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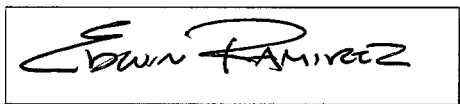
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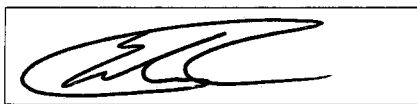
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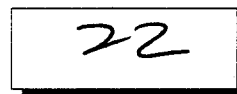
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**Legislative History of the
Convention on the Rights of the Child
(1978 - 1989)**

ARTICLE 14

(FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION)

The *Legislative History of the Convention on the Rights of the Child (1978-1989)* was prepared with the support of Rädde 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.14

ARTICLE 14

(FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION)

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ARTICLE 14

(FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION)

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. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

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 14 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 issues raised under article 14 were discussed by the Working Group in 1983 and the text was adopted in 1984. This article was referred to as article 7 bis throughout the first and second readings.

A. 1982: PROPOSAL SUBMITTED TO THE WORKING GROUP

1. United States of America

For the text of this proposal see paragraph 52 in section B below.

B. 1983: DISCUSSION AT THE WORKING GROUP

The following is taken from the 1983 report of the Working Group to the Commission on Human Rights, E/CN.4/1983/62, paragraphs 52-57.

52. The representative of the United States reintroduced a proposal he had made in 1982 (E/1982/12/Add.1, part C, para. 118). The proposal read as follows:

"1. The States Parties to the present Convention shall ensure that the child has the right to freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. The States Parties to the present Convention shall ensure that no child is subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. The States Parties to the present Convention shall ensure that the child's freedom to manifest his religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Convention shall ensure that the child has:

- (a) the freedom to worship or assemble with others in connection with his religion or belief;
- (b) the freedom to make, to acquire and to use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;
- (c) the freedom to observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of his religion or belief; and
- (d) the freedom to establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels."

53. Several speakers supported the idea of including in the draft convention a specific provision on the right of the child to freedom of thought, conscience and religion, a well as access to religious education. It was also said that the formulation on the matter which is contained in other international instruments could also be used in the draft convention. Reference was made to the Declaration on the Elimination of All Forms of Intolerance on Religion or Belief and to paragraph 4 of article 18 of the International Covenant on Civil and Political Rights.

54. Several other speakers were of the opinion that a specific provision on religious education and the right to practise religion was not necessary in the draft convention, since the matter was already covered by other proposals. Reference was made in this connection to the proposals contained in the draft convention submitted by Poland (E/CN.4/1349).

55. Although not necessarily opposed to the inclusion of an article on religion in the draft convention, some speakers expressed doubts as to whether it should be the responsibility of the State to ensure that the child has the right to freedom of thought, conscience and religion. In many countries, it was noted, a child follows the religion of his parents and does not generally make a choice of his own. It was also observed that the right to practise religion had to be applied within the limits permitted by public order, safety and morals.

56. No agreement was reached as regards the adoption of the United States proposal as article 7 bis of the draft convention.

57. The representative of the United States submitted a revised version of his proposal. As revised, the text reads:

"1. The States Parties to the present Convention shall ensure that the child has the right to freedom of thought, conscience and religion, including the right to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest, in a manner not incompatible with public order and morals, his religion or belief in worship, observance, practice and teaching.

2. The States Parties shall ensure that no child is subject to coercion which would impair his freedom to have a religion or belief of his choice and shall ensure that every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or, as the case may be, legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians.

3. The States Parties to the present Convention undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions."

C. 1984: PROPOSALS SUBMITTED TO THE WORKING GROUP

1. Canada

For the text of this proposal see paragraph 13 in section D below.

2. Denmark, Finland, Norway and Sweden

For the text of this proposal see paragraph 13 in section D below.

D. 1984: DISCUSSION AND ADOPTION AT THE WORKING GROUP

The following is taken from the 1984 report of the Working Group to the Commission on Human Rights, E/CN.4/1984/71, paragraphs 13-33.

13. There were three texts for consideration by the Working Group to be taken as the basis for discussion. Firstly, there was the amended text, submitted in 1983, of an original United States proposal made in 1982, as set out in paragraph 57 of document E/CN.4/1983/62. Secondly, the delegation of Canada proposed the following text:

"The States Parties to the present Convention undertake to ensure the freedom of thought, conscience and religion of the child in accordance with

the Universal Declaration of Human Rights and other international instruments that relate to this freedom and subject to the authority of the parents or legal guardian to provide direction to the child in the exercise of this freedom in a manner consistent with the evolving capacities of the child and not incompatible with public order and morals."

Thirdly, the representative of Sweden introduced the following text elaborated by the delegations of Denmark, Finland, Norway and his own:

"1. The States Parties to the present Convention shall ensure to the child the right to freedom of thought, conscience and religion.

2. These rights shall include in particular the right to have or to adopt a religion or whatsoever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief, and the right to have unimpeded access to education in the matter of religion and belief of his choice.

3. The States Parties shall, subject to the evolving capacities of the child, respect the wishes, freedoms and rights of the parents or legal guardians in the exercise of these rights of the child and shall ensure the freedom to manifest religion or belief, in a manner not incompatible with public safety, order, health and morals."

14. The representative of the Ukrainian SSR accepted the Canadian proposal which he considered constituted a common denominator of the views presented by delegations at the Group's 1983 session.

15. The representative of the Holy See expressed his hesitancy with regard to the various proposals notwithstanding their individual merits. The Canadian text was particularly appreciated due to its conciseness, but his delegation did not think that the right of the child to have or to choose a religion or belief was explicit enough. The United States proposal, although acceptable, did not meet with his delegation's full approval because the right of the child was not sufficiently affirmed in relation to the right of the parents to give the child a religion or a philosophical belief and to educate him therein. His delegation made similar observations with regard to the Scandinavian text, although it had some positive aspects, because the relationship of rights and the respect for the family environment were not adequately acknowledged and emphasized.

16. A lengthy debate followed regarding the choice of the text to be utilized as a basis for discussion. The representatives of the Netherlands and the Ukrainian SSR suggested that a compromise text be elaborated after consultations, and the delegations of Canada and Sweden joined them in this suggestion. The Chairman therefore requested that a new draft be prepared by an informal open-ended working party, and it was so decided.

17. The draft was introduced by the delegation of the United Kingdom and read as follows:

"1. The States Parties to the present Convention shall recognize the right of the child to freedom of thought, conscience and religion in accordance with the principles of the Universal Declaration of Human Rights, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and the International Covenant on Civil and Political Rights, and of other relevant international instruments.

2. These rights shall include in particular the right to have or to adopt a religion or whatsoever belief of his choice, and freedom, either individually or in community with others and in public or private to manifest his religion or belief, in conformity with public safety, order, health and morals.

3. This right is subject to the authority of the parents or legal guardians to provide direction to the child in the exercise of this right in a manner consistent with the evolving capacities of the child.

4. The States Parties to the present Convention undertake to have respect of the liberty of the child and his parents, or, when applicable, legal guardians, to ensure the religious and moral education of the child."

This consolidated text was generally considered to be a useful basis for discussion.

Paragraph 1

18. Many delegations viewed the enumeration of international instruments as unnecessary. Some suggested that reference be made to the Universal Declaration of Human Rights only, while others proposed adding the phrase "and other relevant international instruments". The representatives of the Federal Republic of Germany and of the German Democratic Republic wished that at least a reference to the International Covenant on Civil and Political Rights be included in the text, while the delegation of the Islamic Republic of Iran requested a reference to the International Convention on the Suppression and Punishment of the Crime of Apartheid.

19. The representative of the United States proposed adding the phrase "and ensure" in the first line of paragraph 1, after the word "recognize". Some delegations found difficulty in accepting this proposal, if account was to be taken of the separation of Church and State in many countries, and preferred to keep the word "recognize".

20. The United Kingdom delegation suggested that the word "recognize" should be replaced by the word "ensure", and several delegations agreed with that proposal. The United States representative expressed her preference for the words

"shall ensure", and explained that if the right of freedom to unimpeded religious beliefs was ensured, that did not mean that the State would be obliged to provide religious education; she therefore agreed with the United Kingdom proposal.

21. The opinion of the Group was divided among those who supported the inclusion of the word "ensure" and those who wished to retain the word "recognize". Finally, the representative of the Islamic Republic of Iran proposed that the words "and respect" be added after the word "recognize".

22. The representative of the Holy See drew the attention of the Working Group to the fact that the Holy See used the words "to promote respect" in its "Charte des Droits de la Famille" of 22 October 1983. The representative of Australia then suggested that the word "recognize" be replaced by the word "respect", and that proposal found acceptance among most delegations, including those of the United Kingdom and the United States which preferred that wording.

23. The representative of the Netherlands expressed his belief that there should be no enumeration of international instruments and that consequently the first paragraph should end with the word "religion". Many delegations were sympathetic to his proposal and the Working Group proceeded to agree to paragraph 1 as amended.

Paragraph 2

24. The representative of the Ukrainian SSR drew the attention of the Group to the fact that paragraph 2 began with the words "These rights", which should be amended to read "This right"; this amendment was accepted. The delegation of the United States suggested the insertion after the word "choice", of the phrase "and to be free from coercion which would impair his freedom in this respect". After the words "to manifest his religion or belief", the United States delegation requested the inclusion of the phrase "subject only to such limitations as are prescribed by law and are necessary to protect the" instead of "in conformity with". The delegation of the Ukrainian SSR was in favour of that amendment.

25. The United States delegation also proposed that the phrase "and the right to have unimpeded access to and freedom from coercion with respect to education in the matter of religion or belief" be added at the end of the paragraph. The delegation of Australia suggested that the last proposal made by the representative of the United States be amended to read "and the right to have access to education in the matter of religion or belief".

26. With respect to a query from the representative of the Ukrainian SSR as to whether such a reference to access to a right would create a precedent requiring a similar insertion in subsequent articles, the representative of the United States said that it would not, because it was only necessary to ensure access to a right, in addition to the right itself, in cases where it was particularly relevant to the right to protect access to it, as the Working Group had considered was the case in 1983 with regard to article 12.

27. The delegation of the Netherlands proposed replacing the word "right" in the first line by the word "freedom". The Working Group was also reminded of the Ukrainian SSR proposal to begin the paragraph with the expression "This right". The delegation of the Netherlands also proposed the deletion of the word "the" between the words "to protect" and "public safety", and the placing of a comma between the phrases "in public or private" and "to manifest his religion". The representative of the United States then withdrew her first amendment to paragraph 2, namely the insertion of the phrase "and to be free from coercion which would impair his freedom in this respect".

28. The Working Group agreed to the second paragraph as amended.

Paragraph 3

29. The representative of Finland proposed that the word "authority" in the first line of the paragraph be replaced by the phrase "rights and duties", and this proposal was found acceptable by a majority of delegations. The United States delegation proposed that in the first line the phrase "This right is subject to" be replaced by the words "The States Parties shall respect".

30. The representative of the Netherlands suggested that the word "or" between "parents" and "legal guardians" be replaced by the phrase "and, where applicable,". The United States delegation proposed that the words "this right" between the words "exercise of" and "in a manner" be amended to read "his right". All these amendments were accepted by the Working Group which agreed to paragraph 3.

Paragraph 4

31. The representative of Canada proposed that the words "to the present Convention undertake to have" be replaced by the words "shall equally" in the first line of the paragraph and that the word "for" be deleted between the words "respect" and "the liberty of the child". The delegation of the United States suggested that the word "or" between the words "parents" and "when applicable" be replaced by the word "and"; it also proposed the addition of the phrase ", and unimpeded access thereto, in conformity with their own convictions" at the end of the paragraph. The representative of Finland proposed that the phrase "when applicable" should read "where applicable".

32. All the amendments mentioned above met with the acceptance of most delegations with the exception of the proposed addition at the end of the sentence made by the United States delegation. The representative of the United States therefore withdrew part of the proposed phrase leaving only the words "in conformity with their own convictions".

33. The delegation of the Netherlands considered that if the United States representative was referring to the convictions of the child, then such a phrase was unnecessary. The United States representative explained that the phrase was

meant to make it clear that the education was to be in conformity with both the parents' and the child's convictions, in order to provide a buffer for the family and to prevent a religious belief and education from being foisted on the child, possibly by State interference. The delegation of Finland then pointed out that another possibility would be a reference to "convictions of their choice", and both the delegations of the Netherlands and the United States accepted the Finnish proposal. Accordingly the Working Group agreed to paragraph 4 as amended and adopted article 7 bis.

E. 1986: COMMENT SUBMITTED TO THE WORKING GROUP

1. Bangladesh

The following comment regarding article 7 bis (present article 14) is contained in a paper submitted by the Permanent Representative of Bangladesh to the United Nations Office at Geneva with the request that the paper be annexed to the report of the Working Group. For the complete text, including general comments on the draft convention, see document E/CN.4/1986/39, annex IV.

Article 7 (bis) appears to run counter to the traditions of the major religious systems of the world and in particular to Islam. It appears to infringe upon the sanctioned practice of a child being reared in the religion of his parents. We believe that the article as presently drafted will give rise to considerable difficulties in application and appears also to be in conflict with article 8.

F. 1987: COMMENT SUBMITTED TO THE WORKING GROUP

1. Morocco

The following is taken from the 1987 report of the Working Group to the Commission on Human Rights, E/CN.4/1987/25, paragraph 2.

2. (...). By a note verbale of 30 January 1987, the Permanent Representative of Morocco asked that their observations on the draft convention be brought to the attention of the Working Group; those observations were contained in E/CN.4/1987/WG.1/WP.35.

The following is taken from E/CN.4/1987/WG.1/WP.35.

Article 7 bis - Choice of religion

On the question of religion, the rule adopted in Moroccan legislation is that the child shall follow the religion of his father. In this case, the child does not have to choose his religion, as the religion of the State is Islam. Islam guarantees freedom of worship to members of other faiths.

G. 1987: RELATED DISCUSSION 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 100-110.

100. The Working Group had before it the following proposal by the delegations of Australia and the United States for an article 5 bis:

"To help the child enjoy the rights enumerated in this Convention, States Parties undertake to protect the family as the natural and fundamental unit of society. Parents or legal guardians shall enjoy the primary rights and responsibilities for the care, upbringing and development of the child, having due regard for the importance of allowing the child to develop the skills and knowledge required for an independent adulthood."

101. The representative of the United States explained that his country attached great importance to the family as the natural and fundamental group unit of society. He explained that the family should be explicitly protected, with language similar to that contained in paragraph 1 of articles 10 and 23, respectively, of the International Covenants on Economic, Social and Cultural Rights, and Civil and Political Rights, and that such protection should be included in the draft Convention. The United States representative requested that the article under consideration by the Group be included early in the draft Convention as article 5 bis, in order to emphasize its importance and relationship to all the other rights contained in the draft Convention.

102. During the debate, the attention of the Working Group was drawn to the possible overlap of the proposal with the already existing articles in the draft Convention and in the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights.

103. Some delegations specifically drew the attention of the Working Group to the fact that the proposal did not introduce any new element, as compared to paragraph 3 of article 7 bis of the draft Convention.

104. The delegation of Canada indicated that it would support such a provision - already included in articles 7 bis and 15 - to the extent that the proposed article 5 bis would deal with the parental responsibility in the exercise of its rights over the child, with due regard for the evolving capacities of the child and for the child's need to mature into an independent adulthood. However, the observer for Canada concluded that as the concept was already included in the aforementioned articles 7 bis and 15, it would be possible that on the second reading of the draft Convention, a generally applicable article could be developed from the - by that time - adopted limited provisions. The delegation of Finland agreed with the suggestions made by the observer for Canada.

105. The observer for the Netherlands suggested that the latter part of the proposal by the American and Australian delegations be combined with paragraph 3 of article 7 bis in the following manner:

"The States Parties to the present Convention shall respect the rights and duties of the parents and, where applicable, legal guardians, to provide direction to the child in the exercise of his rights enumerated in this Convention in a manner consistent with the evolving capacities of the child, having due regard for the importance of allowing the child to develop the skills and knowledge required for an independent adulthood."

106. The observer for Canada supported the revised proposal put forward by the delegation of the Netherlands. However, with respect to that part of the original proposal, which was based on the protection given to the family under article 23 of the International Covenant on Civil and Political Rights, the Canadian delegation had expressed concern that because article 23 was intended to protect the family from the State, incorporation of such a provision in a convention on the rights of the child must also ensure that the rights of the child would not be left solely to the wishes of the family, without any protection whatsoever from the State; in other words, in protecting the family from the State, the family must not be given arbitrary control over the child. Any protection from the State given to the family must be equally balanced with the protection of the child within the family.

107. The representative of Austria, while agreeing with the insertion of a separate article along those lines strongly supported the first sentence of the original proposal feeling that, although it appeared in the Covenants, it would be regrettable if it did not also appear in the draft Convention.

108. The Chairman then suggested keeping the first sentence, as it appeared in the original proposal, with the following modifications: to add the words "to the present Convention" between "States Parties" and "undertake" and the words "and assist" between "protect" and "the family". The delegations of Austria and the United States were amenable to the insertion of the above-mentioned words as proposed by the Chairman.

109. The representative of Australia said that the revised proposal by the delegation of the Netherlands was a good one and therefore should be included in the draft Convention, and that during the second reading, references that would appear to be a duplication of already existing texts of the draft Convention would be struck out. In addition, he proposed to introduce the words "within the family" between "to provide" and "direction to the child".

110. After some further exchange of views and after listening to the opinion put forward by the delegation of Finland to the effect that the discussions on this question should be postponed until the second reading of the draft Convention, the Chairman proceeded to adjourn the debate with the request that a new proposal for an article 5 bis be prepared.

H. TEXT AS ADOPTED AT THE FIRST READING

The following is taken from E/CN.4/1988/WG.1/WP.1/Rev.1.

Article 7 bis

1. The States Parties to the present Convention shall respect the right of the child to freedom of thought, conscience and religion.
2. This right shall include in particular the freedom to have or to adopt a religion or whatsoever belief of his choice and freedom, either individually or in community with others and in public or private, to manifest his religion or belief, subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health and morals; and the right to have access to education in the matter of religion or belief.
3. The States Parties shall respect the rights and duties of the parents and, where applicable, legal guardians, to provide direction to the child in the exercise of his right in a manner consistent with the evolving capacities of the child.
4. The States Parties shall equally respect the liberty of the child and his parents and, where applicable, legal guardians, to ensure that religious and moral education of the child in conformity with convictions of their choice.

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 UNESCO

The following is taken from E/CN.4/1989/WG.1/CRP.1, page 22.

In paragraph 2 of this article, the expression "the freedom to have or to adopt a religion" should be replaced by "the freedom to have or not to have, to adopt or not to adopt a religion", and the expression "to manifest his religion or belief" should be replaced by "to manifest or not to manifest religion or belief".

In the English version, paragraphs 3 and 4 of article 7 bis "where" should be replaced by "when".

B. Comment by UNICEF

The following is taken from E/CN.4/1989/WG.1/CRP.1, pages 22-23.

Paragraph 1

This paragraph reads as follows:

"The States Parties to the present Convention shall respect the right of the child to freedom of thought, conscience and religion".

It is modelled after the first sentence in paragraph 1 of article 18 of the International Covenant on Civil and Political Rights which states that:

"Everyone shall have the right to freedom of thought, conscience and religion."

The difference between the two is that under the Covenant (article 2, paragraph 1 and article 18, paragraph 1, read in conjunction) States Parties undertake to "respect and ensure" the right, whereas the draft convention (article 4, paragraph 1 and article 7 bis, paragraph 1, read in conjunction) obligates States Parties only to "respect and extend" the right. The latter formulation, unlike the former, imposes no obligation to take affirmative action to ensure the right, or to protect the child from violations of his or her rights by non-State entities.

This discrepancy could be resolved either by amending article 4, paragraph 1, as proposed above, or by adding the words "and ensure" after the word "respect" in article 7 bis, paragraph 1. For the sake of consistency, consideration might be given to making both amendments.

Paragraph 2

A comma should be inserted after the word "choice" (in line 2 of the English text).

For the most part, this provision is modelled after article 18, paragraph 1, of the International Covenant on Civil and Political Rights and article 1, paragraph 1, of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. The principal difference is that each

of those instruments includes the words "in worship, observance, practice and teaching" after the phrase "to manifest his religion or belief". The travaux préparatoires of the draft convention do not indicate any reason for their omission from this paragraph and the Working Group may wish to consider whether they should be inserted.

In order to ensure consistency with the International Covenant on Civil and Political Rights (article 18, paragraph 3) the limitations clause should read in part:

"necessary to protect public safety, order, health, or morals, or the fundamental rights and freedoms of others; and..."

Gender neutrality

Paragraph 2. This could be reformulated as follows:

"This right shall include in particular the freedom to have or to adopt a religion or whatsoever belief of the child's choice, and freedom, either individually or in community with others and in public or private, to manifest that religion or belief..."

Paragraph 3. The middle part of the paragraph could read:

...to provide direction to the child in the exercise of his or her rights..."

Paragraph 4. The first part of the paragraph could read:

"The States Parties shall equally respect the liberty of the child and his or her parents..."

C. Additional comments and clarifications by the Secretariat

The following is taken from E/CN.4/1989/WG.1/CRP.1/Add.1, page 6.

17. As in article 4, the reference in paragraph 3 to "legal guardians" does not reflect the listing made in article 5 bis. The Working Group may therefore wish, in accordance also with language used in, for example, article 8, paragraphs 1 and 2, to change this phrase to read "guardians".

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. PROPOSALS SUBMITTED TO THE WORKING GROUP AT THE SECOND READING

1. **Algeria, Egypt, Iraq, Jordan, Kuwait, Libyan Arab Jamahiriya, Morocco, Oman, Pakistan and Tunisia**

The following text is taken from E/CN.4/1989/WG.1/WP.4.

Article 7 bis

1. Paragraphs 1 and 2 should be combined to read as follows:

"The States parties to the present Convention shall respect the right of the child to freedom of thought, conscience and religion, as well as his right to have access to education in the matter of religion or belief, subject only to such limitations as are prescribed by national laws and legislation and are necessary to protect public safety, order, health and morals".

2. Paragraphs 3 and 4 remain unchanged.

2. Mexico

The following text is taken from E/CN.4/1989/WG.1/WP.28.

Article 7 bis, paragraph 4:

Delete.

B. DISCUSSION AND ADOPTION AT 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 16 and 280 to 291.

General debate

(...)

16. The observer for Egypt referred to the seminar on the rights of the child that had been held at Alexandria in November 1988, stating that its main recommendations were: (a) that the United Nations Working Group on the Question of a Convention on the Rights of the Child should bear in mind during the second reading the fact that articles 7 bis and 11 were incompatible with the legal systems of several countries and should take the concern of those countries

into account; (b) that the Working Group should give closer attention in the draft convention to encouraging the mental and spiritual education of the child; (c) that the Egyptian Ministry of Justice should be requested to revise the country's laws - if and where necessary - to bring them into line with the future convention on the rights of the child.

(...)

Article 14 (Article 7 bis)

280. The Working Group had before it a proposal (E/CN.4/1989/WG.1/WP.68) submitted by the drafting group on article 7 bis composed of Bangladesh, China, the Holy See, Mexico, Morocco, the Netherlands and Poland, which were joined by the delegations of the United States of America, the Union of Soviet Socialist Republics, Argentina, Algeria, Egypt, Tunisia and two representatives of non-governmental organizations. The proposal read as follows:

"[The States Parties to the present Convention shall respect the right of the Child to freedom of thought, conscience and religion].

1. The States shall respect the right and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his right in a manner consistent with the evolving capacities of the child.

2. The States Parties shall equally respect the liberty of the parents and when applicable legal guardians, to ensure the religious and moral education of the child in conformity with their own conviction [of their choice].

[3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.]

[4. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with [national] laws and legislation and which are necessary to protect public safety, public order, health and morals [and the fundamental rights and freedom of others]]."

281. In introducing this proposal, the observer for Morocco, acting as a co-ordinator of the drafting group, indicated that, despite all the efforts undertaken, the drafting group had been unable to reconcile the various views and positions of delegations.

282. The Chairman drew the attention of the Working Group to the fact that paragraph 2 of article 7 bis as proposed by the drafting group

(E/CN.4/1989/WG.1/WP.68) was identical to paragraph 3 of article 7 bis as adopted at first reading.

283. Having made some editorial and gender neutrality revisions, the Working Group then adopted paragraph 2 of article 7 bis reading as follows:

"2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child."

284. The observer for Finland stated that when adopting paragraph 2 of article 7 bis it was the understanding of his delegation that article 7 as already adopted was also applicable in religious matters. The Chairman stated that since article 7 was a general provision it applied to all matters affecting the child, including religious matters, and associated himself with the interpretation expressed by the observer for Finland.

285. With regard to other paragraphs of article 7 bis the opinions of the delegations were divided. On the one hand it was argued that the text of article 7 bis had been already agreed upon during the first reading and therefore it should be used as a basis for consideration of all other issues involved. It was stressed by some participants that the Working Group should not engage in establishing standards lower than those already set, nor should it detract from the International Covenants and other basic human rights instruments. The view was expressed that the formulations proposed in document E/CN.4/1989/WG.1/WP.68 undercut certain rights and freedoms established in the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights.

286. According to another approach, it was only on the basis of the text in document E/CN.4/1989/WG.1/WP.68 that any discussion could be productive. It was indicated in this connection that the drafting group had proposed alternative formulations which better reflected the position of those who could not accept any provision giving the child a freedom to choose and change his or her religion or belief.

287. In the discussion that followed some delegations proposed to merge paragraphs 1 and 5 of the text contained in document E/CN.4/1989/WG.1/WP.68. Another idea was to delete article 7 bis altogether. It was emphasized by some speakers that in the final analysis article 7 bis should reflect all legal systems and all models of social development. One participant urged that all attempts to impose one's position upon other delegations should be abandoned as contrary to the principal task of the Working Group which was to elaborate a universally acceptable legal document.

288. Observing that a consensus on the various proposals was not possible, the Chairman suggested that only paragraphs 1 and 4 of document E/CN.4/1989/WG.1/WP.68 which did not contain any new or controversial

provisions, be retained in article 7 bis, in addition to its paragraph 2 as adopted earlier. The Working Group agreed with this proposal and adopted article 7 bis reading as follows:

- "1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others."

289. Following the adoption of article 7 bis the observer for Sweden stated that his delegation had joined in the consensus on the understanding that the right to freedom of thought, conscience and religion, as laid down in article 18 of the International Covenant on Civil and Political Rights, should include freedom to have or to adopt a religion or belief of one's choice, and freedom to manifest one's religion or belief in worship, observance, practice and teaching.

290. The observer for the Holy See stated with regard to article 7 bis after its adoption that "the right of parents to give their child a religious and moral education in conformity with their personal beliefs forms part of the right to manifest one's religion and this right of religious and moral education must be respected by States".

291. The representative of Italy stated that her delegation associated itself with the declaration made by the observer for the Holy See.

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

The text of article 14 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 5. 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)

