CHAPTER 12
FREEDOM OF EXPRESSION

Martha Matthews

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child’s choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
   (a) For respect of the rights or reputations of others; or
   (b) For the protection of national security or of public order (ordre public), or of public health or morals.

A. HISTORY AND INTERPRETATION OF ARTICLE 13

Article 13 of the Convention on the Rights of the Child (CRC) addresses the right of the child to freedom of expression, which includes the right to seek, receive, and impart information and ideas of all kinds, orally, in writing, in print, in the form of art, or through any other media of the child’s choice.\(^1\) Article 13(2) contains a limitations clause, stating the conditions under which the exercise of the child’s right to freedom of expression may be restricted. Article 13 is closely related to Article 12 (respect for the views of the child) and Article 17 (access to information).

Article 13 originated in a proposal submitted by the U.S. delegation to the working group in 1986. In its original form, the proposal combined provisions on freedom of expression, freedom of access to information, and privacy. These were eventually separated into separate proposals. The stated rationale for the 1986 proposal was that:

Children not only had the right to expect certain benefits from their Governments; they also had civil and political rights to pro-

tect them from abusive action of their Governments. These rights are largely the same as those enjoyed by adults. . . . While children might need direction and guidance from parents or legal guardians in the exercise of these rights, this does not affect the contents of the rights themselves. The United States proposal was intended to complete the process already begun by the working group of incorporating provisions from the International Covenant on Civil and Political Rights [ICCPR] into the draft convention.²

Thus, the proposal was intended to protect children from abusive governmental actions, not to affect the rights of parents and legal guardians to provide direction and guidance to children.³ The proposal was also part of an effort to ensure explicit recognition in the CRC that children possess many of the same civil and political rights as adults, by incorporating provisions from the ICCPR.

The proposal gained widespread support in the working group and was adopted in its final form in 1988. The final language of Article 13 closely tracks Article 19(2)(3) of the ICCPR, and is similar to language in a number of other human rights documents (Article 19 of the Universal Declaration of Human Rights, Article 9 of the African Charter on Human and Peoples’ Rights, Article 13 of the American Convention on Human Rights and Article 10 of the European Convention on Human Rights).⁴

In 1989, there was an unsuccessful attempt to amend the proposal; the German Democratic Republic’s delegation proposed that a statement be included to permit restriction of the right to freedom of expression in the interest of the “spiritual and moral well-being of the child.”⁵ The U.S. delegate and others opposed this amendment because no parallel restriction appeared in the ICCPR, and it would be unfair to impose it on children alone, and that the paternalistic nature of the amendment was against the overall emphasis of the CRC on children’s civil rights. The amendment gained little support and was withdrawn.⁶

In its guidelines for periodic reports on compliance with the CRC, the U.N. Committee on the Rights of the Child requests information from gov-

---

³ Detrick, supra note 1, at 233.
⁴ Id. at 232.
⁵ LeBlanc, supra note 2, at 161, citing U.N. Charter art. 1989b, para. 45.