



UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/780/Add.1
29 January 1959
ENGLISH
ORIGINAL: ENGLISH/FRENCH/
RUSSIAN

COMMISSION ON HUMAN RIGHTS
Fifteenth session
Item 8 of the provisional agenda

DRAFT DECLARATION OF THE RIGHTS OF THE CHILD

Comments of Governments

The Secretary-General has the honour to circulate the following comments received from the Governments of Finland, France, Japan, USSR and Yugoslavia:

1. Finland

(Note of 1 December 1958)

The Government of Finland, recognizing the great importance of promoting in every possible way the rights of the child, fully accept the principles contained in the Draft Declaration of the Rights of the Child and are in entire accord with its purpose. These principles have all been acted upon in Finland during a considerable period of time and conform with Finnish legislation and practice.

2. France

(Note of 22 January 1959)

I

The French Government favours in principle the formulation of a Declaration of the Rights of the Child. The United Nations General Assembly should indeed issue a solemn declaration recognizing the fundamental principles whose application

would provide children with the special protection they need. Such a children's charter will undoubtedly also be a declaration of the duties of men and women and Governments of all countries. It will, none the less, constitute a statement of the child's fundamental rights as a person. That declaration should therefore take its place alongside the Universal Declaration of Human Rights.

The Declaration of 1924 already served that purpose to a notable extent. However, the Universal Declaration of Human Rights has since recognized, in article 25, the child's need for special protection. The establishment of specialized agencies and organizations essentially concerned with children should now make it possible to define more precisely the economic and social forms of such protection.

Consequently, the preamble to the Declaration of the Rights of the Child should contain a reference to article 25 of the Universal Declaration and to the statutes of the specialized agencies. It would therefore be desirable, in accordance with the wishes of the International Union for Child Welfare, to draft a new paragraph to replace preambular paragraphs 2 and 3, which are not sufficiently specific and add little to the idea already expressed in paragraph 1. The new paragraph could be merged with the last preambular paragraph of the present text to read as follows:

"Whereas the child needs special safeguards by reason of his physical and mental immaturity and his particular legal status, and mankind owes to the child the best it has to give;

"Whereas the need for such safeguards has been recognized in article 25 of the Universal Declaration of Human Rights and in the statutes of the specialized agencies and international organizations which are principally concerned with children."

II

With regard to the body of the draft Declaration, the French Government wishes to emphasize that the principle of non-discrimination should be affirmed, not at the end of the Declaration, but at the beginning, as principle 1.

It also has the following comments to make concerning principles 4 and 5.

Principle 4 stresses the importance of the family in the child's development. It would seem more appropriate therefore to replace the words "economic security"

/...

by "material and moral security". Furthermore, the following sentence might be added at the end of the paragraph: "An infant shall not be separated from its mother, save in exceptional circumstances". In most countries this principle is recognized in legislation and legal practice. Its importance has, moreover, been established by the latest paediatric research.

Principle 5 deals with education. It should include a reference to the fundamental principle of equal opportunity for all children. The first sentence of the paragraph might be amended as follows:

"The child shall be given an education which will bestow upon him general culture and enable him to develop his abilities and individual judgement, to enter social life with the same opportunities as all other children and to become, in due course, a useful member of society."

Lastly, to uphold both the concept expressed in article 26, paragraph 3 of the Universal Declaration of Human Rights, and the stated intention of this Declaration to emphasize the rights of the child, it would be appropriate to include here a definition of the role of the parents in the child's education. The following sentence might be added to complete the paragraph:

"The best interests of the child shall be the criterion for those responsible for his education and guidance; that responsibility shall rest primarily with his parents."

3. Japan

(Note of 25 December 1958)

... Although the Government of Japan has no objection in principle to the text of the draft Declaration prepared by the Social Commission, it wishes to submit suggestions for consideration by the Commission on Human Rights at its next session as follows:

1. The whole sentence in the last paragraph beginning with "The General Assembly calls upon ..." be deleted and combined with the second sentence of the preambular paragraph 6.

/...

The amended sentence may read in the following line: "... and calls upon all Governments and peoples to recognize and strive for the observance of those rights through the dissemination among men and women and application to every child of the following principles".

2. At the end of the first sentence in the operative paragraph 7, add the words "and evil environments".

3. In paragraph 9, add a new sentence to read:

"The child who has committed wrongful acts shall be provided with adequate protection and guidance."

4. Paragraph 10 stipulates the basic principle of non-discrimination in the application of other principles set forth in paragraphs 1-9. In view of the importance of this provision, it seems appropriate to place the paragraph at the beginning as paragraph with necessary drafting changes (... set forth below ...) and to renumber present paragraphs 1-9 accordingly.

4. Union of Soviet Socialist Republics

(Note of 9 January 1959)

In the opinion of the competent Soviet organizations the formulation and adoption of a Declaration of the Rights of the Child by the United Nations would be a progressive move.

However, the draft Declaration prepared by the Social Commission of the United Nations has some serious defects.

The first point worthy of note is that, in paragraph 6 of the preamble to the draft Declaration, the United Nations General Assembly is to call upon "men and women", but not upon States, to recognize the rights set forth in the Declaration. Since the United Nations is an international Organization composed of States, it should naturally appeal to its Members first, particularly as the safeguarding of the rights set forth in the Declaration depends to a large extent on States. The draft Declaration should therefore include an appeal from the General Assembly to the Governments of States to be guided by the principles enunciated in this Declaration in all their practical measures to safeguard the rights of the child.

/...

It is a serious shortcoming of the draft Declaration that it confines itself to enumerating the rights which should be accorded to children, but gives no indication of the practical ways and means of safeguarding those rights. The draft Declaration would gain in effectiveness if the requisite additions and elucidations were made.

On this basis, the provision in the draft Declaration which states that a child "shall be entitled even from before birth to grow and develop in health" (Principle 3) would have to be formulated more specifically, indicating that, to ensure the normal development of the child, the State must make provision in its legislation for:

- (a) The granting of adequate paid maternity leave to working women both before and after confinement;
- (b) A ban on the employment of expectant and nursing mothers for heavy, unhealthy or night work;
- (c) The transfer of expectant and nursing mothers to lighter work when necessary without any reduction in pay; the provision of suitable intervals during the working day to enable a nursing mother to feed her child.

The provision, still in Principle 3, dealing with the child's right to free medical services, should also make it incumbent upon the State to assure that right to children and expectant and nursing mothers by providing an adequate network of hospitals, clinics, maternity homes and other medical institutions.

The Declaration should also provide expressly that States should promote the balanced physical development of the rising generation and, to that end, to encourage the provision of various sports facilities for children.

Principle 4 makes no mention of the problem of financial provision for and upbringing of orphaned children and children whose parents have insufficient means for their maintenance. A stipulation should be inserted to the effect that it is the responsibility of States to provide for the proper maintenance and upbringing of such children in children's homes, boarding schools and other children's institutions. Emphasis should also be placed on the desirability of maintenance allowances payable by the State to large families.

Principle 5, which deals with the right to education, should emphasize that primary education must be compulsory and universal, and assured by the State

through the organization of an extensive network of schools, adequately staffed, housed and equipped. The Declaration should call upon States to take the necessary steps to provide free and universal secondary education also. The Declaration should make special mention of the need to guarantee the right to education of minors in employment.

The Declaration should contain a provision to the effect that the State should make culture accessible to children, by providing an extensive network of children's libraries, reading rooms, music schools and other cultural and educational establishments.

Principle 7, on the child's right to protection from exploitation, should be supplemented to indicate the need for a ban on the employment of minors below a certain age-limit; that age-limit should be established by national legislation. The Declaration should state expressly that the employment of minors below a fixed age-limit should be punishable by law. In order to protect the interests of minors in employment, the Declaration should indicate the need to establish criminal liability for the employment of minors for unhealthy or hazardous work, and the desirability of granting them shorter working hours, adult wage rates and adequate paid annual leave.

The reference in Principle 7 to the protection of the child from cruelty should include a stipulation to the effect that corporal punishment in schools must not be tolerated.

Principle 8 should also state that children must be brought up in a spirit of international peace, friendship and brotherhood and that States must prohibit the dissemination of war propaganda and racial and national hatred in schools.

5. Yugoslavia

(Note of 13 January 1959)

... The Yugoslav Government is in complete agreement with the proposed text of this Declaration.

However, it would be desirable for this Declaration to contain also a provision for treatment in criminal cases whereby the child should be treated exclusively as a subject of educational-reformatory measures.