reason of his responsibility for the maintenance of the child. In these circumstances, it would appear preferable, generally speaking, to use the wording previously proposed by the delegation of Poland in article 14 of document E/CN.4/1349. The article might accordingly read:

"The States Parties to the present Convention shall ensure to every child the right to benefit from social security and shall take appropriate legal and administrative measures to guarantee the implementation of this right."



82. A proposal submitted by the representative of Canada at the Working Group's session of 1983 was reintroduced by the Canadian delegation and read as follows:

"1. The States Parties to the present Convention recognize the right of every child to social security, including social insurance, and undertake to introduce appropriate legislative and administrative measures for the implementation of this right.

2. Depending upon the age and maturity of the child and the nature of the social security benefit, the child may receive social security directly, or indirectly through his or her parents or those caring for the child."

83. The representative of Canada drew the Working Group's attention to the mandatory character of the Polish draft article as opposed to the Canadian one and from this standpoint thought that the latter could be more acceptable to countries with financial difficulties for its implementation. A similar view had been expressed earlier by the representative of the Islamic Republic of Iran, who had emphasized the role that international co-operation could play in aiding third world countries which had difficulty in implementing a full-scale social security system.

84. The representative of the International Labour Office suggested the inclusion in his proposal of a reference to national conditions or to national law and practice. Thus the Working Group finally decided to base its discussions on the amendment proposed by the International Labour Office which read:

"The States Parties to the present Convention shall, in a manner appropriate to national conditions, ensure to every child the right to benefit from social security and shall take appropriate legal and administrative measures to guarantee the implementation of this right."

85. The representative of Australia proposed the deletion of the words "legal and administrative" from the International Labour Office draft and this proposal was accepted by the Working Group.

86. The Cuban delegation submitted two amendments, namely, to insert the word "increasingly" between "benefit" and "from" in the third line and, in the same line, to replace the word "appropriate" by the words "the necessary". While some delegations were in favour of introducing the word "increasingly", others made alternative suggestions such as "progressively" and "fully". A similar proposal by the delegation of Canada to replace the words "guarantee the implementation" by "achieve the full realization" found consensus in the Working Group. Also the Cuban proposal to replace "appropriate" by "the necessary" was accepted by the Group.

87. The representative of the United States suggested that in the second line the words "ensure to" should be replaced by "recognize for" because that would imply that the right to benefit from social security was recognized as a goal or objective whose realization would be sought progressively rather than a legal right requiring immediate implementation. This amendment found the support of the Canadian delegation and was accepted by the Working Group.

88. While the United States delegation had proposed, at an earlier stage of the discussion, the introduction of the word "eligible" between the words "every" and "child" in the Polish draft article, and, at a later stage of the discussion, some delegations indicated that, in granting social security to a child, account must be taken of the financial resources of the child and the family, other delegations emphasized that the Convention ought to recognize the right of every child to social security regardless of the financial circumstances of the child, his parent(s) or guardian(s).

89. A text for a second paragraph was elaborated by the delegations of Australia and the Netherlands, taking into consideration the views expressed by members of the Group. The latter delegation introduced the text as follows:

"Such benefits may be provided taking into account, as appropriate, the resources and circumstances of the persons having responsibility for the maintenance of the child."

90. The representative of the German Democratic Republic, although in principle agreeing with this proposal, questioned the need for the words "taking into account" in the sentence. The representative of the Netherlands pointed out that the meaning of "may" in the first line of the second paragraph encompassed that of "as appropriate" in the same line and consequently could be deleted. The delegation of the United States proposed that the paragraph should begin with the words "The benefits provided by law may be granted", in order to take account of the domestic legal criteria of several States for extending social security benefits.

91. The representative of Finland proposed the following formula for paragraph 2: "Such benefits should be granted taking into account the national resources available and, where appropriate, the resources and circumstances of the child and of the persons having responsibility for the maintenance of the child". Many delegations found that wording acceptable.

92. The representative of the United States wished to insert the words "should where appropriate" in the first line of the proposal of the delegations of Australia and the Netherlands. That formula was used in the following compromise text which she presented and which took into consideration the joint Australian and Netherlands draft second paragraph: "The benefits should, where appropriate, be granted by law or other means, taking into account the national resources available and the resources and the circumstances of the child and persons having responsibility for the maintenance of the child and other relevant considerations of any application for benefits made on behalf of the child". Her amendment was prompted by the fact that the other relevant considerations were not typically covered by the phrase "resources and circumstances of the child" in the Finnish proposal; regarding the meaning of the phrase "by law or other means" she gave as an example one offered earlier by the representative of Finland who had noted that benefits might be granted by agreement of private sources, but did not insist in having that phrase retained after the United Kingdom delegation said that it had reservations about supporting it.

93. The delegation of Australia suggested an amendment to the United States draft second paragraph, in which the word "and" between "maintenance of the child" and "other relevant" was replaced by the phrase "as well as any", and the words "relevant considerations of any" were replaced by "consideration relevant to an". The representative of Canada thought that the last part of the paragraph amended by the Australian delegation would be clearer if it read "benefits made by or on behalf of the child", which emphasized that the child himself could make the application for benefits. With that amendment, the article was adopted by the Working Group.

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Annex ITEXT OF THE DRAFT CONVENTION ON THE RIGHTS OF THE CHILD  
ADOPTED BY THE WORKING GROUPThe 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 has, 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 has 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 of 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 a 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 of 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 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 majority 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 guardian's 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 6

1. The States Parties to the present Convention recognize that the child should enjoy parental care and should have his place of residence determined by his parent(s), except as provided herein.

2. States Parties shall ensure that a child shall not be separated from his parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such a determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence. 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. Such views shall be taken into account by the competent authorities in making their determination.

3. A child who is separated from one or both parents has the right to maintain personal relations and direct contacts with both parents on a regular basis, save in exceptional circumstances.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 6 bis

2. In accordance with the obligation of States Parties under article 6, paragraph 2, applications by a child or his parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner.

3. A child whose parents reside in different States shall have the right to maintain on a regular basis save in exceptional circumstances personal relations and direct contacts with both parents.

Article 6 ter

1. The States Parties to the present Convention shall take appropriate measures to combat the illicit transfer and non-return of children abroad.

2. To this end, the States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements, as well as the introduction of periodic consultations between the competent national authorities.

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 7 bis \*/

1. The States Parties to the present Convention shall respect the right of the child to freedom of thought, conscience and religion.
2. This right shall include in particular the freedom to have or to adopt a religion or whatsoever belief of his choice and freedom, either individually or in community with others and in public or private, to manifest his religion or belief, subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health and morals; and the right to have access to education in the matter of religion or belief.
3. The States Parties shall respect the rights and duties of the parents and, where applicable, legal guardians, to provide direction to the child in the exercise of his right in a manner consistent with the evolving capacities of the child.
4. The States Parties shall equally respect the liberty of the child and his parents and, where applicable, legal guardians, to ensure the religious and moral education of the child in conformity with convictions of their choice.

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 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.

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\*/ Adopted by the Working Group in 1984.

Article 8 bis \*/

1. The States Parties to the present Convention shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental injury or abuse, neglect or negligent treatment, maltreatment or exploitation including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment, and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 9 \*/

The States Parties to the present Convention recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, including those aimed at the promoting of his social, spiritual and moral well-being and physical and mental health. To this end, the States Parties shall:

(a) Encourage the mass media agencies to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 16;

(b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;

(c) Encourage the mass media agencies to have particular regard to the linguistic needs of the child who belongs to a minority group or an indigenous population;

(d) Encourage the development of appropriate guidelines for the protection of the child from information and material potentially injurious to his well-being bearing in mind the provisions of article 8.

Article 10

1. A child permanently or temporarily deprived of his family environment for any reason shall be entitled to special protection and assistance provided by the State.

2. The States Parties to the present Convention shall ensure that a child who is parentless, or who is temporarily or permanently deprived of his family environment, or who in his best interests cannot be brought up or be allowed to remain in that environment shall be provided with alternative family care which could include, inter alia, adoption, foster placement, or placement in suitable institutions for the care of children.

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\*/ Ibid.

Article 11

1. The States Parties to the present Convention shall undertake measures, where appropriate, to facilitate the process of adoption of the child. Adoption of a child shall be authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and guardians and that, if required, the appropriate persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary.

2. The States Parties to the present Convention shall take all appropriate measures to secure the best interests of the child who is the subject of intercountry adoption. States Parties shall ensure that placements are made by authorized agencies or appropriate persons under the adequate supervision of competent authorities, providing the same safeguards and standards that are applied in exclusively domestic adoptions. The competent authorities shall make every possible effort to ensure the legal validity of the adoption in the countries involved. States Parties shall endeavour, where appropriate, to promote these objectives by entering into bilateral or multilateral agreements.

Article 11 bis

The States Parties to the present Convention shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his parents, legal guardians or close relatives, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in this Convention and other international human rights or humanitarian instruments to which the said States are Parties. In view of the important functions performed in refugee protection and assistance matters by the United Nations and other competent intergovernmental and non-governmental organizations, the States Parties to the present Convention shall provide appropriate co-operation in any efforts by these organizations to protect and assist such a child and to trace the parents or other close relatives of an unaccompanied refugee child in order to obtain information necessary for reunification with his family. In cases where no parents, legal guardians or close relatives can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his family environment for any reason, as set forth in the present Convention.

Article 12

1. The States Parties to the present Convention recognize that a mentally or physically disabled child should enjoy a full and decent life in conditions which ensure his dignity, promote his self-reliance, and facilitate his active participation in the community.

2. The States Parties to the present Convention recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.



3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his cultural and spiritual development.

4. States Parties shall promote in the spirit of international co-operation the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 13 \*/

1. The States Parties to the present Convention shall, in a manner appropriate to national conditions, recognize for every child the right to benefit from social security and shall take the necessary measures to achieve the full realization of this right.

2. The benefits should, where appropriate, be granted taking into account the national resources available and the resources and the circumstances of the child and persons having responsibility for the maintenance of the child as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

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\*/ Ibid.

Annex II

PROPOSALS BY DELEGATIONS OF STATES (NOT CONSIDERED BY THE  
WORKING GROUP AT ITS 1984 SESSION)

I. New article (China)

The States Parties to the present Convention should protect the interests of the children born out of wedlock and ensure to them the rights as enjoyed by those born in lawful wedlock.

II. Amendment to article 6 bis (United States of America)

1st paragraph

The States Parties to the present Convention shall accord to the child and his parents the right to leave any State, including their own, and the right to enter their own State.

2nd paragraph, second sentence

In connection with such applications States Parties shall not punish in any way the applicant(s) or other members of the family concerned. Applications which are not granted for any reason may be renewed and will be considered in the manner noted above with regard to initial applications.

III. Article 12, paragraph 3 (Islamic Republic of Iran)

States Parties to the Convention, in a spirit of international co-operation, undertake to support programmes of action to be prepared periodically, in particular by the United Nations Children's Fund, the World Health Organization and the World Food Programme, in order to lower the infant mortality and to improve substantially health care systems for the benefit of children, especially in developing countries and with particular regard to nutritional problems.

IV. Article 14 (Canada)

1. The States Parties to the present Convention recognize the right of every child to social security, including social insurance, and undertake to introduce appropriate legislative and administrative measures for the implementation of this right.

2. Depending upon the age and maturity of the child and the nature of the social security benefit, the child may receive social security directly, or indirectly through his or her parents or those caring for the child.

V. Article 15 (Canada)

1. States Parties to the present Convention recognize the right of every child to a standard of living adequate to ensure healthy physical, mental and emotional growth in every phase of the child's development.

2. The parent(s) or those responsible for the child have the primary responsibility to secure, within their financial possibilities and powers, the conditions of living necessary for the healthy development of the child.

3. The States Parties to this Convention shall take appropriate measures to assist parents and others caring for children to implement this right and shall extend necessary material assistance, particularly with regard to nutrition, clothing and housing.

VI. Article 15, paragraph 1 (China)

The States Parties to the present Convention shall take measures to guarantee all children compulsory and free education or the aforementioned education to be materialized as early as the circumstances permit.

VII. Article 16 (Canada)

1. Every child has the right to an education designed to assist the child to develop his or her talents and abilities to their fullest potential.

2. The child shall have the right to education which shall be free and compulsory, at least at elementary school level. The parents and the State shall guarantee the child adequate conditions for the realization of this right.

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

VIII. Amendment to article 16, paragraph 2 (China)

"In the second line of paragraph 2 delete 'free'."

IX. Article 17 (Canada)

1. The States Parties to the present Convention recognize that the bringing up and education of the child should promote the full development of his personality, his respect for human rights and fundamental freedoms.

2. The child shall be prepared for an individual life in a free society, in the spirit of understanding, tolerance and friendship among all peoples, ethnic and religious groups.

3. The States Parties to the present Convention undertake to ensure that the child is educated in harmony with the principles of peace proclaimed by the United Nations.

4. In accordance with paragraphs 1, 2 and 3 of this article, the States Parties to this Convention undertake to protect the child from conscription or from use in military combat.

X. Article 18 (Canada)

1. Every child has the right to rest and leisure, to engage in play and recreation and to freely participate in cultural life and the arts.

2. Parents, States Parties, educational institutions and others caring for children shall take steps to implement this right, including making reasonable limitations on school and working hours.

XI. Article 19 (Canada)

1. Every child shall be protected from all forms of discrimination and from economic and social exploitation.
2. The States Parties to the present Convention recognize that the child shall not be employed in any form of work harmful to the child's health or education or which will interfere with his or her physical, mental or social development.
3. States Parties to the present Convention shall take legislative and administrative measures to ensure that the child is protected and that the provisions of paragraph 2 of this article are adhered to.

XII. Article 20 (Canada)

1. The States Parties to the present Convention recognize the right of the child accused or found guilty of infringing the penal law to be treated in a manner consistent with the aims of child development acknowledged in article 17 of this Convention, and in particular in such a manner as to promote the full development of his or her personality, sense of dignity and worth, and respect for human rights and fundamental freedoms.

2. The States Parties to the present Convention shall pursue full implementation of this right, and in particular undertake as follows:

(a) No child shall be arbitrarily detained or imprisoned;

(b) Every child accused of infringing the law is entitled to have the matter determined according to law in a fair hearing within a reasonable time by an independent and impartial tribunal, in accordance with the presumption of innocence and such procedures as will take into account his or her age and the desirability of promoting his or her rehabilitation;

(c) All children deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

(i) Accused children shall be separated from adults and brought as speedily as possible for adjudication;

(ii) The essential aim of treatment of children found guilty of infringing the penal law shall be their reformation and social rehabilitation. They shall be segregated from adults and accorded treatment appropriate to their age and legal status.

(d) No child shall be subjected to cruel, inhuman or degrading treatment or punishment. No child shall be sentenced to death.

XIII. Article 21 (Islamic Republic of Iran)

(a) The States Parties to the present Convention, guided by the principles of international customary law and Geneva law, shall refrain from committing a military attack and bombardment of undefended cities and the civilian population, inflicting incalculable suffering, especially on children who are the most vulnerable members of the population.

(b) The use of chemical and bacteriological weapons in the course of armed conflict constitutes one of the most flagrant violations of the Geneva Protocol of 1925, and the principles of international humanitarian law and inflicts heavy losses on civilian populations including defenceless children, such acts constitute a crime against humanity.

XIV. Article 22 (Canada)

1. The reports submitted by the States Parties to the present Convention under article 21 shall be considered by the Economic and Social Council.

2. To assist it in its task, the Economic and Social Council shall establish a Group of Experts entrusted with the responsibility of examining the reports submitted by the States Parties before they are considered by the Economic and Social Council; the Group of Experts shall also prepare appropriate comments on every report for transmission, through the Economic and Social Council, to the State Party concerned.

3. The members of the Group of Experts shall be elected by the Economic and Social Council from a list of candidates nominated by States Parties.

4. The Economic and Social Council shall decide on the size of the Group of Experts, its geographic composition and the periodicity of its meeting.

5. The Economic and Social Council may bring its observations and suggestions on the implementation of this Convention to the attention of the General Assembly of the United Nations.

XV. Article 29 (Canada)

Nothing in this Convention shall affect any provisions that are more conducive to the realization of the rights of the child and that may be contained in

(a) The legislation of a State Party; or

(b) Any other international convention, treaty or agreement in force for that State.