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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 I)

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

[16 February 1988]

Draft convention on the rights of the child

1. The World Young Women's Christian Association again wishes to draw the attention of the United Nations Commission on Human Rights to the question of the abduction of children by one of their parents following the separation of couples, especially in the case of different nationalities. Such abductions are facilitated by the passivity of the countries concerned 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 9 cases out of 10 they are mothers - calls for urgent legal co-operation among States.

2. A year ago, French and United Kingdom mothers of abducted children undertook a walk from Paris to Geneva in order to denounce the suffering imposed on the parents and children affected by such abductions. These mothers emphasized:

The responsibility of the international humanitarian agencies, one of whose functions was to encourage States to become parties to conventions guaranteeing respect for human rights;

The importance of the disputes with certain countries, in particular those of the Maghreb, countries which, moreover, recognize the merits of the draft convention on the rights of the child drawn up within the framework of the United Nations.

3. Upon completion of their walk, the mothers obtained:

(a) The appointment of mediators at both the European and the national level. These mediators enabled 44 children to spend their holidays with their mothers, the latter undertaking not to take advantage of their right of custody and to return their children at the end of the holidays. Such an undertaking could be a moral one only, since the State concerned was unable to guarantee the keeping of a commitment which was in conflict with the judgements of its courts. Since these "cross-border" visits were based only on a fragile private contract concluded between the parents, on the initiative of the mediators, it was necessary for only some parents not to keep their word for the entire experiment to be compromised. It is clear that in the absence of international law the most stubborn has the last word and injustice therefore reigns;

(b) The support of several States members of the Commission on Human Rights at its forty-third session for the signing of judicial conventions to solve the problem in accordance with the principles of the Hague Convention of 25 October 1980. This support was not followed up in practice, however. In the case of the Franco-Algerian dispute, the negotiators of the agreement have met only once and have made no progress in their work.

4. One year after an exemplary action in relation to an issue of concern to the entire world community, it would seem urgent to call on States:

To give practical effect to their determination to begin negotiating conventions and specifically to recognize that the jurisdiction with competence to grant custody and visiting rights is that of the habitual domicile of the child;

To set up with the help of mediators joint commissions (such as those provided for in conventions) to deal with disputes case by case on bases more firm than a mere moral contract concluded between the parents.