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Draft report of the Open-ended Working Group on a
draft Convention on the rights of the child

Chairman-Rapporteur: Mr. Adam Lopatka (Poland)

Corrigendum

Paragraph 83: Replace the paragraph by the following:

83. The representative of Venezuela submitted document E/CN.4/1989/WG.1/WP.10 which reads as follows:

Article 1 and 1 bis

Merge the present article 1 with article 1 bis to form a single article 1 reading:

- "1. For the purposes of the present Convention, 'child' means every human being up to the age of 18 years unless, under the law of his State he has attained the age of majority earlier.
2. The States Parties to the present Convention recognize that every child has the inherent right to life.
3. States Parties shall ensure to the maximum extent possible the healthy growth and development of the child."

Paragraph 315: Insert the following paragraph before paragraph 315:

The representative of Venezuela proposed the following paragraph (E/CN.4/1989/WG.1/WP/40):

"Any problem in which a child is involved shall be of a CONFIDENTIAL NATURE, for the fundamental purpose of sparing the child publicity which might be harmful in his or her future contacts with society, so that the child's full social and individual development may become a reality."

The Chairman established a drafting group composed of representatives of countries which had introduced proposals: Venezuela, Turkey, United States of America and Yugoslavia.

Paragraph 333: Delete the reference to Venezuela in the first sentence.

Paragraph 341: Replace the paragraph by the following:

341. "The representative of Venezuela proposed the insertion of the following words, after inter alia: 'daily care, foster placement in its various forms, suitable institutions for the care of children, Kafala and adoption'. She stated that she was making this proposal in the light of the logical order of measures to be taken for the different degrees of family deprivation: starting with measures for children temporarily deprived of their family and ending with Kafala and adoption, for children permanently and lawfully deprived of their family environment."

Paragraph 343: Delete the reference to Venezuela in the first sentence.

Paragraph 350: Insert the following at the end of the first sentence:

"It would appear that this paragraph confuses two legal institutions, foster placement and adoption".

Paragraph 404: Insert the following new paragraph before paragraph 404.

Venezuela submitted a proposal contained in document E/CN.4/1989/WG.1/WP.21 which reads as follows:

- "1. The States Parties recognize the right of the child to the enjoyment of the highest standard of health and medical care and to the best rehabilitation facilities. The States Parties shall ensure that no child is deprived of his right of access to such health care services.
2. The States Parties shall pursue full implementation of this right and in particular shall take appropriate measures:
 - (a) To diminish infant and child mortality;
 - (b) To ensure the necessary provision of medical assistance and health care to all children with emphasis on the development of primary health care;
 - (c) To combat disease and malnutrition including within the framework of primary health care, through inter alia the application of readily available technology and through the provision of adequate nutritious foods and clean drinking water, taking into consideration the dangers and risks of environmental pollution;
 - (d) To ensure appropriate health care for expectant mothers;
 - (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are able to make use of basic knowledge of child health and nutrition, the advantages of breast-feeding, hygiene and environmental sanitation and the prevention of accidents;
 - (f) To develop preventive health care, guidance for parents and family planning.
3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties shall ensure that a child shall not be subject to any medical or scientific experimentation or treatment unless it is with the free and informed consent of the child or where appropriate that of the child's parents. In any case, such experimentation or treatment shall not be adverse for the child and shall not affect his health in the future.
5. States Parties undertake to promote and encourage international co-operation with a view to achieving the full realization of the right recognized in this article. In this regard, particular account shall be taken of the needs of developing countries."

Paragraph 404: The first sentence should read:

404. "The Chairman appointed a drafting group composed of Australia, Mexico, the Philippines and Venezuela which submitted a proposal (E/CN.4/1989/WG.1/WP.64) reading as follows:"

Paragraph 450: Insert the following new paragraph before paragraph 450:

Venezuela submitted the proposal contained in document
E/CN.4/1989/WG.1/WP.22 which reads as follows:

- "1. The States Parties to the present Convention recognize the right of the child to education and, with a view to achieving the full realization of this right on the basis of equal opportunity, they shall, in particular:
 - (a) Introduce free and compulsory primary education as early as possible, as well as overall care for the child of pre-school age;
 - (b) Encourage the development of different forms of secondary education systems, general as well as vocational and technical; make them available and accessible to all children; and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
 - (c) Make higher education equally accessible to all on the basis of capacity by every appropriate means; and
 - (d) Inform and provide vocational guidance to the child.
2. States Parties shall take all appropriate measures to ensure that school discipline is maintained in a manner reflective of the child's human dignity."

Paragraph 451: Replace the first sentence by the following text:

451. "The Chairman established a drafting group composed of Canada, Colombia, Italy, Norway, Yugoslavia, International Labour Organisation (ILO), UNESCO and non-governmental organizations which submitted to the Group the following proposal (E/CN.4/1989/WG.1/WP.61)."

Paragraph 493: Replace the paragraph by the following text:

493. "Venezuela requested the deletion of this article and explained that its purpose was unquestionably to include such a provision in order to ensure as far as possible that children belonging to these minorities were guaranteed the rights stipulated therein. However, Venezuela believed that the fact of having a separate and special provision concerning 'the minorities' implied that the children who belong to them are different from the other children of the world, particularly since article 4 of the draft contains the basic rules to enable States to respect and apply the rights established in the Convention, without any kind of distinction. Quite simply this provision is considered to be discriminatory."

Paragraph 526: Insert the following new paragraph before paragraph 526:

The Working Group also had before it the proposal of Venezuela contained in document E/CN.4/1988/WG.1/WP.11 which reads as follows:

Article 19

- "1. The States Parties to the present Convention recognized the right of minors recognized as having infringed the law to be treated in a manner which is consistent with the sense of dignity and worth and with intensifying their respect for the human rights and fundamental freedoms of others and which takes into account their age and the desirability of promoting their rehabilitation.
2. To this end, and having regard to the relevant provisions of international instruments, the States Parties to the present Convention shall, in particular, ensure that:
 - (a) No child is detained or imprisoned or subjected to torture or cruel, inhuman or degrading treatment or punishment;
 - (b) Every child is protected by laws, provisions and special courts.
 - (c) He is not considered guilty so that he does not suffer penalties for the breaches of the law he commits, but must in such cases be subjected to re-educational procedures, measures and treatment;

- (d) All the judicial or administrative proceedings or acts or proceedings or acts of any other nature having to do with minors are free of charge;
 - (e) He is not deprived of his liberty without the accomplishment of the legal formalities.
3. Offending children who commit any act punishable by criminal law shall be placed at the disposal of the competent authority, which shall take measures that include:
- (a) Investigating the child's situation;
 - (b) Ensuring that the measures are carried out within the family environment or within the community of which the child is a member;
 - (c) Placing the child under the care of its parents, tutors, guardians or responsible relatives; probation and aid in institutions for reform and care."

It also had before it the proposals of Venezuela contained in document E/CN.4/1988/WG.1/WP.49 which read as follows:

Article 19 bis

"The States Parties shall ensure appropriate monitoring of children who have been subjected to a measure restricting their liberty such as supervised freedom, family placement, committal to open or closed institutions or other, until they are duly reintegrated in their family and community."

Article 19 ter

"The States Parties to the present Convention shall ensure that it is prohibited to publish, by press, radio, television or any other medium, names, photographs and other means of identifying persons under 18 years of age who are in the circumstances described in articles 10 and 18."

Paragraph 526: Replace the first sentence by the following:

526. "After a general debate in which it became obvious that there was a total lack of consensus, the Chairman appointed an open-ended drafting group composed of the following countries (Argentina, Canada, China, Cuba, India, Mexico, Portugal, United States of America and Union of Soviet Socialist Republics) to co-ordinate with Venezuela. After an initial meeting of this drafting group in which most of the participants in the Working Group took part, Venezuela requested that the

representative of Portugal should join her in the co-ordination exercise and elected a group of friends of the co-ordinator, consisting of Canada, Spain, Portugal, Senegal, Venezuela, a representative of the non-governmental organizations and other interested delegations that wished to participate. The co-ordinators of the Group were able to submit the proposal contained in document E/CN.4/1989/WG.1/WP.67/Rev.1 which reads as follows:"

Paragraph 527: Replace the paragraph by the following text:

527. "In introducing the proposal contained in working paper E/CN.4/1989/WG.1/WP.67/Rev.1, the representative of Portugal indicated that the drafting group had endeavoured to draw up a text consistent with the instruments adopted in this field by the United Nations, dividing the various independent situations which required protection into two articles. The new article 19 therefore covered situations such as the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, the death penalty or life imprisonment. It also studied the deprivation of liberty, viewed so as to reflect the comments formulated by the Human Rights Committee and to show the respect due to human dignity, recognition of the needs of children and the concern to assure them legal or other assistance. Aware of the initiatives taken in the United Nations in the area of juvenile justice, the drafting group had incorporated some of these ideas in article 19 bis, using non-imperative language, however, so as to enable States to achieve a balance between the desirability and the advisability of introducing these measures into their legal systems. With the intention that the child should grow up in an atmosphere of love and understanding, the solutions proposed were sometimes less formal than those provided in other instruments, while taking account of the respect due to human rights and legal guarantees, a concern reflected in the provision concerning attendance, at a hearing, of the parents or the legal representatives of the child.

The co-ordinators of the Working Group requested the delegation of Canada to introduce the paragraphs of this proposal to the Working Group."

Paragraph 527: After the paragraph insert the following subheading:

Article 19 (37)**

Paragraph 589: Insert the following new paragraph before paragraph 589:

"Upon the adoption of articles 19 and 19 bis, Venezuela expressed appreciation to the representative of Portugal whose negotiating talents and legal ability had produced these articles of the Convention and drew attention to the contribution made to the drafting group's work by such experts in juvenile law as the representatives of Spain, Canada and Senegal."

Paragraph 651: Replace the paragraph by the following text:

651. "The delegation of Venezuela requested the deletion of the first sentence of paragraph (a) of the article which reads as follows:

'The specialized agencies, UNICEF and other United Nations organs 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 mandate'. The justification for this proposal appears in paragraphs 24 to 188 of the report of the Working Group of January 1988, document E/CN.4/1989/28, from which it is clear that the proposal concerning this sentence had been rejected by the majority of governmental representatives present in the room during the discussion. In particular, paragraphs 172, 173, 174 and 175."

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