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QUESTION OF A CONVENTION ON THE RIGHTS OF THE CHILD

Report of the Secretary-General

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## INTRODUCTION

1. The present report was prepared pursuant to Commission on Human Rights resolution 20 (XXXIV) of 8 March 1978. In this resolution the Commission requested the Secretary-General to invite Member States, competent specialized agencies, regional intergovernmental organizations and non-governmental organizations to communicate to him their views, observations and suggestions on the draft Convention on the Rights of the Child annexed thereto, and to submit a report thereon to the Commission on Human Rights at its thirty-fifth session; and decided to continue, at its thirty-fifth session, its consideration of a draft Convention on the Rights of the Child, taking into account both the draft Convention annexed to the above-mentioned resolution and the report of the Secretary-General, with a view to concluding, if possible, a convention at that session for transmission to the General Assembly through the Economic and Social Council.

2. In pursuance of resolution 20 (XXXIV), the Secretary-General transmitted the draft Convention to Member States and to the competent specialized agencies, regional intergovernmental organizations and non-governmental organizations, and requested that they make known not later than 31 October 1978 their views, observations and suggestions on such a convention. The report is based on those replies received as at 14 December 1978. Extracts from the replies received are reproduced below, under General Comments and Specific Comments to the draft Convention.

3. Replies were received from the following Member States: Australia; Austria; Bahrain; Barbados; Belgium; Chad; Cyprus; Denmark; Dominican Republic; Finland; German Democratic Republic; Germany, Federal Republic of; Greece; Hungary; Madagascar; Mauritius; Netherlands; Norway; Peru; Poland; Portugal; Spain; Sweden; Turkey; United Arab Emirates; United Kingdom of Great Britain and Northern Ireland; and Zambia.

4. The following specialized agencies submitted comments: International Labour Organisation, Food and Agriculture Organization of the United Nations, United Nations Educational, Scientific and Cultural Organization, and the World Health Organization.

5. In addition, comments were received from the following non-governmental organizations in consultative status with the Economic and Social Council: Category I: International Council of Women and Women's International Democratic Federation; Category II: International Association of Youth Magistrates, International Commission of Jurists, International Committee of the Red Cross, International Federation of Women Lawyers, International Union for Child Welfare, Society for Comparative Legislation, World Jewish Congress, World Movement of Mothers, World Union of Catholic Women's Organizations and World Union of Organizations for the Safeguard of Youth; Roster: International Federation of Home Economics, International Humanist and Ethical Union and International Union of Judges.

I. GENERAL COMMENTS

A. Member States

AUSTRALIA

Original: English

15 August 1978

The Australian Government, while it is alive to the importance of the rights of children, believes that consideration of the proposal to draft a convention on the rights of the child should be deferred until after the various activities to be mounted in connexion with the International Year of the Child have afforded Member States the opportunity to examine in detail the need for such a convention.

AUSTRIA

Original: English

12 October 1978

1. The substantive provisions of the present draft correspond literally to the United Nations Declaration of the Rights of the Child (1959). If clear and unequivocal obligations under international law are to be based on a convention on the rights of the child, the Austrian Federal Government feels that its wording should be much more concrete and specific than that of the Declaration.

2. Finally, the Austrian Federal Government takes the liberty of suggesting a thorough revision of the draft. Revisers should in particular see whether the rights referred to in the draft are not already safeguarded by the International Covenants on Human Rights.

BAHRAIN

Original: Arabic

16 August 1978

1. The 10 principles included in the United Nations Declaration of the Rights of the Child are fundamental principles whose comprehensiveness as general principles is indisputable.

2. What needs to be developed is the means to implement such principles at the level of the United Nations Secretariat as well as at the level of Member States, in order to have the said means adjusted to the world's changing and developing circumstances.

3. In this regard, the United Nations Secretariat may investigate the extent to which Member States apply the aforementioned 10 principles in their legislation and in actuality, and can thus derive several facts spotlighting the real world of childhood today.

4. The Secretariat may also translate each of those principles into several realistic and concrete proposals, so as to enable each State to ascertain, by comparing such proposed measures with actual practice therein, whether or not it applies such principles properly.
5. Member States should not be content just with proclaiming these principles and circulating them in their original form, but should translate them into legislation and into executive as well as partial measures.
6. Member States should also embody these principles and make them accessible to their citizens, i.e. to fathers and mothers and to children also, because children are the fathers and mothers of the future. In every possible field, particularly in the fields of education and mass media, e.g. the press, television and radio.

## BARBADOS

[Original: English]

[7 November 1978]

1. The Government of Barbados is in favour of the adoption of a convention on the rights of the child and is in general agreement with the draft convention submitted by Poland.
2. It has been observed that no article deals directly with the adoption of children where this is desirable in their best interest. If this is to be accepted then provision should be made whereby an adoption should not take place without the consent of the parent. However such consent may be dispensed with by a competent court if the person whose consent is to be dispensed with
  - (a) has abandoned, neglected or persistently ill-treated the infant; or
  - (b) cannot be found or is incapable of giving his consent or is withholding his consent unreasonably.
3. The child's right to life has not been articulated. How far should this right go? Does the child include the unborn child, or the foetus? Under specified circumstances, should a foetus be aborted without an offence being committed or at the relevant time was the foetus a human life? All these are questions which should be considered before the child's right to life is articulated.

## BELGIUM

[Original: French]

[2 November 1978]

1. The Belgian Government welcomes any initiative likely to improve the status of the child and attaches the utmost importance to the legal aspect of the protection of the child.

2. It notes that the preamble and substantive articles contained in the draft convention submitted by Poland are absolutely identical to the text of the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959. The draft also provides for a system for reporting to the Economic and Social Council. Articles XIII et seq. contain the final provisions which are customary in treaty law.
3. Clearly, the sole effect of the Polish draft is to give an existing declaration the form of a binding convention.
4. It should be noted, however, that the Declaration was not, and was not intended to be, drafted in such a way as to be directly usable as a convention. Basically, it provides guidelines by bringing together, with specific reference to the child, a broad range of rights deriving from numerous other United Nations instruments.
5. The Belgian Government does not consider that, under these circumstances, the mere transformation of the Declaration of the Rights of the Child into a convention constitutes a tangible contribution to the protection of the child. It would prefer the international community to endeavour to translate into terms more directly applicable in internal law such rights of the child as are not yet sufficiently covered by other binding international instruments.
6. The Belgian Government therefore urges the Commission on Human Rights to embark on the study of a convention on the rights of the child which, although of course inspired by the Declaration of the Rights of the Child, would establish specific legal provisions supplementing existing international law.

CHAD

[Original: French]

[1 August 1978]

The draft Convention on the Rights of the Child annexed to resolution 20 (XXXIV) has received the careful consideration of the Ministry of Public Health, Labour and Social Affairs, which is of the view that "all aspects of the question have been taken into consideration and that the wording seems clear. It has no special observation to make."

CYPRUS

[Original: English]

[15 November 1978]

The Government of the Republic of Cyprus in general accepts the draft Convention on the Rights of the Child. It has, however, the following suggestions to make:

- (1) A provision could be included in the draft Convention which would take into account the economic capabilities of the Contracting Parties as regards the implementation of the Convention. Article 2, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights could serve as a model for drafting this article;
- (2) A provision as regards the right of the child to own property might also be considered.



DENMARK

[Original: English]

[14 November 1978]

1. The Danish Government welcomes the initiative which the Commission on Human Rights took at its thirty-fourth session in March 1978 by adopting resolution 20 (XXXIV) recommending the conclusion of a convention on the rights of the child.
2. The objective of such a convention should be to provide a constructive contribution to strengthening the rights of the child throughout the world, and in drawing up its individual provisions the best interests of the child shall always be the paramount consideration.
3. Such a convention must be thoroughly prepared and the areas in which there are the greatest needs to further strengthen the legal status of children through the drawing up of a convention must be carefully examined in the light of existing instruments such as the International Covenant on Civil and Political Rights, the Geneva Conventions of 12 August 1949 and the Protocols additional thereto, and relevant ILO Conventions.
4. The 1959 Declaration on the Rights of the Child has thus already been followed up to some extent by the adoption of various treaty provisions on this subject. It would hardly be advisable, as done in the proposal contained in document E/CN.4/L.1366 of 7 February 1978, merely to elevate the Declaration into a convention. The Declaration is in the form of a manifesto, and it thus lacks the preciseness and clarity which is required in the formulation of legally binding texts.

DOMINICAN REPUBLIC

[Original: Spanish]

[5 October 1978]

The Dominican Government has examined the draft Convention on the Rights of the Child and in general supports the idea that all matters relating to the rights and the care which should be accorded to children throughout the world should be embodied in a binding legal instrument which should take the form of a convention for the signatory parties.

FINLAND

[Original: English]

[7 November 1978]

The Government of Finland supports fully the objectives of the proposed Convention on the Rights of the Child and is ready to collaborate in its further elaboration.

GERMAN DEMOCRATIC REPUBLIC

[Original: English]

[21 November 1978]

1. The German Democratic Republic welcomes the proposal submitted by the Polish People's Republic to make provision in international law for the legal status of the child. The German Democratic Republic views the draft Convention, which was prepared on the basis of the Declaration of the Rights of the Child of 1959, as a major contribution to the International Year of the Child, 1979, as proclaimed by the United Nations. The draft meets with the German Democratic Republic's general approval.

2. Drawing on its previous experience in this field, the German Democratic Republic should like to make the following suggestion to make the language more precise:

An explicit provision should be included in the Convention to preclude discrimination against children of unmarried parents. On this subject, the German Democratic Republic earlier submitted to the Secretary-General of the United Nations detailed observations on the "Draft general principles on equality and non-discrimination in respect of children born out of wedlock".

3. The German Democratic Republic believes that the principles set forth in the draft Convention on the Rights of the Child, and in particular the provisions of article I on non-discrimination and the attendant right of all children to physical and spiritual development without distinction, are in accordance with one of the principal tasks facing the United Nations, i.e. to support the peoples in their struggle against colonialism, neo-colonialism, racial discrimination and apartheid. It is the German Democratic Republic's understanding that in implementing the Convention one should be aware of the inseparable unity of the striving for peace and détente, and the happiness, advancement and protection of children all over the world.

FEDERAL REPUBLIC OF GERMANY

[Original: French]

[8 November 1978]

1. The Federal Government is prepared to co-operate in the elaboration of a convention on the rights of the child, based on the draft submitted to the Commission on Human Rights. In order to achieve the goal of adopting a convention which takes full account of the needs of children, the existing draft, which should not be considered as the only starting point for deliberations, should be subjected to a thorough, careful and unhurried review. In this connexion, the Federal Government recommends that consideration should be given to the possibility of convening a group of experts to carry out a comprehensive and specialist review of all the questions which ought to be raised during the preparation of a convention, in particular, legal issues or questions relating to social policy. The fact that the Federal Government is proposing such a

procedure demonstrates the importance it attaches to a carefully drafted convention which contains genuinely usable regulations relating to the protection of the child and which will therefore continue to prove effective after the International Year of the Child.

2. Unlike the Declaration of the Rights of the Child (United Nations General Assembly resolution 1386 (XIV), dated 20 November 1959), in which the draft Convention in question is largely based, a convention should be worded in such a way as to leave no possible doubt regarding the legal scope of each regulation. It must, in particular, draw a clear distinction between regulations representing rights of the individual and those which might simply be the subject of an undertaking on the part of States. Moreover, the provisions of the draft concerning objectives, content and methods of education should be considered separately.

3. Without prejudice to a final assessment, we consider that articles I, III, IV (understood as the right of the child to have his needs provided for in the broadest sense), the first and second sentences of article VI, the first sentence of article VII, paragraph 1 (right to education), and the second part of article VII, paragraph 2 (primary right of parents), should be grouped together in a separate section as rights of the individual.

4. However, this can apply only if all these provisions are retained as they stand.

5. The Federal Government suggests that a thorough review should also be made of other provisions of the draft, in the same way as for article III, to ascertain whether it is desirable to adopt them as part of the Convention on the Rights of the Child, in the light of the measures already taken or provided for in other international instruments.

6. Unlike the series of measures on the rights of the individual, article II, article IV (first and second sentences), article V, article VI (fourth sentence), article VII, paragraph 1 (second sentence), article VII, paragraph 3, article IX and article X (first sentence) can be considered only as undertakings on the part of States.

7. Conversely, the provisions of the draft relating to objectives, content and methods of education cannot be considered as either rights of the individual or undertakings on the part of States. The provisions in question are contained in the first sentence of article VI, the first part of article VII, paragraph 2, and the second sentence of article X of the draft. It is the responsibility and duty of the parents whose rights are also recognized in the draft to take binding decisions in this regard. The provisions referred to can more appropriately be made the subject of a recommendation to be incorporated in the preamble to the Convention.

8. The Federal Government also expresses reservations as to the comprehensiveness of the safeguards provided regarding efforts to ensure the protection of the child which have been undertaken elsewhere in the United Nations. This applies particularly to natural children whose status has long been the subject of consultations within the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the United Nations Commission on Human Rights. This question should receive special attention. Another matter that should receive special attention in this context is whether the application of the Convention to natural children is also provided for in the present draft. Admittedly,

article I provides that every child shall be entitled to the rights set forth in the Convention, without distinction or discrimination on account of birth or status, among other factors. Furthermore, the wording of principle 1 of the Declaration of the Rights of the Child of 20 November 1959, on which article 1 of the draft Convention is based, seems to have been designed to assure natural children of the same rights as those enjoyed by legitimate children. However, the other provisions of the Declaration of 20 November 1959, and consequently of the draft Convention based on it, do not take account of the situation of natural children. For instance, the second part of article VII, paragraph 2, provides that responsibility for the education and guidance of the child lies in the first place with "his parents". This provision needs to be modified to cover the situation of natural children, most of whom are brought up in the family of the mother.

9. Reference should also be made to resolution 8 (XXVII) of the United Nations Commission on the Status of Women, dated 5 April 1978, which relates to measures for the protection of women and children against the division of families as a result of the policy of apartheid.

10. In the view of the Federal Government, another question that should be considered is whether the draft Convention should also make specific provision for the protection of adopted children and children who are brought up by foster-parents. Efforts have been in progress for a number of years within the United Nations to draft a convention or, at the very least, a declaration on adoption. In this connexion, particular reference should be made to Economic and Social Council resolution 1925 (LVIII) of 6 May 1975. The present draft Convention also deals with adopted children in so far as its article 1 prohibits any distinction in the treatment of children on account of their "status". However, as in the case of natural children, the draft contains no other provision relating specifically to adoption or to the situation of the foster-child. Consequently, it should also be made clear whether the protection of adopted children and foster-children should be dealt with separately, or whether it is preferable to treat these questions in greater detail on the basis and in the framework of the proposed Convention, after they have been raised in article 1 of the draft. One reason why this is essential is to avoid any conflict between the different United Nations instruments on the protection of the child.

11. The same problem arises in respect of the relationship between the proposed Convention and the instruments for the protection of the child provided for under international humanitarian law. In this connexion, reference should be made in the first instance to Economic and Social Council resolution 1687 (LII) of 2 June 1972, and to resolution 7 (XXVII) of the United Nations Commission on the Status of Women, dated 5 April 1978, concerning the "Protection of women and children in emergency and armed conflict in the struggle for peace, self-determination, national liberation and independence" and to the Protocols Additional to the Geneva Conventions of 12 August 1949, adopted in Geneva on 8 June 1977 by the Diplomatic Conference on Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts (cf. United Nations document A/32/144 of 15 August 1977). In this area, too, a study should be carried out and, in the light of its results, a provision drafted defining exactly the specific scope of the proposed Convention.

12. In view of the large number of questions left unresolved by the present draft Convention, the Federal Republic of Germany would like to stress once again the need for a careful review of the draft. A convention can only be satisfactory over the long term if it is able to provide comprehensive protection for the rights of the child.

13. The Federal Government considers that an essential contribution will have been made to the International Year of the Child if, in 1979, some progress can be made, along the lines set out above, towards the formulation of a convention for the protection of the child.

## GREECE

[Original: English]

[17 November 1978]

The Greek Government strongly supports the resolution submitted by Poland for a convention on the rights of the child. It believes, though, that a declaration of intent is not sufficient and that Member States by signing this resolution must be ready to promote the necessary legislation and to allocate the necessary funds to translate this document into meaningful action.

## HUNGARY

[Original: English]

[27 November 1978]

1. In 1959 the General Assembly of the United Nations adopted the Declaration of the Rights of the Child which was an important step in the field of ensuring and protecting the rights of the child. Nearly 20 years have passed since the adoption of the Declaration and the time has come to take further steps in this respect.

2. The Hungarian Government welcomes and fully supports the initiative aimed at elaborating a convention on the rights of the child. It holds the view that the adoption of a convention with legally binding force under the auspices of the United Nations would be instrumental in the more effective protection and more consistent enforcement of the rights of the child.

3. The draft Convention transmitted to the Governments contains the most important rights of the child and expresses the most essential basic principles.

4. The Hungarian Government is of the opinion that by the early adoption of a convention on the rights of the child Member States may concretely demonstrate their sincere endeavour for wide and universal guarantee of human rights.

MADAGASCAR

[Original: French]

[16 October 1978]

1. The draft Convention on the Rights of the Child annexed to resolution 20 (XXXIV) adopted by the Commission on Human Rights on 8 March 1978 embodies, in the form of a convention, the principles contained in the Declaration of the Rights of the Child proclaimed by the United Nations General Assembly on 20 November 1959 (resolution 1386 (XIV)), which has the full and whole-hearted support of the Government of the Democratic Republic of Madagascar.

2. In this regard, the adoption of a Convention on the Rights of the Child during the International Year of the Child (General Assembly resolution 31/169) is a means of strengthening still further the general protection and well-being of the children of the world.

MAURITIUS

[Original: English]

[13 November 1978]

The Government of Mauritius is in total agreement with the contents of the draft Convention on the Rights of the Child.

NETHERLANDS

[Original: English]

[28 November 1978]

1. The Netherlands Government can subscribe in principle to the idea of devoting a special convention to the rights of the child.

2. In elaborating this idea, however, it is not considered sufficient to merely try and copy the Declaration of the Rights of the Child which dates back as early as 1959 and does not reflect the social, economic and cultural developments and changes since then.

3. Moreover, the formulation of the principles in the present draft Convention is rather vague. A lot of them are already embodied in the mandates of agencies like the ILO, WHO and UNESCO, or in more appropriate juridical wordings, in instruments like the Covenants on Civil and Political and on Economic, Social and Cultural Rights. In these contexts the implementation and observance of the principles is taken care of in a far more extended and concrete manner.

4. For these reasons the Netherlands Government seriously doubts the usefulness of a draft convention as annexed to resolution 20 (XXXIV) of the Commission on Human Rights. In its view a draft convention on the rights of the child must consist of timely, up-to-date and concrete principles, accompanied by practical guidelines for application, and supplementary to already existing instruments and activities, in order to avoid unnecessary duplication.

NORWAY

[Original: English]

[14 November 1978]

1. Norway fully recognizes the need for greater international efforts for the protection and promotion of the rights of children, and therefore supports the main principles outlined in the draft Convention. It would seem necessary, however, to complete the present draft and take account of developments and changes in social structures and States' family policies.

2. In the opinion of Norwegian authorities, the interests of children would best be served if seen in conjunction with the interests of adults. Today the interests of children are very often overlooked in the decision-making process. Therefore, a convention on the subject of the rights of children should deal with children as a group. This aspect ought to be emphasized by using the noun "child" in its plural form throughout the Convention. By the use of "children" and, consequently, "they", "them" and "their", the terms "he", "whom" and "his" could be avoided, and the equal status of the two sexes would appear more clearly.

3. On this basis, the following amendments to the draft Convention are suggested:

Throughout the draft Convention, substitute "children" for "the child", "they" for "he", "them" for "him", and "their" for "his".

4. It should also be considered to impose on the States Parties an obligation to establish or designate national administrative organs to be responsible for the protection and promotion of the rights of children.

PERU

[Original: Spanish]

[25 October 1978]

The Peruvian National Institute for the Assistance and Promotion of Minors and the Family has indicated its approval of the draft Convention on the Rights of the Child annexed to resolution 20 (XXXIV).

POLAND

[Original: English]

[31 October 1978]

1. As the original author of the draft Convention on the Rights of the Child the Government of the Polish People's Republic has no additional suggestions or amendments to the text as presented by the Polish delegation during the thirty-fourth session of the Commission on Human Rights.

2. It is the considered view of the Polish Government that no effort should be spared in order to bring about the adoption of the Convention by the General Assembly at its thirty-fourth session in 1979. This would coincide with the International Year of the Child. Such a step would not only give an

additional and significant stimulus and meaning to the International Year of the Child objectives but also would highlight the necessity and significance of measures envisaged by the Convention itself for child's care all over the world.

3. The adoption of the Convention in 1979 can be achieved since, in particular, the principles of the United Nations Declaration of the Rights of the Child - constituting the basis for the draft Convention - have been known to Governments and the world community for 20 years.

4. The Government of the Polish People's Republic would like to suggest the need to create an open-ended working group and to entrust it with a task of drafting the Convention during the thirty-fifth session of the Commission on Human Rights.

PORTUGAL

[Original: French]

[27 October 1978]

1. The draft Convention on the Rights of the Child has the approval of the competent Portuguese authorities, which are aware of the importance of drawing up such a Convention.

2. However, the competent Portuguese authorities are of the view that the wording of the draft could be improved. The rights of the child prior to birth could be more clearly defined.

3. The competent Portuguese authorities consider that attention should be drawn to the fact that children must be the result of a choice freely exercised by their parents. The happiness and well-being of children should therefore be closely linked with family planning.

SWEDEN

[Original: English]

[8 November 1978]

1. The Swedish Government looks favourably at any international efforts aimed at strengthening the rights of the child. Since a convention dealing with this important subject could be a valuable new instrument, the Swedish Government is prepared to participate actively in its drafting.

2. In this work it is natural to seek inspiration from the Declaration of the Rights of the Child which was adopted by the General Assembly in 1959. Consequently the provisions of that Declaration could be a starting-point when drafting a new convention. It would not be desirable, however, simply to include the text of the Declaration in a convention, since the two instruments are of a different legal character and provisions which are appropriate in a declaration will not always be well suited to constitute legally binding rules. The 1959 Declaration contains certain general statements which do not have their proper place in the operative part of a convention which, being an agreement between States, should lay down concrete, mutual obligations.



3. Another important difference between a declaration and a convention relates to the implementation aspect. While a declaration is merely a recommendation or a moral guideline, as the case may be, a convention has to be implemented if it is to become effective. In a Convention on the Rights of the Child, special attention should therefore be given to the implementation machinery.
4. Since the adoption of the Declaration, views on the situation of the child have developed in many parts of the world. It is clear, for instance, that in many countries, views on the family, on marriage, on the relations between children and parents and on the child as an individual having its own needs and rights have undergone important changes. Nor are the material conditions and the social structures in which children live always the same today as they were 20 years ago. This development should, in the view of the Swedish Government, affect the contents of the convention which is to be drafted at the present time.
5. It may also be recalled that since 1959 a large number of States have been admitted as Members of the United Nations. These States - which did not participate in the drafting of the 1959 Declaration - ought to be given an opportunity to influence the drafting of the new convention.
6. As regards the contents of the new convention, there are certain areas which, in the view of the Swedish Government, should be given particular attention. It is important, for instance, to emphasize the effects which economic and labour market conditions may have upon the situation of children. The responsibility of Governments as regards the day-care of children of working parents ought to be mentioned.
7. Finally, it is essential that a new convention on the rights of the child should be brought into line with other existing international agreements, in particular the two International Covenants on Human Rights, and with certain new instruments which are now being prepared, for instance the Convention on the Elimination of Discrimination against Women. It may prove useful also to record in the preamble to the convention or in a separate resolution certain new objectives or guidelines which are difficult to express as obligations in the operative part of the convention but which should be pursued by States in their long-term policies for the protection of children and the safeguarding of their rights.

## TURKEY

[Original: English]

[8 November 1978]

The draft Convention on the Rights of the Child annexed to resolution 20 (XXXIV) has been studied by the competent Turkish authorities and has received a positive response. In fact, the contents of the draft Convention are in conformity with the relevant Turkish legislation covering, namely, the protection, education, nutrition, accommodation of children, and in general the steps to be taken in order to enable them to become useful members of the society.

UNITED ARAB EMIRATES

[Original: Arabic]

[2 November 1978]

The provisions of the draft Convention contradict neither the principles of Islamic law nor the provisions of the Provisional Constitution of the United Arab Emirates. The proposed draft entails the introduction of many guarantees to provide children with a better life by ensuring their physical and spiritual formation and development, the development of their abilities and judgement, their growing up in an atmosphere of love and friendship and their liberation from all forms of subjugation and exploitation, thus making them individuals fit to support the society in which they live. This affirms their psychological and social freedom, ensures their uprightness and prevents their deviation. ... We have no objection to the provisions of the aforementioned draft Convention, provided that the above points are taken into consideration.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

[Original: English]

[6 December 1978]

The Government of the United Kingdom has the following observations to make.

(i) The Government of the United Kingdom will, in principle, support the concept of a convention on the rights of the child if it is the will of the majority of Member States that there should be one. So far as the United Kingdom is concerned, the rights of each child are well safeguarded in United Kingdom law. It will, nevertheless, be recalled that the United Kingdom reserved its position, in the Commission on Human Rights, on the need for such a convention and considered that the matter needed further study. So far, the proposal for a convention has not been adequately discussed.

(ii) The present text of the draft Convention, annexed to resolution 20 (XXXIV) of the Commission on Human Rights, is in many respects vague and open to widely differing interpretations. If there is to be a convention, there will be a need to elaborate a more precise text than the present one, which is based on the 1959 Declaration of the Rights of the Child.

(iii) It would be appropriate for any decision on the need for a convention to await a full assessment of the results of activities and discussions which are to take place during 1979 in connexion with the International Year of the Child. It would also be useful for non-governmental organizations to be consulted on this question and their views taken into account.

ZAMBIA

[Original: English]

[22 November 1978]

1. As a human person, the child has as much right as any other person to protection and enjoyment of the fundamental human rights proclaimed in the Universal Declaration of Human Rights and in the International Covenants on Human Rights.

2. As a potential adult, the child is owed every right by his particular country as a future leader and potential contributor to that country's development. Indeed, in this respect, the child is a valuable investment for the future.

3. As rightly stated in the draft Convention, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before and after birth". Also, by virtue of his helplessness and total dependency on his parents (or other adult guardians), the child's interests and welfare are so tied up with those of his adult custodians that what happens, or does not happen, to the latter has a direct bearing on him. In practical terms this, for instance, means that as long as some parents continue to earn under-subsistence wages and as long as such parents continue to live in sub-standard housing conditions, so long will the welfare of their children continue to suffer; as long as the institution of marriage is casually contracted and marriages continue to remain unstable, the interests of the children from such marriages will continue to suffer. Therefore, any measures for the safeguard and protection of the child must take into account certain factors pertaining to the interests and welfare of adults where these have a direct or indirect bearing on the interests and welfare of the child.

4. Zambia should have no problem in endorsing and adopting the draft Convention on the Rights of the Child since most of the provisions therein are in full accord with her own principles and philosophy on child care.

B. Specialized agencies

INTERNATIONAL LABOUR ORGANISATION

[Original: French]

[27 October 1978]

The provisions contained in the draft Convention on the Rights of the Child annexed to resolution 20 (XXXIV) are in no way incompatible with those of the conventions and recommendations adopted by the International Labour Conference regarding the protection of the child.

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

[Original: French]

[20 October 1978]

1. The draft text as proposed by the United Nations does not appear to accord sufficient importance to the right of the child to cultural development by acknowledging, inter alia, broader rights to education and cultural identity. In our view, this draft should:

- (i) Mention, in particular, the right to be different as defined in article 1, paragraph 2, of the draft declaration on race and racial prejudice to be submitted to the General Conference at its twentieth session;
- (ii) Be based more closely on the following three standard-setting instruments adopted under the auspices of UNESCO:  

The Convention against Discrimination in Education,

The Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms,

The Recommendation on Participation by the People at Large in Cultural Life and Their Contribution to It;
- (iii) Mention, in this year of the thirtieth anniversary of the Universal Declaration of Human Rights, the right of the child to be educated in respect of human rights;
- (iv) Provide for the teaching of the rights of the child to adults (a similar idea has already been considered at the International Congress on the Teaching of Human Rights held in Vienna from 12 to 16 September 1978, since the recommendations made by the rapporteurs of the Congress contain a paragraph 11 which acknowledges the right of the child to receive an education in human rights and suggests the preparation of a specific programme of instruction on the rights of the child).

2. On the basis of these various considerations, UNESCO suggests the insertion of supplementary provisions in both the preambular and operative parts of the draft Convention.

WORLD HEALTH ORGANIZATION

[Original: English]

[31 October 1978]

1. A convention on the rights of the child should constitute a realistic contribution to the "comprehensive care and the well-being of children all over the world". In this respect the present draft still appears to be incomplete. Although we welcome the initiative of elaborating a legally binding instrument in addition to the Declaration of the Rights of the Child, we note that the proposed convention does not contain new ideas and concepts. It appears, on the contrary, to be weaker and less explicit than the Declaration.

2. In order to be comprehensive we would like such a convention to place the child in his various contexts, such as the family, the society, the legal context, the new international economic order. We would also welcome more detailed provisions on the obligations of parents, both as individuals and as couples, of the family and the society, particularly in relation to the promotion of child growth and development in its threefold dimensions: physical, mental and emotional. Furthermore, the role of health and social services should be clearly defined.

C. Non-governmental organizations

INTERNATIONAL COUNCIL OF WOMEN

[Original: French]

[3 November 1976]

1. The International Council of Women is a co-signatory of document E/CN.4/HQ/225. We believe that a convention, however well thought out, may be incomplete, fail to achieve its purpose and forfeit all chance of success if it is not based on studies made and experience acquired during the International Year of the Child.

2. Any other approach would overlook the important role which the Year is already playing, and will continue to play, in mobilizing world public opinion. Consequently, we maintain the position set out in document E/CN.4/HQ/225.

WOMEN'S INTERNATIONAL DEMOCRATIC FEDERATION

[Original: French]

[26 October 1978]

1. ... WIDF strongly supports the draft Convention submitted by a number of States at the thirty-fourth session of the Commission on Human Rights and expresses its satisfaction at the fact that the Commission on Human Rights, in its resolution 20 (XXXIV), recommends the conclusion of a convention on the rights of the child and its adoption by the General Assembly, if possible during the International Year of the Child (1979).

2. This Convention, which, after ratification by States, will have the force of law, could make a significant contribution to the improvement of the condition (education, health, etc.) of children in many countries.

3. WIDF therefore expresses its agreement with all the articles of the draft Convention on the Rights of the Child, which fully reflect the principles proclaimed in the Declaration of the Rights of the Child of 1959, and will make the Convention an effective legal instrument for the realization of the rights of the child.

4. WIDF ventures to make one suggestion regarding this excellent text, namely to include in it an additional article whereby Governments would undertake to implement measures to ensure that their military budgets are smaller than the budgets for health, education and social infrastructure (day-care centres, kindergartens, schools, etc.) and would be requested to submit periodic reports on the progress achieved in that direction.

#### INTERNATIONAL ASSOCIATION OF YOUTH MAGISTRATES

[Original: English]

[31 October 1978]

1. The International Association of Youth and Family Magistrates fully endorses the draft Convention. In its articles I to X the draft lays down a well-formulated catalogue of minimum conditions for the mental, physical and educational well-being of the child. By being aware of the fact that in many parts of the world, industrialized and non-industrialized, the actual situation still is far from corresponding to these conditions, they are considered most important to further, last but not least, harmony among peoples by paying due attention to the generations to come.

2. All in all, the International Association of Youth and Family Magistrates strongly advocates the United Nations efforts to arrive at a world-wide convention on the rights of the child.

#### INTERNATIONAL COMMISSION OF JURISTS

[Original: English]

[26 October 1978]

The International Commission of Jurists fully supports the proposal.

#### INTERNATIONAL FEDERATION OF WOMEN LAWYERS

[Original: English]

[24 October 1978]

1. When 1979 was declared the International Year of the Child, we took it for granted that our celebration thereof required meetings and discussion during that year, the results of which would be communicated ... for use in the final drafting of such a convention. We therefore scheduled for our 20th biennial international congress to be held in October 1979 in Santa Fe, New Mexico, a broad and in-depth comparative study of laws for the protection of children. ... Other NGOs, we understand, will be holding similar meetings on other subjects pertaining to children.

2. It seems to us that it would be a gross disservice to the cause of children to adopt a convention without considering the work of so many NGOs. After all, the very structure of the United Nations provides for consultative input by non-governmental organizations representing people at grass-roots levels.

3. It is therefore respectfully requested that the adoption of a convention on the rights of the child be postponed until after the many current studies can be completed and utilized.

INTERNATIONAL UNION FOR CHILD WELFARE

[Original: English]

[25 October 1978]

The IUCW has signed, together with a great number of other NGOs, the document E/CN.4/NGO/225 of 23 February 1978, asking that the convention should not enter into force until 1980. ... In particular, we should appreciate it being pointed out to all participants that the United Nations Declaration of the Rights of the Child remains an independent instrument in the same way as the Universal Declaration of Human Rights, and that it will retain all its moral force and obligation.

WORLD JEWISH CONGRESS

[Original: English]

[20 October 1978]

1. My organization has already made known its views, together with several other organizations, in document E/CN.4/NGO/225 of 23 February 1978, in which support was expressed for the idea of the elaboration of a draft convention on the rights of the child in the framework of the International Year of the Child.

2. We confirm that we favour such a development following from the principles contained in the Declaration of the Rights of the Child, and note that these principles will continue to hold validity in the form of this international instrument, establishing essential standards in the field of child protection.

WORLD MOVEMENT OF MOTHERS

[Original: French]

[20 October 1978]

1. The World Movement of Mothers, together with many other international non-governmental organizations, signed a communication which was submitted to the Commission on Human Rights at its thirty-fourth session.

2. We considered it more urgent, during this International Year of the Child, to take stock of the progress made in each country in implementing the rights of the child as already defined.

3. Our attitude has not changed and we suggest once again to the Commission on Human Rights that consideration of a draft convention on the rights of the child should not begin until the results of the studies now in progress are known, that is to say, at the thirty-sixth session of the Commission on Human Rights in 1980.

WORLD UNION OF CATHOLIC WOMEN'S ORGANIZATIONS

[Original: French]

[23 October 1978]

1. I wish to recall that, at the thirty-fourth session of the Commission on Human Rights, the World Union of Catholic Women's Organizations, together with 20 other non-governmental organizations, signed a communication in which it was suggested that any discussion of the subject should be postponed until the thirty-sixth session of the Commission, so as to enable the full benefit to be derived from the results of the various activities during the International Year of the Child.

2. I wish to confirm that the position of the World Union of Catholic Women's Organizations on this question has not changed.

WORLD UNION OF ORGANIZATIONS FOR THE SAFEGUARD OF YOUTH

[Original: French]

[29 September 1978]

with reference to the communication (E/CN.4/NGO/225) submitted to the Commission on Human Rights at its thirty-fourth session, a communication of which our organization was a signatory, WJOSY would like consideration of the draft Convention to be postponed until the thirty-sixth session of the Commission on Human Rights in 1980, by which time the results of the different programmes undertaken within the framework of the International Year of the Child will be known.

INTERNATIONAL FEDERATION OF HOME ECONOMICS

[Original: French]

[10 November 1978]

This organization ... is wholly in favour of the draft Convention, but would like the actual provisions of the draft to be reviewed in the light of the work carried out during the International Year of the Child.

INTERNATIONAL HUMANIST AND ETHICAL UNION

[Original: English]

[31 October 1978]

Though in general we agree with the text submitted, we would like to offer suggestions for amendment. ... Moreover, we also hope that it will be possible to include in one of the articles the phrase "every child has a right to be born a wanted child", for we feel that if the child does not get the love it needs to find its place in society among its fellow human beings, this constitutes a mental or social handicap.

INTERNATIONAL UNION OF JUDGES

[Original: French]

[31 October 1978]

The International Union of Judges approves the draft as a whole.



II. SPECIFIC COMMENTS

Preamble

FEDERAL REPUBLIC OF GERMANY

[Original: French]

[8 November 1978]

See paragraph 7, Federal Republic of Germany, under General Comments.

NORWAY

[Original: English]

[14 November 1978]

Add as 3rd and 4th preambular paragraphs:

"Recognizing also that the best interest of children shall be the guiding principle for those responsible for the upbringing, education and development of children.

"Recognizing also that family and society share the responsibility for children."

SWEDEN

[Original: English]

[8 November 1978]

See paragraph 7, Sweden, under General Comments.

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

[Original: French]

[20 October 1978]

The draft preamble should, at the very least, contain a reference to the three standard-setting UNESCO instruments mentioned above (see paragraph 1, United Nations Educational, Scientific and Cultural Organization, under General Comments).

WORLD HEALTH ORGANIZATION

[Original: English]

[31 October 1978]

Although the draft Convention refers to "the statutes of specialized agencies and international organizations concerned with the welfare of children", it would seem most appropriate that some express reference be made to WHO in the preamble to the draft Convention along the following lines:

"Reaffirming the principles laid down in the Constitution of the World Health Organization concerning the health of the child and the mother;

Bearing in mind that health development of the child is of basic importance and that the promotion of maternal and child health and welfare and the fostering of the ability of the child to live harmoniously in a changing total environment are necessary for the achievement of the purposes of this Convention."

WOMEN'S INTERNATIONAL DEMOCRATIC FEDERATION

[Original: French]  
[26 October 1978]

After the fifth preambular paragraph of the draft Convention, which begins "Having in mind", add the idea expressed at the tenth special session of the United Nations devoted to disarmament stressing the hope that Governments will take steps to ensure that a portion of the resources that could be saved by reducing world arms expenditures is utilized, through national or multinational programmes, to meet the basic needs of children throughout the world, particularly in the developing countries.

Article I

AUSTRIA

[Original: English]  
[12 October 1978]

The draft does not define the term "child". More especially, it does not say up to what age an individual may be described as a child.

DOMINICAN REPUBLIC

[Original: Spanish]  
[5 October 1978]

The Dominican Republic, aware not only that, for the reasons stated in the introduction, the child is physically and mentally immature, but also that, for the same biological and mental reasons, legislators in almost every country have created levels of dependency and responsibility such as parental authority and guardianship of children and adolescents, wishes to suggest that in article 1, the words "political or other opinion" should be deleted, since although the child's incapacity is recognized in the preamble, they could be interpreted as meaning that his opinions would still have some relevance. We would suggest that the article in question should be amended to read as follows:

"Every child, without any exception whatsoever, shall be entitled to the rights set forth in this Convention, without distinction or discrimination on account of race, colour, sex, language, religion, national or social origin, property, birth or other status, whether of himself or of his family or guardians. Moreover, the political opinions or allegiances of the family or guardians of the child shall not be a consideration preventing or impeding the full enjoyment of these rights."

FEDERAL REPUBLIC OF GERMANY

[Original: French]  
[8 November 1978]

See paragraphs 3, 8 and 10, General Comments, and paragraph 2, Specific Comments, Federal Republic of Germany.

## M'DAGASCAR

[Original: French]

[16 October 1978]

If it proves impossible to reach a consensus on the term "child" (which would be the ideal solution), it will be necessary to seek a broad interpretation of this term or to harmonize the various criteria adopted by States regarding the age of the child.

## SPAIN

[Original: Spanish]

[18 November 1978]

Insert the words "in or out of wedlock" between the word "birth" and the words "or other status".

## INTERNATIONAL COMMITTEE OF THE RED CROSS

[Original: French]

[6 December 1978]

1. In analysing the draft Convention on the Rights of the Child, ICRC must consider the relationship between the draft and the provisions of the Geneva instruments concerning protection of the child.
2. An examination of article I of the draft shows that its material scope has not been defined. The article provides that the Convention shall apply to every child "without any exception whatsoever". In the absence of any clarification, it could be inferred from this that the material scope is very broad and that the draft is to be applied in times of peace as well as in times of armed conflict.
3. Only article VIII stipulates that "the child shall in all circumstances be among the first to receive protection and relief". It seems to us that the words "in all circumstances" apply to all the provisions and have been inserted in this article only to emphasize the fact that the child must always be among the first to receive protection and relief. Moreover, consideration of the provisions themselves shows that they are very general in nature and capable of being observed at all times. The provisions attempt not so much to grant the child specific rights connected with a particular situation, but to deal with general questions so as to guarantee the child a harmonious background for his physical and mental development.
4. The personal scope of the draft has been defined, for the Convention is to apply to children (article I). The notion of "child" has not, however, been made clear. The concept varies from one culture to another. This silence seems wise and will facilitate universal application of the Convention irrespective of local peculiarities.
5. The context of the Geneva Convention and the Additional Protocols is much more precise. Their scope has been strictly defined - they apply in situations of armed conflict. The notion of "child" has not been defined for the purpose of the Conventions and the Protocols as a whole. An age-limit of either 15 or 18 years has, however, often been added. The provisions relating to the protection of children therefore have a specific character. They define the rights of the child in precise and practical terms.

6. We are confronted, on the one hand, by a draft convention characterized by the general and global nature of both its scope and its provisions and, on the other, by the provisions of the Geneva instruments, which are more precise and which apply only in times of armed conflict. The two texts are not incompatible. It is necessary to point out, however, that the protection accorded by existing law must not be reduced by the Draft Convention. We considered whether it was necessary to express this idea by means of a reservation upholding existing law. This does not seem to be the case, since the provisions of positive law, which go further than the proposed law, must be regarded as leges speciales. This is particularly true of the 1949 Geneva Conventions and the Protocols additional thereto which, as leges speciales for situations of armed conflict, will remain fully in force. If, however, there was any doubt on this point, a clause should be formulated and inserted in the draft.

7. In order to avoid any ambiguity, we propose that the material scope of the draft should be clarified by the addition of the words "in all circumstances" after the words "shall be entitled" in article I.

SOCIETY FOR COMPARATIVE LEGISLATION

[Original: French]

[24 October 1978]

Every child up to the age of 16 years, and possibly beyond in certain particular cases, shall, without any exception whatsoever, be entitled to the rights set forth in this Convention, without distinction or discrimination on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family.

Article II

DOMINICAN REPUBLIC

[Original: Spanish]

[5 October 1978]

1. We consider it appropriate to add, after the word "dignity" at the end of the first sentence of article II, the words "Children of working mothers shall enjoy, from the time of their birth until they reach school age, the assistance of centres or day nurseries which guarantee the care and assistance necessary for their full development during these early years of their life."

2. The last part of this article could constitute a final clause for the operative part of the Convention, contained in a separate article reading as follows:

"Article \_\_\_\_\_"

'In order to achieve the purposes of the present Convention, the States Parties thereto shall, when enacting laws governing this subject in their respective countries, give paramount consideration to the best interests of the child'.

FEDERAL REPUBLIC OF GERMANY

[Original: French]  
[3 November 1973]

See paragraph 6, Federal Republic of Germany, under General Comments.

SPAIN

[Original: Spanish]  
[1<sup>o</sup> November 1973]

Between the words 'normal manner' and the words 'and in conditions of freedom and dignity' insert the words 'avoiding anything that damages or may impair his physical or mental health, especially drugs in any of their forms'.

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

[Original: English]  
[27 October 1973]

There is no mention in the article of the emotional development of the child. Statements referring to his/her over-all growth and development refer instead to moral and spiritual development, supposedly to cover this important area of development.

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

[Original: French]  
[20 October 1973]

Alongside physical, mental, moral, spiritual and social development, an explicit reference should be made to 'cultural development with due regard for national or regional realities'.

WORLD HEALTH ORGANIZATION

[Original: English]  
[31 October 1973]

Article II, first line.

It is not clear against what the "special protection" is to be provided. Would it be against harmful social environment, against disease, against abuse, etc.?

Perhaps this point should be clarified.

Article II, second line.

It is not clear what the term "other means" is meant to cover. Is it intended to refer to measures which are not law in the strict sense, such as administrative acts or practical measures? This needs to be clarified.

SOCIETY FOR COMPARATIVE LEGISLATION

[Original: French]  
[24 October 1973]

1. The child shall enjoy special protection and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration.
2. The best interests of the child shall be the guiding principle of those responsible for his education and guidance, that responsibility lies in the first place with

Article III

FEDERAL REPUBLIC OF GERMANY

[Original: French]

[8 November 1978]

1. See paragraph 3, Federal Republic of Germany, under General Comments.  
... In the opinion of the Federal Government, article III of the draft gives rise to serious reservations. Although this provision provides that every child shall be entitled from his birth to a nationality, it does not indicate how this right is to be implemented. Unlike the texts of other provisions concerning nationality (article 15 of the Universal Declaration of Human Rights of 10 December 1948 and article 24, paragraph 3, of the International Covenant on Civil and Political Rights of 19 December 1966), article III of the draft implies that the Convention wishes to establish the child's nationality.
2. The same inference could also be drawn from article I of the draft Convention, according to which every child shall immediately be entitled to the rights provided for in the Convention. If draft article III was merely in the nature of a programme, this provision would be superfluous.
3. Immediate application of article III must not, moreover, cause us to forget that the absence of the other essential requirements for the acquisition of a nationality means that, in its present wording, this article is doomed to failure, because it cannot be supposed that the Convention wishes to compel every Contracting Party to introduce the principle of "jus soli".
4. Nowhere does the acquisition of nationality by birth depend solely on the natural fact of birth; quite the contrary, apart from birth, all nationality laws require additional elements which must be related to the birth and which are the really essential factors conferring nationality. These correlative factors sanctified as principles by international law, which in general govern acquisition of a nationality through birth in the State granting it, are:  
  
Descent from parents having the nationality of the State in question;  
  
Birth in the territory of that State.
5. The reluctance of States Members of the United Nations to meet the minimal requirements imposed by the rules of the Convention on the Reduction of Statelessness of 30 August 1961 is shown by the small number of States that has accepted that instrument. In the circumstances, it would seem ill-advised to expect article III of the draft convention to provide a solution to the fundamental problem, which in practice is still unresolved, of the acquisition of nationality by birth. The draft would in no way be impaired if this provision were omitted. In its place, it would be better to urge Members of the United Nations to accept the Convention of 30 August 1961 or to take account of that Convention's principles in their internal law.

SWEDEN

[Original: English]

[3 November 1978]

The child's right to a nationality, which is dealt with in Principle 3 of the 1959 Declaration, is an important point which requires further examination. A child should not be stateless if at least one of its parents has a nationality. In cases where both parents are stateless, the child should be able to acquire the nationality of the State in which it was born or in which it resides.

Article IV

AUSTRIA

[Original: English]

[12 October 1978]

The scope of article IV is not clear. There is a possible inconsistency between "the child's" right to adequate pre-natal care and the possibilities for legal abortion provided in some countries.

FEDERAL REPUBLIC OF GERMANY

[Original: French]

[8 November 1978]

See paragraphs 3 and 6, Federal Republic of Germany, under General Comments.

SPAIN

[Original: Spanish]

[13 November 1978]

After the words "social security", add the words "as a direct or privileged beneficiary thereof".

The purpose of this is to prevent any discrimination on grounds of lack of bonds of filiation.

SWEDEN

[Original: English]

[3 November 1978]

Medical attention and care as well as a healthy physical environment are important prerequisites for the sound development of the child. These matters should be developed in a more elaborate way than in Principle 4 of the 1959 Declaration. It is important, for instance, to prevent children from being subjected to practices which involve physical abuse and affect their present and future health or well-being.

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

[Original: English]

[27 October 1978]

1. The importance of interrelationships between the various areas of development is not clearly indicated. In its present form, the draft fails to make it clear that (i) adequate nutrition of the child is linked with his over-all development even more than with his health and that (ii) adequate nutrition of the mother is of paramount importance for the nutrition of the younger child.
2. It is, therefore, suggested to reword article IV as follows:

"The child shall enjoy the benefits of social security. He shall be entitled to healthy growth and development; to this end, special care and protection shall be provided both to him and to his mother, including adequate food and pre-natal and post-natal care. The child shall have the right to adequate nutrition, housing, recreation and medical services."

WORLD HEALTH ORGANIZATION

[Original: English]

[31 October 1978]

Article IV, first and second lines:

We have some difficulties with the provision "he shall be entitled to grow and develop in health", because the right to be healthy, as the provision seems to suggest, appears to be unrealistic. We assume that the authors of the draft probably envisage that the child should grow and develop in a healthy environment. If so, the sentence could be amended accordingly.

Article V

BARBADOS

[Original: English]

[7 November 1978]

Though generally there may be full agreement with this article, yet it is observed that the responsibility under this article should rest with the parents of the child and the public authorities.

FINLAND

[Original: English]

[7 November 1978]

The following proposal is made for amendments to draft article V:

"Handicapped children should not be separated from society: they shall be entitled, according to their capacities, to the same services and activities as other children." (to be inserted after the proposed sentence).



FEDERAL REPUBLIC OF GERMANY

[Original: French]  
[8 November 1978]

See paragraph 6, Federal Republic of Germany, under General Comments.

GREECE

[Original: English]  
[17 November 1978]

The Greek Government suggests the following addition:

"The child who is physically, socially or mentally handicapped shall be given the special treatment, education and care required by his particular condition, within the context of his family and of the school system for normal children, if at all possible."

NORWAY

[Original: English]  
[14 November 1978]

Amend as follows: "Children who are physically, mentally or socially handicapped shall be given the treatment, education and care required to enable them to develop fully, according to their particular condition."

SWEDEN

[Original: English]  
[8 November 1978]

1. There are particular groups of children who are in need of special protection and it is desirable that the convention should cover their situation more thoroughly than in Principle 5 of the 1959 Declaration.
2. The handicapped children require special support by the society in which they live, and States should be prepared to make certain undertakings in their regard. Their integration into the general educational system is one important point worthy of further examination.

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

[Original: English]  
[27 October 1978]

The word "emotionally" should be added as many children the world over are handicapped in this area. Article VI makes indirect reference to the basic sense of trust and security but it should be stated in a more straightforward manner.

INTERNATIONAL UNION OF JUDGES

[Original: French]

[31 October 1978]

1. It should be expressly affirmed in article V, even though it has already been noted in certain international documents, that the mentally handicapped child must enjoy the same rights as all other persons of his country and of his age and that the treatment required by his condition must be paid for by the society in which he lives whenever his parents are unable to meet the necessary expenses.
2. Some of the principles set forth in the Declaration of the rights of the mentally retarded person adopted at Jerusalem in 1963 by the International League of Societies for the Mentally Handicapped should be added to the article concerning mentally handicapped (or retarded) children.
3. It is emphasized that the problems of maladjusted children are of fundamental importance because generally the moulding of a balanced citizen who works, abides by the laws and contributes to the advancement of the society in which he lives depends entirely on the provision of a suitable education to the child in his early years, even if he is maladjusted or handicapped.

Article VI

BARBADOS

[Original: English]

[7 November 1978]

The payment of State and other assistance towards the maintenance of children of large families is desirable but it is suggested that a family should be encouraged to limit its size, especially where it becomes difficult to adequately provide for these children.

FINLAND

[Original: English]

[7 November 1978]

The following proposals are made for amendments to draft article VI:

"Where necessary, governments should, by economic or other arrangements, ensure the possibilities for parents to take care of their children"  
(to be inserted after the first sentence);

The wording "be separated from his mother", at the end of the second sentence to be replaced by the wording "be separated from his parents";

The last sentence to be replaced by the following sentence: "Governments shall ensure the livelihood of families with children and provide the necessary family counselling and domestic services".

FEDERAL REPUBLIC OF GERMANY

[Original: French]

[8 November 1978]

See paragraphs 3, 6 and 7, Federal Republic of Germany, under General Comments.

GREECE

[Original: English]

[17 November 1978]

1. The Greek Government considers that the role of the father for the normal development of children has been so far underestimated and should be stressed in the future. It suggests the following alteration starting as from the middle of the paragraph.

"... a child of tender years shall not, save in exceptional circumstances, be separated from his parents."

2. Because of the growing problem of child abuse (non-accidental injury) by one or both of his parents or his caretakers, the Greek Government feels that special mention should be made of the problems of these children. It suggests the following rewording:

"... society and the public authorities shall have the duty to extend particular care to children not only without a family, but also those whose families are evaluated as unable to care for the child in the present and future, regardless of support from public authorities. The child in that case deserves to grow up in an environment which can guarantee his optimal development. Payment of State and other assistance ..."

NORWAY

[Original: English]

[14 November 1978]

1. Delete the following phrase:

"a child of tender years shall not, save in exceptional circumstances, be separated from his mother."

2. Amend the last sentence to read as follows:

"Economic support for families with children, through appropriate mechanisms, is desirable."

SPAIN

[Original: Spanish]

[18 November 1978]

1. After the words "children without a family" insert the words "arranging for them to be placed, wherever possible, in the most appropriate family environment and, with respect to those without means of support, supplying them with the necessary assistance and preventing them from being uprooted from the family environment". The words "and to those without adequate means of support" would accordingly be deleted.
2. The purpose of this is to avoid the effects of being placed in institutions and, so far as possible, to encourage acceptance in families and adoption.

SWEDEN

[Original: English]

[8 November 1978]

The child's need of close contacts with both parents - and not only with the mother - is a fact which ought to be adequately reflected in the convention. Generally, the equality of children with respect to education, social and health care is a fundamental element.

WORLD HEALTH ORGANIZATION

[Original: English]

[31 October 1978]

Article VI, fourth line:

We have some difficulties with the reference to "moral security" and would prefer the deletion of "moral". The provision would thus read: "... in an atmosphere of affection and security; ..."

INTERNATIONAL COUNCIL OF WOMEN

[Original: French]

[3 November 1978]

Article VI seems to us to be ambiguously formulated. It is obviously aimed at providing the child with optimum conditions for the harmonious development of his personality but the juxtaposition, in one and the same article of the Convention, of love and family allowances is not felicitous. There seems to be a problem of drafting, if not of substance.

## SOCIETY FOR COMPARATIVE LEGISLATION

[Original: French]

[24 October 1978]

The child, for the full and harmonious development of his personality, needs love and understanding. He shall, wherever possible, grow up in the care and under the responsibility of his parents and, in any case, in an atmosphere of affection and of moral and material security; a child of tender years shall not, save in exceptional circumstances, be separated from his mother, although his ties with his father shall not thereby be weakened or broken, and a child belonging to a divided international family shall, so far as possible, maintain his ties with both his parents. Society and the public authorities shall have the duty to extend particular care to children without a family, to those belonging to a divided international family and to those without adequate means of support. Payment of State and other assistance towards the maintenance of children of large families is desirable.

## INTERNATIONAL HUMANIST AND ETHICAL UNION

[Original: English]

[31 October 1978]

In the light of other world problems, especially the population problem, we doubt whether it is desirable to include in article VI the sentence "payment of State and other assistance towards the maintenance of children of large families is desirable". This, in effect, nullifies efforts to decrease population in the world. We agree that States should be encouraged to achieve an adequate standard of living for their citizens and feel that it might be better to replace the above-mentioned sentence by a sentence to that effect.

Article VII

BARBADOS

[Original: English]  
[7 November 1978]

Free and compulsory education should not only be in the elementary stage but rather up to a stated maximum age corresponding to the minimum age contemplated in article IX.

FEDERAL REPUBLIC OF GERMANY

[Original: French]  
[8 November 1978]

See paragraphs 3, 6, 7 and 8, Federal Republic of Germany, under General Comments.

GREECE

[Original: English]  
[17 November 1978]

It is well known that great doubts have been expressed as to the value of the current educational system in all countries. The main argument against it is that it leads to conformity and it stifles individuality. The Greek Government considers this to be true and therefore it suggests the following rewording of paragraph 1.

"The child is entitled to receive education, which shall be free and compulsory, at least in the elementary stages. He shall be given an education which will respect his unique individuality and promote his general culture and enable him on a basis of equal opportunity to develop his abilities, his individual judgement and his sense of moral and social responsibility, and to become a useful member of the society."

NORWAY

[Original: English]  
[14 November 1978]

The article should read as follows:

"1. Children, including children of pre-school age, shall have full opportunity of play, social activities and recreation, as a means to ensure their full mental and physical development. Society and the public authorities shall endeavour to promote the enjoyment of this right.

"2. Children are entitled to receive education, which shall be free and compulsory, at least in the elementary stages. The basic school shall, in understanding of and collaboration with the homes, give children an education which will promote their general culture and enable them, on a basis of equal opportunity, to develop their abilities, their individual judgement and their sense of moral and social responsibility, and to become useful and self-reliant members of society.

"3. Education shall have a global perspective. It shall promote the respect for human rights and fundamental freedoms. It shall also promote understanding, tolerance and friendship among peoples, and further activities of the United Nations for the maintenance of peace."

PORTUGAL

[Original: French]  
[27 October 1978]

Paragraph 1 of article 7 could be amended by deleting the word "general" before the word "culture" and by adding the word "participation" after the word "responsibility".

SPAIN

[Original: Spanish]  
[18 November 1978]

1. In paragraph 1, replace the words "and to become a useful member of society" by the words "so that he will be capable, by himself and as a result of the training he has received, of coping with the necessities of life and will be a useful member of society".

2. The purpose of this is to emphasize the instrumental role of education and to ensure the active participation of the child in the community through the exercise of his own free choice regarding the future course of his education.

SWEDEN

[Original: English]  
[8 November 1978]

Immigrant children encounter special problems, for instance in respect of their schooling. In many cases, it is important for these children to be taught their own language and the culture and history of their country of origin. It should be further examined what rules regarding the rights of such children could be included in the convention.

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

[Original: English]

[27 October 1978]

Paragraph 2 of the draft article should be modified as follows: "The best interests of the over-all growth and development of the child shall be the guiding principle of those responsible for his education and guidance: that responsibility lies in the first place with his parents", to take account of the importance of the interrelationships between the various areas of development.

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

[Original: French]

[27 October 1978]

1. More explicit reference should be made to the fact that the Convention against Discrimination in Education, in article 4 (a), sets out "to make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all". Article VII of the draft Convention might also refer to the guiding principles of the Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms (part III) and, in particular, the notion of international education contained in paragraphs 5 and 6 of that text.
2. The last paragraph of article VII should be based to a greater extent on the Recommendation on Participation by the People at Large in Cultural Life and Their Contribution to It by taking up the idea of effective safeguards for free access to national and world cultures by all members of society (paragraph 4 (b)), including children, and the idea of protecting and enhancing all forms of cultural expression such as national or regional languages, dialects, folk arts and traditions both past and present, and rural cultures as well as cultures of other social groups (paragraph 4 (g)), particularly as essential conditions for genuine cultural development of children of all human groups.
3. Emphasis should also be placed on two basic elements for the cultural development of the child: the achievement of conditions conducive to creative work and artistic expression, and the development of cultural education and artistic training in educational and training programmes aimed at multiplying opportunities for intellectual, manual or gestural creation (paragraphs 4 (k), (m) and (n)).
4. Finally, in the light of resolution 3 (XXXIII) of the Commission on Human Rights and resolution 32/123 of the General Assembly of the United Nations, the draft Convention should place greater emphasis on the need for rapid and effective encouragement, at all levels of education, but also outside the education system, of knowledge of human rights by children and knowledge of the rights of the child by adults. Emphasizing that better knowledge of human rights would make a vital contribution to the maintenance or establishment of peace, to economic development and to social progress in the world, the draft Convention should contain an additional article relating specifically to such instructions: "Education in human rights shall also be afforded to children and should, therefore, be given from the stage of primary school onwards and also outside the school system, in particular in the family". "The rights of the child shall also be taught at all levels of education as well as outside the school system, in professional, cultural or co-operative associations."



INTERNATIONAL COUNCIL OF WOMEN

[Original: French]

[3 November 1978]

1. It seems to us that paragraph 2, which is presented as a "sub-article", does not go far enough and weakens the last preambular paragraph, "Proclaiming that mankind owes to the child the best it has to give".

2. While it might be difficult to introduce such a formula into the text of a convention, we should like it to be said that every adult is responsible for the children with whom he comes into contact, in the widest sense of the word: in our opinion, no adult has the right to offend or neglect a child: the child must be respected.

SOCIETY FOR COMPARATIVE LEGISLATION

[Original: French]

[24 October 1978]

1. The child is entitled to receive education, which shall be free and compulsory. He shall be given an education which will promote his general culture and enable him, on a basis of equal opportunity, to develop his abilities, his individual judgement and his sense of moral and social responsibility, and to become a useful member of society.

2. The child shall have full opportunity for play and recreation, which should be directed to the same purposes as education; society and the public authorities shall endeavour to promote the enjoyment of this right.

INTERNATIONAL UNION OF JUDGES

[Original: French]

[31 October 1978]

The International Union of Judges is of the opinion that certain fundamental requirements of children should be stated sufficiently clearly. The following are some of them:

(1) The importance of the early years of life of every person and the absolute necessity of a suitable education, which is always the best means of developing children's physical and mental capacity;

(2) The school should provide an all-round education covering both the physical and the intellectual and moral training of the child, even if he is handicapped;

(3) The school should be viewed as a social institution which completes the work of the family, particularly in cases where both parents, or the person to whose care the child is committed, are in employment which keeps them away from home most of the day, and where the mother has only a few hours in the afternoon or the evening in which to tend to her child.

Article VIII

AUSTRIA

[Original: English]

[12 October 1978]

The purpose of article VIII is not clear. Does it mean that in case of danger children are to be rescued before adults? A more detailed wording of this article would be desirable.

FEDERAL REPUBLIC OF GERMANY

[Original: French]

[8 November 1978]

See paragraph 7, Federal Republic of Germany, under General Comments.

Article IX

DOMINICAN REPUBLIC

[Original: Spanish]

[5 October 1978]

By way of comment only, we would draw attention to the fact that the provisions of articles IX and X of the draft have been given detailed treatment in various ILO international agreements on other questions; it might be advisable to review those agreements in case their contents should be expanded.

GERMAN DEMOCRATIC REPUBLIC

[Original: English]

[21 November 1978]

More precise legal language should be used in article IX, paragraph 2, to formulate the impermissibility of admitting children to employment or an occupation.

FEDERAL REPUBLIC OF GERMANY

[Original: French]

[8 November 1978]

See paragraph 6, Federal Republic of Germany, under General Comments.

SPAIN

[Original: Spanish]

[18 November 1978]

Add a paragraph 3 reading: "The child shall be protected by means of adequate education against any type of manipulation, whether in regard to information, consumption, sex, etc."

SOCIETY FOR COMPARATIVE LEGISLATION

[Original: French]

[24 October 1978]

1. The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be the subject of trade or traffic, in any form.

2. The child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental or moral development.

Article X

DOMINICAN REPUBLIC

[Original: Spanish]

[5 October 1978]

See Dominican Republic, under Specific Comments, article IX.

FEDERAL REPUBLIC OF GERMANY

[Original: French]

[8 November 1978]

See paragraphs 6 and 7, Federal Republic of Germany, under General Comments.

INTERNATIONAL COUNCIL OF WOMEN

[Original: French]

[3 November 1978]

We should like this article to follow immediately after article I, of which it is the continuation.

SOCIETY FOR COMPARATIVE LEGISLATION

[Original: French]

[24 October 1978]

The child shall be protected from practices which may foster racial, religious or any other form of discrimination. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, and in full consciousness that his energy and talents should be devoted to the service of his fellow men. The child of a divided international family shall preserve his ties with both his parents even if they are of different religions, and in no case shall religion be taken into consideration for the purposes of the devolution of the right of custody.

Articles XI and XII

AUSTRIA

[Original: English]

[12 October 1978]

The Austrian Federal Government does not favour a periodic reporting system of the kind envisaged in articles XI and XII. The results likely to be achieved do not seem to warrant the workload such a system would entail both nationally and in connexion with the discussion of such reports in international organizations. As a compromise solution, one report, to be filed about three years after the entry into force of the Convention, could be envisaged.

BARBADOS

[Original: English]

[7 November 1978]

Regarding article XI, it is recommended that in view of the fact that there was a United Nations declaration on the rights of the child in 1959, all signatories to the suggested convention be asked to submit a preconvention statement on the present situation of their services for children prior to the ratification of the convention.

CYPRUS

[Original: English]

[15 November 1978]

1. At the end of article XI, add a new paragraph to read as follows:

"Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Convention."

2. Article XII should be reformulated as follows:

"The reports submitted by the States Parties under article XI shall be considered by the Economic and Social Council, which may make general observations, suggestions and recommendations and bring them to the attention of the General Assembly."

NORWAY

[Original: English]

[14 November 1978]

Add as new article XI:

"The States Parties undertake to establish or designate the administrative organs to be responsible for the protection and promotion of the rights of children."

Articles XI and XII

Observations:

1. A well functioning reporting system is of the greatest importance for the effective implementation of a convention of this kind. The reporting system and in particular the choice of the organ responsible for the examination of the reports, should therefore be given very careful consideration.

2. Obviously the Economic and Social Council must be closely associated with the promotion and follow up of the provisions contained in the Convention. It is well known, however, that the workload of the Council is already much too heavy. It must be expected to increase further over the important task of examining reports submitted by States in accordance with article 17 of the International Covenant on Economic, Social and Cultural Rights is fully assumed.

3. The question will therefore have to be asked whether the Economic and Social Council is left with sufficient capacity for a serious consideration of national reports on the rights of children. In the view of the Norwegian authorities, it would be desirable to discuss thoroughly whether this task should not be given to another United Nations body. The Sub-Commission on Prevention of Discrimination and Protection of Minorities appears to be well suited for this purpose.

INTERNATIONAL COUNCIL OF WOMEN

[Original: French]  
3 November 1978]

We hope that every State Party will be requested to submit regular annual reports on the implementation of the Convention.

INTERNATIONAL FEDERATION OF WOMEN LAWYERS

[Original: English]  
24 October 1978]

We believe that the provisions for implementation embodied in article XI of the draft Convention are inadequate and that this most important matter requires further careful study.

INTERNATIONAL UNION FOR CHILD WELFARE

[Original: English]  
25 October 1978]

We are somewhat disturbed by the apparent inadequacy of implementation contained in article XI of the draft Convention as no organ seems to have been set up which would be responsible for the study of the reports. In addition we do not think that a report every five years would be a sufficient safeguard for an effective implementation of the Convention. The latest report published by the ILO on their Convention on the minimum age of employment (No 138, 1973) showing that over 50 million children under the age of 12 are fully employed either in factories or on the land, also seems to point to the inadequacy of an implementation of a Convention of this kind.

WORLD JEWISH CONGRESS

[Original: English]

[20 October 1978]

We believe that draft article XI is not satisfactory as regards implementation, since there is no provision for a special body charged with this responsibility.

Articles XVI-XIX

DOMINICAN REPUBLIC

[Original: Spanish]

[5 October 1978]

1. Articles XVI et seq. should be arranged differently so that the order would be, first, the provisions relating to signature, then the provisions relating to ratification of the Convention and finally, in a separate article, the provisions relating to accession.
2. Denunciation, forming the subject of the closing article, should be dealt with later, after the aforementioned provisions. The provisions relating to entry into force should also be set out in the article on the matter.

ZAMBIA

[Original: English]

[22 November 1978]

Article XVI is endorsed on the understanding that States have ratified the Convention independently and voluntarily and, therefore, can similarly denounce it provided they have good and plausible reasons for doing so.