UNITED NATIONS

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS

FOURTEENTH SESSION

SUPPLEMENT No. 4

COMMISSION ON HUMAN RIGHTS

Report to the Economic and Social Council on the eighth session of the Commission, held in New York, from 14 April to 14 June 1952

I. ORGANIZATION OF THE SESSION

1. The eighth session of the Commission on Human Rights opened on Monday, 14 April 1952, at the Headquarters of the United Nations, New York, and terminated at 5.30 a.m. on 14 June 1952.

2. The following representatives of Member States on the Commission attended:

Mr. H. F. E. Whitlam (Australia), member
Mr. Joseph Nisot (Belgium), alternate
Mr. Hernán Santa Cruz (Chile), member
Mr. Cheng Paonan (China), member[1]
Mahmoud Azmi Bey (Egypt), member
Mr. René Cassin (France), member
Mr. Alexis Kyrou (Greece), member
Mrs. Hansa Mehta (India), member
Mr. Charles Malik (Lebanon), member[1]
Mr. A. Waheed (Pakistan), member[1]
Mr. H. Birecki (Poland), member[1]
Mrs. Agda Rössel (Sweden), member
Mr. V. P. Kovalenko (Ukrainian Soviet Socialist Republic), member
Mr. P. D. Morosov (Union of Soviet Socialist Republics), member[1]
Mr. S. Hoare (United Kingdom), member[1]
Mrs. F. D. Roosevelt (United States of America), member
Mr. D. Bracco (Uruguay), alternate
Mr. B. Jevremovic (Yugoslavia), member

3. At the 252nd meeting, the representative of the USSR, speaking on a point of order, submitted the following draft resolution (E/CN.4/L.20):

"*The Commission on Human Rights*

"*Decides:*

"(*a*) To exclude from the Commission the representative of the Kuomintang Group;

"(*b*) To invite the representative of the Central People's Government of the People's Republic of China to sit on the Commission as the representative of the Chinese people."

The Chairman (Mr. Charles Malik) ruled the draft resolution out of order on the grounds that the Commission was not the appropriate body for considering the question of the representation of China on the Commission. An appeal by the representative of the Soviet Union against the ruling of the Chairman was rejected by 9 votes to 4, with 5 abstentions.

[1] Nomination to be confirmed by the Economic and Social Council. In accordance with rule 12 of the rules of procedure of the functional commissions of the Economic and Social Council, the representative participated in the work of the Commission with the same rights as the other members of the Commission.

4. The following were designated as alternates for the whole session: Mr. Joseph Nisot (Belgium) in place of Mr. F. Dehousse,[1] and Mr. D. Bracco (Uruguay) in place of Mr. José A. Mora[1] and Mr. Karim Azkoul (Lebanon). In accordance with rule 13, paragraph 2, of the rules of procedure of the functional commissions of the Economic and Social Council, Mr. Azkoul for the most part of the session represented Lebanon and participated in the discussions when Mr. Charles Malik acted in his capacity as Chairman of the Commission.

5. The following were designated as alternates for various parts of the session: Mrs. A. Figueroa (Chile), Mr. Carlos Valenzuela (Chile), Mr. F. J. Oyarzun (Chile), Miss M. Gallo (Chile), Mr. A. Ghorbal (Egypt), Mr. P. Juvigny (France), Mr. B. Epinat (France), Mr. G. B. Kapsambelis (Greece), Mr. B. Rajan (India), Mr. S. Boratynski (Poland), Mr. E. O. L. Westerberg (Sweden), Mr. H. Overton (United Kingdom), Mr F. Vallat (United Kingdom), Mr. J. Simsarian (United States of America) and Mr. F. Forteza (Uruguay).

6. The members of the Commission were accompanied by the following advisers: Mr. H. G. Marshall (Australia), Mr. E. Kulaga (Poland), Mr. A. F. Sokirkin (Union of Soviet Socialist Republics), Mr. I. V. Tarassov (Union of Soviet Socialist Republics), Mr. H. W. Beaser (United States of America), Mr. H. Plaine (United States of America), Miss M. M. Whiteman (United States of America), Mrs. J. Lukic (Yugoslavia) and Mr. R. Pleic (Yugoslavia).

7. The Commission at its 252nd meeting unanimously re-elected:

Mr. Charles Malik (Lebanon), *Chairman;*
Mr. René Cassin (France), *First Vice-Chairman;*
Mrs. Hansa Mehta (India), *Second Vice-Chairman;*
Mr. H. F. E. Whitlam (Australia), *Rapporteur.*

8. In accordance with Economic and Social Council resolution 46 A (IV) and the decision of the fifth session of the Commission on Human Rights (E/1371, paragraph 11), Miss Uldarica Mañas (Cuba) represented the Commission on the Status of Women and participated at various meetings of the Commission, without vote, when parts of the draft international covenants on human rights concerning the particular rights of women were considered.

9. The following representatives of specialized agencies were present at various meetings of the session:

International Labour Organisation: Mr. Frank Pickford, Mr. Roland Morellet
Food and Agriculture Organization: Mr. F. MacDougall
United Nations Educational, Scientific and Cultural Organization: Mr. Hanna Saba, Mr. Solomon V. Arnaldo
World Health Organization: Mrs. Mabel S. Ingalls, Mr. George Hill

10. The Office of the United Nations High Commissioner for Refugees was represented by Mr. P. Doyle.

11. The following authorized representatives from non-governmental organizations in consultative status were present as observers:

Category A

International Confederation of Free Trade Unions: Miss Toni Sender, Mr. James Leary
International Federation of Christian Trade Unions: Mr. G. Thormann
World Federation of Trade Unions: Miss Elinor Kahn
World Federation of United Nations Associations: Mr. Clark Eichelberger

Category B and the Register

Agudas Israel World Organization: Mr. Isaac Lewin
Catholic International Union for Social Service: Mrs. Grace V. Aieta, Mrs. Angele De Broeck, Mrs. Allys D. Vergara
Commission of the Churches on International Affairs: Mr. O. Frederick Nolde
Consultative Council of Jewish Organizations: Mr. Moses Moskowitz
Co-ordinating Board of Jewish Organizations: Mr. Bernard Bernstein, Mr. Stanley Halperin
Inter-American Council of Commerce and Production: Mrs. E. Baldi, Mr. Earl F. Cruickshank
International Association of Penal Law: Mr. David Avram, Mr. Sabin Manuila, Mr. V. Pella, Mr. Basil J. Ulavianos
International Conference of Catholic Charities: Mr. Louis C. Longarzo
International Council of Women: Mrs. Eunice Carter, Mrs. Frances M. Freeman, Mrs. W. B. Parsons
International Federation of Business and Professional Women: Mrs. Esther W. Hymer, Mrs. Yvonne Soudan
International Federation of University Women: Miss Janet Robb
International League for the Rights of Man: Mr. Roger Baldwin, Mr. Max Beer
International Union for Child Welfare: Miss Mary A. Dingman
Liaison Committee of Women's International Organizations: Mrs. Eunice H. Carter, Mrs. Frances H. Freeman, Mrs. W. B. Parsons, Miss Lena Madesin Phillips, Miss Janet Robb
St. Joan International Social and Political Alliance: Mrs. Magda De Spur
Women's International League for Peace and Freedom: Mrs. Gladys D. Walser
World Jewish Congress: Mr. Gerhard Jacoby, Mr. Saul Hayes, Mr. Maurice Perlzweig
World Union for Progressive Judaism: Mrs. Sarah E. Farber, Mrs. Eleanor S. Polstein, Mr. Ronald L. Ronalds
World Union of Catholic Women's Organizations: Mrs. T. M. Carmichael, Miss Jean Gartlan, Miss Catherine Schaefer, Miss Alba Zizzamia
World's Alliance of Young Men's Christian Associations: Mr. Owen E. Pence

Written statements, submitted in accordance with paragraphs 28 and 29 of resolution 288 B (X) of the Economic and Social Council, by non-governmental organizations in consultative status are listed in annex VI of this report.

In accordance with rule 75 of the rules of procedure of functional commissions of the Economic and Social Council, the Commission granted hearings at various meetings of the session to representatives of the following non-governmental organizations: *in category A consultative status* — International Confederation of Free Trade Unions (Miss Toni Sender); World Federation of Trade Unions (Miss Elinor Kahn); *in category B consultative status* — Agudas Israel World Organization (Mr. Isaac Lewin); Catholic International Union for Social Service (Mrs. George Vergara); Commission of the Churches on International Affairs (Mr. Frederick O. Nolde); International Council of Women (Mrs. Eunice H. Carter); International League for the Rights of Man (Mr. Max Beer); World Jewish Congress (Mr. G. Jacoby and Mr. Maurice L. Perlzweig); and the World Union for Progressive Judaism (Mr. R. L. Ronalds).

12. Mr. G. Georges-Picot, Assistant Secretary-General in charge of the Department of Social Affairs, Mr. John P. Humphrey, Director of the Division of Human Rights, Mr. Egon Schwelb, Deputy Director of the Division of Human Rights, and Mr. Lin Mousheng, Chief of Section I of the Division of Human Rights, represented the Secretary-General at various meetings of the session. Mr. Kamleshwar Das and Miss Margaret Kitchen acted as Secretaries of the Commission.

13. At its 314th meeting, on 28 May 1952, the Commission decided to request the Economic and Social Council to extend the duration of its eighth session for one week, from 6 to 13 June 1952. The Council, at its 585th meeting, acceded to the request of the Commission.

14. The Commission held 87 plenary meetings. The expression of the views of the members of the Commission in these meetings is contained in the summary records of the 252nd to 338th meetings (E/CN.4/SR.252-338).

15. Resolutions I-V adopted by the Commission during its session, appear under the subject matters to which they relate. Draft resolutions for consideration by the Economic and Social Council are set out in annex V of this report.

16. Documents before the Commission at its eighth session are listed in annex VI.

II. AGENDA

17. At the 252nd meeting, the Commission unanimously adopted the provisional agenda (E/CN.4/642) as its agenda for the eighth session, the text of which was as follows:

1. Election of officers
2. Adoption of the agenda
3. Recommendations concerning international respect for the self-determination of peoples
   (General Assembly resolutions 545 and 549 (VI) and Economic and Social Council resolution 415 (S-1))
4. Draft international covenants on human rights and measures of implementation
   (General Assembly resolution 543-549 (VI); Economic and Social Council resolutions 384 (XIII) and 415 (S-1))
5. Review of programme and establishment of priorities
   (General Assembly resolution 533 (VI); Economic and Social Council resolution 402 B I and II (XIII))
6. Report of the fourth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities
   (E/CN.4/641 and 641/Corr.1)
7. Definition and protection of political groups
   (Item proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, E/CN.4/641, paragraph 60)
8. Injuries suffered by groups through the total or partial destruction of their media of culture and their historical monuments
   (Item proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, E/CN.4/641, paragraph 60)
9. Development of the work of the United Nations for wider observance of and respect for human rights and fundamental freedoms throughout the world
   (Item deferred to the eighth session of the Commission from the agenda of its seventh session, E/1992, paragraph 95; General Assembly resolutions 494 (V) and 608 (VI); Economic and Social Council resolution 358 (XII))
10. Annual reports on human rights
    (Item deferred to the eighth session of the Commission from the agenda of its seventh session, E/1992, paragraph 95; Economic and Social Council resolution 303 E (XI), E/1681, paragraph 47)
11. Draft declaration on the rights of the child
    (Item deferred to the eighth session of the Commission from the agenda of its seventh session, E/1992, paragraph 95; Economic and Social Council resolution 309 C (XI))
12. Old age rights (welfare of the aged)
    (Item deferred to the eighth session of the Commission from the agenda of its seventh session, E/1992, paragraph 95, also deferred at its fifth and sixth sessions, E/1371, paragraph 34, E/1681, paragraph 80; General Assembly resolution 213 (III); Economic and Social Council resolutions 198 (VIII) and 309 D (XI))
13. Right of asylum
    (Item deferred to the eighth session of the Commission from the agenda of the seventh session, E/1992, paragraph 95; also deferred at its fifth and sixth sessions, E/1371, paragraph 33, E/1681, paragraph 80; E/600, paragraph 48)
14. Resolution 154 D (VII) and decision of 2 August 1949 of the Economic and Social Council dealing with the freedom to choose a spouse, etc.
    (Item deferred to the eighth session of the Commission from the agenda of its seventh session, E/1992, paragraph 95; also deferred at its sixth session, E/1681, paragraph 80)
15. Local human rights committees
    (Item deferred to the eighth session of the Commission from the agenda of its seventh session, E/1992, paragraph 95; also deferred at its sixth session, E/1681, paragraph 80; Economic and Social Council resolution 9/2 of 21 June 1946; E/600 paragraph 49; E/800, paragraph 22; E/1371, paragraph 30)
16. International court of human rights
    (Item deferred to the eighth session of the Commission from the agenda of the seventh session, E/1992, paragraph 95; E/1681, paragraphs 46 and 81)
17. Continuing validity of minorities treaties and declarations
    (Item deferred to the eighth session of the Commission from the agenda of its seventh session, E/1992, paragraph 95; Economic and Social Council resolution 116 C (VI); E/1681, paragraph 76, and E/1371, paragraph 28)
18. Yearbook on human rights
    (Item deferred to the eighth session of the Commission from the agenda of its seventh session, E/1992, paragraph 95; Economic and Social Council resolution 303 H (XI))
19. Communications
    (*a*) Lists of communications and replies from Member States
    (Economic and Social Council resolutions 75 (V) as amended by 275 B (X) and 192 A (VIII))
    (*b*) Procedure for handling of communications relating to human rights
    (Item deferred to the eighth session of the Commission from the agenda of its seventh session, E/1992, paragraph 95; E/1681, paragraph 56; E/CN.4/165, E/CN.4/165/Corr.1 and E/CN.4/165/Add.1; General Assembly resolution 542 (VI))
20. Report of the eighth session of the Commission on Human Rights to the Economic and Social Council

18. At its 252nd meeting, the Commission unanimously agreed to commence its work with items 3 and 4 of its agenda and to postpone decision on the order of the consideration of the other items.

19. At the 334th meeting, the Commission agreed to defer the further consideration of item 4 and the consideration of items 5 to 18 and 19 (*b*).

III. THE RIGHT OF PEOPLES AND NATIONS TO SELF-DETERMINATION

20. The Commission considered the question of the right of peoples to self-determination (item 3 of its agenda) at the 252nd to the 266th meetings.

21. The Commission had been unable, at its seventh session, to consider that question (item 4 of its agenda, E/1992, chapter V), which emanated from resolution 421 D (V) of the General Assembly and resolution 349 (XII) of the Economic and Social Council, by which the Commission was requested to study ways and means which would ensure the right of peoples and nations to self-determination.

22. At its sixth session, the General Assembly, when considering the report of the seventh session of the Commission in accordance with resolution 384 (XIII) of the Economic and Social Council, decided, in resolution 545 (VI), to include in the covenant or covenants on human rights an article on the right of all peoples and all nations to self-determination. It also asked the Commission to prepare and submit to the General Assembly at its seventh session recommendations concerning international respect for the self-determination of peoples. The General Assembly decided that the article to be included should be drafted in the following terms: "All peoples shall have the right of self-determination". The General Assembly decided further that the article should "stipulate that all States, including those having responsibility for the administration of Non-Self-Governing Territories, should promote the realization of that right, in conformity with the purposes and principles of the United Nations, and that States having responsibility for the administration of Non-Self-Governing Territories should promote the realization of that right in relation to the peoples of such Terrotories".

23. In resolution 549 (VI), the General Assembly asked the Economic and Social Council to instruct the Commission to give priority to these questions.

24. Both resolutions, *inter alia,* were formally transmitted to the Commission by the Council in resolution 415 (S-1) adopted at a special session held on 24 March 1952.

25. In its consideration of that item, the Commission had before it memoranda by the Secretary-General on the relevant Charter provisions and the discussions at the fifth and sixth sessions of the General Assembly (E/CN.4/649), and on the principle of self-determination in relation to Chapter XI (Declaration regarding Non-Self-Governing Territories), Chapter XII (International Trusteeship System) and Chapter XIII (The Trusteeship Council) of the Charter (E/CN.4/662).

26. The expression of the views of members of the Commission and the explanation of their votes will be found in the summary records (E/CN.4/SR.252-256). The general debate in the Commission is summarized in section A of the present chapter. The various proposals and amendments submitted, and the voting thereon, are described in section B. Section C contains the texts of the resolutions adopted.

A. General debate

27. The general debate in the Commission, which took place at the 252nd to 256th meetings, was directed both to the question of including an article in the covenant or covenants on human rights and the problems arising in that connexion, and to the recommendations to be made to the General Assembly concerning international respect for the self-determination of peoples.

Question of including an article in the covenant or covenants on human rights

28. In their statements in the general debate, members of the Commission supported the principle of the right of peoples to self-determination. Many emphasized the importance of safeguarding that right for the maintenance of world peace. On the other hand, the view was also expressed that the principle was not absolute and that the maintenance of world peace was one of the overriding considerations to which the practical application of the principle might have to be subordinated. Some expressed the view that the exercise of all other human rights largely depended on the observance of the right of peoples to self-determination. Some thought that the inclusion of an article in the covenant or covenants on human rights was not the best means of securing the practical application of that principle. They were prepared to reaffirm it, using the Charter as a model, but it was suggested that such a reaffirmation might more appropriately be introduced into the Preamble, or might be included in the Universal Declaration of Human Rights or in a separate declaration.

29. It was argued, on the other side, that the General Assembly itself had already decided on the inclusion of an article in the covenant or covenants and had entrusted the task of drafting it to the Commission. The view was expressed that the adoption of an article would be important both for the peoples who would thus be enabled to exercise their right of self-determination and those who had hitherto assumed the responsibility of administering their affairs. It was pointed out also that the article would be complemented by other articles in the covenant such as articles 1, 17, the territorial application article and possible additional provisions. The view was expressed that the right of self-determination was not an individual but a collective right. Another view was that it was necessary to affirm the right of peoples to self-determination as a personal right since recognition of that right was tantamount to recognition of the exercise of the right by individuals. Several members of the Commission pointed out that to include a statement of the principle of self-determination of peoples in a provision of the covenant would have important significance in the struggle of peoples for their liberation from colonial or other types of enslavement, and that to include the right in an international instrument would be a valuable contribution to peace. Others stressed the importance of the inclusion of such a principle in order to counteract certain traditional misconceptions. Several others objected to the characterization of the administration of Non-Self-Governing Territories as colonial enslavement.

Terms in which the article should be drafted

30. On the question of the drafting of the article, some members expressed the view that the wording in the General Assembly resolution was mandatory on the Commission as regards the first paragraph of the

article, and that its task was to draft the other paragraphs in accordance with the General Assembly directive in resolution 545 (VI). Others were of the view that the Commission was free to improve upon the wording proposed by the General Assembly.

31. The view was expressed that, in drafting the article, the Commission should try to find a wording acceptable to all States, whether immediately or less directly concerned.

32. Some members expressed apprehension lest an article which, in their view, would be drafted without sufficient study, might lay down obligations impossible for States to accept. It was suggested that the Commission should either decide on a short article in which the right of peoples to self-determination would be grouped with other collective rights, or study the whole question very thoroughly and draw up a long article which would formulate, as regards the right of peoples, principles similar to those laid down in article 29 of the Universal Declaration of Human Rights and which might even form a chapter of the covenant. A suggestion was made that since the right of self-determination was mainly a political problem and could not readily be solved in one article in the draft covenants, a separate draft covenant on self-determination might be drafted.

33. The question was raised whether the Commission should merely reaffirm the principle of the right of peoples to self-determination in the article it was drafting or whether it should attempt to elaborate it. Some members expressed the view that the exact drafting of the article was not as important as the spirit in which it was applied, and that the Commission's task was to prepare a legal text based on the principles of the Charter. It was also said that while absolute precision might be impossible, a general statement of principle would nevertheless be very important and valuable. Other members were of the opinion that the covenant was a legally binding document and should not include a general principle which was not legally intelligible, and that a clear distinction must be made between legal commitments in a covenant, and proclamations of principle in a declaration.

The question of defining "the right of peoples and nations to self-determination"

34. Several members urged the Commission to study the precise meaning of "the right of peoples and nations to self-determination".

35. It was said that various interpretations were possible. Some thought that self-determination was synonymous with self-government. It was argued against this that the Charter established a distinction between the concept of self-government and that of self-determination; that in Articles 1 and 55 the reference to self-determination appeared to be the recognition of the sovereignty of States and their obligation to respect the sovereignty of other States; that in Chapter XI, concerning Non-Self-Governing Territories, the Charter did not mention self-determination but laid down, among other obligations upon States responsible for the administration of Non-Self-Governing Territories, the obligation to develop self-government.

36. It was suggested that the right of self-determination meant the right of a people to decide on its own international status, (direct access to independence, association, secession, union, etc.) while self-government meant autonomy in the domestic administration of a country.

37. It was said further that the right of self-determination might also be understood to refer to peoples at present struggling for their independence. The view was expressed that the Commission should define self-determination and should attempt to decide how far mere separatist movements or vague aspirations to self-government should be included in the concept.

38. Some members expressed the view that the right of peoples to self-determination was also applicable to peoples which had already formed independent national States whose independence was threatened.

39. Another view was that the right of peoples to self-determination meant their right freely to determine by and for themselves their political, economic, social and cultural status.

40. The opinion was expressed that it was unnecessary to attempt to define self-determination, which should be proclaimed for all peoples with special emphasis on the peoples of Non-Self-Governing Territories.

41. With regard to the word "peoples", it was said that no distinction should be made on the grounds that peoples were under the sovereignty of another country, that they lived in a particular continent, that they were independent territories or were within the territory of a sovereign State.

42. It was also suggested that "peoples" should be interpreted to mean all peoples that could exercise the right of self-determination, that such a people should inhabit a compact territory and that its members should be related ethnically or in some other way.

43. Other views were that "peoples" should apply to large compact national groups; that the right of self-determination should be granted only to those who made a conscious demand for it; and that peoples who were politically undeveloped should be placed under the protection of the International Trusteeship System, which would prepare them for the exercise of the right of self-determination.

44. It was thought, by those who wished to include a reference to "nations" in the article to be inserted in the covenants, that this addition would result in a more precise and comprehensive statement of the principle. It was pointed out that General Assembly resolution 421 D (V) had referred to "peoples and nations" and that resolution 545 (VI), now before the Commission, also referred to "peoples and nations" in the first and second paragraphs of the preamble to the resolution and in paragraph 1 of the operative part.

The question of the right of peoples to dispose of their own natural resources

45. Some members expressed the view that the right of peoples to self-determination should not be regarded solely from the political point of view but should also be considered from the economic aspect, since political independence was based on economic independence, and that the right of peoples freely to dispose of their own natural resources should be recognized. It was said that that would not mean that States would arbitrarily denounce agreements, but would settle the matter of relations between nations and foreign private undertakings, which made large profits by exploiting a country's

natural resources without, in most cases, being affected by its legislation. The realization of the right of peoples to self-determination, in accordance with United Nations principles, should enable any State to acquire complete control of its own natural resources and should place that State in a position to apply its national legislation to any private industry, even if the legislation sanctioned the expropriation or nationalization of certain undertakings on fair conditions.

46. Other members argued that, in order to correct past abuses of rights granted under contractural arrangements, it would be more appropriate to incorporate limitations in such agreements rather than to include statements in a treaty which might invalidate contracts and make international co-operation impossible. It was also argued that to include such a provision in the covenant would mean that international agreements might be arbitrarily revoked, and that it might discourage foreign investments in the under-developed areas as well as any kind of technical assistance programmes. Another view was that to attempt to define the relations between States owning resources and States or their nationals seeking to develop such resources was not appropriate for inclusion in a covenant on human rights because they concerned rights of States rather than rights of individuals.

Questions suggested as requiring further study

47. It was generally recognized that the task before the Commission was extremely difficult. The General Assembly at its fifth session in 1950 had asked the Commission to study ways and means which would ensure the right of peoples and nations to self-determination. Some members emphasized the need for such study to be carried out. It was said that the Commission would be failing in its task if it merely kept on repeating, in one way or another, that peoples had the right to self-determination, and did not study those problems which, once elucidated, should make it possible to transfer the whole problem from the theoretical stage to that of practical application.

48. Among the problems suggested as requiring study were the following: a definition of the word "peoples" and the extent to which the principle of the right of self-determination could be applicable to them; the establishment of criteria to decide at what stage of its development a people's right to free self-determination should be recognized; the establishment of criteria regarding the action which peoples might legitimately take to achieve their independence; consideration of the attitude of a State towards a group in its territory which claimed the right to self-determination, and whether such a State, to an extent and in ways to be determined, might oppose such a demand; and consideration of the attitude to be adopted by other States in the event of a conflict between a government and a people under its jurisdiction over the latter's right to self-determination, and also in the event that the desire of a people to exercise that right conflicted with the right to existence of one or more other peoples and threatened world peace.

49. It was also suggested that the Commission should study the following main questions: the establishment of international guarantees against any aggression liable to deprive peoples of the right to self-determination; recommendations concerning peoples governed by foreign Powers, when they wished to obtain independence; and the international protection of underdeveloped nations.

50. Some members expressed the view that if the Commission wished to do more than draft a statement on general principles, the necessary studies could not be carried out without the help of other organs. It was suggested that the International Law Commission might study certain legal aspects of the right of peoples to self-determination; that the Sub-Commission on Prevention of Discrimination and Protection of Minorities might study the relationship of the self-determination of peoples and the protection of minorities; and that UNESCO might study the concept of a people and its ethnic, sociological and psychological characteristics.

Special problems relating to the inclusion of an article in the covenant or covenants on human rights

51. Some members stated that the principle of the right of peoples to self-determination as proclaimed in the Charter was not unqualified. In Articles 1 and 55 it was included as a means of achieving friendly relations among nations. Articles 73 b and 76 b contained references to "self-government" and to "independence", not to "self-determination". It was argued that a statement of the principle of the right of all peoples to self-determination was therefore essential in the covenants on human rights. The majority of the Commission, however, considered that the covenants should contain an article on the right of self-determination in full conformity with the Charter.

52. Other members considered that, in view of the limited scope, in their opinion, of the reference to self-determination in the Charter, the article to be drafted might conflict with the existing provisions of the Charter or constitute a virtual amendment to those provisions. It was pointed out that in drafting the Universal Declaration of Human Rights, the Commission, after lengthy deliberations, had succeeded in working out a more explicit and detailed proclamation of human rights by beginning with the Charter provisions; and that if the Commission wished to draw up a document on the rights of peoples similar to the Universal Declaration of Human Rights, it could likewise find guidance in the Charter.

53. In the discussion on the terms in which the article should be drafted, some members pointed out that its terms must be precise enough to make it possible to draw up suitable measures of implementation.

54. Some members emphasized the difficulties of implementing the right of peoples to self-determination through the covenants on human rights. Some recognized that special measures of implementation might have to be adopted regarding the article on self-determination. Such measures should be practical and compatible with the other articles of the covenant relating to implementation. It was also said that if the article was to be more than a declaration of principle, the recommendations concerning its application must be quite specific; the Commission should provide for a system to ensure the progressive development of the self-determination of peoples.

55. Another problem mentioned in relation to the inclusion of an article in the covenants was its possible

effect on ratifications. In that connexion it was pointed out by some members that some countries could not adhere to a covenant which they considered would not impose equal obligations on all States. It was emphasized that the right of self-determination must be universally applied and no distinction should be drawn between States which administered Non-Self-Governing Territories and those which did not. The opinion was expressed that the texts (articles of covenants and recommendations) to be prepared by the Commission should give equal treatment to all peoples who might in future exercise the right of self-determination; in particular, if those texts extended to peoples living in Non-Self-Governing or Trust Territories more effective protection than to peoples living in other territories, they would, *ipso facto,* be giving approval to discrimination prejudicial to the latter and inconsistent with the Charter.

56. Several members emphasized the relationship of the right of peoples to self-determination with the question of minorities. It was said that that right could not be fully ensured without guaranteeing the right of national minorities to use their native tongue and to have their own cultural and educational institutions. Others thought that the question of minorities was a separate issue and should be dealt with elsewhere. It was pointed out that if the principle that all national aspirations should be fulfilled were interpreted broadly, then any minority which could claim to be a "people" could claim the right to self-determination. It was also said that to attempt to introduce the question of the rights of minorities into the article on self-determination would tend to discourage States from ratifying the covenant. It was also argued, however, that, under the Charter, all peoples had the right of self-determination, that it mentioned no exception, and that hence a people could not be debarred from exercising that right on the pretext that it formed a national minority.

B. Disposal of draft resolutions and amendments submitted

Drafting of an article on the right of peoples to self-determination for inclusion in the international covenants on human rights

57. At its 256th, 258th and 259th meetings, the Commission discussed briefly whether the article on the right of peoples to self-determination which it was drafting should be included in one or both international covenants on human rights. It decided at the 259th meeting, by 14 votes to 2, with 2 abstentions, that it would include the identical text in the two covenants which it was preparing in accordance with resolution 543 (VI) of the General Assembly.

58. Proposals relating to the article for insertion in the covenants were submitted by the representatives of the USSR (E/CN.4/L.21), Yugoslavia (E/CN.4/L.23/Rev.1), India (E/CN.4/L.25/Rev.1) and Chile (E/CN.4/L.24). They were discussed at the 256th to 261st meetings.

59. The USSR proposal contained the text of an article of three paragraphs. The first paragraph proclaimed the right of every people and every nation to national self-determination. The second provided that States which had responsibilities for the administration of Non-Self-Governing Territories should promote the fulfilment of that right, guided by the aims and principles of the United Nations in relation to the peoples of such territories. The third provided that the State should ensure to national minorities the right to use their native tongue and to possess their national schools, libraries, museums and other cultural and educational institutions.

60. Amendments to that proposal were put forward by the representatives of Egypt (E/CN.4/L.23/Rev.1), amended by Poland (E/CN.4/L.27); and of the United States of America (E/CN.4/L.28/Rev.2), amended by Egypt (E/CN.4/L.31) and Belgium (E/CN.4/L.29).

61. The amendment of Egypt to the first paragraph of the USSR proposal reintroduced the text contained in resolution 545 (VI) of the General Assembly: "All peoples shall have the right to self-determination", with the addition of the words "namely, the right freely to determine their political, economic, social and cultural status". The sub-amendment by Poland was to add a reference to "nations". A second amendment by Egypt proposed the insertion between the second and third paragraph of the USSR proposal of a provision that States were bound to assist in ensuring the exercise of that right in conformity with the purposes and principles of the United Nations.

62. The United States amendment, which was twice revised, proposed a substitution for the first and second sentences of the Soviet Union proposal. The first sentence of the amendment was substantially the same as that of the first Egyptian amendment. The second sentence provided that all States, including those responsible for administering Non-Self-Governing Territories and those controlling in whatsoever manner the exercise of that right by another people, should promote, within the limits of their respective responsibilities, the realization of that right in all their territories, and should respect its maintenance in other States, in conformity with the provisions of the United Nations Charter. An additional paragraph, proposed by the United States, stipulated that the right should be promoted and realized as provided in the Charter, in accordance with constitutional processes, and with proper regard for the rights of other States and peoples.

63. A sub-amendment by Egypt (E/CN.4/L.31), adding a reference to Trust Territories to the above amendment, was accepted by the representative of the United States. A second Egyptian amendment proposed the deletion from the second sentence of the reference to the limits of the respective responsibilities of States.

64. An amendment by Belgium (E/CN.4/L.29), to add a provision that no contracting State might restrict in any way on constitutional grounds the promotion and realization of the right of self-determination of peoples, was withdrawn at the 259th meeting after the representative of the United States had explained the precise meaning intended by the words "in accordance with constitutional processes" in her proposed additional paragraph.

65. The revised proposal of Yugoslavia (E/CN.4/L.22/Rev.1) was orally amended during the discussion by the representative of Lebanon, and the amendment was accepted. The article thus proposed stated that the right of peoples to self-determination should include the right of every person to participate in action to

ensure or maintain the free exercise of that right by the people to which he belonged.

66. The revised proposal of India (E/CN.4/L.25/Rev.1) contained two paragraphs. The first proclaimed the right of all people to self-determination. The second stated that all States parties to the covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories and those controlling in whatsoever manner the exercise of that right by another people, should undertake, within the limits of their respective responsibilities, to promote or guarantee the free exercise of that right in conformity with the provisions of the United Nations Charter. That proposal was withdrawn after the Commission had acted on the USSR proposal and the amendments thereto.

67. The proposal of Chile (E/CN.4/L.24) was for the inclusion of a provision in both covenants that the right of peoples to self-determination should also include permanent sovereignty over their natural wealth and resources, and that in no case might a people be deprived of its own means of subsistence on the grounds of any rights that might be claimed by other States.

68. At the 259th meeting, the Commission voted on the Soviet Union proposal (E/CN.4/L.21) and the amendments thereto. The results of the voting are recorded hereunder.

1. The Polish sub-amendment to add "and all nations" to the Egyptian amendment (E/CN.4/L.23/Rev.1) to the USSR draft resolution was adopted by 8 votes to 7 with 3 abstentions.

2. The Egyptian amendment (E/CN.4/L.23/Rev.1) was voted upon in parts. The words "All peoples and all nations shall have the right to self-determination" were adopted by 12 votes to none, with 6 abstentions. The words "namely, the right freely to determine their political, economic, social and cultural status" were adopted by 9 votes to 7, with 2 abstentions. The sentence as a whole was adopted by 12 votes to none, with 6 abstentions.

3. An oral sub-amendment by Belgium, to replace "another" by "a" in the United States amendment (E/CN.4/L.28/Rev.2), was rejected by 6 votes to 5, with 7 abstentions.

4. The Egyptian sub-amendment (E/CN.4/L.31), to delete from the United States amendment the words "within the limits of their respective responsibilities", was adopted by 13 votes to 2, with 2 abstentions.

5. The United States amendment (E/CN.4/L.28/Rev.2, paragraph 1, second sentence) as amended, reading "All States, including those having responsibility for the administration of Non-Self-Governing and Trust Territories and those controlling in whatsoever manner the exercise of that right by another people, shall promote the realization of that right in all their territories, and shall respect the maintenance of that right in other States, in conformity with the provisions of the United Nations Charter", was adopted by 12 votes to 3, with 3 abstentions.

6. The third paragraph of the USSR draft resolution (E/CN.4/L.21), namely "The State shall ensure to national minorities the right to use their native tongue and to possess their national schools, libraries, museums and other cultural and educational institutions", was rejected by 9 votes to 4, with 5 abstentions.

7. The United States amendment (E/CN.4/L.28/Rev.2, paragraph 2) to add a third paragraph was voted upon in parts. The words "The right referred to above shall be promoted and realized as provided in the Charter of the United Nations" were rejected by 7 votes to 3, with 8 abstentions. The words "The right referred to above shall be promoted and realized in accordance with constitutional processes" were rejected by 10 votes to 3, with 5 abstentions. The words "The right referred to above shall be promoted and realized with proper regard for the rights of other States and peoples" were rejected by 11 votes to 4, with 3 abstentions.

69. The draft resolution as a whole, as amended, was approved at the 260th meeting by 13 votes to 4, with 1 abstention. It read as follows:

"The Commission on Human Rights

"Resolves to insert in the draft covenants on human rights the following article on the right of peoples and nations to self-determination:

"1. All peoples and all nations shall have the right of self-determination, namely, the right freely to determine their political, economic, social and cultural status.

"2. All States, including those having responsibility for the administration of Non-Self-Governing and Trust Territories and those controlling in whatsoever manner the exercise of that right by another people, shall promote the realization of that right in all their territories, and shall respect the maintenance of that right in other States, in conformity with the provisions of the United Nations Charter."

70. At the 261st meeting the Commission voted by division on the draft resolution of Chile (E/CN.4/L.24). Each vote was by roll-call.

1. The words "The right of the peoples to self-determination shall also include permanent sovereignty over their natural wealth and resources" were adopted by 10 votes to 6, with 2 abstentions.[2]

2. The words "In no case may a people be deprived of its own means of subsistence on the grounds of any rights that may be claimed by other States", were adopted by 9 votes to 8, with 1 abstention.[3]

3. The draft resolution as a whole was adopted by 10 votes to 6, with 2 abstentions.[4]

71. The Commission decided, by 9 votes to 4, with 5 abstentions, that the Chilean text should form a third

[2] *In favour:* Chile, Egypt, India, Lebanon, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.
Against: Australia, Belgium, France, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: China, Greece.

[3] *In favour:* Chile, Egypt, India, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.
Against: Australia, Belgium, China, France, Greece, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: Lebanon.

[4] *In favour:* Chile, Egypt, India, Lebanon, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.
Against: Australia, Belgium, France, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: China, Greece.

paragraph of the article which it had adopted at the 260th meeting.

72. The Commission then voted by division on the draft resolution of Yugoslavia (E/CN.4/L.22/Rev.1), as orally amended by the representative of Lebanon and accepted by the sponsor. It was rejected by 6 votes to 6, with 6 abstentions. The vote, which was by roll-call, was on the words "The right of self-determination of peoples shall include the right of every person to participate in action to assure or maintain the free exercise of that right".[5]

73. The Commission then decided (261st meeting), by 9 votes to 8, with 1 abstention, that a proposal by the representative of Belgium that it should vote on the text of the article for insertion in the covenants on human rights, as a whole, was not in order.

74. The text of the article on the right of peoples to self-determination to be included in the covenants will be found in section C of this chapter, resolution I.

RECOMMENDATIONS CONCERNING INTERNATIONAL RESPECT FOR THE SELF-DETERMINATION OF PEOPLES

75. The Commission discussed the various proposals and amendments submitted concerning the recommendations to be made to the General Assembly in accordance with the last paragraph of resolution 545 (VI) at its 262nd to 266th meetings.

76. Proposals were submitted by the representatives of India (E/CN.4/L.26 and Rev.1), the United States (E/CN.4/L.32 and Rev.1), France (E/CN.4/L.34 and Rev.1) and Lebanon (E/CN.4/L.40 and Rev.1 and E/CN.4/L.41).

77. The revised proposal by the representative of India (E/CN.4/L.26/Rev.1), which she modified orally at the 265th meeting, was in the form of a draft resolution for the General Assembly. The representative of India also accepted an amendment by Poland (E/CN.4/L.42), and oral amendments made by the representative of Lebanon at the 265th meeting. The proposal, as amended, was that Member States of the United Nations should uphold the principle of self-determination of peoples and nations and respect their independence; that they should recognize and promote the realization of the right of self-determination of the people of Non-Self-Governing and Trust Territories under their administration; and that they should grant that right on a general demand for self-government on the part of those people, the popular wish being ascertained in particular through a plebiscite.

78. An amendment by Egypt (E/CN.4/L.36) proposed that the plebiscite should be held under the auspices of the United Nations. A sub-amendment by the United States (E/CN.4/L.43) suggested the addition of a paragraph stating that free elections or plebiscites should be under the auspices of the United Nations where the United Nations so recommended.

79. The revised United States proposal (E/CN.4/L.32/Rev.1), which was also in the form of a draft resolution of the General Assembly, recommended that Members of the United Nations which had responsibilities for the administration of territories whose peoples had not yet attained a full measure of self-government should recognize the principle of self-determination with respect to those peoples and their obligation to promote the realization of that principle for those peoples, to take account of their political aspirations and to assist them in the progressive development of their free political institutions in accordance with the Charter; that Members of the United Nations, having regard for their obligations under Articles 1, 55 and 56 of the Charter, should recognize the principle of self-determination with respect to peoples already organized as independent States and their obligation to respect the right of States to maintain their free political institutions, free of external pressures, threats or the use of force, contrary to the purposes and principles of the Charter; and that free elections or plebiscites held to promote the purposes of the above paragraphs should be under the auspices of the United Nations where the United Nations so recommended.

80. Amendments to that proposal were submitted by Greece (E/CN.4/L.33), amended by Egypt (E/CN.4/L.38); by Belgium (E/CN.4/L.35); and by Egypt (E/CN.4/L.37).

81. The proposal was however withdrawn at the 266th meeting after the Commission had acted upon the proposal of India and the amendments thereto.

82. The revised proposal of France (E/CN.4/L.34/Rev.1) was in two parts. The first contained recommendations to Members of the United Nations to reaffirm the principle of the self-determination of peoples as enunciated in the Charter and to undertake to respect that right, which must be exercised in a manner compatible with the maintenance of international peace and security, by democratic means, subject to respect for human rights, and without infringing the relevant provisions of the Charter or other international commitments. The second part of the proposal was in three paragraphs. The first contained a request to the International Law Commission to study the nature, the political, economic, social and cultural content and the various legal aspects of the right of self-determination of peoples, its relation to other concepts of international law, and particularly those of the nation and State, and the legal procedures calculated to ensure the full exercise of that right by democratic means and in a manner in conformity with the provisions of the Charter of the United Nations. In the second paragraph, the Economic and Social Council was urged, should the occasion arise, to request the Sub-Commission on Prevention of Discrimination and Protection of Minorities to study the subjects involved and the relation between the self-determination of peoples and the protection of minorities, and to report on its studies to the Commission on Human Rights. In the third paragraph, the Secretary-General was requested to ask UNESCO to undertake a study of the concept of a people and its ethnic, sociological and psychological characteristics, relating the concept to the concepts of the nation and the State; and to communicate that study to the Economic and Social Council for transmission to the Commission on Human Rights.

83. Amendments by Egypt (E/CN.4/L.39) to the first part of the French proposal proposed the addition of a reference to free plebiscites under the auspices of

[5] *In favour:* Chile, Egypt, Lebanon, Pakistan, Uruguay, Yugoslavia.
Against: Australia, Belgium, Greece, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: China, France, India, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

the United Nations and the deletion of the mention of other international commitments. A sub-amendment by the United States (E/CN.4/L.44) to the Egyptian amendment proposed the addition of a paragraph stating that free elections and plebiscites should be held under the auspices of the United Nations where the United Nations so recommended.

84. The first proposal by Lebanon (E/CN.4/L.40/Rev.1) asked the General Assembly to recommend that Member States responsible for the administration of Non-Self-Governing Territories should voluntarily include in the information transmitted by them under Article 73 e of the Charter details regarding the extent to which the right of peoples to self-determination was exercised by the peoples of those territories, and in particular regarding their political progress and the measures taken to develop their capacity for self-administration, to satisfy their political aspirations and to promote the progressive development of their free political institutions.

85. The second proposal by Lebanon was that the Economic and Social Council should recommend to the General Assembly the appointment of an *ad hoc* committee to prepare recommendations on measures which might be taken by the various United Nations organs and the specialized agencies, each within its own sphere and competence, to promote international respect for the self-determination of peoples, in particular the peoples of Non-Self-Governing Territories.

86. The Commission acted on the draft resolution proposed by India (E/CN.4/L.26/Rev.1) and the amendments thereto at the 265th meeting. The voting is recorded hereunder.

1. The United States sub-amendment (E/CN.4/L.43) to the Egyptian amendment, to add a paragraph stating that free elections or plebiscites should be under the auspices of the United Nations where the United Nations so recommended, was rejected by 10 votes to 2, with 6 abstentions.

2. The Egyptian amendment (E/CN.4/L.36) to add after "plebiscite", in the Indian draft resolution, the words "held under the auspices of the United Nations", was adopted by 8 votes to 2, with 8 abstentions.

3. The vote on the Indian draft resolution was by division. The first four paragraphs were adopted by 12 votes to 3, with 3 abstentions. The first paragraph of the operative part, reading "The States Members of the United Nations shall uphold the principle of self-determination of peoples and nations and respect their independence", was adopted by 11 votes to 1, with 6 abstentions. The word "general", in the second operative paragraph, preceding the words "demand for self-government", was rejected by 5 votes to 4, with 9 abstentions. The first phrase in the second operative paragraph, reading "The States Members of the United Nations shall recognize and promote the realization of the right of self-determination of the people of Non-Self-Governing and Trust Territories who are under their administration", was adopted by 11 votes to 5, with 2 abstentions. The second phrase of the second operative paragraph, as amended, reading "and grant this right on a demand for self-government on the part of these people, the popular wish being ascertained in particular through a plebiscite held under the auspices of the United Nations", was adopted by 10 votes to 5, with 3 abstentions. The second operative paragraph as a whole as amended was adopted by 11 votes to 5, with 2 abstentions.

87. The draft resolution as a whole, as amended, was adopted by 11 votes to 5, with 2 abstentions. The text will be found in section C of this chapter, resolution II A.

88. In view of the adoption of the above resolution, the representative of France, at the 266th meeting, withdrew the first three paragraphs and part I of the operative section of his draft resolution (E/CN.4/L.34/Rev.1). The Commission adopted, by 9 votes to 4, with 5 abstentions, the fourth paragraph of that draft, reading "Whereas effective ways and means of ensuring universal respect for self-determination of peoples can be usefully promoted by a clear idea of the nature, content and manner of exercising that right and of its relations with other concepts of international law". It rejected by 7 votes to 6, with 5 abstentions, the first paragraph of part II, in which the International Law Commission was asked to study the nature, the political, economic, social and cultural content, and the various legal aspects of the right of self-determination of peoples. The remainder of the draft resolution was then withdrawn.

89. The Commission adopted, by 11 votes to 4, with 3 abstentions, the draft resolution of Lebanon (E/CN.4/L.40/Rev.1), asking the Economic and Social Council to request the General Assembly to make certain recommendations to Member States of the United Nations responsible for the administration of Non-Self-Governing Territories. For the text of the draft resolution as adopted, see section C of this chapter, resolution II B.

90. The Commission did not adopt the second proposal of Lebanon (E/CN.4/L.41) concerning the establishment by the General Assembly of an *ad hoc* committee to prepare recommendations on measures which might be taken by the various United Nations organs and the specialized agencies; the vote was 5 in favour, 5 against, with 8 abstentions.

C. Resolutions adopted by the Commission

91. The Commission adopted the following resolutions:

I. Article for inclusion in the international covenants on human rights[6]

The Commission on Human Rights

Resolves to insert in the draft covenants on human rights, the following article on the right of peoples and nations to self-determination:

"1. All peoples and all nations shall have the right of self-determination, namely, the right freely to determine their political, economic, social and cultural status.

"2. All States, including those having responsibility for the administration of Non-Self-Governing and Trust Territories and those controlling in whatsoever manner the exercise of that right by another people, shall promote the realization of that right in

[6] The article is included as article 1 of the covenant on economic, social and cultural rights (annex I A) and as article 1 of the covenant on civil and political rights (annex I B).

all their territories, and shall respect the maintenance of that right in other States, in conformity with the provisions of the United Nations Charter.

"3. The right of the peoples to self-determination shall also include permanent sovereignty over their natural wealth and resources. In no case may a people be deprived of its own means of subsistence on the grounds of any rights that may be claimed by other States."

(First two paragraphs adopted by 13 votes to 4, with 1 abstention. Third paragraph adopted by 10 votes to 6, with 2 abstentions.)

II. RECOMMENDATIONS CONCERNING INTERNATIONAL RESPECT FOR THE SELF-DETERMINATION OF PEOPLES

A[7]

The Commission on Human Rights

Requests the Economic and Social Council to adopt and transmit the following resolution to the General Assembly drafted in accordance with the resolution of the General Assembly concerning international respect for the self-determination of peoples and nations:

"*Whereas* it is as essential to abolish slavery of peoples and nations as of human beings, as any human enslavement violates the fundamental human right as laid down by the Universal Declaration of Human Rights,

"*Whereas* such slavery exists where an alien people hold power over the destiny of a people,

"*Whereas* the Charter of the United Nations, under Articles 1 and 55, aims to develop friendly relations among nations based on respect for the equal rights and self-determination of peoples in order to strengthen universal peace,

"*The General Assembly*

"*Recommends that*

"1. The States Members of the United Nations shall uphold the principle of self-determination of peoples and nations and respect their independence;

"2. The States Members of the United Nations shall recognize and promote the realization of the right of self-determination of the people of Non-Self-Governing and Trust Territories who are under their administration; and grant this right on a demand for self-government on the part of these people, the popular wish being ascertained in particular through a plebiscite held under the auspices of the United Nations."

(Adopted by 11 votes to 5, with 2 abstentions.)

B[8]

The Commission on Human Rights,

Considering that at its sixth session the General Assembly requested the Commission on Human Rights to prepare recommendations concerning international respect for the self-determination of peoples and to submit these recommendations to the General Assembly at its seventh session,

Considering that one of the conditions necessary to facilitate United Nations action to promote respect for this right, in particular with regard to the peoples of Non-Self-Governing Territories, is that the competent organs of the United Nations should be in possession of official information on the government of these territories,

Considering that the General Assembly declared in its resolution 144 (II) that the voluntary transmission of such information is entirely in conformity with the spirit of Article 73 of the Charter, and should therefore be encouraged,

Considering that the General Assembly, in its resolution 327 (IV), recalling its resolution 144 (II), expressed the hope that such of the Members as have not done so may voluntarily include details on the government of Non-Self-Governing Territories in the information transmitted by them under Article 73e of the Charter,

Considering that at the present time such information has not yet been furnished in respect of a large number of Non-Self-Governing Territories,

Recommends to the Economic and Social Council to request the General Assembly to recommend to Member States of the United Nations responsible for the administration of Non-Self-Governing Territories voluntarily to include in the information transmitted by them under Article 73e of the Charter details regarding the extent to which the right of peoples to self-determination is exercised by the peoples of these territories, and in particular regarding their political progress and the measures taken to develop their capacity for self-administration, to satisfy their political aspirations and to promote the progressive development of their free political institutions.

(Adopted by 11 votes to 4, with 3 abstentions.)

[7] A draft resolution for the consideration of the Economic and Social Council is included in annex V, draft resolution A.

[8] A draft resolution for the consideration of the Economic and Social Council is included in Annex V, draft resolution B.

IV. DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION

92. In its consideration of item 4 of the agenda, draft international covenants on human rights and measures of implementation, the Commission had before it the following documents:

(*a*) Resolutions 543 (VI) to 549 (VI) of the General Assembly and resolutions 384 (XIII) and 415 (S-1) of the Economic and Social Council (E/CN.4/643 and E/CN.4/657);

(*b*) Report of the Third Committee of the General Assembly on the draft international covenant on human rights and measures of implementation (A/2112);

(*c*) Report of the fourth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/641, annex II);

(*d*) Memorandum by the Secretary-General concerning the decisions of the thirteenth session of the Economic and Social Council and the sixth session of the General Assembly (E/CN.4/643);

(*e*) Memoranda by the Secretary-General on measures of implementation (E/CN.4/530 and 530/Add.1);

(*f*) Note by the Secretary-General on existing procedures for periodic reporting by governments to

certain specialized agencies (E/CN.4/590 and 590/Add.1-2);

(*g*) Note by the Secretary-General on the draft convention on freedom of information drawn up by the Committee on the draft convention on freedom of information (E/CN.4/532);

(*h*) Reports by the Secretary-General on the federal State article (E/1721, A/CONF.2/21, E/CN.4/651);

(*i*) Observations of the Office of the United Nations High Commissioner for Refugees (E/CN.4/659);

(*j*) Summary of observations and suggestions relating to the draft covenant submitted by non-governmental organizations in consultative status with the Economic and Social Council (E/CN.4/660).

93. The Commission considered item 4 of its agenda in the light of the instructions it had received from the General Assembly and the Economic and Social Council (E/CN.4/643 and E/CN.4/657). At its 267th meeting it decided to begin its discussions by considering part III of the draft covenant prepared at its seventh session, thereafter taking up part II and part I of the draft contained in the report of its seventh session. In examining part III and parts II and I, it was understood that the Commission would be preparing parts of the draft covenants on economic, social and cultural rights and on civil and political rights as requested by the General Assembly in resolution 543 (VI), without prejudice to the subsequent adoption of provisions common to both covenants or to the placing of various articles in the two covenants or to considering recommendations relating to the instructions of the General Assembly.

94. At the 275th meeting, the representative of Belgium proposed that the Commission should take a decision on whether it wished to vote on the covenants as a whole after they had been drafted. It was decided by 5 votes to 3, with 9 abstentions, to adjourn the discussion on the proposal until the Commission had completed the drafting of the articles of both covenants.

95. The draft covenant on economic, social and cultural rights was considered from the 268th to 282nd, the 284th to 308th and 333rd meetings, when the Commission adopted a preamble and fifteen articles (see annex I, section A). The draft covenant on civil and political rights was considered from the 309th to 331st and the 333rd meetings, during which the Commission adopted a preamble and eighteen articles (see annex I, section B). The action taken by the Commission on these drafts with a brief indication of the main points discussed and voted on are outlined in sections A and B of this chapter. As recorded in paragraph 57, the Commission decided at the 259th meeting to include an identical text on the right of peoples to self-determination in the two draft covenants. The text of this article is contained in paragraph 91. (See annex I, sections A and B, article 1, of the draft covenant on economic, social and cultural rights, and article 1 of the draft covenant on civil and political rights.) At the 333rd meeting, the Commission decided, by 16 votes to none, with 1 abstention, to entrust the Chairman and the Rapporteur with the task of determining the order of the provisions of the two draft covenants prepared at the eighth session.

96. At its 333rd and 334th meetings, the Commission considered a draft resolution submitted by the representative of the Soviet Union (E/CN.4/L.195 and L.195/Corr.1). The draft resolution stated that the Commission, having re-examined, in accordance with General Assembly resolution 543 (VI), the articles on civil and political rights and the articles on economic, social and cultural rights, and noting that that re-examination had again confirmed the fact that "the enjoyment of civic and political freedoms and of economic, social and cultural rights are interconnected and interdependent", as recognized by the General Assembly in its resolution 421 E (V), reaffirmed its previous views concerning the inadvisability of placing the provisions relating to economic, social and cultural rights in a separate covenant and the necessity of preparing a single covenant on the fundamental human rights and freedoms. It requested the Economic and Social Council to refer to the General Assembly the question of a revision of General Assembly resolution 543 (VI). The proposal was rejected in a roll-call vote by 10 votes to 8.[9]

97. A draft resolution submitted by the representatives of India, Lebanon, Sweden and the United States on the completion of the covenants on human rights (E/CN.4/L.209) was examined by the Commission at its 333rd and 334th meetings. At the 334th meeting, the Commission rejected by 9 votes to 7, with 2 abstentions, a series of amendments submitted by the representative of Poland aimed at deleting the references to the draft covenants from the draft resolution. The draft resolution, the last paragraph of which was orally amended by its sponsors, was adopted by 12 votes to none, with 6 abstentions, in the following form:

III. Completion of the Draft Covenants on Human Rights[10]

"The Commission on Human Rights,

"Having, in accordance with resolution 543 (VI) of the General Assembly of 5 February 1952 and resolution 415 (S-1) of the Economic and Social Council of 24 March 1952, proceeded at its eighth session with the drafting of two covenants, one on civil and political rights and the other on economic, social and cultural rights,

"Having devoted practically the whole of its eighth session to the consideration of articles for each of the two covenants, and having made very substantial progress by drafting and adopting for each covenant articles which would form the essential basis of the two covenants,

"Having nevertheless been unable, at its eighth session, extended from eight to nine weeks with the authorization of the Economic and Social Council, to complete the drafting of the two covenants, and in particular to give consideration to questions of measures of implementation, provisions on reservations and a federal State clause, and

"Considering the importance of allowing an opportunity to the Commission on Human Rights to complete its work on the two covenants and in particular to formulate its recommendations relating to the

[9] *In favour:* Chile, Egypt, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay and Yugoslavia.

Against: Australia, Belgium, China, France, Greece, India, Lebanon, Sweden, United Kingdom of Great Britain and Northern Ireland and United States of America.

[10] A draft resolution for the consideration of the Economic and Social Council is included in annex V, draft resolution C.

questions remaining to be taken up by it, prior to the consideration of these matters by the Economic and Social Council and the General Assembly,

"*Recommends* to the Economic and Social Council that the Commission on Human Rights be authorized to complete its work on the two covenants at its next session in 1953 in order that the draft covenants may then be submitted simultaneously to the Economic and Social Council."

98. Annex I of the report contains the various texts relating to the draft international covenants on human rights and measures of implementation. Sections A and B set forth the provisions of the draft covenant on economic, social and cultural rights and the draft covenant on civil and political rights respectively, as drawn up at the eighth session of the Commission. Section C, in accordance with the decision of the Commission at its 338th meeting (11 votes to 3, with 2 abstentions) reproduces the text of the article on the territorial application of the International Covenant on Human Rights adopted by the General Assembly in resolution 422 (V) and included as Article 72 of the draft covenant prepared by the Commission at its seventh session (E/1992, annex I); sections D and E reproduce the articles on measures of implementation and the final clauses respectively, which were included in parts IV, V and VI (articles 33 to 70 and 73) of the draft covenant contained in the report of the seventh session of the Commission (E/1992, annex I), but were not taken up at the eighth session of the Commission. Proposals for additional articles for the draft covenant on civil and political rights, for a federal State article and for the final clauses which have still to be examined by the Commission, are included in annex II, sections A, B and C respectively.

99. Annex III contains proposals on measures of implementation which the Commission is still to consider. The annex includes in sections A, B and C respectively the text of a proposal on a protocol on petitions from individuals and non-governmental organizations and amendments thereto, the text of a proposal relating to the establishment of an office of a United Nations high commissioner for human rights (both of which were submitted to the seventh session of the Commission, see E/1992, annexes V and VII) and the text of proposals relating to measures of implementation referred to the Commission as "additional basic working papers" by resolution 547 (VI) of the General Assembly.

100. The Commission agreed to allow its members, as at previous sessions, to submit any written comments on the draft covenants which they might wish to have included in the report (E/CN.4/SR.331 and 338). These comments will be found in annex IV.

A. Draft covenant on economic, social and cultural rights

101. Besides the general documents mentioned in paragraph 92, the Commission had before it the following documents:

(*a*) Memorandum by the Secretary-General on economic, social and cultural rights (E/CN.4/650);

(*b*) Survey prepared by the Secretary-General of the activities of the United Nations and of the specialized agencies in the field of economic, social and cultural rights (E/CN.4/364/Rev.1);

(*c*) Note by the Secretary-General drawing attention to the resolution of the fifth session of the Commission on the Status of Women relating to equal pay for equal work (E/CN.4/661);

(*d*) Communication from the representative of UNESCO to the Commission on Human Rights relating to the plans for the generalization of compulsory education adopted on 20 July 1951 by the fourteenth International Conference on Public Education (E/CN.4/667).

102. In accordance with the request of the General Assembly in resolution 543 (VI), the Secretary-General requested Member States and appropriate specialized agencies to submit drafts or memoranda on the form and contents of the proposed covenant on economic, social and cultural rights, together with observations thereon, to reach the Secretary-General before 1 March 1952, for the information and guidance of the Commission on Human Rights. The Commission had before it replies from the following Governments: USSR (E/CN.4/654), United Kingdom (E/CN.4/654/Add.1), Denmark (E/CN.4/654/Add.2), El Salvador (E/CN.4/654/Add.3), Israel (E/CN.4/654/Add.4), United States of America (E/CN.4/654/Add.5), Iraq (E/CN.4/654/Add.6), Afghanistan (E/CN.4/654/Add.7), France (E/CN.4/654/Add.8) and the Union of South Africa (E/CN.4/654/Add.9). The following replies from specialized agencies were before the Commission: International Labour Organisation (E/CN.4/655/Add.2), World Health Organization (E/CN.4/655/Add.1), Food and Agriculture Organization (E/CN.4/655/Add.3) and United Nations Educational, Scientific and Cultural Organization (E/CN.4/655/Add.4).

103. Representatives of various specialized agencies participated in the Commission's deliberations. The representative of the International Labour Organisation took part in the discussions on articles 5, 7, 8, 9, 10 and 12. The representative of UNESCO took part in the discussions on articles 14, 15 and 16. The representative of the World Health Organization took part in the discussions on article 13.

104. In its discussion of articles 3, 7 and 10 the Commission heard statements by the representative of the Commission on the Status of Women, whose suggestions concerning article 7 were circulated in document E/CN.4/L.94.

105. The Commission agreed at its 267th meeting to begin its consideration of part III (articles 19 to 32) of the covenant drafted at its seventh session by examining articles 20 to 32 thereof, and any proposals for additional articles, before considering article 19. However, after according some consideration to articles 20, 21 and 22 during its 268th and 269th meetings, the Commission at its 270th meeting again discussed its method of work. It rejected by 10 votes to 7, with 1 abstention, a proposal of the Soviet Union that proposals by the United States (E/CN.4/L.54 and Add.1) and France (E/CN.4/L.55) concerning general ("umbrella") clauses should be taken up only after discussion on articles 20 to 32 was completed. It then decided by 10 votes to 7, with 1 abstention, to discuss first the articles proposed by the United States and France. The view had been expressed that the wording of such a general provision relating to the obligations to be undertaken by States parties in respect of the rights

dealt with in the covenant on economic, social and cultural rights would affect the meaning and scope of the provisions which followed it and that the latter could not properly be drafted until the content of the general provision was known. It was understood that the adoption of a general provision would not preclude the Commission from subsequently considering any special obligation which might be laid down with regard to any individual right.

Article 2 (General "umbrella" article)

106. The proposed general clauses, and amendments thereto, were discussed during the 270th to 275th meetings. The basic proposals were those of the United States (E/CN.4/L.54/Add.1/Rev.1 and Rev.2) and France (E/CN.4/L.55). The proposal of France was withdrawn during the 271st meeting

107. Many members felt that, in view of the nature of economic, social and cultural rights, and the relationship between the realization of those rights and the economic and social conditions of the countries concerned, it would be unrealistic to require each State party to the covenant to do more than "undertake to take steps", "to the maximum of its available resources", with a view to "achieving progressively" the full realization of the rights recognized in the covenant. A number of members felt, however, that such an approach provided too many loopholes for States parties wishing to evade their obligations: to undertake "to take steps" for the realization of rights was not to guarantee those rights; secondly, if such steps were only taken by a State "to the maximum of its available resources", lack of resources could always be pleaded; thirdly, the commitment concerning the realization of rights "progressively" permitted indefinite delays and was in any case not necessary to safeguard the position of States unable to implement rights immediately. It was also pointed out that certain economic, social and cultural rights could clearly be achieved only progressively and that it would therefore be unnecessary to mention the fact. If, on the other hand, special obligations had to be laid down for the under-developed countries, that could be done by specifying those obligations in the articles relating to the rights in question. Too vague a general clause might lead to abuses in the realization of the rights which could and should be guaranteed immediately (for example, trade union rights). Moreover, such a general clause would enable even the economically highly developed countries to evade their obligation to guarantee the exercise of those rights. It was also claimed that the proposed limited commitments would violate the General Assembly's desire that articles should be improved in order to protect more effectively the rights to which they referred. It was felt by some that States could and should be responsible equally for the realization of all types of rights, and it was proposed that the contents of the covenant on economic, social and cultural rights should be governed by the provisions contained in article 1 of the covenant drafted by the Commission at its seventh session. On the other hand it was argued that countries could not progress faster than their resources would allow and that the use of the term "progressively" was particularly valuable to underdeveloped countries. It was also claimed that the use of the word "progressively" in fact placed upon signatories a duty to achieve ever higher and higher levels of fulfilment of rights.

108. Many members felt that it should be laid down that, whatever the level reached in the realization of rights at any given time, the benefits thereof would be accorded to all equally. Some felt, however, that it would be unrealistic for States to undertake such a guarantee; for instance, equality of pay between the sexes might be impossible of immediate achievement.

109. At its 274th meeting, the Commission began voting on the United States proposal for a general article (E/CN.4/L.54/Rev.2) and amendments thereto. The proposed text, which included an oral amendment by France, accepted by the United States (E/CN.4/SR.273), to replace the word "or", in the phrase "legislative or other means", by the words "as well as by", read as follows: "Each State Party hereto undertakes to take steps, individually and through international co-operation, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in this covenant by legislative as well as by other means and without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." The Commission voted first on an amendment by Poland (E/CN.4/L.65/Rev.1) to delete from the above text the words "by legislative as well as by other means" to the end and replace them by three paragraphs based on the provisions of article 1 of the covenant drafted at the seventh session. According to the first paragraph, each State party would undertake to respect and ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Under the second paragraph, where not already provided for by existing legislative or other measures, each State would undertake to take the necessary steps, in accordance with its constitutional processes and with the provisions of the covenant, to adopt within a reasonable time such legislative or other measures as might be necessary to give effect to the rights recognized in the covenant. Each State party would undertake, under the third paragraph, to ensure: (*a*) that any person whose rights or freedoms as recognized in the covenant were violated, would have an effective remedy, notwithstanding that the violation had been committed by persons acting in an official capacity; (*b*) that any person claiming such a remedy would have his right thereto determined by competent authorities, political, administrative or judicial; and (*c*) that the competent authorities would enforce such remedies when granted. Each of the three paragraphs was rejected, in separate votes, by 10 votes to 7, with 1 abstention, the votes on paragraphs 3 and 4 being taken by roll-call.[11] The amendment submitted by Chile (E/CN.4/L.71, paragraph 1), which provided that the terms of the general obligations should not prevent the States parties from undertaking any specific obligations relating to particular rights, was rejected by 9 votes to 7, with 2 abstentions. The representative of

[11] *In favour:* Chile, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.

Against: Australia, Belgium, China, France, Greece, India, Lebanon, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Egypt.

Lebanon proposed, as a separate paragraph (E/CN.4/L.73), a non-discrimination clause which differed from that in the United States proposal, and included an oral amendment of the representative of France to replace the word "guarantee" by the words "take all necessary measures so that", accepted by the representative of Lebanon. The representative of Poland then moved as his own amendment the original Lebanese amendment, and this was adopted as paragraph 2 by 10 votes to 7, with 1 abstention, reading: "The States Parties hereto undertake to guarantee that the rights enunciated in this covenant will be exercised without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." The rest of the United States proposal for paragraph 1 (E/CN.4/L.54/Rev.2) was then adopted as follows: the words "to the maximum of its available resources", by 12 votes to 6; the word "progressively" by 10 votes to 8, on a roll-call;[12] and the words "achieving progressively" by 10 votes to 7, with 1 abstention. At its 275th meeting, the Commission adopted, by 12 votes to 3, with 3 abstentions, paragraph 1 as a whole. The article as a whole, being composed of this paragraph and of the Polish amendment as paragraphs 1 and 2 respectively, was then adopted by 16 votes to none, with 2 abstentions, and appears as article 2 in annex IA.

Article 6 (Right to work)

110. The Commission discussed article 20 of the draft covenant drawn up at its seventh session during its 275th to 279th meetings. Some members were willing to approve that text without change, and stressed the value of retaining a guarantee against the introduction of forced labour. A number of members favoured formulations according to which States parties would "guarantee" the right to work. Certain of the latter wished the right to be guaranteed with the object of creating conditions precluding the threat of death from hunger or inanition, though other members felt that that represented a negative limitation on the scope of the article. The relationship of full employment policies to the protection of the right to work was recognized in the discussions.

111. Voting took place at the 278th meeting. An amendment proposed jointly by Uruguay and Yugoslavia (E/CN.4/L.58/Rev.1) was rejected. The first paragraph, requiring that everyone should be granted the right to obtain employment in order to earn his living by work which he freely accepted, was rejected by 11 votes to 5, with 2 abstentions; the second, requiring that this right should be guaranteed by the State, by 10 votes to 7, with 1 abstention. An amendment by the Soviet Union (E/CN.4/L.45), requiring that the right to work should be guaranteed by the State, with the object of creating conditions precluding the threat of death from hunger or inanition, was rejected by 9 votes to 3, with 6 abstentions. An oral amendment proposed by the representative of Poland to replace the words "implement concretely" in an amendment by Chile (E/CN.4/L.53/Rev.1) by "guarantee" was rejected by 9 votes to 6, with 3 abstentions. The amendment of Chile, according to which the State would be required to adopt measures by legislative and other means "to implement concretely the enjoyment of these rights", and in particular to bring about and maintain full productive employment, was rejected on a roll-call vote by 10 votes to 5, with 3 abstentions.[13] An oral amendment proposed by Chile to add the words "national and international" before "programmes" in the joint amendment of Lebanon and the United States (E/CN.4/L.93) was rejected by 6 votes to 5, with 7 abstentions. Paragraph 2 of the joint amendment (the word "expansion" having been orally amended to read "development") was adopted as an additional paragraph to the article by 9 votes to 3, with 5 abstentions. It read: "The steps to be taken by a State Party to this Covenant to achieve the full realization of this right shall include programmes, policies and techniques to achieve steady economic development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual." The opening words of article 20, as adopted at the seventh session, "Work being at the basis of all human endeavour", were adopted by 15 votes to 2, with 1 abstention, and article 20 as a whole as amended by the joint amendment of Lebanon and the United States was adopted by 15 votes to none, with 3 abstentions. The text appears as article 6 in annex IA.

Article 7 (Just and favourable conditions of work)

112. At its 279th to 281st meetings, the Commission examined article 21 as drafted at its seventh session. Much of the discussion centred upon the principle of equal remuneration for work of equal value, particularly in the light of a resolution adopted by the Commission on the Status of Women at its sixth session, requesting the Economic and Social Council, *inter alia,* to ask the Commission on Human Rights "to include an article which would provide for the principle of equal remuneration for equal work for men and women workers in the Convention on Human Rights" (E/CN.6/197), which had been brought to the Commission's attention (E/CN.4/661). Some members felt that the application of the principle as applied between men and women should be explicitly laid down in the article, which should provide that women should enjoy the same advantages as men in their conditions of work and receive the same pay as men for the same work. It was pointed out that the inclusion of such provisions was necessary because these conditions did not obtain in some countries at the present time. Others thought that the position of women was safeguarded by a guarantee of minimum or fair wages to "everyone" and by the non-discrimination provision contained in paragraph 2 of the general article adopted at the 275th meeting; a special reference to the rights of women here would weaken the protection of women afforded elsewhere in the covenant, where their rights were intended to be protected by the use of "everyone" and by paragraph 2 of the general article. The article which was being drafted should not prejudice the right of equal remuneration in cases other than those of women.

[12] *In favour:* Australia, Belgium, China, France, Greece, India, Pakistan, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Against: Chile, Egypt, Lebanon, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.

[13] *In favour:* Chile, Egypt, Pakistan, Uruguay, Yugoslavia.
Against: Australia, Belgium, China, France, Greece, India, Lebanon, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

113. It was argued by some members that the obligations of States in respect of the whole subject matter of the article should be reinforced; others regarded it as impracticable to supplement the terms of the general article as applied to this right. In particular, some doubted whether it was possible immediately to implement the principle of equal remuneration for equal work for men and women workers. The significance and effect of the term "minimum" in relation to remuneration was discussed and it was stated that it was desirable to make it clear that while a minimum standard was being laid down — a provision of particular value to under-developed countries — it could not be taken to mean that efforts for improvement of wage standards could stop at that point.

114. Voting took place at the 281st meeting. Paragraph 1 of an amendment by Chile (E/CN.4/L.62/Rev.2, para. 1) under which States parties would recognize the right of everyone, without discrimination on any grounds, to just and favourable conditions of work, was rejected by 10 votes to 8. The opening phraseology of article 21 drafted at the seventh session, "The States Parties to the Covenant recognize the right of everyone to just and favourable conditions of work, including", was adopted by 15 votes to none, with 3 abstentions. Sub-paragraph (*a*) of article 21, "safe and healthful working conditions", was unanimously adopted. The Commission adopted a USSR amendment (E/CN.4/L.46, para. 1) to delete the word "minimum" in sub-paragraph (*b*) ("Minimum remuneration which provides all workers") by 14 votes to none, with 4 abstentions. An amendment proposed orally by Egypt, to add the words "as a minimum" after "workers" in sub-paragraph (*b*) was adopted by 9 votes to 1, with 8 abstentions. An amendment submitted by the representative of Uruguay (E/CN.4/L.60) to add to sub-paragraph (*b*) a new sub-paragraph, under which the prescribed remuneration would provide all workers with an adequate standard of living satisfying their physical, intellectual and moral needs, was not adopted, the vote being 8 in favour, 8 against and 2 abstentions. An amendment by Yugoslavia (E/CN.4/L.63/Rev.1) to sub-paragraph (*b*) (i) (incorporating an amendment orally proposed by Uruguay and accepted by Yugoslavia to replace "equal pay for equal work" by "equal remuneration for work of equal value") was then voted by division: the words "with fair wages having regard to the cost of living" were rejected by 6 votes to 5, with 7 abstentions, and the words "with fair wages having regard to the profits of the undertakings employing them" by 10 votes to 2, with 6 abstentions. An amendment of the Soviet Union (E/CN.4/L.46, para. 2) to sub-paragraph (*b*) (i), reading "in particular, women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work", was adopted, on a roll-call vote, by 8 votes to 5, with 5 abstentions.[14] In view of the rejection of two parts of his amendment, and in order to facilitate the voting, the representative of Yugoslavia withdrew the remainder of his amendment and proposed as an addition to an amendment by Chile (E/CN.4/L.62/Rev.2), the words, "without distinction of any kind". That amendment was adopted, on a roll-call vote, by 8 votes to 7, with 3 abstentions.[15] The amendment by Chile (E/CN.4/L.62/Rev.2), as thus amended, was then put to the vote by division. The words "Fair wages" were unanimously adopted; the words "and equal remuneration for work of equal value" were adopted by 15 votes to 1, with 2 abstentions; and the sentence as a whole, reading, "Fair wages and equal remuneration for work of equal value without distinction of any kind", was adopted by 10 votes to none, with 8 abstentions. Sub-paragraph (*b*) (i) as amended, reading "Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular, women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; and", was adopted on a roll-call vote by 10 votes to none, with 8 abstentions.[16]

115. Sub-paragraph (*b*) (ii) of article 21 as drafted at the seventh session was unanimously adopted, reading "A decent living for themselves and their families; and". A USSR amendment (E/CN.4/L.46, para. 3), to insert in sub-paragraph (*c*) the words "rest, leisure and" before the word "reasonable", was adopted by 8 votes to 4, with 6 abstentions. Sub-paragraph (*c*) as thus amended was adopted by 13 votes to none, with 5 abstentions; it read: "Rest, leisure and reasonable limitation of working hours and periodic holidays with pay". An amendment of the Soviet Union (E/CN.4/L.46, para. 4), to add a provision that the right to just and favourable conditions of work should be guaranteed by the State to all wage-earners, either by law or under collective agreements providing for appropriate material obligations on the part of employers, was rejected by 9 votes to 5, with 4 abstentions, an amendment by Chile (E/CN.4/L.62/Rev.2, para. 2), to add to the article a provision requiring States parties to adopt measures by legislative and other means to create the conditions mentioned in the article, was rejected by 9 votes to 7, with 2 abstentions. The article as a whole, as amended, was adopted by 12 votes to none, with 6 abstentions, and appears as article 7 in annex IA.

Proposed additional article on implementation of the rights to work and to just and favourable conditions of work

116. At its 281st meeting, the Commission voted on a proposal by Chile (E/CN.4/L.91) for an additional article to follow the article on just and favourable conditions of work, reading: "Each State Party hereto shall be required to adopt measures by legislative as well as other means to implement concretely the enjoyment of the rights embodied in articles 20 and 21 and in particular to achieve steady economic expansion and full and productive employment". The representative of Poland proposed that the word "guarantee" should be substituted for the word "implement" in the English

[14] *In favour:* Chile, Egypt, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.
Against: Australia, India, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: Belgium, China, France, Greece, Lebanon.

[15] *In favour:* Chile, Egypt, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.
Against: Australia, France, India, Lebanon, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: Belgium, China, Greece.

[16] *In favour:* Chile, Egypt, Greece, Lebanon, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.
Abstaining: Australia, Belgium, China, France, India, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

text. That amendment was rejected by 11 votes to 3, with 3 abstentions, and the proposal was also rejected, by 10 votes to 3, with 4 abstentions.

Article 9 (Social security)

117. The Commission devoted its 282nd and 284th meetings to the discussion of article 22, as drafted at its seventh session. Much of the debate turned upon whether it was desirable to elaborate various aspects of social security, or whether such elaborations might be limitative in effect; and upon whether "social security" was as wide in scope as "social welfare" and whether it included in its scope "social insurance". The question of the best distribution of the cost of social security schemes was among the problems discussed. Most members preferred to retain the article as drafted at the seventh session.

118. Voting took place at the 284th meeting. A USSR amendment (E/CN.4/L.47), revised orally by the sponsor, was voted by division: the addition of the words "including social insurance" at the end of article 22 as drafted at the seventh session was rejected by 8 votes to 5, with 5 abstentions; and the addition of the words "the cost of which must be borne by the State or the employer, in accordance with the legislation in force in each country" by 13 votes to 4, with 1 abstention. An amendment by Yugoslavia (E/CN.4/L.64/Rev.2, para. 1), defining social security as the right of everyone "to the necessary means of subsistence for himself and his family", the right to social insurance (certain aspects thereof being particularized) and the right to social assistance if unable to work for his living, was put to the vote by division: the words "and his family" were adopted by 3 votes to none, with 15 abstentions, but the amendment as a whole was rejected by 10 votes to 2, with 6 abstentions. An amendment by France (E/CN.4/L.68), to add "social welfare and" before "social security" was rejected by 7 votes to 4, with 7 abstentions. An amendment by Yugoslavia (E/CN.4/L.64/Rev.2, para. 2, with the word "these" amended orally to read "the"), requiring every State to undertake to guarantee the means of subsistence mentioned in the preceding paragraph of that amendment to any person not eligible therefor by virtue of article 6, and to ensure to him, to the maximum of the country's resources, the realization of the rights recognized in article 7, was rejected on a roll-call by 12 votes to 2, with 4 abstentions.[17] Article 22, as drafted by the Commission at its seventh session, was then adopted by 14 votes to none, with 4 abstentions. It read: "The States Parties to the Covenant recognize the right of everyone to social security". This provision is article 9 in annex IA.

Article 14 (Right to education)

119. At its 285th to 291st meetings, the Commission considered article 28 as drafted at its seventh session. Several members preferred not to depart substantially from the provisions of article 28, while others favoured the insertion of provisions that "the State must ensure" the rights to primary, secondary and higher education, in particular by providing the necessary systems of schools and higher educational institutions. The latter group of members stressed that the obligation of States to create all the conditions necessary to enable every person, without any discrimination whatever, to acquire an education was particularly important inasmuch as more than half of the population of the world was illiterate. Many wished to eliminate from the article a provision prohibiting discrimination in educational matters such as that contained in article 28, paragraph 2, arguing that to include such a provision was unnecessary in the light of paragraph 2 of the general article adopted at the 275th meeting; it might even be dangerous by subjecting non-discrimination in education to the provisions of paragraph 1 of the general article, and by throwing doubt on the application of the principle of non-discrimination in the other articles of the covenant where no such special provision was made. Some members felt that there were special reasons for providing against discrimination in the present context in view of the prevalence of discrimination and segregation in the provision of educational facilities. There was some discussion of the desirability of including a definition of the aims of education taken from paragraph 7 of article 28 adopted at the seventh session. It was argued that that definition confused elements which were not all of equal importance and that no similar definition appeared in other articles. Most members, however, felt it desirable to retain the definition.

120. Voting took place at the 290th meeting. The Commission decided, by 8 votes to 7, with 3 abstentions, to vote first on an amendment by Lebanon (E/CN.4/L.96/Rev.1), to a United Kingdom amendment (E/CN.4/L.85/Rev.1) to article 28, together with the amendments thereto. An amendment by Poland (E/CN.4/L.99) to add, after "education", in the first sub-paragraph of paragraph 1 of the Lebanese amendment, the words "in accordance with the principle of non-discrimination enunciated in paragraph 2 of article 1 [present article 2] of this Covenant", was rejected by 10 votes to 8. An amendment by Poland (E/CN.4/L.99) to replace the second sub-paragraph of paragraph 1 of the Lebanese amendment by the text of paragraph 7 of the original article 28, with the addition of the opening words "and recognize", was then put to the vote; the words "and the suppression of all incitement to racial and other hatred" were adopted separately on a roll-call by 12 votes to 6,[18] and the whole amendment was adopted also by 12 votes to 6. Paragraph 1 of the Lebanese amendment (E/CN.4/L.96/Rev.1), as thus amended, was adopted by 13 votes to none, with 5 abstentions. It read: "The States Parties to the Covenant recognize the right of everyone to education, and recognize that education shall encourage the full development of the human personality, the strengthening of respect for human rights and fundamental freedoms and the suppression of all incitement to racial and other hatred. It shall promote understanding, tolerance and friendship among all nations, racial, ethnic or religious groups, and shall further the activities of the United Nations for the maintenance of peace and enable all persons to participate effectively in a free society."

[17] *In favour:* Uruguay, Yugoslavia.
Against: Australia, Belgium, China, Egypt, France, Greece, India, Lebanon, Pakistan, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: Chile, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

[18] *In favour:* Belgium, Chile, China, Egypt, France, Greece, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.
Against: Australia, India, Lebanon, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

121. The representative of Poland proposed that paragraph 2 of his amendment (E/CN.4/L.99), with the omission of the opening word "and", should be substituted for paragraph 2 of the Lebanese amendment. Sub-paragraphs (*a*) (*b*) (*c*) and (*d*) of paragraph 2 of the Polish amendment were voted on separately, the first three being voted on in three parts. The first phrase of sub-paragraph (*a*) was adopted by 11 votes to 6, with 1 abstention; the phrase "and that the State must ensure this right" was rejected by 8 votes to 7, with 3 abstentions; the concluding phrase "in particular by providing the necessary school system" was not adopted, the vote being 8 in favour, 8 against and 2 abstentions. Sub-paragraph (*a*) as a whole and as amended was then adopted by 13 votes to 5. The first phrase of sub-paragraph (*b*) was adopted by 12 votes to 6; the phrase "and that the State must ensure this right" was rejected by 8 votes to 7, with 3 abstentions; the concluding phrase "in particular by providing the necessary school system" was not adopted, the vote being 8 in favour, 8 against and 2 abstentions; sub-paragraph (*b*) as a whole and as amended was adopted by 12 votes to 6. The first phrase of sub-paragraph (*c*) was adopted by 12 votes to 5, with 1 abstention; the phrase "and that the State must ensure this right" was rejected by 9 votes to 7, with 2 abstentions; the concluding phrase "in particular by a system of scholarships and by the necessary system of higher educational institutions" was rejected by 9 votes to 7, with 2 abstentions. Sub-paragraph (*c*) as a whole and as amended was adopted by 12 votes to 6. Sub-paragraph (*d*) was adopted by 12 votes to 4, with 2 abstentions. Paragraph 2 of the Polish amendment, as a whole and as amended, was adopted by 10 votes to 8. It read:

"It is understood:

"(*a*) That primary education shall be compulsory and available free to all;

"(*b*) That secondary education, in its different forms, including technical and professional secondary education, shall be generally available and shall be made progressively free;

"(*c*) That higher education shall be equally accessible to all on the basis of merit and shall be made progressively free;

"(*d*) That fundamental education for those persons who have not received or completed the whole period of their primary education shall be encouraged as far as possible."

122. The Commission then voted on paragraph 3 of the Lebanese amendment (E/CN.4/L.96/Rev.1) with the following oral changes: the insertion of the words "when applicable" between commas, after the words "parents and . . ."; the insertion of the word "legal" between the words "the" and "guardians"; the substitution of the phrase "such minimum educational standards as may be laid down" in place of "the minimum educational standards prescribed"; and the substitution in the French text of "liberté . . . de choisir" in place of "droit . . . de choisir". A United Kingdom oral amendment that the phrase included in the United Kingdom amendment to article 28 (E/CN.4/L.85/Rev.1), "send their children at their own expense to", should be substituted for the words "choose for their children", was rejected by 7 votes to 3, with 7 abstentions. Paragraph 3 of the Lebanese amendment was then voted on in parts: the words "the" and "of orphans" in the phrase "and the guardians of orphans" were rejected by 4 votes to 3, with 11 abstentions; the words "and, when applicable, legal guardians" were adopted by 6 votes to 2, with 10 abstentions; the word "religious" was adopted by 12 votes to 1, with 5 abstentions. Paragraph 3 of the Lebanese amendment as a whole and as amended was adopted by 17 votes to none, with 1 abstention. It read: "In the exercise of any functions which they assume in the field of education, the States Parties to the Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools other than those established by the public authorities which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious education of their children in conformity with their own convictions."

123. The article as a whole and as amended was adopted by 9 votes to 5, with 4 abstentions and forms article 14 in annex IA.

Article 15 (Plan for implementing compulsory primary education)

124. Article 29 as drafted at the seventh session and the United Kingdom proposal for its deletion (E/CN.4/L.88) were discussed by the Commission during its 291st, 292nd and 295th meetings. It was argued in favour of deletion that article 29 accentuated the lack of balance existing between the drafting of the provisions on educational rights and the drafting of the articles on economic and social rights, which might have the effect of detracting from the importance of planning in fields relating to the latter. It was also maintained that the article provided in reality for a special measure of implementation for one aspect of one right, whereas many members of the Commission thought that implementation should be dealt with in a general article. The articles being drafted should merely set out general objectives which States should seek to attain. Many States would find difficulty in specifying the number of years within which free and compulsory primary education could be provided, and it would be impossible to bind States to implement plans within the time limit specified by them. The matter was said, furthermore, to be one for UNESCO to deal with. On the other hand, attention was drawn to the many provisions of the article which gave it its very elastic character and it was argued that education, particularly primary education, should not be made subject only to an obligation to take steps to achieve progressive development; that UNESCO itself favoured the retention of the article; and that its deletion would run counter to the General Assembly's desire that articles should be strengthened.

125. At its 295th meeting, the Commission adopted separately the words "within two years" by 11 votes to 3, with 3 abstentions; the word "progressive" by 7 votes to 5, with 6 abstentions; and the article as a whole by 12 votes to 5, with one abstention. The article read: "Each State Party to the Covenant which, at the time of becoming a party to this Covenant, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number

of years, to be fixed in the plan, of the principle of compulsory primary education free of charge for all". The text appears as article 15 in annex IA.

Article 16 (Rights relating to culture and science)

126. Article 30, as drafted at the seventh session, was considered during the 292nd to 294th meetings. Members generally favoured the inclusion of a provision preserving the freedom of scientific research and creation. Some members deemed it essential to complete the article by adding a provision to the effect that States undertook to ensure the development of science and culture in the interests of progress and democracy and in the interests of ensuring peace and co-operation among nations. Most members, however, were opposed to including a statement of the ends which scientific research should serve, on the grounds that scientific research by its nature was independent of any external criterion and that a statement of aims such as that envisaged might provide a pretext for State control of scientific research and creative activity. A proposal for the addition of a provision for the protection of rights deriving from scientific, literary or artistic productions was opposed by a majority of members, and it was pointed out that the matter was properly being dealt with by UNESCO, that it could not adequately be treated in a short provision and that authors' rights had to be considered in the light of the claims of the community and of the world at large.

127. Voting took place at the 294th meeting. The Commission rejected by 7 votes to 6, with 4 abstentions, the French amendment (E/CN.4/L.104), moved as a new sub-paragraph to paragraph 1 of a United States amendment (E/CN.4/L.81/Rev.1), under which States parties would recognize the right of everyone to protection of the moral and material interests resulting from any scientific, literary or artistic production of which he was the author. It also rejected by 10 votes to 6, with 1 abstention, an amendment by Poland contained in paragraph 1 of document E/CN.4/L.107, moved orally to replace paragraph 2 of the United States amendment (E/CN.4/L.81/Rev.1), under which States parties would undertake to encourage by all appropriate means the conservation, development and diffusion of science and culture. It rejected by 12 votes to 4, with 1 abstention, an oral proposal by Poland for the addition of a new paragraph 4 to the United States amendment, based on the text of the USSR amendment (E/CN.4/L.52), under which States parties would undertake to ensure the development of science and education in the interests of progress, democracy and the maintenance of peace and co-operation among peoples. It adopted by 14 votes to none, with 3 abstentions, the United States amendment (E/CN.4/L.81/Rev.1), incorporating an amendment by Lebanon (E/CN.4/L.105/Rev.1) and reading:

"1. The States Parties to the Covenant recognize the right of everyone:

"(*a*) To take part in cultural life;

"(*b*) To enjoy the benefits of scientific progress and its applications.

"2. The steps to be taken by the States Parties to this Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

"3. The States Parties to the Covenant undertake to respect the freedom indispensable for scientific research and creative activity."

128. This text appears as article 16 in annex IA.

Article 11 (Right to adequate food, clothing and housing)

129. At the 294th and 295th meetings, the Commission considered article 23 as drafted at its seventh session. The representative of the United Kingdom changed his proposal for the deletion of article 23 (E/CN.4/L.83) into a motion that no decision should be taken on the substance of article 23. He argued that the right to adequate housing was included in the concept of an adequate standard of living, which was the subject of article 24 and was also covered by other articles adopted at the seventh session, particularly article 25, and that to make separate provision for housing would throw doubt on the scope of article 24. Other members argued that article 23 should be preserved and that the special importance of food and clothing should also be recognized therein. Some members urged the adoption of a text whereby States parties would undertake all necessary measures, particularly by legislation, to ensure to everyone a dwelling consistent with human dignity on the grounds that the general article as adopted at the 275th meeting was insufficient to cover the needs of the situation.

130. The United Kingdom proposal was rejected, at the 295th meeting, by 14 votes to 4. The Commission adopted by 9 votes to none, with 6 abstentions, an amendment by China (E/CN.4/L.57) to add the words "food, clothing and . . ." before "housing" in article 23; and rejected by 11 votes to 6, with 1 abstention, an amendment by the USSR (E/CN.4/L.48), under which States parties would undertake to adopt all necessary measures, particularly by legislation, to ensure to everyone a dwelling consistent with human dignity. The article as amended was adopted by 14 votes to none, with 4 abstentions, and appears as article 11 in annex IA.

Article 12 (Right to an adequate standard of living)

131. At its 295th meeting, the Commission unanimously adopted article 24 as drafted at its seventh session, reading: "The States Parties to the Covenant recognize the right of everyone to an adequate standard of living and the continuous improvement of living conditions." This text appears as article 12 in annex IA.

Article 13 (Right to health)

132. Article 25 as adopted at the seventh session was considered at the 295th and 296th meetings. The introduction of a definition of health, derived from the Constitution of the World Health Organization was opposed on the grounds that such definitions were unusual in the articles which were being drafted and that the reference to "social well-being" was out of place in the present article. It was defended on the grounds both of its origin and of its intrinsic worth as representing a new and valuable idea. It was proposed that provisions for action to be taken by States parties should be introduced by the words "The steps to be taken by the States Parties to the Covenant to achieve the full realization of this right shall include those necessary for", in order to make the article subject to the general article adopted at the 275th meeting, it being argued

that a repetition of provisions on the lines of the general article in subsequent articles was redundant and would weaken that article and so the entire covenant. The wording just quoted was said by some members to be weaker than the undertaking contained in article 25, and they felt that the latter was to be preferred.

133. At its 296th meeting the Commission first adopted, by 9 votes to 7, with 2 abstentions, an amendment by Uruguay (E/CN.4/L.109, para. 1), orally amended, to add the words (derived from the Constitution of the World Health Organization) "realizing that health is a state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity", after the word "Covenant" at the beginning of the United States amendment (E/CN.4/L.79/Rev.1). That phrase of the United States amendment was the same as the opening paragraph of article 25, and read: "The States Parties to the Covenant recognize the right of everyone to the enjoyment of the highest standard of health obtainable." The Commission agreed to substitute the words "highest attainable standard of health" for "highest standard of health obtainable". It then adopted in parts the following text proposed by the United States (E/CN.4/L.79/Rev.1) for the remainder of the article:

> "The steps to be taken by the States Parties to the Covenant to achieve the full realization of this right shall include those necessary for:
>
> "(*a*) The reduction of infant mortality and the provision for healthy development of the child;
>
> "(*b*) The improvement of nutrition, housing, sanitation, recreation, economic and working conditions and other aspects of environmental hygiene;
>
> "(*c*) The prevention, treatment and control of epidemic, endemic and other diseases;
>
> "(*d*) The creation of conditions which would assure to all medical service and medical attention in the event of sickness".

134. The opening wording was adopted on a roll-call by 10 votes to 6, with 2 abstentions;[19] sub-paragraph (*a*) was adopted by 12 votes to none, with 3 abstentions; sub-paragraph (*b*) by 12 votes to none, with 5 abstentions; sub-paragraph (*c*) by 15 votes to none, with 3 abstentions; sub-paragraph (*d*) on a roll-call vote by 11 votes to 5, with 2 abstentions.[20] The text of the article as a whole, as amended, was adopted by 15 votes to none, with 3 abstentions. The text appears as article 13 in annex IA.

Article 10 (Rights relating to motherhood and childhood and to marriage and the family)

135. At the 296th-298th meetings article 26 as adopted at the seventh session was considered. It was proposed that special protection should be accorded to "motherhood", not merely to "maternity"; in other words; protection should extend over the whole period of the mother's responsibility for the development of the child during its early years. On the other hand, some felt the expression "motherhood" too vague and maintained that the general rights of mothers were covered by the article adopted on social security. A proposal that special measures of protection taken on behalf of children and young persons should be applied normally, or in all appropriate cases, "within and with the help of the family", gave rise to some debate as to the extent to which the State on the one hand and the family on the other should have responsibility in such matters. Proposals aimed at making the unlawful use of child labour a penal offense were supported on the grounds of the persistence of exploitation of child labour; it was added that not all types of unlawful use of child labour were at present necessarily also penal offences. Some members pointed out the difficulties arising from the varying interpretations of the word "child" in different countries and the difficulty of deciding what types of labour to declare unlawful. Measures on behalf of maternity and motherhood which, under one proposal, would be obligatory on States parties, included the granting to gainfully employed women of paid holidays before and after confinement, and special State assistance to mothers of large families and to unmarried mothers. The opinion was expressed on the other hand that such measures were neither the only nor the most essential measures in that field; that they fell within the sphere of social security which had been treated in another article; and that the obligations of States under this article should be those provided for in the general article adopted at the 275th meeting.

136. A proposal stating the family to be the basis of society and entitled to the widest possible protection, and stating it to be based on marriage, "which must be entered into with the free consent of the intending spouses", was approved by most members, though the opinion was expressed that it was out of place in the present article and that the provisions relating to marriage should be included in the covenant on civil and political rights.

137. Voting took place at the 298th meeting. The Commission rejected by 8 votes to 7, with 3 abstentions, the first sentence of paragraph 1 of an amendment of the Soviet Union (E/CN.4/L.49/Corr.1), providing that the special protection to be accorded to maternity and motherhood should be ensured, in particular, by granting gainfully employed women special paid holidays before and after confinement at the charge of the State or the employer. It rejected the second sentence — that mothers of large families and unmarried mothers should be given State assistance, in particular by payment of allowances and by the organization of a system of pre-school institutions for children — by 9 votes to 3, with 6 abstentions. A joint amendment by Chile and Yugoslavia (E/CN.4/L.112) to an amendment by Sweden (E/CN.4/L.77/Rev.1), inserting "motherhood and particularly to" between "to" and "maternity", was adopted by 8 votes to 5, with 5 abstentions. The Swedish amendment (E/CN.4/L.77/Rev.1), thus amended, was adopted unanimously. The article, to the end of paragraph 1, consequently read: "The States Parties to the Covenant recognize that:

> "1. Special protection should be accorded to motherhood and particularly to maternity during reasonable periods before and after childbirth; and".

[19] *In favour:* Australia, Belgium, China, France, Greece, India, Lebanon, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Against: Chile, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.
Abstaining: Egypt, Pakistan.

[20] *In favour:* Australia, Belgium, China, France, Greece, India, Lebanon, Pakistan, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Against: Chile, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay.
Abstaining: Egypt, Yugoslavia.

138. The USSR representative proposed the insertion of the words "by the States Parties to the Covenant" after the word "taken" in a French amendment (E/CN.4/L.74/Rev.2) to paragraph 2 of the article. The proposal was rejected by 9 votes to 6, with 3 abstentions. The phrase "in all appropriate cases within and with the help of the family" in the French amendment was adopted separately by 14 votes to none, with 4 abstentions; and the entire French amendment, with the deletion, proposed orally, of "that" before "in particular", was adopted by 15 votes to none, with 3 abstentions. It read: "Special measures of protection, to be applied in all appropriate cases within and with the help of the family, should be taken on behalf of children and young persons, and in particular they should not be required to do work likely to hamper their normal development." The Commission adopted by roll-call an amendment of the Soviet Union (E/CN.4/L.49/Corr.1, paragraph 2), by 9 votes to 7, with 2 abstentions,[21] to add to paragraph 2 of the article the words: "To protect children from exploitation, the unlawful use of child labour and the employment of young persons in work harmful to health or dangerous to life should be made legally actionable."

139. The first sentence of an amendment by Belgium (E/CN.4/L.113) to add a new paragraph to the article was adopted by 14 votes to 3, with 1 abstention, and the second sentence by 13 votes to 3, with 2 abstentions. The amendment as a whole was adopted by 13 votes to 3, with 2 abstentions, forming paragraph 3 of the article and reading: "The family, which is the basis of society, is entitled to the widest possible protection. It is based on marriage, which must be entered into with the free consent of the intending spouses." The text of article 26, as thus amended, was adopted by 15 votes to none, with 3 abstentions, and appears as article 10 in annex IA.

Article 8 (Trade union rights)

140. Article 27 as adopted at the seventh session was considered during the 298th to 300th meetings. There was some discussion as to whether trade union rights should be treated in the present covenant or in that on civil and political rights: on the one hand, it was claimed that they were an aspect of the right of association; and, on the other, the direct relevance of article 27 to economic and social matters was pointed out. The possibility was mentioned of including an appropriate article in both covenants. The majority of members accepted the view that it was possible to require States parties to "ensure" the free exercise of the right to form and joint trade unions, it being argued that that right could not be made subject to the "progressive" principle enunciated in the general article since non-interference by States with trade unions was alone needed to grant the right. Stress was placed on the importance of ensuring the "free" exercise of the right without State interference. A number of provisions were proposed elaborating the ways in which trade union rights could be protected by the covenant; these were subjected to some criticism, partly on the ground that they fell within the competence of the ILO and overlapped with its work. Included among the proposals were provisions relating to the right to strike, which was said to be vital for the protection of the economic and social rights of workers. Some members pointed out that striking was only one method among many whereby trade unions could pursue their interests, its character as a last resort being stressed; and a provision to permit the possibility of its limitation in the case of public services was proposed. On the question of the limitation of the entire subject matter of the article, the opinion was expressed that the effect of the words "in conformity with article 16" in article 27 as drafted at the seventh session should be preserved, in view of the valuable definition of the limitation of the right of association contained in paragraphs 2 and 3 of article 16 (present article 18 of the draft covenant on civil and political rights). On the other hand, it was argued that it was not possible to make one covenant refer to a provision in another, particularly to a provision not yet considered, and that the present covenant would in any case contain a general limitations article applicable to the entire covenant.

141. At its 300th meeting the Commission rejected, by 10 votes to 8, part I of an amendment by Chile (E/CN.4/L.162/Rev.1) to an amendment of the Soviet Union (E/CN.4/L.50/Rev.1), for the insertion of a provision against discrimination as to nationality, race, religion, sex, occupation, or political or philosophical convictions in the ensuring to everyone of the free exercise of trade union rights. It adopted unanimously paragraph 1 of the USSR amendment, with an amendment thereto by Lebanon (E/CN.4/L.111, as orally amended) accepted by the sponsor. The whole text read: "The States Parties to the Covenant undertake to ensure the free exercise of the right of everyone to form and join local, national and international trade unions of his choice for the protection of his economic and social interests." The Commission then rejected the remainder of the USSR amendment, and certain amendments thereto as follows: paragraph 2 of the USSR amendment, to guarantee trade union rights to all wage-earners without distinction as to nationality, race, religion, sex, occupation or political or philosophical convictions (by 11 votes to 5, with 2 abstentions); part II of the Chilean amendment, replacing paragraphs 3 and 4 of the USSR amendment and, *inter alia*, providing expressly that trade unions should not be liable to dissolution or suspension by administrative authority (by 9 votes to 7, with 2 abstentions); paragraph 3 of the USSR amendment, to prohibit all regulations directed against the rights of trade unions and the right of wage-earners and employees to join trade unions (by 11 votes to 3, with 2 abstentions); paragraph 4 of the USSR amendment, to preserve the rights of trade unions to elect their representatives, organize their administration and discharge their functions and tasks democratically in the interests of their members, without interference or pressure from public authorities or officials (by 11 votes to 4, with 3 abstentions); the first sentence of an amendment by Uruguay (E/CN.4/L.118), permitting the right to strike to be restricted to circumstances where attempts at conciliation had been exhausted (by 8 votes to 4, with 6 abstentions) and the second sentence, permitting that right to be restricted by legislative measures in the case of public

[21] *In favour:* Egypt, India, Lebanon, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.
Against: Australia, Chile, China, France, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: Belgium, Greece.

officials (by 8 votes to 3, with 7 abstentions); paragraph 5 of the amendment of the Soviet Union, to guarantee the right to strike (on a roll-call by 11 votes to 6, with 1 abstention);[22] the first part of paragraph 6 of the USSR amendment, to the word "enterprises", requiring the enactment of legislative measures permitting trade unions to participate in framing economic and social policy "in enterprises and at the local, regional and national levels" (by 10 votes to 4, with 4 abstentions, in view of which result the remainder of the paragraph was not voted on); paragraph 7 of the USSR amendment, to preserve the right of trade unions to amalgamate at all levels, including the international (by 11 votes to 4, with 3 abstentions); and paragraph 8 of the USSR amendment, to require that no one might prevent international trade union organizations from discharging their functions and from communicating with organizations affiliated to them (on a roll-call by 10 votes to 4, with 4 abstentions.)[23] The Commission then adopted the article as a whole, as amended, by 12 votes to 2, with 4 abstentions. The text appears as article 8 in annex IA.

Article 3 (Equal rights of men and women)

142. The Commission discussed at its 301st and 302nd meetings article 31 as adopted at its seventh session, reading: "The States Parties to the Covenant recognize the equal right of men and women to the enjoyment of all economic, social and cultural rights and particularly those set forth in this Covenant." A proposal for the deletion of the article was made on the grounds that the rights of women to the enjoyment of economic, social and cultural rights were protected by paragraph 1 of the general article, which had not existed at the time of drafting article 31, and by the use of the word "everyone" in various articles. Repetition of the principle of non-discrimination in relation to sex would weaken the general prohibition of all types of discrimination in paragraph 2 of the general article. On the other hand it was pointed out that the General Assembly, in resolution 421 E (V), had decided to include in the covenant an explicit recognition of equality of men and women in related rights, and it was argued that there was special reason for providing for non-discrimination on grounds of sex because of the universality of that type of discrimination and the lack of a universal recognition of the principle of equality of the sexes. It was added that article 31 was not a mere repetition of paragraph 2 of the general article, but was wider in scope, since it covered all economic, social and cultural rights and not merely those contained in the covenant. Other members claimed, however, that the article, if maintained, should not in fact go beyond providing for equality in respect of the rights set forth in the covenant; it was entirely unclear what the other economic, social and cultural rights would be in respect of which article 31 recognized equality. The use of the word "recognize" in article 31 might make that article subject to the provisions of paragraph 1 of the general article and it was therefore proposed that that word should be replaced by the words, "undertake to guarantee".

143. At its 302nd meeting, the Commission acted first on an oral amendment of Chile to replace "recognize" by "undertake to guarantee", and a United States sub-amendment to replace "guarantee" by "ensure". The United States sub-amendment was adopted by 8 votes to 3, with 6 abstentions, and the Chilean amendment thus modified was adopted by 10 votes to 3, with 5 abstentions. The Commission next adopted on a roll-call the amended article down to the word "rights" by 12 votes to 4, with 2 abstentions.[24] It then rejected the words "and particularly of those" on a roll-call by 9 votes to 8, with 1 abstention,[25] and adopted the remaining words "set forth in this Covenant" by 8 votes to 2, with 8 abstentions. The article as a whole as amended was adopted on a roll-call by 10 votes to 3, with 5 abstentions,[26] and appears as article 3 in annex IA.

Proposed article on the right to own property

144. A draft article on the right to own property, proposed by France (E/CN.4/L.66 and Rev.1) was considered during the 302nd and 303rd meetings. It read in its revised form:

> "The States Parties to this Covenant undertake to respect the right of everyone to own property alone as well as in association with others.
>
> "This right shall be subject to the laws of the country in which the property owned is situated.
>
> "Expropriation may not take place except in cases of public necessity or utility in circumstances defined by law and subject to fair compensation."

145. In support of the text proposed, it was pointed out that the right to own property had been included in the Universal Declaration of Human Rights (article 17) and that the proposed text recognized both the fact that individual ownership of property must be dependent on the requirement of society and the need for compensation in the event of expropriation. The use of the words "undertake to respect the right . . ." ensured that the article would not be subject to the provisions of paragraph 1 of the general article, relating to progressive realization, but would be implemented immediately.

146. The text proposed was subjected to critical examination from a number of points of view. It was

[22] *In favour:* Chile, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.
Against: Australia, Belgium, China, Egypt, France, Greece, India, Lebanon, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: Pakistan.

[23] *In favour:* Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.
Against: Australia, Belgium, China, Egypt, France, Greece, Lebanon, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: Chile, India, Pakistan, Uruguay.

[24] *In favour:* Chile, China, Egypt, Greece, India, Lebanon, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.
Against: France, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: Australia, Belgium.

[25] *In favour:* Chile, Lebanon, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.
Against: Australia, China, Egypt, France, Greece, India, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: Belgium.

[26] *In favour:* Chile, Egypt, Greece, Lebanon, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.
Against: Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: Australia, Belgium, China, France, India.

asked whether the second paragraph of the article referred only to immovables or also to movables. With regard to the third paragraph, it was pointed out that the amount of compensation to be paid was left entirely to the State to decide. The representative of Belgium proposed (E/CN.4/L.165) that payment of "fair compensation in advance" should be required. Some felt it inadmissible that an international instrument should protect the right to own property unconditionally; the individual's fundamental right to property extended no further than to a right to own property needed for a livelihood and for his development in society. The representatives of Poland, the Ukrainian SSR and the Soviet Union felt that the question of "fair compensation" fell within the domestic jurisdiction of States, and that the very concept of "fair compensation" was rather vague and depended on a variety of interpretations in accordance with concrete cases, and might well be used as a formal pretext for continuing to enjoy illegal privileges based on unfair treaties, or as an excuse for the enslavement of economically underdeveloped countries. (On the request of the three members mentioned, this statement of their views was inserted in the report.) The provision proposed by the representative of France was also said to run counter to the article which the Commission had adopted on the right of self-determination in so far as it related to the permanent sovereignty of the peoples over their natural wealth and resources.

147. Finally the Commission decided, by 12 votes to 4, with 2 abstentions, to adjourn the debate on the item under rule 45 of the rules of procedure.

Provisions proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities

148. At its 303rd meeting, the Commission considered recommendations I and II proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities for inclusion in the draft covenant on human rights (E/CN.4/641, annex II). The first was a provision on non-discrimination in respect of governmental licensing arrangements, and the second a provision on measures for the protection of ethnic, religious or linguistic minorities. The Commission agreed to take no action on recommendation I, as it considered that the question was covered by the general article of the covenant on economic, social and cultural rights, and agreed that recommendation II should be left open for consideration in connexion with the covenant on civil and political rights.

Article 5 (Limitations article preserving existing standards of human rights)

149. The Commission at its 303rd to 306th meetings considered a proposal by the representative of France (E/CN.4/L.67 and Rev.1) for a new article containing 2 paragraphs, modelled on article 18 (present article 4 of the draft covenant on civil and political rights) of the draft covenant contained in the report of its seventh session. The discussion on the proposal concerned mainly paragraph 2 which, in the revised French proposal, read: "Nothing in this Covenant may be interpreted as abridging or permitting derogation from any fundamental rights or freedoms which may be exercised or guaranteed under the law of any Contracting State or any Convention to which it is a party".

150. Members of the Commission favouring the inclusion of some such provision maintained that the covenant ought to include a provision relating to the problem of possible conflicts between the covenant and the laws of a contracting State and other international instruments binding upon it. It was pointed out that it was necessary to provide that, with regard to more far-reaching legislation which States parties might have or more liberal conventions to which they were parties, the corresponding provisions in the covenant would not affect such laws or violate such conventions where the provisions involved were more advanced than those in the covenant. The proposed paragraph would prohibit limitation or reduction of rights and freedoms already enjoyed on the grounds that they were enjoyed to a greater extent than was provided for in the covenant and, if they were less advanced, then the provisions of the covenant would prevail.

151. Opposition to the inclusion of such a provision was voiced by certain members who thought it inconceivable that any State ratifying the covenant would use it as a pretext to abridge the rights and freedoms already exercised or guaranteed within its territory if the covenant should impose lesser obligations in a particular sphere. Moreover, the provision would nullify paragraph 3 of the article on the right of self-determination, relating to permanent sovereignty of the peoples over their own natural wealth and resources. It was also argued that such a clause would allow States which did not agree with certain provisions of the covenant to avoid any obligations imposed on them.

152. A proposal for the exclusion from the operation of the proposed paragraph of such existing provisions as were contradictory to the provisions and spirit of the covenant and the Charter of the United Nations was supported by some members on the ground that in no circumstances should existing laws, conventions, regulations or custom take precedence over the provisions of the covenant and the Charter and thus prevent progress towards greater enjoyment of human rights. It was contended by others that laws and conventions which guaranteed a fundamental human right could not possibly be in contradiction to either the covenant or the Charter, and that the proposed paragraph could not be invoked in support of any legal provisions directed to the limitation or suppression of the rights.

153. The various proposals were voted on at the 306th meeting. The Commission adopted unanimously the first part of paragraph 1 of the draft article proposed by France (E/CN.4/L.67/Rev.1), namely, the words "Nothing in this Covenant may be interpreted as implying for any State, group or person, any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein". The next words, "or at their limitation", were adopted by 17 votes to none, with 1 abstention. The final words, "to a greater extent than is provided for in this Covenant", were adopted by 13 votes to none, with 5 abstentions. Paragraph 1 as a whole was adopted by 15 votes to none, with 3 abstentions.

154. The Commission then voted on paragraph 2. An amendment by Chile (E/CN.4/L.169), incorporating some drafting changes as well as an amendment by Poland (E/CN.4/L.172), read as follows: "No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country

by virtue of law, conventions, regulations or custom, if they are not contradictory to the provisions and spirit of the present Covenant and the Charter of the United Nations, shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent". The words "if they are not contradictory to the provisions and spirit of the present Covenant and the Charter of the United Nations", which had constituted the Polish amendment, were voted on separately by roll-call and rejected by 9 votes to 6, with 3 abstentions.[27] The rest of the amendment of Chile was adopted in a roll-call vote by 12 to 5, with 1 abstention.[28] The Commission adopted the draft article proposed by France as a whole, as amended, by 13 to none, with 5 abstentions. The text appears as article 5 in annex IA.

Article 4 (General limitations article)

155. During the 306th to 308th meetings, the Commission considered article 32 as drafted at the seventh session. Discussion centred around the question whether there was any need to have a general limitations article and, if so, whether the present article was adequate.

156. Members who supported the retention of article 32 recognized that the general limitations article provided for the progressive realization of the rights enunciated therein. The rights in the various articles were drafted, however, in broad general terms, the practical implementation of which required specification of limitations, which should be neither too broad nor too narrow, as States would have to regulate and determine the scope of the rights. Otherwise, States would be free to limit them arbitrarily in any manner they chose. The provisions of the general article should, in their view, relate only to the general level of attainment of the rights and should not be invoked by States as grounds for detailed limitations on them. The general article did not indicate when limitations could be legitimate and it was necessary to state clearly that limitations would be permissible only in certain circumstances and under certain conditions. In the case of articles relating to political and civil rights the case was different; some of those rights contained no limitations as they were themselves of a limiting character, while others contained specific limitations. It was not feasible to treat economic, social and cultural rights in the same way, since these were recognized in broad terms and a list of specific limitations would necessarily be incomplete. At the same time, some members were of the opinion that article 32 ought to contain a reference to respect for the rights and freedoms of others and the just requirements of morality and public order. There was, in their view, an absolute necessity for harmonizing the rights of individuals on the one hand and the rights of others and the requirements of the life of the community on the other hand. Certain representatives pointed out that the difficulty arising out of a possible conflict between such limitations and the provisions of paragraph 3 of the article on the right of all peoples and nations to self-determination, was not so much an argument against a general limitations clause as against the article on the right to self-determination.

157. Those members who were opposed to the inclusion of such an article, or to the widening of article 32, pointed out that an article on general limitations was superfluous since the provisions of the draft covenant on economic, social and cultural rights were already limited by the general article of that covenant. General limitations would be open to varying interpretations and would tend to weaken and destroy the binding force of the provisions of the covenant. The rights drawn up were not guaranteed but merely recognized in broad terms. The nature of the obligations and the manner of enunciating the rights made limitations generally unnecessary except in a case such as that of the article on trade union rights (Article 8 of the draft covenant on economic, social and cultural rights in annex IA), where a trade union's responsibility as an organization had to be recognized. The covenant established merely the necessary minimum and such considerations as morality, public order and rights and freedom of others were more relevant to civil and political rights than to economic, social and cultural rights. The examination of each article demonstrated that there was no need for a general limitations clause. Moreover, the question of the rights and freedoms of others was fully covered in paragraph 1 of article 5, adopted at the 306th meeting. Some expressed the view that there was no more reason to limit certain economic, social and cultural rights than civil and political rights and that if necessary the Commission should examine every article in the draft covenant on economic, social and cultural rights and set forth the limitations to each right. It was feared that States might invoke allegedly acquired rights in order to thwart the implementation of the right of peoples to self-determination and to the control of their natural resources; and concepts such as public order or prevention of disorder, which were open to broad interpretations, might easily nullify the whole concept of self-determination.

158. Certain members pointed out that it would be impracticable at that late stage to study each of the articles anew with a view to specifying limitations thereon. Others contended that they had voted on the articles upon the understanding that there would be a general limitations clause in the covenant. Some members considered that there was no need to change the text of article 32, while others reserved their right to reopen the whole question of the inclusion of such a clause at a later stage.

159. At the 308th meeting, the USSR representative proposed that the Commission should first vote on whether to include a general limitations clause in the covenant. The Commission decided by a roll-call vote of 9 to 8, with 1 abstention, to include a general limitations clause.[29] The proposal of the USSR representa-

[27] *In favour:* Chile, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.
Against: Australia, Belgium, China, France, Greece, Lebanon, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: Egypt, India, Pakistan.

[28] *In favour:* Belgium, Chile, Egypt, Greece, Lebanon, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United States of America, Uruguay, Yugoslavia.
Against: Australia, France, India, Sweden, United Kingdom of Great Britain and Northern Ireland.
Abstaining: China.

[29] *In favour:* Australia, Belgium, China, France, Greece, India, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Against: Chile, Egypt, Lebanon, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.
Abstaining: Uruguay.

tive that under rule 61, paragraph 3, the Commission should take no decision on the substance of article 32, was rejected in a roll-call vote by 8 to 7, with 3 absentions.[30] The motion of the representative of Chile to adjourn the debate on the item until 28 May 1952 was rejected by 8 votes to 7, with 3 abstentions, and the motion of the Soviet Union under rule 45 to adjourn the debate on the item under discussion was rejected by 9 votes to 7, with 2 abstentions. The motion of the representative of the Ukrainian SSR to adjourn the meeting under rule 49 was rejected by 11 votes to 3, with 4 abstentions.

160. The Commission then proceeded, at the 308th meeting, to vote by roll-call on the various parts of article 32. The first part, ending with the words "determined by law", was adopted on a roll call by 10 votes to 8.[31] The words "only in so far as this may be compatible with the nature of these rights", and the rest of the article, were voted on separately by roll-call and each adopted unanimously. Article 32 as a whole was adopted in a roll-call vote by 10 votes to 6, with 2 abstentions.[32]

Preamble

161. At its 308th meeting, the Commission discussed a proposal for a preamble to the draft covenant on economic, social and cultural rights by Chile and Yugoslavia (E/CN.4/L.167), together with an amendment thereto by Australia and Sweden (E/CN.4/L.171), which was accepted by the sponsors of the proposal. After a number of drafting changes had been agreed upon, the text was adopted unanimously, reading:

"*The States Parties hereto,*

"*Considering* that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

"*Recognizing* that, in accordance with the Universal Declaration of Human Rights, the ideal of free men enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

"*Considering* the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

"*Realizing* that the individual, having duties to other individuals and to the community to which he belongs, is under responsibility to strive for the promotion and observance of the rights recognized in this Covenant,

"*Agree* upon the following articles:"

162. At its 333rd meeting, after the Commission had adopted the preamble to the draft covenant on civil and political rights, it decided unanimously to insert the following paragraph between the second and third paragraphs of the text of the preamble mentioned above: "*Recognizing* that these rights derive from the inherent dignity of the human person".

B. Draft covenant on civil and political rights

163. Besides the general documents mentioned in paragraph 92, the Commission had before it the following documents:

(*a*) Memorandum by the Secretary-General on the general adequacy of the first eighteen articles of the draft covenant (E/CN.4/528 and E/CN.4/528/Add.1);

(*b*) Memorandum by the Secretary-General bringing to the attention of the Commission the recommendations of the international group of experts on the prevention of crime and the treatment of offenders (E/CN.4/523).

164. In its consideration of the draft covenant on civil and political rights, the Commission examined the preamble and parts I (articles 1 and 2) and II (articles 3 to 18) of the draft covenant prepared at its sixth session (E/1992, annex I). At its seventh session, the Commission did not have time to revise these articles in accordance with General Assembly resolution 421 B (V) and Economic and Social Council resolution 349 (XII). By resolution 384 (XIII), the Economic and Social Council had requested the Commission to proceed with this task at its eighth session.

165. Representatives of various specialized agencies took part in the Commission's deliberations: the representative of the World Health Organization participated in the discussion on article 6, dealing with scientific or medical experimentation, and the representatives of the International Labour Office contributed to the discussion on article 7. The representative of the Office of the High Commissioner for Refugees took part in the deliberation on article 11.

166. At its 267th meeting, the Commission agreed that after it had completed the consideration of part III of the covenant as drafted at its seventh session (see paragraphs 101 to 162 above), it would begin its discussion on articles 3 to 18 before taking up articles 1 and 2 and the preamble.

Article 5 (Right to life)

167. The Commission considered article 3 as drafted at its sixth session[33] at its 309th to 311th meetings.

168. *Formulation of the right.* The attitude of a majority of representatives was that the most effective formulation of the right to life would be reached by a simple but categorical affirmation that no one should be arbitrarily deprived of his life and that everyone's right to life should be protected by law. The opinion was also expressed that the Commission should main-

[30] *In favour:* Chile, Egypt, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.
Against: Australia, Belgium, China, France, Greece, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: India, Lebanon, Pakistan.

[31] *In favour:* Australia, Belgium, China, France, Greece, India, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.
Against: Chile, Egypt, Lebanon, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.

[32] *In favour:* Australia, Belgium, China, France, Greece, India, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.
Against: Chile, Lebanon, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.
Abstaining: Egypt, Pakistan.

[33] Throughout this section the numbers of the articles and paragraphs thereof referred to are those of the articles drafted at the sixth session of the Commission and contained in the report on its seventh session, E/1992, annex I.

tain the principle that no one could be deprived of life in any circumstances. The purpose of such an unequivocal guarantee was stated to be that in drafting an article on what was considered to be the most fundamental of all rights, the Commission should not recognize any circumstances in which the taking of life might seem to be condoned. For that reason objections were raised to the wording of paragraph 2 (containing exceptions in case of capital punishment, self-defence or enforcement measures authorized by the Charter) and of certain proposals before the Commission for specifying in general terms, but with as much precision as possible, the circumstances in which the taking of life would not be deemed a violation of the right enunciated in paragraph 1. Such derogations were characterized as an authorization to take life and inappropriate for inclusion in an article affirming and guaranteeing the right of everyone to have his life protected by law. For similar reasons, some representatives expressed strong opposition to any provision in the article that would have the appearance of giving the sanction of the international community to the practice of capital punishment. Some representatives, on the other hand, thought that in the covenant on civil and political rights, where no question of the progressive implementation of the rights declared therein would arise, it was desirable that the Commission should define with as much precision as possible the exact content of the right and the extent of the limitations thereto in order that contracting States should be under no uncertainty about their obligations. It followed from that view that the proper method of drafting the article consisted in a careful specification of the circumstances where the taking of life fell outside the purview of the general obligation that everyone's life should be protected by law. The circumstances that were listed, apart from the instances already mentioned in paragraph 2, were: justifiable action similar to self-defence requiring the use of force; defence of any person from unlawful violence; the effecting of a lawful arrest or the prevention of the escape of a person lawfully detained; action lawfully taken for the purpose of quelling a riot or insurrection; defence of property or the State; and circumstances of grave civil commotion. That view was rejected when the Commission, at its 311th meeting, adopted by 10 votes to 5, with 3 abstentions, a joint amendment proposed by Chile and the United States (E/CN.4/L.176) to the effect that a USSR amendment (E/CN.4/L.122) which read "No one may be deprived of life", should be amended to read as follows: "No one shall be arbitrarily deprived of his life". The Commission then adopted by 12 votes to 4, with 2 abstentions, the first paragraph of the USSR amendment as thus amended.

169. *Laws imposing capital punishment.* The majority of the Commission favoured the retention of a paragraph in article 3 dealing with the imposition of capital punishment, and providing that the laws prescribing that penalty should not be contrary to the Universal Declaration of Human Rights. Other members were opposed to capital punishment in any circumstances. Some representatives expressed the opinion that the Convention on the Prevention and Punishment of the Crime of Genocide should constitute a further yardstick to which national laws allowing the imposition of the death sentence should conform.

170. At its 311th meeting, the Commission adopted, by 13 votes to 2, with 3 abstentions, an amendment by Yugoslavia (E/CN.4/L.179) that the words "or the Convention on the Prevention and Punishment of the Crime of Genocide" should be added at the end of a joint proposal of Chile and the United States (E/CN.4/L.176), originally an amendment to the USSR proposal (E/CN.4/L.122), and later accepted orally by the USSR representative as a modification of paragraphs 2 and 3 of his amendment. Paragraphs 2 and 3 of the joint proposal of Chile and the United States (E/CN.4/L.176), as thus amended, having been accepted, subject to an oral amendment by the representative of the Soviet Union as a modification of paragraphs 2 and 3 of his amendment (E/CN.4/L.122), they were adopted by 14 votes to 1, with 3 abstentions. The effect of the amendment was to qualify the law imposing capital punishment by the phrase "not contrary to the principles of the Universal Declaration of Human Rights or the Convention on the Prevention and Punishment of the Crime of Genocide".

171. *Amnesty.* During the consideration of paragraph 4 of article 3, it was pointed out that the reference to the right of everyone to seek amnesty was infelicitous. While it was proper to speak of the right to seek pardon or commutation of sentence, that right being exercisable by the individual, it was felt that, since an amnesty was a measure decided *proprio motu* by the executive and was in the nature of a collective pardon, it was inappropriate to envisage the seeking of it by an individual person. It was generally agreed, however, that it was appropriate to retain the reference to amnesty in the second sentence, dealing with the granting of amnesty, pardon or commutation of the sentence of death in all cases.

172. At the 311th meeting, the Commission adopted, by 11 votes to 4, with 3 abstentions, an amendment by France (E/CN.4/L.160) to delete the word "amnesty" from the first sentence of paragraph 4 of the USSR amendment (E/CN.4/L.122). The Commission then adopted, by 13 votes to 1, with 4 abstentions, paragraph 4 of the USSR amendment (E/CN.4/L.122) as thus amended.

173. *Prohibition of the execution of sentence of death on pregnant women.* At the 311th meeting the Commission adopted, by 12 votes to 1, with 5 abstentions, an amendment by Yugoslavia (E/1992, annex III, A, article 3, paragraph 4) orally revised to read as follows: "Sentence of death shall not be carried out on a pregnant woman."

174. The article as a whole, as amended, was adopted by 11 votes to 4, with 3 abstentions. (See article 5 of annex IB.)

Article 6 (Prohibition of inhuman and degrading treatment)

175. At its 311th and 312th meetings, the Commission considered article 4.

176. *Medical and scientific experimentation.* Some representatives thought that the evil at which the second sentence of the article was aimed was covered by the general and unconditional prohibition in the first sentence of "torture or . . . cruel, inhuman or degrading treatment or punishment". In their view, the particularization of medical or scientific experimentation in the second sentence could be construed by doctors and others who would be primarily responsible for carrying

out the obligations imposed by the article as a curb on legitimate and even desirable, experimentation or treatment, particularly in cases where circumstances precluded the possibility of obtaining the consent of the person concerned. The prevailing opinion, however, was that the second sentence had no application to such experimentation or treatment, provided that it was carried out with the free consent of the person concerned. Many representatives expressed the view that the wording of the final clause of the sentence showed that the article had no application to persons who were in ill health and that, even if it had, a benevolent interpretation of the wording would ensure that genuine experimentation or treatment of benefit to humanity should not be discouraged. Some representatives considered that difficulties of that kind would be avoided if the second sentence merely contained a simple and emphatic prohibition of medical or scientific experimentation without the free consent of the person concerned. Others felt that approval of any contemplated medical or scientific experimentation by a body of known professional integrity would remove the possibility of curbing legitimate experimentation and, at the same time, ensure that the final determination of the question whether the experimentation was required by the state of physical or mental health of the person concerned was the responsibility neither of the person concerned nor of his medical advisers, but of a disinterested organization. Some representatives attached considerable importance to retaining the notion of risk as a criterion of the medical or scientific experimentation prohibited by the article. The desirability of strengthening the safeguard expressed in the phrase "against his will" also commended itself to many representatives; it was thought that medical or scientific experimentation under that provision could be justified only by adducing some unequivocal and positive act of the person concerned by the exercise of his own free will. The phrase "against his will" was thought to have too negative a connotation to satisfy that requirement, and the expression "with his free consent" was suggested in substitution therefor.

177. The Commission voted on the article at its 312th meeting. A proposal of the United Kingdom (E/1992, annex III, A, article 4) for the deletion of the second sentence was rejected by 9 votes to 5, with 4 abstentions. The Commission adopted by 14 votes to none, with 4 abstentions, an amendment by France (E/CN.4/L.159), as orally amended by the representative of Lebanon, to substitute the phrase "without his free consent" for the expression "against his will". The first part of the second sentence, as thus amended, reading, "In particular, no one shall be subjected without his free consent to medical or scientific experimentation", was adopted by 13 votes to 1, with 4 abstentions. The words, "involving risk", were adopted by 10 votes to none, with 8 abstentions. The final clause of the second sentence, reading "where such is not required by his state of physical or mental health", was adopted by 9 votes to 3, with 5 abstentions. The second sentence was adopted as a whole by 12 votes to 2, with 4 abstentions. The Commission rejected, by 5 votes to 2, with 11 abstentions, the first sentence of an amendment by Yugoslavia (E/1992, annex III, A, article 4) requiring the approval of a higher medical institution designated by law before any scientific or medical experimentation could be carried out. The article as a whole, as amended, was adopted by 14 votes to none, with 4 abstentions. (See article 6 of annex IB.)

Article 7 (Prohibition of slavery and forced labour)

178. The only part of article 5 that was the subject of substantive debate by the Commission in its consideration of that article at its 312th and 313th meetings was the scope of forced or compulsory labour. It was felt by the majority of members that, at least in the French text of paragraph 3 (*c*) (i) and (ii), there were certain difficulties of language. To remedy that defect it was suggested that the first of those provisions should clearly state that what was being excluded from the notion of forced labour was work or service normally demanded by the authorities of persons who were detained in accordance with a lawful order of a court, and that the second part of sub-paragraph (*c*) should define the obligations of conscientious objectors in such a way as to exempt from the scope of forced or compulsory labour any national service required of them by law. Satisfaction with the existing text, at least in the English version, was expressed by some representatives, and it was noted that the proposed new wording of part (ii) of sub-paragraph (*c*) would not make it clear whether the law requiring national service of conscientious objectors was the same law as that which imposed national service of a military character or whether a special law was contemplated.

179. The Commission voted at its 313th meeting. An oral amendment by Chile to remove the quotation marks round the words "hard labour" in sub-paragraph (*b*) was adopted by 8 votes to 6, with 4 abstentions. The first part of an amendment by France (E/CN.4/L.158/Rev.1), orally revised, was adopted by 9 votes to 7, with 2 abstentions; it read as follows: "(*c*) For the purpose of this paragraph, the term 'forced or compulsory labour' shall not include: (i) Any work or service not referred to in sub-paragraph (*b*), normally required of a person who is under detention in consequence of a lawful order of a court". The second part of the amendment, exempting from the scope of forced or compulsory labour "(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors", was adopted by 11 votes to 3, with 4 abstentions. Sub-paragraph (*c*) (iv) of article 5 was adopted by 13 votes to 3, with 1 abstention. The Commission unanimously adopted article 5 as amended. (See article 7 of annex IB.)

Article 8 (Right to liberty and security of the person)

180. At its 313th and 314th meetings, the Commission considered article 6 and amendments thereto.

181. *Formulation of the right.* A majority of members of the Commission were of the opinion that, conformably to the enunciation of many other rights in the covenant, article 6 should open with a declaration of the right with which it was concerned. On the formulation of the succeeding correlative obligations, however, there was considerable divergence of opinion. Some members preferred the categorical but general prohibition contained in paragraphs 1 and 2 of the article to any enunciation of the right, subject to a catalogue of specific exceptions. In their view, a list of exceptions was inappropriate and contrary to previous

decisions of the Commission; the exceptions in themselves were not acceptable to all countries and could lead to abuse, and, in any event, the list could never be exhaustive nor would it be desirable for the Commission to attempt to draw up an exhaustive catalogue. Opposed to that view was the opinion expressed by some representatives that the specification of certain exceptions, limited in number but comprehensive in scope, represented a surer safeguard of the right to liberty and security of person than a mere prohibition of arbitrary arrest, since the term "arbitrary" lacked a precise meaning in many domestic systems of law, and since the Commission itself, at its sixth session, had reached no agreed conclusion as to its meaning. In justification of such specification, reference was made to resolution 421 (V) of the General Assembly, calling upon the Commission to draft the limitations to rights with the greatest possible precision. The former view prevailed when, at its 314th meeting, the Commission adopted by 7 votes to 5, with 5 abstentions, the first sentence of an amendment by Poland (E/CN.4/L.183), that "Everyone has the right to liberty and security of person", as a complete substitution for a United Kingdom amendment (E/CN.4/L.137). The second sentence of the Polish amendment, reading "No one shall be subjected to arbitrary arrest or detention", was adopted by 10 votes to 2, with 5 abstentions, and the third sentence, reading "No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law", by 10 votes to 2, with 5 abstentions. The amendment as a whole was adopted by 7 votes to 6, with 4 abstentions.

182. *Notification of reasons for arrest.* The provision in paragraph 3 of the article that anyone who is arrested should be informed at the time of arrest of the reasons for his arrest were thought by some representatives to cause difficulty when circumstances militated against the strict performance of that obligation; in such case a slight degree of latitude should be allowed, on condition that the person arrested was informed "as soon as may be" of the reasons for his arrest. Other representatives thought that that term might be construed as justifying long delay in informing an arrested person of the reasons for his arrest and that there should be no restriction upon the obligation to inform arrested persons at the time of arrest of the reasons therefor. At the 314th meeting, a proposal by India (E/1992, annex III, A, article 6, paragraph 3) that the words "or as soon as may be" should be inserted after the words "at the time of arrest", was adopted by 6 votes to 5, with 6 abstentions; but, after the Commission had decided by 10 votes to 1, with 6 abstentions, to reconsider the adoption of the amendment of India, the amendment was withdrawn. Paragraph 3 of the article was adopted unanimously.

183. *Release on bail.* Some representatives drew the attention of the Commission to what they considered to be an omission in paragraph 4. Whereas the paragraph provided that release of an accused person on bail could be conditional upon his undertaking to appear for trial, it seemed to take no account of the period after the trial had commenced but before the charge against the accused had been finally disposed of.

184. At the 314th meeting, an amendment by France (E/CN.4/L.151) to an amendment by the United Kingdom (E/CN.4/L.137), orally revised to read "at any other stage of the judicial proceedings", was adopted by 12 votes to 1, with 5 abstentions. The second sentence of the French amendment, orally revised, was put to the vote in the French version, "et, le cas échéant, pour l'exécution de jugement", and adopted by 8 votes to 2, with 8 abstentions. The amendment of the United Kingdom, thus amended, and providing "It shall not be the general rule that persons awaiting trial shall be detained in custody but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings and, should the occasion arise, for execution of the judgment", was adopted by 14 votes to none, with 3 abstentions. Paragraph 4 as amended was adopted unanimously.

185. *Determination of lawfulness of detention.* In the voting on paragraph 5, at the 314th meeting, an amendment by France (E/CN.4/L.151) to replace the words "by which the lawfulness of his detention shall be decided by a court, and his release ordered" by the words "before a court, in order that such court may decide without delay on the lawfulness of his detention and order his release", was adopted by 8 votes to 1, with 9 abstentions. Paragraph 5 as amended was adopted unanimously.

186. *Right to compensation for false arrest or imprisonment.* The view was expressed by some representatives that the present wording of paragraph 6, which referred to "an enforceable right to compensation", prejudged the liability of a defendant in an action for false arrest or imprisonment. In their view, all that could properly be provided for was that a right of action should be available to a person alleging that he had been wrongfully arrested or detained. Some representatives, however, felt that it was useless to guarantee the procedural right of action, unless the substantive right to compensation were also guaranteed.

187. At the 314 meeting, a United States proposal (E/CN.4/L.131) that the words in paragraph 6, "an enforceable right to" should be replaced by the phrase "a right of action for", was rejected by 10 votes to 5, with 3 abstentions.

188. At the same meeting the article as a whole, as amended, was adopted by 15 votes to none, with 2 abstentions. (See article 8 of annex IB.)

Article 9 (Freedom from imprisonment because of inability to fulfil a contractual obligation)

189. There being no proposals for the amendment or deletion of article 7, the Commission, at its 314th meeting, unanimously confirmed, without any substantive discussion, the text that had been adopted at the sixth session. (See article 9 of annex IB.)

Article 10 (Right to liberty of movement)

190. The Commission considered article 8 and the amendments thereto at the 315th and 316th meetings.

191. *Limitations on right to liberty of movement.* The importance of a provision in the covenant on the right to liberty of movement was stressed by many representatives, who regarded such a right as a necessary complement of some of the other rights recognized in the covenant on civil and political rights and in the covenant on economic, social, and cultural rights. Some members considered the right so important that they objected to any proposal for adding to the restrictions

already provided for by the use in the article of the expression, "subject to any general law, consistent with the rights recognized in this Covenant". Others were prepared to accept a formulation of the right that allowed for the imposition of certain restrictions by the State concerned. On the scope of the permissible restrictions, however, there was a divergence of opinion; some representatives were willing to allow a State to enact legislation curtailing the exercise of the right in order to protect national security, public safety, health or morals, the rights and freedoms of others and the general welfare; other representatives objected to the inclusion of any category that, in their view, would, like the expression "general welfare" or even "economic and social well-being", open the door to broad restrictions on the liberty of movement of many persons within the territory of States. A few representatives doubted whether it would serve any useful purpose to include in the covenant a provision on the right to liberty of movement, which they regarded as a secondary right. In their view, it was not possible in modern society for a State to surrender control of the movement of the generality of its citizens; there were so many justifiable exceptions to the right that little of the right itself would remain if it were desired to formulate it in the covenant having regard to actual conditions in all States. Furthermore, it was pointed out that, while few, if any, States could ensure the absolute exercise of the liberty of movement even in their metropolitan territory, there were many circumstances existing in other territories under the control and administration of some States in which the surrender of supervision by the State over the movement of the indigenous inhabitants would have harmful effects on them.

192. The Commission adopted by 12 votes to 2, with 4 abstentions, an amendment of the USSR (E/CN.4/L.123/Corr.1) to add, after the words "subject to any general law" in a United States amendment (E/CN.4/L.132/Rev.2), the words "of the State concerned". Next, by 13 votes to 5, it rejected a United Kingdom amendment (E/CN.4/L.186, point 2) to add "economic or social well-being" to the specification of permissible exceptions to the right set out in the United States amendment (E/CN.4/L.132/Rev.2). It also rejected an oral amendment by France (E/CN.4/SR.315 and 316) to add "general welfare" to the list of permissible exceptions, by 9 votes to 7, with 2 abstentions; and it rejected by 12 votes to 3, with 3 abstentions, a United Kingdom amendment (E/CN.4/L.186, para. 3) to add to the category of permissible exceptions the phrase "or to prevent disorder or crime". Thereupon the Commission voted on the United States amendment, as amended, in parts. The first part, reading "subject to any general law of the State concerned", was adopted unanimously; the second part, reading "national security, public safety, health or morals", was adopted by 12 votes to 2, with 4 abstentions: the third part, reading "or the rights and freedoms of others", was adopted by 10 votes to 7, with 1 abstention; and the words "consistent with the other rights recognized in this Covenant", were adopted by 16 votes to none, with 2 abstentions. The United States amendment, as amended, was adopted in its entirety, by 13 votes to none, with 5 abstentions.

193. The Commission adopted paragraph 1 of article 8, as amended, by 15 votes to none, with 3 abstentions.

194. *Prohibition of exile.* Some representatives opposed the inclusion in the covenant of a provision dealing with exile. They expressed the view that, although sentences of exile should not be encouraged and, indeed, were rarely resorted to as a punishment, it should be recognized that in some circumstances the sentence of exile would be a more humane penalty than certain other severe punishments imposed on convicted persons. It was essential, if a provision on exile were to remain in the covenant, that it should deal with arbitrary exile only. Other representatives said that the covenant should contain an absolute prohibition of exile, which, apart from being objectionable, was an obsolete practice. The Commission decided by 9 votes to 6, with 3 abstentions, to include a provision on exile in the covenant. It adopted by 11 votes to 5, with 2 abstentions, the qualification of exile by the word "arbitrary" in sub-paragraph (*a*) of paragraph 2.

195. *Right to return to one's own country.* Some representatives felt that the expression "of which he is a national", at the end of sub-paragraph (*b*) of paragraph 2, raised difficulties for those States in which the right of persons to return to their own country was determined not by the rules of nationality but by the rules of citizenship or by the idea of a permanent home. It was proposed that that difficulty would be overcome if the expression were to read "his own country". An amendment by Australia (E/CN.4/L.189/Rev.1) to that effect was adopted by 10 votes to 2, with 6 abstentions.

196. Paragraph 2 of the article as amended was adopted by 14 votes to none, with 4 abstentions.

197. At the 316th meeting the Commission adopted the article as a whole, as amended, by 11 votes to none, with 7 abstentions. (See article 10 of annex I B.)

Article 11 (Protection of aliens against arbitrary expulsion)

198. At its 316th, 317th and 318th meetings the Commission discussed article 9.

199. *Formulation of the article.* Some representatives expressed general satisfaction with the wording of article 9, holding the view that it represented a sufficient protection against arbitrary expulsion and that any attempt to particularize the "safeguards which shall in all cases be provided by law" would load the provision with excessive detail, and would at the same time trespass on the province of individual States which alone were competent to decide the procedures to be established for the protection of aliens. A number of other representatives thought that the article, by its reference to "established legal grounds", confused executive with judicial functions and, at the same time, formulated no specific safeguards for aliens threatened with expulsion proceedings. It was essential to formulate such safeguards; only within the compass of protective guarantees was it proper for the individual State to exercise its discretion in regulating the procedure to be followed for dealing with aliens against whom an order for expulsion was contemplated. In urging that view upon the Commission, some representatives contended that the precedent established in article 32 of the Convention relating to the Status of Refugees should be followed in the covenant as closely as possible.

200. The latter opinion was accepted by the Commis-

sion when, at its 318th meeting, it adopted by 8 votes to 3, with 7 abstentions, an amendment by the United Kingdom (E/CN.4/L.141), conforming to article 32 above-mentioned as orally amended during the discussion, to replace article 9 by the following provision: "An alien lawfully in the territory of a State Party hereto may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by and be represented for the purpose before the competent authority or a person or persons specially designated by the competent authority." (See article 11 of annex I B.)

201. *Question of including an article on the right of asylum.* Concurrently with its consideration of article 9, the Commission considered proposals for including in the covenant a provision on the right of asylum, as an additional paragraph to article 9.

202. It was the opinion of the supporters of the proposals not only that asylum was one of the fundamental rights of the human being, but also that its enunciation in the Universal Declaration of Human Rights was a cogent reason for including it among the rights that should be added to the existing catalogue of rights in accordance with the instructions of the General Assembly contained in resolution 421 (V). The right of asylum was the natural corollary of the struggle for the achievement of the rights and freedoms set forth in the covenant itself; it was the complement of the right of peoples to self-determination and of the right to life; and its guarantee against extradition in certain instances was a proper concomitant of the right against arbitrary expulsion already enunciated in article 9. None of the three proposals before the Commission provided that the enjoyment of the right should be conferred on all persons desiring it. In a joint proposal by Chile, Uruguay and Yugoslavia (E/CN.4/L.190/Rev.2), the beneficiaries of the right were declared to be "all persons charged with political offences, and in particular to all persons accused or persecuted because of their participation in the struggle for national independence or political freedom or because of their activities for the achievement of the purposes and principles set forth in the Charter of the United Nations and in the Universal Declaration of Human Rights". In a proposal of the USSR (E/CN.4/L.184), the right was to be guaranteed to "all persons persecuted for their activities in defence of democratic interests, for their scientific work or for their participation in the struggle for national liberation"; however, the USSR proposal specified that the right of asylum could not be granted to persons wanted for prosecution genuinely based on the commission of war crimes or other criminal offences or acts contrary to the purposes and principles of the United Nations. In amendments to those proposals by France (E/CN.4/L.191), it was provided that "everyone has the right to enjoy asylum from persecution". The joint proposal of Chile, Uruguay and Yugoslavia and the amendments by France denied the right respectively to persons alleged to have committed acts contrary to the principles of the Charter of the United Nations or of the Universal Declaration of Human Rights, and to persons wanted for prosecution genuinely arising from offences other than political crimes or from acts contrary to the purposes and principles of the United Nations. The French amendment also stressed the need for international co-operation which was essential for the effective safeguarding of the right of asylum.

203. Opposition to the inclusion in the covenant of an article dealing with the right of asylum was based on a number of grounds. It was stated that there was no fundamental right of the individual to be granted asylum but only a right of the State to extend its protection to him; that it was at once impracticable and undesirable to impose on States the obligation in advance of opening their territory to an unascertainable number of persons who might qualify for asylum under any one of the heads that had been proposed; and that experience in the drafting of the Universal Declaration of Human Rights and of the Final Act of the Conference of Plenipotentiaries on Refugees and Stateless Persons had shown that States were unwilling to surrender their prerogative of deciding in each instance which aliens they would admit to their territory. While many representatives approved the desirability of encouraging the granting of asylum in proper cases and while some considered that it would be fitting to make provision in the covenant for the right of asylum, many doubted whether the terms in which the right had been formulated in the three proposals before the Commission were acceptable or sufficiently precise.

204. Voting on the proposals took place during the 318th meeting. They were all rejected: the amendment of France (E/CN.4/L.191) by 9 votes to 3, with 6 abstentions; the proposal of the USSR (E/CN.4/L.184), as orally revised, by 10 votes to 5, with 3 abstentions; and the joint proposal of Chile, Uruguay and Yugoslavia (E/CN.4/L.190/Rev.2), by 10 votes to 4, with 4 abstentions.

Article 12 (Right to a fair trial)

205. At its 318th, 323rd, and 324th meetings the Commission discussed article 10.

206. *Right to a fair and public hearing.* Some representatives said that the first essential of a fair administration of justice was the recognition of the absolute equality of all persons before the courts and tribunals; flowing from that affirmation was the second basic principle, that justice should be administered in accordance with democratic principles. An express mention of that conception in the first paragraph was favoured by some members, while others preferred that it should act as a check upon the arbitrary application of the permitted limitations and restrictions upon the publicity of trials. Some representatives felt that the specification of instances in which a departure from the rule of public trials would be allowed omitted certain limitations that modern practice in many States found to be justified: among those instances proceedings affecting the interests of the private lives of the parties, proceedings concerning matrimonial disputes, and the guardianship of children, were singled out for special attention. Representatives who opposed such particularization drew attention to the expression "morals", already contained in paragraph 1, and contended that it was comprehensive enough to cover the cases that had been mentioned for inclusion.

207. Voting on the paragraph took place at the 323rd meeting. A USSR amendment (E/CN.4/L.124) was voted on in three parts: the first part, as revised on the

suggestion of the Chairman (E/CN.4/SR.323), reading "All persons shall be equal before the courts and tribunals", was adopted on a roll-call vote by 8 votes to 6, with 2 abstentions (2 absent);[34] the second part, providing that judges should be independent and subject only to the law, was defeated on a roll-call vote by 10 votes to 4, with 3 abstentions;[35] and the third part, to ensure that legal proceedings in all States parties to the covenant should be based on democratic principles, was rejected on a roll-call vote by 11 votes to 4, with 2 abstentions.[36] An amendment by Yugoslavia (E/1992, annex III, A, article 10, paragraph 1) to add the words "a competent" before the words "independent and impartial tribunal", was adopted by 10 votes to 2, with 5 abstentions. An amendment by the United Kingdom (E/CN.4/L.142), to replace the words "public order" by the phrase "the prevention of disorder", was rejected by 10 votes to 6, with 1 abstention. The first part of an amendment by France (E/CN.4/L.154/Rev.2), to add the words "in a democratic society" after the words "morals, public order or national security", was adopted by 9 votes to 7, with 1 abstention. Two further parts of the French amendment (E/CN.4/L.154/Rev.2) were voted on: the first, to replace the words "or where the interests of juveniles so requires" by the words "or where the interest of the private lives of the parties so requires", was adopted by 7 votes to 2, with 9 abstentions; the second, to delete the final words of the paragraph — "but the judgment shall be pronounced publicly except where the interest of juveniles otherwise requires" — and replace them by the words "but any judgment rendered in a criminal case or in a suit at law shall be pronounced publicly except where the interest of juveniles otherwise requires", was adopted by 9 votes to 3, with 6 abstentions. An amendment by the United Kingdom (E/CN.4/L.142), to add the words "or the proceedings concern matrimonial disputes or the guardianship of children", was adopted by 11 votes to 4, with 3 abstentions. The paragraph as amended was adopted in its entirety by 15 votes to none, with 3 abstentions.

208. *Facilities and time for the preparation of defence.* At its 323rd meeting, the Commission unanimously adopted an amendment by the United Kingdom (E/CN.4/L.142) to add to the guarantees for an accused person the right "to have adequate time and facilities for the preparation of his defence".

209. *Minimum guarantees for accused persons — right to legal assistance.* It was argued that the statement in paragraph 2 (*b*), that the accused had not only the right to defend himself in person or through legal assistance of his own choosing, but also the right, if he did not have legal assistance, to be informed of that right, was self-evident and, because of its unsatisfactory formulation, illusory, since it conferred no worthwhile substantive right on an accused person. Other representatives adopted the view that in many countries the right of an accused person to be informed that he could defend himself or be represented by counsel was a valuable procedural right, if not a substantive right, and constituted a surer guarantee for the safeguarding of other rights connected with criminal proceedings. In consequence of the discussion, an amendment by the United Kingdom (E/CN.4/L.142) to delete the reference to the right of accused persons to represent themselves or be represented by counsel was withdrawn.

210. In the voting on sub-paragraph (*b*) at the 323rd meeting, an amendment by India (E/1992, annex III, A, article 10, paragraph 2) to allow free legal assistance to accused persons only where the offence with which they were charged was punishable by death, was rejected by 11 votes to 2, with 5 abstentions.

211. *Minimum guarantees for accused persons — right to examine witnesses.* Although the purpose of sub-paragraph (*c*) was generally accepted as desirable, some representatives expressed dissatisfaction with the formulation of the right. It was said that the wording appeared to guarantee what was not always possible, since no one could force the appearance of a witness who refused to attend or compel a witness to give evidence once he was before the court. All that could properly be expected was that both the prosecution and the defence should have equal access to the process of the court to obtain the attendance and examination of such witnesses as each desired. Other representatives were satisfied with the wording of the sub-paragraph and thought that any new formulation might have the effect of making the exercise of the right by the accused in a particular case dependent upon its exercise by the prosecution in that case.

212. When the Commission voted on sub-paragraph (*c*) at its 323rd meeting, it adopted by 10 votes to 5, with 3 abstentions, an amendment of the United Kingdom (E/CN.4/L.142), that an accused person should have the right "to the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him", instead of merely the right "to obtain compulsory attendance of witnesses in his behalf who are within the jurisdiction and subject to the process of the tribunal".

213. *Minimum guarantees for accused persons — right to interpreter.* Some representatives thought that the wording of sub-paragraph (*d*), though satisfactory as far as it went, did not adequately provide for the rights of accused persons who did not understand the language used by the court. It was not sufficient that the accused should be entitled to the free assistance of an interpreter during the proceedings in court; it was necessary that he should also have that assistance in acquainting himself with all the documentary evidence that might exist in the case. Against that view some representatives said that it was not desirable to go so far, since the accused would be entitled thereby to have access to the evidence that the prosecution might not wish to divulge before the trial.

[34] *In favour:* Chile, Egypt, India, Lebanon, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.
Against: Australia, Belgium, China, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: France, Greece.

[35] *In favour:* Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.
Against: Australia, Belgium, Chile, China, France, Greece, Lebanon, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: Egypt, India, Uruguay.

[36] *In favour:* Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.
Against: Australia, Belgium, Chile, China, France, Greece, India, Lebanon, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: Egypt, Uruguay.

214. In the voting at the 323rd meeting, an amendment by the USSR (E/CN.4/L.124) dealing with the right of accused persons to have the free assistance of an interpreter to acquaint themselves with the documentary evidence in the case was rejected by 6 votes to 4, with 8 abstentions.

215. *Minimum guarantees for accused persons — prohibition against self-incrimination.* Sub-paragraph (*e*) was modified in the English text by the Chairman, with the consent of the Commission, at the 323rd meeting, to read "Not to be compelled to testify against himself, or to confess guilt".

216. *Special provisions for juveniles.* The Commission decided, at the 323rd meeting by 14 votes to 1, with 3 abstentions, to include in the article some provision containing the principle set forth in sub-paragraph (*f*) on the trial of juveniles. It then adopted by 11 votes to none, with 6 abstentions, an oral amendment by India to make sub-paragraph (*f*) a new paragraph 3 in the final text of the article.

217. Paragraph 2, as amended, was adopted unanimously.

218. *Compensation for miscarriage of justice.* Many representatives thought that the wording of paragraph 3 would only cause great uncertainty in its present form and that it contained a principle which, though admirable in itself, was not appropriate for inclusion in the Covenant. The payment of compensation was a matter for the exclusive discretion of the executive, which in many countries made *ex gratia* payments to persons wrongfully convicted, even where, under the terms of paragraph 3, the wrongfully convicted person would not be entitled to compensation. Other representatives said that the right constituted an important remedy for persons whose convictions had been brought about by a miscarriage of justice and that the Commission should not accept proposals designed to make it more difficult for an innocent man to prove a miscarriage of justice in his case. Some of the latter representatives, however, preferred that there should be a judicial reversal of the wrongful conviction before the State was obliged to pay compensation. It was also said that no person should be entitled to compensation if the miscarriage of justice causing his conviction were in any way attributable to his own neglect or misconduct. To that view some representatives replied that it was difficult to conceive of a miscarriage of justice brought about by the neglect or misconduct of this victim. The requirement that the reversal of conviction should be a condition precedent to the payment of compensation was regarded by many representatives as unduly restrictive, and also as requiring, in effect, the payment of compensation in the case of convictions reversed on appeal.

219. The Commission voted on the first part of paragraph 3 at the 323rd meeting. It voted by division on an amendment by the United States (E/CN.4/L.133), orally amended: it adopted by 6 votes to 4, with 7 abstentions, the phrase "his conviction has been reversed, or"; it adopted by 8 votes to 6, with 4 abstentions, the words "his conviction has been reversed, or he has been pardoned"; finally, it rejected by 9 votes to 5, with 4 abstentions, the phrase "through no misconduct or neglect of his". An amendment by France (E/CN.4/L.154/Rev.2) to add the words "unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him", was adopted by 9 votes to 6, with 3 abstentions.

220. *Payment of compensation to the "heirs".* Many representatives considered that the provision in the second sentence of paragraph 3 for the payment of compensation to the heirs of the victim of a miscarriage of justice might cause difficulty, since in at least some legal systems the expression "heirs" was a term of art and would not necessarily refer to the persons who suffered because of the death of the victim of a miscarriage of justice. It was essential, if the paragraph were to be retained, to find an expression that would refer to the persons who were dependent upon the victim. Other representatives were of the opinion that if the sentence were deleted, injustice would be caused since the children of a person wrongfully executed would not be legally entitled to compensation for their parent's death.

221. At its 323rd meeting, the Commission decided by 11 votes to 4, with 3 abstentions, not to include a provision embodying the principle contained in the second sentence of paragraph 3. At its 324th meeting, a proposal that that decision should be reconsidered was not adopted, the vote being 8 in favour, 8 against and 1 abstention.

222. Paragraph 3, as amended, was then adopted by 13 votes to 2, with 2 abstentions.

223. Article 10 as a whole, as amended, was adopted by 14 votes to none, with 3 abstentions, at the 324th meeting. (See article 12, annex IB.)

Article 13 (Prohibition of retroactive criminal legislation)

224. At its 324th meeting the Commission turned its attention to article 11.

225. *Exception to prohibition where subsequent legislation was more favourable to the accused.* General satisfaction was expressed with the first two sentences of the first paragraph of article 11 enunciating an unconditional prohibition of laws creating offences retroactively, imposing retrospective penalties or increasing penalties retrospectively. But the third sentence, prohibiting the imposition of the penalties in force at the time of the commission of an offence if subsequently those penalties were mitigated by law, met with considerable criticism. It was said that, since the assumption underlying the second sentence was that a penalty must ordinarily be that which was authorized by the law in force at the time of its imposition, the adoption of the third sentence was unnecessary and implied a contradiction of that assumption. It was also said that, notwithstanding the praiseworthiness of the goal at which the sentence aimed, it was not appropriate to make provision for it in the covenant, since it would seem to mean that convicted persons would be enabled as of right to demand that they should benefit from any change made in the law after their conviction. These interpretations were rejected by some members. It was asserted that the executive authority in States parties to the covenant should retain an absolute discretion in applying the benefits of subsequently enacted legislation to such persons. Even if the principle were thought to be a proper subject for inclusion in the covenant, the present formulation of the third sentence would raise innumerable difficulties of interpretation and applica-

tion. The opponents of that view conceded that the third sentence constituted an exception to the principle *lex retro non agit* with which the two preceding sentences were concerned, but insisted that here logic and the abstract principles of justice should yield to humanitarianism. The tendency in modern criminal law was to allow a person to enjoy the benefit of such lighter penalties as might be imposed after the commission of the offence with which he was charged: the laws imposing new and lighter penalties were often the concrete expression of some change in the attitude of the community towards the offence in question. Some representatives thought that that tendency should be carried to its logical conclusion and that the article should explicitly prohibit a conviction for an act or omission that no longer constituted an offence when a conviction would, but for that provision, have been entered against an accused person.

226. The voting on the first sentence of the article took place at the 324th meeting. An amendment by Belgium (E/CN.4/L.196), to add at the end of the first sentence the words "or which no longer constitutes such an offence at the time when the penal judgment is rendered", was not adopted, the vote being 6 in favour, 6 against and 6 abstentions; a joint amendment by Uruguay and Yugoslavia (E/CN.4/L.197), which stated that the only retroactive laws that could be applied to previously committed acts or omissions were those that were more favourable to the offender and that in such case he should receive the benefit of their provisions, was rejected by 6 votes to 4, with 8 abstentions; and an amendment by the United Kingdom (E/1992, annex III, A, article 11) to delete the third sentence of paragraph 1, was defeated by 10 votes to 5, with 3 abstentions. Paragraph 1 was adopted as a whole by 15 votes to none, with 3 abstentions.

227. *Trial and punishment of persons for acts that are criminal according to general principles of law recognized by the community of nations.* Many representatives considered that the second paragraph of article 11 was superfluous: if it was intended as a confirmation of the principles applied by the war crimes tribunals after the Second World War, it might have the opposite effect of calling into question the validity of the judgments of those tribunals; and if it was intended as a guarantee that no alleged war criminal in the future would be able to argue that there were no positive principles of international law or of relevant national law qualifying his acts as crimes, it merely reiterated what was already contained in the expression "international law" in the first paragraph, since that term included "the generally recognized principles of law" mentioned at the end of the second paragraph. Some representatives, on the other hand, said that the saving provision set forth in paragraph 2 had no application to past convictions for war crimes, nor was it fully covered by the term "international law" in terms of the first paragraph relating to acts or omissions constituting criminal offences under international law.

228. The Commission voted on the second paragraph at its 324th meeting. An amendment by the United Kingdom (E/1992, annex III, A, article 11), to replace the words "the commission of any act" by "any act or omission", was adopted by 13 votes to none, with 5 abstentions. A further amendment by the United Kingdom (E/1992, annex III, A, article 11), as orally amended by France, to substitute the phrase "the general principles of law recognized by the community of nations" for the words "the generally recognized principles of law", was adopted by 9 votes to none, with 9 abstentions. The paragraph as amended was adopted in its entirety by 10 votes to 6, with 2 abstentions.

229. The article as a whole, as amended, was adopted by 14 votes to none, with 4 abstentions. (See article 13, annex IB.)

Article 14 (Right to recognition as a person before the law)

230. At its 324th meeting, the Commission unanimously adopted article 12 without amendment or discussion as follows. The article read:

"Everyone shall have the right to recognition everywhere as a person before the law". (See article 14, annex IB.)

Article 15 (Freedom of thought, conscience, and religion)

231. The Commission devoted its 319th meeting to the consideration of article 13.

232. *Right to maintain one's religion or belief.* It was conceded by all members participating in the debate that the general provision stating the right to change one's religion or belief included by necessary implication the right to maintain one's religion or belief. Nevertheless, it was not enough to leave this interpretation to implication: the right to maintain one's religion and the right to change it were of equal importance and should both be given explicit recognition in the article as two facets of the same fundamental freedom of religion.

233. At the 319th meeting, an amendment by Egypt (E/CN.4/L.187) to insert the words "to maintain or" between the words "freedom" and "to change" was adopted unanimously. The first part of an amendment by France (E/CN.4/L.155), as orally amended, to replace the words "either alone or in community with others" by the words "either individually or collectively", was adopted by 8 votes to 5, with 5 abstentions. The second part of that amendment, to rearrange the last five words of the paragraph as follows, "worship, observance, practice and teaching", was adopted by 8 votes to none, with 10 abstentions. The first paragraph as a whole, as amended, was adopted unanimously. At the 333rd meeting, the Commission agreed that in the French text of the paragraph the word "collectivement" should be changed to "en commun"; the English text was in consequence altered from "collectively" to "in community with others".

234. *Prohibition of coercion impairing freedom to change or maintain one's religion.* To ensure the conditions in which the freedom to maintain or change one's religion could be enjoyed, it was suggested that article 13 should contain a provision prohibiting "coercion which would impair freedom to maintain or change religion or belief". There was general agreement with that proposal, on the understanding, expressed by various representatives, that coercion should not be construed as applying to persuasion or the appeal to reason and conscience or as imposing limitations on the manifestation of religion or belief except as otherwise provided, and that the proposal was not concerned

with the internal spiritual authority of religious communities. An amendment by Egypt (E/CN.4/L.187), orally revised to read, "No one shall be subject to coercion which would impair his freedom to maintain or to change his religion or belief", was unanimously adopted.

235. *Scope of limitations to right to freedom of religion.* Some representatives thought there was room for improving the formulation of the restrictions set out in paragraph 2. It was desirable to achieve some measure of uniformity in the limitations to the rights recognized in articles 13 to 16, and it was the duty of the Commission to state those restrictions with greater precision. Some of the restrictions already contained in paragraph 2 gave too great a degree of latitude to States. The majority of representatives, however, were satisfied with the statement of limitations set out in paragraph 2 and expressed their opposition to any tendency to emphasize a single aspect of the limitations. With regard to the term "public order" ("ordre public" in the French version), some representatives thought that the securing of public order was a proper limitation on the right to freedom to manifest one's religion or beliefs. Others considered the concept of "ordre public" too wide to be accepted as a proper limitation, since it included the concept of public policy. On the other hand, if it were translated into English as "public order", that expression could only mean "the prevention of disorder", and that notion could appropriately be included in the catalogue of limitations.

236. At its 319th meeting, the Commission adopted, by 12 votes to none, with 6 abstentions, an oral amendment by the United States to stress the permissive nature of the limitations to the right by changing the word "shall" to "may". The Commission adopted an amendment by the United Kingdom (E/CN.4/L.143), to replace the words "pursuant to law" by the words "prescribed by law", by 12 votes to none, with 6 abstentions. It also adopted, by 12 votes to 2, with 4 abstentions, another United Kingdom amendment (E/CN.4/L.143), to delete the words "reasonable and" from among the qualifications of the limitations that could be imposed; finally, it rejected by 8 votes to 7, with 3 abstentions, the last point of the United Kingdom amendment, to substitute the phrase "prevention of disorder" for the word "order". The Commission adopted by 8 votes to 4, with 7 abstentions, the word "fundamental" before the words "rights and freedoms of others". The paragraph, as amended, was adopted in its entirety by 15 votes to none, with 3 abstentions.

237. The article as a whole, as amended, was adopted unanimously. (See article 15, annex IB.)

Article 16 (Right to freedom of opinion and expression)

238. Article 14 and amendments thereto were discussed at the 320th to 322nd meetings.

239. *Formulation of the right to freedom of opinion and expression.* Some representatives advocated the deletion of a provision recognizing the right of everyone to hold opinions without interference, since it had no precise meaning in the English version, while in the French version it seemed to imply that no person could be molested in any way whatsoever because of his beliefs. The article should be limited to freedom from governmental interference since it would be impossible to deal in the article with those interferences which arose in the field of personal relationships. In any event, the main point contemplated in the article was the right to freedom of expression and that right should have special place in the article. Some representatives were dissatisfied with the English rendering ("Everyone shall have the right to hold opinions without interference") of the French version of the first paragraph ("Nul ne peut être inquiété pour ses opinions"). Others, however, pointed out that it was not a rare occurrence for a person to suffer interference on account of his opinions, which was a different thing from interference in the expression of opinions. In their view, the original formulation of the first two paragraphs of the article was satisfactory.

240. Some representatives thought that the article should contain specific reference to the guarantee of the right to the free expression of opinion in the interests of democracy, thereby protecting the purposes and principles of the Charter. The objection to a provision of that kind was that it was extremely difficult to find a definition of "democracy" that would be universally accepted, and that, if there was divergencies in definition, it would be possible for the State to impose its policies on the Press in the name of democracy. Those who favoured such a provision said that the protection and guarantee of the freedom of the Press in the interests of democracy was possible only if the State guaranteed conditions ensuring that freedom of speech and of the Press was not exploited for war propaganda, for incitement to hatred among peoples, for racial discrimination, and for the dissemination of slanderous rumours. The majority of the representatives opposed such a provision, because they considered that it could not be accepted without establishing a system of censorship. Many members regretted and criticized the abuses to which the Press in many countries was prone; they noted that it was not possible in a system where a free Press obtained to prevent or punish the expression of ideas that were undesirable or disliked; and that in such a system the Press was not in any way subject to the supervision of the government or liable to punishment unless it contravened any prescription of the criminal law, pursuant to the exceptions already mentioned in paragraph 3 of the article; and that therefore the government could not be responsible for what was printed in the Press without establishing a system of censorship. In rejoinder, it was argued that all States imposed some limitations, such as in respect of obscene publications, either pursuant to national law or to international conventions, on the freedom of the Press; none of the motives that prompted those restrictions was more noble than the achievement of democratic principles, the prevention of exploitation for war propaganda, and the prohibition of incitement to hatred among peoples, of racial discrimination, and of the dissemination of slanderous rumours.

241. The Commission voted upon the first two paragraphs of the article and amendments thereto at its 322nd meeting. An amendment by the USSR (E/CN.4/L.125) was voted upon in three parts, all of

[37] *In favour:* Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.
Against: Australia, Belgium, Chile, China, Egypt, France, Greece, Lebanon, Pakistan, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.
Abstaining: India, Yugoslavia.

them by roll-call. The first part, reading "In the interests of democracy", was rejected by 13 votes to 3, with 2 abstentions;"[37] the second part, reading "everyone must be guaranteed by law the right to free expression of opinion", was rejected by 9 votes to 7, with 2 abstentions;[38] the third part, providing that freedom of speech, of the Press, and of artistic representation must be guaranteed in such a way as to ensure that freedom of speech and of the Press were not exploited for war propaganda, for incitement to hatred among peoples, for racial discrimination and for the dissemination of slanderous rumours, was rejected by 12 votes to 4, with 2 abstentions.[39] Next, the Commission voted upon and rejected, by 6 votes to 5, with 7 abstentions, an amendment by the United States (E/CN.4/L.193) to replace the words "the medium of any lawfully operated devices", which appeared in a United Kingdom amendment (E/CN.4/L.144), by the words "any other media". The Commission then rejected, by 9 votes to 8, with 1 abstention, an amendment by the United Kingdom (E/CN.4/L.144/Rev.1, orally revised in the French version by its proponent at the 322nd meeting), to substitute for the present text of paragraphs 1 and 2 a provision stating that everyone should have freedom of expression, including the freedom to hold opinions and to receive and impart information and ideas, without interference by public authority and regardless of frontiers, either orally, in writing or in print, in the form of art, or through the medium of any lawfully operated devices. Paragraph 1 of article 14 was adopted by 12 votes to none, with 6 abstentions, and paragraph 2 was adopted by 14 votes to 3, with 1 abstention.

242. *Scope of limitation on the right to freedom of expression.* The Commission devoted much of its consideration of article 14 to a debate on the limitations that could properly be imposed on the exercise of the right to freedom of opinion and expression. Many representatives were content with the catalogue of limitations already contained in paragraph 3 and said that the addition of further restrictions would represent a serious curb on the rights enunciated in the article and especially on the freedom of the Press. Others considered that the limitation prescribed in the paragraph should be drafted with greater precision and that recognition should be given to circumstances in which many States could not avoid imposing certain limitations on the freedom of receiving and imparting information and ideas. It was suggested that the expression "public order", adapted from the term "ordre public" in the French version, was too wide and should be replaced by the expression "the prevention of disorder or crime", which seemed to convey the idea contained in the words "public order"; that measures taken for the prevention of the disclosure of information received in confidence should form a permissible exception from the right recognized in the first two paragraphs; and that, similarly, measures for securing the fair and proper conduct of judicial proceedings should be included in the limitations, because in certain circumstances the administration of justice would be embarrassed by the unrestricted exercise of the freedom of the Press and also because the principle was not already covered by any of the limitations contained in paragraph 3. Some representatives preferred not to emphasize a special aspect of the limitations that had been suggested, but thought that they would be covered by a provision allowing limitations imposed by laws necessary for the respect of the rights or reputation of others. Further permissible limitations were suggested by other representatives; it was thought that the objectives of the United Nations Charter, whose principles and purposes were to serve as a guiding light to the Commission in its work on the covenant, in accordance with General Assembly resolution 421 (V), should be specifically incorporated in the article by allowing States to impose such restrictions by law as were necessary for the maintenance of peace and good relations among States; and it was also proposed, though not under the discussion on paragraph 3, that States should ensure that freedom of speech and of the Press were not exploited for war propaganda, for incitement to hatred among peoples, for racial discrimination, and for the dissemination of slanderous rumours. The majority of representatives favoured the setting of a standard by which limitations of the rights recognized in the first two paragraphs of the article might be measured: they were to be only such as were necessary in a democratic society. Some representatives opposed the use of any expression that, like the terms "in a democratic society", "for the maintenance of peace and good relations between States", "war propaganda", "the incitement of hatred among the peoples", and "the dissemination of slanderous rumours", were not susceptible of precise interpretation and, since they were frequently used as terms of abuse, were not suitable for inclusion in the covenant.

243. Voting on the paragraph and amendments thereto took place at the 322nd meeting. The Commission began by voting by roll-call upon the first part of an amendment by Yugoslavia (E/1992, annex III, A, article 14, paragraph 3), that the specification of restrictions set out in paragraph 3 should be replaced by the phrase "for the protection of the purposes of the Charter of the United Nations and the principles of the Universal Declaration of Human Rights". The amendment was rejected by 8 votes to 4, with 6 abstentions.[40] The second part of the Yugoslav amendment was consequently withdrawn. By a roll-call vote the Commission rejected, by 8 votes to 6, with 4 abstentions,[41] an amendment by Egypt (E/1992, annex III,

[37] See page 34.

[38] *In favour:* Egypt, Lebanon, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay.
Against: Australia, Belgium, Chile, China, France, Greece, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: India, Yugoslavia.

[39] *In favour:* Egypt, Poland, Urkainian Soviet Socialist Republic, Union of Soviet Socialist Republics.
Against: Australia, Belgium, Chile, China, France, Greece, Lebanon, Pakistan, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.
Abstaining: India, Yugoslavia.

[40] *In favour:* Chile, Egypt, Uruguay, Yugoslavia.
Against: Australia, Belgium, China, Greece, Lebanon, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: France, India, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

[41] *In favour:* China, Egypt, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.
Against: Australia, Belgium, Lebanon, Pakistan, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.
Abstaining: Chile, France, Greece, India.

A, article 14, paragraph 3) to insert the words "and for the maintenance of peace and good relations between States", moved as an amendment to an amendment by the United Kingdom (E/CN.4/L.144/Rev.1). The latter amendment was voted on by division: the words "or crime" were rejected by 7 votes to 2, with 8 abstentions; the phrase "for the prevention of disorder" was rejected by 9 votes to 5, with 4 abstentions; the words "conditions and" were rejected by 6 votes to 4, with 8 abstentions; the final provision, relating to the prevention of the disclosure of information received in confidence and of information prejudicial to a fair and proper trial, was rejected by 8 votes to 3, with 7 abstentions. The remainder of the United Kingdom amendment was rejected by 11 votes to 5, with 1 abstention. An amendment of the United States (E/CN.4/L.192) to an amendment by France (E/CN.4/L.156/Rev.1), to delete the reference in the latter amendment to restrictions and penalties, was rejected by 7 votes to 6, with 5 abstentions. The Commission next voted by division on the amendment by France (E/CN.4/L.156/Rev.1) as orally revised and modified during the discussion; the words "in a democratic society" were not adopted, there being 8 votes in favour, 8 against, and 2 abstentions; the word "conditions" was rejected by 7 votes to 5, with 6 abstentions; the word "liabilities" was rejected by 9 votes to 5, with 4 abstentions; the words "and penalties" was rejected by 5 votes to 4, with 8 abstentions; the word "order", was adopted by 7 votes to 5, with 6 abstentions; and by 6 votes to 1, with 10 abstentions, the Commission adopted the adjective "public" qualifying the word "order" in the English version and inserted the word "public" after the word "ordre" in the French version. An amendment by Egypt (E/1992, annex III, A, article 14, paragraph 3), to add as a further limitation to the amendment by France restrictions necessary for the maintenance of peace and good relations among States, was rejected by 8 votes to 6, with 4 abstentions. The amendment by France (E/CN.4/L.156/Rev.1) as amended was adopted in its entirety by 8 votes to 6, with 3 abstentions.

244. The article as a whole, as amended, was adopted by 12 votes to 3, with 3 abstentions. (See article 16, annex IB.)

Question of including in one article the right of peaceful assembly and right of association.

245. As a consequence of a proposal of the USSR (E/CN.4/L.126), that articles 15 and 16 should be replaced by a single article, the text of which differed substantially from the text of the articles it was intended to replace, the Commission adopted the procedure at its 325th meeting of considering both articles together. The essential similarity of the content of the two articles was stressed by those representatives who supported the amalgamation of articles 15 and 16 in one new article. It was suggested that the right to organize assemblies, meetings, street processions and demonstrations, and to organize voluntary societies and unions, should be guaranteed by law in the interests of democracy and that, as a corollary, groups of a fascist nature should be penalized by law. Opposition to replacing the two articles by one article was expressed by many representatives: in their view, there was a significant difference between the right of peaceful assembly and the right of association, not only in form but also in content; furthermore, the dichotomy had been recognized in many constitutional instruments.

246. The question of principle whether there should be only one article instead of two articles covering the rights of peaceful assembly and association was raised by the representative of China at the 325th meeting immediately after the closure of the debate. By 8 votes to 7, with 3 abstentions, the Commission decided not to entertain the motion of China.

247. Thereupon the Commission voted upon the USSR proposal (E/CN.4/L.126) by division. The words "and unions" were rejected by 10 votes to 4, with 4 abstentions; the phrase "in the interests of democracy", was rejected by 12 votes to 3, with 3 abstentions; and the sentence "the right to organize assemblies, meetings, street processions and demonstrations, and to organize voluntary societies must be guaranteed by law", was rejected on a roll-call vote[42] by 10 votes to 6, with 2 abstentions. Since the remainder of the USSR proposal was in the nature of a limitation on the right enunciated in the first sentence, it was withdrawn and, with the consent of the Commission, moved as an amendment both to article 15 and to article 16.

Article 17 (Right of peaceful assembly)

248. *Formulation of the right.* The debate on article 15 that took place at the Commission's 325th meeting was concerned with the purposes of, and limitations on, the right of peaceful assembly. Many representatives regarded the second sentence of the article as a satisfactory specification of the limitations that were desirable. Some representatives thought there was room for improvement and suggested the revision of the catalogue of limitations by adding public safety, public health — instead of health simply — the prevention of disorder or crime, and the maintenance of order, as some of the criteria by which the necessity of allowable legislative limitations should be judged. A number of representatives said it was of fundamental importance that limitations on the right to peaceful assembly should be allowed only where they were necessary in a democratic society. Other representatives contended that the right itself should serve the interests of democracy and that any exercise of the right running counter to democratic principles should be prohibited and penalized. The proponents of that view argued that the aim should meet with universal approval among the members of the Commission and also that it was consonant with the very principles and purposes of the United Nations. Some representatives, however, opposed the linking either of the right of peaceful assembly or of the limitations thereon to democratic principles, since it was difficult to find any practical definition of the term "democracy" that would meet with universal acceptance and, furthermore, since none of the limitations in the covenant should be used for the extirpation of any philosophies or political beliefs, however detestable or obnoxious they might be, unless the exercise of the right of peaceful assembly by groups avowing such

[42] *In favour:* Egypt, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay.
Against: Australia, Belgium, Chile, China, France, Greece, Lebanon, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: India, Yugoslavia.

philosophies fell unmistakenly within one of the types of activity that the State would be permitted, under the statement of limitations already contained in the article, to prohibit or restrain.

249. Voting on the article took place at the 325th meeting. The Commission adopted, by 15 votes to none, with 3 abstentions, the first sentence of the article, reading "The right of peaceful assembly shall be recognized". It then voted on the second sentence of an amendment by the Soviet Union (E/CN.4/L.126) that all societies, unions and organizations of a fascist or anti-democratic nature, and any form of activity by such societies, should be prohibited by law, subject to penalty. The words "or anti-democratic" were rejected by 11 votes to 4, with 3 abstentions, and the remainder of the sentence was rejected, by roll-call vote,[43] by 13 votes to 4, with 1 abstention. An oral amendment proposed by the United States at the 325th meeting, to stress the permissive nature of the limitations by changing "shall" to "may" in the English version of the article, was adopted by 12 votes to 1, with 4 abstentions. The insertion of the words "in a democratic society", proposed by France (E/CN.4/L.201), was adopted by 9 votes to 8, with 1 abstention; the change of the words "to ensure" to "in the interests of", proposed by the United Kingdom (E/CN.4/L.145), was adopted by 9 votes to none, with 9 abstentions; and the insertion of the words "or public safety", also proposed by the United Kingdom (E/CN.4/L.145), was adopted by 13 votes to 2, with 3 abstentions. A third United Kingdom amendment (E/CN.4/L.145), to substitute the words "for the prevention of disorder or crime" was voted upon by division: the words "or crime" were rejected by 13 votes to 2, with 3 abstentions; and the phrase "for the prevention of disorder" was rejected by 12 votes to 6. An amendment by France (E/CN.4/L.201), originally moved to the United Kingdom amendment (E/CN.4/L.145) but described by the Chairman as being an amendment to the original text of article 15, to replace the words in the French version "pour prévenir le désordre" by the phrase "à la défense de l'ordre public", was rejected by 11 votes to 3, with 4 abstentions. Another amendment by France (E/CN.4/L.201), to insert the word "public" before the word "health", was adopted by 9 votes to none, with 6 abstentions. In the second sentence of article 15, as amended, a vote was taken on the words "national security, public safety, public order, the protection of public health or morals or the protection of", and they were adopted by 12 votes to 2, with 4 abstentions.

250. The article as a whole, as amended, was adopted by 13 votes to none, with 5 abstentions. (See article 17, annex IB.)

Article 18 (Right of association)

251. Article 16 was considered jointly with article 15 at the 325th meeting, and voting on article 16 and the various amendments thereto took place at the 326th meeting. Much of the debate covered both articles together, especially since some of the amendments to article 16 were identical with amendments to article 15. The points that were treated in common during the consideration both of article 15 and of article 16 have been summarized in paragraph 245. Certain aspects of the debate on article 16, however, had no connexion with article 15.

252. *Formulation of the right.* Two differing formulations of the right were before the Commission: the first was composed of a reproduction of the opening sentence of the article together with an explicit reference to the right to form and join trade unions; the second was phrased in conformity with many of the other articles in the covenant and also contained explicit reference to the right to form and join trade unions. Some representatives, however, opposed any express mention of trade unions in the covenant on civil and political rights, since the covenant on economic, social and cultural rights already contained a provision, with greater emphasis, on trade-union rights. Reference to trade unions in the article on the right of association might tend to weaken or detract from the importance of the analogous provision in the covenant on economic, social and cultural rights. On the other hand, many representatives thought that it was essential to make specific reference to trade union rights: a statement of those rights appeared in the draft covenant on economic, social, and cultural rights and, therefore, its omission from the draft covenant on civil and political rights might convey the impression that the Commission did not regard it as a civil right as well.

253. An amendment by the United States (E/CN.4/L.203), that the right of association should be recognized, including the right to form and join trade unions, was rejected by 9 votes to 5, with 2 abstentions. An amendment by the United Kingdom (E/CN.4/L.146) was voted upon in three parts: the first part, reading "everyone shall have the right to freedom of association with others", was adopted by 12 votes to 1, with 4 abstentions; the second part, reading "including the right to form and join trade unions", was adopted by 11 votes to 3, with 2 abstentions; and the third part, reading "for the protection of his interests", was adopted by 8 votes to 1, with 6 abstentions. The United Kingdom amendment as a whole was adopted by 8 votes to 3, with 5 abstentions.

254. *Scope of limitations on the right to freedom of association.* Much of the debate on limitations on the right of association covered the same ground as the consideration of the limitations on the right of peaceful assembly (see paragraph 248), but an additional suggestion was put forward by the United Kingdom (E/CN.4/L.146), that nothing in the article should prevent the imposition of lawful restrictions on the exercise of that right — as distinct from the right itself — by members of the armed forces, of the police, or of the administration of the State. That additional limitation was justified by the practice of a great many States and by its obvious necessity. Some representatives, while recognizing the need for regulating the exercise of the right to freedom of association by the persons in the categories mentioned, doubted whether the covenant should contain restrictions of that kind; others supported the imposition of restrictions on the armed forces and the police but saw no justification for imposing them upon the civil service; and other representatives,

[43] *In favour:* China, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.
Against: Australia, Belgium, Chile, Egypt, France, Greece, India, Lebanon, Pakistan, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.
Abstaining: Yugoslavia.

again, opposed any restriction according to the categories specified.

255. The Commission voted upon the various amendments to the second paragraph at its 326th meeting. An oral amendment by the United States, to emphasize the permissive nature of the limitations by changing "shall" to "may", was adopted by 10 votes to 1, with 5 abstentions. The insertion of the words "in a democratic society", proposed by France (E/CN.4/L.202), was adopted by 9 votes to 6, with 1 abstention; the change of the words "to ensure" to "in the interests of", proposed by the United Kingdom (E/CN.4/L.146), was adopted by 8 votes to none, with 8 abstentions; and the insertion of the words "or public safety", also proposed by the United Kingdom (E/CN.4/L.146), was adopted by 11 votes to 4, with 1 abstention. A third United Kingdom amendment, to substitute the words "for the prevention of disorder or crime" for the words "public order", was voted upon by division: the first part, ending with the word "disorder", was rejected by 11 votes to 4, with no abstentions, whereupon the representative of the United Kingdom withdrew the remainder of his amendment. An amendment by France (E/CN.4/L.202), to replace the words in the French version of the United Kingdom amendment (E/CN.4/L.146) "pour prévenir le désordre" by the phrase "à la défense de l'ordre public", was rejected by 8 votes to 4, with 4 abstentions. Another amendment by France (E/CN.4/L.202), to insert the word "public" before the word "health", was adopted by 8 votes to 4, with 3 abstentions. A United Kingdom amendment (E/CN.4/L.146), to add further limitations at the end of the paragraph, was voted upon in two parts: the final phrase, dealing with the imposition of lawful restrictions on the exercise of the right by members of the administration of the State, was rejected by 8 votes to 4, with 4 abstentions; the first part, reading "This article shall not prevent the imposition of lawful restrictions on the exercise of this right by members of the armed forces or of the police", was adopted by 9 votes to 5, with 2 abstentions. The second paragraph, as amended, was adopted in its entirety, by 8 votes to 3, with 5 abstentions.

256. The third paragraph was adopted as a whole, without modification, by 12 votes to none, with 4 abstentions.

257. The article as a whole, as amended, was adopted by 11 votes to none, with 5 abstentions. (See article 18 of annex IB.)

Article 19 (Equality before the law)

258. The Commission discussed article 17 at its 326th to 328th meetings.

259. *Desirability of retaining a provision on non-discrimination.* Some representatives considered that the principle contained in the second part of article 17 was superfluous since it covered the same ground as the non-discrimination provisions of article 1, which applied to the principle of equality before the law and the right of equal protection of the law contained in article 17 no less than to the other rights recognized in the covenant. Some representatives had construed the article not to relate to the content of laws, but to mean equality before judicial tribunals; but if it was accepted that it applied to the content of laws and was also meant to apply to rights and freedoms not mentioned in the covenant, great confusion might arise in law. It was also felt that if everyone was equal before the law and had equal protection of the law without any discrimination whatsoever, in the sense that he was entitled to the benefit of all laws and all rights under every law, then a difficulty would arise in respect of certain categories of persons, such as minors and mentally defective persons, who occupied a special status. On the other hand, the necessity of retaining the principle contained in article 17 was emphasized by many representatives: in their view, the provisions of that article did not overlap with the provisions of article 1 (present article 2 of the draft covenant on civil and political rights), which were limited in their effect to the rights recognized in the covenant; the principle enunciated in article 17 was much wider in that it applied to all rights, whatever their source.

260. *Prohibition of fascist and nazi views, etc.* Some representatives felt that no effective assurance of the equal protection of the law was possible unless the State undertook to prohibit by law any form of propaganda in favour of fascist or nazi views, or of racial and national exclusiveness, hatred and contempt. The majority of the Commission opposed that view on the grounds that the terms "fascist" and "nazi" were not susceptible of a precise definition that was universally acceptable; moreover, provisions of that kind were in the nature of limitations on freedom of opinion, set forth in article 14, and a similar proposal in connexion with that article had been rejected by the Commission.

261. Voting on the article took place at the 328th meeting. An amendment to an amendment by Yugoslavia (E/1992, annex III, A, article 17) submitted by the United States (E/AC.4/L.204), to omit the provision on the prohibition of discrimination and the specification of the grounds upon which discrimination should be prohibited, was rejected by 9 votes to 7, with 1 abstention. An amendment by the USSR (E/CN.4/L.127), proposing certain additions to article 17, was voted upon in parts: the first part, reading "fascist or nazi views, or of", was rejected by 14 votes to 3, with 1 abstention; the remainder, relating to the prohibition by law of any form of propaganda in favour of racial or national exclusiveness, hatred and contempt, was rejected on a roll-call by 11 votes to 5, with 2 abstentions.[44] The Commission then adopted by 8 votes to 7, with 3 abstentions, an amendment by Yugoslavia (E/1992, annex III, A, article 17), to substitute for the text of article 17 the following text: "All persons are equal before the law. The law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, languages, religion, political or other opinion, national or social origin, property, birth or other status."

262. The article as a whole, as amended, was adopted by 11 votes to 6, with 1 abstention. (See article 19, annex IB.)

[44] *In favour:* Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.
Against: Australia, Belgium, Chile, China, France, Greece, India, Lebanon, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: Egypt, Pakistan.

Article 4 (Limitations article preserving existing standards of human rights)

263. At its 328th meeting the Commission considered article 18.

264. The majority of representatives expressed their general satisfaction with paragraph 1. Some representatives, however, considered that it was necessary to refer to the purposes and principles of the United Nations Charter and the Universal Declaration of Human Rights, so that nothing in the covenant would be interpreted as implying the right to engage in activity aimed at any restriction incompatible with those purposes and principles. Such a provision was consonant with the provisions of the Charter itself, and particularly with the provisions of Article 103 of the Charter. On the other hand, many representatives opposed provisions of that kind; the statement of the purposes and principles of the Charter and of the Declaration was far more general than were the particular stipulations in the draft covenant; the Charter dealt only with the obligations of States, whereas the covenant referred to groups and persons; and it was inappropriate in a covenant on human rights which brought the protection of human rights outside the domestic jurisdiction of States to refer to the Principles of the United Nations Charter, Article 2, paragraph 7, which guaranteed the inviolability of matters falling within the domestic jurisdiction of States.

265. Voting on paragraph 1 took place at the 238th meeting. An amendment by Yugoslavia (E/CN.4/L.206), replacing the expression "or to their limitation to a greater extent than is provided for in this Covenant" by the expression "or at any restriction which would be incompatible with the purposes and principles of the Charter of the United Nations and of the Universal Declaration of Human Rights", was rejected on a roll-call vote by 11 votes to 2, with 5 abstentions.[45] Paragraph 1 was then adopted unanimously.

266. *Safeguarding of rights not recognized in the covenant.* Some representatives opposed the formulation of the second paragraph of article 18, which in their view would allow some States to continue to derive benefit from inequitable laws or treaties. Others considered that a provision of some kind was necessary to prevent States from limiting rights already enjoyed by persons within their territories on the grounds that the covenant did not recognize such rights or recognized them to a lesser extent.

267. The Commission voted on the paragraph at its 328th meeting. The Commission rejected, by 10 votes to 7, with 1 abstention, the words in the Chilean amendment (E/CN.4/L.198/Rev.1) accepted by the representative of Chile from an amendment by Poland (E/CN.4/L.207), to insert after the words "law, conventions, regulations or custom" the expression "if they are not contradictory to the provisions and spirit of the present Covenant and the Charter of the United Nations". The remainder of the Chilean amendment was adopted by 15 votes to none, with 3 abstentions, reading as follows: "2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any contracting State pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent".

268. The article as a whole, as amended, was adopted by 13 votes to none, with 5 abstentions. (See article 4, annex IB.)

Article 2 (Undertaking by States to perform the obligations contained in the Covenant)

269. The Commission considered article 1 at its 328th and 329th meetings.

270. *Obligation to respect and ensure the rights recognized in the covenant.* There was some discussion on the desirability of retaining the words "within its territory and" in paragraph 1 of the article. A State should not be relieved of its obligations under the covenant to certain persons who remained within its jurisdiction merely because they were not within the territory. Furthermore, there was a contradiction between the obligation laid down in paragraph 1 and that laid down in some of the other articles, particularly article 8, paragraph 2 (*b*) (present article 10 of the draft covenant on civil and political rights), which provided that anyone should be free to enter his own country; it would be difficult for the contracting States to perform that obligation if, in paragraph 1, they undertook to respect and ensure the rights only of those individuals subject to their jurisdiction who were within their territory. On the other hand, some representatives remarked that it was not possible for a State to protect the rights of persons subject to its jurisdiction when they were outside its territory; conversely, it was not possible for a State to undertake obligations in respect of persons within its territory, unless they were at the same time subject to its jurisdiction.

271. In the voting on that provision at the 329th meeting, the Commission rejected an amendment by France (E/CN.4/L.161), to delete the words "within its territory and" by 10 votes to 4, with 4 abstentions. The paragraph as a whole was adopted unanimously.

272. *Obligation to take steps to adopt necessary legislative or other measures.* A majority of the representatives expressed satisfaction with paragraph 2. It was essential to give a certain degree of elasticity to the obligations imposed by the covenant, since some States would not be in a position immediately to take the necessary legislative or other measures for the implementation of the covenant. As a curb on excessive delay in enacting the necessary legislation or in taking the other necessary measures, the requirement that such measures should be taken within a reasonable time was adequate. The provision had the advantage, unlike a system of reservations, of not perpetuating the law of any State that did not already conform to the obligations set out in the covenant. The provision did not represent a deviation from the norm of international law, since the usual principle was that, where an international instrument laid an obligation upon States to take legislative measures, there was no obligation upon contracting States to take such measures before ratification. On the other hand, it was argued that the provision would give rise to unequal obligations between contracting States: some States would take the necessary measures to bring their domestic law into conformity with the covenant, while others, enjoying the

[45] *In favour:* Uruguay, Yugoslavia.
Against: Australia, Belgium, Chile, China, France, Greece, India, Lebanon, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.
Abstaining: Egypt, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

prestige of having deposited their ratifications, would not take them, relying upon the provision that they need do so only within a reasonable time. The general rule of international law was that the obligations contained in an international instrument attached to the contracting State immediately upon ratification; consequently, the provisions of paragraph 2 were exceptional. They amounted to a veiled reservations clause, and it would be desirable for the Commission to recognize the real effect of the paragraph and replace it by an unequivocal provision allowing reservations.

273. Some representatives regarded "within a reasonable time" as a proper period of delay; others declared that it was impossible to forecast with any degree of certainty what a reasonable period of time would be in any particular instance. Suggestions were put forward for setting definite periods of time instead of the vague and indefinite term "within a reasonable time", but none of them was able to gain general acceptance. It was felt that, in view of the doubts that had been raised by the expression, the Commission should endeavour to clarify the juridical scope of paragraph 2 when it studied the question whether the covenant should contain a clause permitting reservations. Before the Commission voted upon the paragraph, it rejected by 8 votes to 5, with 4 abstentions, a proposal of the United Kingdom that the Commission should adjourn consideration of the paragraph until such time as it took up the consideration of an article on reservations. The Commission then voted separately on the words "within a reasonable time" and rejected them by 9 votes to 8, with 1 abstention. The paragraph as a whole, as amended, was adopted by 11 votes to 3, with 4 abstentions.

274. *Obligation to ensure remedies.* Some representatives thought it undesirable that a person whose rights had been violated, in all probability by the political organs of the State, should have his right to a remedy determined by a political organ, since the very same organ that had violated his right might be the one that was adjudicating on his claim for a remedy. Other representatives thought that the deletion of reference to political authorities in sub-paragraph (*b*) of paragraph 3 would preclude the granting of remedies by legislatures or the executive in cases where they might be the most effective agencies for that purpose.

275. In the voting on this paragraph at its 329th meeting, the Commission rejected an amendment of the United Kingdom (E/CN.4/L.138), to omit reference to political authorities, by 8 votes to 7, with 3 abstentions. The Commission adopted an amendment by France (E/CN.4/L.161), to add at the beginning of sub-paragraph (*b*) the words "To develop the possibilities of judicial remedy and to ensure", by 7 votes to 6, with 5 abstentions. The paragraph as a whole, as amended, was adopted by 16 votes to none, with 2 abstentions.

276. The article as a whole, as amended, was adopted by 13 votes to 2, with 3 abstentions. (See article 2, annex IB.)

Article 3 (Derogations)

277. At its 330th and 331st meetings, the Commission considered article 2.

278. *Scope of derogations.* Some representatives favoured some qualification of the kind of public emergency in which a State would be entitled to make derogations from the rights contained in the covenant. In their view, the public emergency should be of such magnitude as to threaten the life of the nation as a whole and not of a portion of the nation, as when a natural disaster had taken place. Although it was recognized that one of the most important public emergencies of such kind was the outbreak of war, many representatives felt that the covenant should, by omitting any mention of war, avoid the imputation of seeming to condone it or to make particular provision for it. A majority of the Commission also favoured the provision that a public emergency giving the State the right to derogate from its obligations under the covenant should be officially proclaimed. Some representatives, however, were of the opinion that public emergency was too restrictive a term because it did not cover natural disasters, which almost always justified the State in derogating from some, at least, of the rights recognized in the covenant. There was general agreement that no derogation incompatible with international law should be allowed under the covenant, although some representatives considered that, in addition to the expression "international law", there should be reference, in particular, to the principles of the United Nations Charter and the Universal Declaration of Human Rights. Others pointed out that the principles of the Charter were part of international law and that the principles of the Universal Declaration of Human Rights were not.

279. The consensus of the Commission was that none of the derogations from the obligations under the covenant should involve discrimination on grounds of race, colour, sex, language, religion or social origin. There was some debate, however, whether it was "solely" on those grounds that discrimination was prohibited. In justification of the word "solely", it was argued that a State might take steps in derogation from the rights recognized in the covenant that could be construed as discriminatory merely because the persons concerned belonged to a certain race, religion, etc.; the evil to be avoided was discrimination based solely on those grounds.

280. The voting took place at the 331st meeting. The Commission voted upon an amendment of the USSR (E/CN.4/L.121) by division; the words "caused by circumstances" were rejected by 9 votes to 5, with 4 abstentions; and the words, "threatening the interests of the people and" were not adopted, there being 8 votes in favour, 8 against, and 2 abstentions. The Commission next adopted, by 13 votes to none, with 5 abstentions, an amendment by France (E/CN.4/L.211), to add after the words "the life of the nation" in a United Kingdom amendment (E/CN.4/L.139/Rev.1), the words "and the existence of which is officially proclaimed". The Commission then rejected an amendment by Yugoslavia (E/1992, annex III, A, article 2), to add after the words "international law" the words "particularly the principles of the Charter of the United Nations and the Universal Declaration of Human Rights". The first part, ending with the words "United Nations", was not adopted, there being 6 votes in favour, 6 against, and 6 abstentions; the second part was rejected by 7 votes to 3, with 8 abstentions. The Commission finally voted upon the United Kingdom amendment (E/CN.4/L.139/Rev.1) in parts: the first part, reading "which threatens the life of the nation",

was adopted by 14 votes to 4; the word "solely" was adopted by 9 votes to 7, with 2 abstentions; and the remainder of the amendment, as amended, was adopted by 15 votes to none, with 3 abstentions.

281. *Limitation on derogations.* There was much discussion on the rights from which no derogation under the covenant should be permitted. Some representatives expressed their satisfaction with the present specification of the articles in the covenant from which no derogations would be allowed in a state of public emergency under paragraph 1 of the article. Others thought it would be necessary, before the drafting of the covenant was completed, to make a thorough study of the articles to be placed in the category of rights that allowed of no derogation even in times of public emergency. Article 6, paragraphs 1 and 2, and article 8, paragraph 2 (*a*) (present articles 8 and 10 of the draft covenant on civil and political rights), were mentioned as enunciating rights that should appropriately be included in that category. Some representatives expressed the view that the inclusion of article 13 (present article 15) in that category might cause difficulties, as cases might arise where exercise of one of the rights enunciated in that article would also constitute exercise of a right under articles 14 or 15 (present articles 16 and 17). The expression of opinion might also be the manifestation of a belief. If in such cases derogation from articles 14 and 15 were allowed, while derogation from article 13 was prohibited, an impossible situation might arise. Representatives who took that view considered that a point of substance was involved, because, although they favoured in principle an absolute prohibition of derogation from the right to freedom of thought, conscience and religion, they considered that the manifestation of religion or belief might have to be subject to derogation to the limited extent to which similar derogation would be justifiable under articles 14 or 15.

282. At its 331st meeting, the Commission unanimously adopted the first sentence of the second paragraph.

283. *Notification of derogation.* There was general agreement that a State wishing to derogate from the rights recognized in the covenant should inform the other States parties to the covenant of its action in accordance with the provisions of paragraph 3. Some representatives thought that a mere notification was not enough; the derogating State should also give the reason by which it was actuated in deciding to make the derogation, although it was not suggested that the reasons for each particular measure constituting such derogation should be notified. Some representatives also emphasized the need for retaining the link between the contracting States and the United Nations, since the covenant was an undertaking between the United Nations and those States.

284. At its 331st meeting, the Commission adopted, by 8 votes to 3, with 7 abstentions, an amendment by Yugoslavia (E/1992, annex III, A, article 2, paragraph 3), to add after the words "the provisions from which it had derogated" the words "the reasons by which it was actuated". Paragraph 3, as amended, was adopted by 14 votes to none, with 4 abstentions.

285. The article as a whole, as amended, was adopted by 15 votes to none, with 3 abstentions. (See article 3, annex IB.)

Preamble

286. At its 331st and 333rd meetings, the Commission considered the form that the preamble to the draft covenant on civil and political rights should take.

287. Early in the discussion two different views emerged: according to the first view, the present text of the preamble was satisfactory, subject to certain modifications; the second view was that it would be preferable to adopt, as closely as possible, the form and wording of the preamble to the draft covenant on economic, social and cultural rights. The representatives who held the former view later relinquished their stand in favour of a proposal for the adoption, as nearly as the language and the content of the covenant would allow, of the preamble to the draft covenant on economic, social and cultural rights. There was some difference of opinion on the wording of the preamble; some representatives considered that it would be possible to adopt the preamble of that covenant as the preamble for the draft covenant on civil and political rights without any change at all, though they were prepared to concede certain slight modifications to show that the emphasis was on civil and political rights; others were prepared to adopt the general form and most of the wording of the preamble of the draft covenant on economic, social and cultural rights, but insisted that, in a covenant on civil and political rights, the preamble should reflect the specific character of the covenant; although it was proper for the preamble to demonstrate the connexion between civil and political rights, on the one hand, and economic, social and cultural rights, on the other, and in such a way that the equal importance of both sets of rights was clear, if either set of rights should have any special emphasis, it should be that set of rights with which the covenant in question was concerned.

288. The voting on the preamble took place at the 333rd meeting. The basic amendment to the preamble was an oral proposal by Poland (E/CN.4/SR.333) for the adoption of the preamble of the draft covenant on economic, social and cultural rights (E/CN.4/666/Add.15) as the preamble of the draft covenant on civil and political rights, subject to the transposition of the sets of rights in the phrase "his economic, social and cultural rights as well as his civil and political rights". The Commission unanimously adopted the first paragraph of the preamble of the draft covenant on economic, social and cultural rights as the first paragraph of the draft covenant on civil and political rights. An oral proposal by Australia (E/CN.4/SR.333), that the third considerandum of the preamble, as adopted at the sixth session, should be modified to read "recognizing that these rights derive from the inherent dignity of the human person", was adopted by 11 votes to none, with 7 abstentions. Two amendments relating to the second considerandum of the preamble of the draft covenant on economic social and cultural rights were then voted on. An oral proposal by Poland (E/CN.4/SR.333) inserting the words "fundamental rights and liberties and" between the words "the ideal of free men enjoying" and "freedom from fear and want", was rejected by 10 votes to 6, with 2 abstentions. An oral amendment by Australia (E/CN.4/SR.331), inserting the words "civil and political freedom and" between the words "the ideal of free men enjoying" and "freedom from fear and want", was adopted by 11 votes to

none, with 7 abstentions. The second paragraph of the preamble of the draft covenant on economic, social and cultural rights, as amended, was adopted as the third paragraph of the preamble by 15 votes to none, with 3 abstentions. The Commission then unanimously adopted the third and fourth paragraphs and the operative clause of the preamble of the draft covenant on economic, social and cultural rights as the fourth and fifth paragraphs and the operative part of the preamble of the draft covenant on civil and political rights.

289. The preamble as a whole was adopted by 14 votes to none, with 4 abstentions. (See annex IB.)

V. COMMUNICATIONS

290. At its 283rd, 332nd and 335th meetings, which were held in private, the Commission considered item 19 (*a*) of its agenda. It received the confidential lists of communications (HR/Communications List No. 2 and No. 2/Add.1-3) and observations from governments (HR/Communications Nos. 11-24, E/2175, E/2175/Corr.1 and Add.2), prepared by the Secretary-General in accordance with Economic and Social Council resolutions 75 (V), 192 A (VIII) and 275 B (X). Non-confidential lists of communications (E/CN.4/CR.21 and CR.21/Add.1 and Corr.1) dealing with the principles involved in the promotion of universal respect for and observance of human rights had already been circulated to the members of the Commission.

291. At the 335th meeting, the Commission decided by 14 votes to none, with 4 abstentions, to make public the records of the 332nd and 335th meetings. At the 332nd meeting, it rejected by 7 votes to 6, with 4 abstentions, a draft resolution proposing that the Commission should take note of the lists of communications compiled by the Secretary-General. At the 335th meeting, it decided by 12 votes to 4, with 2 abstentions, to include in its report the statement which appears in paragraph 292.

292. The lists of communications dealt with communications received during the period 3 April 1951 to 7 May 1952. A total of 25,279 communications were received, thirty-six of which dealt with the principles involved in the promotion of universal respect for and observance of human rights; these were distributed in the non-confidential lists. Of the 25,243 communications summarized in the confidential list, the great majority (24,194) alleged persecution on political grounds. Other communications principally alleged genocide (305 communications), violation of the right to freedom of assembly and association (119), discrimination and violation of rights of minorities (64), and violation of trade union rights (83). The remaining 478 communications alleged contraventions of a variety of rights and freedoms including the right of asylum, old age rights, freedom of religion, the right to a fair trial, the right to a nationality, protection against deportation, the right to personal property, right to leave or return to one's country, and so on.[45]

293. The Commission considered a draft resolution submitted by India (E/CN.4/L.215) at the 332nd meeting. The draft provided that the Commission on Human Rights, considering the number of communications received every year from all over the world and considering that the Commission has no power to deal with them in a satisfactory way, should request the Economic and Social Council to reconsider its resolution 75 (V), as amended, and authorize the Commission to make reports and recommendations to the Council concerning serious cases or instances of violation of human rights which were brought to the notice of the Commission in the course of its examination of the communications regarding human rights.

294. Supporters of the Indian draft urged that the aim was not to ask for powers of inquiry or investigation, but simply for the right of the Commission to bring to the attention of the Council certain communications. The United Nations had been invested with the task of promoting and encouraging respect for human rights all over the world and it was time that the thousands of complaints received every year were not completely disregarded. The draft resolution was further defended on the grounds that it was uncertain when the drafting of the covenants would be completed and when they would come into effect; it was also uncertain how many States would eventually become parties to them. For that reason, it was necessary to request the revision of resolution 75 (V) of the Council, as amended, in order to make it possible to ensure better protection of human rights. The proposal, if accepted, would serve a very useful purpose in bringing the views of the Commission to the notice of the Council at its fourteenth session, during the latter's discussion on resolution 542 (VI) of the General Assembly, which asked the Council to give the Commission on Human Rights instructions for its ninth session with regard to communications and to request the Commission to formulate its recommendations on them. The following arguments were advanced against the Indian proposal: that since the covenants on human rights were not yet completed, there were no criteria binding on States to determine what was or was not a human right; that the Commission would therefore have only vague indications on which to base its assessment of the validity of the conclusions drawn by the petitioners in the communications; that a still stronger reason why the Indian proposal was not admissible was that it entered into the question of implementation by providing that, after examining communications, the Commission would make recommendations thereon to the Economic and Social Council; that even at the advanced stage that the Commission had reached in its work, it had not expressed its view on the implementation provisions in the covenants; that as long as States had not agreed by convention to confer the necessary powers on the organs of the United Nations, the latter were prevented from

[45] The data contained in this paragraph were furnished to the Commission by the United Nations Secretariat. The Commission has merely reproduced them as they stand for information. Neither the Secretariat nor the Commission expresses any opinion regarding the accuracy of the facts alleged by the communications referred to or regarding the validity of the conclusions which the authors of these communications draw from these alleged facts.

taking action by Article 2, paragraph 7, of the Charter, which forbade them to intervene in matters which were essentially within the domestic jurisdiction of a State; and that it seemed therefore, from all points of view, that the Indian proposal could not be supported. Other members drew attention to the complexity of the problem and to the difficulty of sifting such a large number of communications, and emphasized that the Commission was not qualified, either by its membership or by its terms of reference, to deal with complaints, nor had it any authority to make the inquiries which would be necessary before any judgment could be formed upon merely *ex parte* statements; if it were to deal with complaints, its terms of reference might have to be modified. In reply, it was argued that the members of the Commission were not simply representatives of their governments; they were nominated by governments and confirmed by the Council for their technical competence, and they owed an overriding loyalty to the United Nations as an organization and to humanity as a whole. Article 62, paragraph 2, of the Charter gave the legal basis on which the Economic and Social Council could make recommendations for the purpose of promoting respect for human rights, and there was nothing in the terms of reference of the Commission itself, which were very wide and general, that prevented it from submitting reports and recommendations to the Council on any subject relating to human rights. Certain members suggested that it might be wiser to await the Council's decision on General Assembly resolution 542 (VI). Some suggested that the Secretary-General might be asked to furnish a study on the question to the next session of the Commission.

295. The operative part of the Indian draft resolution, as orally changed by the sponsor, provided that the Commission should request the Council to reconsider its resolution 75 (V), as amended, and authorize it to make reports and recommendations to the Council concerning communications regarding human rights. The representative of Lebanon submitted an amendment to replace the operative part by a request to the Secretary-General to prepare a report on these questions and to submit it to the ninth session of the Commission. The Commission rejected the amendment by 11 votes to 1, with 4 abstentions. It proceeded to vote separately on the following part of the draft resolution: "requests the Economic and Social Council to reconsider its resolution 75 (V) as amended", and rejected it by 9 votes to 6, with 2 abstentions. As a consequence of this vote, the representative of India withdrew the remaining part of her draft resolution.

VI. FUTURE WORK OF THE COMMISSION

296. At its 333rd and 334th meetings, the Commission considered a draft resolution submitted by the representatives of Chile, Pakistan and Uruguay (E/CN.4/L.216) concerning the work of the Commission in 1953. It adopted the draft resolution, as amended by France and Australia (E/CN.4/L.218 and E/CN.4/SR.334), by 11 votes to 3, with 4 abstentions. The draft resolution reads as follows:

WORK OF THE COMMISSION IN 1953

"*The Commission on Human Rights,*

"*Considering* that neither at its seventh session nor at its eighth session was it possible for the Commission to complete its work in connexion with the draft international covenants on human rights and measures of implementation,

"*Considering* that for the past three sessions the Commission has not been in a position to study the many other items of its agenda,

"*Believing* that it is essential for the Commission to complete the consideration of its agenda,

"*Requests* the Economic and Social Council

"(*a*) To arrange for two sessions of the Commission in 1953 as follows:

"(i) One session lasting for five weeks to complete the drafting of the international covenants on human rights and measures of implementation; and

"(ii) One session lasting for three weeks to complete the consideration of all other items on its agenda;

"(*b*) Or to provide for one session in 1953 to be suitably divided into two parts".

297. The Commission at the 334th meeting discussed a proposal by the representative of Poland that the following session should be held in Geneva. Several representatives expressed the view that that proposal, if adopted, would not exclude the possibility of holding the following session elsewhere, but away from New York. The Commission adopted by 10 votes to 3, with 4 abstentions, the following draft resolution:

MEETING PLACE OF THE COMMISSION IN 1953

"*The Commission on Human Rights*

"*Recommends* to the Economic and Social Council to decide that the Commission on Human Rights meet in 1953 in Geneva."

298. The Commission was unable at its eighth session to complete the consideration of item 4 of its agenda (see chapter IV, paragraph 97), nor was it able to consider items 5 to 18 and 19 (*b*). These items were automatically deferred to 1953 (E/CN.4/SR.334).

VII. ADOPTION OF THE REPORT OF THE EIGHTH SESSION TO THE ECONOMIC AND SOCIAL COUNCIL

299. The Commission considered the draft report of its eighth session (E/CN.4/L.200 and Add.1-9) during the 336th to 338th meetings. It adopted the report by 11 votes to none, with 5 abstentions.

ANNEXES

Annex I

Draft International Covenants on Human Rights and Measures of Implementation

A

Draft Covenant on Economic, Social and Cultural Rights

Text of provisions adopted at the eighth session of the Commission.

PREAMBLE[1]

The States Parties hereto,

Considering, that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free men enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under responsibility to strive for the promotion and observance of the rights recognized in this Covenant,

Agree upon the following articles:

PART I

Article 1[2]

1. All peoples and all nations shall have the right of self-determination, namely, the right freely to determine their political, economic, social and cultural status.

2. All States, including those having responsibility for the administration of Non-Self-Governing and Trust Territories and those controlling in whatsoever manner the exercise of that right by another people, shall promote the realization of that right in all their territories, and shall respect the maintenance of that right in other States, in conformity with the provisions of the United Nations Charter.

3. The right of the peoples to self-determination shall also include permanent sovereignty over their natural wealth and resources. In no case may a people be deprived of its own means of subsistence on the grounds of any rights that may be claimed by other States.

PART II

Article 2[3]

1. Each State Party hereto undertakes to take steps, individually and through international co-operation, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in this Covenant by legislative as well as by other means.

2. The State Parties hereto undertake to guarantee that the rights enunciated in this Covenant will be exercised without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 3[4]

The States Parties to the Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in this Covenant.

Article 4[5]

The State Parties to this Covenant recognize that in the enjoyment of those rights provided by the State in conformity with this Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

Article 5[6]

1. Nothing in this Covenant may be interpreted as implying for any State, group or person, any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein or at their limitation, to a greater extent than is provided for in this Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

[1] E/CN.4/L.54, 54/Rev.1-3; 167; 171; E/CN.4/SR.308; 333; E/CN.4/666/Add.15; and see paragraphs 161-162.

[2] E/CN.4/L.21, 21/Corr.1 (French only), 22, 22/Rev.1, 23, 23/Rev.1, 24, 25, 25/Rev.1, 27, 28, 28/Rev.1-2, 29, 30, 31; E/CN.4/SR.256-261, E/CN.4/663; and see paragraphs 57-74 and 91.

[3] E/CN.4/L.54, 54/Add.1, 54/Rev.1-2, 55, 56, 56/Rev.1, 65, 65/Rev.1, 69, 70, 71, 72, 73; E/CN.4/SR.270-275; E/CN.4/666; and see paragraphs 106-109.

[4] Article 31 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 60); E/CN.4/650, paragraphs 42-44; E/CN.4/L.77, 77/Rev.1; E/CN.4/SR.301, 302; E/CN.4/666/Add.12; and see paragraphs 142-143.

[5] Article 32 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 47); E/CN.4/L.76, 115, 175; E/CN.4/SR.306-308; E/CN.4/666/Add.14; and see paragraphs 155-160.

[6] E/CN.4/L.67, 67/Corr.1-2 (English only), 67/Rev.1, 114, 114/Rev.1-2, 168, 168/Rev.1, 169, 170, 172, 173, 174; E/CN.4/SR.303-306; E/CN.4/666/Add.13; and see paragraphs 149-154.

PART III

Article 6[7]

1. Work being at the basis of all human endeavour, the States Parties to the Covenant recognizes the right to work, that is to say, the fundamental right of everyone to the opportunity, if he so desires, to gain his living by work which he freely accepts.

2. The steps to be taken by a State Party to this Covenant to achieve the full realization of this right shall include programmes, policies and techniques to achieve steady economic development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7[8]

The States Parties to the Covenant recognize the right of everyone to just and favourable conditions of work, including:

(*a*) Safe and healthy working conditions;

(*b*) Remuneration which provides all workers as a minimum with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular, women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; and

(ii) A decent living for themselves and their families; and

(*c*) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay.

Article 8[9]

The States Parties to the Covenant undertake to ensure the free exercise of the right of everyone to form and join local, national and international trade unions of his choice for the protection of his economic and social interests.

Article 9[10]

The States Parties to the Covenant recognize the right of everyone to social security.

Article 10[11]

The States Parties to the Covenant recognize that:

1. Special protection should be accorded to motherhood and particularly to maternity during reasonable periods before and after childbirth; and

2. Special measures of protection, to be applied in all appropriate cases within and with the help of the family, should be taken on behalf of children and young persons, and in particular they should not be required to do work likely to hamper their normal development. To protect children from exploitation, the unlawful use of child labour and the employment of young persons in work harmful to health or dangerous to life should be made legally actionable; and

3. The family, which is the basis of society, is entitled to the widest possible protection. It is based on marriage, which must be entered into with the free consent of the intending spouses.

Article 11[12]

The States Parties to the Covenant recognize the right of everyone to adequate food, clothing and housing.

Article 12[13]

The States Parties to the Covenant recognize the right of everyone to an adequate standard of living and the continuous improvement of living conditions.

Article 13[14]

1. The States Parties to the Covenant, realizing that health is a state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity, recognize the right of everyone to the enjoyment of the highest attainable standard of health.

2. The steps to be taken by the States Parties to the Covenant to achieve the full realization of this right shall include those necessary for:

(*a*) The reduction of infant mortality and the provision for healthy development of the child;

(*b*) The improvement of nutrition, housing, sanitation, recreation, economic and working conditions and other aspects of environmental hygiene;

(*c*) The prevention, treatment and control of epidemic, endemic and other diseases;

(*d*) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 14[15]

1. The States Parties to the Covenant recognize the right of everyone to education, and recognize that education shall encourage the full development of the

[7] Article 20 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 20); E/CN.4/650, paragraphs 22-23; E/CN.4/L.45, 53, 53/Rev.1, 58, 58/Rev.1, 82, 90, 92, 93; E/CN.4/SR.275-278; E/CN.4/666/Add.1; and see paragraphs 110-111.

[8] Article 21 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 50); E/CN.4/650, paragraphs 24-28; E/CN.4/661; E/CN.4/L.46, 59, 60, 62, 62/Rev.1-2, 63, 63/Rev.1, 94; E/CN.4/SR.279-281; E/CN.4/666/Add.2; and see paragraphs 112-115.

[9] Article 27 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 56); E/CN.4/650, paragraphs 34-35; E/CN.4/L.50, 50/Rev.1, 78, 110, 111, 118, 119, 162, 162/Rev.1, 163; E/CN.4/SR.298-300; E/CN.4/666/Add.11; and see paragraphs 140-141.

[10] Article 22 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 51); E/CN.4/L.47, 64, 64/Rev.1-2, 68; E/CN.4/SR.281, 282, 284; E/CN.4/666/Add.3; and see paragraphs 117-118.

[11] Article 26 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 55); E/CN.4/650, paragraph 33; E/CN.4/L.49, 49/Corr.1 (English only), 74, 74/Rev.1-2, 77, 77/Rev.1, 87, 112, 113, 116, 117; E/CN.4/SR.296-298; E/CN.4/666/Add.10; and see paragraphs 135-139.

[12] Article 23 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 52); E/CN.4/655/Add.3; E/CN.4/L.48, 57, 83; E/CN.4/SR.294-295; E/CN.4/666/Add.6; and see paragraphs 129-130.

[13] Article 24 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 53); E/CN.4/650, paragraphs 29-30; E/CN.4/SR.295; E/CN.4/666/Add.7, and see paragraph 131.

[14] Article 25 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 54); E/CN.4/650, paragraphs 31-32; E/CN.4/L.79, 79/Rev.1, 84, 86, 109; E/CN.4/SR.295-296; E/CN.4/666/Add.9; and see paragraphs 132-134.

[15] Article 28 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 57); E/CN.4/650, paragraphs 36-39; E/CN.4/655/Add.4; E/CN.4/L.51, 51/Corr.1 (English only), 61, 61/Rev.1, 80, 80/Rev.1-2, 85, 85/Rev.1, 89, 95, 96, 96/Rev.1, 97, 98, 99, 100, 101, 102, 102/Rev.1; E/CN.4/SR.285-291; E/CN.4/666/Add.4; and see paragraphs 119-123.

human personality, the strengthening of respect for human rights and fundamental freedoms and the suppression of all incitement to racial and other hatred. It shall promote understanding, tolerance and friendship among all nations, racial, ethnic or religious groups, and shall further the activities of the United Nations for the maintenance of peace and enable all persons to participate effectively in a free society.

2. It is understood:

(*a*) That primary education shall be compulsory and available free to all;

(*b*) That secondary education, in its different forms, including technical and professional secondary education, shall be generally available and shall be made progressively free;

(*c*) That higher education shall be equally accessible to all on the basis of merit and shall be made progressively free;

(*d*) That fundamental education for those persons who have not received or completed the whole period of their primary education shall be encouraged as far as possible.

3. In the exercise of any functions which they assume in the field of education, the States Parties to the Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians, to choose for their children schools other than those established by the public authorities which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious education of their children in conformity with their own convictions.

Article 15[16]

Each State Party to the Covenant which, at the time of becoming a party to this Covenant, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory primary education free of charge for all.

Article 16[17]

1. The States Parties to the Covenant recognize the right of everyone:

(*a*) To take part in cultural life;

(*b*) To enjoy the benefits of scientific progress and its applications.

2. The steps to be taken by the States Parties to this Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

B

Draft Covenant on Civil and Political Rights

Text of provisions adopted at the eighth session of the Commission.

PREAMBLE[18]

The States Parties hereto,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free men enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under responsibility to strive for the promotion and observance of the rights recognized in this Covenant,

Agree upon the following articles:

PART I

Article 1[19]

1. All peoples and all nations shall have the right of self-determination, namely, the right freely to determine their political, economic, social and cultural status.

2. All States, including those having responsibility for the administration of Non-Self-Governing and Trust Territories and those controlling in whatsoever manner the exercise of that right by another people, shall promote the realization of that right in all their territories, and shall respect the maintenance of that right in other States, in conformity with the provisions of the United Nations Charter.

3. The right of the peoples to self-determination shall also include permanent sovereignty over their natural wealth and resources. In no case may a people be deprived of its own means of subsistence on the grounds of any rights that may be claimed by other States.

PART II

Article 2[20]

1. Each State Party hereto undertakes to respect and

[16] Article 29 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 58); E/CN.4/650, paragraph 40; E/CN.4/655/Add.4, E/CN.4/667; E/CN.4/L.88, E/CN.4/SR.291, 292, 294; E/CN.4/666/Add.8; and see paragraphs 124-125.

[17] Article 30 of the draft covenant prepared at the seventh session, E/1992, annex I (French text in E/CN.4/635/Add.5, article 59); E/CN.4/650, paragraph 41, E/CN.4/655/Add.4; E/CN.4/L.52, 75, 81, 81/Rev.1, 104, 105, 105/Rev.1, 106, 106/Rev.1, 107, 108; E/CN.4/SR.292-294; E/CN.4/666/Add.5; and see paragraphs 126-128.

[18] Preamble of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, para. 66; E/CN.4/528/Add.1, para. 39; E/CN.4/L.148, 208; E/CN.4/666/Add.15; E/CN.4/SR.331, 333; E/CN.4/668/Add.18, Add.18/Corr.1 (French only); and see paragraphs 286-289.

[19] See footnote 2 of this annex.

[20] Article 1 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 67-78; E/CN.4/528/Add.1, paragraphs 40-49; E/CN.4/L.129, 138, 161; E/CN.4/SR.328-329; E/CN.4/668/Add.16; and see paragraphs 269-276.

to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in this Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of this Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in this Covenant.

3. Each State Party hereto undertakes:

(*a*) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(*b*) To develop the possibilities of judicial remedy and to ensure that any person claiming such a remedy shall have his right thereto determined by competent authorities, political, administrative or judicial;

(*c*) To ensure that the competent authorities shall enforce such remedies when granted.

Article 3[21]

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties hereto may take measures derogating from their obligations under this Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 5, 6, 7 (paragraphs 1 and 2), 9, 13, 14 and 15 may be made under this provision.

3. Any State Party hereto availing itself of the right of derogation shall inform immediately the other States Parties to the Covenant, through the intermediary of the Secretary-General, of the provisions from which it has derogated, the reasons by which it was actuated and the date on which it has terminated such derogation.

Article 4[22]

1. Nothing in this Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in this Covenant.

2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any Contracting State pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 5[23]

1. No one shall be arbitrarily deprived of his life. Everyone's right to life shall be protected by law.

2. In countries where capital punishment exists, sentence of death may be imposed only as a penalty for the most serious crimes pursuant to the sentence of a competent court and in accordance with law not contrary to the principles of the Universal Declaration of Human Rights or the Convention on the Prevention and Punishment of the Crime of Genocide.

3. Any one sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

4. Sentence of death shall not be carried out on a pregnant woman.

Article 6[24]

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation involving risk, where such is not required by his state of physical or mental health.

Article 7[25]

1. No one shall be held in slavery; slavery and the slave trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3. (*a*) No one shall be required to perform forced or compulsory labour.

(*b*) The preceding sub-paragraph shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court.

(*c*) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:

(i) Any work or service, not referred to in sub-paragraph (*b*), normally required of a person who is under detention in consequence of a lawful order of a court;

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in cases of emergency or

[21] Article 2 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 79-86; E/CN.4/528/Add.1, paragraphs 50-56; E/1992, annex III, A; E/CN.4/L.121, 136, 139, 139/Rev.1, 211, 212, 213; E/CN.4/SR.330-331; E/CN.4/668/Add.17; and see paragraphs 277-285. The articles referred to in paragraph 2 have been changed to conform with the order of the articles in this section.

[22] Article 18 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 222-223; E/1992; annex III, A; E/CN.4/L.134, 198, 198/Rev.1, 206, 207; E/CN.4/SR.328; E/CN.4/668/Add.15; and see paragraphs 263-268.

[23] Article 3 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 87-94; E/CN.4/528/Add.1, paragraphs 57-64; E/1992, annex III, A; E/CN.4/L.122, 130, 140, 160, 160/Corr.1, 176, 177, 178, 179, 180, 181, 182; E/CN.4/SR.309-311; E/CN.4/668, 668/Corr.1 (English only); and see paragraphs 167-174.

[24] Article 4 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 95-100; E/CN.4/528/Add.1, paragraphs 65-68; E/1992, annex III, A; E/CN.4/L.159; E/CN.4/SR.311-312; E/CN.4/668/Add.1; and see paragraphs 175-177.

[25] Article 5 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 101-108; E/CN.4/528/Add.1, paragraphs 69-70; E/CN.4/L.158, L.158/Rev.1; E/CN.4/SR.312-313; E/CN.4/668/Add.2; and see paragraphs 178-179.

calamity threatening the life or well-being of the community;

(iv) Any work or service which forms part of normal civic obligations.

Article 8[26]

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that such court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or deprivation of liberty shall have an enforceable right to compensation.

Article 9[27]

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

Article 10[28]

1. Subject to any general law of the State concerned which provides for such reasonable restrictions as may be necessary to protect national security, public safety, health or morals or the rights and freedoms of others, consistent with the other rights recognized in this Covenant:

(*a*) Everyone legally within the territory of a State shall, within that territory, have the right to (i) liberty of movement and (ii) freedom to choose his residence;

(*b*) Everyone shall be free to leave any country, including his own.

2. (*a*) No one shall be subjected to arbitrary exile;

(*b*) Subject to the preceding sub-paragraph, anyone shall be free to enter his own country.

Article 11[29]

An alien lawfully in the territory of a State Party hereto may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by and be represented for the purpose before the competent authority or a person or persons specially designated by the competent authority.

Article 12[30]

1. All persons shall be equal before the courts or tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The Press and public may be excluded from all or part of a trial for reasons of morals, public order or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the Court in special circumstances where publicity would prejudice the interest of justice; but any judgment rendered in a criminal case or in a suit at law shall be pronounced publicly except where the interest of juveniles otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(*a*) To be informed promptly in a language which he understands and in detail of the nature and cause of the accusation against him;

(*b*) To have adequate time and facilities for the preparation of his defence;

(*c*) To defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case where he does not have sufficient means to pay for it;

(*d*) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(*e*) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(*f*) Not to be compelled to testify against himself, or to confess guilt.

[26] Article 6 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 109-124; E/CN.4/528/Add.1, paragraphs 71-78; E/1992, annex III, A; E/CN.4/L.131, 137, 151, 183; E/CN.4/SR.313-314; E/CN.4/668/Add.3; and see paragraphs 180-188.

[27] Article 7 of the draft covenant prepared at the sixth session, E/1992, annex I, E/CN.4/528, paragraph 125; E/CN.4/528/Add.1, paragraph 79; E/CN.4/SR.314; E/CN.4/668/Add.4; and see paragraph 189.

[28] Article 8 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 126-136; E/CN.4/528/Add.1, paragraphs 80-83; E/CN.4/L.123, 123/Corr.1, 132, 132/Rev.1-2, 149, 149/Rev.1, 152, 185, 186, 189, 189/Rev.1; E/CN.4/SR.315-316; E/CN.4/668/Add.5; and see paragraphs 190-197.

[29] Article 9 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 28-31, 137; E/CN.4/528/Add.1, paragraphs 14-16, 84-85; E/1992, annex III, A; E/CN.4/L.141, 150, 153, 184, 188, 190, 190/Rev.1-2, 191, E/CN.4/SR.316-318; E/CN.4/668/Add.6; and see paragraphs 198-204.

[30] Article 10 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 138-160; E/CN.4/528/Add.1, paragraphs 86-95; E/1992, annex III, A; E/CN.4/L.124, 133, 142, 154, 154/Corr.1 (English only), 154/Rev.1-2; E/CN.4/SR.318, 323-324; E/CN.4/668/Add.9; and see paragraphs 205-223.

3. In the case of juveniles, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

4. In any case where by a final decision a person has been convicted of a criminal offence and where subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

Article 13[31]

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 14[32]

Everyone shall have the right to recognition everywhere as a person before the law.

Article 15[33]

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to maintain or to change his religion or belief, 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. No one shall be subject to coercion which would impair his freedom to maintain or to change his religion or belief.

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.

[31] Article 11 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 161-164; E/CN.4/528/Add.1, paragraphs 96-97; E/1992, annex III, A; E/CN.4/L.196, 197; E/CN.4/SR.324; E/CN.4/668/Add.11; and see paragraphs 224-229.

[32] Article 12 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 165-167; E/CN.4/528/Add.1, paragraphs 98-99; E/CN.4/SR.324; E/CN.4/668/Add.10; and see paragraph 230.

[33] Article 13 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 168-199; E/CN.4/528/Add.1, paragraphs 100-104; E/1992, annex III, A; E/CN.4/L.143, 155, 155/Corr.1 (Russian only), 187; E/CN.4/SR.319, 333; E/CN.4/668/Add.7, 668/Add.7/Corr.1; and see paragraphs 231-237.

Article 16[34]

1. Everyone shall have the right to hold opinions without interference.

2. Everyone 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 his choice.

3. The exercise of the rights provided for in the foregoing paragraph carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall be such only as are provided by law and are necessary, (1) for respect of the rights or reputations of others, (2) for the protection of national security or of public order, or of public health or morals.

Article 17[35]

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

Article 18[36]

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

2. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of this right by members of the armed forces or of the police.

3. Nothing in this article shall authorize States Parties to the Freedom of Association and Protection of the Right to Organize Convention, 1948, to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that convention.

Article 19[37]

All persons are equal before the law. The law shall

[34] Article 14 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 179-198, 200-207; E/CN.4/528/Add.1, paragraphs 102, 105-113; E/1992, annex III, A; E/CN.4/L.125, 144, 144/Rev.1, 156, 156/Rev.1, 192, 193; E/CN.4/SR.320-322; E/CN.4/668/Add.8; and see paragraphs 238-244.

[35] Article 15 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 179-198, 208; E/CN.4/528/Add.1, paragraphs 102, 114-115; E/1992, annex III, A; E/CN.4/L.126, 145, 201; E/CN.4/SR.325; E/CN.4/668/Add.12; and see paragraphs 245-250.

[36] Article 16 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 179-198, 209-213; E/CN.4/528/Add.1, paragraphs 102, 116-118; E/1992, annex III, A; E/CN.4/L.126, 146, 202, 203; E/CN.4/SR.325-326; E/CN.4/668/Add.13; and see paragraphs 245-247, 251-257.

[37] Article 17 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/528, paragraphs 214-221; E/CN.4/528/Add.1, paragraphs 119-122; E/1992, annex III, A; E/CN.4/L.127, 147, 157, 204, 205; E/CN.4/SR.326-328; E/CN.4/668/Add.14; and see paragraphs 258-262.

prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

C

THE TERRITORIAL APPLICATION OF THE DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS[38]

The following text on the territorial application of the international covenant on human rights was adopted by the General Assembly in resolution 422 (V) and appeared as article 72 of the draft covenant in the report of the seventh session of the Commission (E/1992, annex I), but was not considered at the eighth session of the Commission.

"The provisions of the present Covenant shall extend to or be applicable equally to a signatory metropolitan State and to all the territories, be they Non-Self-Governing, Trust, or Colonial Territories, which are being administered or governed by such metropolitan State."

D

MEASURES OF IMPLEMENTATION

Text of parts IV and V (articles 33 to 69) of the draft covenant contained in the report of the seventh session of the Commission (E/1992, annex I, pages 24 to 28) but not considered at the eighth session of the Commission.

PART IV

Article 33[39]

Note: The Commission decided to postpone the vote on the whole of Article 33. The following is the provisional text of the Article.

1. With a view to the implementation of the provisions of the International Covenant on Human Rights, there shall be set up a Human Rights Committee, hereinafter referred to as "the Committee", composed of nine members with the functions hereinafter provided.

2. The Committee shall be composed of nationals of the States Parties to the Covenant who shall be persons of high moral standing and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having a judicial or legal experience.

3. The members of the Committee shall be elected and shall serve in their personal capacities.

Article 34[40]

1. The members of the Committee shall be elected from a list of persons possessing the qualifications prescribed in Article 33 and specially nominated for that purpose by the States Parties to the Covenant.

2. Each State shall nominate at least two and not more than four persons. These persons may be nationals of the nominating State or of any other State Party to the Covenant.

3. Nominations shall remain valid until new nominations are made for the purpose of the next election under Article 39. A person shall be eligible to be renominated.

Article 35[41]

At least three months before the date of each election to the Committee, the Secretary-General of the United Nations shall address a written request to the States Parties to the Covenant inviting them, if they have not already submitted their nominations, to submit them within two months.

Article 36[42]

The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, and submit it to the International Court of Justice and to the States Parties to the Covenant.

Article 37[43]

1. The Secretary-General of the United Nations, on behalf of the States Parties to the Covenant, shall request the International Court of Justice to elect the members of the Committee from the list referred to in Article 36 and in accordance with the conditions set out below.

2. On receipt of the list from the Secretary-General of the United Nations, the President of the International Court of Justice shall fix the time of elections for members of the Committee.

Article 38[44]

1. No more than one national of any State may be a member of the Committee at any time.

2. In the election of the Committee consideration shall be given to equitable geographical distribution of membership and to the representation of the main forms of civilization. The persons elected shall be those who obtain the largest number of votes and an absolute majority of the votes of all the members of the Court.

3. The quorum of nine laid down in Article 25, paragraph 3, of the Statute of the Court shall apply for the holding of the elections by the Court.

Article 39[45]

The members of the Committee shall be elected for a term of five years and be eligible for re-election. However, the terms of five of the members elected at the first election shall expire at the end of two years. Immediately after the first election the names of the members whose terms expire at the end of the initial

[38] See paragraph 98.

[39] E/1681, annex I Article 19; E/CN.4/530, paragraphs 24-30, E/CN.4/552, chapter V, section I, E/CN.4/560/Rev.1, E/CN.4/566, E/CN.4/SR.214, 215 and E/CN.4/L.18.

[40] E/1681, annex I Article 20; E/CN.4/530, paragraphs 31-33, E/CN.4/552, chapter V, section I, E/CN.4/560/Rev.1, E/CN.4/SR.215, and E/CN.4/L.18.

[41] E/1681, annex I Article 21; E/CN.4/SR.215 and E/CN.4/L.18.

[42] E/1681, annex I Article 22; E/CN.4/556, E/CN.4/560/Rev.1, E/CN.4/568, E/CN.4/SR.215 and E/CN.4/L.18.

[43] E/1681, annex I Article 23; E/CN.4/530, paragraphs 34-35; E/CN.4/552, chapter V, section I; E/CN.4/556, E/CN.4/560/Rev.1, E/CN.4/SR.214-215 and E/CN.4/L.18.

[44] E/1681, annex I Article 24; E/CN.4/530, paragraphs 34-36; E/CN.4/552, chapter V, section I; E/CN.4/556, E/CN.4/560/Rev.1, E/CN.4/567; E/CN.4/215 and E/CN.4/L.18.

[45] E/1681, annex I Article 25; E/CN.4/530, paragraph 37; E/CN.4/552, chapter V, section I; E/CN.4/560/Rev.1; E/CN.4/SR.215, and E/CN.4/L.18.

period of two years shall be chosen by lot by the President of the International Court of Justice.

Article 40[46]

1. Should a vacancy arise, the provisions of Articles 35, 36, 37 and 38 shall apply to the election.

2. A member of the Committee elected to fill a vacancy shall, if his predecessor's term of office has not expired, hold office for the remainder of that term.

Article 41[47]

A member of the Committee shall remain in office until his successor has been elected; but if the Committee has, prior to the election of his successor, begun to consider a case, he shall continue to act in that case, and his successor shall not act in that case.

Article 42[48]

The resignation of a member of the Committee shall be addressed to the Chairman of the Committee through the Secretary of the Committee who shall immediately notify the Secretary-General of the United Nations and the International Court of Justice.

Article 43[49]

The members of the Committee and the Secretary, when engaged on the business of the Committee, shall enjoy diplomatic privileges and immunities.

Article 44[50]

1. The Secretary of the Committee shall be appointed by the International Court of Justice from a list of three names submitted by the Committee.

2. The candidate obtaining the largest number of votes and an absolute majority of the votes of all the members of the Court shall be declared elected.

3. The quorum of nine laid down in Article 25, paragraph 3 of the Statute of the Court shall apply for the holding of the election by the Court.

Article 45[51]

The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.

Article 46[52]

The Committee shall, at its initial meeting, elect its Chairman and Vice-Chairman for the period of one year.

Article 47[53]

The Committee shall establish its own rules of procedure, but these rules shall provide that:

(*a*) Seven members shall constitute a quorum;

(*b*) The work of the Committee shall proceed by a majority vote of the members present; in the event of an equality of votes the Chairman shall have a casting vote;

(*c*) All States Parties to the Covenant having an interest in any matter referred to the Committee under Article 52 shall have the right to make submissions to the Committee in writing.

The States referred to in Article 52 shall further have the right to be represented at the hearings of the Committee and to make submissions orally.

(*d*) The Committee shall hold hearings and other meetings in closed session.

Article 48[54]

1. After its initial meeting the Committee shall meet:

(*a*) At such times as it deems necessary;

(*b*) When any matter is referred to it under Article 52;

(*c*) When convened by its Chairman or at the request of not less than five of its members.

2. The Committee shall meet at the permanent Headquarters of the United Nations or at Geneva.

Article 49[55]

The Secretary of the Committee shall attend its meetings, make all necessary arrangements, in accordance with the Committee's instructions, for the preparation and conduct of the work, and carry out any other duties assigned to him by the Committee.

Article 50[56]

The members and the Secretary of the Committee shall receive emoluments commensurate with the importance and responsibilities of their office.

Article 51[57]

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the Committee and its members.

Article 52[58]

1. If a State Party to the Covenant considers that another State Party is not giving effect to a provision of the Covenant, it may, by written communication,

[46] E/1681, annex I Article 26; E/CN.4/617, E/CN.4/560/Rev.1; E/CN.4/SR.239; E/CN.4/L.18/Add.1.

[47] E/1681, annex I Article 27; E/CN.4/617, E/CN.4/556; E/CN.4/SR.239, E/CN.4/L.18/Add.1.

[48] E/1681, annex I Article 28; E/CN.4/617, E/CN.4/560/Rev.1; E/CN.4/SR.239, E/CN.4/L.18/Add.1.

[49] E/1681, annex I Article 29; E/CN.4/617, E/CN.4/556, E/CN.4/560/Rev.1, E/CN.4/SR.239 and E/CN.4/L.18/Add.1.

[50] E/1681, annex I Article 30; E/CN.4/617, E/CN.4/560/Rev.1, E/CN.4/620, E/CN.4/SR.239 and E/CN.4/L.18/Add.1.

[51] E/1681, annex I Article 31; E/CN.4/SR.239 and E/CN.4/L.18/Add.1.

[52] E/1681, annex I Article 32; E/CN.4/530, paragraphs 44-45; E/CN.4/617, E/CN.4/560/Rev.1, E/CN.4/SR.239, E/CN.4/L.18/Add.1.

[53] E/1681, annex I, Article 33; E/CN.4/530, paragraphs 46-48; E/CN.4/617, E/CN.4/550, E/CN.4/560/Rev.1, E/CN.4/566, E/CN.4/620, E/CN.4/SR.239 and E/CN.4/L.18/Add.1.

[54] E/1681, annex I, Article 35; E/CN.4/617, E/CN.4/560/Rev.1, E/CN.4/620, E/CN.4/SR.239 and E/CN.4/L.18/Add.1.

[55] E/1681, annex I, Article 36; E/CN.4/617, E/CN.4/560/Rev.1; E/CN.4/SR.240 and E/CN.4/L.18/Add.1.

[56] E/CN.4/530, paragraph 52; E/CN.4/560/Rev.1, E/CN.4/617, E/CN.4/627, E/CN.4/627/Add.1; E/CN.4/SR.240 and 243.

[57] E/1681, annex I, Article 37; E/CN.4/560/Rev.1, E/CN.4/617, E/CN.4/627 and E/CN.4/627/Add.1; E/CN.4/SR.240, 243 and 249.

[58] E/1681, annex I, Article 38; E/CN.4/530, paragraphs 53-58, 85-89; E/CN.4/569, E/CN.4/617, E/CN.4/617/Corr.1, E/CN.4/SR.240 and E/CN.4/L.18/Add.1.

bring the matter to the attention of that State. Within three months after the receipt of the communication, the receiving State shall afford the communicating State an explanation or statement in writing concerning the matter, which should include, to the extent possible and pertinent, references to domestic procedures and remedies taken, or pending, or available in the matter.

2. If the matter is not adjusted to the satisfaction of both Parties within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Secretary of the Committee and to the other State.

3. Subject to the provisions of Article 54 below, in serious cases where human life is endangered the Committee may, at the request of a State Party to the Covenant referred to in paragraph 1 of this Article, deal forthwith with the case on receipt of the initial communication and after notifying the State concerned.

Article 53[59]

The Committee shall deal with any matter referred to it under Article 52 save that it shall have no power to deal with any matter:

(*a*) For which any organ or specialized agency of the United Nations competent to do so has established a special procedure by which the States concerned are governed; or

(*b*) With which the International Court of Justice is seized other than by virtue of Article . . . of the present Covenant.

Article 54[60]

Normally, the Committee shall deal with a matter referred to it only if available domestic remedies have been invoked and exhausted in the case. This shall not be the rule where the application of the remedies is unreasonably prolonged.

Article 55[61]

In any matter referred to it the Committee may call upon the States concerned to supply any relevant information.

Article 56[62]

The Committee may recommend to the Economic and Social Council that the Council request the International Court of Justice to give an advisory opinion on any legal question connected with a matter of which the Committee is seized.

Article 57[63]

1. Subject to the provisions of Article 54, the Committee shall ascertain the facts and make available its good offices to the States concerned with a view to a friendly solution of the matter on the basis of respect for human rights as recognized in this Covenant.

2. The Committee shall, in every case and in no event later than eighteen months after the date of receipt of the notice under Article 52, draw up a report which will be sent to the States concerned and then communicated to the Secretary-General of the United Nations for publication. The Committee shall complete its report as promptly as possible, particularly when requested by one of the States Parties where human life is endangered.

3. If a solution within the terms of paragraph 1 of this article is reached the Committee shall confine its report to a brief statement of the facts and of the solution reached. If such a solution is not reached, the Committee shall state in its report its conclusions on the facts and attach thereto the statements made by the parties to the case.

Article 58[64]

The Committee shall submit to the General Assembly, through the Secretary-General, an annual report of its activities.

Article 59[65]

The States Parties to this Covenant agree not to submit, by way of petition, to the International Court of Justice, except by special agreement, any dispute arising out of the interpretation or application of the Covenant in a matter within the competence of the Committee.

PART V

Article 60[66]

The States Parties to this Covenant undertake to submit reports concerning the progress made in achieving the observance of these rights in conformity with the following articles and the recommendations which the General Assembly and the Economic and Social Council, in the exercise of their general responsibility may make to all the Members of the United Nations.

Article 61[67]

1. The States Parties shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council after consultation with the States Parties to this Covenant and the specialized agencies concerned.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under this part of the Covenant.

3. Where relevant information has already previously been furnished to the United Nations or to any specialized agency, the action required by this Article may take the form of a precise reference to the information so furnished.

[59] E/CN.4/530, paragraphs 63-71; E/CN.4/560/Rev.1, E/CN.4/617, E/CN.4/620, E/CN.4/634/Rev.1, E/CN.4/SR.249.

[60] E/1681, annex I, Article 39; E/CN.4/530, paragraphs 59-62, E/CN.4/SR.249.

[61] E:1681, annex I, Article 40; E/CN.4/530, paragraphs 63-71; E/CN.4/621, E/CN.4/SR.249.

[62] E/CN.4/530, paragraphs 78-80, E/CN.4/558/Rev.1, E/CN.4/SR.249.

[63] E/1681, annex I, Article 41; E/CN.4/530, paragraphs 63-74; E/CN.4/556, E/CN.4/565, E/CN.4/617 and Corrigendum 1, E/CN.4/SR.249.

[64] E/CN.4/530, paragraphs 81-84, E/CN.4/556, E/CN.4/617, E/CN.4/SR.249.

[65] E/CN.4/530, paragraphs 78-80; E/CN.4/560/Rev.1/Corr.1, E/CN.4/620, E/CN.4/SR.249.

[66] E/CN.4/629, E/CN.4/SR.246 and E/CN.4/L.19/Add.7.

[67] E/CN.4/629, E/CN.4/630, E/CN.4/SR.246 and E/CN.4/L.19/Add.7.

Article 62[68]

Pursuant to its responsibilities under the Charter in the field of human rights, the Economic and Social Council shall make special arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of this Part of the Covenant falling within their competence. These reports shall include particulars of decisions and recommendations on such implementation adopted by their competent organs.

Article 63[69]

The Economic and Social Council shall transmit to the Commission on Human Rights for study and recommendation the reports concerning human rights submitted by States, and those concerning human rights submitted by the competent specialized agencies.

Article 64[70]

The States Parties directly concerned and the specialized agencies may submit comments to the Economic and Social Council on the report of the Commission on Human Rights.

Article 65[71]

The Economic and Social Council may submit from time to time to the General Assembly, with its own reports, reports summarizing the information made available by the States Parties to the Covenant directly to the Secretary-General and by the specialized agencies under Article . . . indicating the progress made in achieving general observance of these rights.

Article 66[72]

The Economic and Social Council may submit to the Technical Assistance Board or to any other appropriate international organ the findings contained in the report of the Commission on Human Rights which may assist such organs in deciding each within its competence, on the advisability of international measures likely to contribute to the progressive implementation of this Covenant.

Article 67[73]

The States Parties to the Covenant agree that international action for the achievement of these rights includes such methods as conventions, recommendations, technical assistance, regional and technical meetings and studies with governments.

Article 68[74]

Unless otherwise decided by the Commission on Human Rights or by the Economic and Social Council or requested by the State directly concerned, the Secretary-General of the United Nations shall arrange for the publication of the report of the Commission on Human Rights, or reports presented to the Council by specialized agencies as well as of all decisions and recommendations reached by the Economic and Social Council.

Article 69[75]

Nothing in this Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the Constitutions of the specialized agencies, which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in this Covenant.

E

FINAL CLAUSES

Text of articles 70 and 73 of part VI of the draft covenant contained in the report of the seventh session of the Commission (E/1992, annex I, page 28), but not considered at the eighth session of the Commission.

Article 70[76]

1. This Covenant shall be open for signature and ratification or accession on behalf of any State Member of the United Nations or of any non-member State to which an invitation has been extended by the General Assembly.

2. Ratification of or accession to this Covenant shall be effected by the deposit of an instrument of ratification or accession with the Secretary-General of the United Nations, and as soon as twenty States have deposited such instruments, the Covenant shall come into force among them. As regards any State which ratifies or accedes thereafter the Covenant shall come into force on the date of the deposit of its instrument of ratification or accession.

3. The Secretary-General of the United Nations shall inform all Members of the United Nations, and other States which have signed or acceded, of the deposit of each instrument of ratification or accession.

Article 71

(Federal State article, see section B of annex II)

Article 72

(Territorial application article, see section C of the present annex)

Article 73[77]

1. Any State Party to the Covenant may propose an amendment and file it with the Secretary-General. The

[68] E/CN.4/629, E/CN.4/631/Rev.2, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.
[69] E/CN.4/629, E/CN.4/630, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.
[70] E/CN.4/629, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.
[71] E/CN.4/629, E/CN.4/630, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.
[72] E/CN.4/629, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.
[73] E/CN.4/629, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.
[74] E/CN.4/629, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.
[75] E/CN.4/629, E/CN.4/SR.247 and E/CN.4/L.19/Add.7. This article was adopted with the understanding that the decision did not prejudice the position of the article in the Covenant.
[76] Article 42 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/353/Add.10, E/CN.4/365, E/CN.4/500, E/CN.4/502; E/CN.4/L.13 and E/CN.4/SR.196, 200.
[77] Article 45 of the draft covenant prepared at the sixth session, E/1992, annex I; E/CN.4/353/Add.10, E/CN.4/365, E/CN.4/L.15 and E/CN.4/SR.197, 200.

Secretary-General shall thereupon communicate the proposed amendment to the States Parties to the Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one third of the States favours such a conference the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States present and voting at the Conference shall be submitted to the General Assembly for approval.

2. Such amendments shall come into force when they have been approved by the General Assembly and accepted by a two-thirds majority of the States Parties to the Covenant in accordance with their respective constitutional processes.

3. When such amendments come into force they shall be binding on those Parties which have accepted them, other Parties being still bound by the provisions of the Covenant and any earlier amendment which they have accepted.

Annex II

Proposals for additional articles relating to the draft covenant on civil and political rights, proposals for a federal State article and proposals for the final clauses

A

PROPOSALS FOR ADDITIONAL ARTICLES RELATING TO THE DRAFT COVENANT ON CIVIL AND POLITICAL RIGHTS

I. *Article on the right of universal and equal suffrage and the right of persons to participate in the government of the State*

1. *Yugoslavia (E/1992, annex IV, section A, article 16b, page 35)*

"Every citizen shall have the right to take part in the government of the State by means of a democratic ballot which shall ensure absolute secrecy and complete freedom of expression of the will of individuals without any discrimination whatsoever.

"Every citizen shall likewise have the same right of access to any State or public office."

2. *Union of Soviet Socialist Republics (E/CN.4/L.120)*

"Every citizen, irrespective of race, colour, nationality, social position, property, status, social origin, language, religion or sex shall be guaranteed by the State an opportunity to take part in the government of the State, to elect and be elected to all organs of authority on the basis of universal, equal and direct suffrage with secret ballot, and to occupy any State or public office. Property, educational or other qualifications restricting the participation of citizens in voting at elections to representative organs shall be abolished."

II. *Article on equal rights of men and women*

Chile (E/CN.4/L.135/Rev.1)

"The States Parties to the Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights."

III. *Articles on the right of every member of a minority to make use of its national language and develop its culture, etc.*

1. *Yugoslavia (E/1992, annex IV, section A, article 16a, page 35)*

"Every person shall have the right to show freely his membership of an ethnic or cultural group, to use without hindrance the name of his national group, to learn the language of this group and to use it in public or private life, to be taught in this language, as well as the right to cultural development together with other members of this national group without being subjected on that account to any discrimination whatsoever, and particularly such discrimination as might deprive him of the rights enjoyed by other citizens of the same State."

2. *Union of Soviet Socialist Republics (E/1992, annex IV, section B, page 35)*

"The State shall ensure to national minorities the right to use their native tongue and to possess their national schools, libraries, museums and other cultural and educational institutions."

3. *Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/641, annex II, recommendation II) (E/1992, annex IV, page 36)*

"Persons belonging to ethnic, religious, or linguistic minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language."

IV. *Article on condemnation of incitement to violence against any religious group, nation, race or minority*

Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/641, annex II, recommendation V)

"Any advocacy of national, racial or religious hostility that constitutes an incitement to violence shall be prohibited by the law of the State."

V. *Article on persons deprived of liberty and on penitentiary system*

France (E/1992, annex IV, section C, page 35)

"All persons deprived of their liberty shall be treated with humanity. Accused persons shall not be subjected to the same treatment as convicted persons.

"The penitentiary system shall comprise treatment directed to the fullest possible extent towards the reformation and social rehabilitation of prisoners."

VI. *Article on protection of privacy, home, correspondence, honour and reputation*

Philippines (E/1992, annex IV, section C, page 36)

"No one shall be subjected to arbitrary and unlawful interference with his privacy, home or correspondence, nor to attacks on his honour and reputation.

"This text is derived from article 12 of the Declaration of Human Rights, with the insertion of the word 'unlawful' before the word 'interference'."

B

PROPOSALS FOR A FEDERAL STATE ARTICLE

I. *Text contained in the report of the third session of the Commission (E/800, article 24, page 27)*

"In the case of a federal State, the following provisions shall apply:

"(*a*) With respect to any articles of this Covenant which the federal government regards as wholly or in part appropriate for federal action, the obligations of the federal government shall, to this extent, be the same as those of Parties which are not federal States;

"(*b*) In respect of articles which the federal government regards as appropriate under its constitutional system, in whole or in part, for action by the constituent states, provinces, or cantons, the federal government shall bring such provisions, with favourable recommendation, to the notice of the appropriate authorities of the states, provinces or cantons at the earliest possible moment."

II. *Text proposed by the representative of Denmark at the seventh session of the Commission (E/CN.4/636) (E/1992, annex VI, page 39)*

"1. The government of a federal State may at the time of signature, ratification or accession to this Covenant make a reservation in respect of any particular provision of the Covenant to the extent that the application of such provision, under the constitution of the federal State, falls within the exclusive jurisdiction of the constituent states, provinces or cantons. The Secretary-General of the United Nations shall inform other States Parties to the Covenant of any such reservation.

"2. When making a reservation under paragraph 1, the government of the federal State shall transmit to the Secretary-General, for communication to other States Parties to the Covenant, a brief statement as to the status of the law of the constituent states, provinces or cantons with regard to the subjects covered by the reservation.

"3. When a reservation is made under paragraph 1, the federal government shall bring the relevant provisions of the Covenant to the attention of the appropriate authorities of the constituent states, provinces or cantons and recommend that such steps be taken as may be necessary to give full effect to the provisions.

"4. A reservation made under paragraph 1 may at any time be withdrawn in whole or in part. Withdrawal of a reservation is effected by notification to the Secretary-General, who shall inform the other States Parties to the Covenant.

"5. As long as and to the extent that a reservation made under paragraph 1 remains in force, the government of the federal State may not in relation to other States Parties to the Covenant invoke the relevant provisions of the Covenant."

Explanatory note

The representative of Denmark maintains the opinion, as previously stated on behalf of his Government, that it would be preferable not to include a "federal States clause" in the Covenant. Indeed, such a clause will tend to introduce an element of inequality between obligations of the various States Parties to the Covenant, in so far as federal States under such a clause will be relieved from obligations which unitary States must fulfil without qualification. It is a well-established principle in international law that no State can invoke provisions of its constitution as an excuse for not fulfilling its international obligations, and any deviation from this general principle to the advantage of only one category of States would, it is submitted, tend to weaken the principles of equality and reciprocity on which international relations must be based.

In view, however, of the General Assembly's resolution 421 (V), part C, according to which the Commission on Human Rights is requested "to study a federal State article and to prepare . . . recommendations which will have as their purpose the securing of the maximum extension of the covenant to the constituent units of federal States, and the meeting of the constitutional problems of federal States", the above proposal is submitted. Its purpose is, in addition to that indicated by the General Assembly, to obviate to the greatest possible extent the disadvantages resulting from the status of inequality which any special regard for federal States will inevitably entail. In pursuance of these divergent purposes, proposals are made to the effect:

(*a*) That federal States may ratify the Covenant even if the implementation of certain of its provisions under their constitutional systems fall within the reserved powers of their constituent units;

(*b*) That authorities of constituent States shall be encouraged to take any necessary action with a view to giving effect to those provisions which fall under their reserved powers;

(*c*) That limitations of obligations of federal States shall result only from express reservations in respect of particular provisions, not from the automatic application of a federal States clause;

(*d*) That other States Parties shall be kept informed of the extent to which a federal State gives effect to the provisions covered by reservations; and

(*e*) That a federal State which, because of a reservation, is "immune" against complaints regarding violations of a provision in the Covenant shall not itself be able to make such complaints against other States Parties.

III. *Texts proposed by the representative of the Soviet Union (E/CN.4/L.128) and by the representatives of Australia, India and United States (E/CN.4/L.199) at the eighth session of the Commission*

1. *Union of Soviet Socialist Republics (E/CN.4/L.128)*

"The provisions of the Covenant shall extend to all parts of federal States without any restrictions or exceptions whatsoever."

2. *Australia, India and United States of America (E/CN.4/L.99)*

"1. A federal State may at the time of signature or ratification of, or accession to, this Covenant make a declaration stating that it is a federal State to which this article is applicable. In the event that such a declaration is made, paragraphs 2 and 3 of this article shall apply to it. The Secretary-General of the United Nations

shall inform the other States Parties to this Covenant of such declaration.

"2. This Covenant shall not operate so as to bring within the jurisdiction of the federal authority of a federal State making such declaration, any of the matters referred to in this Covenant which, independently of the Covenant, would not be within the jurisdiction of the federal authority.

"3. Subject to paragraph 2 of this article, the obligations of such federal State shall be:

"(*a*) In respect of any provisions of the Covenant, the implementation of which is, under the constitution of the federation, wholly or in part within federal jurisdiction, the obligations of the federal government shall, to that extent, be the same as those of Parties which have not made a declaration under this article;

"(*b*) In respect of any provisions of the Covenant, the implementation of which is, under the constitution of the federation, wholly or in part within the jurisdiction of the constituent units (whether described as States, provinces, cantons, autonomous regions, or by any other name), and which are not, to this extent, under the constitutional system bound to take legislative action, the federal government shall bring such provisions with favourable recommendations to the notice of the appropriate authorities of the constituent units, and shall also request such authorities to inform the federal government as to the law of the constituent units in relation to those provisions of the Covenant. The federal government shall transmit such information received from constituent units to the Secretary-General of the United Nations."

PROPOSALS FOR THE FINAL CLAUSES

Amendments submitted by the representative of India at the seventh session of the Commission (E/CN.4/563/Rev.1) (E/1992, annex VI, page 40)

In article 70, paragraph 2, delete the words "among them" after the words "shall come into force".

In article 73 delete paragraph 3.

Annex III

Proposals relating to measures of implementation

A

DRAFT PROTOCOL ON PETITIONS FROM INDIVIDUALS AND NON-GOVERNMENTAL ORGANIZATIONS (E/1992, ANNEX V, PAGES 36 TO 38)

The Commission at its seventh session had before it the following proposal submitted by the representative of the United States of America on a protocol on petitions from individuals and non-governmental organizations (E/CN.4/557) and amendments thereto, submitted by the representatives of Denmark (E/CN.4/559/Rev.1), Egypt (E/CN.4/564), Uruguay (E/CN.4/606/Rev.1) and France (E/CN.4/632):

Article 1

I. *United States of America*

1. With respect to States Parties to this Protocol, the Human Rights Committee established pursuant to the International Covenant on Human Rights shall also have jurisdiction to receive written petitions submitted by:

(*a*) Individuals within the territory of a State Party to this Protocol, alleging that that State is not giving effect to a provision of the Covenant, and

(*b*) Non-governmental international organizations, as defined in paragraph 2, alleging that a State Party to this Protocol is not giving effect to a provision of the Covenant.

2. The non-governmental international organizations referred to in paragraph 1 (*b*) comprise organizations with consultative status to the United Nations Economic and Social Council, approved annually by two-thirds of the States Parties to this Protocol at a meeting of representatives of these States convened by the Secretary-General of the United Nations.

II. *Amendments to article 1, paragraph 1 (a)*

Denmark

Amend to read as follows:

"Individuals, groups of individuals and juridical persons, who allege that their rights as defined in parts I and II of the Covenant have been violated by the State in question, and".

Egypt

Replace the word "Individuals" by the words: "Individuals or groups of individuals".

France

Amend as follows:

"Individuals, *groups of individuals and juridical persons* who at the time of the alleged violation are under the jurisdiction of a State Party to this Protocol and who, *after obtaining the support of one of the international non-governmental organizations defined in paragraph 2,* allege that *their rights as defined in the Covenant* have been violated by the State in question".

III. *Amendment to article 1, paragraph 1 (b)*

Egypt

Replace the words "as defined in paragraph 2" by the words: *"with consultative status to the United Nations Economic and Social Council".*

IV. *Amendment to article 1, paragraph 2*

Egypt

Delete the paragraph.

Article 2

I. *United States of America*

The Human Rights Committee shall determine which of the petitions received warrant detailed examination,

and with respect to such petitions the following procedure shall apply:

(*a*) A copy of the petition shall be provided to each of the States Parties to this Protocol, the petitioner being promptly notified of this action.

(*b*) Any such State shall have the right to make a submission in writing to the Human Rights Committee concerning the petition.

(*c*) The Human Rights Committee may request the petitioner and the States Parties to this Protocol to supply relevant information.

(*d*) Subject to article 54 of the Covenant on Human Rights, the Human Rights Committee shall ascertain the facts and prepare a report of these facts not later than eighteen months after a copy of the petition is provided to States Parties to this Protocol. The Human Rights Committee shall send this report to these States and shall then communicate it to the Secretary-General of the United Nations for publication.

II. *Amendment to the whole of article 2*

France

Amend as follows:

"The Human Rights Committee shall determine, *in accordance with its rules of procedure,* which of the petitions received warrant detailed examination."

III. *Amendments to article 2, paragraph (c)*

Denmark

Add the following: "and invite the petitioner and the State against which allegations are made to be represented at the hearings of the Committee and make submissions orally."

Uruguay

Amend to read as follows:

"The Human Rights Committee may request the petitioner, the States Parties to this Protocol and the Attorney-General to supply relevant information."

IV. *Amendment to add a new paragraph in article 2 between paragraphs (c) and (d)*

Denmark

Add a new paragraph between (*c*) and (*d*) as follows:

"When the Committee has decided that a petition warrants examination, the Secretary of the Committee shall, at the request of the petitioner, render him such assistance as may be necessary with a view to the adequate presentation of his case before the Committee."

V. Amendment to article 2, paragraph (d)

Denmark

Substitute for article 2, paragraph (*d*), a new article as follows:

"Subject to the provisions of Article 54 of the Covenant on Human Rights, the Human Rights Committee shall ascertain the facts of the case. If the Committee deems it appropriate, it may offer its good offices to the State concerned with a view to a solution of the matter on the basis of respect for human rights as recognized in this Covenant. In every case the Committee shall draw up a report not later than eighteen months after the date of receipt of the petition. The report shall be sent to the States Parties to this Protocol and then communicated to the Secretary-General of the United Nations for publication. Article 57, paragraph 3 shall apply."

VI. *Amendments for inclusion of new articles between article 2 and article 3 of the proposal of the United States of America*

Uruguay

Article 3

There shall be established an office, known as the "Office of the United Nations Attorney-General for Human Rights" (hereinafter referred to as "the Attorney-General"), entrusted with the functions herein provided for with respect to the implementation of the provisions of this Protocol.

Article 4

1. The Attorney-General shall be appointed for a period of five years by the President of the International Court of Justice from a panel of candidates nominated by the States signatories to the Covenant.

2. Each State signatory to the Covenant shall submit to the Secretary-General of the United Nations, three months before the date of the opening of the General Assembly, the names of two persons of high moral character who possess, in the countries of which they are nationals, the qualifications required for appointment to the highest judicial office.

Article 5

1. The Attorney-General shall receive from the Secretary of the Human Rights Committee any petition which, in accordance with article 2 of this Protocol, warrants detailed examination, together with any information supplied by the petitioner and the States Parties to this Protocol. He shall be entitled to appear before the Human Rights Committee in connexion with any case which, in his opinion, raises a problem of grave public interest, and to put to the Committee, either orally or in writing, the arguments in defence of such public interest.

2. He may also request the Committee to summon and hear witnesses and to ask for the communication of the documents relevent to the case in question.

Article 6

Should the Attorney-General consider, after the Human Rights Committee has examined a petition, that the case calls for an advisory opinion from the International Court of Justice on a point of law arising therefrom, he shall request the Committee to seek such advisory opinion through the appropriate channels. He shall have full power, at the hearing of the request by the International Court of Justice, to appear as counsel for the defence of the public interest in the case in question and to put to the Court, either orally or in writing, the arguments in support of such public interest.

Articles 3, 4 and 5 of the United States proposal to be numbered 7, 8 and 9 respectively.

Article 3

I. *United States of America*

The relevant provisions of articles 33 to 47 inclusive,

48, 49, 51 and 54 of the International Covenant on Human Rights relating to the establishment, authority and procedure of the Human Rights Committee shall also be applicable under this Protocol.

II. *Amendment to article 3*

Uruguay

Article 3 should become article 7.

Article 4

I. *United States of America*

1. This Protocol shall be open for signature or accession on behalf of any State Party to the International Covenant on Human Rights.

2. Ratification of or accession to this Protocol shall be effected by the deposit of an instrument of ratification or accession with the Secretary-General of the United Nations, and as soon as fifteen States have deposited such instruments, the Protocol shall come into force among them. As regards any State which ratifies or accedes thereafter, the Protocol shall come into force on the date of deposit of its instrument of ratification or accession.

3. The Secretary-General of the United Nations shall inform all Members of the United Nations, and other States which have ratified or acceded to this Protocol, of the deposit of each instrument of ratification or accession.

II. *Amendment to article 4*

Uruguay

Article 4 should become article 8.

III. *Amendment to article 4, paragraph 2*

France

Amend as follows:

"Ratification of or accession to this Protocol shall be effected by the deposit of an instrument of ratification or accession with the Secretary-General of the United Nations, and as soon as *two-thirds* of the States Members of the United Nations have deposited such instruments, the Protocol shall come into force among them, *unless, in the instrument of ratification or accession deposited by it, any State makes the entry into force of the Protocol so far as it is concerned subject to ratification or accession by a different number of States, such number in no circumstances to be less than* a majority of the Members of the United Nations."

As regards any State which ratifies or accedes thereafter with the same reservation, the Protocol shall come into force on the date of deposit of its instrument of ratification or accession.

Article 5

I. *United States of America*

1. Any State Party to this Protocol may propose an amendment and file it with the Secretary-General. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to the Protocol with a request that they notify him whether they favour a conference of States Parties to this Protocol for the purpose of considering and voting upon the proposal. In the event that at least one-third of the States favour such a conference, the Secretary-General shall take the necessary steps to convene such a conference under the auspices of the United Nations. Any amendment of this Protocol adopted by a majority of States present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment shall come into force when it has been approved by the General Assembly and accepted by a two-thirds majority of the States Parties to the Protocol, in accordance with their respective constitutional processes.

3. When such an amendment comes into force, it shall be binding on those State Parties to the Protocol which have accepted it, other Parties to the Protocol being still bound by the provisions of the Protocol and any earlier amendments which they have accepted.

II. *Amendment to article 5*

Uruguay

Article 5 should become article 9.

B

ESTABLISHMENT OF AN OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER (ATTORNEY-GENERAL) FOR HUMAN RIGHTS (E/1992, ANNEX VII, PAGES 40 TO 43)

The following proposal was submitted by the representative of Uruguay (E/CN.4/549 and E/CN.4/549/Corr.1) to the seventh session of the Commission.

Article 1

1. The primary responsibility for ensuring the effective implementation of the personal rights and freedoms (civil and political) referred to in articles.... and recognized in this Covenant shall be vested in each State Party hereto with respect to all individuals within its jurisdiction.

2. There shall be established a permanent organ, known as "The United Nations High Commissioner (Attorney-General) for Human Rights", to exercise the functions hereinafter provided with respect to the implementation of the provisions of this Covenant and the supervision of its observance.

3. The functions conferred by this Covenant upon the organ established under paragraph 2 of this article are without prejudice to the functions and powers of organs of the United Nations established by the Charter, or of their subsidiary organs, or of organs of the specialized agencies referred to in Article 57 of the Charter.

Article 2

1. The United Nations High Commissioner for Human Rights or Attorney-General (hereinafter referred to as High Commissioner (Attorney-General) shall be appointed by the General Assembly of the United Nations upon the recommendation of the States Parties to this Covenant, from among persons of high moral character and recognized competence and independence who possess, in the countries of which they are nationals, the qualifications required for appointment to the highest judicial offices.

2. At least three months before the date of the opening of the session of the General Assembly at which the appointment of the High Commissioner (Attorney-General) is to be made, the Secretary-General of the United Nations shall address a written communication

to the States Parties to this Covenant inviting them to submit their nominations within a period of two months.

3. Each State Party to this Covenant may nominate one or two persons possessing the qualifications described in paragraph 1 of this article. These persons may be nationals of the nominating States or of any other States.

4. The Secretary-General shall prepare a panel of the persons thus nominated and submit it to the States Parties of this Covenant together with an invitation to designate representatives to a meeting called for the purpose of deciding upon a recommendation on the appointment of the High Commissioner (Attorney-General). The Secretary-General shall fix the date and make all arrangements necessary for such a meeting.

5. The recommendation of the States Parties to this Covenant shall be made by a two-thirds majority vote of the representatives present and voting. The quorum shall consist of two-thirds of the said States. The names of all persons obtaining a two-thirds majority of the votes shall be communicated by the Secretary-General to the General Assembly.

6. The appointment shall be made by a two-thirds majority vote of the members of the General Assembly present and voting.

7. The High Commissioner (Attorney-General) shall, before taking up his duties, make a solemn declaration before the General Assembly that he will exercise his functions impartially and in accordance with the dictates of his conscience.

8. The term of office of the High Commissioner (Attorney-General) shall be five years and the High Commissioner shall be eligible for reappointment.

Article 3

1. The High Commissioner (Attorney-General) shall collect and examine information with regard to all matters relevant to the observance and enforcement by the States Parties to this Covenant of the rights and freedoms recognized herein. This information shall include reports, transmitted by the States Parties to this Covenant, laws and regulations, judicial decisions, records of parliamentary debates, writings in periodicals and in the Press and communications from international and national organizations and from individuals.

2. States Parties to this Covenant shall transmit to the High Commissioner (Attorney-General) at times agreed with him, periodic reports on the implementation of the provisions of this Covenant in the territory under their jurisdiction. Such reports shall include the text of relevant laws, administrative regulations, international agreements to which the said States are parties and significant judicial and administrative decisions.

3. The High Commissioner (Attorney-General) may, at times agreed with the States Parties concerned, conduct on-the-spot studies and inquiries on matters concerning the implementation of this Covenant.

Article 4

The High Commissioner (Attorney-General) may at any time initiate consultations with the States Parties to this Covenant on any case or situation which, in his opinion, may be inconsistent with the obligations assumed by that State Party under the Covenant and make to any State Party such suggestions and recommendations as he may deem appropriate for the effective implementation of this Covenant.

Article 5

1. The High Commissioner (Attorney-General) shall receive and examine complaints of alleged violations of this Covenant which may be submitted to him by individuals, groups of individuals, national and international non-governmental organizations and intergovernmental organizations.

2. No action shall be taken by the High Commissioner (Attorney-General) on any complaint which:

(*a*) Is anonymous;

(*b*) Contains abusive or improper language; however, specified charges of improper conduct, levelled at individuals or bodies of persons, shall not be considered to constitute abusive or improper language;

(*c*) Does not refer to a specific violation of this Covenant by a State Party to the detriment of an individual or a group of individuals who, at the time of the alleged violation, were within the jurisdiction of the said State;

(*d*) Is manifestly inconsequential;

(*e*) Emanates from a national organization but does not relate to a violation allegedly committed within the jurisdiction of the State to which that organization belongs.

3. Complaints received from organizations, whether national or international, shall not require the authorization of the individuals or groups against whom the alleged violation was committed.

4. The Secretary-General of the United Nations shall communicate to the High Commissioner (Attorney-General) any complaint of an alleged violation of this Covenant or any information relating to such an alleged violation which may be received by him or by any other organ of the United Nations.

Article 6

1. Subject to the provisions of paragraph 2 of article 5, the High Commissioner (Attorney-General) may conduct such preliminary investigations as he may consider appropriate of the merits of a complaint with a view to deciding whether the object or the character of the complaint justifies further action by him.

2. In conducting the preliminary investigations the High Commissioner (Attorney-General) may call for the assistance of the competent governmental agencies of the State Party concerned. He may also seek the assistance of such non-governmental organizations as may be familiar with the local conditions and the general issues involved.

Article 7

1. Subject to the provisions of paragraph 2 of article 5, the High Commissioner (Attorney-General) shall have full discretion to decide with respect to any complaint received by him of an alleged violation of this Covenant:

(*a*) Not to take action;

(*b*) To defer taking action until such time as he may deem appropriate;

(*c*) To take action.

The High Commissioner (Attorney-General) shall inform the author of the complaint of his decision.

2. In case the High Commissioner (Attorney-General) decides to take action, he may decide to undertake

negotiations with the State Party concerned with respect to the complaint received by him of an alleged violation of this Covenant in a territory within the jurisdiction of the said State. The High Commissioner (Attorney-General) may refer the complaint to the Security Council if in his opinion such negotiations are not likely to result in a satisfactory solution or have not resulted in a satisfactory solution.

3. In making his decision under this article the High Commissioner (Attorney-General) shall give due consideration to the availability and the use made by the alleged victim of the violation of domestic remedies, including means of enforcement, to the availability and the use made of diplomatic remedies or of procedures established by United Nations organs or specialized agencies or of other available procedures provided by international agreement.

Article 8

The following provisions shall apply in cases where the High Commissioner (Attorney-General) has decided to take action as provided in paragraph 2 of article 7:

1. The High Commissioner (Attorney-General) shall communicate the complaint to the State Party concerned and ask for its observations thereon within such time-limit as the High Commissioner (Attorney-General) may recommend.

2. The High Commissioner (Attorney-General) shall fully investigate the case on the receipt of the observations of the State Party concerned or on the expiration of the time-limit recommended by him for the submission of such observations.

3. States Parties to this Covenant shall place at the disposal of the High Commissioner (Attorney-General), upon his request, such information as they may possess regarding the case.

4. The High Commissioner (Attorney-General) shall be entitled to conduct an inquiry within the territory under the jurisdiction of the State Party concerned, which shall afford all facilities necessary for the efficient conduct of the inquiry.

5. The High Commissioner (Attorney-General) shall have the right to summon and hear witnesses and to call for the production of documents and other objects pertaining to the case.

Article 9

When the High Commissioner (Attorney-General) has decided to take action on a complaint as provided in paragraph 1 of article 7 he may call upon the State Party concerned to comply with such provisional measures as he may deem necessary and desirable in order to prevent an aggravation of the situation.

Article 10

1. The High Commissioner (Attorney-General) will make every effort to settle the object of a complaint on which he has decided to take action as provided in paragraph 1 of article 7 through negotiation and conciliation.

2. The High Commissioner (Attorney-General) shall notify in writing to the State Party concerned his intention to enter into negotiations with respect to a given complaint and request the State Party to designate representatives for the purpose of such negotiations. The High Commissioner (Attorney-General) shall fix in consultation with the State Party concerned the date and place of such negotiations.

3. The High Commissioner (Attorney-General) shall inform the author of the complaint of the results of the negotiations.

Article 11

1. The High Commissioner (Attorney-General) shall seize the Security Council of his accusation by a notice given to the Secretary-General of the United Nations and to the State Party concerned. Such notice shall indicate the provision of the Covenant the violation of which is alleged and shall be accompanied by all relevant documents.

2. The High Commissioner (Attorney-General) shall have the right to be present or to be represented at all hearings and other meetings which the Council may hold on the complaint and to make submissions to the Council orally or in writing. He shall receive communication of all documents, including the minutes of meetings relating to the case and may, in conformity with the rules of procedure of the Council, examine such witnesses or experts as may appear before the same.

3. The High Commissioner (Attorney-General) may at any time, by a notice given to the Secretariat of the Council and the State Party concerned, withdraw the complaint from the agenda of the Council. Upon the receipt of such notice of withdrawal the Council shall cease to consider the complaint.

Article 12

The High Commissioner (Attorney-General) shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

Article 13

1. The High Commissioner (Attorney-General) shall appoint his staff subject to such financial provisions and administrative regulations as the General Assembly may approve in this respect.

2. The High Commissioner (Attorney-General) may, in consultation with the States Parties concerned, appoint regional commissioners who shall, under his direction and supervision, assist him in the performance of his functions with respect to a given region.

3. The paramount consideration of the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standard of efficiency, integrity and competence. Due regard shall be given to the importance to recruiting the staff from nationals of the States Parties to the Covenant.

Article 14

1. In the performance of their duties the High Commissioner (Attorney-General) and his staff shall not seek or receive instructions from any government or from any other authority or any organization. They shall refrain from any action incompatible with their position or the independent discharge of their functions as established by this Covenant.

2. The States Parties to this Covenant undertake to respect the exclusively international character of the

responsibilities of the High Commissioner (Attorney-General) and his staff and not to seek to influence them in discharge of their responsibility.

Article 15

The High Commissioner (Attorney-General) shall enjoy diplomatic privileges and immunities. Members of his staff shall enjoy such privileges and immunities as are necessary for the independent exercise of their functions.

Article 16

The High Commissioner (Attorney-General) shall reside at the permanent seat selected by him.

Article 17

1. The High Commissioner (Attorney-General) shall receive a salary and allowances commensurate with the importance and dignity of his office. The salary and the allowances shall be fixed by the General Assembly of the United Nations and may not be lowered during the High Commissioner's (Attorney-General's) term of office. They shall be free of all taxes.

2. The General Assembly shall fix the conditions under which a retirement pension may be accorded to the High Commissioner (Attorney-General).

3. The expenses incurred by the exercise by the High Commissioner (Attorney-General) of his functions under this Covenant shall be borne by the United Nations in such manner as shall be decided by the General Assembly.

Note. Additional provisions may be added to this draft proposal, or the existing provisions amended accordingly, to apply to the implementation of so-called economic, social and cultural rights, provided, however, that these rights have been adopted, with a greater or lesser degree of precision, in final form, and provided further, that they shall be implemented gradually and with the utmost regard to reality.

C

Proposals referred to the Commission on Human Rights by resolution 547 (VI) of the General Assembly

1. *A/C.3/L.191/Rev.3 (Syria)*

"*The General Assembly,*

"*Considering* that the measures of implementation of the international covenant on human rights so far recommended by the Economic and Social Council and by the Commission on Human Rights do not provide for international inquiries, nor for the sending of United Nations missions of investigation to the Non-Self-Governing and Trust Territories,

"*Considering* that such inquiries and missions of investigation might, if they offer adequate guarantees of good faith and impartiality, contribute greatly towards the implementation in such territories of the covenant on human rights and, in particular, of the provisions concerning economic, social and cultural rights,

"*Whereas* international inquiries and missions of investigation in the field are already widely used by the organs of the United Nations as means of study and investigation,

"*Requests* the Economic and Social Council to ask the Commission on Human Rights to consider the possibility of including among the measures of implementation provided for by the covenant on human rights, international inquiries and the sending of missions of investigation to the Non-Self-Governing and Trust Territories by the United Nations, with adequate guarantees of good faith and impartiality."

2. *A/C.3/L.193 (Israel)*

"*The General Assembly,*

"*Considering* that the main concern of those responsible for drafting an international covenant on human rights should be to prescribe the conditions governing its effective implementation,

"*Considering* that, without prejudice to the international supervision to be organized, the principal responsibility for implementing the covenant will be that of the States parties thereto, each in so far as its own population is concerned,

"*Considering* that, without prejudice to certain fundamental principles which form the basis of any covenant on human rights and independently of the classification of human rights into civil, civic, political, economic, social and cultural rights, it is necessary for the purpose of giving effect to the human rights, to consider a new classification of these rights into two categories, as follows:

"Category 1. Rights which are capable of effectively becoming a reality through immediate legislative or administrative action on the part of each State and which may be expected to be enforced without delay by the judicial or administrative processes of domestic law; this category includes the rights which are already in existence by virtue of action as aforesaid taken prior to the signature of the covenant;

"Category 2. Rights which, although recognized in principle, cannot effectively come into existence in law until after the execution of programmes, including economic and social programmes, which may vary in duration and feasibility;

"*Noting* further that, owing to differences in development and structure from State to State, the human rights to be included in the one or other of these two categories are not uniform for all States or for each State at different stages of its development,

"1. *Decides* that the international procedure of implementation to be contemplated for the human rights in category 1 must differ from the procedure applicable to the rights in category 2;

"2. *Decides* that it is necessary to provide that States signatories of the covenant on human rights shall, subject to periodic revision, announce at the time of the signature or ratification of the covenant, each in so far as it is concerned, how the civil, civic, political, economic, social and cultural human rights recognized in the covenant are in effect distributed as between categories 1 and 2 in their countries and, accordingly, to what extent the said right will be subject to one or other of the procedures of implementation;

"3. *Requests* the Economic and Social Council to request the Commission on Human Rights to undertake a new study of the text of the draft covenant, with particular regard to the definition of the various human rights and their implementation, so that the principles set forth above may be carried into effect."

3. *A/C.3/L.195 (Guatemala, Haiti and Uruguay)*

"*The General Assembly,*

"*Considering* that the procedure to be established to give effect to the rights contained in the international covenant on human rights should be such as, without detriment to the fundamental purpose of the United Nations, to avoid all possibility of estrangement between States,

"*Considering* that a large number of non-governmental organizations have been granted special status by the United Nations and have in various ways furthered the efforts of the United Nations in the field of human rights,

"*Considering* that it is clearly in the interest of the non-governmental organizations to continue to co-operate in those efforts and that it is desirable to utilize their collaboration and that of other groups and individuals for the effective protection of human rights throughout the world,

"*Bearing in mind* that the procedure laid down in the draft covenant is capable of improvement with a view to achieving these purposes and that it is desirable to issue directives in this regard,

"*Recommends* the Economic and Social Council to instruct the Commission on Human Rights to revise the proposed text of article 52 of the draft international covenant on human rights so that the wording to be submitted to the General Assembly at its seventh session should recognize:

"(*a*) The right of States parties to the covenant, of groups and of individuals to apply to the appropriate organ of the United Nations if they consider that a State party is not giving effect to a provision of the covenant;

"(*b*) The right of the organ which is to be established to institute proceedings when informed of violations of human rights serious enough to require international action by the United Nations."

4. *A/C.3/L.195/Rev. 2 (Guatemala, Haiti and Uruguay)*

"*The General Assembly,*

"*Considering* that the procedure to be established to give effect to the rights set forth in the international covenant on human rights relating to political and civil rights should be such as to avoid all possibility of estrangement between States,

"*Considering* that a large number of non-governmental organizations have in various ways furthered the efforts that have been made in the field of human rights,

"*Considering* that those non-governmental organizations are manifestly anxious to continue to co-operate in those efforts and that it is desirable to enlist their support and that of other groups and of individuals for the effective protection of human rights,

"*Bearing in mind* that the Commission on Human Rights has not concluded its study of measures of implementation,

"*Recommends* the Economic and Social Council to instruct the Commission on Human Rights to revise the proposed text of article 52 of the draft international covenant on human rights so that the provisions of the covenant relating to political and civil rights to be submitted to the General Assembly at its seventh session should recognize the competence of such organ as may be established to receive communications from States, non-governmental organizations, groups and individuals relating to the non-fulfilment by a State party to the covenant of the provisions contained therein, always provided that such States have recognized the said competence by ratification of the respective covenant or protocol. Proceedings shall be instituted in the case of serious charges supported by evidence."

5. *A/C.3/L.196 (Guatemala and Uruguay)*

"*The General Assembly,*

"*Considering* that the efficacy of the international covenant on human rights will depend, among other things, on the action taken by the signatory States in respect of the guarantees of the said rights and of the measures to be adopted at the international level for the implementation of the covenant,

"*Considering* that the measures for the implementation of the covenant should be such as to avoid misunderstandings between States and the reference of malicious or unfounded charges to international organs,

"*Considering* that these purposes may be attained by the establishment of an impartial and politically independent body endowed with great responsibility and high status, whose duty it would be to receive such charges, verify their seriousness, approach the States concerned with a view to reaching a solution of the case by friendly means and, if necessary, arrange for the matter to be referred to the United Nations organ responsible for investigating violations of the international covenant of human rights,

"*Considering* that in its resolution 421 F (V) of 4 December 1950, the General Assembly recommended a study which, owing to lack of time, it has not since been possible to carry out, of the proposal by the delegation of Uruguay relating to the establishment of a body possessing the characteristics enumerated above,

"*Recommends* to the Economic and Social Council that it should instruct the Commission on Human Rights to include in the draft international covenant of human rights which it is to submit for consideration by the General Assembly at its seventh session provision for a United Nations organ which shall have the functions specified in the preamble to this resolution."

6. *A/C.3/L.196/Rev. 2 (Guatemala and Uruguay)*

"*The General Assembly,*

"*Considering* that the efficacy of the international covenant on human rights with regard to civil and political rights will depend, among other things, on the conduct of the signatory States with respect to the observance of those rights and to the measures to be adopted in the international field for the implementation of the provisions of the covenant,

"*Considering* that the measures for the implementation of the provisions of the covenant should be such as to avoid misunderstanding between States and the bringing of malicious or unfounded charges,

"*Considering* that these purposes may be attained by the establishment of an impartial, politically independent and highly responsible body whose duty it would be to receive such charges concerning the failure of a State party to the covenant to carry out the provisions thereof, pronounce on their merit and substance, request the State involved to submit the necessary information, verify the facts, lend its good offices with a view to a friendly settlement based on respect for human rights as specified in the covenant and, if necessary, take other appropriate measures,

"*Considering* that the Commission on Human Rights has not completed its study of the proposals relating to implementation, and especially the proposal submitted by the Uruguayan delegation to the General Assembly at its fifth session,

"*Recommends* the Economic and Social Council to instruct the Commission on Human Rights to include in the draft international covenant on human rights relating to civil and political rights, which it is to submit to the General Assembly for consideration at its seventh session, provisions establishing the body specified in the preamble to this resolution."

7. *A/C.3/L.198/Rev. 2 (Lebanon)*

"*The General Assembly,*

"*Having examined* the draft international covenant on human rights, as prepared by the Commission on Human Rights at its seventh session,

"*Recommends* the Economic and Social Council to request the Commission on Human Rights:

"(*a*) To include in the draft international covenant on civil and political rights, *inter alia,* provisions relating to the rights at present appearing in the third part of the draft international covenant on human rights and capable of implementation by immediate legislative or administrative action, independent of the social or economic conditions of the country;

"(*b*) To strengthen and to render more explicit, in the draft international covenant on economic, social and cultural rights, the obligation placed upon States parties to the covenant to achieve the full realization of the rights recognized therein."

8. *A/C.3/L.191/Rev. 2*

"*The General Assembly,*

"*Considering* that the measures of implementation of the international covenant on human rights so far recommended by the Economic and Social Council and by the Commission on Human Rights do not provide for international inquiries, nor for investigations on the spot by the United Nations,

"*Considering* that such inquiries and investigations might, if they offer adequate guarantees of good faith and impartiality, contribute greatly towards the implementation of the covenant on human rights and, in particular, of the provisions concerning economic, social and cultural rights,

"*Whereas* international inquiries and investigations in the field are already widely used by the organs of the United Nations as means of study and investigation,

"*Requests* the Economic and Social Council to ask the Commission on Human Rights to consider the possibility of including among the measures of implementation provided for by the covenant on human rights, international inquiries and investigations in the field by the United Nations, offering adequate guarantees of good faith and impartiality."

Annex IV

Comments of members of the Commission on the draft covenants on human rights as prepared at the eighth session

France

The delegation of France must, in the first place, reaffirm its reservations with regard to the inclusion of the principle of the right of peoples to self-determination in the covenants on human rights. In particular, it considers that the decision taken is one likely to disturb the system of functions and powers allocated to United Nations organs in the Charter and to confer on the Commission on Human Rights essentially political functions concerning collective freedoms, which lie outside its proper sphere of action.

It is glad to note that the draft text adopted refrains from establishing any discrimination between the peoples having the right to self-determination and the States required to see that this right is respected and furthermore that it embodies an explicit reference to the provisions of the United Nations Charter.

The French delegation, however, considers that there is a very serious omission, since the text makes no explicit reference to the necessary limitations inherent in the right of peoples to self-determination, based either upon the interests of general peace or upon the rights of other peoples or nations.

The delegation was not able to associate itself with the two recommendations adopted by the Commission without previous examination of the complex problems raised by the right of peoples to self-determination, for the study of which the competent organs should have been consulted.

Moreover, it greatly regrets the discriminatory — and hence partial — nature of the two recommendations thus voted, as they affect only Non-Self-Governing and Trust Territories, unlike the article adopted for the covenants, which does not embody any such discrimination.

The first recommendation is too narrow in scope, since it confines itself to providing for "plebiscites held under the auspices of the United Nations" and seems to close the door to all other means of expressing the people's will, whereas the circumstances in which a practical problem regarding self-determination may arise are very various. Finally, the second recommendation unnecessarily supplements decisions of the General Assembly, which could not properly impose upon the States responsible for the administration of Non-Self-Governing Territories additional obligations, with regard to information to be transmitted, greater than those deriving from the United Nations Charter.

With regard to the other parts of the two covenants, the French delegation, while noting the improvements and progress in the statement of the rights achieved during the session, wishes to make some comments on certain points which it regards as essential.

Pending fuller consideration, it reserves its position with regard to the consequences likely to ensue from the deletion of the words "within a reasonable time" which appeared in the original text of article 1 of the covenant on civil and political rights. It considers that there is a danger that the words "within its territory" might be construed as enabling a State to evade its duties to its nationals abroad; it hopes that that phrase may be deleted at a later stage. It regrets that no provision on asylum, laying down the principle of international co-operation in that regard, appears in the

covenant. The absence of any reference to the protection of the home and of private life is also a serious omission, since that is a fundamental right. Finally, it expresses its preference for the original wording of article 18 concerning the human rights already guaranteed, which embodied obligations phrased in more precise terms and provided better guarantees.

With regard to the covenant on economic, social and cultural rights, the French delegation considers that as the undertaking stated in article 1, paragraph 2, is absolute and unconditional, it cannot be fulfilled in most countries and with regard to most of the rights.

It considers that this somewhat unrealistic provision may well reduce the number of ratifications and hamper the real advancement of the rights. A similar comment might be made with regard to the article on equality in conditions of work.

Finally, it regrets the omission of an article on the right to property, although it is proclaimed in the Universal Declaration of Human Rights, and of provisions for the protection of the material and moral interests of the authors of literary, artistic or scientific works.

United States of America

The United States wishes to call attention to the desirability of including in the covenant on economic, social and cultural rights an article on the right of everyone to own property.

Annex V

Draft resolutions for the Economic and Social Council

A[39]

SELF-DETERMINATION OF PEOPLES AND NATIONS

The Economic and Social Council

Transmits the following draft resolution to the General Assembly:

Whereas it is as essential to abolish slavery of peoples and nations as of human beings, as any human enslavement violates the fundamental human right as laid down by the Universal Declaration of Human Rights,

Whereas such slavery exists where an alien people hold power over the destiny of a people,

Whereas the Charter of the United Nations under Articles 1 and 55 aims to develop friendly relations among nations based on respect for the equal rights and self-determination of peoples in order to strengthen universal peace,

The General Assembly recommends that

1. The States Members of the United Nations shall uphold the principle of self-determination of peoples and nations and respect their independence;

2. The States Members of the United Nations shall recognize and promote the realization of the right of self-determination of the people of Non-Self-Governing and Trust Territories who are under their administration; and grant this right on a demand for self-government on the part of these people, the popular wish being ascertained in particular through a plebiscite held under the auspices of the United Nations.

B[40]

SELF-DETERMINATION OF PEOPLES AND NATIONS

The Economic and Social Council,

Considering that at its sixth session the General Assembly requested the Commission on Human Rights to prepare recommendations concerning international respect for the self-determination of peoples and to submit these recommendations to the General Assembly at its seventh session,

Considering that one of the conditions necessary to facilitate United Nations action to promote respect for this right, in particular with regard to the peoples of Non-Self-Governing Territories, is that the competent organs of the United Nations should be in possession of official information on the government of these territories,

Considering that the General Assembly declared in its resolution 144 (II) that the voluntary transmission of such information is entirely in conformity with the spirit of Article 73 of the Charter, and should therefore be encouraged,

Considering that the General Assembly, in its resolution 327 (IV), recalling its resolution 144 (II), expressed the hope that such of the Members as have not done so may voluntarily include details on the government of Non-Self-Governing Territories in the information transmitted by them under Article 73 e of the Charter,

Considering that at the present time such information has not yet been furnished in respect of a large number of Non-Self-Governing Territories,

Requests the General Assembly to recommend to Members States of the United Nations responsible for the administration of Non-Self-Governing Territories voluntarily to include in the information transmitted by them under Article 73 e of the Charter details regarding the extent to which the right of peoples to self-determination is exercised by the peoples of these territories, and in particular regarding their political progress and the measures taken to develop their capacity for self-administration, to satisfy their political aspirations and to promote the progressive development of their free political institutions.

C[41]

COMPLETION OF THE DRAFT COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION

The Economic and Social Council,

Having considered the resolution of the Commission on Human Rights (eighth session) on the completion of its work concerning the draft international covenants on human rights,

Instructs the Commission on Human Rights to complete its work on the two covenants at its next session in 1953 and to submit them simultaneously to the Economic and Social Council.

D

The Economic and Social Council

Takes note of the report of the eighth session of the Commission on Human Rights.

[39] See chapter III, resolution II A., paragraph 91.

[40] See chapter III, resolution II B., paragraph 91.

[41] See chapter IV, resolution III, paragraph 97.

Annex VI

List of documents before the Commission at its eighth session

1. *Documents issued in the general series*

E/CN.4/165	Report of the Secretary-General on the situation (fifth session) with regard to communications concerning human rights
/165/Corr.1	*Ditto*
/165/Add.1	Communication from the deputy permanent representative of the Union of South Africa to the United Nations
/364/Rev.1	Survey prepared by the Secretary-General on activities of the United Nations and of the specialized agencies in the field of economic, social and cultural rights
/367	Study by the Secretary-General of the legal validity of the undertakings concerning minorities
/367/Corr.1	*Ditto*
/367/Add.1	*Ditto*
/511	Note by the Secretary-General on the relevant decisions of the Economic and Social Council and the Commission on the Status of Women dealing with the freedom to choose a spouse, etc.
/511/Rev.1 (English only)	*Ditto*
/512	Memorandum by the Secretary-General on the draft declaration on the rights of the child
/515	Observations of governments of Member States on the draft international covenant on human rights and measures of implementation received in pursuance of resolutions 421 H (V) of the General Assembly and 303 I (XI) of the Economic and Social Council
/515/Add.1-18	*Ditto*
/515/Add.2/Corr.1 (English only)	*Ditto*
/515/Add.6/Corr.1	*Ditto*
/515/Add.15/Corr.1	*Ditto*
/517	Memorandum by the Secretary-General on annual reports on human rights.
/518	Note by the Secretary-General on old age rights (welfare of the aged).
/518/Rev.1 (English only)	*Ditto*
/519	Memorandum by the Secretary-General on local human rights committees or information groups
/519/Add.1	*Ditto*
/520	Memorandum by the Secretary-General on activities of various organs of the United Nations in connexion with the right of asylum
/520/Add.1	*Ditto*
/521	Note by the Secretary-General on the proposal for an international court of human rights
/521/Corr.1 (English only)	*Ditto*
E/CN.4/522	Memorandum by the Secretary-General concerning the Yearbook on Human Rights
/523	Memorandum by the Secretary-General on the recommendations of the International Group of Experts on the Prevention of Crime and the Treatment of Offenders concerning the draft covenant
/524	Memorandum by the Secretary-General on the Rome Convention for the Protection of Human Rights and Fundamental Freedoms, 4 November 1950
/528	Memorandum by the Secretary-General on the general adequacy of the first eighteen articles of the draft international covenant on human rights
/528/Add.1	*Ditto*
/530	Memorandum by the Secretary-General on measures of implementation
/530/Add.1	*Ditto*
/532	Note by the Secretary-General on the report of the Committee on the draft convention on freedom of information
/535	Note by the Secretary-General on the development of the work of the United Nations for wider observance of and respect for human rights and fundamental freedoms throughout the world
/535/Add.1	*Ditto*
/590	Note by the Secretary-General on existing procedures for periodic reporting to specialized agencies
/590/Add.1	*Ditto*
/590/Add.2	*Ditto*
/641	Report of the fourth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities
/641/Corr.1	*Ditto*
/642	Provisional agenda for the eighth session
/643	Decisions of the thirteenth session of the Economic and Social Council and the sixth session of the General Assembly on the draft international covenants on human rights and measures of implementation: memorandum by the Secretary-General
/644	Review of programme and establishment of priorities: note by the Secretary-General
/645	Report of the fourth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities: note by the Secretary-General
/645/Corr.1	*Ditto*
/646	Organization and operation of the Council and its Commissions: note by the Secretary-General
/647	Yearbook on human rights: note by the Secretary-General
/648	Procedure for handling of communications relating to human rights: note by the Secretary-General
/649	The right of peoples to self-determination: memorandum by the Secretary-General

E/CN.4/650	Provisions concerning economic, social and cultural rights: memorandum by the Secretary-General
/650/Corr.1 (English and Russian only)	Provisions concerning economic, social and cultural rights: memorandum by the Secretary-General
/650/Corr.2	*Ditto*
/651	The federal clause: report by the Secretary-General
/652	Definition and protection of political groups: note by the Secretary-General
/653	Injuries suffered by groups through the total or partial destruction of their media of culture and their historical monuments: note by the Secretary-General
/654	Observations submitted by Member States on the proposed covenant on economic, social and cultural rights in pursuance of resolution 543 (VI) of the General Assembly
/654/Add.1-9	*Ditto*
/655	Observations submitted by specialized agencies on the proposed covenant on economic, social and cultural rights in pursuance of resolution 543 (VI) of the General Assembly
/655/Add.1-4	*Ditto*
/656	Human Rights Day third anniversary celebration: report by the Secretary-General
/657	Resolution 415 (S-1) of the Economic and Social Council relating to resolutions 543-549 (VI) of the General Assembly
/658	Report of the fifth session of the Sub-Commission on Freedom of Information and of the Press: note by the Secretary-General
/659	Observations on the draft international covenants on human rights by the Office of the United Nations High Commissioner for Refugees
/660	Observations and suggestions on the draft international covenants on human rights and measures of implementation by non-governmental organizations in consultative status: memorandum by the Secretary-General
/661	Resolution on equal pay for equal work adopted by the Commission on the status of women (fifth session): note by the Secretary-General
/662	The principle of self-determination in relation to Chapters XI, XII and XIII of the Charter of the United Nations: memorandum by the Secretary-General
/663	Recommendations concerning international respect for the self-determination of peoples: text of resolution adopted at the 260th and 261st meetings of the Commission on Human Rights, on 21 April 1952
/664	Recommendations concerning international respect for the self-determination of peoples: text of resolution adopted at the 265th meeting of the Commission on 23 April 1952
E/CN.4/665	Recommendations concerning international respect for the self-determination of peoples: text of resolution adopted at the 266th meeting of the Commission, on 24 April 1952
/666	Text of articles and provisions of the draft international covenant on economic, social and cultural rights adopted by the Commission
/666/Add.1-15	*Ditto*
/667	Communication dated 13 May 1952 from the representative of UNESCO to the Commission
/668	Text of articles and provisions of the draft international covenant on civil and political rights adopted by the Commission
/668/Add.1-18	*Ditto*
E/CN.4/CR.21/CR.21/Corr.1/CR.21/Add.1	List of communications dealing with the principles involved in the promotion of universal respect for and observance of human rights, received by the United Nations from 5 February 1951 to 28 April 1952
E/CN.4/SR.252-338	Summary records of the plenary meetings of the Commission
E/1721	Report by the Secretary-General on federal and colonial clauses
E/1900	Memorandum by the Secretary-General on the development of a twenty-year programme for achieving peace through the United Nations, containing observations, *inter alia,* on the wider observance of and respect for human rights and fundamental freedoms
E/2057, E/2057/Add.1-5, E/2059, E/2059/Add.1-8, E/2085, E/2085/Add.1	Observations submitted to the Economic and Social Council by Member States, specialized agencies and the Office of the United Nations High Commissioner for Refugees on the draft covenant contained in the report of the seventh session of the Commission
E/2175, E/2175/Corr.1, E/2175/Add.2	Replies from the Government of Bolivia concerning communications relating to allegations regarding infringements of trade union rights
A/2112	Report of the Third Committee of the General Assembly (sixth session) on the draft international covenant on human rights and measures of implementation
A/C.3/565	Memorandum submitted to the Third Committee of the General Assembly (sixth session) by Israel giving a concise account of the considerations which led to the preparation of the draft resolution in A/C.3/L.193
A/C.3/564	Memorandum submitted to the Third Committee of the General Assembly (sixth session) by Uruguay concerning the bases of its proposal for the establishment of a United Nations Attorney-General for Human Rights
A/C.3/566	List of rights proclaimed in the Universal Declaration of Human Rights and not embodied in the draft covenant prepared at the seventh session of the Commission, prepared by the Secretary-General at the request of the Third Committee of the General Assembly (sixth session)

A/CONF.2/21 Federal State article: report by the Secretary-General

2. Documents issued in the limited series

E/CN.4/L.20 Union of Soviet Socialist Republics: draft resolution concerning the representation of China

/L.21 Union of Soviet Socialist Republics: draft resolution relating to an article on the right of self-determination

/L.21/Corr.1 (French only) *Ditto*

/L.22 Yugoslavia: draft resolution relating to an article on the right of self-determination

/L.22/Rev.1 *Ditto*

/L.23 Egypt: amendment to the draft resolution submitted by the Soviet Union (E/CN.4/L.21)

/L.23/Rev.1 *Ditto*

/L.24 Chile: draft resolution relating to an article on the right of self-determination

/L.25 India: draft resolution relating to an article on the right of self-determination

/L.25/Rev.1 India: draft resolution relating to an article on the right of self-determination

/L.26 India: draft resolution concerning international respect for the self-determination of peoples

/L.26/Rev.1 *Ditto*

/L.27 Poland: amendment to the Egyptian amendment (E/CN.4/L.23/Rev.1) to the draft resolution submitted by the Soviet Union (E/CN.4/L.21)

/L.28 United States of America: amendment to the draft resolution submitted by the Soviet Union (E/CN.4/L.21)

/L.28/Rev.1-2 *Ditto*

/L.29 Belgium: amendment to the amendment of the United States (E/CN.4/L.28) to the draft resolution submitted by the Soviet Union (E/CN.4/L.21)

/L.30 Lebanon: synthetic working paper relating to an article on the right of self-determination

/L.31 Egypt: amendment to the United States amendment (E/CN.4/L.28/Rev.2) to the draft resolution submitted by the Soviet Union (E/CN.4/L.21)

/L.32 United States of America: Draft resolution concerning international respect for the self-determination of peoples

/L.32/Rev.1 *Ditto*

/L.33 Greece: amendment to the draft resolution submitted by the United States (E/CN.4/L.32)

/L.34 France: draft resolution concerning international respect for the self-determination of peoples

/L.34/Rev.1 *Ditto*

/L.35 Belgium: amendment to the draft resolution submitted by the United States (E/CN.4/L.32)

E/CN.4/L.36 Egypt: amendment to the draft resolution submitted by India (E/CN.4/L.26/Rev.1)

/L.37 Egypt: amendment to the draft resolution submitted by the United States (E/CN.4/L.32)

/L.38 Egypt: amendment to the Greek amendment (E/CN.4/L.33) to the draft resolution submitted by the United States (E/CN.4/L.32)

/L.39 Egypt: amendment to the draft resolution submitted by France (E/CN.4/L.34)

/L.40 Lebanon: draft resolution on recommendations concerning self-determination to be addressed to Member States of the United Nations

/L.40/Rev.1 *Ditto*

/L.41 Lebanon: draft resolution concerning the appointment of an *ad hoc* committee by the General Assembly to consider certain questions relating to self-determination

/L.42 Poland: amendment to the draft resolution submitted by India (E/CN.4/L.26/Rev.1)

/L.43 United States of America: amendment to the amendment of Egypt (E/CN.4/L.36) to the draft resolution submitted by India (E/CN.4/L.26/Rev.1)

/L.44 United States of America: amendment to the amendment of Egypt (E/CN.4/L.39) to the draft resolution submitted by France (E/CN.4/L.34/Rev.1)

/L.45 Union of Soviet Socialist Republics: amendment to article 20

/L.46 Union of Soviet Socialist Republics: amendment to article 21

/L.47 Union of Soviet Socialist Republics: amendment to article 22

/L.48 Union of Soviet Socialist Republics: amendment to article 23

/L.49 Union of Soviet Socialist Republics: amendment to article 26

/L.49/Corr.1 *Ditto*

/L.50 Union of Soviet Socialist Republics: amendment to article 27

/L.50/Rev.1 *Ditto*

/L.51 Union of Soviet Socialist Republics: amendment to article 28

/L.51/Corr.1 *Ditto*

/L.52 Union of Soviet Socialist Republics: amendment to article 30

/L.53 Chile: amendment to article 20

/L.53/Rev.1 *Ditto*

/L.54 United States of America: amendment to article 19

/L.54/Add.1 United States of America: amendment to article 19

/L.54/Rev.1-3 *Ditto*

/L.55 France: article to be inserted before article 20

/L.56 Egypt: amendment to the amendment to article 19 submitted by the United States (E/CN.4/L.54)

/L.56/Rev.1 *Ditto*

/L.57 China: amendment to article 23

E/CN.4/L.58	Yugoslavia: amendment to article 20
/L.58/Rev.1	*Ditto*
/L.59	Lebanon: amendment to article 21
/L.60	Uruguay: amendment to article 21
/L.61	Uruguay: amendment to article 28
/L.61/Rev.1	*Ditto*
/L.62	Chile: amendment to article 21
/L.62/Rev.1-2	*Ditto*
/L.63	Yugoslavia: amendment to article 21
/L.63/Rev.1	*Ditto*
/L.64	Yugoslavia: amendment to article 22
/L.64/Rev.1-2	*Ditto*
/L.65	Poland: amendment to the amendment to article 19 submitted by the United States (E/CN.4/L.54)
/L.65/Rev.1	*Ditto*
/L.66	France: article to be included in the covenant on economic, social and cultural rights
/L.66/Corr.1 (English only)	*Ditto*
/L.66/Rev.1	*Ditto*
/L.67	France: article to be included in the covenant on economic, social and cultural rights
/L.67/Corr.1 (English only)	*Ditto*
/L.67/Corr.2 (English only)	*Ditto*
/L.67/Rev.1	*Ditto*
/L.68	France: amendment to article 22
/L.69	Chile: amendment to the proposal for an article to be inserted before article 20 submitted by France (E/CN.4/L.55)
/L.70	France: amendment to the revised amendment to article 19 submitted by the United States (E/CN.4/L.54/Rev.1)
/L.71	Chile: amendment to the amendment to article 19 submitted by the United States (E/CN.4/L.54/Rev.1)
/L.72	Chile: amendment to the amendment to article 19 submitted by the United States (E/CN.4/L.54/Rev.1)
/L.73	Lebanon: amendment to the amendment to article 19 submitted by the United States (E/CN.4/L.54/Rev.2)
/L.74	France: amendment to article 26
/L.74/Rev.1-2	*Ditto*
/L.75	France: amendment to article 30
/L.76	France: amendment to article 32
/L.77	Sweden: amendments to articles 26 and 31
/L.77/Rev.1	*Ditto*
/L.78	Yugoslavia: amendment to article 27
/L.79	United States of America: amendment to article 25
/L.79/Rev.1	*Ditto*
/L.80	United States of America: amendment to article 28
/L.80/Rev.1-2	*Ditto*
/L.81	United States of America: amendment to article 30
E/CN.4/L.81/Rev.1	*Ditto*
/L.82	United States of America: amendment to the amendment to article 20 submitted by Chile (E/CN.4/L.53)
/L.83	United Kingdom: amendment to article 23
/L.84	United Kingdom: amendment to article 25
/L.85	United Kingdom: amendment to article 28
/L.85/Rev.1	*Ditto*
/L.86	Australia: amendment to article 25
/L.87	Australia: amendment to article 26
/L.88	United Kingdom: amendment to article 29
/L.89	Australia: amendment to article 28
/L.90	France: amendment to the amendment to article 20 submitted by Chile (E/CN.4/L.53)
/L.91	Chile: new article to be inserted after article 21 of the draft covenant (E/1992)
/L.92	Lebanon: amendment to the amendment submitted by the United States (E/CN.4/L.82) to the amendment to article 20 submitted by Chile (E/CN.4/L.53)
/L.93	Lebanon and United States of America: amendment to the amendment to article 20 submitted by Chile (E/CN.4/L.53)
/L.94	Suggestions made by the representative of the Commission on the Status of Women at the 279th meeting of the Commission concerning article 21 and amendments thereto.
/L.95	Belgium: amendment to article 28
/L.96	Lebanon: amendment to the amendment to article 28 submitted by the United Kingdom (E/CN.4/L.85)
/L.96/Rev.1	*Ditto*
/L.97	Egypt: amendment to the amendment to article 28 submitted by Lebanon (E/CN.4/L.96) to the United Kingdom amendment (E/CN.4/L.85)
/L.98	Poland: amendment to the amendment to article 28 submitted by the United States (E/CN.4/L.80/Rev.2)
/L.99	Poland: amendment to the amendment submitted by Lebanon (E/CN.4/L.96) to the amendment to article 28 submitted by the United Kingdom (E/CN.4/L.85)
/L.100	Poland: amendment to the amendment to article 28 submitted by the United Kingdom (E/CN.4/L.85)
/L.101	United States of America: amendment to the amendment to article 28 submitted by the United Kingdom (E/CN.4/L.85/Rev.1)
/L.102	United States of America: amendment to the amendment submitted by Poland (E/CN.4/L.100) to the amendment to article 28 submitted by the United Kingdom (E/CN.4/L.85)
/L.102/Rev.1	*Ditto*
/L.103	Tentative programme of work of the Commission

E/CN.4/L.103/Rev.1	*Ditto*
/L.104	France: amendment to the amendment to article 30 submitted by the United States (E/CN.4/L.81)
/L.105	Lebanon: amendment to the amendment to article 30 submitted by the United States (E/CN.4/L.81)
/L.105/Rev.1	*Ditto*
/L.106	Uruguay: amendment to the amendment to article 30 submitted by the United States (E/CN.4/L.81)
/L.106/Rev.1	*Ditto*
/L.107	Poland: amendment to the amendment to article 30 submitted by the United States (E/CN.4/L.81)
/L.108	Yugoslavia: amendment to the amendment submitted by Uruguay (E/CN.4/L.106/Rev.1) to the amendment to article 30 submitted by the United States (E/CN.4/L.81)
/L.109	Uruguay: amendment to the amendment to article 25 submitted by the United States (E/CN.4/L.79/Rev.1)
/L.110	Lebanon: amendment to the amendment to article 27 submitted by the Soviet Union (E/CN.4/L.50)
/L.111	Lebanon: amendment to the amendment to article 27 submitted by Yugoslavia (E/CN.4/L.78)
/L.112	Chile and Yugoslavia: joint amendment to the amendment to article 26 submitted by Sweden (E/CN.4/L.77/Rev.1)
/L.113	Belgium: amendment to the amendment to article 26 submitted by France (E/CN.4/L.74)
/L.114	United States of America: amendment to the article submitted by France (E/CN.4/L.67)
/L.114/Rev.1-2	*Ditto*
/L.115	United States of America: amendment to the amendment to article 32 submitted by France (E/CN.4/L.76)
/L.116	Egypt: amendment to the amendment to article 26 submitted by France (E/CN.4/L.74/Rev.1)
/L.117	United States of America: amendment to the amendment submitted by Egypt (E/CN.4/L.116) to the amendment to article 26 submitted by France (E/CN.4/L.74)
/L.118	Uruguay: amendment to the amendment to article 27 submitted by the Soviet Union (E/CN.4/L.50/Rev.1)
/L.119	Uruguay: amendment to the amendment to article 27 submitted by Yugoslavia (E/CN.4/L.78)
/L.120	Union of Soviet Socialist Republics: article to be inserted after article 18
/L.121	Union of Soviet Socialist Republics: amendment to article 2
/L.122	Union of Soviet Socialist Republics: amendment to article 3
/L.123	Union of Soviet Socialist Republics: amendment to article 8
/L.123/Corr.1	*Ditto*
/L.124	Union of Soviet Socialist Republics: amendment to article 10
E/CN.4/L.125	Union of Soviet Socialist Republics: amendment to article 14
/L.126	Union of Soviet Socialist Republics: amendment to articles 15 and 16
/L.127	Union of Soviet Socialist Republics: amendment to article 17
/L.128	Union of Soviet Socialist Republics: article on federal State clause to be included in the draft covenant
/L.129	United States of America: amendment to article 1
/L.130	United States of America: amendment to article 3
/L.131	United States of America: amendment to article 6
/L.132	United States of America: amendment to article 8
/L.132/Rev.1-2	*Ditto*
/L.133	United States of America: amendment to article 10
/L.134	United States of America: amendment to article 18
/L.135	Chile: article on equal rights of men and women to be inserted in the covenant on civil and political rights
/L.135/Rev.1	*Ditto*
/L.136	Yugoslavia: amendment to article 2
/L.137	United Kingdom: amendment to article 6
/L.138	United Kingdom: amendment to article 1
/L.139	United Kingdom: amendment to article 2
/L.139/Rev.1	United Kingdom: amendment to article 2
/L.140	United Kingdom: amendment to article 3
/L.141	United Kingdom: amendment to article 9
/L.142	United Kingdom: amendment to article 10
/L.143	United Kingdom: amendment to article 13
/L.144	United Kingdom: amendment to article 14
/L.144/Rev.1	*Ditto*
/L.145	United Kingdom: amendment to article 15
/L.146	United Kingdom: amendment to article 16
/L.147	United Kingdom: amendment to article 17
/L.148	India: amendment to the preamble
/L.149	India: amendment to article 8
/L.149/Rev.1	*Ditto*
/L.150	India: amendment to article 9
/L.151	France: amendment to article 6
/L.152	France: amendment to article 8
/L.153	France: amendment to article 9
/L.154	France: amendment to article 10
/L.154/Corr.1 (English only)	*Ditto*
/L.154/Rev.1-2	*Ditto*
/L.155	France: amendment to article 13
/L.155/Corr.1 (Russian only)	*Ditto*
/L.156	France: amendment to article 14
/L.156/Rev.1	*Ditto*
/L.157	France: amendment to article 17
/L.158	France: amendment to article 5

E/CN.4/L.158/Rev.1	*Ditto*
/L.159	France: amendment to article 4
/L.160	France: amendment to article 3
/L.160/Corr.1 (English only)	*Ditto*
/L.161	France: amendment to article 1
/L.162	Chile: amendment to the amendment to article 27 submitted by the Soviet Union (E/CN.4/L.50/Rev.1)
/L.162/Rev.1	*Ditto*
/L.163	Chile: amendment to the amendment submitted by Lebanon (E/CN.4/L.111) to the amendment to article 27 submitted by Yugoslavia (E/CN.4/L.78)
/L.164	United States of America: proposed numbering of articles of the draft covenant on economic, social, and cultural rights
/L.165	Belgium: amendment to the draft article submitted by France (E/CN.4/L.66)
/L.166	List of amendments to the preamble and parts I and II (articles 1-18) of the draft covenant in the report of the seventh session of the Commission, and proposals for additional articles concerning civil and political rights
/L.167	Chile and Yugoslavia: amendment to the preamble proposed by the United States (E/CN.4/L.54/Rev.2) for the draft covenant on economic, social and cultural rights
/L.168	Poland: amendment to the amendment of the United States to the article submitted by France (E/CN.4/L.114/Rev.2)
/L.168/Rev.1	*Ditto*
/L.169	Chile: amendment to the article submitted by France (E/CN.4/L.67)
/L.170	United Kingdom: amendment to the article submitted by France (E/CN.4/L.67/Rev.1)
/L.171	Australia and Sweden: amendment to the preamble submitted by the United States of America (E/CN.4/L.54/Rev.1) for the draft covenant on economic, social and cultural rights
/L.172	Poland: amendment to the amendment submitted by Chile (E/CN.4/L.169) to the article submitted by France (E/CN.4/L.67)
/L.173	Poland: amendment to the article submitted by France (E/CN.4/L.67/Rev.1)
/L.174	Poland: amendment to the amendment submitted by the United Kingdom (E/CN.4/L.170) to the article submitted by France (E/CN.4/L.67/Rev.1)
/L.175	Chile: amendment to the amendment to article 32 submitted by France (E/CN.4/L.76)
/L.176	Chile and United States of America: amendment to the amendment to article 3 submitted by the Soviet Union (E/CN.4/L.122)
/L.177	United Kingdom: amendment to the amendment to article 3 submitted by India (E/1992, annex III, section A)
E/CN.4/L.178	Yugoslavia: amendment to article 3
/L.179	Yugoslavia: amendment to the joint amendment submitted by Chile and the United States (E/CN.4/L.176) to the amendment to article 3 submitted by the Soviet Union
/L.180	Yugoslavia: amendment to the amendment to article 3 submitted by the Soviet Union (E/CN.4/L.122)
/L.181	Egypt: amendment to the amendment to article 3 submitted by the United Kingdom (E/CN.4/L.140)
/L.182	Belgium: amendment to article 3
/L.183	Poland: amendment to the amendment to article 6 submitted by the United Kingdom (E/CN.4/L.137)
/L.184	Union of Soviet Socialist Republics: amendment to the amendment to article 9 and to the proposal for the inclusion in the covenant of a new article 9a submitted by Yugoslavia
/L.185	United Kingdom: amendment to the amendment to article 8 submitted by France (E/CN.4/L.152)
/L.186	United Kingdom: amendment to the amendment to article 8 submitted by the United States (E/CN.4/L.132)
/L.187	Egypt: revised amendment to article 13 (E/1992, annex III, section A)
/L.188	Chile and Uruguay: amendment to the amendment to article 9 submitted by Yugoslavia (E/1992, annex III, section A)
/L.189	Australia: amendment to article 8
/L.189/Rev.1	*Ditto*
/L.190	Chile, Uruguay and Yugoslavia: revised text of the amendment proposed by Yugoslavia to article 9 (E/1992, annex IV, section A)
/L.190/Rev.1-2	*Ditto*
/L.191	France: amendments (*a*) to the revised amendment submitted by Chile, Uruguay and Yugoslavia (E/CN.4/L.190/Rev.1) to the amendment to article 9 submitted by Yugoslavia, and (*b*) to the amendment submitted by the Soviet Union (E/CN.4/L.184) to the amendment to articles 9 and 9a submitted by Yugoslavia (E/1992, annex IV, section A)
/L.192	United States of America: amendment to the amendment to article 19 submitted by France (E/CN.4/L.156)
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/L.194	Arrangement of articles of the draft covenant on economic, social and cultural rights adopted at the eighth session of the Commission: suggestions by the Chairman
/L.195	Union of Soviet Socialist Republics: draft resolution on reconsideration of General Assembly resolution 543 (VI)
/L.195/Corr.1	*Ditto*
/L.196	Belgium: amendment to article 11
/L.197	Uruguay and Yugoslavia: joint amendment to article 11

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/L.198/Rev.1	*Ditto*
/L.199	Australia, India and United States of America: draft of proposed federal State article
/L.200	Draft report of the eighth session of the Commission on Human Rights
/L.200/Add.1-9	*Ditto*
/L.201	France: amendment to the amendment to article 15 submitted by the United Kingdom (E/CN.4/L.145)
/L.202	France: amendment to the amendment to article 16 submitted by the United Kingdom (E/CN.4/L.146)
/L.203	United States of America: amendment to the amendment to article 16 submitted by the United Kingdom (E/CN.4/L.146)
/L.204	United States of America: amendment to the amendment to article 17 submitted by Yugoslavia (E/1992, annex III, section A)
/L.205	France: amendment to the amendment to article 17 submitted by the Soviet Union (E/CN.4/L.127)
/L.206	Yugoslavia: revised text of the amendment to article 18 (E/1992, annex III, section A)
/L.207	Poland: amendment to the amendment to article 18 submitted by Chile (E/CN.4/L.198/Rev.1)
/L.208	Lebanon: amendment to the preamble (E/1992, annex I)
/L.209	India, Lebanon, Sweden and United States of America: draft resolution on completion of work on the two covenants on human rights
/L.210	Australia, France and India: draft resolution
/L.211	France: amendment to the amendment to article 2 submitted by the United Kingdom (E/CN.4/L.139/Rev.1)
/L.212	Yugoslavia: amendment to the amendment to article 2 submitted by the United Kingdom (E/CN.4/L.139/Rev.1)
/L.213	Lebanon: amendment to the amendment to article 2 submitted by the United Kingdom (E/CN.4/L.139/Rev.1)
/L.214	Belgium: amendment to paragraphs 35 and 36 of chapter III of the draft report of the eighth session of the Commission (E/CN.4/L.200/Add.1)
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/L.218	France: amendment to the draft resolution submitted by Chile, Pakistan and Uruguay (E/CN.4/L.216)
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3. *Documents issued in the non-governmental organizations series*

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/NGO.37	World Union of Catholic Women's Organizations (Category B): suggestions concerning the draft covenant on civil and political rights and the draft covenant on economic, social and cultural rights
/NGO.38	International Council of Women (Category B): suggestions concerning the inclusion of provisions relating to equal rights for men and women in the draft covenants
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