

# U.N. Special Session on Children: Missed Opportunities and Neglected Realities

From May 8-10, 2002, government and UN officials, child rights' advocates, and young people from around the globe convened at the United Nations in New York for the General Assembly Special Session on Children (Special Session). This extraordinary gathering marked the first time that the General Assembly met to formally consider the situation of children and young people under the age of 18. The Special Session also made history because young people attended as official members of government delegations who spoke on their own behalf before the international body. But for all the potential of this landmark meeting, little was accomplished to safeguard the increasingly complex needs of young people who are at risk for HIV/AIDS, unwanted pregnancy, sexual violence, exploitation, and child marriage.

The Special Session was a follow-up to another landmark meeting, the 1990 UN World Summit on Children (1990 World Summit) at which government delegates declared their “joint commitment...to give every child a better future.”<sup>1</sup> The Plan of Action that emerged from the 1990 World Summit also recognized the intrinsic link between the advancement of women's rights, including their reproductive rights, and the wellbeing of the world's children.<sup>2</sup>

The 1990 World Summit catalyzed government support for the Convention on the Rights of the Child (Children's Rights Convention), including its provisions encompassing the reproductive rights and health of adolescents. The Children's Rights Convention is the most widely ratified treaty in history and entered into force just weeks before the 1990 World Summit began. It establishes that children have a right to health, including a right to access comprehensive reproductive and sexual health services, education, and information, in accordance with their best interests and evolving capacities.<sup>3</sup> These principles were reaffirmed and expanded upon at subsequent U.N. Conferences, including the 1994 International Conference on Population and Development in Cairo (ICPD), at which countries were called upon to “protect and promote the rights of adolescents to reproductive health education, information, and care . . . .”<sup>4</sup>

Throughout the 1990s, there was a clear affirmation of adolescent reproductive rights. This began with the 1990 World Summit and the Children's Rights Convention, and continued with ICPD, the Beijing Women's Conference (Beijing) and their respective

five-year reviews (referred to herein as ICPD+5 and Beijing+5, respectively). But during the Special Session, several conservative government delegations, including the Bush Administration of the United States of America (U.S.), the Vatican, and a conservative group of nations known as Some Developing Countries (SDC) tried relentlessly to roll back many of these earlier gains. These conservative governments sought to eliminate references to the Children's Rights Convention in the conference's final Outcome Document, insert references to abstinence-only sexual education for adolescents, and undercut past international consensus on adolescents' right to access comprehensive reproductive health services.<sup>5</sup> Although the U.S. and its unlikely allies were unsuccessful in fully achieving their conservative agenda, their efforts thwarted a critical opportunity for the world community to adopt proactive commitments to address adolescents' reproductive and sexual health and rights.

#### **NEGOTIATING THE OUTCOME DOCUMENT**

At the Special Session delegates reviewed the progress made since the 1990 World Summit and reaffirmed their commitment to investing in the lives of children. The final outcome document that emerged from the 2002 Special Session was entitled, *A World Fit for Children* (also referred to herein as the Outcome Document). Reached by consensus after more than two years of negotiations, the Outcome Document is an agreement between governments that reinforces the commitments made to children in the prior decade and identifies additional priorities for improving the lives of children.

Negotiations over the content of *A World Fit for Children* took more than two years because of the controversy surrounding some of the issues. Five regional meetings<sup>6</sup> and three Preparatory Committee Sessions (PrepComs)<sup>7</sup> did not provide enough time for government representatives to reach consensus. By the conclusion of the third PrepCom in June 2001, governments had agreed to approximately 85% of the document. The paragraphs still subject to negotiation dealt primarily with the Children's Rights Convention, reproductive health services, the death penalty, comprehensive sexuality education, the definition of the family, and in general, the recognition of agreements reached at previous U.N. conferences, including ICPD, Beijing and their respective five-year reviews.

#### **POLITICAL DYNAMICS**

Several unlikely political alliances emerged during the protracted negotiating process—a surprising development given current geo-political realities.

The *Rio Group* included 19 Latin and Central American countries. Chile, Argentina and Peru each chaired the Rio Group at different points during the negotiating process. The Rio Group led the campaign to employ the Children's Rights Convention as the framework of the Outcome Document. Sexual and reproductive rights were also a priority on their agenda.

The *Like Minded Group* (LMG), a group of several progressive industrialized countries,<sup>8</sup> strongly advocated for recognition of the reproductive rights of children and adolescents,

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as well as reaffirmation of commitments made to reproductive rights at previous U.N. conferences, including ICPD+5 and Beijing+5.<sup>9</sup> The LMG emerged as a bloc only at the final stages of the negotiations and largely in response to the increasingly conservative tone of the discussions.

Spain led the *European Union's* (EU) 15 member states. The EU initially supported most of the progressive positions taken by the Rio Group and the LMG, including strong references to the Children's Rights Convention, the elimination of the death penalty, and inclusion of the phrase "reproductive health services."<sup>10</sup> However, on the final night of negotiations, the EU brokered a private agreement with the U.S., which excluded the Rio Group and the LMG, and made concessions to the U.S. on each of these issues.

The negotiating bloc of *Some Developing Countries* (SDC),<sup>11</sup> which was led by Sudan, worked with the U.S. and the Vatican in their fight to eliminate any mention of "reproductive health services." While the alliance between the U.S. and some of the SDC countries, particularly Sudan, Libya, Cuba, Iraq, and Iran was less predictable,<sup>12</sup> the alliance of the U.S. with the Vatican was not surprising. In fact, four out of the five special private sector advisers to the U.S. government delegation were fervent religious activists including, John Klink, who had previously served as lead negotiator for the Vatican during ICPD+5 and Beijing+5.<sup>13</sup>

Many of the Asian and most of the African States were either altogether absent during the negotiations or chose to remain silent. This absence was disappointing given the instrumental role played particularly by African States during the negotiations for the Children's Rights Convention prior to the 1990 World Summit.

### **CONTROVERSIAL ISSUES**

Impassioned debate over the following issues deadlocked negotiations at the third PrepCom in June 2001. This forced the government delegations to resume talks on April 29, 2002. Discussion continued through the final hours of May 11, 2002 until the end of the Special Session.

#### ***Children's Rights Convention***

The EU, Rio Group and LMG wanted strong language on children's human rights, including references to the Children's Rights Convention, the most widely ratified treaty. The U.S. resisted these attempts because the Bush Administration took the position that children's rights threaten parental rights. Instead, the U.S. and SDC favored language that spoke of children's wellbeing, which they argued could be achieved by means other than the guarantee of rights.<sup>14</sup> In the end, the Children's Rights Convention was referred to sparsely in the Outcome Document, but it was not the centerpiece that child's rights advocates had hoped it would be.<sup>15</sup>

#### ***Death Penalty***

The progressive alliances, particularly the EU, pushed for the complete abolition of the death penalty for crimes committed by children. The EU argued that the death penalty

contravened children's rights as enshrined in the Children's Rights Convention and the International Covenant on Civil and Political Rights (Civil and Political Rights Covenant). The United States and SDC, however, were adamantly against accepting the abolition of the death penalty for children, in part due to issues of sovereignty.<sup>16</sup> The compromise reached was that only the states which had ratified the Children's Rights Convention or the Civil and Political Rights Covenant were asked to comply with their obligation under these human rights treaties to abolish the death penalty.<sup>17</sup>

### ***Families***

Despite recognition at ICPD and Beijing of the existence of various forms of the family,<sup>18</sup> debate around this issue re-emerged repeatedly during the Special Session. With support from the Vatican, the U.S. pressed for defining a family only as a union "based on marriage between a man and a woman."<sup>19</sup> Ultimately, the U.S. lost and language based on the earlier conference documents was adopted.<sup>20</sup>

### ***Sexuality Education***

The Rio Group and LMG took the lead in advocating for comprehensive sexual and reproductive health education for children which had been accepted at previous international meetings, including ICPD+5, as a key means to prevent HIV/AIDS, other STIs, and adolescent pregnancies.<sup>21</sup> However, the United States opposed comprehensive reproductive health education for adolescents, calling instead for "abstinence only" programs. Aside from the SDC, the majority of countries resisted attempts to redefine sexuality education, preferring instead to exclude reference to it in the Outcome Document in favor of having strong references to previous agreements, including ICPD+5, where language calling for comprehensive sexuality education programs had been accepted.

### ***Sexual and Reproductive Rights and Health Services***

Although reproductive rights were recognized explicitly at ICPD,<sup>22</sup> Beijing,<sup>23</sup> ICPD+5<sup>24</sup> and Beijing+5,<sup>25</sup> the U.S. pushed to remove any reference to the right to reproductive health services from the Outcome Document of the Special Session. The U.S. adhered to the misleading position of right-wing NGOs, who argued that the term "services" included abortion. At previous conferences, it was agreed that abortion should be integrated into reproductive health services only where legal.<sup>26</sup> As its attempt to erase all references to reproductive health services began to fail, the United States promoted the addition of a footnote to the text stating that reproductive health services did not include abortion. This proposal was not accepted as most states took the view that it is their prerogative to define "health services." The LMG and the Rio Group were unwilling to go back on previously agreed language. Unfortunately though, lack of effective cooperation between the three groups hindered progressive consensus. In the end, the document called generally for the promotion of healthy lives for adolescents, including reproductive health, but did not call for the guarantee of reproductive health services or outline the specific means to ensure this right.<sup>27</sup>

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### ***Commitment to Previous International Agreements***

There was considerable debate about including strong references to previous agreements such as ICPD, Beijing, ICPD+5 and Beijing+5. The progressive alliances pushed for such references so as to ensure that those commitments were re-enforced and not undermined. However, the U.S., the Vatican, and SDC demonstrated their opposition to the international commitments of the past decade by consistently favoring few or weak references to these agreements.

### **CONSENSUS REACHED AT THE ELEVENTH HOUR**

Government representatives were unable to resolve the above controversial issues until the final hours of the conference. Bilateral negotiations between the EU and the United States took place behind the scenes. At the eleventh hour, the EU and the U.S. presented their positions to the other government delegations as *finalized*, leaving the other negotiators with the choice of either accepting the EU-U.S. language or being known as the countries responsible for blocking consensus.<sup>28</sup>

The LMG and the Rio Group both walked out on the final night of the Special Session in protest of their treatment by the EU-U.S. team. But in the end they accepted, albeit reluctantly, the document that the EU and U.S. had furtively finalized at the high cost of language that explicitly affirmed adolescents' reproductive rights. In their talks, the EU agreed to support the U.S. position on eliminating references to reproductive health "services" in exchange for acceptance of language calling for elimination of the death penalty by states that had ratified relevant treaties such as the Children's Rights Convention.<sup>29</sup> The EU also successfully argued for the U.S. to drop its narrow definition of a family.<sup>30</sup>

The final Outcome Document contained sparse references to the Children's Rights Convention. The preamble recognizes the Children's Rights Convention as establishing

### **Closing Statements of the Special Session on Children**

During the closing of the Special Session, several governments made statements clarifying their positions or entered reservations about particular articles of the Outcome Document.

Despite intense pressure from the U.S. and the Vatican, the Rio Group remained united and progressive on most issues throughout the negotiations. At the closing, however, Honduras, El Salvador, Costa Rica, Argentina, and Nicaragua expressed their reservations on several reproductive rights issues.<sup>33</sup> The Central American countries stated that they interpreted references to "life" in the document to mean life that begins at conception. Argentina explained that their interpretation of a family was that created by the union of a man and a woman.

Canada, a strong advocate for reproductive rights and a member of the Like Minded Group, issued a strong statement expressing "dissatisfaction with the debate that ensued over the issue of sexual and reproductive health." Canada called for "ensuring the right to the highest attainable standard of health including the right to make informed choices about one's own sexual and reproductive health. Services which include safe, reliable, and high quality family planning methods as well as information, education and counseling ..."<sup>34</sup>

The United States stated that they did not interpret "reproductive health services" mentioned in previous documents to include abortion. Furthermore, the U.S. interpreted diverse forms of family to mean single parent and extended families and understood that children's rights should be seen at all times in relation to the rights of parents. The U.S. emphasized parental involvement in all aspects of children's sexual and reproductive health.<sup>35</sup>

### NGO Participation

Over 3,600 NGOs actively participated throughout the two-year process leading up to the Special Session. At the three PrepComs held in advance of the Summit and at the Summit itself, NGOs contributed to the negotiating process by observing the negotiations when permitted, and putting forward an alternative NGO text<sup>36</sup> that incorporated progressive language addressing their diverse concerns. NGOs also hosted and attended side events and meetings with regional and thematic caucuses and coalitions.

One particularly active NGO caucus, the Child Rights Caucus, focused on protecting and promoting the rights of children. Led by Human Rights Watch and Save the Children, the Caucus encompassed hundreds of national and international NGOs from around the world. It had a great deal of influence in broadening the scope of the document to encompass the full range of children's rights.<sup>37</sup>

In the field of sexual and reproductive rights, a number of progressive NGOs, including the Center for Reproductive Rights, worked together to promote reproductive rights through the International Sexual and Reproductive Rights Coalition (ISRRC).<sup>38</sup> Founded at the June 2001 PrepCom by a group of women's rights, health rights, and youth NGOs, the ISRRC closely followed the negotiations and lobbied for the inclusion of reproductive rights in the outcome document.<sup>39</sup> The ISRRC gained the support of mainstream NGOs, including the Child Rights Caucus, and the trust of some progressive government delegations, which used the ISRRC's research on sexual and reproductive rights in the negotiations.

international standards.<sup>31</sup> However, the Children's Rights Convention was by no means the centerpiece of the document as many countries and NGOs had hoped. The Outcome Document also reaffirmed a commitment to the international agreements reached at ICPD, Beijing, ICPD+5 and Beijing+5.<sup>32</sup> These references, however, were also weak and could therefore be understood as implicit affirmations of the reservations expressed by various states at these conferences.

### CONCLUSIONS

Continuing the trend from ICPD to Beijing and their five-year reviews, there was evidence at the Special Session of a growing commitment to the reproductive rights of adolescents. One clear achievement at the Special Session was the acceptance of reproductive rights as universal human rights by mainstream NGOs, as well as by many governments who recognized the need to promote and protect these rights. Obstacles to the inclusion of reproductive rights in the final Outcome Document were created not by many, but a powerful few—a clear threat to the advancement of and respect for the reproductive rights of adolescents around the world.

On one hand, the opportunity to advance governments' commitment to ensuring the reproductive rights of children was lost, but on the other the risk of having reproductive rights removed from the document altogether united the vast majority of participants around the defense of reproductive rights as human rights. The ongoing challenge for civil society, particularly national level NGOs, is to hold their states accountable to previous commitments, so as to ensure that this next decade sees improvement in guaranteeing the reproductive rights of adolescents.

### CONTENTIOUS PARAGRAPHS

The following are the final agreed paragraphs of the Outcome Document, *A World Fit for Children*:<sup>40</sup>

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### ***The Family***

*Paragraph 15. The family is the basic unit of society and as such should be strengthened. It is entitled to receive comprehensive protection and support. The primary responsibility for the protection, upbringing and development of children rests with the family. All institutions of society should respect children's rights and secure their well-being and render appropriate assistance to parents, families, legal guardians and other caregivers so that children can grow and develop in a safe and stable environment and in an atmosphere of happiness, love and understanding, bearing in mind that in different cultural, social and political systems, various forms of the family exist.*

### ***Sexual and Reproductive Health***

*Paragraph 37. To achieve these goals and targets, taking into account the best interests of the child, consistent with national laws, religious and ethical values and cultural backgrounds of its people, and in conformity with all human rights and fundamental freedoms, we will carry out the following strategies and actions:*

- 1. Ensure that the reduction of maternal and neonatal morbidity and mortality is a health sector priority and that women, in particular adolescent expectant mothers, have ready and affordable access to essential obstetric care, well-equipped and adequately staffed maternal health-care services, skilled attendance at delivery, emergency obstetric care, effective referral and transport to higher levels of care when necessary, post-partum care and family planning in order to, inter alia, promote safe motherhood.*
- 2. Provide access to appropriate, user-friendly and high-quality health-care services, education and information to all children.*
- 3. Address effectively, for all individuals of appropriate age, the promotion of their healthy lives, including their reproductive and sexual health, consistent with the commitments and outcomes of recent United Nations conferences and summits, including the World Summit for Children, the United Nations Conference on Environment and Development, the International Conference on Population and Development, the World Summit for Social Development and the Fourth World Conference on Women, their five-year reviews and reports.*

### ***Death Penalty***

*Paragraph 44 (8) (...) Call upon the Governments of all States, in particular States in which the death penalty had not been abolished, to comply with the obligations they have assumed under relevant provisions of international human rights*

ENDNOTES

- 1 See, *World Declaration on the Survival, Development and Protection of Children*, United Nations World Summit for Children, New York, United States, Sept. 30, 1990, ¶ 1, available at <http://www.unicef.org/wsc/declare.htm>.
- 2 See *id.* ¶¶ 12-14.
- 3 Convention on the Rights of the Child, *adopted* Nov. 20, 1989, G.A. Res. 44/25, U.N. GAOR, 44th Sess., Supp. No. 49, at 166, U.N. Doc. A/44/49 (1989) (*entered into force* Sept. 2, 1990) [hereinafter CRC]. Article 24 of CRC recognizes “the right of the child to the enjoyment of the highest possible standard of health” and sets forth governments’ obligation to develop preventive health care, guidance for parents and family planning education and services.
- 4 See, *Programme of Action of the International Conference on Population and Development*, Cairo, Egypt, Sept. 5-13, 1994, ¶ 7.46, U.N. Doc. A/CONF.171/13/Rev.1 (1995) [hereinafter ICPD *Programme of Action*].
- 5 See, Evan Osnos, *Bush vs. the world on sex*, Chicago Tribune, May 19, 2002, at C1.
- 6 The five regional meetings took place in Cairo, Egypt for Africa; Kathmandu, Nepal for South Asia; Beijing, China for East Asia and the Pacific; Berlin, Germany for Europe and Central Asia, and Kingston, Jamaica for the Americas.
- 7 The PrepComs were held in May 2000, January 2001, and June 2001. For more details about the PrepComs, please see, <http://www.unicef.org/specialsession/prep-process/index.html>
- 8 The *Like Minded Group* included Canada, New Zealand, Australia, Switzerland, Norway, Liechtenstein, and Iceland.
- 9 The outcome documents from ICPD +5 and Beijing +5 both contain strong provisions for the promotion and protection of the reproductive rights of adolescents. See, *Key Actions for the Further Implementation of the Programme of Action of the International Conference on Population and Development*, U.N. GAOR, 21st Special Sess., New York, United States, June 30 - July 2, 1999, ¶ 73, U.N. Doc. A/S-21/5/Add.1 (1999) [hereinafter ICPD+5 *Key Actions Document*]. See also, *Further actions and initiatives to implement the Beijing Declaration and the Platform for Action*, U.N. GAOR, 23rd Special Sess., New York, United States, June 5-9, 2000, ¶ 79(f), U.N. Doc. A/Res/S-23 (2000) [hereinafter *Beijing +5 Review Document*].
- 10 See, H.E. Mr. Pio Cabanillas, Minister/Spokesman of Spain, Statement of the European Union at the Twenty-Seventh Special Session of the General Assembly on Children (May 8, 2002), available at <http://europa-eu-un.org/article.asp?id=1370>.
- 11 *Some Developing Countries* included nations such as Sudan, Pakistan, Cuba, Iran, and Libya.
- 12 See, Sharon Lerner, *Far-Right Bush Delegates Ally With Religious Conservatives at UN Conference: Saviors of the Children*, Village Voice, May 14, 2002, available at <http://www.villagevoice.com/issues/0219/lerner.php>.
- 13 See *id.*
- 14 See, *Outcome Negotiations Deadlocked*, ON THE RECORD FOR CHILDREN (NGO Committee on UNICEF, New York, N.Y.), May 8, 2002, Vol. 3, Issue 12 (2002), available at <http://www.ngosatunicef.org/OTR/v3/12.html#negotiations>
- 15 See, *A Lost Opportunity*, ON THE RECORD FOR CHILDREN (NGO Committee on UNICEF, New York, N.Y.), May 20, 2002, Vol. 3, Issue 15 (2002), available at <http://www.ngosatunicef.org/OTR/v3/15.html#walk-out>
- 16 See, *Dead on arrival in the USA? The Noose Tightening Around Consensus*, The Watch Dog (The Youth Coalition) May 8, 2002, Vol. 4 (2002), available at <http://www.youthcoalition.org/watchdog/engine.php/v4/crc1/100/>.
- 17 See, *supra* note 15, *The US and EU Cut a Deal*.
- 18 Principle 9 of ICPD states, “In different cultural, political and social systems, various forms of the family exist.” The Outcome Documents from ICPD and Beijing contain further discussion of this issue. See, *ICPD Programme of Action*, *supra* note 4, ¶ 5.1. See also, *Beijing Declaration and the Platform for Action*, Fourth World Conference on Women, Beijing, China, Sept. 4-15, 1995, ¶ 29, U.N. Doc. A/CONF.177/20 (1995) [hereinafter *Beijing Declaration and Platform for Action*].
- 19 See, Press Release, UNICEF, General Assembly, Concluding Special Session on Children, Adopts Outcome Document—*A World Fit For Children* (May 10, 2002), available at <http://www.un.org/News/Press/docs/2002/ga10022.doc.htm>.
- 20 See, *A World Fit for Children*, U.N. GAOR, 27th Special Sess., New York, United States, May 8 – 10, 2002, Supp. No. 3, ¶ 15, U.N. Doc. A/S-27/19/Rev1 (2002). Complete text available at <http://www.unicef.org/specialsession/documentation/documents/A-S27-19-Rev1E-annex.pdf>.
- 21 See, *ICPD+5 Key Actions Document*, *supra* note 9, ¶ 35(b).
- 22 See, *ICPD Programme of Action*, *supra* note 4, Chapter VII.
- 23 See, *Beijing Declaration and Platform for Action*, *supra* note 18, ¶¶ 94-95.
- 24 See, *ICPD+5 Key Actions Document*, *supra* note 9, Chapter IV.
- 25 See, *Beijing +5 Review Document*, *supra* note 9, ¶ 11.
- 26 See, *ICPD Programme of Action*, *supra* note 4, ¶ 8.25. See also, *ICPD+5 Key Actions Document*, *supra* note 9, ¶ 63(i).
- 27 See, *A World Fit for Children*, *supra* note 20, ¶ 37(3).
- 28 For a full discussion of the negotiations see, *supra* note 15, *Exclusive Analysis of the Final Hours of the*

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### *Outcome Document Negotiations.*

- 29 The United States and Somalia are the only two countries in the world that have not ratified the CRC. Since the U.S. has yet to ratify the CRC, inclusion of the paragraph on the death penalty will have little impact on U.S. domestic policy on the issue.
- 30 See, *supra* note 19. Although the U.S. agreed to drop this definition from the Final Outcome Document, in its closing remarks, the U.S. representative stated that the U.S. accepted various forms of family to mean single-family and extended families only. For complete statement, see <http://www.un.org/ga/children/statements.htm>.
- 31 See, *A World Fit for Children*, *supra* note 20, ¶ 4.
- 32 See *id.*, ¶ 3.
- 33 See, *supra* note 19. For complete statements, see <http://www.un.org/ga/children/statements.htm>.
- 34 See *id.*
- 35 See *id.*
- 36 For complete text see, The Child Rights Caucus, *Alternative NGO Text* (April 19, 2002), available at <http://www.ngosatunicef.org/SpecialSession/essential.html>
- 37 For an analysis of the influence of the Child Rights Caucus, see Child Rights Information Network, *The Final Outcome Document: The Influence of the Child Rights Caucus*, available at [http://www.crin.org/docs/resources/publications/CRCaucus\\_FinalOutcomeDocument.pdf](http://www.crin.org/docs/resources/publications/CRCaucus_FinalOutcomeDocument.pdf)

- 38 Members of ISRRC include: Action Canada for Population and Development (ACPD), Advocates for Youth, Catholics for Free Choice (CFFC), Center for Reproductive Rights, Family Care International (FCI), Instituto de Educación y Salud, Inter-American Parliamentary Group on Population and Development (IAPG), International Center for Research on Women (ICRW), International Planned Parenthood Federation (IPPF), International Women's Health Coalition (IWHC), Ipas, Latin American & Caribbean Youth Network for Sexual and Reproductive Rights (RED-LAC), Network of Asia Pacific Youth (NAPY), The Centre for Development and Population Activities (CEDPA), World Alliance of YMCAs, World Population Foundation (WPF), Youth Coalition.
- 39 See, International Sexual and Reproductive Rights Coalition, *A Factsheet Series* (September 2002), available at [http://www.crlp.org/pub\\_factsheets.html#International%20Publications](http://www.crlp.org/pub_factsheets.html#International%20Publications)
- 40 For complete text of *A World Fit for Children* see, *supra* note 20.