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Agenda item 13

QUESTION OF A CONVENTION ON THE RIGHTS OF THE CHILD

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

(continued)

Chairman-Rapporteur:

Mr. Adam Lopatka (Poland)

Article 16

1. 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."

2. 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."

3. 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."

4. 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

5. 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.

6. 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)

7. 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.

8. 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.

9. 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.

10. 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)

11. 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.

12. 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, ethnic and religious groups,"

13. The representative of China placed on record the reservation of his delegation as to the term "a free society", which was not defined in the Convention.

Subparagraph (c)

14. 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.

15. 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

16. 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.

17. 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."

Article 17

18. 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

19. 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".

20. 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

21. 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."

22. 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.