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DRAFT DECLARATION ON SOCIAL AND LEGAL PRINCIPLES RELATING TO THE
PROTECTION AND WELFARE OF CHILDREN, WITH SPECIAL REFERENCE TO
FOSTER PLACEMENT AND ADOPTION NATIONALLY AND INTERNATIONALLY

Report of the Sixth Committee

Rapporteur: Miss Salwa Gabriel BERBERI (Sudan)

I. INTRODUCTION

1. In its resolution 1979/28 of 9 May 1979, entitled "Adoption and foster placement of children", the Economic and Social Council, inter alia, submitted to the General Assembly for preliminary consideration at its thirty-fourth session the draft declaration on social and legal principles relating to adoption and foster placement of children nationally and internationally, contained in the report of the Commission for Social Development on its twenty-sixth session, 1/ and drew the Assembly's attention to the fact that the Commission had expressed the wish that, in the event of the Assembly adopting the declaration, the Secretary-General should be authorized to convene a group of experts to draft guidelines for the use of Governments in the implementation of the declaration.

2. At its first regular session of 1981, the Economic and Social Council requested the General Assembly to consider the draft declaration at its thirty-sixth session so that the further action proposed in Council resolution 1979/28 might proceed (Council resolution 1981/18 of 6 May 1981).

3. In its resolution 36/167 of 16 December 1981, adopted on the recommendation of the Third Committee, the General Assembly decided to include in the provisional

1/ Official Records of the Economic and Social Council, 1979, Supplement No. 4 (E/1979/24).

agenda of its thirty-seventh session an item entitled "Draft Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally" with a view to the possible allocation of the item to the Sixth Committee, and also decided, in order that the further action proposed in Economic and Social Council resolution 1979/28 might proceed, that appropriate measures should be taken at its thirty-seventh session to finalize the draft Declaration.

4. On the recommendation of the General Committee, the General Assembly decided at its 4th plenary meeting, on 24 September 1982, to include in its agenda the item entitled "Draft Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally: report of the Secretary-General" and to allocate it to the Sixth Committee.

5. The Committee considered this item at its 60th and 62nd meetings, on 2 and 3 December 1982. The summary records of those meetings (A/C.6/37/SR.60 and 62) contained the views of the representatives who spoke during the consideration of the item.

6. The Committee had before it the following documents:

(a) Draft Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally: report of the Secretary-General (A/35/336);

(b) Draft Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally: report of the Secretary-General (A/37/146);

(c) Comments of the Holy See (A/C.6/37/6), transmitted with a letter dated 22 October 1982 from the Permanent Observer of the Holy See.

7. At the 60th meeting, on 2 December, the Under-Secretary-General, the Legal Counsel, introduced the report of the Secretary-General.

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/36/L.23

8. At the 60th meeting, on 2 December, the representative of Sweden introduced a draft resolution (A/C.6/37/L.23) entitled "Draft Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally" sponsored by Colombia, Norway and Sweden, subsequently joined by Iceland and Uruguay.

9. At the 62nd meeting, on 3 December, the representative of Sweden orally revised the ninth preambular paragraph of the draft resolution by adding the words "in conformity with national legislation" at the end of the paragraph.

10. At the same meeting, the Committee adopted the draft resolution without a vote (see para.11).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

11. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Draft Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally

The General Assembly,

Recalling its resolution 36/167 of 16 December 1981, whereby it decided, inter alia, that appropriate measures should be taken to finalize the draft Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally,

Noting, in this connexion, the current efforts of the Commission on Human Rights to elaborate a draft Convention on the Rights of the Child,

Taking note of the report of the Economic and Social Council on the draft Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally, 2/

Bearing in mind the reports of the Secretary-General, 3/ containing views of the Member States on the text of the draft Declaration,

Noting that the first of the above-mentioned reports contains, in section VI, entitled "Conclusion", some proposed amendments and reformulations of certain articles based on comments by Member States,

Fully aware of the sovereign right of Governments to define their national and international policies as regards the protection and welfare of children, including foster placement and adoption,

Recognizing that it is the responsibility of Governments to determine the adequacy of their national services for children and to recognize those children whose needs are not being met by existing services,

2/ See A/C.3/36/3.

3/ A/35/336 and A/37/146.

Noting the usefulness of regional co-operation in matters regarding the well-being of children,

Recognizing that the best child welfare is good family welfare and that when good family care is unavailable or inappropriate, substitute family care should be considered, in conformity with national legislation,

Convinced that adoption of the draft Declaration will promote the well-being of children with special needs,

Noting that the further views of Member States on the draft Declaration as well as on the amendments and reformulations of certain articles contained in section VI of the report of the Secretary-General 4/ would provide helpful guidance for further efforts to elaborate a generally agreed draft Declaration,

1. Requests the Secretary-General:

(a) To circulate to Member States, for their views, the draft Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally as well as the conclusions contained in the reports of the Secretary-General; 4/

(b) To submit to the General Assembly at its thirty-eighth session a report containing the views of Member States;

2. Decides to resume consideration of this item at its thirty-eighth session and to determine at that session the most appropriate course of further action.
