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QUESTION OF A CONVENTION ON THE RIGHTS OF THE CHILD

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

Chairman-Rapporteur: Mr. Adam Lopatka (Poland)

INTRODUCTION

1. The Commission on Human Rights, by resolution 1984/24 of 8 March 1984, decided to continue at its forty-first session, as a matter of the highest priority, its work on the elaboration of the draft convention on the rights of the child, with a view to completing the draft at that session for transmission, through the Economic and Social Council, to the General Assembly. By resolution 1984/25 of 24 May 1984, the Economic and Social Council authorized the open-ended working group to meet for a period of one week prior to the Commission's forty-first session to facilitate and speed up the completion of the work on the draft convention. At its thirty-ninth session, the General Assembly, by resolution 39/135 of 14 December 1984, requested the Commission on Human Rights to give the highest priority and undertake every effort at its forty-first session to complete the draft Convention and to submit it to the General Assembly at its fortieth session through the Economic and Social Council.

2. The Working Group held 11 meetings from 28 January to 1 February, and on 8 March 1985. It adopted articles 12 bis, 14, 15, 16 and 17. In this connection, it should be recalled that the open-ended working group established prior to and during previous sessions of the Commission had adopted a number of articles. The text of the articles adopted so far may be found in annex I to the present report. During the session, representatives of States proposed draft articles and amendments which were not discussed by the Working Group for lack of time, and which appear in annex II to the present report.

ELECTIONS

3. At the first meeting of the pre-sessional working group, on 28 January 1985, Professor Adam Lopatka (Poland) was elected Chairman-Rapporteur by acclamation.

PARTICIPATION

4. The meetings of the Working Group, which were open to all members of the Commission on Human Rights, were attended by representatives of the following States: Argentina, Australia, Austria, Bangladesh, Brazil, Bulgaria, China, Finland, France, German Democratic Republic, Germany, Federal Republic of, India, Japan, Liberia, Mexico, Netherlands, Nicaragua, Peru, Senegal, Spain, Sri Lanka, the Ukrainian Soviet Socialist Republic, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

5. The following States, non-members of the Commission on Human Rights, were represented at the meetings of the Working Group by observers: Algeria, Belgium, Bolivia, Canada, Cuba, Denmark, Egypt, Gabon, Guinea, Haiti, Holy See, Iraq, Italy, Morocco, New Zealand, Norway, Pakistan, Panama, Poland, Sweden, Turkey and Switzerland.

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

7. The following non-governmental organizations sent observers to the Working Group: Amnesty International, Baha'i International Community, Defence for Children International Movement, Four Directions Council, Friends World Committee for Consultation, Human Rights Internet, International Abolitionist Federation, International Association of Juvenile and Family Court Magistrates, International Catholic Child Bureau, International Commission of Jurists, International Committee

of the Red Cross, International Council of Jewish Women, International Council of Women, International Federation of Women in Legal Careers, International Social Service, International Union for Child Welfare, Rädda Barnen International and Zonta International.

DOCUMENTS

8. The Working Group had before it a number of documents including the report of the working group on a draft convention on the rights of the child to the Commission on Human Rights at its fortieth session (E/CN.4/1984/71), comments submitted by the International Labour Office on 30 August 1983 (E/CN.4/1984/WG.1/WP.1), the provisional agenda prepared by the Secretary-General (E/CN.4/1985/WG.1/L.1), and an article-by-article compilation of outstanding proposals by Governments and non-governmental organizations, prepared by the Secretariat (E/CN.4/1985/WG.1/WP.1).

GENERAL CONSIDERATIONS

9. The representative of Argentina introduced a new article for consideration by the Working Group at its next session to be held in 1986. He stated that such an article constituted a safeguard to preserve personal, legal and family identity of children throughout the world. The representative of the Netherlands also drew the Working Group's attention to a proposed article relating to children in armed conflicts submitted by the delegations of the Netherlands, Belgium, Finland, Peru, Senegal and Sweden, in order that Governments might review this proposal for discussion at the Group's next session.

10. The delegation of Australia indicated that the article-by-article compilation of proposals submitted by Governments and non-governmental organizations, prepared by the Secretariat, had proved very helpful to all delegations, and therefore requested that a similar document be issued in time for delegations to prepare for the next session of the Working Group. The Australian delegation also noted the usefulness of providing, together with the article-by-article compilation of proposals, relevant provisions of other international instruments. These comments were supported by a number of delegations.

CONSIDERATION AND ADOPTION OF ARTICLES

Article 12 bis

11. There were two texts for consideration by the Working Group. The first, an original Polish proposal contained in document A/C.3/36/6, read as follows:

"The States Parties to the present Convention shall ensure the child with health care facilities and, in case of need, rehabilitation facilities of the highest attainable standard.

In particular, States Parties to the present Convention shall undertake measures with a view to:

- (a) lowering the infant mortality rate,
- (b) ensuring medical assistance and health care to all children,

(c) providing expectant mothers with appropriate health care services and ensuring working mothers a paid leave or a leave granting adequate social security benefits for a reasonable period of time, before and after confinement."

The second was the revised text of an original Canadian proposal submitted to the Working Group's session of 1983:

"The States Parties to the present Convention recognize the right of the child to the highest attainable standard of health care and, in case of need, to medical and rehabilitation facilities.

"The States Parties to the present Convention shall pursue full implementation of this right and in particular, shall take appropriate measures to:

(a) diminish infant and child mortality,

(b) ensure medical assistance and health care to all children with emphasis on the development of primary health care,

(c) ensure appropriate health care services for expectant mothers,

(d) ensure the provision of information to and training for parents and children in basic health care, sanitation and safety,

(e) develop preventive health care and family planning programmes and services."

In addition, a proposal submitted by the Informal NGO Ad hoc Group on the Drafting of the Convention was brought to the attention of the Working Group. The Working Group agreed that the Canadian text would be used as the basis for discussion.

Paragraph 1

12. The representative of the Union of Soviet Socialist Republics proposed the addition of the words "free of charge" to the provision of medical assistance and health care, which found the support of the delegation of the German Democratic Republic. A lengthy discussion ensued as to the appropriateness of including a concept of gratuity in the paragraph under consideration. Several delegations indicated their preference for the text as it stood originally in the Canadian revised proposal.

13. In this connection, the delegation of the Union of Soviet Socialist Republics made a compromise proposal, namely to add "whenever possible" to the phrase "free of charge". The representative of Bangladesh expressed his belief that if the expression "free of charge" were to appear in the text then there should be no addition of the phrase "whenever possible" for this would lead to a situation of uncertainty for the child in need of medical care. He also proposed the deletion of the phrase "in case of need", it being redundant; the same opinion was voiced by the representative of Senegal.

14. The delegation of the United States of America felt that to state that in all circumstances the State should provide health care free of charge might entail a misappropriation of resources, and she suggested the insertion of the words "the

enjoyment of" between "the right of the child to" and "the highest attainable standard" as well as the deletion of the word "care" from "health care". The representative of Australia supported the earlier proposal to delete the words "in case of need", and suggested the addition at the end of the paragraph of the following words: "and in cases of financial need these services should be provided free of charge".

15. The observer for Poland proposed to replace the word "recognize" by the words "shall ensure". Although this proposal was supported by some delegations, the Working Group agreed to keep the original word "recognize" in order to conform to the language of the International Covenant on Economic, Social and Cultural Rights.

16. At this stage of the debate, the delegation of the Union of Soviet Socialist Republics submitted another compromise proposal which comprised two variants of a second sentence of paragraph 1 as follows:

"The States Parties to the present Convention shall ensure the right of the child to the enjoyment of the highest attainable standard of health care and to medical and rehabilitation facilities free of charge, whenever possible."

"The States Parties shall strive to ensure the provision to the child of all medical services and facilities free of charge, whenever possible."

17. The representative of the United Kingdom suggested that in the second variant above, the phrase "the provision to the child of all medical services and facilities free of charge, whenever possible" be replaced by "that no child is deprived for financial reasons of his right of access to such health care services". The formulation put forward by the delegation of the United Kingdom was found to be agreeable by the representatives of the Union of Soviet Socialist Republics and the United States of America, and the Working Group agreed to the first paragraph as amended.

18. The approved text reads as follows:

"The States Parties to the present Convention recognize the right of the child to the enjoyment of the highest attainable standard of health and to medical and rehabilitation facilities. The States Parties shall strive to ensure that no child is deprived for financial reasons of his right of access to such health care services."

Paragraph 2

19. After an exchange of views in connection with maintaining the word "pursue" in the first line of the paragraph or replacing it by the word "ensure" in line with a proposal by the delegation of Finland, the Working Group decided not to change the introductory part of this paragraph as it appeared in the Canadian amendment, and it agreed on the introductory part as it stood.

20. The approved text reads as follows:

"The States Parties to the present Convention shall pursue full implementation of this right and in particular, shall take appropriate measures to:"

Subparagraph (a)

21. A brief debate ensued as to whether this subparagraph should be incorporated into the introductory part, but the proposal failed to obtain the consensus of the Working Group.

22. The approved part reads as follows:

"diminish infant and child mortality,"

Subparagraph (b)

23. The representative of the United States of America proposed the insertion of the words "the provision of necessary" between "ensure" and "medical assistance", and "in case of need" between "health care" and "to all children". The Working Group agreed only to the former proposal in view of earlier remarks made by the delegation of Bangladesh regarding the utilization of the phrase "in case of need" and the consensus reached by the Working Group on this question when it discussed paragraph 1.

24. The delegation of the Netherlands suggested the deletion of the phrase "with emphasis on the development of primary health care" at the end of the subparagraph under consideration.

25. The delegation of Senegal wished to retain the above-mentioned phrase for it considered that in the implementation of the measures referred to in the introductory text of paragraph 2, account should be taken of the special situation of developing countries and of their needs in order to guarantee primary health care for children. Many delegations voiced their wish to retain the phrase under discussion, and the Working Group agreed to maintain the original text.

26. The approved text reads as follows:

"ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care,"

Subparagraph (c)

27. The representative of the United Kingdom suggested that the expressions "health care" and "health care services" appearing in subparagraphs (b) and (c) should be kept uniform; this required the deletion of the word "services" which appeared in the subparagraph under consideration. The proposal was accepted.

28. The delegation of the United States of America introduced the following addition to this subparagraph: "including access to information about appropriate methods of infant feeding.", while the NGO Ad Hoc Group on the Drafting of the Convention proposed that the concept of breast-feeding be included in a separate subparagraph which would read as follows: "actively promote and protect breast-feeding". The delegation of the United Kingdom requested that the word "protect" in the aforementioned NGO amendment be replaced by the word "endorse". Taking into account the proposals tabled on the question of infant nutrition, the Chairman decided that this question should be the object of a separate subparagraph.

29. The Working Group agreed to subparagraph (c) as amended:

"ensure appropriate health care for expectant mothers,"

Subparagraph (d)

30. The representative of the United States of America presented a compromise proposal which read as follows: "encourage the provision of full, accurate and balanced information regarding methods of infant feeding, including the advantages of breast-feeding." The delegation of Canada supported this amendment of the delegation of the United States of America with the proviso that the words "infant feeding" be replaced by "infant nutrition". The delegations of Australia, Austria and the German Democratic Republic accepted the proposal of the delegation of the United States of America.

31. The observer for the United Nations Children's Fund suggested that the words "and balanced" be deleted from the proposed text. With these amendments, the Working Group agreed to the subparagraph under consideration, which reads as follows:

"encourage the provision of full and accurate information regarding methods of infant nutrition, including the advantages of breast-feeding,"

Subparagraph (e)

32. The Working Group agreed to the text of this subparagraph with the replacement of the word "safety" by the phrase "prevention of accidents" as proposed by the representative of the United Kingdom. The approved text reads as follows:

"ensure the provision of information and training for parents and children in basic health care, sanitation and prevention of accidents,"

Subparagraph (f)

33. The observer for the Holy See suggested that the word "programmes" be replaced by the broader concept of "education", and this proposal being found acceptable by the Working Group, it agreed to the subparagraph in question. The approved text reads as follows:

"develop preventive health care and family planning education and services."

Paragraph 3

34. The representative of Senegal proposed the inclusion of a provision stating that States Parties to the present Convention shall pay special attention, in connection with the subject-matter of the article under discussion, to the situation of children in developing countries in particular and to all underprivileged children in general, and undertake to promote and participate in international co-operation to this end. This proposal was supported by the observer for Algeria.

35. The delegation of Finland put forward to the Group another proposal that read as follows: "States Parties to the present Convention shall, in the implementation of provisions of this article, pay special attention to underprivileged children and especially to the situation and needs of children in developing countries. For this purpose, States Parties undertake to promote and encourage international co-operation to achieve the full realization of the principles contained in this article."

36. The ensuing discussion reflected widely divergent views on whether this idea of international co-operation should be included in the article under consideration or if it should be the subject of a general article of the Convention.

37. In general, delegations agreed with the basic principle contained in both the proposals put forward by the delegations of Senegal and Finland. The Chairman requested that a single text be drafted by an informal open-ended working party, and it was so decided. The draft prepared by the ad hoc working party reads as follows: "States Parties to the present Convention undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in this article. In this regard, particular account shall be taken of the needs of developing countries."

38. The Working Group agreed on paragraph 3, which reads as indicated above.

39. In the context of this article, the representative of the Netherlands drew the attention of the Working Group to the following aspect. The provisions of article 12 bis raise the question of the relationship between the right of the child on the one hand, and the responsibility of his parents/legal guardian - according to family law - on the other hand. The representative of the Netherlands suggested the inclusion of a provision along the lines of the already accepted paragraph 3 of article 7 bis as a useful way of dealing with that issue. However, since it was understood in the Working Group that the final reading of the draft Convention would be an appropriate occasion for dealing with that specific issue, he did not insist at this stage of the proceedings on the proposed change.

40. The NGO Ad Hoc Group on the Drafting of the Convention proposed an additional paragraph to this article that read as follows: "The States Parties to the present Convention shall undertake to protect children from any medical investigation or treatment detrimental to their physical or psychological health and development, and to take all appropriate and necessary measures to prevent children being subjected to traditional practices harmful to their health." The Working Group considered that it was not ready at this stage to discuss the subject-matter contained in this proposal.

Article 14

41. The observer for Poland suggested that the basis for discussion of this article should be paragraph 1 of the text concerning "standard of living" prepared by the Informal NGO Ad Hoc Group on the Drafting of the Convention, and paragraphs 2 and 3 would be those introduced by the observer for Canada at the Working Group's 1984 session. This proposal met with the agreement of the Working Group. The text before the Working Group read as follows:

"The States Parties to the present Convention recognize the right of every child to a standard of living adequate to guarantee the child's physical, mental, moral and social development.

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

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

Paragraph 1

42. The representative of the United States of America proposed the addition of the word "shall" between "Convention" and "recognize", and the words "in accordance with national conditions" between "recognize" and the phrase "the right of every child"; she further suggested that the words "adequate to guarantee" should be replaced by "adequate for". The observer for the Holy See suggested the addition of the word "spiritual" between the words "mental" and "moral".

43. The above-mentioned proposal to replace "adequate to guarantee" by "adequate for" was supported by the Working Group. But several delegations were of the opinion that the amendment of the delegation of the United States of America concerning the introduction of the phrase "in accordance with national conditions" would weaken the basic principle contained in the introductory paragraph under consideration. The representative of the United Kingdom suggested that the amendment of the United States delegation should be incorporated in paragraph 3 dealing with the implementation of the child's right to an adequate standard of living. The representative of the United States of America accepted provisionally to withdraw her amendment on the understanding that it would be taken up later when paragraph 3 was considered by the Working Group.

44. The Working Group agreed to paragraph 1 as amended. The approved text reads as follows:

"The States Parties to the present Convention recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development."

45. The representative of China proposed the addition of the following text to paragraph 1: "The States Parties to the present Convention shall take measures to prevent and prohibit children from taking drugs." He expressed a preference for its incorporation in the article under consideration, but thought that it could also constitute a separate article of the draft Convention. No decision was taken on the proposal by the Working Group.

Paragraph 2

46. The representative of the Netherlands suggested that the word "those" in the first line of the paragraph should be replaced by the word "others", while the delegation of Austria proposed that the phrase "healthy development of the child" at the end of the paragraph be replaced by the expression "child's development". The representative of the United States of America suggested changing the word order of the phrase "within their financial possibilities and powers" to read "within their powers and financial possibilities". With regard to the last mentioned United States amendment, the delegation of Bangladesh suggested that the word "powers" be replaced by the word "abilities", and to retain the expression "healthy development". The French delegation indicated its preference for the Austrian proposal, namely the utilization of the phrase "child's development".

47. The delegation of the Netherlands suggested the addition of the phrase "or as the case may be legal guardians" after the phrase "others responsible for the child" at the beginning of the paragraph. The representative of Peru then suggested that the word "those" in the first line of the original version be replaced by "persons directly", while the representative of the Ukrainian Soviet Socialist Republic proposed that it should be replaced by the phrase "persons having responsibility for the maintenance of the child".

48. The Working Group reached agreement on the following text: "The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development."

Paragraph 3

49. The observer for Canada proposed the introduction of the phrase "and support programmes" after the words "material assistance". The representative of the United States of America reintroduced her original amendment to paragraph 1, namely the phrase "in accordance with national conditions", proposing that it be added after the words "appropriate measures"; she also suggested adding at the end of the paragraph the following words: "taking into account the national resources available and the resources and circumstances of the child and persons having responsibility for the maintenance of the child, and with special regard to the children of deprived and single-parent families."

50. The representative of the United Kingdom suggested the introduction of the phrase "within their means" after the United States amendment "in accordance with national conditions", and in the clause proposed by the representative of the United States of America to replace the phrase "and single-parent families" by "of the care of one or both parents" as well as to delete the word "of" before the word "deprived".

51. The Working Group considered many additional amendments before reaching a decision on the final text of paragraph 3. During the discussion, it was suggested that a compromise text should be drafted after consultations, and the Chairman therefore requested that a new draft be prepared by an informal open-ended working party.

52. The draft was introduced by the delegation of Canada and read as follows: "The States Parties to this Convention shall take appropriate measures in accordance with national conditions and within their means, to assist parents and others responsible for the child to implement this right, and shall extend necessary material assistance and support programmes, particularly with regard to nutrition, clothing and housing."

53. The observer for Cuba suggested that the Working Group consider the following proposal: "The States Parties to the present Convention shall take action, including action at the international level, to promote an adequate standard of living for, and the all-round development of, all children."

54. The word "this" in the first line of the above-mentioned draft was replaced by the words "the present" and the words "extend necessary" by "in case of need provide", and subject to a change in the word order, the Working Group agreed to the draft introduced by the Canadian delegation.

55. The approved text reads as follows:

"The States Parties to the present Convention, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing."

Article 15

56. The Working Group considered article 15 of the Draft Convention on the basis of a revised proposal submitted by the delegation of Poland which read as follows:

"The States Parties to the present Convention shall guarantee to every child compulsory and cost-free education, at least at an elementary school level, designed to assist the child to develop his or her talents and abilities to their fullest potential, and to prepare the child for future life.

The States Parties to the present Convention shall develop various forms of secondary, general and vocational education, with a view to introducing at this level cost-free education, so as to enable every child to develop his or her talents and interests on a basis of equal opportunity.

States Parties shall ensure that school discipline is administered in a manner reflective of the child's human dignity. Methods which are either physically or mentally cruel or degrading shall be prohibited."

Paragraph 1

57. The representative of Algeria felt that there was a need to include a general clause on recognition by the State of the right to education. She proposed to replace the first paragraph by the following: "The States Parties to the present Convention recognize the right of the child to education and shall ensure the equal and non-discriminatory exercise of this right. The States Parties shall ensure that all children have equal access to schooling and shall guarantee all children free and compulsory education, at least at elementary school level ..."

58. The representative of China, supported by some other delegates, pointed out the different levels of economic development of States and their impact on the provision of free education. He suggested to add the expression "as early as the circumstances permit" after the words "school level" in paragraph 1 of the article under consideration.

59. Some other representatives voiced their misgivings, in more general terms, over the words "cost free". They expressed the view, *inter alia*, that education must always be paid for by the communities, either directly through school fees or indirectly by way of taxation.

60. The representative of the Union of Soviet Socialist Republics, supported by some other representatives, strongly objected to proposals to qualify the words "cost free" on the grounds that they would constitute a step backward, making the provision weaker than article 13 of the International Covenant on Economic, Social and Cultural Rights. The representative of Cuba, in an attempt to find a compromise, suggested to add after the first sentence of paragraph 1 a sentence reading: "This obligation may be waived only for those States Parties which are temporarily unable to comply with it because they lack the economic resources for that purpose."

61. The representative of Finland, supported by some other representatives, proposed to re-structure the whole article as follows: "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, they shall promote equality of opportunity of all children to education and they shall in particular:

(a) Take all measures, subject to national resources available, to make primary education compulsory and cost free,

(b) Ensure that education is directed to the full development of the human personality, the talents and abilities of the child and to prepare the child for future life."

62. The representative of the Netherlands stressed that in his view there was a need to include in the article a provision on the rights of parents and legal guardians concerning the education of the child, along the lines of paragraph 3 of article 7 has already adopted, and also drew attention to paragraph 3 of article 13 of the International Covenant on Economic, Social and Cultural Rights. Accordingly, he proposed the following text for inclusion as a separate paragraph in the proposal by Finland: "The States Parties to the present Convention shall respect the rights and duties of the parents and, where applicable, legal guardians, to provide direction to the child in the exercise of his right in a manner consistent with the evolving capacities of the child."

63. The Chairman suggested that a consolidated text be drafted by an informal open-ended working party, and it was so decided. The text prepared by the ad hoc working party was as follows: "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) Make primary education cost-free and compulsory as early as permitted by national resources available;

(b) Develop various forms of secondary, general and vocational education, with a view to introducing at this level cost-free education, so as to enable every child to develop his or her talents and interests."

64. After a brief discussion the Working Group agreed to the introductory part of the article as follows: "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:"

Subparagraph (a)

65. Turning to subparagraph (a), the representative of the United States stated that, inter alia, the obligation for States Parties to guarantee to every child cost-free and compulsory education as early as permitted by available national resources, was stronger than the corresponding obligation in the International Covenant on Economic, Social and Cultural Rights which provided that these goals should be achieved progressively. Therefore, the current proposal established a more immediate obligation than that reflected in the Covenant.

66. One suggestion was to delete the words "as early as permitted by national resources available". As a compromise the representative of Bangladesh, supported by a number of delegations, proposed reformulating the subparagraph as follows: "make primary education free and compulsory as early as possible,". The Working Group agreed to such formulation.

67. The delegation of Canada stated that it would not oppose a consensus on subparagraph (a), but expressed concern at the weakening of the provisions of the draft convention by the inclusion of qualifying clauses such as "as early as permitted by available national resources". It reserved the right to return to this point at a later stage with a view to deleting all such references and including them in a general article. These views were supported by a number of other delegations.

Subparagraph (b)

68. As regards subparagraph (b), the representative of Japan suggested substituting the words "with a view to introducing at this level cost-free education" by "and shall take appropriate measures such as offering scholarship to children under financial difficulties".

69. The delegation of the United States suggested starting the subparagraph with "Encourage the development of various forms" instead of "Develop various forms ...". The representative of Bangladesh proposed deleting the word "cost" in the second line of the subparagraph. The representative of the United Kingdom expressed his preference for replacing the words "secondary, general and vocational education" by the words "secondary education, both general and vocational".

70. The delegation of Austria proposed to reformulate subparagraph (b) as follows:

"(b) Develop various forms of secondary, general and vocational education, generally available and accessible to all children by all appropriate means, and in particular by the progressive introduction of free education".

71. In an attempt to meet the concern of various delegations, the representative of the United Kingdom proposed the reformulation of the subparagraph as follows: "Ensure the development of various forms of secondary education, both general and vocational, with a view to introducing at this level appropriate measures such as free education or scholarships to children under financial difficulties to make such education available and accessible to all."

72. At the Chairman's request, a consolidated text was prepared by an informal open-ended working party which read as follows: "encourage the development of various forms of secondary education systems, both general and vocational, which are generally available and accessible to all children, and take appropriate measures such as offering financial assistance to children when necessary or introducing free education."

73. After some further discussion the Working Group agreed on the text for subparagraph (b) as follows:

"(b) encourage the development of different forms of secondary education systems, both general and vocational, to 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."

74. The delegation of Japan accepted the text of subparagraph (b) on condition that it was interpreted to mean that the two measures referred to at the end of the subparagraph were optional and that States parties were not necessarily bound to take them.

Subparagraph (c)

75. While some delegations expressed their opposition to any reference to higher education on the grounds that the Convention was mainly addressing the rights of the child, other delegations emphasized that the accessibility of the child to higher education should also be taken into account in the elaboration of the Convention. After some debate on the issue, the Working Group had before it a text; by Algeria and other interested delegations, for subparagraph (c) as follows: "Make higher education equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education and offering financial assistance, in case of need."

76. In the course of the discussion, the representative of Canada, supported by Australia, stressed her preference for a wording based on article 13, 2 (c) of the International Covenant on Economic, Social and Cultural Rights, as follows:

"Make higher education equally accessible to all, on the basis of capacity, by every appropriate means".

77. The representative of the Ukrainian Soviet Socialist Republic proposed adding to that proposal the words "and in particular by the progressive introduction of free education" or "such as the progressive introduction of free education".

78. The Working Group agreed to the following text:

"Make higher education equally accessible to all on the basis of capacity by every appropriate means".

Paragraph 2

79. The Working Group discussed a text for paragraph 2 on the basis of the aforementioned proposal submitted by the observer for Poland, which was as follows: "States Parties shall ensure that school discipline is administered in a manner reflective of the child's human dignity. Methods which are either physically or mentally cruel or degrading shall be prohibited."

80. The representative of Canada suggested ending the paragraph after the word "dignity" and deleting the words "methods which are either physically or mentally cruel or degrading shall be prohibited". She further proposed to replace the word "ensure" by the word "encourage". The representative of the Ukrainian Soviet Socialist Republic supported by the representative of the Union of Soviet Socialist Republics, objected to that proposal on the grounds that, in many countries, degrading and cruel methods of discipline were still inflicted upon children. The representative of Sweden pointed out that this question was not restricted to schools, but was also relevant in other situations, which were being dealt with in other articles. Therefore the prohibition of degrading and cruel treatment of children should be dealt with in a separate paragraph or article, which could be discussed during the second reading. This proposal was supported by the representative of Finland.

81. After some debate the Working Group agreed on a text for paragraph 2 as follows: "States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner reflective of the child's human dignity."

Paragraph 3

82. Turning to paragraph 3 of the article, the representative of the Netherlands reintroduced the proposal that he had earlier submitted to the Working Group and which read as follows: "The States Parties to the present Convention shall respect the rights and duties of the parents and, where applicable, legal guardians, to provide direction to the child in the exercise of his rights in a manner consistent with the evolving capacities of the child." The representative of the United Kingdom suggested adding the words "to education as contained in this article" after the words "exercise of his right".

83. After a brief discussion, the Working Group agreed to adopt the text with some slight revision as follows: "The States Parties to the present Convention shall respect the rights and duties of the parents and, where applicable, legal guardians, to provide direction to the child in the exercise of his right to education in a manner consistent with the evolving capacities of the child."

Paragraph 4

84. The observer for Algeria submitted to the Working Group the following proposal: "States shall promote and expand international co-operation in matters relating to education and shall, in particular, implement the programmes of action adopted by the competent international organizations so as to meet the special needs of children in developing countries, guarantee that they have access to scientific and technical know-how and modern teaching methods and, in general, eliminate ignorance and illiteracy throughout the world."

85. The representative of France suggested the deletion of the words "and shall, in particular, implement the programmes of action adopted by the competent international organizations", as those programmes might not be binding upon States. The representative of the United States of America supported the proposal put forward by the representative of France.

86. The observer for Canada proposed adding the words "Parties to the present Convention" after the word "States" and replacing the word "expand" by the word "encourage", while the representative of the United Kingdom proposed substituting the words "so as to meet the special needs of children in developing countries, guarantee that they have access to scientific and technical know-how" by "so as to meet the special needs of children in developing countries and endeavour to provide them with access to scientific and technological knowledge".

87. After some further exchange of views, the observer for Algeria submitted an amendment taking into account the comments made by different delegations, which was as follows: "States Parties to the present Convention shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries." The Working Group agreed to the amended text proposed by the observer for Algeria.

Article 16

88. The representative of Canada submitted the following revised text upon which much of the discussion focused:

"The States Parties to the present Convention recognize that:

1. The education and upbringing of the child should promote the development of the child's personality, talents and abilities to their fullest potential and to foster respect for human rights and fundamental freedoms.
2. The child should be prepared for responsible life in a free society, in the spirit of understanding, tolerance and friendship among all peoples, ethnic and religious groups.
3. The child should be educated in harmony with nature and in keeping with the principles of the United Nations."

89. The representative of the Baha'i International Community presented a proposal which was as follows:

"1. In addition to academic education, the child shall be entitled to receive guidance, training and education designed to promote his social, spiritual and moral development and well-being.

2. The fundamental objectives of such guidance, training and education shall be:

(a) To promote the harmonious development of the personality of the child and the realization of his full potential;

(b) To protect the child by developing his ability to resist outside influences or pressures likely to lead him into lawlessness or delinquency, or into practices injurious to his physical or mental health or to his social, spiritual or moral well-being;

(c) To prepare the child to exercise the rights and undertake the responsibilities of adult life in a manner consistent both with his own well-being and with the well-being of others;

(d) To foster in the child a respect for human rights and fundamental freedoms and an attitude of understanding, respect and friendship towards all people, regardless of race, sex, class, colour, nationality, ethnic origin, religion or belief;

(e) To foster in the child an awareness of and a desire to promote the principles of universal peace and brotherhood proclaimed in the Charter of the United Nations.

3. The States Parties to the present Convention, bearing in mind that, in accordance with article 8, the primary responsibility for the upbringing and development of the child rests with his parents or guardians, shall use their best efforts to:

(a) Raise the level of public awareness of the importance of the social, spiritual and moral education of the child, particularly during his early years;

(b) Promote recognition and understanding by all those concerned with the upbringing of the child, most particularly his parents or guardians, of their indispensable role, and the primary importance of their example, in the social, spiritual and moral development of the child;

(c) Encourage schools to develop guidelines and courses of instruction designed to foster the social, spiritual and moral development of the child."

90. The representative of the Netherlands submitted the following proposal for inclusion in article 16:

"No part of this article of the present Convention shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State."

91. Upon the proposal of the representative of Finland, the Canadian text was restructured as follows:

"The States Parties to the present Convention agree that the education and upbringing of the child shall be directed to:

(a) the promotion of the development of the child's personality, talents and abilities to their fullest potential and the fostering of respect for human rights and fundamental freedoms,

(b) the preparation of the child for responsible life in a free society, in the spirit of understanding, tolerance and friendship among all peoples, ethnic and religious groups,

(c) the education of the child in harmony with nature and in keeping with the principles of the United Nations."

Paragraph 1

92. Regarding the introductory part of this paragraph, the representative of the United States of America supported by the representative of the Netherlands felt that the term "upbringing" was too broad and ill-defined, while the representative of the Ukrainian Soviet Socialist Republic supported by the representative of the German Democratic Republic, objected to its deletion. Since the problem appeared to be mainly a question of linguistics, the representative of the Ukrainian Soviet Socialist Republic, supported by some other delegations, proposed that it be reconsidered during the second reading of the text.

93. After some discussion, the Working Group agreed on the introductory part of this paragraph as follows:

"The States Parties to the present Convention agree that the education of the child shall be directed to:"

Subparagraph (a)

94. As concerns this subparagraph, the representative of China proposed adding the word "physical" before "abilities". Other representatives expressed their preference for keeping the word "abilities" without qualification, as in their view this word encompassed the notion of mental as well as physical abilities and they preferred this broader concept.

95. The observer for the Informal NGO Ad Hoc Group on the Drafting of the Convention proposed adding the words "to prepare the child for future life" between the words "potential" and "and to foster". Some delegations expressed their opposition to such a proposal.

96. The observer for Algeria, supported by the representatives of the German Democratic Republic and the Ukrainian Soviet Socialist Republic, proposed inserting the words "and peoples" between the words "human" and "rights". She stressed that it was necessary for children to be acquainted in their education with the diversity of civilizations and cultures of other nations and with the concepts of peoples' rights and self-determination. The delegations of Australia, Canada, France and the United States of America objected to any such references in the subparagraph under consideration. The representative of the Federal Republic of Germany suggested adding instead the words "including the right to self-determination" at the end of the subparagraph, but this suggestion did not meet with the support of other delegations. The Chairman proposed to insert the word "all" before "human rights". The Working Group agreed to that proposal.

97. The approved text reads as follows:

"(a) the promotion of the development of the child's personality, talents and mental and physical abilities to their fullest potential and the fostering of respect for all human rights and fundamental freedoms,"

Subparagraph (b)

98. Turning to subparagraph (b), the representative of the German Democratic Republic, supported by the delegations of Canada and the Ukrainian Soviet Socialist Republic, suggested inserting the word "peace" between the words "understanding" and "tolerance", along the lines of article 13 of the International Covenant on Economic, Social and Cultural Rights.

99. After some debate, the Working Group agreed on a text for subparagraph (b) as follows:

"the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance and friendship among all peoples,

Subparagraph (c)

100. The representative of the Ukrainian Soviet Socialist Republic, supported by the delegations of Canada and the Union of Soviet Socialist Republics, proposed adding the word "Charter" after "United Nations", while some delegations felt that principles embodied in various other instruments of the United Nations should also be taken into account.

101. In the light of various suggestions - inter alia, a suggestion put forward by the observer for Canada to replace the words "in harmony with nature" by the words "respect for the environment" - the representative of the United Kingdom proposed reformulating the subparagraph as follows:

"the development of respect for the natural environment and for the principles of the Charter of the United Nations".

The Working Group agreed to the above-mentioned text.

Paragraph 2

102. The proposal by the representative of the Netherlands for an additional paragraph, endorsed by the representative of the Federal Republic of Germany, did not meet with the approval of some delegates who felt that the paragraph was not directly concerned with the protection of the rights of the child. The representative of Austria suggested deleting the words "of the present Convention" in the first sentence, and the Chairman suggested adding the words "of paragraph 1" before "of this article" and replacing the words "this article" by "paragraph 1". The representative of the Netherlands agreed with those suggestions.

103. After some discussion, the Working Group agreed on the following text:

"No part of paragraph 1 of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State."

104. The observer for Algeria made a proposal for a third paragraph to this article.

Article 17

105. The consideration of this article was based on paragraph 1 of the text introduced by the delegation of Canada at the Working Group's 1984 session and paragraph 2 of a proposal put forward at the current session by the representative of the United States of America. The resulting text read as follows:

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

The States Parties to the present Convention shall respect the right of the child to fully participate in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity."

Paragraph 1

106. The observer for Cuba proposed the addition of the words "appropriate to the age of the child" after the words "play and recreation" and "social activities" after the words "cultural life". The representative of the United Kingdom suggested replacing the word "recreation" by "recreational activities", while the representative of France proposed replacing the introductory words "Every child has the right" by the following phrase: "States Parties to the present Convention recognize the right of the child".

107. The observer for Canada, taking into account the various proposals put forward for consideration by the Working Group, read out the following amended version to paragraph 1:

"States Parties to the present Convention recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts."

The Working Group agreed to the above-mentioned text.

Paragraph 2

108. The representative of the United States of America proposed the addition of the words "and promote" after "shall respect" at the beginning of the paragraph. The Working Group agreed to the second paragraph as amended. The approved text reads as follows:

"The States Parties to the present Convention shall respect and promote the right of the child to fully participate in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity."

109. The representative of the Federal Republic of Germany, while stressing the importance of leisure and recreation for the child's development, expressed doubts with regard to the advisability of proclaiming a universal right in this respect; he indicated his preference for dealing with the issue in the context of the provision against economic and social exploitation. The representative of Japan also expressed doubts concerning the advisability of proclaiming a universal right in this respect and, while supporting the text of article 17 agreed to by the Working Group, reserved the right to make a reservation clause to this article. The observer for the Holy See voiced a reservation on the grounds that the article just approved by the Working Group did not reflect a relationship between the right of the child to rest and leisure and the right of parents, in particular, to oversee and control the rest and leisure activities of their children, for a child could not be considered out of the context of his family environment.

Article 18

110. There was a preliminary discussion of article 18. The Chairman concluded that, given the number of queries and reservations concerning the substance and scope of the proposed article, the Polish delegation should redraft the article to be included in the report of the Working Group.

Annex ITEXT OF THE DRAFT CONVENTION ON THE RIGHTS OF THE CHILD
ADOPTED BY THE WORKING GROUPThe States Parties to the Convention

Considering that in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the basic unit of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that, as indicated in the Declaration of the Rights of the Child adopted in 1959, the child due to the needs of his physical and mental development requires particular care and assistance with regard to health, physical, mental, moral and social development, and requires legal protection in conditions of freedom, dignity and security,

Recognizing that the child, for the full and harmonious development of his personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Bearing in mind that the need for extending particular care to the child has been stated in the Geneva Declaration on the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the United Nations in 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in its article 10) and in the statutes of specialized agencies and international organizations concerned with the welfare of children,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom and brotherhood,

Have agreed as follows:

Article 1

According to the present Convention a child is every human being to the age of 18 years unless, under the law of his State, he has attained his age of majority earlier.

Article 2

1. The child shall have the right from his birth to a name and to acquire a nationality.

2. The States Parties to the present Convention shall ensure that their legislation recognizes the principle according to which a child shall acquire the nationality of the State in the territory of which he has been born if, at the time of the child's birth, he is not granted nationality by any other State in accordance with its laws.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, or administrative authorities, the best interests of the child shall be a primary consideration.

2. In all judicial or administrative proceedings affecting a child that is capable of forming his own views, an opportunity shall be provided for the views of the child to be heard, either directly or indirectly through a representative, as a party to the proceedings, and those views shall be taken into consideration by the competent authorities, in a manner consistent with the procedures followed in the State Party for the application of its legislation.

3. The States Parties to the present Convention undertake to ensure the child such protection and care as is necessary for his well-being, taking into account the rights and duties of his parents, legal guardians, or other individuals legally responsible for him, and, to this end, shall take all appropriate legislative and administrative measures.

4. The States Parties to the present Convention shall ensure competent supervision of officials and personnel of institutions directly responsible for the care of children.

Article 4

1. The States Parties to the present Convention shall respect and extend all the rights set forth in this Convention to each child in their territories without distinction of any kind, irrespective of the child's or his parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national or social origin, family status, ethnic origin, cultural beliefs or practices, property, educational attainment, birth, or any other basis whatever.

2. States Parties to the present Convention shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or other family members.

Article 5

The States Parties to the present Convention shall undertake all appropriate administrative and legislative measures, in accordance with their available resources, and, where needed, within the framework of international co-operation, for the implementation of the rights recognized in this Convention.

Article 6

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

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

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

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

Article 6 bis

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

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

Article 6 ter

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

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

Article 7

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

Article 7 bis

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

Article 8

1. Parents or, as the case may be, guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common and similar responsibilities for the upbringing and development of the child.
2. For the purpose of guaranteeing and promoting the rights set forth in this Convention, the States Parties to the present Convention shall render appropriate assistance to parents and guardians in the performance of the child-rearing responsibilities and shall ensure the development of institutions for the care of children.
3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child care services and facilities for which they are eligible.
4. The institutions, services and facilities referred to in paragraphs 2 and 3 of this article shall conform with the standards established by competent authorities particularly in the areas of safety, health, and in the number and suitability of their staff.

Article 8 bis

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

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

Article 9

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

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

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

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

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

Article 10

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

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

Article 11

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

2. The States Parties to the present Convention shall take all appropriate measures to secure the best interests of the child who is the subject of intercountry adoption. States Parties shall ensure that placements are made by authorized agencies or appropriate persons under the adequate supervision of

competent authorities, providing the same safeguards and standards that are applied in exclusively domestic adoptions. The competent authorities shall make every possible effort to ensure the legal validity of the adoption in the countries involved. States Parties shall endeavour, where appropriate, to promote these objectives by entering into bilateral or multilateral agreements.

Article 11 bis

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

Article 12

1. The States Parties to the present Convention recognize that a mentally or physically disabled child should enjoy a full and decent life in conditions which ensure his dignity, promote his self-reliance, and facilitate his active participation in the community.
2. The States Parties to the present Convention recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.
3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his cultural and spiritual development.
4. States Parties shall promote in the spirit of international co-operation the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 12 bis^{*/}

1. The States Parties to the present Convention recognize the right of the child to the enjoyment of the highest attainable standard of health and to medical and rehabilitation facilities. The States Parties shall strive to ensure that no child is deprived for financial reasons of his right of access to such health care services.
2. The States Parties to the present Convention shall pursue full implementation of this right and in particular, shall take appropriate measures to:
 - (a) diminish infant and child mortality,
 - (b) ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care,
 - (c) ensure appropriate health care for expectant mothers,
 - (d) encourage the provision of full and accurate information regarding methods of infant nutrition, including the advantages of breast-feeding,
 - (e) ensure the provision of information and training for parents and children in basic health care, sanitation and prevention of accidents,
 - (f) develop preventive health care and family planning education and services.
3. States Parties to the present Convention undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in this article. In this regard, particular account shall be taken of the needs of developing countries.

Article 13

1. The States Parties to the present Convention shall, in a manner appropriate to national conditions, recognize for every child the right to benefit from social security and shall take the necessary measures to achieve the full realization of this right.
2. The benefits should, where appropriate, be granted taking into account the national resources available and the resources and the circumstances of the child and persons having responsibility for the maintenance of the child as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 14^{*/}

1. The States Parties to the present Convention recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

^{*/} Adopted by the Working Group in 1985

3. The States Parties to the present Convention, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

Article 15^{*/}

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) Make primary education free and compulsory as early as possible,

(b) encourage the development of different forms of secondary education systems, both general and vocational, to 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.

^{*/} Ibid.

Annex II

PROPOSALS BY DELEGATIONS OF STATES (NOT CONSIDERED
BY THE WORKING GROUP AT ITS 1985 SESSION)

I. New articles

(Argentina)

The child has the inalienable right to retain his true and genuine personal, legal and family identity.

In the event that a child has been fraudulently deprived of some or all of the elements of his identity, the State must give him special protection and assistance with a view to re-establishing his true and genuine identity as soon as possible. In particular, this obligation of the State includes restoring the child to his blood-relations to be brought up.

(Canada)

1. States Parties to the present Convention recognize the right of a child removed from the family environment by the State or placed with the State by the parents for the purposes of physical, emotional or mental health care treatment to a periodic review of the treatment provided to the child.

2. States Parties shall take appropriate measures to provide an adequate mechanism for reviewing the effectiveness of the treatment and the need for its continuation.

(China)

The States Parties to the present Convention shall take measures to prevent and prohibit children from taking drugs.

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

(Netherlands, Belgium, Sweden, Finland, Peru and Senegal)

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

2. In order to implement these obligations States Parties to the present Convention shall, in conformity with the relevant rules of international humanitarian law, refrain in particular from recruiting children into the armed forces and shall take all feasible measures to ensure that children do not take part in hostilities.

3. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner reflective of the child's human dignity.

4. The States Parties to the present Convention shall respect the rights and duties of the parents and, where applicable, legal guardians to provide direction to the child in the exercise of his right to education in a manner consistent with the evolving capacities of the child.

5. States Parties to the present Convention shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 16^{*/}

1. The States Parties to the present Convention agree that the education of the child shall be directed to:

(a) The promotion of the development of the child's personality, talents and mental and physical abilities to their fullest potential and the fostering of respect for all human rights and fundamental freedoms.

(b) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance and friendship among all peoples, ethnic and religious groups.

(c) The development of respect for the natural environment and for the principles of the Charter of the United Nations.

2. No part of paragraph 1 of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 17^{*/}

1. States Parties to the present Convention recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. The States Parties to the present Convention shall respect and promote the right of the child to fully participate in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

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

First paragraph

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

Second paragraph, second sentence

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

III. Amendment to article 11 (United States of America)New paragraph 3

The States Parties to the present Convention may take legislative and administrative measures, where appropriate, to safeguard the confidentiality of adoption records.

IV. Article 16 (Algeria)New paragraph 3

Children should be educated in a social climate imbued with the national values and the cultural identity of the children, with respect for civilizations different from their own and for the rights of peoples. In no case may children of countries still under colonial domination and foreign occupation or racist regimes be deprived of their cultural and national identity.

V. Article 16 bis (United States of America)

The States Parties to the present Convention shall ensure that the child shall enjoy civil and political rights and freedoms in public life to the fullest extent commensurate with his age including in particular, freedom from arbitrary governmental interference with privacy, family, home or correspondence; the right to petition for redress of grievances; and, subject only to such reasonable restrictions provided by law as are necessary for respect of the rights and legally protected interests of others or for the protection of national security, public safety and order, or public health and morals, freedom of association and expression; and the right of peaceful assembly.

VI. Article 18 (Poland)

1. The States Parties to the present Convention recognize that the child shall not be employed in any form of work harmful to the child's health or education or which will interfere with his or her physical, mental or social development.

2. The States Parties to the present Convention shall prescribe a minimum age for admission to employment, with due regard to the provisions of paragraph I of this article and the provisions of other international instruments relating to the employment of the child.

3. The States Parties to the present Convention shall ensure that persons acting contrary to the provisions of this article shall be subject to penalties established by law.

VII. Article 19 (Canada)

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

VIII. Article 20 (Canada)

1. The States Parties to the present Convention recognize the right of the child accused or found guilty of infringing the penal law to be treated in a manner consistent with the aims of child development acknowledged in article 17 of this Convention, and in particular in such a manner as to promote the full development of his or her personality, sense of dignity and worth, and respect for human rights and fundamental freedoms.
2. The States Parties to the present Convention shall pursue full implementation of this right, and in particular undertake as follows:
 - (a) No child shall be arbitrarily detained or imprisoned;
 - (b) Every child accused of infringing the law is entitled to have the matter determined according to law in a fair hearing within a reasonable time by an independent and impartial tribunal, in accordance with the presumption of innocence and such procedures as will take into account his or her age and the desirability of promoting his or her rehabilitation;
 - (c) All children deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
 - (i) Accused children shall be separated from adults and brought as speedily as possible for adjudication;
 - (ii) The essential aim of treatment of children found guilty of infringing the penal law shall be their reformation and social rehabilitation. They shall be segregated from adults and accorded treatment appropriate to their age and legal status.
 - (d) No child shall be subjected to cruel, inhuman or degrading treatment or punishment. No child shall be sentenced to death.

IX. Article 21 (Islamic Republic of Iran)

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

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

X. Article 22 (Canada)

1. The reports submitted by the States Parties to the present Convention under article 21 shall be considered by the Economic and Social Council.
2. To assist it in its task, the Economic and Social Council shall establish a Group of Experts entrusted with the responsibility of examining the reports submitted by the States Parties before they are considered by the Economic and Social Council the Group of Experts shall also prepare appropriate comments on every report for transmission, through the Economic and Social Council, to the State Party concerned.
3. The members of the Group of Experts shall be elected by the Economic and Social Council from a list of candidates nominated by States Parties.
4. The Economic and Social Council shall decide on the size of the Group of Experts, its geographic composition and the periodicity of its meeting.
5. The Economic and Social Council may bring its observations and suggestions on the implementation of this Convention to the attention of the General Assembly of the United Nations.

XI. Article 29 (Canada)

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

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

