



On the Record for Children

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From the AP Editorial Desk

Special Session Expected to Take Place May 6-10, 2002

According to reports, the UN General Assembly is recommending that the Special Session on Children will now take place between May 8 and May 10 next year. The Children's Forum will take place May 6-8, 2002.

The Session was originally scheduled for September 21. It was postponed following the September 11 terrorist attack on New York City. Also postponed were the negotiations on the so-called Outcome document ('A World Fit For Children') which will form the basic text for the Special Session.

Governments began drafting the Outcome document in January, at the second preparatory committee meeting (PrepCom). The discussions then resumed at the third PrepCom in June before they too were suspended after September 11.

In this issue of On the Record for Children, we look at the final days of negotiations on the Outcome document before the September 11 suspension, and analyze some of the major disagreements that still exist in the current text. The next issue of On the Record will present some perspectives on the Global Movement for Children.

NGO Steering Committee to Reconvene

The Steering Committee of the NGO Committee for UNICEF will reconvene soon. It will then brief member NGOs on NGO plans for the resumed Special Session.

Many NGO events were cancelled or postponed, along with the Special Session, on September 21. These included:

- **Youth Forum:** 350 young (under-18) delegates were expected at the 3-day youth forum prior to the Special Session. The Forum was to have been organized by UNICEF, with assistance by the under-18 taskforce of the NGO Committee for UNICEF.
- **Global Gallery:** 50 NGOs from around the world had applied to participate in a series of cultural events and exhibitions, to take place in UNICEF Hall during the Special Session.
- **An Orientation Session** for NGOs on the Special Session was to have taken place the evening before the Special Session.
- **NGO Plenary:** An NGO plenary discussion was to have taken place at lunchtime during the three days of the Special Session at the UN. Themes: civil society looks beyond the Special Session (Wednesday); regional perspectives (Thursday); how children plan to follow up on the Special Session (Friday).
- **NGO Side Events:** Over 100 NGO side events were planned during the Special Session.

From the Editorial Desk: In Need of a Champion

Governments have faced enormous difficulties in reaching agreement on the Outcome document. This speaks volumes about the challenge that they now face in preparing for the Special Session. It is, frankly, frightening.

The Outcome document was always intended to provide the Special Session with a clear, compelling vision. But throughout these negotiations governments have been unable even to rally around the Convention on the Rights of the Child, a treaty that was adopted in 1989 and has been ratified by every government in the world except two. If this is the fate of the Outcome document, what hope can there be for the Special Session?

The 1990 World Summit showed that governments can put aside their differences when it comes to children. But the Summit succeeded because it had a champion in UNICEF's Executive Director, James Grant. Grant realized that the Summit could help him to launch a radically new approach to child development based on preventing child mortality and morbidity. This was a compelling, inspiring vision – which is why UNICEF was able to co-opt governments.

There is no comparable vision in the Outcome document. It has no champion. Indeed it is hard to find any government or international agency that sees a compelling reason for even holding the Special Session.

To the extent that it exists, the vision is coming from civil society. NGOs understand much more clearly than governments that children need protection from war, AIDS, sexual slavery, and even their own justice system – in addition to the 'traditional' threats of disease, malnutrition and

poverty. This is why NGOs place so much importance on protecting the rights of children.

But NGOs also give governments credit for putting in place a legal foundation for defining and advancing child rights. This starts with the Convention on the Rights of the Child and its two protocols on child soldiering and trafficking. NGOs now feel that governments have a historic opportunity to use the Special Session to make these and other instruments more effective. This conviction has grown over the past eight months, even as governments have lost their way.

On the side of governments, most of the passion has come from the United States, which has used the PrepCom process to challenge the very notion of child rights and weaken the UN's support for ideas that are threatening to American conservatives. These ideas include greater participation by children and empowering girls against sexual violence, reproductive disease and the AIDS epidemic.

The Bush Administration has also used this PrepCom process to reassert its opposition to any international curbs on the death penalty and to setting a minimum age below which child labor should be abolished. Ambassador Thomas Hammarburg of Sweden has done a valiant job of trying to counter the United States and rally support for child rights, but he has met with a brick wall.

The vehemence of this American assault has shaken UNICEF and thrown the agency on the defensive. As a result, instead of taking the lead and projecting a sense of vision, as it did in the run-up to the World Summit, UNICEF has been keeping its head down, trying to seek consensus and control the damage. This has robbed the Outcome document of its most likely champion.

Other UN agencies, particularly the ILO and UNFPA, have no love for the Outcome document because it could well weaken their own mandates on child labor and reproductive rights. The European governments seem to have lost any hope of using it to advance their position on child rights and opposition to the death penalty. The women's movement is appalled at the way that the health of girls has been trivialized and held hostage by opponents of abortion. Child rights advocates are dismayed at the way the US has squeezed rights out of the text. Everywhere one looks, there are critics and skeptics – but no champions.

Why should this change by the time the negotiations resume? Certainly, a lot can happen between now and then. It may be that the Bush Administration will begin to see more of the advantages of multilateralism, as it tries to build a campaign against terrorism. No doubt children will be among the first victims of any war in Afghanistan. Perhaps that will bring governments to their senses.

But it seems more likely that the Outcome document – and the Special Session – will remain in limbo.

It is time for UNICEF in particular to take a stand. UNICEF must realize that this exercise is not about drafting a compromise text, but about developing and defending a vision. Participation by children, 'reproductive rights,' child labor, and child rights are not simply words on paper, to be sacrificed in the interests of consensus or at the first hint of intimidation. They are the heart and

soul of a new strategy for children based around protection. Instead of yielding at the first sign of intimidation, as it has done repeatedly, UNICEF should confront the skeptics head on. Carol Bellamy would find plenty of support among NGOs and civil society if she did.

One thing must be said clearly and unequivocally. Whatever the value of the Global Movement for Children (which will be covered in the next issue of *On the Record*) the movement cannot substitute for a strong and committed stand by UNICEF in defense of its own Outcome document and of the Special Session. UNICEF and its NGO allies must not be diverted into trying to build a Global Movement when their core principles are under assault. If those principles are not defended, then the Global Movement will suffer along with everything else.

The world is lining up against terrorism. Why not line up on behalf of children? Champions, please step forward.

On Hold

On the Record looks at the state of negotiations before terrorists struck.

The final round of negotiations on the Outcome document began on September 4 on a note of anxiety. Governments had expected to complete the drafting at the Third Preparatory Committee meeting (PrepCom) in June. They failed, and the negotiations resumed again on August 26.

By now, the Special session was less than two weeks away and governments still remained wide apart on a clutch of difficult and controversial issues. If anything, the positions seemed to be hardening.

Adding to the sense of disquiet, the World Conference against Racism in Durban was in deep trouble. The United States and Israel had walked out of the meeting, in protest against statements that accused Israel of racism. Even without the presence of the United States, the conference was finding it hard to decide how to refer to the Palestinian issue. Europeans and Africans were also deadlocked over slavery and reparations.

The fear was that the bitter Israeli-Palestinian dispute would now spill over into the negotiations in New York. Several Arab governments, and the Palestinians, had insisted on inserting several references to the damaging impact of foreign occupation on children into the Outcome document. Israel responded by demanding references to the impact of terrorism in precisely the same articles. The two sets of proposals were clearly political, and there seemed little chance of either side backing down.

As a result, the debate between September 4 and September 7 (Friday) was unusually tense. The United States added to the tension by warning that it might also withdraw from the negotiations if it did not get satisfaction over abortion. The United States quickly retracted, after a storm of protest. In an important concession, American delegates then agreed to meet privately with members of the Palestinian delegation to the UN, in an attempt to hammer out an acceptable compromise on terrorism and foreign occupation.

Somewhat to everyone's surprise, a compromise on these two issues had emerged by Friday. They are reflected in the latest draft of the Outcome document.

First, the two concepts terrorism and hostage-taking were separated. The sixth bullet in paragraph 7 of the Declaration states that children are to be protected against 'all forms of terrorism and hostage-taking.' (Hostage-taking was added at the insistence of Azerbaijan). The next bullet states that 'children under occupation must also be protected in accordance with the provisions of international law.' This refers to the 4th Geneva Convention, which among other things protects civilians under occupation.

This compromise was agreed by Thursday. While this was a significant breakthrough, there was no such dramatic breakthrough on any of the other sticking points.

Ambassador Patricia Durrant, the Bureau chairperson, was concerned to protect the achievement and also desperate to avoid any repeat of the Durban fiasco. Late on Friday night, with Durban still deadlocked over the Palestinian issue, she made an unusual appeal to delegates: 'If nothing else, let's agree on this.' But, she said, this would mean rewording two other articles that had been signed and sealed. Under normal circumstances this would have been unthinkable. But Durrant asked the delegates to make an exception in the interests of consensus. They quickly agreed.

This breakthrough was ironic, although delegates could not know it at the time. Four days later, the terrorists attacked New York and left hundreds of children – perhaps thousands – orphaned. A provision that had entered the Outcome document as a political concession to Israel suddenly took on a much more profound significance. Terrorism clearly belonged in any new international program for protecting children.

To Resume or Not to Resume

Unfortunately, terrorism/occupation was the only major breakthrough achieved during the final week of negotiations. By the week's end, the Bureau and UNICEF had come to the realization that they would not finish the negotiations in time for the Special Session. They planned to resume on Monday (September 10), but would have to send a report to the UN for printing no later than Wednesday (September 12). This seemed a tall order.

All of these plans, of course, were swept away in the rubble of the World Trade towers. In the shocked aftermath, there was no question that the Special Session would be postponed. At the same time, many delegations were in favor of completing the debate on the Outcome document as quickly as possible, to prevent negotiations going off the boil completely. Ambassador Durrant urged delegations to resume immediately. The UN Secretary General Kofi Annan also issued an unusual appeal for a speedy completion. The United States agreed, in spite of the security concerns.

But the European and Latin American ('Rio') groups both opposed any speedy resumption. Sources say that the Europeans did not want to be forced into the position of disagreeing publicly with the US in the wake of the devastating attacks on New York.

With the Outcome negotiations on hold, perhaps indefinitely, the Bureau decided to print yet another (fourth) version of the document. This appeared on September 17, with all of the unresolved articles in bold.

This bold text, however, is the Bureau's own proposal: it bears no relation to the many proposals and counter-proposals that emerged since the resumption of drafting on August 17. This limits its value as an explanation of current government thinking on the various controversies.

Reproductive Rights

Few questions are so fascinating – or harder to answer – as this: will the Outcome document call unequivocally for adolescents to be given access to reproductive health services?

Right from the start this has been a potential 'conference-wrecker,' even though the medical and social arguments in favor of reproductive rights would appear to be overwhelming. The AIDS epidemic is decimating young people everywhere, particularly in Africa. Furthermore, according to the UN, about 515,000 women also die each year from pregnancy and childbirth.

Some would say that this calls for more abstinence and less sexual encounters. But while abstinence this could be part of a larger strategy, it clearly cannot substitute for a comprehensive package of interventions – medical, educational and social. It is precisely such a package that is envisaged by the term 'reproductive health services.'

This notion has now been endorsed by several major UN conferences (Cairo, Beijing plus 5). It was even endorsed by President Bush personally after the third summit of the Americas at Quebec earlier this year. (See OTR 3 Issue.1).

Even the Outcome document supports the notion of reproductive rights in the context of AIDS: the fourth bullet in paragraph 43 calls for 'measures to increase capacities of women and adolescent girls to protect themselves from the risk of HIV infection, principally, through the provision of health care and health services, including sexual and reproductive health...'

In spite of this, as is now well known, the US delegation has attacked this term mercilessly and left no doubt that it will not accept any such language in the Outcome document. Given that the document requires consensus, this opposition would appear to be terminal.

How is it possible that the United States can accept something at repeated UN conferences, and even in one part of a document, but reject it in another? That strikes many as complete hypocrisy. But the United States argues that the context has changed dramatically ever since a Canadian delegate explicitly stated at the third PrepCom that reproductive health services could indeed include abortion in countries where abortion is legal.

If the Canadian blunder angered the anti-abortion sentiments of the Bush Administration, it also infuriated Congress. No fewer than 30 Congressmen have since sent a letter to UNICEF referring to the Canadian intervention, and insisting that the Outcome document make no reference to

'reproductive services.'

The United States is not entirely alone in this position. It has support from the so-called 'Some Developing Countries' – a group of eleven Arab and Islamic governments that are strongly opposed to abortion. The Holy See and Poland are also sympathetic to the US argument, although they might be inclined to accept some form of reproductive services if it is consistent with the local cultural and religious context and strictly controlled by parents. But the basic idea of Beijing plus 5 – that all women and girls should have access to a range of reproductive services that could give them confidence and information, as well as medical and social support – is clearly not envisaged.

Nonetheless, these delegations still represent a distinct minority. The European and Latin American governments are not only in favor of reproductive health services. They want these services described as rights and listed in detail.

The conference Bureau has proposed various formulations, in an effort to reach a compromise. One possible compromise could be 'health care services including reproductive health.' As it currently stands, paragraph 34 favors the US position by referring to 'quality reproductive health care' (which the US would accept), but leans towards the Europeans in another section by referring to protecting the 'right of adolescents to sexual and reproductive health education, information and services.'

Sources say that if the United States persists, the Bureau would be inclined to drop the difficult phrase of reproductive health services as long as the document retains a reference to the Cairo and Beijing plus five conferences. That would at least give UNICEF the legislative authority to continue its programs on reproductive health.

Such a concession might rescue the text, but it would also represent the sort of defeatism that alarms many NGOs. They are looking for a blue print that would strengthen and empower young women – for something inspirational to rally around. Instead, they are getting a text that is steadily being reduced to wishy-washy generalities by extremists.

The Convention on the Rights of the Child

How will the Outcome document will refer to the Convention on the Rights of the Child (CRC)? Will the Convention be afforded a pre-eminent place in the document and any plan of action emerging from the Special Session, as the Europeans would like? Or will it be placed on the same level as other international instruments and conventions, as the United States argues?

The United States has had remarkable success in imposing its hostility to the Convention on the PrepCom. The United States is one of only two governments that have yet to ratify the Convention, yet it has managed to portray the Convention as an extreme document because it endorses economic and social rights. The entire PrepCom has been forced to retreat, to the point where the Outcome document now contains a handful of references to the CRC.

Even these references are now in danger of being diluted. As was reported in OTR 3#2, the most

likely compromise would refer to the language of the 1990 World Summit, which refers to the Convention as 'a comprehensive set of international legal norms for the protection and well being of children.' Many child rights advocates would surely view it as a major retreat if the Special Session was forced to fall back on language ten years old.

Once again, the Bush Administration's fierce opposition to the CRC seems at odds with its position in other international meetings. Earlier this year, the US supported a resolution on child rights at the UN Human Rights Commission (resolution 75) which called for full ratification of the CRC – a call that was clearly aimed at the US – and expressed strong support for the rights-based approach to child development.

How could the US support such language five months ago, and yet hold the entire Special Session hostage to its opposition to child rights? Once again it appears as though the Bush Administration is using the Special Session to make a political and ideological point. Unfortunately, the US has gained a lot of ground over the past six months, to the point where the Convention has almost entirely disappeared from the Outcome document.

This will greatly reduce the value of the Outcome document to civil society, which has – in sharp contrast to governments – grown more cohesive and confident around the concept of child rights as a result of participating in the PrepCom.

Child Labor

Child Labor is another issue that has stubbornly resisted any compromise. In very broad terms, the current text calls for children to be afforded more protection from child labor – implying that it is a threat to their safety and health. But several governments, led by Canada, have insisted from the start that 'work' – as opposed to 'labor' – can be good for the development of children. These governments are determined that the Outcome document should not issue a blanket condemnation of all forms of work.

The tension between these two positions is apparent in the current draft. Eight bullets are devoted to child labor in paragraph 40 (on protection strategies). The first three call for protection from the 'worst forms' of economic exploitation and are agreed. But the fourth bullet calls for the 'improvement of working conditions' without setting a minimum age. This is unacceptable to the ILO because it does nothing to prohibit very young children from working. As such, it would undermine the premise of the ILO's Convention 138, that children below the age of 15 should not work.

'As it stands, the Outcome text could open the way to children as young as six working – as long as their working conditions improve,' said one delegate.

The Bureau tried to get around this by inserting a reference to the ILO Convention 138 elsewhere in the Outcome text, where it refers to international legal instruments. This would have indirectly slipped the notion of a minimum age into the Outcome document, but it was resisted by the SDC governments. Most have no intention of ratifying Convention 138.

The child labor section has also been attacked by India, which objects to a proposal to 'strengthen the collection of data' so as to better understand the causes of child labor. This appears to be consistent with India's long-standing opposition to international monitoring of any kind.

Unilateral Coercive Measures

Another divisive issue has been Cuba's insistence on using the Outcome document to condemn the impact of sanctions ('unilateral coercive measures') on children. This is Cuba's way of protesting against the US embargo against Cuba and it has some support among those who worry about the impact of the UN embargo on Iraqi children. So the issue is a potent one in the context of the Special Session.

The UN Social Summit in Copenhagen was able to produce language that was acceptable to all sides, and similar wording has been proposed in the negotiations on the Outcome document – only to be rejected by the US delegation.

The US explanation is that the Copenhagen wording also agreed on the need to protect the right to food. (Cuba is concerned that the US embargo could prevent it importing food and lead to starvation). The Bush Administration now feels that US delegates made a mistake by accepting the Copenhagen text, because there is no such thing as a right to food.

Cuba, however, refuses to yield. The same issue came up at the Special Session of the UN General Assembly on AIDS in June. On that occasion, African governments pleaded with Cuba not to let its political opposition to sanctions kill an agreement on AIDS that could save lives in Africa. The Cubans relented, but on the strict understanding that this was not seen to set a precedent. They appear determined not to relent again, even on behalf of children.

Monitoring and Participation by Children

The final section of the Outcome document (part D) refers to follow-up actions and monitoring. This has also proved to be difficult.

Some delegations are said to have problems with the very notion of monitoring. Others object to the fact that in paragraph 57, UNICEF is asked to work with the Bretton Woods agencies (World Bank and IMF) to implement any action plan emerging from the Special Session. Many feel these two agencies are agents of globalization, which is criticized in the Outcome document. (Paragraph 18, which is still in brackets, would blame globalization for contributing to 'financial crises, insecurity, poverty, exclusion, environmental threats and inequality within and among societies.')

There is also opposition to the fact that the Outcome document calls for children to be involved in monitoring any international action plan (paragraph 57) and also any national and regional plans. Paragraph 55 commits governments to developing 'specific time-bound and measurable goals and targets based on this plan of action and the Convention on the Rights of the Child.' Children would be invited to help make these plans effective.

This has aroused the wrath of the same coalition that opposes reproductive health services – namely right-wing 'pro-family' American NGOs and a small number of Arab governments. These governments have also voiced concern about paragraph 30, which calls on the world's governments to develop partnerships with children in advancing any action plans that emerge from the Special Session.

These references to the participation by children are relatively innocuous. But, once again, they have been seized on by those who find the very notion of participation by children to be profoundly subversive.

Justice System

The Europeans would like the Outcome document to come out against using the death penalty, and imposing life sentences without parole, for crimes that were committed before the age of 18.

This is consistent with a view of many NGOs that children need more protection from justice systems. These NGOs feel that instead of severely punishing young criminals for crimes that were committed before they had a fully developed sense of responsibility, states should try and rehabilitate these children and turn them into responsible members of society.

This view is consistent with the Convention on the Rights of the Child, and a resolution to this effect (#68) was adopted by the Commission on Human Rights in Geneva earlier this year. (The resolution was supported by 27 governments and opposed by 17). But it finds no place in the current draft of the Outcome document.

The document contains one brief reference (Paragraph 40) to protecting children against 'torture and other cruel, inhuman or degrading treatment.' This would be another step backwards, because it makes no reference to 'punishment.' The goal, clearly, is to avoid any possible reference to the death penalty, no matter how implicit. But the current wording is a departure from all the major international human rights instruments. Its acceptance would set the clock back on the broad human rights endeavor, not simply child rights.

This, however, is a symptom of the way these negotiations are slowly but surely eroding many of the gains registered in recent years in the interests of achieving a consensus.

A charitable explanation might be that delegates are unclear of the real implications or intimidated by the opposition of the United States. But NGOs and UNICEF cannot offer such a defense. Their life's work is now in jeopardy. They have no alternative but to work together and rescue this text.