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on the Question of a Convention on the
Rights of the Child
 25-29 January 1988

Draft convention on the rights of the child:
 a compilation of proposed articles and amendments, and related
 provisions in international instruments

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INTRODUCTION

1. The Economic and Social Council in its resolution 1987/58 authorized a pre-sessional meeting of the Working Group on the Draft Convention on the Rights of the Child and noted the usefulness of providing the Working Group, in advance of its session, with such working documents as a compilation of all amendments and new proposals and relevant provisions of other international instruments, and drew attention to the need for new proposals to be submitted early in the session of the working group. This document is prepared in response to that request.
2. The parenthetical references to the subject of the articles are for ease of reference only, such references are not part of the proposals before the Working Group.
3. General observations on the draft convention can be found in the prior reports of the Working Group and the various documents submitted to the Commission in connection with its examination of the question of a convention on the rights of the child (see E/CN.4/1987/NGO/10, 27). In addition, the Four Directions Council drew attention to a written statement it had submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its thirty-ninth session (E/CN.4/Sub.2/1987/NGO/5) and to Economic and Social Council resolution 1987/42 of 28 May 1987 entitled "Protection of and assistance to the family", as well as any action of the General Assembly on that matter.
4. In some cases detailed written explanations were presented in connection with proposals contained in this document; they are available for consultation with the Secretariat.
5. The Secretariat would welcome suggestions for improving this document in the future in order to make it more useful to delegates, and suggestions as to further references to provisions of international instruments which might be included.

I. Additions to the Preamble

1. Additional paragraph (Protection of the educational rights of adolescent girls)

A. Proposal by the International Planned Parenthood Federation 1/

Adhering to the principle that the right to education should be fully realised on the basis of equal opportunity and correspondingly that girls should not suffer discrimination as a result of marriage, pregnancy and/or exigencies of childcare

B. Provisions from international instruments

Declaration of the Rights of the Child

PRINCIPLE 1

The child shall enjoy all the rights set forth in this Declaration. All children, without any exception whatsoever, shall be entitled to these rights, without distinction or discrimination on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family.

PRINCIPLE 7

The child is entitled to receive education, which shall be free and compulsory, at least in the elementary stages...

Universal Declaration of Human Rights

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

International Covenant on Economic, Social and Cultural Rights

Article 10

...
3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions.

^{1/} Submitted to the Centre for Human Rights by a letter dated 25 November 1987.

Article 13

...
 2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right (to education):

- (a) Primary education shall be compulsory and available free to all;
- (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
- (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education; ...

Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

International Covenant on Civil and Political RightsArticle 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State...

Declaration on the Elimination of Discrimination against WomenArticle 9

All appropriate measures shall be taken to ensure to girls and women, married or unmarried, equal rights with men in education at all levels, and in particular:

- (a) Equal conditions of access to, and study in, educational institutions of all types, including universities and vocational, technical and professional schools;
- (b) The same choice of curricula, the same examinations, teaching staff with qualifications of the same standard, and school premises and equipment of the same quality, whether the institutions are co-educational or not;
- (c) Equal opportunities to benefit from scholarships and other study grants; ...

Convention on the Elimination of All Forms of Discrimination
against Women

Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women; ...

Article 11

...
2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

...
(c) to encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities; ...

2. Additional paragraph (Compensation for the historical priority given to the rights of boys)

A. Proposal by the International Planned Parenthood Federation 2/

Recognising that the health risks confronting girls demand that emphasis be placed on protecting their rights comparable to the priority historically and universally awarded the rights of young males.

B. Provisions from international instruments

Declaration of the Rights of the Child

PRINCIPLE 4

He (the child) shall be entitled to grow and develop in health; to this end special care and protection shall be provided both to him and to his mother, including adequate pre-natal and post-natal care. The child shall have the right to...medical services.

International Covenant on Economic, Social and Cultural Rights

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; ...

^{2/} Submitted to the Centre for Human Rights by a letter dated 25 November 1987.

Convention on the Elimination of All Forms of Discrimination against Women

Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.
2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connexion with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

See also article 11 (b) of the Declaration on Social Progress and Development. See the ILO Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77); the ILO Medical Examination of Young Persons (Non-industrial Occupations) Convention, 1946 (No. 78); and the ILO Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124).

II. Substantive articles (not yet discussed by the Working Group)

1. Article 1. Addition of new paragraph 2 (Family responsibility in upbringing and guidance)
- A. Proposal by Four Directions Council 3/

The term "parents," where it appears in this Convention, shall include other family members who customarily share responsibility for the child's upbringing and guidance.

- B. Provisions from international instruments

Declaration of the Rights of the Child

PRINCIPLE 6

The child, for the full and harmonious development of his personality, needs love and understanding. He shall, wherever possible, grow up in the care and under the responsibility of his parents, and in any case in an atmosphere of affection and of moral and material security; a child of tender years shall not, save in exceptional circumstances, be separated from his mother. Society and the public authorities shall have the duty to extend particular care to children without a family and to those without adequate means of support. Payment of State and other assistance towards the maintenance of children of large families is desirable.

^{3/} Submitted to the Centre for Human Rights by a letter dated 26 October 1987. See also, E/CN.4/1986/NGO/1 and E/CN.4/Sub.2/1987/NGO/5.

International Covenant on Economic, Social and Cultural Rights

Article 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children...

Declaration on the Elimination of Discrimination against Women

Article 6

1. Without prejudice to the safeguarding of the unity and the harmony of the family, which remains the basic unit of any society, all appropriate measures, particularly legislative measures, shall be taken to ensure to women, married or unmarried, equal rights with men in the field of civil law, and in particular: ...

Convention on the Elimination of All Forms of Discrimination against Women

The States Parties to the present Convention, ...

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,...

Proclamation of Teheran

The International Conference on Human Rights, solemnly proclaims that: ...

16. The protection of the family and of the child remains the concern of the international community. Parents have a basic human right to determine freely and responsibly the number and the spacing of their children; ...

Declaration on Social Progress and Development

PART I

PRINCIPLES

Article 4

The family as a basic unit of society and the natural environment for the growth and well-being of all its members, particularly children and youth, should be assisted and protected so that it may fully assume its responsibilities within the community. Parents have the exclusive right to determine freely and responsibly the number and spacing of their children.

American Convention on Human Rights

Rights of the Child

Article 19

Every minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the state.

2. Article 1 bis (Prevention of discrimination, particularly on the grounds of sex)

A. Proposal by Austria and the Netherlands 4/

The States Parties to the present Convention shall not provide any discrimination, in particular on the ground of sex, in establishing the age of majority.

B. Provisions from international instruments

Universal Declaration on Human Rights

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, 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.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution...

Convention on the Elimination of All Forms of Discrimination against Women

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: ...

Article 15

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals...

Convention on the Consent to Marriage, Minimum Age for Marriage and Registration of Marriages

Article 2

States parties to the present Convention shall take legislative action to specify a minimum age for marriage. No marriage shall be legally entered into by any person under this age, except where a competent authority has granted a dispensation as to age, for serious reasons, in the interest of the intending spouses.

4/ See E/CN.4/1987/25 (annex).

3. Article 7 (Freedom of expression and due account of views)A. Proposal by the Informal NGO Group 5/

1. The States Parties to the present Convention shall assure to the child who is capable of forming his or her own views the right to express an opinion freely in all matters. The wishes of the child shall be given due weight in accordance with his or her age and maturity.

2. Every child shall have the right to seek, receive and impart information and ideas, either orally, in writing, in art form or in any other media of the child's choice.

B. Provisions from international instrumentsUniversal Declaration on Human RightsArticle 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

International Covenant on Civil and Political RightsArticle 19

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

See also European Convention on Human Rights, article 10; African Charter on Human and Peoples' Rights, article 9; American Convention on Human Rights, article 13.

5/ Submitted to the Centre for Human Rights by a letter dated 3 November 1987.

4. Article 7 ter (Freedom of association and of peaceful assembly)Proposal by the Informal NGO Group 6/

For the text, see under Part B entitled "Substantive articles (discussed by the Working Group and pending further consideration by the group)".

5. Article 7 quater (Protection of privacy)A. Proposal by the Informal NGO Group 7/

Every child has the right to respect for his or her privacy, family, home and correspondence.

B. Provisions from international instrumentsUniversal Declaration of Human RightsArticle 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

International Covenant on Civil and Political RightsArticle 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

See also the American Convention on Human Rights, article 11, and the European Convention on Human Rights, article 8.

6. Article 12 bis (Standard of health and access to facilities)A. Proposals1. Proposal by the International Planned Parenthood Federation 8/

Add to article 12 bis, paragraph 2 a, the following:

(diminish infant and child mortality...) "and adolescent childbearing".

2. Proposal by the Informal NGO Group 9/

Present paragraph 4 becomes paragraph 6.

New paragraph 4 to read:

4. The States Parties to the present Convention shall ensure that no child be subject to any medical or scientific investigation, experimentation or treatment unless it is necessary for the physical and psychological health of the child. The free and fully-informed consent of the child shall be obtained or, when this is inappropriate, that of the parents.

New paragraph 5 to read:

5. The States Parties to the present Convention shall take all necessary measures to prohibit the marketing and distribution of chemical, pharmaceutical, nutritional and other substances and products which are likely to be consumed or used by children and which are harmful to their health.

6/ 7/ 9/ Submitted to the Centre for Human Rights by a letter dated 3 November 1987.

8/ Submitted to the Centre for Human Rights by a letter dated 25 November 1987.

B. Provisions from international instruments

International Covenant on Civil and Political Rights

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

7. Article 14. Addition of new paragraph 4 (Responsibility for support)

A. Proposals

1. Proposal by Finland 10/

The States Parties to the present Convention undertake to ensure the effective recovery of maintenance from abroad to the child. To this end, States Parties shall promote the conclusion of multilateral or bilateral agreements and the making of any other arrangements relating to the recovery of maintenance.

2. Proposal by the Informal NGO Group 11/

The States Parties to the present Convention recognize that the responsibilities of the parents or legal guardians, including that of providing appropriate support to the child, continue even when the child is living apart from them, unless a decision to the contrary has been made by a competent body.

8. Article 16 (Objectives of education)

A. Proposal by the Union of Soviet Socialist Republics for a new subparagraph (e) to paragraph 1 12/

education in the spirit of the inadmissibility of propaganda of war and of any advocacy of national or racial hatred that constitutes incitement to discrimination, hostility or violence;

E. Provisions from international instruments

Universal Declaration of Human Rights

Article 26

...

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

Declaration of the Rights of the Child

PRINCIPLE 7

He shall be given an education which will promote his general culture, and enable him on a basis of equal opportunity to develop his abilities, his individual judgement, and his sense of moral and social responsibility, and to become a useful member of society.

10/ See E/CN.4/1987/25 (annex).

11/ Submitted to the Centre for Human Rights by a letter dated 30 October 1986.

12/ See E/CN.4/1987/25 (annex).

PRINCIPLE 10

He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood and in full consciousness that his energy and talents should be devoted to the service of his fellow men.

Declaration on the Promotion among Youth of the Ideals of Peace, Mutual Respect and Understanding between Peoples

PRINCIPLE I

Young people shall be brought up in the spirit of peace, justice, freedom, mutual respect and understanding in order to promote equal rights for all human beings and all nations, economic and social progress, disarmament and the maintenance of international peace and security.

Declaration on Social Progress and Development

PART II

OBJECTIVES

Article 11

...

(d) The education of youth in, and promotion among them of, ideals of justice and peace, mutual respect and understanding among peoples; ...

9. Article 21 quater (Interpretation of the term "parents")

A. Proposal by the Informal NGO Group 13/

In this Convention, the term "parents" shall be interpreted to include, where appropriate, other family members or guardians who have de facto responsibility for the care and upbringing of the child.

B. Provisions from international instruments

See above under Article 1 (addition of new paragraph 2).

10. New unnumbered article (Rehabilitation of exploited children)

A. Proposals

1. Proposal by Norway 14/

The States Parties to the present Convention shall take all appropriate measures to facilitate the physical, psychological and social rehabilitation of children who have been victims of exploitation or abuse of any kind.

2. Proposal by the Informal NGO Group 15/

The States Parties to the present Convention shall take all appropriate legal, administrative and other measures to ensure the physical, psychological and social rehabilitation of any child victim of: exploitation and abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; armed conflicts, internal disturbances and natural disasters. Such rehabilitation shall take place in an environment which fosters the self-respect and dignity of the child.

13/ Submitted to the Centre for Human Rights by a letter dated 3 November 1987.

14/ See E/CN.4/1987/25, para. 157.

15/ Submitted to the Centre for Human Rights by a letter dated 3 November 1987.

B. Provisions from international instrumentsConvention against Torture and Other Cruel, Inhuman or Degrading Treatment or PunishmentArticle 14

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.
2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

Declaration of the Rights of the Child

PRINCIPLE 5

The child who is physically, mentally or socially handicapped shall be given the special treatment, education and care required by his particular condition.

Declaration on Social Progress and Development

PART III

MEANS AND METHODS

...

The achievement of the objectives of social progress and development equally requires the implementation of the following means and methods:

...

Article 19

...

(d) The institution of appropriate measures for the rehabilitation of mentally or physically disabled persons, especially children and youth, so as to enable them to the fullest possible extent to be useful members of society...

III. Substantive articles (discussed by the Working Group and pending further consideration by the group)11. Article 5 bis (Rights and responsibilities of parents or legal guardians)

See Report of the Working Group on its 1987 session, E/CN.4/1987/25, paragraphs 100-110. After the discussion, the Chairman requested that a new proposal for an article 5 bis be prepared. 16/

12. Article 7 ter (Freedom of association and peaceful assembly)

After a discussion of a draft article on this matter (E/CN.4/1987/25, paragraphs 111-118), the delegation of the United States of America stated that it would resubmit article 7 ter for consideration at its 1988 session. 17/

16/ See E/CN.4/1987/25, para. 110.

17/ Ibid., para. 118.

A. Proposal by the Informal NGO Group 18/

1. States Parties to the present Convention recognise the rights of the child to freedom of association and freedom of peaceful assembly.
2. The exercise of these rights shall be subject only to those restrictions which are provided by law and which are necessary in a democratic society in the interests of national security, public order ("ordre public"), the protection of public health and morals or the protection of the rights and freedoms of others.

B. Provisions from international instrumentsUniversal Declaration of Human RightsArticle 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

International Covenant on Civil and Political RightsArticle 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice the guarantees provided for in that Convention.

Reference may also be made to the provisions of the African Charter on Human and Peoples' Rights (article 11), the American Convention on Human Rights (article 15), and the European Convention on Human Rights (article 11).

13. Article 21. Addition of a new paragraph 2 (Effect on rights recognized elsewhere)A. Proposal by Finland 19/

Nothing in the present Convention may be interpreted as implying for any State Party to the present Convention any right to impose any restriction upon or derogation from any of the fundamental human rights recognized or existing in that State Party by virtue of law, conventions, treaties, agreements, regulations or customs on the pretext that the present Convention does not recognize such rights or that it recognizes them to a lesser extent.

18/ Submitted to the Centre for Human Rights by a letter dated 3 November 1987.

19/ See E/CN.4/1987/25, paras. 130 and 131.

B. Provisions from international instruments

Convention on the Elimination of All Forms of Discrimination against Women:
Article 23

Nothing in the present Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

- (a) In the legislation of a State Party; or
- (b) In any other international convention, treaty or agreement in force for that State.

American Convention on Human Rights: Article 29

No provision of this Convention shall be interpreted as:

- (a) permitting any State Party, group, or person to suppress the enjoyment or exercise of the rights and freedoms recognized in this Convention or to restrict them to a greater extent than is provided for herein;
- (b) restricting the enjoyment or exercise of any right or freedom recognized by virtue of the laws of any State Party or by virtue of another convention to which one of the said States is a party;
- (c) precluding other rights or guarantees that are inherent in the human personality or derived from representative democracy as a form of government; or
- (d) excluding or limiting the effect that the American Declaration of the Rights and Duties of Man and other international acts of the same nature may have.

14. Article 21 bis (Aliens)

A. Proposal

The representative of the United Kingdom stated that, together with the delegations of the United States and the Netherlands, they would be submitting to the 1988 session of the Working Group a revised proposal for article 21 bis. 20/

B. Provisions from international instruments

Declaration on the Human Rights of Individuals who are not Nationals of the Country in which They Live: Article 2

1. Nothing in this Declaration shall be interpreted as legitimizing any alien's illegal entry into and presence in a State, nor shall any provision be interpreted as restricting the right of any State to promulgate laws and regulations concerning the entry of aliens and the terms and conditions of their stay or to establish differences between nationals and aliens. However, such laws and regulations shall not be incompatible with the international legal obligations of that State, including those in the field of human rights.

2. This Declaration shall not prejudice the enjoyment of the rights accorded by domestic law and of the rights which under international law a State is obliged to accord to aliens, even where the present Declaration does not recognize such rights or recognizes them to a lesser extent.

20/ See E/CN.4/1987/25, para. 138.

IV. Other proposals15. Article 20 (Armed conflicts)A. Proposals1. Proposal by the International Committee of the Red Cross 21/

1. The States Parties to the present Convention undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2. States Parties to the present Convention shall take all necessary measures in order that children who have not attained the age of fifteen years do not take part in hostilities and, in particular, they shall refrain from recruiting them into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, the States Parties to the present Convention shall endeavour to give priority to those who are oldest.

3. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States parties to this Convention shall take all necessary measures to ensure protection and care of children who are affected by an armed conflict.

2. Proposal by the Informal NGO Group 22/

1. States Parties to the present Convention undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2. States Parties to the present Convention shall take all necessary measures to ensure that no child takes part in hostilities and they shall refrain from recruiting any child into their armed forces.

3. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties to the present Convention shall take all necessary measures to ensure protection and care of children who are affected by an armed conflict.

B. Provisions from international instruments

Declaration on the Protection of Women and Children in Emergency and Armed Conflict
(14 December 1974)

The General Assembly,

...

Solemnly proclaims this Declaration on the Protection of Women and Children in Emergency and Armed Conflict and calls for the strict observance of the Declaration by all Member States;

1. Attacks and bombings on the civilian population, inflicting incalculable suffering, especially on women and children, who are the most vulnerable members of the population, shall be prohibited, and such acts shall be condemned.

2. The use of chemical and bacteriological weapons in the course of military operations constitutes one of the most flagrant violations of the Geneva Protocol of 1925, the Geneva Conventions of 1949 and the principles of international humanitarian law and inflicts heavy losses on civilian populations, including defenceless women and children, and shall be severely condemned.

^{21/} Submitted to the Centre for Human Rights by a letter dated 30 October 1987.

^{22/} Submitted to the Centre for Human Rights by a letter dated 3 November 1987.

3. All States shall abide fully by their obligations under the Geneva Protocol of 1925 and the Geneva Conventions of 1949, as well as other instruments of international law relative to respect for human rights in armed conflicts, which offer important guarantees for the protection of women and children.

...
Resolution IX adopted by the twenty-fifth International Conference of the
Red Cross
 (23-31 October 1986)

Protection of children in armed conflicts

The Twenty-fifth International Conference of the Red Cross,
 ...

2. Recalls that, in accordance with Article 77 of Additional Protocol 1 to the Geneva Conventions, "the Parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, the Parties to the conflict shall endeavour to give priority to those who are oldest",

3. Recalls also that, according to the Geneva Conventions and the two Additional Protocols, children under the age of 15 years who have taken direct part in hostilities and fall into the power of an adverse Party continue to benefit from special protection, whether or not they are prisoners of war,
 ...

5. Recommends that, according to the Geneva Conventions and the two Additional Protocols, all necessary measures be taken to preserve the unity of the family and to facilitate the reuniting of families,

6. Invites governments and the Movement to do their utmost to ensure that children who have taken part, directly or indirectly, in hostilities are systematically rehabilitated to normal life,

7. Expresses its support for the work of the United Nations Commission on Human Rights regarding the drafting of a Convention on the Rights of the Child and stresses that the protection accorded by the new Convention should be at least the same as that accorded by the Geneva Conventions and the two Additional Protocols.

Resolution XX adopted by the twenty-fifth International Conference of the
Red Cross
 (23-31 October 1986)

Assistance to children in emergency situations

The Twenty-fifth International Conference of the Red Cross,
 ...

1. Urges governments, National Societies, the League, the ICRC and other relief agencies especially to take care of children when emergency situations occur, and to protect them from all forms of physical and mental injury or abuse,

2. Urges governments, National Societies, the League, the ICRC and other relief agencies to take appropriate measures to combat the illicit international transfer and non-return of children,

3. Urges governments, National Societies, the League, the ICRC and other relief agencies to take appropriate measures to identify unaccompanied minors as soon as possible, establish and maintain an individual file and ensure that tracing efforts are made with a view to family reuniting.

4. Recommends governments and National Societies to take appropriate steps for the successful rehabilitation of children who have been victims of emergencies,

...

Protocols additional to the Geneva Conventions of 12 August 1949

Protocol I (10 June 1977)

Article 77

Protection of children

(1) Children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason.

(2) The Parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, the Parties to the conflict shall endeavour to give priority to those who are oldest.

...

Protocol II (10 June 1977)

Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of non-Governmental armed conflicts

Article 4

Fundamental guarantees

...

(3) Children shall be provided with the care and aid they require, and in particular:

(a) they shall receive an education, including religious and moral education, in keeping with the wishes of their parents, or in the absence of parents, of those responsible for their care;

(b) all appropriate steps shall be taken to facilitate the reunion of families temporarily separated;

(c) children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities;

(d) the special protection provided by this Article to children who have not attained the age of fifteen years shall remain applicable to them if they take a direct part in hostilities despite the provisions of subparagraph (c) and are captured;

(e) measures shall be taken, if necessary, and whenever possible with the consent of their parents or persons who by law or custom are primarily responsible for their care, to remove children temporarily from the area in which hostilities are taking place to a safer area within the country and ensure that they are accompanied by persons responsible for their safety and

V. Implementation provisions (Articles 22 and 23)A. Proposals16. Article 22(a) Proposal by Canada, Poland and Sweden 23/

1. For the purpose of [monitoring the implementation of the provisions of the present Convention] [examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention] there shall be established a Committee on the Rights of the Child (hereinafter referred to as The Committee).

2. The Committee shall consist of [10-12-15] experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by the States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of the States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. The term of [] of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these [] members shall be chosen by lot by the Chairman of the meeting.

23/ See E/CN.4/1987/25, para. 155.

7. If a member of the Committee dies or resigns or for any other cause can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

11. [With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from the United Nations resources on such terms and conditions as the Assembly may decide.] or

[States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.]

On the issue of financing the implementation of the Convention, the delegation of the United States proposed the following text, as an alternative to the provisions on funding set forth in the above-mentioned proposed article 22 24:

[12. The States Parties shall be responsible for expenses incurred in connection with the holding of meetings of the States Parties and of the Committee, including reimbursement to the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 10 of this Article.]

(b) Proposal by the Informal NGO Group 25

1. For the purpose of monitoring the implementation of the provisions of the present Convention and the progress made by States Parties in achieving the realization of the obligations undertaken, there shall be established a Committee on the Rights of the Child, hereinafter referred to as the Committee.

...

6. The members of the Committee shall be elected for a term of six years. The term of one third of the members elected at the first election shall expire at the end of two years, due account being taken of maintaining equitable geographical distribution within the membership; immediately after the first election, the names of these [] members shall be chosen by lot by the Chairman of the meeting.

...

11. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from the United Nations resources on such terms and conditions as the Assembly may decide.

24/ See E/CN.4/1987/25, para. 156.

25/ Submitted to the Centre for Human Rights by a letter dated 3 November 1987.

17. Article 23(a) Proposal by Canada, Poland and Sweden 26/

1. States Parties to the present Convention undertake to submit to the [Committee, through the Secretary-General of the United Nations] [Secretary-General of the United Nations, for consideration by the Committee,] reports [on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights] [on the compliance with their obligations under the present Convention] [including information about the competent national body or bodies responsible for the implementation of those rights] [and assistance they may require from the international community]:

(a) within two years of the entry into force of the Convention for the States Parties concerned

[(b) thereafter every five years [or at such longer intervals as the Committee may decide]]

[(b) thereafter, after having submitted an initial report, covering all their substantive obligations under the Convention, every four years or at such longer intervals as the Committee may decide. Such reports shall be submitted in stages to be established by the Committee within nine months after the entry into force of the Convention.]

The Committee may request further information from States Parties [and shall prepare such observations as it may deem appropriate for transmission to the States Parties concerned].

2. Reports made under this article [may] [shall] indicate factors and difficulties [if any] affecting the degree of fulfilment of the obligations under the present Convention [and shall make reference to the measures being taken to extend the rights covered by the Convention to the most disadvantaged children].

3. [Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Convention, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.]

[4. The Committee may decide that a State Party, which has completed a full reporting cycle covering all its substantive obligations under the Convention may limit its further reporting to changes (legal, administrative and in practice) affecting its obligations, [and] to [such] questions relating to the obligations of the State Party concerned, which may have been indicated by the Committee [and to continuing factors and difficulties, if any, affecting implementation of the Convention].

26/ See E/CN.4/1987/25, para. 155.

5. The Committee may invite the specialized agencies of the United Nations to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities.

6. The Committee may make arrangements with the specialized agencies of the United Nations and with non-governmental organizations in consultative status with the Economic and Social Council in order to receive their views on the implementation of the Convention in areas falling within the scope of their respective activities.

7. The specialized agencies of the United Nations and other international organizations may submit reports to the Committee on the implementation of the present Convention in areas falling within the scope of their activities.

8. States Parties may submit to the Committee their own comments to any observations concerning them by the Committee or by agencies or non-governmental organizations mentioned in paragraph [].

9. Reports on the activities of the Committee shall be submitted to the General Assembly [annually] [biennially]. They shall include any observations made under paragraphs [] and 6 and any comments under paragraph [].

10. The States Parties shall keep their reports widely available to the public.

[11. The Committee may, when it considers it appropriate, initiate a study on specific issues relating to one or more articles of the Convention and their implementation.]

12. At the request of a State Party, the Committee shall, if it considers it appropriate, appoint an individual, group or body to assist the State Party in resolving, through inquiry and/or action, a concern expressed by that State Party regarding implementation, within its territory, of one or more provisions of this Convention.]"

(b) Proposal by the Informal NGO Group 27/

1. States Parties to the present Convention undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, reports on the compliance with their obligations under the present Convention, including information about the competent national body or bodies responsible for the implementation of those rights and assistance they may require from the international community:

...
 (b) thereafter, after having submitted an initial report covering all their substantive obligations under the Convention, every four years or at such intervals as the Committee may decide. Such reports shall be submitted in stages to be established by the Committee within nine months after the entry into force of the Convention.

The Committee may request further information from States Parties and shall prepare such observations as it may deem appropriate for transmission to the States Parties concerned.

27/ Submitted to the Centre for Human Rights by a letter dated 3 November 1987.

2. Reports made under this article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention, and shall make reference to the situation of the most disadvantaged children and to measures being taken to guarantee to them the rights contained in this Convention.

3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Convention, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

4. The Committee may decide that a State Party which has completed a full reporting cycle covering all its substantive obligations under the Convention may limit its further reporting to legal and administrative changes and changes in practice affecting its obligations, and to such questions relating to the obligations of the State Party concerned which may have been indicated by the Committee, as well as to continuing factors and difficulties, if any, affecting implementation of the Convention.

...

9. Reports on the activities of the Committee shall be submitted to the General Assembly annually. They shall include any observations made under paragraphs [] and 6 and any comments under paragraph [].

...

11. The Committee may, when it considers it appropriate, initiate a study on specific issues relating to one or more articles of the Convention and their implementation.

12. At the request of a State Party, the Committee shall, if it considers it appropriate, appoint an individual, group or body to assist the State Party in resolving, through inquiry and/or action, a concern expressed by that State Party regarding implementation, within its territory, of one or more provisions of this Convention.

13. In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by this Convention, the Committee shall transmit to the United Nations Children's Fund (UNICEF), as the designated lead agency on children, and to other concerned specialised agencies and organs of the United Nations as appropriate, the reports of the States Parties, drawing UNICEF's attention to requests for technical assistance, as well as the Committee's suggestions, recommendations and general comments on States Parties' reports along with States Parties' observations.

14. UNICEF shall collaborate with the specialized agencies and organs of the United Nations and, as appropriate, non-governmental organizations in carrying out programmes of action to further the implementation of the rights guaranteed by the Convention, in response to the requests for assistance submitted by States.

15. The States Parties to the present Convention agree that international action for the achievement of the rights recognized in the present Convention includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

16. Nothing in the present Convention shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Convention.

B. Implementation provisions of selected international instruments

1. International Covenant on Economic, Social and Cultural Rights

(a) Provisions of the Covenant

Article 16

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.

2. (a) All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant;

(b) The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts therefrom, from States Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts therefrom, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

Article 17

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant.

3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

Article 18

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

Article 19

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18.

Article 20

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

Article 21

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

Article 22

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

Article 23

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

(b) Provisions of Economic and Social Council
resolution 1985/17

The Economic and Social Council,

...

Decides that:

(a) The Working Group established by Economic and Social Council decision 1978/10 and modified by Council decision 1981/158 and resolution 1982/33 shall be renamed "Committee on Economic, Social and Cultural Rights" (hereinafter referred to as "the Committee");

(b) The Committee shall have 18 members who shall be experts with recognized competence in the field of human rights, serving in their personal capacity, due consideration being given to equitable geographical distribution and to the representation of different forms of social and legal systems; to this end, 15 seats will be equally distributed among the regional groups, while the additional three seats will be allocated in accordance with the increase in the total number of States parties per regional group;

(c) The members of the Committee shall be elected by the Council by secret ballot from a list of persons nominated by States parties to the International Covenant on Economic, Social and Cultural Rights under the following conditions:

- (i) The members of the Committee shall be elected for a term of four years and shall be eligible for re-election at the end of their term, if renominated;
- (ii) One half of the membership of the Committee shall be renewed every second year, bearing in mind the need to maintain the equitable geographical distribution mentioned in subparagraph (b) above;
- (iii) The first elections shall take place during the first regular session of 1986 of the Council; immediately after the first elections, the President of the Council shall choose by lot the names of nine members whose term shall expire at the end of two years;
- (iv) The terms of office of members elected to the Committee shall begin on 1 January following their election and expire on 31 December following the election of members that are to succeed them as members of the Committee;
- (v) Subsequent elections shall take place every second year during the first regular session of the Council;

- (vi) At least four months before the date of each election to the Committee the Secretary-General shall address a written invitation to the States parties to the Covenant to submit their nominations for membership of the Committee within three months; the Secretary-General shall prepare a list of the persons thus nominated, with an indication of the States parties which have nominated them, and shall submit it to the Council no later than one month before the date of each election;
- (d) The Committee shall meet annually for a period of up to three weeks, taking into account the number of reports to be examined by the Committee, with the venue alternating between Geneva and New York;
- (e) The members of the Committee shall receive travel and subsistence expenses from United Nations resources;
- (f) The Committee shall submit to the Council a report on its activities, including a summary of its consideration of the reports submitted by States parties to the Covenant, and shall make suggestions and recommendations of a general nature on the basis of its consideration of those reports and of the reports submitted by the specialized agencies, in order to assist the Council to fulfil, in particular, its responsibilities under articles 21 and 22 of the Covenant;
- (g) The Secretary-General shall provide the Committee with summary records of its proceedings, which shall be made available to the Council at the same time as the report of the Committee; the Secretary-General shall further provide the Committee with the necessary staff and facilities for the effective performance of its functions, bearing in mind the need to give adequate publicity to its work;
- (h) The procedures and methods of work established by Council resolution 1979/43 and the other resolutions and decisions referred to in the preamble to the present resolution shall remain in force insofar as they are not superseded or modified by the present resolution;
- (i) The Council shall review the composition, organization and administrative arrangements of the Committee at its first regular session of 1990, and subsequently every five years, taking into account the principle of equitable geographical distribution of its membership.

2. International Covenant on Civil and Political Rights

Article 40

1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights:

(a) Within one year of the entry into force of the present Covenant for the States Parties concerned;

(b) Thereafter whenever the Committee so requests.

2. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.

3. The Secretary-General of the United Nations may, after consultation with the Committee, transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.

4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.

5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

Article 45

The Committee shall submit to the General Assembly of the United Nations, through the Economic and Social Council, an annual report on its activities.

3. International Convention on the Elimination of All
Forms of Racial Discrimination

Article 9

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of this Convention: (a) within one year after the entry into force of the Convention for the State concerned, and (b) thereafter every two years and whenever the Committee so requests. The Committee may request further information from the States Parties.

2. The Committee shall report annually, through the Secretary-General, to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States Parties. Such suggestions and general recommendations shall be reported to the General Assembly together with comments, if any, from States Parties.

4. Convention on the Elimination of All Forms of
Discrimination against Women

Article 18

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:

(a) Within one year after the entry into force for the State concerned;

(b) Thereafter at least every four years and further whenever the Committee so requests.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

Article 20

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.

2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee.

Article 21

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

2. The Secretary-General of the United Nations shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

Article 22

The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

5. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Article 19

1. The States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.

2. The Secretary-General of the United Nations shall transmit the reports to all States Parties.

3. Each report shall be considered by the Committee which may make such general comments on the report as it may consider appropriate and shall forward these to the State Party concerned. That State Party may respond with any observations it chooses to the Committee.

4. The Committee may, at its discretion, decide to include any comments made by it in accordance with paragraph 3 of this article, together with the observations thereon received from the State Party concerned, in its annual report made in accordance with article 24. If so requested by the State Party concerned, the Committee may also include a copy of the report submitted under paragraph 1 of this article.

Article 24

The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.

VI. Final clauses

A. Proposals

18. Articles 24 to 29. Proposals by Poland 28/ Article 24

The present Convention shall be open for signature by all States.

Article 25

The present Convention shall be subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 26

The present Convention shall remain open for accession by any State. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 27

1. The present Convention shall enter into force six months after the date of deposit of the fifteenth instrument of ratification or accession.

2. For each State ratifying or acceding to the present Convention after the deposit of the fifteenth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 28

As depositary of the present Convention, the Secretary-General of the United Nations shall inform all States of:

- (a) Signatures, ratifications and accessions under articles 24, 25 and 26;
- (b) The date of the entry into force of the present Convention under article 27.

6. Article 29

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

B. Comments by the Office of Legal Affairs on the draft final clauses (articles 24 to 29) ^{29/}

1. Article 24

(i) Some recent conventions have also included the phrase "by all States and Namibia, represented by the United Nations Council for Namibia".

(ii) The designation of a time frame and place for signature is advisable, e.g.:

"This Convention will remain open for signature until /date/ at United Nations Headquarters in New York."

2. Article 25

(i) "The present Convention is subject to ratification /acceptance or approval / by the signatories."

The rest of the article is not needed (see below).

3. Article 26

"The present Convention is open at any time to accession by all States."

4. Article 27 (2)

As presently worded, the provision is impractical. Assuming a sixteenth State would deposit its instrument the day after the deposit of the fifteenth one, how could the Convention enter into force for that State 30 days later, while the Convention would only enter into force for the fifteen first States six months later... Furthermore, the situation would continue for five more months.

If the provision of 27 (1) is to be maintained, then 27 (2) should be reworded and that part of the phrase that reads "after the deposit of the fifteenth instrument of ratification or accession" would have to be replaced by:

"after the entry into force of the Convention".

Alternatively the time frame for entry into force could be made identical for paras. (1) and (2).

5. Article 28

It would be sufficient to include an article (preferably prior to article 25) designating the Secretary-General as depositary as follows:

"The Secretary-General of the United Nations is designated as depositary of the present Convention."

Since the practice of the Secretary-General as depositary of international agreements generally conforms to the established custom reflected in article 77 of the Vienna Convention on the Law of Treaties, it is not necessary to specify the traditional functions of the depositary, here or in article 29.

^{29/} Submitted by the Office of Legal Affairs at the request of the Centre for Human Rights.

General observations

The absence of any provisions relating to the procedure for amendment, submission of reservations, settlement of disputes or denunciations is noted. Should you wish to include these we would be happy to provide assistance. (See, for example, provisions in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.)

19. Article 30. Proposal by Sweden 30/Article 30

1. Reservations shall not be permitted except to Article [1, 2, 5, 9, 11, 12, 12 bis, 13, 14, 15, 16, and 17.] Such reservations must not be incompatible with the object and purpose of this Convention.
2. No reservation to a provision of this Convention shall affect any obligation undertaken in another international treaty in effect for the concerned State Party.

30/ See E/CN.4/1987/25 (Annex).

C. Final clauses from selected international instruments

(a) International Covenant on Economic, Social and Cultural Rights

Article 26

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 27

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 28

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 29

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 30

Irrespective of the notifications made under article 26, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

(a) Signatures, ratifications and accessions under article 26;

(b) The date of the entry into force of the present Covenant under article 27 and the date of the entry into force of any amendments under article 29.

Article 31

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 26.

(b) International Convention on the Elimination of All
Forms of Discrimination against Women

Article 25

1. The present Convention shall be open for signature by all States.
2. The Secretary-General of the United Nations is designated as the depositary of the present Convention.
3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 26

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 27

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 29

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 30

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed the present Convention.

(c) Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Article 25

1. This Convention is open for signature by all States.
2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 26

This Convention is open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 27

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying this Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not recognize the competence of the Committee provided for in article 20.
2. Any State Party having made a reservation in accordance with paragraph 1 of this article may, at any time, withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 29

1. Any State Party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted by the Secretary-General to all the States Parties for acceptance.

2. An amendment adopted in accordance with paragraph 1 of this article shall enter into force when two thirds of the States Parties to this Convention have notified the Secretary-General of the United Nations that they have accepted it in accordance with their respective constitutional processes.

3. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendments which they have accepted.

Article 30

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party having made such a reservation.

3. Any State Party having made a reservation in accordance with paragraph 2 of this article may at any time withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 31

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under this Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

3. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

Article 32

The Secretary-General of the United Nations shall inform all States Members of the United Nations and all States which have signed this Convention or acceded to it of the following:

(a) Signatures, ratifications and accessions under articles 25 and 26;

(b) The date of entry into force of this Convention under article 27 and the date of the entry into force of any amendments under article 29;

(c) Denunciations under article 31.

Article 33

1. This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States.