

## CONVENTION ON THE RIGHTS OF THE CHILD AND OPTIONAL PROTOCOLS THERETO

### Convention

The focus of the United Nations upon the topic of the rights of the child had begun at a very early stage, with the General Assembly examining the issue with regularity. By resolution 1386 (XIV) of 20 November 1959, the General Assembly unanimously adopted the Declaration of the Rights of the Child. By resolution 31/169 of 21 December 1976, the Assembly proclaimed 1979 as the International Year of the Child, with the general objective “to provide a framework for advocacy on behalf of children and for enhancing the awareness of the special needs of children on the part of decision-makers and the public”.

On 7 February 1978, Poland submitted to the Commission on Human Rights a draft convention on the rights of the child (E/CN.4/L.1366/Rev.1). In its proposal, Poland recalled the 1959 Declaration of the Rights of the Child and recommended to the Assembly the adoption of an international legally binding instrument in the form of a Convention on the Rights of the Child that would be based on the principles and provisions contained in the said Declaration. The draft convention was considered by the Commission on Human Rights at its thirty-fourth session and was annexed to resolution 20 (XXXIV) adopted by the Commission on 8 March 1978, which recommended its adoption by the Economic and Social Council. In its resolution, the Commission also requested the Secretary-General to transmit the draft convention to Member States, specialized agencies and regional intergovernmental and non-governmental organizations for their views and suggestions. The Commission further decided that it would examine the draft at its thirty-fifth session, in 1979, with a view to submitting a completed draft to the General Assembly.

On 5 May 1978, the Economic and Social Council adopted without vote resolution 1978/18, by which it recommended that the General Assembly consider, at its thirty-fourth session, in 1979, the question of the adoption of a convention on the rights of the child.

Throughout examination of this item (the Convention as well as its Optional Protocols thereto), the Third Committee of the General Assembly made recommendations for adoption by the plenary. Accordingly, by resolution 33/166 of 20 December 1978, the General Assembly decided to include the question of a convention on the rights of the child in its provisional agenda of work at its thirty-fourth session, requesting the Commission on Human Rights to organize its work on the draft convention at its next session so that the draft of the Convention may be ready for adoption, if possible, during the International Year of the Child in 1979.

In 1979, at its thirty-fifth session, the Commission on Human Rights established an open-ended working group to consider the question of a convention on the rights of the child. At the end of its session, the Commission decided to continue its work on the draft convention at its thirty-sixth session in 1980, as a matter of priority (resolution 19 A (XXXV) of 14 March 1979). On the recommendation of the Commission, the Economic and Social Council brought to the attention of the General Assembly the Commission’s discussion and action on this subject (Economic and Social Council decision 1979/37 of 10 May 1979). On 21 September 1979, the General Assembly decided to postpone its consideration of this agenda item until its thirty-fifth session in 1980 (decision 34/402).

From 1980 to 1987, the Commission on Human Rights continued its work on the draft convention in the form of an open-ended working group during its annual sessions. The Economic and Social Council annually authorized meetings of an open-ended working group (decisions 1980/138 of 2 May 1980 and 1981/144 of 8 May

1981, resolutions 1982/37 of 7 May 1982, 1983/39 of 27 May 1983, 1984/25 of 24 May 1984, 1985/42 of 30 May 1985, 1986/40 of 23 May 1986 and 1987/58 of 29 May 1987). The General Assembly also annually requested the Commission to continue to give high priority to the completion of the draft convention (resolutions 35/131 of 11 December 1980, 36/57 of 25 November 1981, 37/190 of 18 December 1982, 38/114 of 16 December 1983, 39/135 of 14 December 1984, 40/113 of 13 December 1985, 41/116 of 4 December 1986 and 42/101 of 7 December 1987).

In 1988, the open-ended working group of the Commission on Human Rights completed the first reading of the draft convention and began the second reading. It adopted the draft convention on second reading in 1989 (E/CN.4/1989/29). The Commission on Human Rights thus decided to adopt the draft convention as submitted by the working group and to transmit it to the General Assembly through the Economic and Social Council (resolution 1989/57 of 8 March 1989). On 24 May 1989, the Economic and Social Council decided to submit the draft convention to the General Assembly with a view to its adoption (resolution 1989/79) and, on 16 October 1989, the Secretary-General transmitted the text of the draft convention to the Assembly (A/44/616). At the forty-fourth session of the General Assembly, the draft convention was discussed in the Third Committee from 9 October to 16 November 1989. The report of the Third Committee (A/44/736 and Corr.1) was considered by the General Assembly on 20 November 1989 (A/44/PV.61). On the same day, the Convention on the Rights of the Child was adopted by the General Assembly and opened for signature, ratification and accession (resolution 44/25). It entered into force on 2 September 1990, thirty days after the date of deposit of the twentieth instrument of ratification, as provided for in its article 49.

### **Optional protocols**

On 5 March 1993, the Committee on the Rights of the Child published a preliminary draft optional protocol (CRC/C/16) on the involvement of children in armed conflict and asked the Secretary-General to transmit it to the Commission on Human Rights in 1994.

On 9 March 1994, the Commission on Human Rights decided to establish an open-ended working group to elaborate a draft optional protocol on the involvement of children in armed conflict and to use the preliminary draft prepared by the Committee on the Rights of the Child as a basis for its discussions (resolution 1994/91). On the same date, the Commission on Human Rights also decided to establish an open-ended inter-sessional working group to elaborate guidelines for a possible draft optional protocol to the Convention on the sale of children, child prostitution and child pornography (resolution 1994/90). On 22 July 1994, the Economic and Social Council adopted resolutions 1994/9 and 1994/10, in which it authorized open-ended inter-sessional working groups of the Commission on Human Rights, to meet for two weeks prior to the fifty-first session of the Commission, in order to elaborate, as a matter of priority, the said draft optional protocols (E/CN.4/1995/95 and E/CN.4/1995/96).

At its fiftieth session, on 21 December 1995, the General Assembly adopted resolution 50/153, in which it invited the working group on the elaboration of a draft optional protocol related to the involvement of children in armed conflict to pursue its mandate. It also took note of the work of the working group in charge of the elaboration of guidelines for a possible draft optional protocol related to the sale of children, child prostitution and child pornography.

On 8 March 1995, the Commission on Human Rights adopted resolution 1995/79 by which it invited the Committee on the Rights of the Child to be represented at future sessions of the working group on the elaboration of a draft optional protocol related to the involvement of children in armed conflict. On the same date, the Commission on Human Rights decided that the open-ended inter-sessional working group to elaborate guidelines for a possible draft optional protocol to the

Convention on the sale of children, child prostitution and child pornography should elaborate such a protocol as a matter of priority (resolution 1995/78). On 25 July 1995, the Economic and Social Council adopted resolutions 1995/37 and 1995/35 by which it authorized meetings of the working groups.

From 1996 to 1999, the working groups continued their work on the draft optional protocols (see the reports of the working groups: E/CN.4/1996/101, E/CN.4/1996/102, E/CN.4/1997/96, E/CN.4/1997/97, E/CN.4/1998/102 and Add. 1, E/CN.4/1998/103, E/CN.4/1999/73, E/CN.4/1999/74). The Commission on Human Rights annually asked the working groups to meet (resolutions 1996/85 of 24 April 1996, 1997/78 of 18 April 1997, 1998/76 of 22 April 1998, 1999/80 of 28 April 1999). The request was approved by the Economic and Social Council respectively by decisions 1996/288 of 24 July 1996, 1997/281 of 22 July 1997, 1998/271 of 30 July 1998 and 1999/249 of 27 July 1999.

In 2000, the working groups of the Commission on Human Rights adopted the draft optional protocols to the Convention on the Rights of the Child on involvement of children in armed conflict, and on the sale of children, child prostitution and child pornography (E/CN.4/2000/74 and E/CN.4/2000/75 respectively). On 26 April 2000, the Commission on Human Rights adopted the draft optional protocols and called on States parties to the Convention to sign and ratify or accede to the optional protocols, following their adoption by the General Assembly (resolution 2000/59). On the same date, the Chairperson of the Commission transmitted the text of the draft optional protocols to the Economic and Social Council (E/2000/42/Add.1). On 10 May 2000, the Economic and Social Council adopted resolution 2000/2 in which it approved the two draft optional protocols. Furthermore, on the recommendation of the Council (A/54/L.84), the optional protocols to the Convention on the Rights of the Child were adopted and opened for signature, ratification and accession by the General Assembly by resolution 54/263 of 25 May 2000.

The Optional Protocol on the sale of children, child prostitution and child pornography entered into force on 18 January 2002, and the Optional Protocol on the involvement of children in armed conflict entered into force on 12 February 2002, each three months after the deposit of their tenth instrument of ratification as required by article 14 and article 10 respectively.

In 2009, at its eleventh regular session, the Human Rights Council adopted resolution 11/1, entitled “Open-ended Working Group on an optional protocol to the Convention on the Rights of the Child to provide a communications procedure”, by which the Council decided, *inter alia*, to establish a working group to explore the possibility of elaborating an optional protocol to the Convention on the issue of a communications procedure under the Convention. The Council also decided to invite a representative of the Committee on the Rights of the Child to attend the session of the working group.

The Open-ended Working Group held its first session in Geneva from 16 to 18 December 2009, and submitted its report to the Human Rights Council (A/HRC/13/43); the Human Rights Council took note of this report by its resolution 13/3 of 24 March 2010. In the same resolution, the Council decided, *inter alia*, to mandate the Open-ended Working Group to elaborate a draft optional protocol to the Convention to provide a communications procedure.

The second session of the Open-ended Working Group was held in two parts: from 6 to 10 December 2010, and from 10 to 16 February 2011. The Working Group produced a draft optional protocol on a communications procedure (Report of the Open-ended Working Group on an optional protocol to the Convention on the Rights of the Child to provide a communications procedure, A/HRC/17/36). The General Assembly took note of the process of the elaboration of the optional protocol by

resolution 65/197, adopted on 21 December 2010, under its agenda item “Rights of the child”.

Taking note of the report of the second session of the Working Group, the Human Rights Council adopted resolution 17/18 on 17 June 2011, by which it recommended the draft optional protocol on a communications procedure for adoption by the General Assembly.

The General Assembly adopted the Optional Protocol to the Convention on the Rights of the Child on a communications procedure in resolution 66/138 on 19 December 2011. The Protocol was opened for signature in Geneva, Switzerland, on 28 February 2012 and remains open for signature at the United Nations Headquarters in New York.