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**Legislative History of the
Convention on the Rights of the Child
(1978 - 1989)**

ARTICLE 10

(FAMILY REUNIFICATION)

The *Legislative History of the Convention on the Rights of the Child (1978-1989)* was prepared with the support of Rädga Barnen (Swedish Save the Children). It consists of a series of 45 booklets covering the drafting and adoption of each article of the Convention, as well as the preamble, based on United Nations records. This series will ultimately be collected and produced in a single set of volumes.

HR/1995/Ser.1/article.10

ARTICLE 10

(FAMILY REUNIFICATION)

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ARTICLE 10

(FAMILY REUNIFICATION)

I. FINAL TEXT ADOPTED BY THE GENERAL ASSEMBLY (1989)

The following text is that approved by the General Assembly in its resolution 44/25 of 20 November 1989.

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 2, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

II. FIRST POLISH DRAFT CONVENTION AND COMMENTS (1978)

In a letter dated 17 January 1978 addressed to the Director of the Division of Human Rights (see E/CN.4/1284), the Permanent Representative of Poland to the United Nations Office at Geneva proposed that "The question of the Convention on the Rights of the Child" be included in the agenda of the thirty-fourth session of the Commission of Human Rights. At that session, the Polish delegation presented a draft resolution (E/CN.4/L.1366) which contained a draft convention based upon the provisions of the 1959 Declaration of the Rights of the Child. The resolution was subsequently revised (E/CN.4/L.1366/Rev.1) and two additional articles (XI and XII) were added to the draft convention annexed in the final version of the draft resolution (E/CN.4/L.1366/Rev.2) which was then adopted by the Commission on Human Rights (see E/CN.4/1292, pages 122 to 127) as resolution 20 (XXXIV) of 8 March 1978. In that resolution, the Secretary-General was requested to invite Member States, competent specialized agencies, regional, intergovernmental organizations and non-governmental organizations to

communicate to him their views, observations and suggestions concerning the draft convention submitted by Poland. Neither that draft nor the views received on it (see E/CN.4/1324 and Corr.1 and Add.1-5) addressed the issues raised in article 10 of the Convention.

III. FIRST READING (1979-1988)

*In 1979, the Commission on Human Rights decided to establish an informal open-ended working group to meet for one week to consider the question of a draft convention on the rights of the child during the session of the Commission. The Working Group met again in 1980 and was authorized in 1981 and each year thereafter to meet prior to the Commission session. In 1988, the Working Group met for two weeks in order to complete the first reading. The text of article 10 was first discussed by the Working Group in 1983 at which time a preliminary version of the article was adopted. Proposals to amend the text adopted were subsequently submitted to the Working Group and in 1987 additional sentences to both paragraphs 1 and 2 were adopted. This article was referred to as article 6 *bis* throughout the first and second readings.*

A. 1981: PROPOSAL SUBMITTED TO THE WORKING GROUP

1. United States of America

The following text is taken from HR/(XXXVII)/WG.1/WP.12.

Replace existing text of article 6 (...) with the following:

"Except as otherwise provided in the present Convention, the child shall have the right to reside with his parents or legal guardians, including when necessary the right to be reunited with them if they lawfully reside in another State party. If only one parent or legal guardian of a child resides on another State party, such child's preferred place of residence shall be a primary consideration in the deliberations of any judicial or administrative proceeding held to determine such child's place of residence. Each State party shall process applications for family reunification in a positive, humane, and expeditious manner. Until family reunification in a particular case is accomplished, all States parties involved shall permit frequent and regular family contacts."

The foregoing proposal was later extensively modified. The text of that proposal, which is taken from paragraph 65 of the 1981 report of the Working Group to the Commission on Human Rights (E/CN.4/L.1575), is as follows.

[Replace articles 6 and 10 of the revised draft convention with the following:]

"1. States Parties shall ensure that a child shall not be involuntarily separated from his parents, except when competent authorities determine,

in accordance with procedures and criteria specified by domestic law, that such separation is necessary for the welfare of the child in a particular case, such as one involving maltreatment or abuse of the child by the parents or one where the parents are living separately and a decision must be made as to the child's place of residence. Such determinations shall not be made until all interested parties have been given an opportunity to participate in the proceedings and to make their views known. Such views shall be taken into account by the competent authorities in making their determination.

2. In cases where both parents lawfully reside in one State Party and their child lawfully resides in another State Party, the States Parties concerned shall deal with applications for family reunification in a positive, humane and expeditious manner. States Parties shall charge only moderate fees in connection with such applications and shall not modify in any way the rights and obligations of the applicant(s) or of other members of the family concerned. States Parties shall ensure that applications for the purpose of family reunification of parents with their children which are not granted for any reason may be renewed at the appropriate level and will be considered at reasonably short intervals by the authorities of the country of residence or destination, whichever is concerned, and, in such cases, fees will be charged only when applications are granted. Until family reunification in a particular case is accomplished, all State Parties involved shall permit frequent and regular family contacts.

3. The provisions of paragraph 2 shall also apply in cases where a child's only surviving parent lawfully resides in one State Party and the child lawfully resides in another State Party.

4. If the parents of a child lawfully reside in different States Parties, States Parties shall ensure that the child's preference as to which parent he wishes to reside with shall be an important consideration in any determination made by competent authorities concerning the child's place of residence."

B. 1982: PROPOSAL SUBMITTED TO THE WORKING GROUP

1. United States of America

For the text of this proposal, see paragraph 19 (a) in section B below.

C. 1983: PROPOSALS SUBMITTED TO THE WORKING GROUP

1. Australia

For the text of this proposal, see paragraph 19 (d) in section C below.

2. France

For the text of this proposal, see paragraph 19 (c) in section C below.

3. United States of America

For the text of this proposal, see paragraph 19 (b) in section C below.

D. 1983: DISCUSSION AND ADOPTION AT THE WORKING GROUP

The following is taken from the 1980 report of the Working Group to the Commission on Human Rights, E/CN.4/1983/62.

8. It will be recalled that paragraphs 1 and 2 of article 6 relating to the question of the determination of the place of residence of the child were adopted by the Working Group last year. At the present session, the discussions which led to the adoption of paragraphs 3 and 4 of article 6, part of article 6 bis and article 6 ter, focused on the proposals and amendments thereto relating to various problems which arise from family separation, such as the right of the child to maintain relations with his parents, the question of family reunification and the illegal abduction of children by one parent. It was also stressed that the national and international aspects of the question should be dealt with separately. All the proposals relating to these problems were considered simultaneously.

(...)

11. With regard to the solutions to be given to the question of family reunification, divergent views were expressed. One representative expressed the opinion that all obstacles to emigration for the purpose of family reunification should be removed everywhere and proposed to include in the draft Convention, as examples, a number of rights which in his opinion needed special protection. They include, in particular, unimpeded freedom of movement and a guarantee against punishment for children and parents requesting permission to leave a country. All applications to leave should be dealt with, he said, in a humane and expeditious manner.

12. One speaker stated that the draft convention submitted by Poland emphasized economic and social rights but neglected civil and political rights. Other speakers stressed that, in their view, economic rights were equal or even of greater importance, in some circumstances, for children. It was also noted that the Covenant provided that the rights contained therein could be subject to restrictions in order to protect inter alia, national security and public order. They therefore questioned the need for the adoption of such provisions, and emphasized that there was no need to duplicate the International Covenant on Civil and Political Rights. Otherwise, references should also be made to the

International Covenant on Economic, Social and Cultural Rights. One representative further observed that family reunification was broader in scope than the problems being dealt with in the draft convention. With regard to the proposal relating to immunity from punishment for children and parents who request permission to leave a country, some representatives observed that such immunity, if granted, should concern only the fact of making an application. The discussion on these questions led to the adoption of part of article 6 bis, which in paragraph 2 refers to the obligations of States Parties, as regards applications by a child or his parents to enter or leave a States Party for the purpose of family reunification.

(...)

17. Mention should further be made of the proposal made by the USSR (in relation to paragraph 1 of article 6 bis) (E/CN.4/1983/WG.1/WP.7), which reads as follows:

"The States parties to the present Convention recognize that the child should enjoy all the basic human rights in the spirit of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights".

(...)

19. Proposals dealing with various aspects of the problems arising from family separations were submitted or reintroduced as follows:

(a) A proposal made by the United States in 1982 (E/1982/12/Add.1/part C, para. 118) was reintroduced at the present session. It reads as follows:

"1. The States Parties to the present Convention shall ensure that the child and his parents enjoy the right to liberty of movement and freedom to choose a residence within the territory of any State Party where they are lawfully present.

2. The States Parties to the present Convention shall accord to the child and his parents the right to leave any State, including their own, and the right to enter their own State".

(b) After an exchange of views, the representative of the United States indicated that paragraph 1 of his proposal could be set aside and paragraph 2 could constitute paragraph 1 of article 6 bis (E/1982/12/Add.1/part C, para. 118, para. 25). He then orally proposed as article 6 bis the following text:

"1. The States Parties to the present Convention shall accord to the child and his parents the right to leave any State, including their own, and the right to enter their own State.

2. In cases where both parents lawfully reside in one State Party and their child lawfully resides in another State Party or where the parents of a child lawfully reside in different States Parties, the States Parties concerned shall deal with applications for family reunification or contacts on the basis of family ties in a positive, humane and expeditious manner. States Parties shall make no distinction as to country of origin or destination in dealing with such applications, shall charge only moderate fees in connection with such applications and shall not modify in any way the rights and obligations of the applicant(s) or of other members of the family concerned. States Parties shall ensure that applications for the purpose of family reunification of parents with their children which are not granted for any reason may be renewed at the appropriate level and will be considered at reasonably short intervals by the authorities of the country of residence or destination, whichever is concerned, and, in such cases, fees will be charged only when applications are granted. Until family reunification in a particular case is accomplished, all States Parties involved shall permit frequent and regular family contacts.

3. The provisions of paragraph 2 shall also apply in cases where a child's only surviving parent lawfully resides in one State Party and the child lawfully resides in another State Party, as well as in cases where parents who are nationals of different States Parties apply to transfer the permanent residence of their children and themselves to a Member State in which either one is normally a resident.

4. If the parents of a child lawfully reside in different States Parties, States Parties shall ensure that the child's preference as to which parent he wishes to reside with shall be an important consideration in any determination made by competent authorities concerning the child's place of residence."

(c) The representative of France reintroduced a proposal he submitted last year. As revised, the proposal (E/CN.4/1983/WG.1/WP.6) deals with two questions: (i) the question of personal relations of the child with his parents when the parents are of different nationalities and are separated, and (ii) the question of illegal removal of the child by one parent. It reads as follows:

"1. The child of parents with different nationalities, who are separated, shall, save in exceptional circumstances, be entitled to maintain personal relations with both parents.

2. The States parties to the present Convention shall take the necessary measures to prevent the unlawful removal abroad and non-return of children.

The removal and non-return of a child shall be considered unlawful:

- (a) When it occurs in violation of custody rights awarded to a person or an institution by the laws of the State in which the child had his usual place of residence immediately prior to his removal or non-return;
- (b) When such rights were actually exercised at the time of the removal, or would have been so exercised if such events had not taken place. The measures taken by States may be the conclusion of international agreements or accession to existing agreements."

(d) the representative of Australia proposed the following text (E/CN.4/1983/WG.1/WP.1) as article 6 ter:

"1. A child who is separated from one or both parents has the right to maintain personal relations and direct contacts with both parents on a regular basis, save in exceptional circumstances and regardless of whether the parents and the child reside in different States.

2. Where such separation results from judicial or administrative action by a State Party, such as detention, imprisonment, exile or deportation of one or both parents or of the child, the State Party shall provide the parents and the child with precise information as to the whereabouts of the absent member(s) of the family."

(...)

30. The discussion on the question of family reunification led to the adoption of part of paragraph 2 and paragraph 3 of article 6 bis. In this connection reference is made to paragraph 1 of the French proposal referred to above and to paragraphs 2, 3 and 4 of the proposal by the United States of America (see paragraph 19 above).

31. The representative of the Ukrainian SSR proposed the following text (E/CN.4/1983/WG.1/WP.11) to be included as a paragraph in article 6 bis, if specific mention of rights already covered by the International Covenant on Civil and Political Rights were not deleted from the proposal made by the representative of the United States of America:

"The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others."

32. During the discussions, it was noted that the wording of this paragraph was identical to a similar text contained in the International Covenant on Civil and Political Rights. It was also argued that the proposals made by the representative of the United States of America constituted a mere repetition of

the provisions of the International Covenant on Civil and Political Rights. It was further said that, compared to other paragraphs of the draft convention, the text proposed by the United States was much too long.

33. In the light of the discussions, the representative of the United States of America submitted a shortened version of his proposal. He maintained that any convention purporting to deal with the rights of children must explicitly and effectively deal with the question of family reunification and the guarantees to be given to applicants who request to leave a country for that purpose. The revised text (E/CN.4/1983/WG.1/WP.8) reads as follows:

"1. The States Parties to the present Convention shall accord to the child and his parents the right to leave any State, including their own, and the right to enter their own State.

2. Applications by a child or his parents to leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall charge only moderate fees in connection with such applications and shall not discriminate against or punish in any way the applicant(s) or other members of the family concerned. States Parties shall ensure that applications for the purpose of reunification of parents with their children which are not granted for any reason may be renewed at the appropriate level and will be considered at reasonably short intervals by the competent authorities, with fees in such cases to be charged only when applications are granted.

3. States Parties shall recognize the right of a child whose parents lawfully reside in different States Parties to maintain at all times, save in exceptional circumstances, personal relations and direct contacts on the basis of family ties with both parents through regular meetings. In such cases, States Parties shall ensure that the child's preference as to which parent he wishes to reside with shall be an important consideration in any determination made by competent authorities concerning the child's place of residence."

34. Indicating that the revised text submitted by the United States of America still contains references to rights already covered in the International Covenant on Civil and Political Rights, the representative of the USSR submitted a proposal (E/CN.4/1983/WG.1/WP.7) which reads as follows:

"The States parties to the present Convention recognize that the child should enjoy all the basic human rights in the spirit of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights."

35. No agreement was reached as regards paragraph 1 of article 6 bis.

36. The representative of the United States of America proposed orally a new text to constitute paragraph 2 of article 6 bis. The text, which relates to applications by a child or his parents to enter or leave a State Party, reads as follows:

"In accordance with the obligation of States Parties to ensure that a child is not separated from his parents [against their will] [except in his best interest] [unless in exceptional circumstances] applications by a child or his parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. In connection with such applications States Parties shall not punish in any way the applicant(s) or other members of the family concerned [Applications which are not granted for any reason may be renewed and may be considered by the competent authorities]."

The texts of paragraphs 37 and 43 as adopted by the Working Group at its 12th meeting are as follows:

37. Some speakers strongly objected to the above-mentioned proposals. In their view the proposals were too broad and would in fact grant immunity to applicants against any punishment for any acts they might commit. Amendments were suggested along those lines. It was also suggested that the second part of the proposal made by the United States should be deleted (see paragraph 36 above). The contrary view was also expressed.

38. The Working Group adopted as paragraph 2 of article 6 bis the following text:

"In accordance with the obligation of States Parties under article 6(2), applications by a child or his parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner."

39. Discussions on the question of the right of the child when parents live in different States to maintain contacts with both parents, led to the adoption of paragraph 3 of article 6 bis. Reference is made to paragraphs 3 and 4 of the original proposal made by the United States of America (see paragraph 19(b) above).

40. Referring to his earlier proposal and to the proposal made by the representative of the United States of America on the question under consideration, the representative of France submitted the following text:

"A child whose parents reside [lawfully] in different States shall have the right to maintain on a regular basis, save in exceptional circumstances, personal relations and direct contacts with both parents."

Adoption of paragraph 3 of article 6 bis

41. With the deletion of the word "lawfully" as proposed by the representative of the United Kingdom, the Working Group adopted the above-mentioned text as paragraph 3 of article 6 bis.

42. The representative of the United States reintroduced a proposal he made in 1982 according to which the draft convention should contain a provision ensuring the right of the child not to be subjected to arbitrary or unlawful interference by government authorities. The proposal, which was previously designated article 6 ter reads as follows (E/1982/12/Add.1, part C, para. 118):

"The States parties to the present Convention shall ensure that the child and his parents are not subjected to arbitrary or unlawful interference with their privacy, family, home or correspondence."

43. For some speakers, the inclusion of such provision was not necessary. In their opinion, the fulfilment of the child's basic needs was a more urgent matter.

E. 1984: PROPOSALS SUBMITTED TO THE WORKING GROUP

1. United States of America

The following is taken from annex II of the 1984 report of the Working Group to the Commission on Human Rights (E/CN.4/1984/71).

Amendment to article 6 bis

1st paragraph

The States Parties to the present Convention shall accord to the child and his parents the right to leave any State, including their own, and the right to enter their own State.

2nd paragraph, second sentence

In connection with such applications States Parties shall not punish in any way the applicant(s) or other members of the family concerned. Applications which are not granted for any reason may be renewed and will be considered in the manner noted above with regard to initial applications.

2. International Federation of Women in Legal Careers and the International Abolitionist Federation

The following is taken from E/CN.4/1983/NGO/33, which appeared after the 1983 session of the Working Group.

Article 6 bis (Family reunion)

As we have said before, we would like to see provision made for appeal against decisions taken by States Parties, even if such decisions have been taken in a "positive, humane and expeditious manner". We would therefore suggest the addition of the following paragraph 3:

"Applications that have not been granted for any reason whatsoever may be renewed and reconsidered by the competent authorities."

3. International Social Service

The following is taken from E/CN.4/1984/WG.1/WP.3.

International Social Service would like to see the present text (as in E/CN.4/1983/L.1/Add.1) supplemented, in order to guarantee the right of the individual to leave any State, including his own, and to enter his own State, rights already guaranteed by the Universal Declaration of Human Rights and by the International Covenant on Civil and Political Rights. ISS also stresses the need to facilitate family reunification with the parent or child who has left a given country.

F. 1986: MODIFIED PROPOSAL PRESENTED BY POLAND

At its 1986 session, the Working Group had before it an elaboration of the draft convention which had been made available to the General Assembly in 1985 (see A/C.3/40/3) by the Polish delegation with a view to expediting the drafting process. That document contained the text of the articles which had already been adopted as well as modifications of a number of proposals which had been made at the Working Group. For the text of the Polish proposal, see paragraph 22 in section H below.

G. 1986: PROPOSALS SUBMITTED TO THE WORKING GROUP

1. Netherlands, United Kingdom and United States of America

For the text of this proposal, see paragraph 133 in section I below.

2. United States of America

For the text of this proposal, see paragraph 22 in section H below.

H. 1986: DISCUSSION AT THE WORKING GROUP

The following is taken from the 1986 report of the Working Group to the Commission on Human Rights, E/CN.4/1986/39, paragraphs 22 to 32.

22. Discussions held by the Working Group during its 1983 session led to the adoption of part of article 6 bis, namely paragraphs 2 and 3, which read as follows:

"1. In accordance with the obligation of States Parties under article 6, paragraph 2, applications by a child or his parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis save in exceptional circumstances personal relations and direct contacts with both parents."

The Polish delegation submitted article 6 bis as contained in document A/C.3/40/3, which read as follows:

"The State Parties to the present Convention, in accordance with article 12 of the International Covenant on Civil and Political Rights, shall recognize the right of the child to leave any States."

The representative of the United States submitted the following revised proposal:

"1. States Parties shall respect the right of the child and his parents to leave any country, including their own, and to return to their own country.

2. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others." (New paragraph)

Renumber existing paragraph 2 as paragraph 3, and add the following concluding sentence:

"3. States Parties shall ensure that the submission of such a request shall of itself entail no adverse consequence for the person(s) concerned, whether or not similar or related applications have been previously made and granted or denied."

23. With regard to paragraph 1, the observer for Poland stated that the question of the right, as such, of parents to leave any country - including their own - and to return to it should not be part of a convention on the rights of the

child. That view was shared by a number of other delegations including those of Finland, France, the German Democratic Republic and the USSR.

24. The delegation of Japan found itself in agreement with the proposal put forward by the representative of the United States, although it indicated its preference for the verb "to enter", already used in article 12 of the International Covenant on Civil and Political Rights, rather than the words "to return" in the United States proposal. The representative of the United States accepted the suggestion of the Japanese delegation for reasons of consistency with the international Covenant. However, the observer for Finland and the representative of the USSR insisted on their objection to a right which concerned parents being incorporated into a convention dealing with the rights of the child. At the same time, the delegation of Australia supported the proposal submitted by the representative of the United States with the suggestion that in paragraph 1, the phrase "the right of the child and his parents" be replaced by "the right of children and their parents".

25. The Chairman observed that the same difference in approach to article 6 bis had persisted within the Working Group for some years, indicating that one solution to the problem could be the establishment of a working party, consisting of the delegations of the United States, Finland, Poland and the USSR, to produce a new text that would be acceptable to the Group. The text in question read as follows:

"1. In accordance with the obligation of States Parties under article 6, paragraph 2, applications by a child or his parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis save in exceptional circumstances personal relations and direct contacts with both parents. Toward that end, States Parties shall respect the right of the child and his parents to leave any country, including their own, and to return to their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others (and is consistent with the other rights recognized in the present Convention)."

26. The Chairman decided that paragraphs 2 and 3 of article 6 bis that had already been adopted should become paragraphs 1 and 2 respectively.

27. The representative of the USSR proposed the deletion of the phrase "States Parties shall further ensure that" at the beginning of the second sentence of the above-mentioned paragraph 1. The observer for Canada was opposed to

the deletion of this phrase, while the delegation of the Netherlands stated that the sentence under discussion should remain unchanged on the assumption that it must be an obligation of a State Party to ensure that the submission of a request to enter or leave a State Party for the purpose of family reunification should of itself entail no adverse consequences for the person or persons concerned.

28. Having pointed out that the wording had been taken from paragraph 4 of article 6 that had already been adopted, the delegation of the United States said that it could agree to the deletion of the phrase under discussion if the representative of the USSR insisted, although it would prefer that no such amendment were made. The representative of the Soviet Union then requested that the Working Group should start its consideration of paragraph 2, since his decision whether or not to insist on his amendment would depend on the final wording of the second sentence of paragraph 2.

29. Some speakers questioned the need for a reference to "ordre public" placed between brackets following the words "public order" in the third sentence of paragraph 2. With reference to the term "ordre public", the representative of the United States pointed out that the term appeared in the International Covenant on Civil and Political Rights (notably in paragraph 3 of article 12, whose terminology was closely related to the text under discussion by the Group) and that it was more precise than "public order".

30. The representative of Japan proposed the replacement of the word "return" in the second sentence of paragraph 2 by the word "enter". The delegation of Cyprus expressed its preference for the word "return", finding its use more logical after the phrase "to leave any country" which preceded it. The representative of the United Kingdom indicated his support for the Japanese proposal as did the representative of Australia, who considered that the interests of children who were born abroad must be kept in mind. The latter representatives' views were shared by the delegation of Mexico. The representative of Bangladesh suggested that the two terms be combined by inserting the words "or enter" between the words "return to" and "their own country." The delegation of the United Kingdom expressed its preference for the wording suggested by the representative of Bangladesh.

31. The representative of the USSR reiterated his objection concerning the inclusion in the draft convention of the specific right of a child's parents to leave any country and to return to it and said that, in the light of the discussion which had just taken place, he needed to reflect further on the question and proposed that the discussion be postponed.

32. Noting that only one delegation was unprepared to accept article 6 bis, the representative of the United States expressed the hope that the delegation in question would be prepared to accept the text at the Working Group's next session.

I. 1987: DISCUSSION AND ADOPTION AT THE WORKING GROUP

The following is taken from the 1987 report of the Working Group to the Commission on Human Rights, E/CN.4/1987/25, paragraphs 9 to 20 and 133 to 138.

9. The Working Group had before it the following text of a joint proposal made by the delegations of Finland, Poland, the USSR and the United States for an addition of a second sentence to paragraph 1 and of a second and third sentence to paragraph 2 of article 6 bis:

Second sentence of paragraph

"States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned."

Second and third sentences of paragraph 2

"Toward that end, States Parties shall respect the right of the child and his parents to leave any country, including their own, and to return to their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others (and is consistent with the other rights recognized in the present Convention)."

Second sentence of paragraph

10. When discussing the proposal for a second sentence to paragraph 1 of article 6 bis, the representative of Senegal was of the view that this proposal had no significance in an international convention, since it was obvious that the submission of the request by a child or his parents to enter or leave a State Party for the purpose of family reunification should entail no adverse consequences for the persons concerned. He felt that paragraph 1 of article 6 bis, by imposing an obligation upon States, already covered the concerns expressed in the proposal. The representative of the United States explained that the proposal in its entirety reflected a humanitarian concern, that family unity and reunification were basic rights that should be included in the draft Convention, and urged the Working Group to adopt the proposal.

11. The delegation of the Netherlands, supported by the observer for Finland, proposed the deletion of the words "of itself", while the representative of the United Kingdom was of the view that the reason for inclusion of the words "of itself" was justified in certain circumstances, when adverse consequences could arise after States Parties had dealt with requests for family reunification in a positive, humane and expeditious manner, or after family reunification had taken place. The representative of Austria, supporting this view, agreed to these additional words.

12. The observer for Finland considered that in the phrase "shall of itself entail no adverse consequences for the person(s) concerned", the words "person(s) concerned" should be clarified. He proposed instead the following wording: "shall entail no adverse consequences for the applicants and for the members of their families". The delegation of the Netherlands favoured the proposal put forward by the observer for Finland, a proposal which also met with the acceptance of the representative of the United States.

13. The Working Group then proceeded to adopt by consensus the following additional sentence to paragraph 1 of article 6 bis:

"States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family."

Second and third sentences of paragraph

14. The observer for Finland put forward a revised proposal to the one submitted by the delegations of Finland, Poland, the USSR and the United States of America, which read as follows:

"2. A child shall have the right to maintain [save in exceptional circumstances] personal relations and direct contacts with both parents also where the child and his or her parents live in different States. Toward that end, States Parties shall respect the right of the child and his or her parents to enter or leave their territory temporarily and, where appropriate, on a regular basis. States Parties shall also take all necessary steps to promote and ensure the effective exercise of this right and to secure the fulfilment of any conditions to which the exercise of this right may be subject.

3. The implementation of the obligations under this article [by States Parties] shall be subjected only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others [and are consistent with the other rights recognized in the present Convention]."

15. The observer for Finland was of the view that the wording in the revised proposal that he had submitted was more appropriate, and would allow more flexibility in the interpretation of the article so as to ensure the child's right to maintain personal relations and direct contacts with both parents in those cases in which the child and his parents each lived in different States.

16. The proposal by the observer for Finland met with some reservations, and the Working Group agreed that the text submitted by the delegations of Finland, Poland, the USSR and the United States be taken as the basis for discussion.

17. The representative of Japan proposed that the word "return" be replaced by the word "enter", in order to allow the entry of a child born outside his or her own country, and the observer for Finland agreed with the proposal. The representative of France proposed the wording "respect the right that the child and his parents have to leave any country", instead of "respect the right of the child and his parents to leave any country". The representative of the German Democratic Republic proposed the addition of the words "and in accordance with the obligation of States Parties under article 6, paragraph 2" after the words "towards that end"; with regard to the proposal by the Japanese delegation, he was in agreement with it and the representative of Australia shared his view.

18. The delegations of the Netherlands and the United Kingdom expressed their interest in the revised proposal by the observer for Finland. The observer for the Netherlands also said that he would join a consensus with regard to the adoption of the additional sentences to paragraph 2 of article 6 bis, with the understanding that at the appropriate time the Working Group would discuss some elements of the revised proposal submitted by the observer for Finland. The delegation of Finland stated that it would join the consensus on the basis of the proposal under consideration by the Working Group, and with the suggested amendment by the delegation of Japan; the observer for Finland added that his delegation was reserving the right to come back to the matters raised in his proposal at least during the second reading, and voiced his hope that delegations would then accept some of the wording contained in his revised proposal.

19. The representative of the USSR questioned the appropriateness of having the text at the end of the proposal which was between parentheses added to the proposal. The Chairman suggested the deletion of the parentheses. The representative of the United States proposed to delete the word "to" before the words "their own country", as well as the parenthesis at the end of the proposal, and to replace the word "is" in the penultimate line by the word "are". The delegation of Senegal wished to delete the words "Toward that end," at the beginning of the proposal, but this suggestion did not meet with the approval of other members of the Working Group. The delegation of Poland supported the proposal as amended by the delegations of Japan and the United States.

20. The Working Group then adopted the following additional sentences to paragraph 2 of article 6 bis:

"Towards that end and in accordance with the obligation of States Parties under article 6, paragraph 2, States Parties shall respect the right of the child and his parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention."

(...)

133. The Working Group had before it a proposal for an article 21 bis which was submitted at its 1986 session by the delegations of the Netherlands, the United Kingdom and the United States, and which read as follows:

"Nothing in this Convention shall be interpreted as legitimizing any alien's illegal entry into and presence in a State, nor shall any provision be interpreted as restricting the right of any State to promulgate laws and regulations concerning the entry of aliens and the terms and conditions of their stay, or to establish differences between nationals and aliens. However, such laws and regulations shall not be incompatible with the international legal obligations of that State, including those in the field of human rights."

134. The representative of the United Kingdom stated that his delegation would continue to have difficulties with some of the articles already adopted unless such a provision as the above-mentioned one concerning aliens would now be included in the draft Convention. For example, paragraphs 1 and 2 of article 2 caused difficulties in relation to his country's nationality law, paragraph 1 of article 6 was not compatible with United Kingdom immigration legislation, and articles 3, paragraph 1, 4, paragraph 1, 6, paragraphs 2 and 3, 6 bis, paragraphs 2 and 3, and 8, paragraphs 1 and 2, all posed problems as well in relation to United Kingdom immigration law. Certain of those provisions were difficult or even impossible to reconcile with his country's law and practice: in common with other States, British legislation did not allow unrestricted entry into the country.

135. The representative of Senegal questioned the appropriateness of such a proposal, and his doubts were shared by the delegations of Algeria, Argentina, Mexico and Venezuela. The representative of Venezuela referred in particular to the question of adoption and said that if she had the certainty that in cases of adoption such a provision would not hurt the child, she would accept it, but as it stood she was not in a position to do so. In addition, the observer for Finland voiced his doubts as to the relevance, importance and significance of the whole proposal.

136. The representative of the United States indicated that, while his preference was for the full text, as originally submitted, in a spirit of compromise he proposed to shorten the proposal in the following way:

"Nothing in this Convention shall be interpreted as legitimizing any alien's illegal entry into and presence in a State."

This proposal was supported by the representative of the United Kingdom.

137. This abridged version did not meet with the full approval of the delegations of Canada and the Netherlands, while the observer for Finland objected to the inclusion of the proposed article either in its full or abridged version. However, the delegation of the Netherlands held the opinion that the provision under

consideration by the Working Group was very relevant to several articles of the draft Convention.

138. The Chairman proposed to put an end to the discussion for lack of a consensus and indicated that if the co-authors of the proposal would elaborate a more acceptable text, in that case the Working Group would resume its discussion on the subject. At a later meeting and in connection with the adoption by the Group of article 6 bis, the representative of the United Kingdom and on behalf of the United States and the Netherlands, stated that they would be presenting a revised proposal for article 21 bis to the next session of the Working Group. The delegations of the Netherlands, the United Kingdom and the United States considered that an article on the lines of article 21 bis was essential to a balanced convention, and this view was supported by the delegation of the Federal Republic of Germany.

J. TEXT AS ADOPTED AT THE FIRST READING

The following is taken from E/CN.4/1988/WG.1/WP.1/Rev.1 (article 6 bis).

1. In accordance with the obligation of States Parties under article 6, paragraph 2, applications by a child or his parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 6, paragraph 2, States Parties shall respect the right of the child and his parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

IV. TECHNICAL REVIEW (1988)

By a letter addressed to the Secretary-General (see E/CN.4/1988/28, paragraph 248), the Working Group requested that a technical review of the draft convention be undertaken by the United Nations Secretariat in advance of the second reading. Among the aims of the technical review were to identify overlap and repetition between and within draft articles; to check for linguistic consistency and accuracy in the text; to compare the standards

established with those in other widely accepted human rights instruments; and to make recommendations as to how any overlaps or inconsistencies might be corrected in the second reading.

The Secretary-General subsequently requested comments on matters within their respective mandates of a number of the specialized agencies and other United Nations bodies, as well as the International Committee of the Red Cross. Those comments were compiled in the Technical Review of the text of the draft Convention on the Rights of the Child (E/CN.4/1989/WG.1/CRP.1 and Add.1), which was taken into account by the Working Group during the second reading of the draft Convention.

A. Comment by World Health Organization (WHO)

The following is taken from E/CN.4/1989/WG.1/CRP.1, page 21.

Paragraph 2 of this article deals with the right of the child to leave any country; but this right is subject to restrictions arising, inter alia, from the need to protect "public health". The same applies to article 7a, paragraph 2(b), in connection with the right of freedom of expression, and article 7 ter, paragraph 2, in connection with the rights of freedom of association and peaceful assembly. These provisions are of interest to the World Health Organization for two reasons:

- (1) The determination of the need to protect health should be made by a competent medical body.
- (2) No abuse should be made with respect to this requirement.

It may be worthwhile pointing out that article 12, paragraph 3 of the International Covenant on Civil and Political Rights contains a similar restriction in relation to the liberty of movement, freedom to leave any country and the freedom to choose residence.

B. Comment by UNICEF

The following is taken from E/CN.4/1989/WG.1/CRP.1, page 21.

Gender neutrality

Paragraph 1. The first part of the paragraph might be reformulated as follows:

"In accordance with the obligation of States Parties under article 6, paragraph 2, applications by a child or the child's parents..."

Paragraph 2. The same reformulation might be used in the middle of this paragraph:

"... States Parties shall respect the right of the child and the child's parents to leave any country...."

C. Additional comments and clarifications by the Secretariat

The following is taken from E/CN.4/1989/WG.1/CRP.1/Add.1, paragraph 14.

14. In order to achieve symmetry between the standards laid down in article 6 bis and those in article 12, paragraphs 2 through 4, of the International Covenant on Civil and Political Rights, the Working Group may wish to consider redrafting which would entail, first and foremost:

(a) stating clearly at the beginning of the article the basic rights under elaboration; (b) moving the last sentence of paragraph 2 in article 6 bis to a new paragraph 1 together with the basic rights; and (c) adding a reference to the new paragraph 1 in what becomes paragraph 2. With these changes, article 6 bis would read as follows:

"1. The child and his or her parents shall be free to leave any country, including their own. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Convention. The child and his or her parents shall not be arbitrarily deprived of the right to enter their own country."

2. In accordance with paragraph 1 and with the obligation

(...)

(previous paragraph 1)

3. (previous paragraph 2 excluding the last sentence)."

V. SECOND READING (1988-1989)

By a letter addressed to the Secretary-General (see E/CN.4/1988/28, paragraph 248), the Working Group requested that the draft of the convention as adopted at the first reading be circulated to all Member States so that their comments could be taken into account during the second reading of the draft. The Working Group conducted the second reading from 28 November to 9 December 1988 and adopted its report from 21 to 23 February 1989.

A. PROPOSAL SUBMITTED TO THE WORKING GROUP AT THE SECOND READING

1. German Democratic Republic

For the text of this proposal, see paragraphs 209 and 218 in section B below.

B. DISCUSSION AND ADOPTION DURING THE SECOND READING

The following is taken from the report of the Working Group to the Commission on Human Rights, E/CN.4/1989/48, paragraphs 208 to 223.

208. The Working Group had before it a text (E/CN.4/1989/WG.1/WP.2) for article 6 bis as adopted during the first reading into which was incorporated suggested revisions proposed by the technical review of the Secretariat. The text read as follows:

"1. The child and his or her parents shall be free to leave any country, including their own. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention. The child and his or her parents shall not be arbitrarily deprived of the right to enter their own country.

2. In accordance with paragraph 1 and with the obligation of States Parties under article 6, paragraph 2, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

3. A child whose parents reside in different States shall have the right to maintain on a regular basis save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 6, paragraph 2, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. (The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.)"

Paragraph 1

209. The Working Group also had before it proposals contained in E/CN.4/1989/WG.1/WP.13 by the representative of the German Democratic Republic reading as follows:

"Change in paragraph 1 'or' by 'and' so that it reads as follows:

'... applications by a child and his parents ...'."

210. The representatives of Argentina, India, Portugal, the Union of Soviet Socialist Republics and the United States of America expressed support for the inclusion of the new paragraph 1 as contained in E/CN.4/1989/WG.1/WP.2 because it reflected rights already enshrined in article 12 of the International Covenant on Civil and Political Rights. The representatives however indicated that they did not insist on its inclusion in the article. The representative of the United Kingdom reserved the right to make a statement concerning his delegation's interpretation of the reference in this article to the right of children and their parents "to enter their own country".

211. The observer for Australia proposed that since the only new idea raised in the new paragraph 1 was contained in the last sentence, he suggested that that last sentence could be incorporated in the text of article 6 bis as it was adopted during the first reading. The representative of India supported this and suggested that if the new paragraph was not included in the article then that last sentence should be incorporated into the article.

212. The representatives of Australia, Finland, the Netherlands and Poland expressed a preference for the text of this article as adopted during the first reading. In particular, the representatives of Australia and Poland did so because they wished to maintain the article's emphasis on the issue of family reunification.

213. The observer for Finland suggested that the scope of the article should be widened and therefore proposed that the words "and family meetings" be included after the words "family reunification". The representatives of Kuwait and the United States of America indicated that the meaning of the words proposed were not clear and therefore they felt that the words should be left out of the text.

214. The representatives of Australia, Portugal and the United States of America took the view that article 6 bis was intended to cover situations in which children were separated from their parents or where parents were separated themselves, the child living with one of them, and that they were therefore unable to support the proposal by the representative of the German Democratic Republic to change the word "or" in line 2 of old paragraph 1 to the word "and".

215. The representative of the United Kingdom raised concerns about the interpretation of the word "positive" in line 4 of old paragraph 1. He suggested that as the word could be misinterpreted he would prefer the word "objective" to be used in its place. The representative of France indicated that the translation of the word "positive" into the French text seemed to contain an element of prejudgment and for that reason he would like to see the word "positive" omitted from the text.

216. The delegations of Sweden and Finland suggested that the word "positive" be retained in the text for article 6 bis as the word had an established usage, at least within the European context. The observer for Finland suggested as an alternative that the use of the word "favourable" might allay the concerns of the United Kingdom delegation. The representative of the United States of America indicated that the word "positive" should be retained in the text of the article because it only obliged States to act positively and in no way prejudged the outcome of their deliberations on questions of family reunification. He further stated that the word "favourable" should not be used as that word seemed to contain an element of prejudgment. As a result of the foregoing debate, the representative of the United Kingdom indicated that his concerns had been allayed and that "positive" should be retained.

217. The text of article 6 bis, paragraph 1, as adopted during the second reading reads as follows:

"In accordance with the obligation of States Parties under article 6, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family."

Paragraph 2

218. The representative of the German Democratic Republic drew attention to her proposal of amendment contained in E/CN.4/1989/WG.1/WP.13 which read as follows:

"Delete in paragraph 2 the first sentence and start the second sentence with: In accordance with the obligation of the States Parties under article 6, paragraphs 2 and 3."

219. The observer for Finland stated that he would not propose any specific amendments but pointed out some interpretation problems as to the amendment proposed by the German Democratic Republic. According to the Finnish delegate, the first sentence had to be kept because even in cases where both parents lived abroad and in the same country, the child should have contacts with both parents and therefore the first sentence should apply.

220. The representatives of the Federal Republic of Germany and Morocco joined Finland in opposing the amendment.

221. Given these objections, the German Democratic Republic delegation declared that, despite some legal problems it had with the wording of this paragraph, it would not insist on the amendment. However, the delegate stressed again the difficulties they were having with it and reserved her right to raise the issue at the Commission on Human Rights.

222. The Working Group then adopted article 6 bis, paragraph 2, without changes except the addition of "or her".

223. The final version of article 6 bis, paragraph 2, reads as follows:

"A child whose parents reside in different States shall have the right to maintain on a regular basis save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 6, paragraph 2, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention."

C. STATEMENT MADE AFTER THE ADOPTION OF THE CONVENTION

1. Japan

The following is taken from the report of the Working Group to the Commission on Human Rights, E/CN.4/1989/48, paragraph 22.

22. The representative of Japan expressed the reservation of his Government with regard to the legal nature of the declaration that the Chairman of the Working Group should make on article 6 bis to the effect that this article was not intended to affect the immigration laws of States Parties. Doubts were also expressed as to the consequences for the national immigration laws of some other provisions of the convention, namely of article 6, paragraphs 2 and 4, and of article 11 bis. The representative of Japan further stated that a number of other newly adopted proposals and articles of the draft convention would be ad referendum to his Government which will express its formal view on them at an appropriate opportunity.

D. STATEMENTS MADE DURING THE ADOPTION OF THE REPORT

1. Germany, Federal Republic of

The following is taken from the report of the Working Group to the Commission on Human Rights, E/CN.4/1989/48, paragraph 721.

721. (...) The representative of the Federal Republic of Germany further asked that the following declarations be entered in the report:

(a) Nothing in the Convention on the Rights of the Child shall be interpreted as legitimizing the illegal entry and presence on the territory of the Federal Republic of Germany of any alien, nor shall any provision be interpreted as restricting the right of the Federal Republic of Germany to promulgate laws and regulations concerning the entry of aliens and the conditions of their stay or to establish differences between nationals and aliens.

(...)

2. Japan

The following is taken from the report of the Working Group to the Commission on Human Rights, E/CN.4/1989/48, paragraph 722.

722. The representative of Japan drew the attention of the Working Group to the Chairman's declaration contained in paragraph 203 of the report stating that article 6 of the Convention (present article 9) was intended to apply to separations that arise in domestic situations and also that article 6 bis (present article 10) was not intended to affect the general right of States to establish and regulate their respective immigration laws in accordance with their international obligations. (...)

VI. CONSIDERATION BY THE COMMISSION ON HUMAN RIGHTS, THE ECONOMIC AND SOCIAL COUNCIL AND THE GENERAL ASSEMBLY

The text of article 10 as adopted by the Working Group at the second reading was adopted along with the other articles of the Convention by the Commission on Human Rights by its resolution 1989/57 of 8 March 1989, by the Economic and Social Council by its resolution 1989/79 of 24 May 1989 and by the General Assembly by its resolution 44/25 of 20 November 1989.

VII. RELATED REFERENCES

For further research, see the legislative history of article 9 and 11. See also annex 1, "Related articles of the Convention".

RELATED ARTICLES OF THE CONVENTION

The following grouping of related substantive articles is based on the guidelines adopted by the Committee on the Rights of the Child for the preparation of State party reports (CRC/C/5):

GENERAL MEASURES OF IMPLEMENTATION

- Implementation of rights (article 4)
- Promotion of rights and dissemination of information (article 42)
- Respect for higher standards (article 41)

DEFINITION OF A CHILD

- Definition of a child (article 1)

GENERAL PRINCIPLES

- Non-discrimination (article 2)
- Best interests of the child (article 3)
- Right to life, survival and development (article 6)
- Respect for the views of the child (article 12)

CIVIL RIGHTS AND FREEDOMS

- Name and nationality (article 7)
- Preservation of identity (article 8)
- Freedom of expression (article 13)
- Access to appropriate information (article 17)
- Freedom of thought, conscience and religion (article 14)
- Freedom of association and peaceful assembly (article 15)
- Protection of privacy (article 16)
- Prohibition of torture and the death penalty (article 37(a))

FAMILY ENVIRONMENT AND ALTERNATIVE CARE

- Parental guidance and the child's evolving capacities (article 5)
- Parental responsibilities (articles 18(1) and (2))
- Separation from parents (article 9)
- Family reunification (article 10)
- Recovery of maintenance for the child (article 27(4))
- Children deprived of a family environment (article 20)
- Adoption (article 21)

- Illicit transfer and non-return (article 11)
- Prevention of abuse and neglect (articles 19 and 39)
- Periodic review of placement (article 25)

BASIC HEALTH AND WELFARE

- Disabled children (article 23)
- Health and health services (article 24)
- Social security and child care services and facilities (articles 26 and 18(3))
- Standard of living (article 27)

EDUCATION

- Education, including vocational training and guidance (article 28)
- Aims of education (article 29)
- Leisure, recreation and cultural activities (article 31)

SPECIAL PROTECTION MEASURES

Children in situations of emergency

- Refugee children (article 22)
- Children in armed conflicts (article 38)

Children in conflict with the law

- Administration of juvenile justice (article 40)
- Children deprived of their liberty (article 37(b), (c) and (d))
- Sentencing of juveniles (article 37(a))
- Physical and psychological recovery and social reintegration (article 39)

Children in situations of exploitation, including physical and psychological recovery and social reintegration

- Economic exploitation, including child labour (article 32)
- Drug abuse (article 33)
- Sexual exploitation and sexual abuse (article 34)
- Sale, trafficking and abduction (article 35)
- Other forms of exploitation (article 36)
- Children belonging to a minority or indigenous group (article 30)
