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DRAFT DECLARATION OF THE RIGHTS OF THE CHILD

Memorandum by the Secretary-General

I. Introduction

1. The Secretary-General has the honour to draw the attention of the Commission on Human Rights to resolution 309 C (XI) of 13 July 1950 of the Economic and Social Council.^{1/}

II. Text of the Draft Declaration of the Rights of the Child

2. The text of the draft Declaration of the Rights of the Child, as prepared by the Social Commission at its sixth session, reads as follows:

Preamble

1. Whereas the United Nations have, in the Charter and in the Universal Declaration of Human Rights, 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,

2. Whereas the United Nations have declared that everyone is entitled to all the rights and freedoms set forth in the Universal Declaration of Human Rights, 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,

3. Whereas Member States have in the Universal Declaration of Human Rights proclaimed their recognition of the fundamental rights of persons,

4. Whereas, as has specifically been stated since 1924 in the Geneva Declaration of the Rights of the Child, mankind owes to the child the best it has to give,

^{1/} Document E/1849, page 39.

^{5/} Whereas the
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5. Whereas the child needs special safeguards by reason of his physical and mental immaturity and his particular legal status,

Now therefore

6. The General Assembly recognizes and proclaims the essential Rights of the Child to the end that he may have a happy childhood and be enabled to grow up to enjoy for his own good and for the good of society, the fundamental rights and freedoms, particularly those specified in the Universal Declaration of Human Rights, and calls upon men and women as individuals as well as through their local authorities and national Governments to recognize and strive for the observance of those rights through the application of the following principles.

Principles

1. The child shall be given the means necessary to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity.
2. The child shall be entitled from his birth to a name and a nationality.
3. The child shall enjoy the benefits of social security. He shall be entitled even from before birth to grow and develop in health. He shall have the right to adequate nutrition, housing, recreation and free medical services.
4. The child shall be given opportunity to grow up in economic security, in the care of his own parents whenever possible, and in a family atmosphere of affection and understanding favourable to the full and harmonious development of his personality.
5. The child shall be given an education which will bestow upon him general culture and enable him to develop his abilities and individual judgment and to become a useful member of society. Such education shall be free.
6. The child shall in all circumstances be amongst the first to receive protection and relief.
7. The child shall be protected against all forms of neglect, cruelty and exploitation. He shall in no case be caused to engage in any occupation or employment which would prejudice his health or education or interfere with his development.

/8. The child

8. The child shall be protected against any practice which may foster racial or national discrimination or hatred. He shall be brought up in the consciousness that he will achieve his fullest development and derive greatest satisfaction through devoting his energy and talents to the service of his fellow men, in a spirit of universal brotherhood and peace.

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

10. The child shall enjoy all the rights set forth above, irrespective of any consideration of race, colour, sex, language, caste, religion, political or other opinion, national or social origin, property, birth, legitimacy or other status.

The General Assembly calls upon all Governments and peoples to make known the above principles and explain them to parents, educators, doctors, social workers and all others who deal directly with children, and to children themselves.

III. Background Information

3. The proceedings at the United Nations regarding the proposed Declaration of the Rights of the Child go back for more than four years. In 1946 the Temporary Social Commission discussed the possibility of a United Nations Declaration of the Rights of the Child. The report of the Temporary Social Commission stated that the terms of the Geneva Declaration, adopted by the League of Nations, "should bind the people of the world today as firmly as it did in 1924" (E/41).

4. The Social Commission, at its second session, adopted a resolution on Child Welfare, which requested the Secretary-General, inter alia, to prepare "documentation on the Declaration of the Rights of the Child, generally referred to as the Declaration of Geneva (1924), referring in particular to any changes or additions which may be necessary to make with a view to its acceptance as the United Nations Charter of the Rights of the Child" (E/578, paragraph 25). (The text of the Geneva Declaration may be found in the Annex to this memorandum.)

5. In accordance with this resolution, the Secretary-General presented the documentation relating to the Declaration of Geneva to the third session of the Social Commission (E/CN.5/44, paragraphs 99-117). Subsequently the Social Commission adopted a resolution recommending that the Secretary-General should
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pursue the study of the subject with a view to transforming the document into a United Nations Charter of the Rights of the Child (E/779, paragraph 761).

6. In pursuance of this resolution the Secretary-General requested all Member Governments as well as specialized agencies and non-governmental organizations interested in child welfare, to transmit comments and suggestions with regard to the proposed United Nations Declaration of the Rights of the Child. The result of this study was placed before the fourth session of the Social Commission in documents E/CN.5/111, E/CN.5/111/Corr.1, E/CN.5/11.Add.1 and 2, and E/CN.5/126.

7. During the fourth session there was a brief general debate on the subject, as a result of which a resolution was adopted requesting the Secretary-General to prepare a draft of the preamble and principles of the Declaration for the fifth session of the Commission (E/1359, paragraph 87).

8. The Secretary-General duly complied with this resolution and laid the draft as requested before the Social Commission at its sixth session (E/CN.5/199). The Commission considered that the needs of the child justified an instrument in addition to the Universal Declaration of Human Rights, and on a vote it was decided to retain the title "Declaration of the Rights of the Child". "The Commission believed that the declaration should emphasize broad principles regarding the rights of the child toward the attainment of which the peoples of the world should strive. The parallel concepts of individual rights and obligations toward society, the emphasis on protection against factors likely to foster discrimination and the implanting in the minds of children, as well as their elders, of the ideals set out in the declaration, were considered of prime importance. The Commission further emphasized the need for special care of the rights of the child because of his immaturity in respect to a name, nationality, security, health, education and protection against all forms of exploitation which might prejudice his development." (E/1678, paragraph 58) By a vote of 13 to none, with 3 abstentions, the Social Commission adopted the Draft Declaration of the Rights of the Child, as quoted in paragraph 2 above.

9. The Social Commission then adopted a resolution (E/CN.5/1678, paragraph 60) transmitting the draft declaration to the Economic and Social Council and recommends that it should request the Commission on Human Rights to inform the Council at its thirteenth session of the Commission's observations on the Draft Declaration of the Rights of the Child, with a view to approval by the General Assembly.

/10. The draft

10. The draft Declaration of the Rights of the Child and the draft resolution proposed by the Social Commission at its sixth session were discussed by the Economic and Social Council at its eleventh session (E/AC.7/SR.125-128 and E/SR.387). Most members of the Council expressed the view that the Commission on Human Rights should be requested to consider the draft Declaration and to communicate to the Council its observations on the principle and contents of the draft document. Consequently the Council adopted resolution 309 C (XI), mentioned at the beginning of this memorandum. It was understood that the Council itself had not taken any decision concerning the title and substance of the draft Declaration, nor had it considered the nature of such an international instrument. The Commission on Human Rights is therefore requested to communicate whatever observations it may wish to make regarding both the principle and the contents of the draft instrument.

IV. Question of Principle

11. At this point it may be useful to indicate the meanings of the terms "principle" and "contents". The question of "principle", in this context, appears to include all such considerations as are related to the purpose, the nature, the title of the draft instrument concerning the rights of the child. The term "contents" means, of course, the substance, the actual provisions, of the draft instrument.

12. There is clearly an interdependence between "principle" and "contents". A decision on the purpose, the nature and the title of the draft instrument will to some extent determine its substance. An agreement on the actual provisions of the draft instrument presupposes the necessity and desirability of such an instrument and a general consensus respecting its nature and title.

13. The purpose of the draft instrument is clearly stated in paragraphs 5 and 6 of its preamble. Paragraph 5 states that "the child needs special safeguards by reasons of his physical and mental immaturity and his particular legal status." According to paragraph 6 the rights of the child are to be recognized and proclaimed by the General Assembly in order that "he may have a happy childhood and be enabled to grow up to enjoy, for his own good and for the good of society, the fundamental rights and freedoms, particularly those specified in the Universal Declaration of Human Rights."

/14. Both in

14. Both in the Social Commission and in the Economic and Social Council, the necessity and desirability of a special declaration of the rights of the child, in addition to the Universal Declaration of Human Rights were discussed. It was observed that the Universal Declaration is a standard of achievement for all nations and all peoples, and covers the rights of all human beings, including children. It was further observed that most, if not all, of the essential rights of the child are already recognized and proclaimed in the Universal Declaration. Would a special declaration of the rights of the child, it was asked, lessen the moral force and detract from the all-embracing character of the Universal Declaration of Human Rights [E/AC.7/SR.126]? If a declaration of the rights of the child were admitted should there not be declarations of the rights of other categories or groups of human beings, such as the mother, the aged, the blind, etc. [E/CN.5/SR.124]? It was argued, on the other hand, that the special needs of the child justify a special declaration, and that the Universal Declaration should be considered as a general declaration which may be supplemented by a series of special declarations.

15. The nature of the draft instrument was also discussed in the Social Commission and in the Economic and Social Council. The following questions were asked: Should the instrument be a legally binding instrument? Should it be of a mandatory character? [E/CN.5/SR.138.] Should the instrument set up minimum standards to which national legislation on child welfare must conform? Or should it serve as a standard of achievement upon which national legislation on child welfare may be based? [E/AC.7.1/SR.126.] How should the provisions of the instrument be implemented? What action could be taken by the United Nations to put such provisions into practice? [E/CN.5/SR.137 and 138.]

16. The Social Commission gave much thought to the title of the draft instrument. The expression "Children's Charter" was informally used by different members of the Commission. Three titles were seriously considered: "Resolution", "Proclamation" and "Declaration" on the Rights of the Child. Eventually the Social Commission decided to call the draft document "United Nations Declaration on the Rights of the Child," partly to emphasize its link with its predecessor, the Geneva Declaration of 1924, and partly to indicate its special position in relation to the general instrument, the Universal Declaration of Human Rights [E/CN.5/SR.137 and 140].

V. The Question of Contents

17. The Commission on Human Rights is requested by the Economic and Social Council to consider the draft instrument "at the same time as the Universal Declaration of Human Rights" and to make observations on the contents of the draft instrument.

18. With a view to assisting the Commission in its consideration, the following chart is submitted, in which column 1 reproduces the articles of the draft instrument and column 2 contains such provisions of the Universal Declaration of Human Rights as are comparable or related to the articles of the draft instrument.

Draft Declaration of the Rights of
the Child Principles

1. The child shall be given the means necessary to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity.

2. The child shall be entitled from his birth to a name and a nationality.

3. The child shall enjoy the benefits of social security. He shall be entitled even from before birth to grow and develop in health. He shall have the right to adequate nutrition, housing, recreation and free medical services.

Universal Declaration of Human Rights

Article 3. Everyone has the right to life, liberty and security of person.

Article 22. Everyone, as a member of society ... is entitled to realization ... of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 25. ...
(2) Motherhood and childhood are entitled to special care and assistance. ...

Article 15. (1) Everyone has the right to a nationality.
(2)

Article 22. Everyone, as a member of society, has the right to social security ...

Article 25. (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

4. The child shall be given opportunity to grow up in economic security, in the care of his own parents whenever possible, and in a family atmosphere of affection and understanding favourable to the full and harmonious development of his personality.

5. The child shall be given an education which will bestow upon him general culture and enable him to develop his abilities and individual judgment and to become a useful member of society. Such education shall be free.

6. The child shall in all circumstances be amongst the first to receive protection and relief.

7. The child shall be protected against all forms of neglect, cruelty and exploitation. He shall in no case be caused to engage in any occupation or employment which would prejudice his health or education or interfere with his development.

Article 3. Everyone has the right to life, liberty and security of person.

Article 22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and natural *rights indispensable for his dignity and* the free development of his personality.

Article 16. ...

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 26. (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory...

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

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 25. (2) Motherhood and childhood are entitled to special care and assistance...

Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 23. (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

Article 24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

/8. The child

8. The child shall be protected against any practice which may foster racial or national discrimination or hatred. He shall be brought up in the consciousness that he will achieve his fullest development and derive greatest satisfaction through devoting his energy and talents to the service of his fellow men, in a spirit of universal brotherhood and peace.

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

10. The child shall enjoy all the rights set forth above, irrespective of any consideration of race, colour, sex, language, caste, religion, political or other opinion, national or social origin, property, birth, legitimacy or other status.

Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs. ...

Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 26. (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

Article 25. (1) Everyone has the right ... to security in the event of ..., sickness, disability, ... or other lack of livelihood in circumstances beyond his control.
(2) Motherhood and childhood are entitled to special care and assistance. ...

Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. ...

Article 25. (2) ... All children, whether born in or out of wedlock, shall enjoy the same social protection.

ANNEX

DECLARATION OF GENEVA

Adopted by the Assembly of the League of Nations on 26 September 1924

By the present Declaration of the Rights of the Child, commonly known as the Declaration of Geneva, men and women of all nations, recognizing that mankind owes to the child the best that it has to give, declare and accept as their duty that, beyond and above all considerations of race, nationality or creed:

- I. The child must be given the means requisite for its normal development, both materially and spiritually.
- II. The child that is hungry must be fed; the child that is sick must be nursed; the child that is backward must be helped; the delinquent child must be reclaimed; and the orphan and the waif must be sheltered and succoured.
- III. The child must be the first to receive relief in times of distress.
- IV. The child must be put in a position to earn a livelihood and must be protected against every form of exploitation.
- V. The child must be brought up in the consciousness that its talents must be devoted to the service of its fellowmen.
