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QUESTION OF A CONVENTION ON THE RIGHTS OF THE CHILD

Written statement submitted by the World Young Women's Christian
Association, a non-governmental organization 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).

[12 January 1987]

Once again the World Young Women's Christian Association wishes to draw the attention of the United Nations Commission on Human Rights to the question of the abduction of children following the separation of couples, specially in the case of different nationalities, with reference to article 6 ter of the draft convention on the rights of the child, as discussed under agenda item 13. These abductions are encouraged by the passivity of the concerned countries and by traditional legislation that allows the father to hinder the freedom of movement of children.

The gravity of the problem and its tragic consequences for children and also for parents deprived of their rights - in more than nine cases out of ten they are mothers - calls for urgent legal co-operation among States. This co-operation would aim at allowing the free circulation of children without it being submitted to the will of any one of the parties.

The passivity of Governments could be explained in the past by their ignorance of the extent of the phenomenon and of its tragic consequences, as well as by the absence of a model of legal co-operation among States on this subject. It has become inexcusable, however, in the light of Economic and Social Council resolution 1982/39, which:

"1. Calls the attention of States to the proliferation of cases of removal and retention of children and invites them to co-operate actively with a view to preventing the occurrence of such cases and to solving them speedily, out of concern for the interest of the child;

2. Invites States to organize such co-operation through the conclusion of bilateral arrangements or through accession to regional conventions or international conventions such as the Hague Convention on the Civil Aspects of International Child Abduction of 25 October 1980, which is open to all States;

3. Invites the Commission on Human Rights, when drafting the convention on the rights of the child, to take into consideration the protection of the rights of the child in cases of unauthorized international removal."

The recent experiences reported by some associations indicate that the States concerned are facing serious difficulties with regard to legal collaboration at three stages: (i) when drafting conventions and examining disputes which are too frequently characterized by unjustifiable delays in the conduct of negotiations and sometimes even by refusal to negotiate; (ii) when rectifying conventions such as the Hague Convention on the Civil Aspects of International Child Abduction; and (iii) when applying ratified conventions.

The Franco-Algerian dispute is a case in point: having written the draft of a convention they have not signed it or settled the dispute.

For abducted children and their mothers, the consequences are the same: an endless period of waiting and lost years that can never be replaced. The traumatic effects suffered by the child as a result of brutal removal from its normal environment and, in particular, deprivation of contact with its mother, are frequently irreparable, not only from the psychological standpoint, but also from the point of view of the child's professional future. The mothers, for their part, wear themselves out in fruitless representations without being able to enjoy the protection that every person is entitled to expect from his country of origin or adoption.

In conclusion, believing that acts of child abduction contravene:

(a) The Universal Declaration of Human Rights, article 5 of which stipulates that "no one shall be subjected to ... inhuman or degrading treatment or punishment", a provision reaffirmed in article 7 of the International Covenant on Civil and Political Rights;

(b) The Declaration on the Rights of the Child, principle 2 of which stipulates in particular that "the child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity";

(c) The right of the child "to maintain personal relations and direct contacts with both parents", a right that can be traced back to the universal conscience and to which tangible expression is given in the draft convention on the rights of the child.

The World YWCA, together with other non-governmental organizations, calls upon the Commission on Human Rights to give special attention to this question at its forty-third session during the consideration of agenda item 13, and to issue specific recommendations to States to seek humanitarian solutions with a view to putting an end to such tragic situations.