

REPORT OF THE THIRD SESSION OF THE COMMISSION ON HUMAN RIGHTS

Lake Success, 24 May to 18 June 1948

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1. The third session of the Commission on Human Rights opened on 24 May 1948, at the Interim Headquarters of the United Nations, Lake Success. The Commission held thirty-six plenary meetings and terminated its work on 18 June 1948.

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

Chairman:

Mrs. Franklin D. Roosevelt (United States) Representative

Vice-Chairman:

Dr. F. C. Chang (China) Representative

Prof. Rene Cassin (France) Representative

Rapporteur:

Dr. Charles Malik (Lebanon) Representative

Members:

Mr. J. D. L. Hood (Australia) Alternate

Mr. R. Lebeau (Belgium) Alternate

Mr. A. S. Stepanenko (Byelorussian Soviet Socialist Republic) Representative

Mr. Herman Santa Cruz (Chile) Representative

Mr. Omar Loutfi (Egypt) Representative

Mrs. Eansa Mahta (India) Representative

Mr. M. de J. Quijano (Panama) Alternate

Mr. S. Lopez (Philippines) Alternate

Mr. M. Klekovkin (Ukrainian Soviet Socialist Republic) Representative

Mr. A. P. Pavlov (Union of Soviet Socialist Republics) Alternate

Mr. Geoffrey Wilson (United Kingdom) Alternate

Mr. Jose Mora (Uruguay) Representative

Mr. Joza Vilfan (Yugoslavia) Alternate

3. Mrs. Amalia C. LECHE (Mexico), Vice-Chairman of the Commission on the Status of Women, was present and participated without vote when sections of the draft of the International Bill of Human Rights relating to the particular rights of women were being considered.

4. The following representatives of specialized agencies were also present at the session:

(Mr. R. W. Cox, and)

Mr. R. W. Cox, and)	International Labour Organization
Dr. R. A. Metall)	
Mr. Pierre Lebar	United Nations Educational, Scientific and Cultural Organization
Miss B. Howell, and)	World Health Organization
Mr. G. E. Hill)	
Mr. Oliver Stone	Preparatory Commission for the International Refugee Organization

5. The following consultants from non-governmental organizations were also present:

Category A

Miss Toni Sender, and)	American Federation of Labor
Mr. Peter Garvan)	
Mr. August J. A. Van Istendael)	International Federation of Christian Trade Unions
Mr. Joseph Botton)	
Miss Julia Stuart	World Federation of United Nations Associations

Category B

Dr. Salomon Goldsmith,)	Agudas Israel World Organization
Dr. Isaac Lewin, and)	
Dr. M. L. Munk)	
Miss Juliet H. Drenan	Catholic International Union for Social Service
Dr. O. Frederick Nolde, and)	Commission of the Churches on International Affairs
Mr. Sartell Prentice Jr.)	
Mr. Moses Moskowitz	Consultative Council of Jewish Organizations
Mr. Barnett Jenner,)	
Mr. A. G. Brotman, and)	
Mr. Arthur C. A. Liverhant)	Co-ordinating Board of Jewish Organizations for Consultation with the Economic and Social Council of the United Nations
Mrs. Marian Baker vanden Berg	International Alliance of Women
Miss Margherita Strahler	International Committee of the Red Cross
Mrs. W. P. Parsons	International Council of Women
Miss Mildred Burgess	International Federation of Business and Professional Women
Miss Catherine Schaefer	International Union of Catholic Women's Leagues

/Dr. Janet Robb

Dr. Janet Robb	Liaison Committee of Women's International Organizations
Dr. F. R. Bienenfeld, and) Mr. Stephen D. Wolkowicz)	World Jewish Congress
Miss Elizabeth A. Smart	World Women's Christian Temperance Union
Miss Anne Guthrie	World's Y. W. C. A.

6. Although its session opened on 24 May, the Commission was unable to begin its work on substantive questions until the afternoon of 26 May because of the necessity for the members to have ample time to examine the various documents and owing to the delay in arriving at Lake Success of Mr. STEPANENKO, Representative of the Byelorussian Soviet Socialist Republic, and of Mr. KLEKOVKIN, Representative of the Ukrainian Soviet Socialist Republic. The Commission drew the attention of the Secretary-General of the United Nations to the fact that these Representatives could not arrive in time for the beginning of the third session of the Commission for reasons independent of their will, and that certain members felt the delay was in violation of the agreement adopted by the General Assembly on 31 October 1947; and to the necessity of taking measures to prevent a repetition of such incidents in the future.

7. Mr. Hernan SANTA CRUZ (Chile) participated from the 49th to the 52nd meetings; Mr. Jose MORA (Uruguay) from the 46th to the 52nd meetings; and Prof. Rene CASSIN (France) from the 46th to the 73rd meetings. Mr. SANTA CRUZ was represented from the 54th to the final meeting by Mr. J. LARRAIN; Mr. MORA was represented from the 53rd to the final meeting by Mr. Roberto FONTAINE; and Prof. CASSIN was represented from the 73rd to the final meeting by Mr. Pierre ORDONNEAU; these alternates were given the right to vote. In various meetings during the session Mr. G. JOCKEL (Australia) substituted for Mr. HOOD, Mr. L. STEYAERT (Belgium) for Mr. LEBEAU, Dr. T. Y. WU (China) for Dr. CHANG, Dr. E. AZKOUL (Lebanon) for Dr. MALIK, and Mr. Jose D. INGLES and Mr. V. D. CARPIO (Philippines) for Mr. LOPEZ; these alternates were not given the right to vote. The Representative of Iran did not participate in the session. An observer representing the Government of New Zealand attended meetings of the session.

8. The Commission re-elected Mrs. Franklin D. ROOSEVELT (United States of America) as Chairman, Dr. P. C. CHANG (China) as Vice-Chairman, and Dr. Charles MALIK (Lebanon) as Rapporteur. It elected Prof. Rene CASSIN (France) as Second Vice-Chairman.

9. Prof. John P. HUMPHREY, Director of the Division of Human Rights, represented the Secretary-General. Mr. Edward LAWSON acted as Secretary of the Commission.

10. The Commission adopted the Provisional Agenda (document E/CN.4/88) as its Agenda.
11. The expression of the views of the Members of the Commission is embodied in the summary records of the plenary meetings (documents E/CN.4/SR.41 to E/CN.4/SR.81).
12. Plan of Work in Regard to the International Bill of Human Rights

The Commission had before it the Report of the Drafting Committee on an International Bill of Human Rights (document E/CN.4/95), which met at Lake Success from 3 to 21 May 1948. It decided to begin its work by dealing with the Draft International Declaration on Human Rights (Annex "A" of document E/CN.4/95), since the Drafting Committee already had carefully examined the Draft International Covenant on Human Rights; and after finishing this part of its work to proceed to examine the question of implementation and finally the Draft International Covenant on Human Rights in detail.

13. The Commission examined the proposed Articles for the Declaration, article by article, taking into consideration the amendments proposed by various Representatives. However, it did not have the time to consider the question of implementation, or the Covenant, in detail. On the basis of its deliberations as recorded in the summary records, the Commission prepared and adopted by twelve votes for, none against, and four abstentions,* the Draft International Declaration of Human Rights appended to this Report as Annex "A", which it submits to the Economic and Social Council.

14. The Commission also decided to forward to the Economic and Social Council the Draft International Covenant on Human Rights as it appeared in Annex "B" of the Report of the second session of the Drafting Committee on an International Bill of Human Rights; this Draft International Covenant on Human Rights, which the Commission did not have the time to examine, is appended to this Report as Annex "B".

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- * 1. The Representatives of Australia, Belgium, Chile, China, Egypt, France, India, Lebanon, Panama, the United Kingdom, the United States of America, and Uruguay voted in favour of the Draft International Declaration of Human Rights; no Representatives voted against it; the Representatives of the Byelorussian Soviet Socialist Republic, the Ukrainian Soviet Socialist Republic, the Union of Soviet Socialist Republics and Yugoslavia abstained; and the alternate for the Representative of the Philippines stated that if he had the right to vote, he would vote in favour.
2. The Representative of the Union of Soviet Socialist Republics requested that a statement relating to the Draft International Declaration of Human Rights, prepared by him, be appended to this Report; this statement is attached hereto as an Appendix. The Representatives of the Byelorussian Soviet Socialist Republic, the Ukrainian Soviet Socialist Republic, and Yugoslavia associated themselves with this statement.

15. In addition, the Commission decided to refer the Council to Annex "C" of the Report of its second session (document E/600) and to various other proposals which have been made with respect to the question of implementation; these proposals, which have been distributed separately, are listed in this Report in Annex "C".

16. The Commission recognized that in approving the Draft International Declaration of Human Rights it had not completed its task of preparing an International Bill of Human Rights, which consists of a Declaration, a Covenant, and Measures of Implementation. It agreed that the Declaration would form only part of the International Bill of Human Rights, and that completion of a Covenant, containing measures of implementation, is essential.

17. The Commission decided that further work on the Question of Implementation was of the utmost importance and that therefore it should embark upon this work together with work on the Covenant, at its fourth session on the basis of the Report of the Working Group on Implementation which met during the second session of the Commission (Annex C of document E/600) taking into account the other documentation contained or listed in Annexes "B" and "C" of the present report. The Commission recommended to the Economic and Social Council that a meeting of the Commission be held early in 1949 for the completion of the Covenant and the measures of implementation.

18. The Prevention of Discrimination and the Protection of Minorities

The Commission decided to postpone reconsideration of the terms of reference of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, as it had decided to do at its second session, until it had drawn up its draft International Bill of Human Rights, including implementation. It expressed the view that there was no need for the Sub-Commission to meet prior to the next session of the Commission, since the Draft International Bill of Human Rights had not been completed at this session; and decided that reconsideration of the terms of reference of the Sub-Commission would be on the agenda of its next session.

19. Freedom of Information and of the Press

The Commission took note of the Report of the second session of the Sub-Commission on Freedom of Information and of the Press (document E/CN.4/80). In view of the fact that the Report had already been submitted directly to the Economic and Social Council at its sixth session, the Commission considered that it need take no further action.

20. Communications

The Commission received, in private meeting, a confidential list of communications received concerning human rights compiled by the Secretary-General, together with the Report (document E/CN.4/96) of

/the Ad Hoc

the Ad Hoc Committee on Communications composed of the representatives of Chile, France, Lebanon, the Union of Soviet Socialist Republics and the United States of America. The Commission recommended that the Economic and Social Council request the Secretary-General, in the future, to ask the governments sending replies to communications brought to their attention in accordance with paragraph (e) of Resolution 75 (V) of the Economic and Social Council whether they wish their replies to be transmitted to the Commission on Human Rights in summary form, or presented in full as restricted or unrestricted documents.

21. Yearbook on Human Rights

The Commission reconsidered its decision that the Yearbook on Human Rights should contain only provisions of constitutions, ordinary laws, and international treaties. It expressed the view that court decisions are fully as important as provisions of constitutions, ordinary laws and international treaties, and should also be included in the Yearbook. It also expressed the view that the correspondents, appointed by each government to provide the Secretariat with the necessary documents accompanied, when necessary, by appropriate explanations, should also report appropriate court decisions concerning human rights; the Secretariat, of course, would still have the responsibility for deciding on the use to be made of the court decisions as well as the other documents supplied to it, bearing in mind the size of the Yearbook, its general purpose, and budgetary implications. It was understood that this decision would apply to the Yearbooks for 1949 and thereafter.

22. Functions of Information Groups and Local Human Rights Committees

The Commission considered that the functions of information groups and local human rights committees, as set forth in the resolution of the Economic and Social Council of 12 June 1946, could not be defined unless the measures decided on by the Commission for implementing the Covenant on Human Rights were taken into consideration, and decided to postpone the study of this question until it had decided on these measures.

23. Rules of Procedure

The Commission decided to request the Economic and Social Council to amend Rule 11 of the Rules of Procedure of Functional Commissions to read as follows (amended portions underlined):

"When a member of the Commission is unavoidably prevented from attending a session or parts thereof of the Commission and an alternate has been designated by the Government of the member, in consultation with the Secretary-General, to serve in the place of the member for that session or parts thereof, such an alternate shall have the same status as a member of the Commission, including the right to vote."

24. Genocide*

Due to lack of time the Commission was not able to consider thoroughly the Draft Convention on the Prevention and Punishment of Genocide and therefore was

* The representative of the Union of Soviet Socialist Republics requested that the following statement made by him appear in this Report:

The Union of Soviet Socialist Republics delegation is unable to agree with the statements of the Sub-Committee of the Commission on Human Rights and of the Chinese representative, that the draft Convention on Genocide prepared by the Ad Hoc Committee on Genocide "represents a sound basis" for measures to combat such crimes and for the adoption of appropriate resolutions by the Economic and Social Council and the General Assembly of the United Nations.

The Commission on Human Rights did not study or discuss the draft Convention on Genocide, and did not therefore possess sufficient data to appraise that document in substance.

The decision of the majority of the Commission on this question is incorrect also in substance, however, since the draft Convention in fact contains a number of clauses which are unacceptable in principle, and the Convention as a whole, as prepared by the majority of the Ad Hoc Committee on Genocide, consequently does not and cannot provide a sufficiently effective instrument to combat genocide, and therefore does not fulfil the task set the Committee by the General Assembly and the Economic and Social Council. During the preparation of the Convention on Genocide the Union of Soviet Socialist Republics delegation, which attaches great importance to effective measures for combating this heinous crime, submitted its own concrete proposals, which are enumerated in detail in the "Basic Principles of a Convention on Genocide" prepared by the Union of Soviet Socialist Republics (document E/AC.25/7 - 7 April 1948) and in the Union of Soviet Socialist Republics representative's statement in the Ad Hoc Committee on Genocide (E/794 - 24 May 1948). Several important proposals made in these documents were rejected by the majority of the Ad Hoc Committee on Genocide without the slightest justification and will be raised again (if this cannot be done in the Commission) and developed at greater length during later stages of the discussion on the Convention in the Economic and Social Council.

In view of the fact that the Commission on Genocide decided at its third session not to have any discussion on the substance of the draft Convention on Genocide the Union of Soviet Socialist Republics delegation considers that the following resolution should be adopted in place of that submitted by the Sub-Committee:

"1. The Commission on Human Rights has taken note of the draft Convention on the Prevention and Punishment of Genocide prepared by the Ad Hoc Committee on Genocide and of the report attached to it. Due to lack of time the Commission was not able during its third session to study the draft Convention thoroughly and is therefore unable to make any recommendations of substance to the Economic and Social Council. (This item corresponds to the resolution submitted to the Commission by the Sub-Committee.)

"2. Notwithstanding this, the Commission, however, considers it desirable in principle and a matter of vital importance for millions of human beings:

(a) that effective measures be taken to deal with genocide - one of the most heinous crimes against humanity - and

(b) that the question of an appropriate convention be considered at the earliest possible moment by the Economic and Social Council and the General Assembly."

not in a position to make any observations concerning its substance. However, the Commission expressed the opinion that the Draft Convention represents an appropriate basis for urgent consideration and decisive action by the Economic and Social Council and by the General Assembly during their coming sessions.

ANNEX A

DRAFT INTERNATIONAL DECLARATION OF HUMAN RIGHTS

PREAMBLE

WHEREAS 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; and

WHEREAS disregard and contempt for human rights resulted, before and during the second world war, in barbarous acts which outraged the conscience of mankind and made it apparent that the fundamental freedoms were one of the supreme issues of the conflict; and

WHEREAS it is essential, if mankind is not to be compelled as a last resort to rebel against tyranny and oppression, that human rights should be protected by a regime of law; and

WHEREAS the peoples of the United Nations have in the Charter determined to reaffirm faith in fundamental human rights and in the dignity and worth of the human person and to promote social progress and better standards of life in larger freedom; and

WHEREAS Member States have pledged themselves to achieve, in co-operation with the Organization, the promotion of universal respect for and observance of human rights and fundamental freedoms; and

WHEREAS a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now therefore the General Assembly

PROCLAIMS this Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, property or other status, or national or social origin.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

1. No one shall be held in slavery or involuntary servitude.
2. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 5

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

Article 6

All are equal before the law and are entitled without any discrimination to equal protection of the law against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 7

No one shall be subjected to arbitrary arrest or detention.

Article 8

In the determination of his rights and obligations and of any criminal charge against him, everyone is entitled in full equality to a fair hearing by an independent and impartial tribunal.

Article 9

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any offence on account of any act or omission which did not constitute an offence, under national or international law, at the time when it was committed.

Article 10

No one shall be subjected to unreasonable interference with his privacy, family, home, correspondence or reputation.

Article 11

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own.

Article 12

1. Everyone has the right to seek and be granted, in other countries, asylum from persecution.
2. Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution.

/Article 13

Article 13

No one shall be arbitrarily deprived of his nationality or denied the right to change his nationality.

Article 14

1. Men and women of full age have the right to marry and to found a family and are entitled to equal rights as to marriage.
2. Marriage shall be entered into only with the full consent of both intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection.

Article 15

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 16

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 17

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 18

Everyone has the right to freedom of assembly and association.

Article 19

1. Everyone has the right to take part in the government of his country, directly or through his freely chosen representatives.
2. Everyone has the right of access to public employment in his country.
3. Everyone has the right to a government which conforms to the will of the people.

Article 20

Everyone, as a member of society, has the right to social security and is entitled to the realization, through national effort and international co-operation, and in accordance with the organization and resources of each State, of the economic, social and cultural rights set out below.

/Article 21

Article 21

1. Everyone has the right to work, to just and favourable conditions of work and pay and to protection against unemployment.
2. Everyone has the right to equal pay for equal work.
3. Everyone is free to form and to join trade unions for the protection of his interests.

Article 22

1. Everyone has the right to a standard of living, including food, clothing, housing and medical care, and to social services, adequate for the health and well-being of himself and his family and to security in the event of unemployment, sickness, disability, old age or other lack of livelihood in circumstances beyond his control.
2. Mother and child have the right to special care and assistance.

Article 23

1. Everyone has the right to education. Elementary and fundamental education shall be free and compulsory and there shall be equal access on the basis of merit to higher education.
2. Education shall be directed to the full development of the human personality, to strengthening respect for human rights and fundamental freedoms and to combating the spirit of intolerance and hatred against other nations and against racial and religious groups everywhere.

Article 24

Everyone has the right to rest and leisure.

Article 25

Everyone has the right to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement.

Article 26

Everyone is entitled to a good social and international order in which the rights and freedoms set out in this Declaration can be fully realized.

Article 27

1. Everyone has duties to the community which enables him freely to develop his personality.
2. In the exercise of his rights, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of morality, public order and general welfare in a democratic society.

Article 28

Nothing in this Declaration shall imply the recognition of the right of any State or person to engage in any activity aimed at the destruction of any of the rights and freedoms prescribed herein.

/NOTE:

NOTE: The Commission has not considered the following article since measures of implementation were not in its third session:

"Everyone has the right, either individually, or in association with others, to petition or to communicate with the public authorities of the State of which he is a national or in which he resides, or with the United Nations."

ANNEX B

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS*

(Prepared by the Drafting Committee on An International Bill of Human Rights,
Being Annex "B" of document E/CN.4/95)

PART I

PREAMBLE**

The States parties hereto, bearing in mind the general principles proclaimed in the United Nations Charter and in the Declaration of Human Rights, agree to give effect in this Covenant to certain of the principles specified in the Declaration, as follows:

Article 1

The States parties hereto declare that they recognize the rights and freedoms set forth in Part II hereof as being among the human rights and fundamental freedoms founded on the general principles of law recognized by civilized nations.

Article 2

Every State party hereto undertakes to ensure:

- (a) through adequate laws and procedures to all individuals within its jurisdiction, whether citizens, nationals, persons of foreign nationality or stateless persons, the rights and freedoms set forth in Part II of this Covenant, and further undertakes that such rights and freedoms where not now provided under existing laws and procedures be given effect in its domestic law through the adoption of appropriate laws and procedures;
- (b) that any persons whose rights or freedoms as herein defined are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
- (c) that such remedy shall be enforceable by a judiciary whose independence is secured; and
- (d) that the police and executive authorities shall act in support of the enjoyment of these rights and freedoms.

* The Drafting Committee agreed to point out in its Report its view that the Covenant is not self-operative.

** It was agreed by the Drafting Committee that the ideas contained in this text should be included in a Preamble when one is written. It was also agreed to draw attention to the following text submitted by the representative of France: "The States parties hereto, being resolved to give effect to the general principles proclaimed in the United Nations Charter and specified in the International Declaration on Human Rights and Fundamental Freedoms adopted by the General Assembly of the United Nations on _____, have agreed to conclude a preliminary convention, defining the practical scope of certain of these principles".

Article 3

(Note: The Drafting Committee decided not to consider the following Geneva text until articles on implementation had been drafted)*:

On receipt of a request to this effect from the Secretary-General of the United Nations made under the authority of a resolution of the General Assembly, the Government of any party to this Covenant shall supply an explanation as to the manner in which the law of that State gives effect to any of the provisions of this Covenant.

Article 4

(No decision was made as to which of the following alternative texts was preferred).

I. Text originally submitted by the Commission on Human Rights

1. In time of war or other public emergency, a State may take measures derogating from its obligations under Article 2 above to the extent strictly limited by the exigencies of the situation.

2. (Left over until implementation articles have been drafted).

II. Text submitted by the Representative of the United States

The obligations imposed by Articles 1 and 2 shall not effect the right of State parties to this Covenant to take action reasonably necessary for the preservation of peace, order or security or the promotion of the general welfare. Such action may be taken only by or pursuant to law, in conformity with Article 20 hereof:

(Note: The delegation of the United States pointed out:

(1) that the limitations set forth in the Covenant without the additions suggested by other Governments are not all-inclusive;

(2) that certain Governments which have suggested further limitations have stated that their lists are not all-inclusive; and

(3) that the matter of restricting the rights and freedoms of the Covenant arises from many sources of law and that the Commission on Human Rights must find the solution for dealing with the problem caused by the omission of further probable limitations not yet enumerated.)*

* The limitations suggested by the representative of the United States were submitted in each case as illustrative of the problems arising in the absence of a general limitation clause, which the United States prefers.

PART II

Article 5

No one shall be deprived of his life save in the execution of the sentence of a court following his conviction of a crime for which this penalty is provided by law.

(Note: The Drafting Committee decided to forward this text to the Commission together with a list of possible additional limitations. The list is as follows:

1. Suppression of rebellion or riots (Union of South Africa)
Deprivation of life by the military or state officers in a national emergency (United States of America).
2. Self-defence and defence of another (Union of South Africa)
(United States of America).
3. Killing in attempting to affect arrests for certain offences
(Union of South Africa).
4. Killing by accident (United States of America).
5. Killing for violation of honour (United States of America).
6. Killing of persons caught in the commission of a felony
(United States of America).
7. Killing to prevent an escape (United States of America).
8. Killing by medical operation in absence of gross negligence or malpractice (United States of America).
9. Killing through a voluntary medical experiment
(United States of America).
10. Killing by officers of the law to prevent the commission of a crime (see also supra 6) (United States of America).
11. Killing by officers of the law in a local emergency
(United States of America).
12. Killing by a military in time of war (United States of America)).

Article 6

No one shall be subjected to any form of physical mutilation or medical or scientific experimentation against his will.

(Note: The Drafting Committee decided to forward this text to the Commission together with a list of possible additional limitations. This list is as follows:

1. Compulsory vaccination. (United States of America)
2. Legitimate medical and scientific experimentation in hospitals for the insane, with the consent of parent or guardian of the patient
(United States of America).
3. Emergency operations undertaken to save the life of patient, where the patient is unable to give his consent or where a person empowered to give consent on behalf of the patient gives such consent. (United States

4. Other limitations may be developed later (United States of America).

Article 7

No one shall be subjected to torture or to cruel or inhuman punishment or to cruel or inhuman indignity.

Article 8*

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour except as a consequence of a conviction of crime by a competent court.
3. For the purposes of this Article, the term "forced or compulsory labour" shall not include:
 - (a) Any service of a purely military character, or service in the case of conscientious objectors, exacted in virtue of compulsory military service laws, provided that the service of conscientious objectors be compensated with maintenance and pay not inferior to what a soldier of the lowest rank receives;
 - (b) Any service exacted in cases of emergencies or calamities threatening the life or well-being of the community;
 - (c) Any minor communal services considered as normal civic obligations incumbent upon the members of the community, provided that these obligations have been accepted by the members of the community concerned directly or through their directly elected representatives.

(Note: (1) The following text, which follows the wording of a relevant article of the International Labour Organization's Forced Labour Convention of 1930 was suggested by the representative of the International Labour Organization, and the Committee decided to forward it to the Commission as an alternative text for paragraph 3 (c):

"Minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services."

(2) The Committee also decided to forward to the Commission, as possible additions to paragraph 3, two further possible limitations submitted by the delegation of the United States:

* The representative of the Union of Soviet Socialist Republics proposed that the following text be added after the final sentence of this Article: "The slave trade is forbidden in all its forms."

- (d) Service exacted from deserting seamen returned to their ships, having entered into voluntary contracts for a period of service;
- (e) Services performed by minors, either in the course of normal family life or pursuant to contracts made in their behalf either by parents or guardians.)

Article 9

(The Drafting Committee voted in favour of the first of the following texts).

I. Text originally forwarded by the Commission on Human Rights, as Amended:

1. No one shall be subjected to arbitrary arrest or detention.
2. In consequence, no person shall be deprived of his liberty save in the case of:
 - (a) the arrest of a person effected for the purpose of bringing him before a court on a reasonable suspicion of having committed a crime or which is reasonably considered to be immediately necessary to prevent his committing a crime;
 - (b) the lawful arrest and detention of a person for non-compliance with the lawful order or decree of a court;
 - (c) the lawful detention of a person sentenced after conviction to deprivation of liberty;
 - (d) the lawful detention of persons of unsound mind;
 - (e) the parental or quasi-parental custody of minors;
 - (f) the lawful arrest and detention of a person to prevent his effecting an unauthorized entry into the country;
 - (g) the lawful arrest and detention of aliens against whom deportation proceedings are pending.
3. Any person who is arrested shall be informed promptly of the charges against him. Any person who is arrested under the provisions of subparagraph (a) or (b) of paragraph 2 of this Article shall be brought promptly before a judge, and shall be tried within a reasonable time or released.
4. Every one who is deprived of his liberty by arrest or detention shall have an effective remedy in the nature of "habeas corpus" by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
5. Every person shall have an enforceable right to compensation in respect of any unlawful arrest or deprivation of liberty.

(Note: A list of all the possible limitations suggested by various governments, together with an analysis of this list, follows the text of this Article proposed by the United States, below).

/II. Text

II. Text Proposed by the delegation of the Union of Soviet Socialist Republics

The inviolability of the human person shall be guaranteed by law.
No person shall be subjected to arrest except by order of a court or a prosecuting authority.

Any person who is arrested shall be informed promptly of the charges against him. Every person who is deprived of his liberty shall be brought promptly before a court for an order for the trial of his case within a reasonable time or for his release.

Every person shall have an enforceable right to compensation in respect of any unlawful arrest or deprivation of liberty.

III. Text Proposed by the United States

No one shall be deprived of liberty without due process of law.

No one shall be arrested or detained without being promptly informed of the reasons for the arrest or detention and without being entitled to a fair hearing within a reasonable time or to release.

No one shall be denied the right to a fair hearing before an independent and impartial tribunal in the determination of any criminal charge against him or of any of his rights or obligations.

No one shall be convicted or punished for crime except after a public trial within a reasonable time before a fair, independent and impartial tribunal.

(Note: It will be observed that this text also includes the principle now contained in Article 13).

LIST AND ANALYSIS OF SUGGESTED LIMITATIONS TO ARTICLE 9
OF THE COVENANT ON HUMAN RIGHTS

I. In document E/CN.4/AC.1/23 of 7 May 1948 a list of items suggested by Governments for addition to the enumeration contained in Article 9 (2) of the Draft Covenant (document E/600) was circulated, embodying the items suggested in written comments by Governments and, orally, by representatives in the twenty-third meeting of the Committee on 6 May 1948. These limitations are as follows:

1. Arrest and detention of persons suffering from serious contagious disease (Netherlands, United Kingdom, Norway).
2. Arrest and detention of alcoholics (Norway).
3. Arrest "flagrante delicto" (Brazil); probably covered by item (a) of Article 9 (2).
4. Arrest for the purpose of removal from one province to another (Union of South Africa).
5. Arrest for the purpose of removal of persons other than aliens (Union of South Africa).
6. Arrest of witnesses in order to bring them before a court (Union of South Africa) or for their protection (United States).
7. Detention of children in need of care (Union of South Africa).
8. Arrests for breach of military discipline (Chile; oral observation in the twenty-third meeting of the Committee on 5 May 1948).
9. Arrest in civil cases usually involving wrong-doing (fraud, etc.), in the commencement of an action (United States, oral observations, 5 May 1948).
10. Arrest as a means of satisfaction of a judgement in such actions or by way of punishment in such cases (United States; oral observations, 5 May 1948).
11. Detention of persons listed under Article 8, paragraph 3 of the Geneva draft of the Covenant (this relates to the class of persons who may be subjected to forced or compulsory labour in connection with military or emergency service, etc.) (United States; oral observations, 5 May 1948).
12. Detention of enemy aliens (United States; oral observations, 5 May 1948).

Subsequently the French Draft Covenant was presented to the Committee (document E/CN.4/82/Add.8) and in the meeting of the Drafting Committee, held on 12 May 1948, the Chairman in her capacity of United States Representative suggested some additional specific limitations of the rights safeguarded in Article 9 of the Draft Covenant.

II. The list of restrictions contained in Article VIII of the French Draft is as follows:

- (a) the arrest and detention of a person effected for the purpose of bringing him before a court on suspicion of having committed a crime or of preventing the imminent commission of a crime or offence;
- (b) the arrest and detention of a person, as provided by law, for non-compliance with the lawful order of a court;
- (c) lawful detention in pursuance of a sentence of imprisonment;
- (d) the lawful detention of persons of unsound mind;
- (e) the lawful arrest and detention of a person to prevent his effecting an unauthorized entry into a country;
- (f) the lawful arrest and detention of aliens against whom deportation or extradition proceedings are pending;
- (g) the educational supervision of minors.

III. The list of additional specific limitations prepared by the United States Representative and presented on 12 May 1948 is as follows:

- (h) the arrest and detention of a person suffering from a serious contagious disease;
- (i) the arrest and detention of an alcoholic;
- (j) the arrest of witnesses in order to bring them before a court or for their protection;
- (k) arrest and detention for breach of military discipline;
- (l) arrest and detention in civil cases (tort, or contract cases involving wrong-doing such as fraud, etc.) by way of commencing an action or as a means of satisfaction of a judgment in such cases or by way of punishment in such cases;
- (m) the detention of enemy aliens;
- (n) the detention of persons under the authority of Article 8, paragraph 3 of the Covenant (relating to the classes of persons who may be subjected to compulsory labour in connection with military or emergency service);
- (o) other situations to be enumerated.

IV. The Chinese delegation suggested the following list of possible limitations (E/CN.4/AC.1/23/Add.2):

1. Arrest of persons who violate the provisions of the Covenant;
2. Arrest of persons suspected as spies;
3. Arrest of persons who trespass prohibited property or areas;
4. Arrest of persons who attempt to or destroy public property;
5. Arrest of persons for disturbing public order such as shouting "Fire" in a theatre when there is no fire;

/6. Arrest of

6. Arrest of persons for speeding while driving through a crowded street in the city;
 7. Arrest of persons who attempt to commit suicide.
- v. This analysis is based on the following enumeration of limitations:
1. the limitations already contained in Article 9, sub-paragraph 2 (a) to (g) of the Draft Covenant as adopted at the second session of the Commission in Geneva;
 2. the items suggested by Governments and enumerated in document E/CN.4/AC.1/23;
 3. the additional specific limitations suggested by the United States of America on 12 May 1948;
 4. the limitations suggested by France;
 5. the limitations suggested by China.

According to these different lists the Covenant would contain the following limitations of the right to liberty:

(a) Arrest for the purpose of criminal proceedings or prevention of a crime

This item covers item (a) of the Geneva Draft, item (a) of the French Draft and the Brazilian suggestion concerning arrest "flagrante delicto", item 3 of document E/CN.4/AC.1/23. In formulating the final text the Commission may wish to have regard to items 2, 3, 4, 5 and 6 of the Chinese limitations.

(b) Arrest and detention for non-compliance with a court order

This item covers item (b) of the Geneva Draft and item (b) of the French Draft. In formulating its text regard should be had of item 10 of document E/CN.4/AC.1/23, "arrest as a means of satisfaction of a judgment in civil actions or by way of punishment in civil cases" (United States) and the analogous item (1) of the United States list and further of item (9) of document E/CN.4/AC.1/23, "arrest in civil cases."

(c) The detention of a person sentenced after conviction to deprivation of liberty

This item covers item (c) of the Geneva Draft and item (c) of the French Draft. In drafting the text, the Committee may wish to have regard to the Chilean proposal listed under item 8 of document E/CN.4/AC.1/23 and the United States proposal listed under (k) which are to the effect that arrests and detentions for breach of military discipline should also be covered.

(d) Detention of persons of unsound mind

This item covers item (d) of the Geneva Draft and item (d) of the French proposal. With regard to this item note should be taken of the

Norwegian proposal, document E/CN.4/AC.1/23, item (2) and the United States proposal, item (i) above, suggested that the Covenant should also cover the case of the arrest and detention of alcoholics.

(c) The parental or quasi-parental custody of minors

This item corresponds to item (e) of the Geneva Draft and to item (g) of the French proposal. It is submitted that, in its formulation, regard should be had to item 7 of document E/CN.4/AC.1/23, the South African proposal concerning the detention of children in need of care.

Restrictions on aliens

(f) The lawful arrest and detention of a person to prevent his effecting an unauthorized entry into the country;

(g) The lawful arrest and detention of aliens against whom deportation proceedings are pending.

In formulating these two items the Committee may wish to have regard to items (c) and (f) of the French proposal and to item (m) of the United States list. Closely connected with these two items are also the suggestions made by South Africa, items 4 and 5 of document E/CN.4/AC.1/23, suggesting an extension of these provisions to cover also arrests for the purpose of removal from one province to another and the removal of persons other than aliens.

VI. Remaining Items

The following three additional items remain:

1. Arrest and detention of persons suffering from serious contagious disease (Netherlands, United Kingdom and United States).

It covers item 1 of document E/CN.4/AC.1/23 and item (h) of the United States list.

2. Arrest of witnesses (Union of South Africa and United States)

Item 6 of document E/CN.4/AC.1/23 and item (g) of the United States list.

3. Arrest and detention in connection with services exacted under Article 8 (3).

The United States proposal, item 11 of document E/CN.4/AC.1/23 and item (n) of the United States list, concerns the detention of persons liable to military service, service in cases of emergency and minor communal services.

Here the Committee may wish to consider to what extent this limitation is covered by the provision to be made for detentions for the breach of military discipline and further, whether services in an emergency, or "minor communal services" could be considered exceptions from a rule prohibiting arbitrary arrest or detention.

The United States list further contains the item:

4. Other situations to be enumerated.

Article 10

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

Article 11

(No decision was made as to which of these texts was preferred).

(Geneva text)

1. Subject to any general law not contrary to the purposes and principles of the United Nations and adopted for specific reasons of security or in the general interest, there shall be liberty of movement and free choice of residence within the borders of each State.

2. Any person who is not subject to any lawful deprivation of liberty or to any outstanding obligations with regard to national service shall be free to leave any country including his own.

Alternative text

1. No one shall be denied freedom of movement or residence within the borders of a Contracting State.

2. Any one shall be free to leave any country including his own.

(Note: The Drafting Committee decided to forward this text to the Commission together with a list of possible limitations. The list is as follows:

1. Restrictions imposed for the well being of helpless or dependent persons. (United States)

2. Restrictions imposed with respect to land or water constituting a public highway. (United States)

3. Restrictions imposed in the interest of public order, morals, health (e.g. quarantine) or safety. (United States)

4. Restrictions imposed in accordance with articles 8 and 9. (United States)

5. Restrictions imposed by reason of lawful detentions. (France)

6. Restrictions imposed because criminal proceedings are pending against him. (France)

7. Restrictions imposed because his departure must be prohibited in order to prevent the imminent commission of a crime or offence. (France)

8. Restrictions imposed on individuals who are "subject to any lawful deprivation of liberty or to any outstanding obligations with regard to national service tax liabilities or

/voluntarily

voluntarily contracted obligations binding the individual to the Government". (Netherlands)

9. Restrictions imposed on an individual because of National Service, or of a judicial order restraining his departure without giving security on account of other alleged outstanding obligations. (United Kingdom)

10. Restrictions imposed on emigration to assist a neighbour country to control illegal immigration. (United Kingdom)

11. Restrictions imposed on emigration in the interest of protecting primitive or unsophisticated communities from exploitation abroad. (United Kingdom)

12. Restrictions imposed where labour has to be controlled and individuals required to work in specified industries and even in specific localities. (Union of South Africa)

13. Restrictions imposed where it is necessary in the interests of peace and good government to proclaim reserved areas in favour of the different sections of the population, and to restrict and control the free movement and free choice of residence on the part of individuals belonging to different sections of the population. (Union of South Africa)

14. Restrictions imposed in the interests of the general welfare and good government to restrict the influx of large numbers of unskilled labourers into urban areas in circumstances where an adequate supply of labour already exists, and housing accommodation is inadequate. (Union of South Africa))

(Note 2: The representative of the Union of Soviet Socialist Republics suggested that the words "subject to the laws of his own country" be added to the second paragraph of this Article.)

Article 12

No alien legally admitted to the territory of a State shall be expelled therefrom except in accordance with procedure prescribed by law.

Article 13

(The Drafting Committee voted in favour of the first of the following texts).

A. 1. In the determination of any criminal charge against him or of any of his civil rights or obligations, every one is entitled to a fair hearing before an independent and impartial tribunal.

/2. In the

2. In the determination of any criminal charge against him every one is entitled to:

- (a) A public trial, though the press and public may be excluded from all or some of the portions thereof, other than the judgment, where considerations of security or morals are involved or the preservation of order in the court requires. Exceptions may be made in the interest of juveniles;
- (b) Legal assistance of his own choosing; and
- (c) The services of an interpreter to assist the accused if he cannot understand or speak the language used in court.

B. Text submitted by the Representative of the Union of Soviet Socialist Republics

1. All persons shall be equal before the court or tribunals. Judges shall be independent and subject only to the law. Legal procedure in every State shall be based on democratic principles. The trial of cases in all courts shall be public, subject to exceptions prescribed by law for the protection of public morals and national security, and the accused person shall be assured the right of defence.

2. When any person who does not know the national language is prosecuted, he shall be assured full knowledge of all the material in the case through an interpreter and shall also have the right to address the court in his native language.

Article 14

1. No one shall be held guilty of any offence on account of any act or omission which did not constitute such an offence at the time when it was committed, nor shall he be liable to any greater punishment than that prescribed for such offence by the law in force at the time when the offence was committed.

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

Article 15

No one shall be deprived of his juridical personality.

Article 16

1. No one shall be denied freedom of thought, belief, conscience and religion, including freedom to hold any religious or other belief, and to change his belief.

/2. No one

2. No one shall be denied freedom, either alone or in association, to manifest his belief in practice, and in worship and observance, and no one shall be required to do any act which is contrary to such worship and observance.
3. No one shall be denied freedom, either alone or in association, to give and receive any form of religious teaching, and to endeavour to persuade other persons of the truth of his beliefs.
4. The above rights and freedoms shall be subject only to such limitations as are prescribed by law and are necessary to protect public order and health, morals and the fundamental rights and freedoms of others.

(Note: The representative of the Soviet Union proposed to replace Article 16 by the following text (unofficial translation):

"Every person shall have the right to freedom of thought and freedom to practice religious observances in accordance with the laws of the country and the dictates of public morality.")

Article 17

(The Drafting Committee did not decide which of the following texts it preferred).

A. Text submitted by the Representative of France

1. Speech is free. Every person shall be free to express and publish his ideas in any way he chooses.
2. Every person shall be free to receive and disseminate information of all kinds, including facts, critical comment and ideas, by the medium of books, newspapers, oral instructions or in any other manner.
3. The freedoms referred to in the preceding paragraphs may be subject only to the restrictions, penalties or liabilities provided by law for the protection of public order, national security, good morals, respect for law and the reputation or rights of other persons.

B. Text submitted by the Representative of the Soviet Union

1. In accordance with the principles of democracy and in the interests of strengthening international co-operation and world peace, every person shall be guaranteed by law the right to the free expression of his opinions and, in particular, to freedom of speech and of the press, freedom of assembly and freedom of artistic representation. The use of freedom of speech and of the press for the purposes of propagating Fascism and aggression or of inciting war between nations shall not be tolerated.
2. In order to ensure the right of the free expression of opinion for large sections of the peoples and for their organizations, State

/assistance

assistance and co-operation shall be given in providing the material resources (premises, printing presses, paper, and the like) necessary for the publication of democratic organs of the press.

C. Text submitted by the United Nations Conference on Freedom of Information

1. Every person shall have the right to freedom of thought and the right to freedom of expression without interference by governmental action; these rights shall include freedom to hold opinions, to seek, receive and impart information and ideas, regardless of frontiers, either orally, by written or printed matter, in the form of art, or by legally operated visual or auditory devices.

2. The right to freedom of expression carries with it duties and responsibilities and may, therefore, be subject to penalties, liabilities or restrictions clearly defined by law, but only with regard to:

- (a) matters which must remain secret in the interests of national safety;
- (b) expressions which incite persons to alter by violence the system of Government;
- (c) expressions which directly incite persons to commit criminal acts;
- (d) expressions which are obscene;
- (e) expressions injurious to the fair conduct of legal proceedings;
- (f) infringements of literary or artistic rights;
- (g) expressions about other persons natural or legal which defame their reputations or are otherwise injurious to them without benefiting the public;
- (h) the systematic diffusion of deliberately false or distorted reports which undermine friendly relations between peoples and states.

A State may establish on reasonable terms a right to reply or a similar corrective remedy.

3. Measures shall be taken to promote the freedom of information through the elimination of political, economic, technical and other obstacles which are likely to hinder the free flow of information.

4. Nothing in this Article shall be deemed to affect the right of any State to control the entry of persons into its territory or the period of their residence therein.

(Note: The Drafting Committee decided to forward this text to the Commission together with a list of possible additional limitations.

/The list

The list is as follows:

1. The disclosures of professional secrets contrary to law.
2. Disclosures arising out of marital and personal relationships.
3. Expressions which are fraudulent or part of a fraudulent scheme.
4. Expressions detrimental to public decency or morals (for example, detailed crime stories, reports on executions and suicides, sensational court reports).
5. Matters of contract.
6. Control of advertising or economic matters.
7. Proper conduct of political elections or campaigns.
8. Matters affecting the civil service.
9. Disclosures of governmental information (other than in cases involving national safety, for example, in economic and social matters, such as crop reports, income tax reports, recipients of unemployment relief, and pending judicial decisions).
10. Communications with foreign governments.
11. Profanity in public places.
12. Operation of radio broadcasting and similar media without a license.
13. Statements by corporations, partnerships or individuals, in the issue of bonds and shares of stock.
14. Unforeseeable future matters relating to development of new media of information or new social practices.)

(These fourteen possible limitations arose out of discussions at the United Nations Conference on Freedom of Information.)

15. Expressions about governmental or public authorities, or groups or persons who are all or in part nationals of a High Contracting Party or who belong all or in part to a certain race. (Netherlands)
16. The prohibition of the dissemination of information calculated to engender feelings of hostility among inhabitants of various races. (Union of South Africa)
17. The prohibition of notices of prohibited meetings. (Union of South Africa)
18. The prohibition of opprobrious epithets, jeers or jibes in connection with the fact that any person has continued or returned to work or has refused to work for any employer, or the sending of information as to any such fact to any

/person in

- person in order to prevent any other person from obtaining or retaining employment, etc., etc. (Union of South Africa)
19. Other statements, expressions or publications which constitute offences or parts of offences under the common law or in terms of statutes, such as blasphemy, treasonable statements, uttering a forged instrument, perjury, contempt of court (covered in the drafts only to the extent to which it may be injurious to the independence of the judiciary or the fair conduct of legal proceedings), the use of indecent, abusive or threatening language in public places, fraudulent statements, statements amounting to crimen injuriae, false statements in a prospectus, the offer of any inducement to enter into a hire purchase agreement. (Union of South Africa)
20. The restrictions imposed upon the publications of preparatory examination and trial proceedings, where the offence charged involves any indecent act or an act in the nature of extortion, or upon the publication of information which is likely to reveal the identity of an accused person under nineteen years of age or of a child concerned in proceedings before a children court. (Union of South Africa)
21. The prohibition of the disclosure of information obtained in an official or semi-official capacity, whether or not the disclosure will affect the national safety or the "vital" interests of the State. (Union of South Africa)
22. Restrictions upon the publication of a picture or a public entertainment, where the picture or entertainment is calculated to give offence to the religious convictions or feelings of any section of the public, or where it is calculated to bring any section of the public into ridicule or contempt, or is contrary to the public interest or good morals. (Union of South Africa)
23. Restrictions upon the publication of certain electoral matters. (Union of South Africa)
24. The restrictions imposed by the laws relating to copyright. (Union of South Africa)
25. Restrictions which it may be considered necessary to impose in order to eliminate or control subversive ideological propaganda. (Union of South Africa)

Article 18

All persons shall have the right to assemble peaceably for any lawful
/purpose

purpose including the discussion of any matter on which, under Article 17, any person has the right to express and publish his ideas. No restrictions shall be placed on the exercise of this right other than those prescribed by law and necessary to assure:

- (a) national security;
- (b) the protection of persons or property;
- (c) the prevention of the obstruction of traffic or the free movement of others; or
- (d) the protection of health or morals.

Note: 1. An additional restriction was suggested as follows:

The prevention of foreign political interference. (Netherlands)

Note: 2. The Government of the Netherlands also suggested:

- (a) That a clause be added making public meetings subject to official authorization; and
- (b) That it should be understood that the right to assemble does not include the right to hold pageants or processions in the streets.

Note: 3. The Government of the Union of South Africa pointed out that the exceptions did not cover prohibition of a public gathering where the Minister of Justice had reason to apprehend that the gathering would engender feelings of hostility between different sections of the population of the Union of South Africa.)

Article 19

The right of association is recognized provided that right is exercised in whatever form may be appropriate under the law of the State and is directed to lawful aims including the defence and protection of the legitimate interests of the members of the association or the dissemination of information under Article 17. Associations shall enjoy the rights and freedoms set forth in Articles 16 and 17.

Article 20

Equal protection of the law with respect to the enjoyment of any of the rights and freedoms set forth in Part II of this Covenant shall not be denied to any one on account of race (which includes colour), sex, language, religion, political or other opinion, property status, or national or social origin.

Article 21 (deleted)

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

/Article 22

Article 22

Nothing in this Covenant shall be considered to give any person or State the right to engage in any activity aimed at the destruction of any of the rights and freedoms prescribed herein.

PART III

Article 23

1. This Covenant shall be open for accession to every State Member of the United Nations or party to the Statute of the International Court of Justice and to every other State which the General Assembly of the United Nations shall, by resolution, declare to be eligible.
2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations, and as soon as _____ of the States Members of the United Nations have deposited such instruments the Covenant shall come into force between them. As regards any State which accedes thereafter, the Covenant shall come into force on the date of the deposit of its instrument of accession.
3. The Secretary-General of the United Nations shall inform all members of the United Nations and the other States referred to in paragraph 1 above of the deposit of each instrument of accession.

Article 24

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 Governments 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.

Article 25

(The Drafting Committee voted in favour of the first of the following texts).

A State party to this Covenant may at the same time of its accession thereto or at any time thereafter by notification addressed to the Secretary-General of the United Nations declare that this Covenant shall extend to any of the territories for the international relations of which it is responsible, and the Covenant shall extend to the territories named in the notification as from the thirtieth day after the date of receipt by the Secretary-General of the United Nations of the notification. The Contracting States undertake, with respect to those territories on behalf
/of which

of which they do not accede to this Covenant at the time of their accession, to seek the consent at the earliest possible moment of the Governments of such territories and to accede forthwith on behalf of and in respect of each such territory, if and when its consent has been obtained.

Text Proposed by the Representative of the Soviet Union

The conditions of the present Covenant shall extend or be applicable both to the metropolitan territory which is signatory to the present Covenant, as well as to all the other territories (non-self-governing, trust, and colonial territories) which are being administered or governed by the metropolitan power in question.

Article 26

(The Drafting Committee decided not to discuss the following Geneva text until the question of implementation had been considered).

1. Amendments to this Covenant shall come into force when they have been adopted by a vote of two-thirds of the Members of the General Assembly of the United Nations and ratified in accordance with their respective constitutional processes by two-thirds of the parties to this Covenant.
2. When such amendments come into force they shall be binding on those parties which have ratified them, leaving other parties still bound by the provisions of the Covenant which they have accepted by accession, including earlier amendments which they have ratified.

Article 27 (deleted)

(In construing the Articles of this Covenant the several Articles shall be regarded in their relation to each other).

Proposed Additional Article

(The Drafting Committee took no action on the following text, proposed as an additional article by the representative of the United States).

The rights and freedoms set forth in Part II of this Covenant are in addition to and not in derogation of such rights and freedoms as may be guaranteed to all under the laws of any Contracting State. In agreeing to this Covenant, the Contracting Parties recognize that there are other rights and freedoms which may be made the subject of future covenants or conventions.

ANNEX C

SUGGESTIONS FOR IMPLEMENTATION

The Commission refers the Economic and Social Council to Annex "C" of the Report of the Commission's second session (document E/600), and to the following additional suggestions for implementation of the International Bill of Human Rights brought forward before and during its third session:

Australia: Draft Proposals for an International Court of Human Rights (document E/CN.4/AC.1/27).

China-United States of America: Proposal on Implementation for the Covenant on Human Rights (document E/CN.4/145).

France: Statement by Prof. Rene Cassin on the Implementation of Human Rights (documents E/CN.4/147 and E/CN.4/82/Add.10).

India: Proposed amendment to the China-United States Proposal on Implementation (document E/CN.4/151).

India: Proposal on Implementation (document E/CN.4/153).

Summary Record of the eighty-first plenary meeting of the Commission on Human Rights, where the Question of Implementation was discussed (document E/CN.4/SR.81).

After the adjournment of the Commission, the representative of the Union of Soviet Socialist Republics requested that his statement concerning the drafts and proposals on implementation, made in the eighty-first meeting of the Commission on 18 May, be reproduced as a separate document, and that reference to this document be made in this Annex. This statement has been issued separately as document E/CN.4/154.

APPENDIX

STATEMENT MADE BY THE DELEGATION OF THE UNION OF SOVIET
SOCIALIST REPUBLICS, ON 18 JUNE 1948, IN THE COMMISSION
ON HUMAN RIGHTS ON THE RESULTS OF THE COMMISSION'S WORK

The Soviet delegation considers that the draft Declaration on Human Rights which has been drawn up by the Commission contains various provisions which do not give rise to objections and are, generally speaking, acceptable.

The delegation of the Union of Soviet Socialist Republics, together with certain other delegations, consistently defended these provisions in the Commission, thus safeguarding the democratic rights and freedoms of the peoples against any attempt to weaken or diminish them and, in a number of cases, the wording of the relevant articles containing these provisions, as drafted earlier at Geneva, was largely retained.

In doing so, the Soviet delegation considered that the repetition in the present Declaration on Human Rights of certain old democratic principles and provisions with which mankind has long been familiar is useful because in many countries of the world, more particularly in the case of the populations of trust and other non-self-governing territories fundamental human rights and freedoms are still not applied, although they should be applied.

Furthermore, at a time when the resurgence and propagation of anti-democratic, Fascist and other reactionary regimes constitutes a real danger for many countries in the world, it is undoubtedly useful in a document such as the Declaration on Human Rights to restate some of the more important democratic rights and freedoms, to the destruction of which Fascist States, organizations and elements directed some of their efforts during the war and are still continuing to do so.

It should also be noted that the draft Declaration introduces into the complex of fundamental human rights certain new rights, which are not included in old constitutions, but which are typical of the new, modern, democratic constitutions (above all, in the Constitution of the Union of Soviet Socialist Republics) - rights such as the right to work, leisure, education, social security, etc. This is the positive aspect of the draft.

Since, however, the problem is to make an appraisal of the Declaration as a whole, the Soviet delegation is bound to say that the draft is unsatisfactory, and is not calculated to guarantee either human rights and freedoms or respect for them.

In spite of the unremitting insistence of the Soviet delegation and certain other delegations, the majority of the Commission did not see fit to prepare a document which would meet the fundamental requirements proposed for the Declaration on behalf of the Government of the Union of Soviet

/Socialist

Socialist Republics by the Soviet representative on the Drafting Committee on 4 May and at the Commission's meeting on 27 May this year.

As is known, these requirements were as follows:

- (a) The Declaration on Human Rights should ensure respect for human rights and fundamental freedoms for all, without distinction as to race, nationality, social position, religion, language or sex, in accordance with the principles of democracy, national sovereignty and political independence for each State.
- (b) The Declaration on Human Rights should not only proclaim rights, but should guarantee their implementation, taking into account, of course, the economic, social and other peculiarities of each country;
- (c) The Declaration on Human Rights should define not only the rights but also the obligations of citizens towards their country, their people and their State.

The Soviet delegation wishes to draw special attention to the following specific serious omissions and shortcomings in the Declaration and the work of the Commission:

- (a) The ignoring of such a fundamental requisite of democracy as the struggle against Fascism and Nazism, against the activities of Fascist and Nazi elements and their abuse of democratic rights and freedoms and against the danger of the expansion, retention and resurgence of Fascist regimes; and, in particular, the failure to prohibit Fascist and Nazi propaganda and to enforce responsibility for such propaganda;
- (b) The failure to enlarge the democratic rights and freedoms of the peoples and to defend some of the most important democratic principles in the Declaration; the omission from the Declaration (except for one paragraph in Article 27) of any mention even of democracy and the actual concepts of "the democratic state", "democratic principles", etc.
- (c) The limitation and restriction of a number of democratic rights and freedoms in the Declaration as compared with the Geneva draft; the refusal to maintain consistently the principle of full equality for all, without distinction as to race, nationality, social position, religion, sex and language; the omission from the Declaration of the provision regarding the right of every person to his own national culture, to be taught in school in his native language and to use that language in the press, at meetings, in courts and other public offices; the failure to wage a serious fight against racialism and discrimination, to prohibit the propaganda of racial and national /hostility,

hostility, and to lay down the principle that such propaganda should be punishable.

(d) The failure, in most of the articles of the Declaration, to refer to ensuring and guaranteeing the implementation of rights and freedoms and to concrete forms, means and methods of applying the provisions of the Declaration; the unrealistic, formal and legal nature of the Declaration (especially Articles 21, 22, 24 and 25, relating to economic and cultural rights).

(e) The failure to include in the Declaration any concrete obligations whatsoever on the part of the individual towards his native land, the people to which he belongs and the State; the direct ignoring in the case of several serious questions (freedom of information, freedom of transit) of these obligations, on the one hand and on the other hand, of the rights and sovereignty of States, and of the relevant provisions of the United Nations Charter concerning non-interference in the domestic affairs of States Members.

The Soviet delegation is certain that, instead of this weak and, in many ways, absolutely unsatisfactory Declaration, a Declaration will eventually be drawn up which will effectively serve the cause of historical progress, democracy, lead to a real improvement in the lives of millions of simple people throughout the world, as well as serve the aims of the fight against the danger of a recrudescence of Fascism and Nazism and, which will finally lead to an assertion of the principles of equality of nations, real respect for human rights and freedoms and the strengthening of international peace.

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The Soviet delegation has attached to this statement, for inclusion in the Commission's report, a list also of the main proposals and amendments to articles of the Declaration which were submitted by the Soviet delegation, but which were not adopted by the Commission. A perusal of this list will in itself serve largely to explain why the Soviet delegation must abstain from voting on the draft Declaration as a whole.

/BASIC

BASIC PROPOSALS ADVANCED BY THE SOVIET DELEGATION AT THE THIRD
SESSION OF THE COMMISSION ON HUMAN RIGHTS AND REJECTED
BY THE COMMISSION DURING ITS CONSIDERATION OF THE DRAFT
INTERNATIONAL DECLARATION ON HUMAN RIGHTS

1. Draft Preamble to the Declaration Proposed by the Delegation of the
Union of Soviet Socialist Republics

"In accordance with the principles proclaimed in the Charter of the United Nations of respect for human rights and basic freedoms for all without distinction as to race, sex, language and religion and for the dignity and value of the individual;

In order to ensure observance of all these rights and freedoms and with a view to promoting social progress and improving the living conditions of the peoples;

With a view also to promoting the development of friendly relations between nations;

The General Assembly recommends the following 'Declaration of Human Rights' to all States Members of the United Nations to be used at their discretion both in adopting appropriate legislative and other measures, and in their systems of upbringing and education and in extending the provisions of this Declaration to the peoples of States Members themselves and to the populations of all the territories in respect of which the States concerned discharge the function of the guiding and administering authority (populations of trust and other non-self-governing territories)."

2. Addition to Article 2

After the words "property or other status" add "class".

3. Addition to Article 4

"Slavery and the slave trade are prohibited in all their aspects; and all violations of this principle, whether they be of an overt or clandestine nature, must be punished according to law."

4. Addition to Article 7

"Any one deprived of his liberty has the right to be informed without delay of the grounds for his detention. Any one who is arrested, detained or imprisoned is entitled to have immediately established by the judicial authorities the legality of his deprivation of liberty, and also to have his case brought before the court without undue delay or to be liberated.

No one may be imprisoned on account merely of failure to carry out his contractual obligations.

Every one is entitled to compensation for illegal arrest or deprivation of liberty."

/5. Alterations

5. Alterations and Supplements to Article 8

Insert the following before the text as adopted by the Commission:

"All people are equal before the law. Judges must be independent and answerable only to the law. Legal procedure in all States must be based on democratic principles.

Hearings in all courts must be public, with the exception of cases for which provision is made by law for the purpose of complying with public morality or in the interests of national security. The accused shall be entitled to the services of a defence counsel in court.

Should the accused be unfamiliar with the national language, he must be enabled to acquaint himself with all the details of the case by means of an interpreter, and he must be given the right to speak in court in his native language."

6. Amendment to Article 9

Before the word "trial" delete "public", and after the word "defence" add:

"..... and which must be public except in cases involving considerations of the protection of public morality or national security".

7. Amendment to Article 10 (supplement to the text as adopted)

"and everyone is entitled to legal defence against such interference".

8. Amendment to Article 11

(a) Paragraph 1: After the words "residence within the borders of each State", add: "in accordance with the laws of that State".

(b) Paragraph 2: After the words "to leave any country, including his own", add: "in accordance with the procedure laid down in the laws of that country".

9. Amendment to Article 12

Replace paragraph 1 by the following:

"The right of asylum is guaranteed to all persons persecuted in connection with their activity in defence of the interests of democracy or for their scientific activity or for their participation in the struggle for national liberation".

10. Amendment to Article 13

The following wording is proposed:

"No one shall be arbitrarily deprived of his nationality, i.e. in any other manner or in any other case than as provided for in the laws of the country concerned".

11. Amendment to Article 14

Paragraph 2: Add after the first sentence of the text as adopted:

"Men and women shall enjoy equal rights both during marriage and when divorced".

At the end of the **third** paragraph add the words: "by society and the State".

12. Amendment to Article 15

Replace the text as adopted by:

"1. Everyone has the right to own property alone as well as in association with others in accordance with the laws of the country where such property is situated.

2. No one shall be arbitrarily, i.e. illegally, deprived of his property."

13. Amendment to Article 16

Replace the text as adopted by the following:

"Everyone must be guaranteed freedom of thought and freedom to perform religious services in accordance with the laws of the country concerned and the requirements of public morality".

14. Text of Article 17

Replace the text as adopted by the following:

"1. In accordance with the principles of democracy and in the interests of strengthening international collaboration and world peace, everyone must be legally guaranteed the right freely to express his opinions and, in particular, freedom of speech and the press and also freedom of artistic expression. Freedom of speech and the press shall not be used for purposes of propagating Fascism, aggression and for provoking hatred as between nations.

2. For the purpose of enabling the wider masses of the people and their organizations to give free expression to their opinions the State will assist and co-operate in making available the material resources (premises, printing presses, paper, etc.) necessary for the publication of democratic organs of the press."

14a. Second amendment to Article 17

The following changes should be introduced into the text as adopted:

"Everyone has the right to freedom of thought and its expression; wherein is included freedom of conviction and freedom of access to sources of information and means of communication for the transmission of information in the territory of his own country and also in other countries, within limits corresponding to the interests of national security".

15. Alternative text of Article 18

Replace the text as adopted by the following:

"In the interests of democracy a legal guarantee must be provided for freedom of assembly and meeting, street processions, demonstrations and the organization of voluntary societies and unions. All societies, unions and other organizations of a Fascist or anti-democratic nature, as well as their activity in any form, are forbidden by law under pain of punishment".

16. Amendment to Article 19

Include the following in paragraph 3:

"The State shall consider the will of the people as expressed in elections, which shall be conducted periodically and must be universal and equal and be held by secret ballot".

17. Alternative Text of Article 20

Replace the text as adopted by the following:

"It is the duty of the State and society to take all the necessary measures, including legislative measures, to ensure for every individual a real opportunity to enjoy all the rights mentioned in the Declaration. In view of the special importance of the economic, social and cultural rights enumerated in Articles 21 to 26 of the Declaration and, in particular, of the right to social security, it is considered desirable that they be implemented by means of both national efforts and international co-operation, due regard being had to the social, economic and political organization and resources of each State.

18. Amendment to Article 21

After the words "right to work ... and pay" add:

"and the right to protection against unemployment. The State and society shall guarantee this right by measures calculated to provide everyone with the broadest opportunities for useful work, and to prevent unemployment".

18. (a) Second amendment. Add:

"Everyone, without distinction as to race, nationality or sex, has the right to equal pay for equal work."

18. (b) Proposed supplementary clause to Article 21

"Women shall enjoy equal advantages in their work with men and shall receive equal pay for equal work."

19. Amendment to Article 22

Include the right to social insurance by inserting in paragraph 1 (after the words "... in circumstances beyond his control") the words:

"and also (if he is gainfully employed) to social insurance at the expense of the State or of his employers, in accordance with the legislation of each country".

In addition, add the following points also to Article 22 in the form of two independent sentences:

2. "Everyone has the right to medical care and assistance in case of illness."

3. "Everyone has the right to decent housing."

"It is the duty of the State and society to take all necessary steps, including legislation, to ensure that everyone has a real opportunity of enjoying all these rights."

20. Amendment to Article 23

Add in paragraph 1 after the first sentence:

"Access to education must be open to all without any distinction as to race, sex, language, material status or party allegiance."

21. Amendment to Article 24

Add to the text adopted:

"Everyone shall be guaranteed rest and leisure either by law or by contractual agreements, particular provision being made for the reasonable limitation of working hours and for periodical paid holidays."

22. Amendment to Article 25

Add to the text adopted:

"The development of science must serve the interests of progress and democracy and the cause of international peace and co-operation."

23. Amendment to Article 26

At the beginning of the sentence: "Everyone is entitled to a good social and international order in which ..." delete the word "good" (or, in the second variant of the text, the word "just").

24. Amendment to Article 27

Add (after the words "democratic society"):

"... and also the corresponding requirements of the democratic State".

25. Add to the text adopted a separate new paragraph in place of the corresponding Article 31 of the Geneva text rejected by the Commission

"All persons, irrespective of whether they belong to the racial, national or religious minority or majority of the population, have the right to their own ethnic or national culture, to establish their own schools and receive teaching in their native tongue, and to use that tongue in the press, at public meetings, in the courts and in other official premises."
