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COMPILATION OF THE COMMENTS OF GOVERNMENTS ON THE DRAFT INTERNATIONAL  
COVENANT ON HUMAN RIGHTS AND ON THE PROPOSED ADDITIONAL ARTICLES

(Memorandum by the Secretary-General)

INTRODUCTION

1. Upon the request of the Commission on Human Rights at its fifth session, the Secretary-General, in a note of 29 July 1949, invited Member Governments to comment on the draft International Covenant on Human Rights and draft Measures of Implementation; on all proposals for additional articles; on all proposals concerning measures of implementation; and to reply to a Questionnaire on Measures of Implementation.

2. By 16 March 1950, comments from the following ten Governments had been received by the Secretary-General:

Union of Soviet Socialist Republics	(E/CN.4/353)
United States of America	(E/CN.4/353/Add.1)
The United Kingdom	(E/CN.4/353/Add.2)
The Republic of the Philippines	(E/CN.4/353/Add.3)
Israel	(E/CN.4/353/Add.4)
Federal People's Republic of Yugoslavia	(E/CN.4/353/Add.5)
The Netherlands	(E/CN.4/353/Add.6)
Denmark	(E/CN.4/353/Add.7)
France	(E/CN.4/353/Add.8)
India	(E/CN.4/353/Add.9)

It may be pointed out that the comments of Israel and Yugoslavia are related to measures of implementation, apart from two general remarks of Yugoslavia concerning economic and social rights and the right of accession. Both governments reserve for a later date their proposals and comments on the draft Covenant.

The Secretary-General has also received a letter from the Government of Sweden in which it reserves its right to express its views at a later stage.

/3. The Secretary-General

3. The Secretary-General has the honour to present to the Commission on Human Rights this compilation of the comments of Governments on the draft International Covenant on Human Rights and on additional articles. The comments of Governments are reproduced herein according to the order in which they were received. Another document is being issued which covers the comments of Governments on measures of implementation and their replies to the Questionnaire.
4. This document is divided into two parts: The first part contains comments of Governments on the draft International Covenant on Human Rights; and the second part, comments on additional articles.
5. For the convenience of the Commission on Human Rights, references are made to the comments and proposals of the Sub-Commission on Prevention of Discrimination and the Protection of Minorities on the draft Covenant on Human Rights.

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PART I. DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS

A. GENERAL REMARKS MADE IN SUBMITTING THE COMMENTS

Netherlands

General observations

The Netherlands Government wish to express their great appreciation of the considerable and important work which has been done by the Commission on Human Rights, and the results of which have been embodied in the report on the fifth session of this Commission. This report constitutes one more step on the road which will lead to the realization of human rights and fundamental freedoms. The safeguarding of human rights by the Netherlands Constitution is on the whole in accordance with the standards proposed by the Commission.

Many difficulties, however, will have to be overcome before the complete international safeguarding of the rights of all individuals all over the world will be achieved. The formulation and realization of the same idea of infeasible and unassailable individual rights is not the same in the legislation of the various nations: these differences do not only result from a different appreciation of individual freedom and of the relation between the individual and the community, but they are also defined by the political, social, financial and economic circumstances prevailing in these countries. To an even greater extent this applies to those human rights which cannot be exercised individually (right to work, right to social security) and whose realization may demand considerable sacrifices from the national community as a whole. Owing to these facts the unification of the formulation of these human rights, on which depends in principle all international safeguarding of these rights, will be an extremely difficult task which can only gradually be carried out. In the opinion of the Netherlands Government it should be borne in mind that the very nature of these human rights requires that all efforts should be aimed at attaining the most extensive sphere of application of international protection. Her Majesty's Government are of opinion that in the first instance it is more important to achieve some form of unification of human rights which is acceptable to the greatest possible number of States than to aim at a regulation containing as many details and including as many human rights as possible and which, therefore, will perhaps be acceptable to a small number of States only.

/B. GENERAL

B. GENERAL STATEMENTS CONCERNING THE DRAFT COVENANT<sup>1/</sup>1. Union of Soviet Socialist Republics

The position of the Soviet Union regarding the draft International Covenant of Human Rights is set forth in the proposals submitted and the speeches made by the representative of the Union of Soviet Socialist Republics at the fifth session of the Commission on Human Rights. The Government of the Union of Soviet Socialist Republics considers it necessary to include in the covenant the articles submitted to the above-mentioned Commission by the representative of the Union of Soviet Socialist Republics.

2. United States

The United States continues to support the view that every possible effort should be made for the completion of the draft International Covenant at the next session of the Commission on Human Rights, which is to convene on 27 March 1950, in order that the draft Covenant may be forwarded to the Economic and Social Council in time to enable the Council to submit the draft Covenant to the General Assembly for its consideration at its fifth (1950) session. It will be observed that many of the following comments concerning the draft Covenant are of a drafting nature rather than of a substantive character.

3. Israel

In a letter dated 19 December 1949 transmitting the statement and the reply, the Minister for Foreign Affairs of Israel stated that he "reserves the right to forward at a later date the comments and proposals of his Government with regard to the draft International Covenant on Human Rights, including the proposals for new articles on economic and social matters".

4. Yugoslavia

"The proposals and comments on the articles of the draft Covenant and on the economic and social rights of man, are under detailed and careful study by

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1/ For general observations on the method of drafting part II of the Covenant, made at the fifth session by the representatives of Australia, Denmark, France, Lebanon and the United Kingdom, see annex II of document E/1371, pages 31-32.



Yugoslav authorities and will be presented by the Yugoslav delegation at the next session of the Human Rights Commission."

5. France

As regards this first point, (definition of the rights guaranteed) the only one where it was dealing with definite texts, the French Government took into account to the fullest extent the work previously done by the Commission on Human Rights.

In all cases in which the Commission actually decided to adopt a certain text at its fifth session, the French Government has almost invariably accepted the text proposed.

In cases where no such decision was taken and where the Commission submits a number of variants, the French Government has selected that which appears to it most suitable by reason of its objectivity and comprehensiveness or the strictness of its definitions.

In either case the few amendments suggested by the French Government are sometimes purely drafting changes and do not affect the English version of the Covenant.

C. COMMENTS ON THE ARTICLES OF THE DRAFT INTERNATIONAL COVENANT ON  
HUMAN RIGHTS (E/1371, Annex I<sup>1/</sup>)

PART I

Note. The Commission decided, by 13 votes to none, with 2 abstentions, that the following texts of the preamble and article 1, would both be discussed after part II of the covenant was completed.

PREAMBLE

I. Text contained in the report of the third session of the Commission (E/800)

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:

II. Texts before the Commission at its fifth session

1. Text proposed by the representative of the United States of America

The States parties hereto, bearing in mind the general principles proclaimed in the United Nations Charter and in the Universal Declaration of Human Rights, approved by the General Assembly of the United Nations on 10 December 1948, agree upon the following articles with respect to certain human rights and fundamental freedoms:

2. Text proposed by the representative of France

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

1. United States

The Preamble should read as follows:

"The States Parties hereto,

"Bearing in mind the general principles proclaimed in the United Nations Charter, and in the Universal Declaration of Human Rights approved by the General Assembly of the United Nations on December 10, 1948, and

---

1/ The texts given in brackets have not been voted on by the Commission.

/"Considering the

"Considering the importance of developing in the United Nations international agreements in the field of human rights concerning civil, political, economic, social and cultural matters,

"Agree at this time upon the following articles with respect to certain of these human rights:"

2. United Kingdom

His Majesty's Government in the United Kingdom consider ..... that the text of the Preamble contained in the report of the Third Session of the Commission (E/800) is the best of the three alternatives.

3. Philippines

It is proposed that the preamble be worded thus:

"The State parties hereto, having resolved to take further steps toward the consummation of the high objectives of the United Nations Charter and bearing in mind the general principles enunciated in the Universal Declaration of Human Rights, approved by the General Assembly of the United Nations on 10 December 1948, agree to reinforce certain of the principles of the Declaration, as follows:"

The phrase "to give effect in this Covenant" found in the text contained in the report of the third session of the Commission, as well as in the text proposed by the French representative, might imply that the principles in the Declaration of Human Rights, though already approved by the General Assembly, are not yet effective. "To reinforce" is therefore submitted as more accurate.

The text suggested by the representative of the United States does not convey the idea that the Covenant is to reinforce the Declaration of Human Rights.

None of the three proposed texts conveys the thought that the Covenant is a mere continuation of previous effort. Hence, the suggested words: "To take further steps."

4. Netherlands

The Netherlands Government prefer the text proposed by the representative of the United States as they deem it desirable that the undertakings of the parties under this Covenant shall be defined in the articles of the Covenant exclusively.

5. France

The French Government still favours the following text, which was proposed by its representative at the fifth session of the Commission on Human Rights:

"The States Parties hereto, determined to conform to the United Nations Charter and bearing in mind the general principles proclaimed 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<sup>1/</sup>

Text contained in the report of the third session of the Commission (E/800)

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.

1. United States

Article 1 should be omitted from the Covenant since it is adequately covered by the proposed preamble.

2. United Kingdom

His Majesty's Government in the United Kingdom consider that the substance of this article is dealt with, more appropriately, in the preamble to the Covenant and therefore suggest that this article should be deleted. They consider that the text of the preamble contained in the report of the third session of the Commission (E/800) is the best of the three alternatives.

3. Philippines

The concluding words "general principles of law recognized by civilized nations" should be changed to "general principles of right and justice," for these reasons:

1. The word "law" is not broad enough.
2. Many of these principles, which are implanted in man's conscience, are also recognized in backward nations. There ought to be no implication of disdain toward these less progressive countries.

4. Netherlands

It is proposed that this article be deleted in order to avoid the impression that the present Covenant should be binding on States not being parties to this Covenant.

5. France

In view of the preamble this article becomes unnecessary and should be deleted.

1/ For comments made at the fifth session by the representatives of China and the United States, see document E/1371, Annex II, pages 33 and 35 respectively.

Article 2<sup>1/</sup>

1. Each State party hereto undertakes to ensure to all individuals within its jurisdiction the rights defined in this Covenant. Where not already provided by legislative or other measures, each State undertakes, in accordance with its constitutional processes and in accordance with the provisions of this Covenant, to adopt within a reasonable time such legislative or other measures to give effect to the rights defined in this Covenant.

2. Each State party hereto undertakes to ensure that any persons whose rights or freedoms as herein defined are violated shall have an effective remedy before the competent national tribunals notwithstanding that the violation has been committed by persons acting in an official capacity.

1. United States

Paragraph 1 should be revised to include the words "territory and subject to its" immediately prior to the word "jurisdiction" in the first sentence, so that this paragraph would read as follows:

"1. Each State party hereto undertakes to ensure to all individuals within its territory and subject to its jurisdiction the rights defined in this Covenant. Where not already provided by legislative or other measures, each State undertakes, in accordance with its constitutional processes and in accordance with the provisions of this Covenant, to adopt within a reasonable time such legislative or other measures to give effect to the rights defined in this Covenant."

Paragraph 2 should be revised to read as follows:

"2. Each State party hereto undertakes to ensure, in accordance with its constitutional processes, that its executive authorities and judiciary shall act in support of law giving effect to the rights defined in this Covenant."

2. United Kingdom

His Majesty's Government consider that the second sentence of paragraph 1 of this article should be deleted. The normal practice with regard to the acceptance of international obligations is that accession is only effected after or simultaneously with the taking of the necessary constitutional measures for execution. In this case His Majesty's Government consider that States should take the steps necessary to give effect to the rights defined in the Covenant

- 1/ 1. The Commission decided that it would adopt article 2 provisionally pending the completion of its work on part II of the Covenant.
2. For comments by the representatives of India and the United States made at the fifth session, see document E/1371, pages 34 and 35 respectively.  
/before they

before they accede to the Covenant.

2. The phrase "an effective remedy before the competent national tribunal" in paragraph 2 appears to be too much compressed. The guarantee of the individual's rights against abuse comprises three distinct elements, viz.,

1. The possession of a legal remedy.
2. The grant of this remedy by an independent tribunal.

(His Majesty's Government consider it desirable to mention specifically in the Covenant that the tribunal should be independent).

3. The enforcement of the remedy granted by the Courts by the police or executive authorities responsible.

3. His Majesty's Government therefore consider that this paragraph should be expanded to read as follows:

"2. Each State party hereto undertakes to ensure:

(a) that any person whose rights or freedom as herein defined are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity,

(b) that any person claiming such a remedy shall have his right thereto determined by national tribunals, whose independence is secured, and

(c) that the police and executive authorities shall enforce such remedies when granted."

3. Philippines

The following sentence should be added to paragraph 2:

"The perpetrators shall be duly and swiftly repressed, especially when they are public officials."

This addition places upon the State the responsibility of taking the initiative in the investigation and prosecution of abusive acts. The victim is too often under the influence of fear, so the Government itself should act with energy to bring the criminals swiftly to justice.

The last words, "especially when they are public officials" are designed particularly to curb abuse of power by such government agents.

/4. Netherlands

#### 4. Netherlands

Paragraph 1: The Netherlands Government assume, in connexion with the provisions of paragraph 2, that the undertaking to ensure and to give effect to the rights as set forth in the present Covenant, includes (1) the undertaking not to adopt any legislative or other measures which violate the rights set forth in the Covenant, (2) the undertaking to adopt, in so far as this has not been done yet, legislative or other measures to ensure that the obligation mentioned under (1) shall apply to all authorities of the State concerned, and (3) the undertaking to abrogate legislative and other measures in existence which violate the rights set forth in the Covenant. They deem it, however, desirable, in order to avoid any confusion with regard to the extent of the obligations under this paragraph explicitly, to define in the first paragraph the three undertakings mentioned above. With regard to the undertakings mentioned under (2) and (3), it might be pointed out that they should be carried out "in accordance with its constitutional processes".

Paragraph 2: The Netherlands Government feel that this provision goes too far as it does not seem necessary to provide that an effective remedy for the violation of the rights as defined in the Covenant can only be obtained before the national tribunals. There are other ways in which an effective remedy may be ensured. It is therefore proposed that the words "before the competent national tribunals" be deleted.

#### 5. France

Paragraph 1: (a) insert the words "respect and" between the words "undertakes to" and "ensure";

(b) (French text): delete the word jurisdiction and replace by competence;

(c) the second sentence to become a separate paragraph (paragraph 2);

(d) delete at the end of the second sentence the words si les mesures, legislatives ou autres, qui sont deja en vigueur ne le previennent pas, these words being unnecessary and not appearing in the English text.

Paragraph 2 (which becomes paragraph 3 if the numbering here proposed is adopted):

(a) (French text): in line 4, delete the word effectif and replace by utile, the term effectif not being current in French legal terminology.

/(b) insert between



(b) insert between the words "before the competent" and "national tribunals" (line 4) the words "political or administrative authorities or". Thus amended, article 2 would read as follows:

"1. Each State party hereto undertakes to respect and ensure to all individuals within its jurisdiction the rights defined in this Covenant.

"2. Each State undertakes, in accordance with its constitutional processes and in accordance with the provisions of this Covenant, to adopt within a reasonable time such legislative or other measures to give effect to the rights defined in this Covenant.

"3. Each State party hereto undertakes to ensure that any person whose rights and freedoms as herein defined are violated shall have an effective remedy before the competent political or administrative authorities or national tribunals, notwithstanding that the violation has been committed by persons acting in an official capacity."

Article 3

Note. The Commission decided by 7 votes to none, with 8 abstentions, to postpone consideration of the following text of article 3 until it considered measures of implementation at its sixth session.

Text contained in the report of the third session of the Commission (E/800)

[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.]

1. United States

Article 3 relates to implementation and should be considered with proposed measures for implementation. The views of the United States on implementation are set forth in part III of this communication.

2. United Kingdom

His Majesty's Government consider that this article should be included in the Covenant whatever measures of implementation are agreed.

3. France

This article is out of place, and in any case might be amended in some respects. It should either be inserted in the part of the Covenant dealing with measures of implementation or should form the subject of a special recommendation by the General Assembly.

Article 4<sup>1/</sup>

1. In time of war or other public emergency threatening the interests of the people, a State may take measures derogating from its obligations under part II of the Covenant to the extent strictly limited by the exigencies of the situation.

2. No derogation from articles ... can be made under this provision.

3. Any State party hereto availing itself of this right of derogation shall inform the Secretary-General of the United Nations fully of the measures which it has thus enacted and the reasons therefor. It shall also inform him as and when such measures cease to operate and the provisions of part II of the Covenant are being fully executed.

1. United States

Article 4. Paragraphs 1 and 3: No change is proposed.

Paragraph 2 should read as follows:

"2. No derogation may be made by any State under this provision which is inconsistent with international law or with international agreements to which such State is a party."

2. United Kingdom

His Majesty's Government consider that paragraph 2 of this article should read:

"2. No derogation from article 5, except in respect of deaths resulting from lawful acts of war, or from articles 6, 7, 8 (paragraphs 1 and 2) or 14 can be made under this provision."

3. Philippines

This article should read thus:

"1. In time of war or other public emergency gravely threatening the interests of the people, a State may take measures derogating from its obligations specified in articles 9, 11, 12, 17 and 19 to the extent strictly limited by the exigencies of the situation, and always with the

1/ 1. The Commission decided that it would adopt article 4 provisionally pending the completion of its work on part II of the Covenant.

2. For comments made at the fifth session by the representatives of France and the United Kingdom, see document E/1371, Annex II, pages 33 and 34 respectively.

restrictions laid down by law.

"2. Any State party hereto availing itself of this right of derogation shall at once inform the Secretary-General of the United Nations fully of the measures which it has thus enacted and the reasons therefor. It shall also inform him as and when such measures cease to operate and the provisions of the articles mentioned in the first paragraph of the Covenant are being fully executed."

Derogation should be permitted only in certain cases, instead of a general reference to the entire part II. This will emphasize the restrictive character of article 4. In consequence, paragraph 2 of the original article should be omitted, and the second sentence of paragraph 3 has been revised.

The words "at once" have been inserted in paragraph 3 to insure timely action by the corresponding United Nations instrumentality.

#### 4. Netherlands

The Netherlands Government propose that paragraph 2 of this article read as follows:

"No derogation from articles 5 and 6, except in respect of lawful acts of war, and of articles 7, 8 (i) and (ii) or 10, can be made under this provision."

#### 5. France

Paragraph 1: (a) delete "In time of war or other public emergency threatening the interests of the people" and replace by: "In the case of a state of emergency officially proclaimed by the authorities or in the case of public disaster".

(b) (French text): replace en dérogation by dérogeant.

Paragraph 2: amend the text to read: "No derogation from articles 5, 6, 7, 8, 10, 14, 15 and 16 can be made under this provision".

"The rights defined in article 9 may not be suspended save in the event of invasion or public disturbance."

Paragraph 3: The French Government considers that this paragraph requires certain changes, which will be communicated by the French representative at the sixth session of the Commission on Human Rights.

6. India

This article is necessary and important. While it gives latitude to States during an emergency, it also exercises a healthy check on their anti-democratic activities in normal times.

PART II

Article 5<sup>1/</sup>

1. No one shall be deprived of his life.
2. In countries where capital punishment exists, sentence of death may be imposed only as a penalty for the most serious crimes.
3. No one may be executed save in virtue of the sentence of a competent court and in accordance with a law in force and not contrary to the principles expressed in the Universal Declaration of Human Rights.
4. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

1. United States

Paragraph 1. Insert the word "arbitrarily" before the word "deprived" in this paragraph so that it would read as follows:

"1. No one shall be arbitrarily deprived of his life."

Paragraph 2. No change is proposed.

Paragraph 3 should be revised to read as follows:

"3. In such countries, sentence of death may be executed only pursuant to the sentence of a competent court and in accordance with law."

It is suggested that consideration be given to merging paragraphs 2 and 3 to read as follows:

"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."

Paragraph 4 should be revised to read as follows:

"4. Any one sentenced to death shall have the right to seek amnesty, or pardon, or commutation of the sentence."

1/ 1. See documents E/CN.4/SR.90, 91, 93 and 94.

2. For comments made at the fifth session by the representatives of Australia, Denmark, France, Lebanon and the United Kingdom jointly, and by the representatives of India and the United States, see document E/1371, Annex II, pages 31, 33 and 34.

2. United Kingdom

His Majesty's Government consider that the version of this Article recommended by the representatives of Australia, Denmark, France, Lebanon and the United Kingdom and contained in annex II of the report of the Commission (E/1371), while entirely satisfactory in substance, will be more explicit if phrased as follows:

- "1. No one shall be deprived of his life intentionally.
- "2. There shall be no exception to this rule save where death results, in those States where capital punishment is lawful, from the execution of such a penalty in accordance with the sentence of a court.
- "3. Deprivation of life shall not be regarded as intentional when it results from the use of force which is no more than absolutely necessary
  - (i) in defence of any person from unlawful violence;
  - (ii) in order to effect a lawful arrest or to prevent an escape from lawful custody; or
  - (iii) in action lawfully taken for the purpose of quelling a riot or insurrection, or for prohibiting entry to a clearly defined place to which access is forbidden on grounds of national security."

3. Philippines

It is proposed that this article be revised to read thus:

- "1. In countries where capital punishment exists, sentence of death may be imposed only for the most serious crimes, and only under extraordinary circumstances.
- "2. No one may be executed save in virtue of the final sentence of a competent court and in accordance with a law in force at the time of the commission of the crime and not contrary to the principles expressed in the Universal Declaration of Human Rights.
- "3. Amnesty, pardon or commutation of the sentence of death may be granted in all cases."

Paragraph 1 of the original article is unnecessary, as the subject is covered in paragraph 2.

/The phrase

The phrase "and only under extraordinary circumstances" has been added because there is a growing tendency all over the world either to abolish or restrict the death sentence.

The word "final" has been inserted before "sentence", and the words "at the time of the commission of the crime" have also been inserted. The reasons are evident.

4. Netherlands

The text proposed in the "comments by representatives of Australia, Denmark, France, Lebanon and the United Kingdom" (E/1371 (E/CN.4/350) 23 June 1949, page 32) should be substituted for the text of this article.

5. Denmark

No objections to paragraphs 1 and 2, on the understanding, however, that a reservation is assumed to be entered in cases of acts committed under the pressure of necessity or in self-defence.

Paragraphs 3 and 4: No comment

6. France

Delete paragraph 1 and replace by the following: "Human life is sacred. To take life shall be a crime, save in the execution of a sentence of a court, or in self-defence, or in the case of enforcement measures authorized by the Charter."

7. India

Paragraph 1 should be amended to read "No one shall be deprived of his life except according to procedure established by law."



Article 6

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

1. United States

Article 6 should be revised to read as follows:

"No one shall be subjected to torture or to cruel, inhuman or degrading punishment."

2. Philippines

This article should read as follows:

"1. No one shall be subjected to torture or to cruel, unusual or degrading treatment or punishment.

"2. No excessive fines shall be imposed."

The word "unusual" has been used instead of "inhuman" which conveys the same idea as "cruel". "Unusual" is a historic word in many bills of rights.

The second paragraph on excessive fines has been added. This is also one of the well-established guarantees in many countries.

Article 7

Note: The Commission decided by 4 votes to 3, with 4 abstentions, to refer the following text, together with the proposals and amendments made thereon at its fifth session to the World Health Organization for an advisory opinion.<sup>1/</sup>

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

1. United States

No opinion is expressed at this time concerning this article since the views requested by the Commission on Human Rights from the World Health Organization with respect to this article, have not as yet been received by this Government.

2. Philippines

In so far as this article seems to permit physical mutilation provided the subject consents, it should be revised, because no person should be allowed even voluntarily, to submit to any form of physical mutilation. Therefore the words "any form of physical mutilation" should be deleted.

3. Denmark

It is noted that the question of limiting the scope of the proposed provisions for the prohibition of physical mutilation or medical or scientific experimentation has been referred to the World Health Organization for an advisory opinion. The Danish Government considers it should not adopt a more detailed attitude to this article until the opinion requested from the World Health Organization is available. Meanwhile, however, the following comments are offered:

The Danish Act No. 176 of 11 May 1935 authorizes, 1) the sterilization and castration, without the party's consent, of persons who, being mentally deficient, are unable to understand the significance of the operation, and, 2) compulsory castration. It is emphasized, however, in this connexion that compulsory castration can take place only in pursuance of a sentence, and that, in fact, several sentences for serious sexual offences have been passed which contained a reservation concerning castration, but that castration has so far never been carried out against the will of the person in question.

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<sup>1/</sup> The opinion of the WHO on this question will be found in document E/CN.4/359.

There may possibly be a question in some cases of seeking to amend the Danish legislation concerning the authorization of compulsory castration in pursuance of a sentence, but this is hardly likely to occur in the case of legislation on sterilization or castration, without the party's consent, of the feeble-minded or of persons who, because they are mentally deficient, are otherwise unable to understand the significance of the operation. See Act No. 171 of 16 May 1934 concerning steps to be taken regarding the feeble-minded.

4. France

The French Government reserves its opinion pending receipt of the text to be proposed by the World Health Organization.

Article 8

1. No one shall be held in slavery; slavery and the slave trade shall be prohibited in all their forms.
2. No one shall be held in servitude.
3. No one shall be required to perform forced or compulsory labour except pursuant to a sentence to such punishment for a crime by a competent court.
4. For the purposes of this article, the term "forced or compulsory labour" shall not include:
  - (a) Any work, not amounting to hard labour, required to be done in the ordinary course of prison routine by a person undergoing detention imposed by the lawful order of a court;
  - (b) Any service of a military character or, in the case of conscientious objectors, in countries where they are recognized, exacted in virtue of laws requiring compulsory national service;
  - (c) Any service exacted in cases of emergencies or calamities threatening the life or well-being of the community;
  - (d) Any work or service which forms part of the normal civic obligations.

1. United States

Paragraph 1 should be revised to insert the phrase "in all their forms" immediately after the words "slave trade" rather than at the end of this paragraph so that the paragraph would read as follows:

/"1. No one

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

Paragraph 2. Change the word "servitude" to "peonage or serfdom", so that this paragraph would read as follows:

"1. No one shall be held in peonage or serfdom."

The discussion in the Commission on Human Rights at its fifth session indicated that the terms "peonage or serfdom" rather than "servitude" are intended in this paragraph.

It is suggested that consideration be given to merging paragraphs 1 and 2.

Paragraph 3 should be revised to read as follows:

"3. No one shall be held in involuntary servitude or be required to perform forced or compulsory labor except as a consequence of a conviction of a crime by a competent court."

Paragraph 4: Sub-paragraph (a) of this paragraph should be omitted because it is believed that not only ordinary "housekeeping" work required to be done in the ordinary course of prison routine but also work of a similar routine character required to be done in connexion with many types of institutions where individuals not convicted of a crime may be lawfully detained (e.g., mental institutions, juvenile detention homes, places of detention for persons awaiting trial) would not in any event be interpreted as being comprehended within the term "forced or compulsory labor", as used in paragraph 2. It is not believed that it would be feasible or necessary to attempt to spell out, in this article of the Covenant, all of these possible situations.

## 2. Philippines

Paragraphs 1 and 2 should be merged into a single one, which will read thus:

"1. Slavery, servitude and the slave trade in all their forms shall be prohibited. No one shall be allowed to enter into any contract of slavery or servitude."

The prohibition thus extends not only to the master but also the slave or worker, because no person has any right to traffic with his dignity as such.

From paragraph 3 the word "to such punishment" should be eliminated. The idea of punishment for a crime has been abandoned by the most enlightened criminologists.

It is proposed that the following paragraph be added at the end of the article:

"4. Every labour performed by prisoners shall be compensated at the rate prevailing in the community, but the cost of their maintenance shall be deducted from such compensation."

/It is

It is but just and humane that prison labour should be paid for by the State.

3. France

Amend paragraph 4 (b) to read as follows: "(b) Any service of a military character or exacted in virtue of laws requiring compulsory national service, including services required to be done by conscientious objectors, in countries where they are recognized".

Paragraph 4 (c) (French text): replace the word crimes by crises (typographical error).

The French Government has no desire to re-open the earlier discussions, but its acceptance of the present text must not be construed as implying approval of the principle that the spirit or scope of collective international conventions, whether or not concluded under the auspices of the specialized agencies, may be modified in covenants dealing with human rights by means other than those available under the normal rules for revision provided for in these conventions. It therefore trusts that its acceptance will not be regarded as a precedent in favour of such a principle.

In addition, the French Government considers that paragraph 4 (d), which provides for an exception in favour of "normal civic obligations", is also applicable to the local services referred to in the Conventions concluded under the auspices of the International Labour Organisation.

Article 9

Note. The Commission decided that no vote would be taken on the following text of article 9 as a whole until a final vote had been taken on article 4.

1. No one shall be subjected to arbitrary arrest or detention.
2. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as established by law.
3. Any one who is arrested shall be informed promptly of the reasons for his arrest and of any charges against him.
4. Any one arrested or detained on the charge of having committed a crime or of preparing to commit a crime 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. Pending trial, release may be conditioned by guarantees to appear for trial.
5. Every one who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
6. Every person who has been the victim of unlawful arrest or deprivation of liberty shall have an enforceable right to compensation. 1/

1. United States

Paragraphs 1, 2, 3, 4: No change is proposed.

Paragraph 5: Add the following at the end of this paragraph:

"This remedy may not be suspended unless when in cases of rebellion or invasion the public safety may require it."

Paragraph 6: This paragraph should be omitted from the Covenant.

2. United Kingdom

His Majesty's Government have nothing to add to the comments on this article submitted in common with the representatives of Australia, Denmark, France and Lebanon by their representative on the Commission and contained in annex II to the report of the Commission (E/1371).

3. Philippines

This Government indorses the idea of the representatives of Australia, Denmark, France, Lebanon and the United Kingdom that the cases where an arrest or

1/ For comments made at the fifth session by the representatives of Australia, Denmark, France, Lebanon and the United Kingdom jointly, and by the representative of the United States, see document E/1371, annex II, pages 31 and 35 respectively.

detention may be effected should be clearly defined and enumerated. However, the specification of such exceptional cases should be carefully formulated. Thus, in article 9 proposed by said countries, the words "security measure" in sub-division (a) are vague; and sub-division (d) should include lepers, persons suffering from venereal disease, opium addicts, and drunkards, for treatment.

As for paragraph 4, bail in case of prosecution for some crime for which the law prescribes death should not be a matter of right.

Concerning paragraph 6, the following should be added:

"In case he has been unlawfully killed, his family shall be entitled to compensation."

If unlawful arrest gives rise to compensation, unlawful killing should, with greater reason, also create liability for the same.

#### 4. Netherlands

In the opinion of the Netherlands Government the provisions of paragraph 6 of this article should be deleted, as article 2, paragraph 2, deals already with this matter.

#### 5. Denmark

Paragraphs 1 and 2 are accepted in principle, subject to participation in drafting.

Paragraph 3: No comments.

Paragraphs 4 and 5: Under paragraph 14 of the Danish Act No. 52 of 15 May 1875 concerning the supervision of aliens and travellers, in cases where under that Act a person not of Danish nationality is refused permission to remain in Denmark, such person will be subject to police supervision and custody until deportation can take place. In the Danish Government's view such custody does not come under the provisions of article 9, paragraph 4 of the draft covenant, which deals with bringing certain persons who have been arrested or detained before a judge or other officer authorized by law to exercise judicial power. With regard to article 9, paragraph 5 of the draft covenant, it is pointed out that persons committed to custody under paragraph 14 of the above-mentioned Act are entitled to make a written application to the Minister of Justice under whose parliamentary responsibility these steps are taken, and it is not excluded that the question whether they can legally be deprived of their liberty may be brought before the courts in the form of a civil suit against the Ministry of Justice.

/The Danish

The Danish Government is, therefore, of opinion that the action permitted under paragraph 14 of the Aliens Act does not conflict with the provisions of article 9.

In various other cases, too, cases of deprivation of liberty ordered by the authorities, including more particularly certain cases of admission to hospitals ordered by the medical authorities, may under Danish legislation only be referred to a higher administrative authority for review or brought, by a civil action, before the courts for a decision as to whether the deprivation of liberty is legal. This, therefore, applies to compulsory admission of insane persons under Act No. 118 of 13 April 1938 regarding the hospitalization of insane persons and decisions concerning deprivation of liberty taken under the Danish Acts No. 138 of 10 May 1915 regarding measures to be taken against the spread of infectious diseases, No. 145 of 12 March 1918 regarding measures to be taken for combatting tuberculosis and No. 53 of 10 March 1938 regarding measures to be taken against the introduction of infectious disease into Denmark.

The Danish Government is, therefore, of opinion that these provisions also do not conflict with article 9, paragraph 5. Meanwhile, it must reserve its position with regard to article 9, paragraph 5, in case there is any doubt in this connexion and in case the provision should nevertheless be adopted in its present form.

Paragraph 6: No comment.

#### 6. France

While it continues to favour the ideas embodied in the joint proposals submitted by France and the United Kingdom,<sup>1/</sup> the French Government would be prepared to support the Commission's draft text, subject to the following reservations:

Paragraph 4: The last sentence should read:

"Preventive detention should not be the rule during legal proceedings; but release may be conditioned by guarantees to appear for trial."

In paragraph 6 (French text) an "s" should be added to the word illégal, which qualifies both arrestation and privation de liberté.

#### 7. India

An illustrative list of exceptions under paragraph 2 of this article is not considered necessary as real safeguards are provided in other paragraphs of this article.

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<sup>1/</sup> Document A/1371, pages 32 and 33.



Article 10

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

1. Philippines

This article should be clarified by adding these words: "unless he is guilty of fraud."

2. Denmark

This article is accepted, provided, however, it is understood that existing Danish legislation, whereby persons may be imprisoned for failing to pay a maintenance allowance is not deemed to be incompatible with the article, which refers only to contractual obligations, and that the provision in paragraph 613 of the Code of Procedure giving authority to effect the arrest of a person who is about to leave the country for good or for an indefinite period is also not covered by the article. Of, the words "merely on the grounds of inability....".

Article 11

1. Subject to any general law, adopted for specific reasons of national security, public safety or health:

(a) Every one has the right to liberty of movement and is free to choose his residence within the borders of each State;

(b) Any one shall be free to leave any country including his own.

2. Any one is free to return to the country of which he is a national.

1. United States

Article 11 should be revised to read as follows:

"1. Subject to law necessary to protect national security, public safety, health or morals or the rights and freedoms of others:

(a) Every one legally within the territory of a State shall, within that territory, have the right to be free from governmental interference in (1) liberty of movement and (2) freedom to choose his residence;

(b) Any one shall be free to leave any country including his own.

2. Any one shall be free to enter the country of which he is a national."

2. United Kingdom

His Majesty's Government in the United Kingdom are doubtful whether freedom of movement and free choice of residence can properly be regarded as fundamental human rights. Certainly the number of limitations to which they may be legitimately subjected is considerable, as is shown by the list forwarded by the Drafting Committee and quoted in annex B to the report of the third session of the Commission (E/800). His Majesty's Government therefore consider that this article should be omitted from the Covenant.

3. Philippines

The exception in paragraph 1 should be eliminated. The words "Subject to any general law, adopted for specific reasons of national security, public safety or health" might be availed of by a dictator. The plain statements of Article 13 of the Declaration of Human Rights are preferable.

/4. Netherlands

4. Netherlands

The restriction set forth in the beginning of paragraph 1 seems too narrow. It should be possible to prevent a person from leaving the territory of a State, if this person by so doing would withdraw from carrying out obligations resulting from laws of that State, provided these laws are consistent with the other provisions of the Covenant on Human Rights. The beginning of paragraph 1 of this article should therefore read as follows:

"Subject to any general law, consistent with the rights defined in this Covenant .....

The right, defined in paragraph 2, should be ensured by the country, a national of which wishes to return. It would, therefore, seem advisable for the second paragraph to read as follows:

"Any one has the right to be admitted to the country of which he is a national."

5. Denmark

In addition to the reservations enumerated in paragraph 1 of the article, the Danish Government must reserve its position with regard to refusing an exit permit to persons who by so leaving seek to evade certain obligations, compliance with which is of particular public interest, e.g. fines or confiscations awarded in criminal cases, tax claims and maintenance allowances etc. The same applies in the case of persons anxious to leave the country in order to escape the results of a conviction or while a criminal action is pending.

6. France

Paragraph 2: delete and replace by the following: "A person is free to return to the country of which he is a national unless he comes within the terms of a statutory provision to the contrary."

Article 12

No alien legally admitted to the territory of a State shall be expelled therefrom except on such grounds and according to such procedure and safeguards as are provided by law.

1. Philippines

It is suggested that the following paragraph be added:

"2. Extradition shall not be applied to political crimes."

Asylum from persecution, which is recognized in the Declaration of Human Rights, should not be forgotten in the Covenant.

2. France

Lines 3 and 4 should read: "grounds and according to procedure and safeguards to be provided by law".

Article 13<sup>1/</sup>

1. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, every one is entitled to a fair and public hearing, by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the Press and public may be excluded from all or part of the trial in the interest of morals, public order or national security, or where the interest of juveniles or incapacitated persons so require.

2. Every one charged with a penal offence has the right to be presumed innocent until proved guilty according to law. In the determination of any criminal charge against him, every one is entitled to the following minimum guarantees, in full equality:

- (a) To be informed promptly of the nature and cause of the accusation against him;
- (b) To defend himself in person or through legal assistance which shall include the right to legal assistance of his own choosing, or, if he does not have such, to be informed of his right and, if unobtainable by him, to have legal assistance assigned;
- (c) To examine, or have examined, the witnesses against him and to obtain compulsory attendance of witnesses in his behalf;
- (d) To have the free assistance of an interpreter if he cannot understand or speak the language used in court.

3. Every one who has undergone punishment as a result of an erroneous conviction of crime shall have an enforceable right to compensation. This right shall accrue to the heirs of a person executed by virtue of an erroneous sentence.

1. United States

Paragraph 1 should be revised to read as follows:

"1. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, every one shall be entitled to a fair and public hearing, by an independent and impartial tribunal established by law.

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<sup>1/</sup> 1. For comments made by the representative of the United States at the fifth session, see document E/1371, annex II, page 35.

2. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, at its third session, considered that paragraph (d) of this article (as well as articles 16, 20 and 21) was one of the texts related to the prevention of discrimination and the protection of minorities, and endorsed and lent its support to the said paragraph in its present form (E/CN.4/358, page 24).

The Press and public may be excluded from all or part of a trial in the interest of morals, public order or national security, or where the interest of juveniles or incapacitated persons so requires or in a suit at law in order to conserve the subject matter of the litigation; but the judgment shall be pronounced publicly except where the interest of juveniles otherwise requires."

Paragraph 2: In the first sentence change the word "has" to "shall have", and in the second sentence change the word "is" to "shall be", so that the introductory sentences of this paragraph would read as follows:

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

At the end of sub-paragraph (c) add the words "who are within the jurisdiction and subject to the process of the tribunal," so that this sub-paragraph would read as follows:

"(c) to examine, or have examined, the witnesses against him and to obtain compulsory attendance of witnesses in his behalf who are within the jurisdiction and subject to the process of the tribunal."

Paragraph 3. This paragraph should be omitted from the Covenant.

## 2. United Kingdom

His Majesty's Government consider that paragraph 2 (b) of this Article requires clarification. In particular, the meaning of the word "assigned" is obscure. If it is intended to mean "assigned free of cost" His Majesty's Government are unable to accept it. The right of a person charged with a penal offence to legal assistance is unquestioned; His Majesty's Government, however, do not consider that such a person has in all cases a right to free legal assistance. Nor do His Majesty's Government believe that there are many States members of the United Nations who would be able to guarantee the enjoyment of this right without qualification to their citizens. They believe that the United Kingdom has a system of free legal aid as comprehensive in scope as that provided by the government of any State; but, subject to due regard for the interests of justice, the right to this aid is limited by practical considerations in the case of trivial offences, though it is available to those charged with serious penal offences. His Majesty's Government therefore suggest that this paragraph should be amended to read:

/( /" (b)

"(b) To defend himself in person or through legal assistance of his own choosing and, if he has not sufficient means to pay for such assistance to be given it free when the interests of justice so require."

2. Nor can His Majesty's Government accept paragraph 3 of this article. They could not agree to the proposition that a person whose conviction had been quashed on appeal should have an enforceable right to compensation in respect of any punishment (e.g. imprisonment) inflicted in consequence of the original conviction.

3. His Majesty's Government believe that the enforceable right to compensation for the illegal detention of a person against his will is a fundamental human right. They therefore approve of the inclusion in the Covenant of a provision such as paragraph 6 of article 9 of the present draft. Paragraph 3 of article 13 may perhaps have commended itself to the Commission by analogy, which His Majesty's Government believe to be false, from Article 9, 6. For the reasons stated above, His Majesty's Government do not consider the two rights analogous and they will oppose the inclusion in the final text of a provision such as this.

### 3. Philippines

The first sentence of paragraph 2 should read thus:

"Every one charged with a criminal offense has the right to be presumed innocent until proved guilty beyond reasonable doubt according to law".

The word "penal" has been changed to "criminal", to exclude the idea of punishment.

Proof beyond reasonable doubt should be required in criminal cases for the protection of the innocent. In a dictatorship, flimsy evidence is sufficient to find the accused guilty.

Paragraph 3 should read as follows:

"Every one who has served a sentence of imprisonment, in whole or in part, as a result of an erroneous conviction of crime shall have an enforceable right to compensation. This right shall be recognized only in either one of the following cases.

"(a) That the real culprit has voluntarily confessed, and there are no reasonable grounds to doubt his confession; or

"(b) That the fact or event which was the basis of the conviction is shown beyond reasonable doubt never to have existed or taken place, as when, in a murder or homicide case, the person alleged to have been killed is living."

/Without the

Without the limitations just proposed, the administration of justice would seriously suffer.

It is proposed that the following paragraph be added:

"4. No one shall be compelled to testify against himself, or to confess guilt, or be induced to make such confession by a promise of reward or immunity, except in the last case when the person confessing becomes a State witness."

4. Denmark

Under paragraph 29 of the Danish code of Procedure, court proceedings can be held in camera not only in the cases mentioned in the article but also when special circumstances justify the assumption that a public hearing would cause someone unnecessary offence or prejudice the elucidation of the case. It is suggested that the article should be amended in this sense.

5. Netherlands

The "right to legal assistance of his own choosing", laid down in paragraph 2 (b), should be limited by provisions concerning the legal profession.

The formulation of the right of assignment of legal assistance seems too wide. The circumstances can be such that there is no reason to provide legal assistance; this can in particular be the case in the event that the offence, of which the suspected person has been accused, is liable to a small punishment only or in the event the person suspected has not been detained.

The provisions of paragraph 3 of this article should be deleted as article 2, paragraph 2, already deals with this matter.

6. France

Paragraph 1 (French text): end of line 4: for ces read ses (typographical error).

In paragraph 2 insert an additional paragraph to read as follows:

"Any minor charged with a penal offence shall be protected by guarantees and receive special treatment in keeping with his age and with the possibilities of his re-education."

In lieu of the first sentence of paragraph 3, the French Government proposes the following text:

/"In any



"In any case where by a final decision a person has been convicted of a criminal offence and where subsequently a new or newly discovered fact appears which shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall have an enforceable right to compensation."

Article 14

No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or inter-national law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

1. United Kingdom

His Majesty's Government consider that the latest text of this article might be thought to impugn the validity of the judgments of the Nuremberg Tribunal. They therefore suggest that the Commission might wish to consider the desirability of adding a second paragraph to this article on the following lines:

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

2. Philippines

The word "penal" should be changed to "criminal", and the term "penalty" should not be used; in its place, "repression" should be employed.

The second sentence should be worded as follows:

"Nor shall a different repression be imposed from the one that was applicable at the time the criminal offense was committed."

It is evident that the judge can not impose a heavier of lighter repression than that fixed by law at the time of the commission of the crime. If the word "heavier" is used, the provision does not prohibit the judge from imposing a lighter repression than that prescribed by law.

Article 15

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

1. United States

Change the word "has" to "shall have", so that this article would read as follows:

/"Every

"Every one shall have the right to recognition everywhere as a person before the law."

Article 16<sup>1/</sup>

1. 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.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are pursuant to law and are reasonable and necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

1. United States

Paragraph 1. Change the word "has" to "shall have" and the word "includes" to "shall include", so that this paragraph would read as follows:

"1. Every one shall have the right to freedom of thought, conscience and religion; this right shall include 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."

Paragraph 2. No change is proposed.

2. Philippines

Paragraph 2 should be omitted, in the same way that the exceptions therein stated do not appear in the Declaration of Human Rights. Religious persecution or intolerance was and is always based on the pretext of public safety, order, health, or morals, especially the last. At least the word "morals" should be deleted.

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- 1/ 1. For comments made by the representative of Egypt at the fifth session, see document E/1371, annex II, page 33.  
2. The Sub-Commission on Prevention of Discrimination and the Protection of Minorities, at its third session, considered that this article (as well as articles 13, paragraph (d) 20 and 21) was one of the texts of the draft covenant related to the prevention of discrimination and the protection of minorities, and endorsed and lent its support to article 16 in its present form (document E/CN.4/358, page 24).

/The following

The following paragraph should be added:

"3. Persons who conscientiously object to war as being contrary to their religion shall be exempt from military service."

Article 17<sup>1/</sup>

Note. The Commission decided by 12 votes to 3, with one abstention, to postpone consideration of article 17 until its sixth session.

It was suggested by the representative of China that in the preparation of their comments on this article governments might be asked to consider the following questions:

(a) Should an article on freedom of information be included in the draft international covenant on human rights even though there may be an independent convention on freedom of information?

(b) If so, what form should such an article take?

Texts contained in the report of the third session of the Commission (E/800)

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.<sup>7</sup>

B. Text submitted by the representative of the Union of Soviet Socialist Republics.<sup>2/</sup>

In the interests of democracy, everyone shall be guaranteed by law the right of free expression of opinion, and in particular freedom of speech, of the Press and of artistic expression, provided that freedom of speech and of the Press is not used for war propaganda for inciting enmity among nations, racial discrimination and the dissemination of slanderous rumours.<sup>7</sup>

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

<sup>1/</sup> For the decision taken on this article by the General Assembly at its fourth session (resolution 313 (IV)) and the decision taken by the Economic and Social Council at its tenth session (resolution 278 (X)), see document E/CN.4/360.

<sup>2/</sup> This text was submitted during the fifth session of the Commission, to replace the corresponding one submitted to the Drafting Committee and reproduced in document E/800.

1. Every

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 interest of national safety;

(b) Expressions which invite 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 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 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 connexion with the fact that any person has

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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 order to prevent any other person from obtaining or retaining employment, 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's 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.)



1. United States

In response to the questions on page 34 of the report of the fifth session of the Commission on Human Rights (document E/1371), it is the view of the United States that:

(a) An article on freedom of information should be included in the International Covenant on Human Rights.

(b) This article should read as follows:

"1. Every one shall have the right to be free from governmental interference to hold opinions, to seek, receive and impart information, opinions and ideas, regardless of frontiers, through speech, press, art or any other media.

2. This right shall be subject only to such limitations as are pursuant to law and necessary for the protection of national security, public order, safety, health or morals, or the rights and freedoms of others."

2. United Kingdom

With regard to the questions suggested for answer by the representative of China, His Majesty's Government in the United Kingdom consider that there should in any event be an article on Freedom of Information in the Covenant on Human Rights. In this connexion the members of the Commission will be aware that the General Assembly, in its resolution of 20 October 1949, recommended that such an article should be included. His Majesty's Government see no reason for such an article being different in form to other articles in the Covenant.

2. It will be observed that paragraph 1 of the text of article 17 submitted by the United Nations Conference on Freedom of Information resembles article 1 (a) of the draft Convention on Freedom of Information (document A/C.3/518). Since, however, the General Assembly in its resolution noted above recommended that the Commission shall take into account the work done on the draft Convention on Freedom of Information at the third and fourth sessions of the General Assembly, His Majesty's Government consider that the text proposed originally by the United Nations Conference on Freedom of Information should be modified to bring it into line with the text adopted for

article 1 of the draft Convention by the Third Committee of the Assembly.

3. With regard to paragraph 2 of the article proposed by the Conference, His Majesty's Government support wholeheartedly the proposal to enumerate the specific limitations on the right to freedom of information which are to be permitted. They do not, however, consider that the list suggested by the Conference is in all respects satisfactory. His Majesty's Government therefore propose for inclusion in the Covenant the following text:

"1. Every person shall have the right to freedom of thought and the right to freedom of expression without governmental interference: these rights shall include freedom to hold opinions, to receive and impart information and ideas, without governmental interference, regardless of frontiers, either orally, in writing or in print, in the form of art, or by duly licensed visual or auditory devices.

2. The exercise of these freedoms carries with it duties and responsibility and may therefore be subject to certain penalties, liabilities and restrictions provided by law, which are necessary in the interests of national security, for prevention of disorder or crime, for the protection of public safety, health or morals, for the protection of the reputations or rights of other persons, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

4. As for the other limitations noted by the Drafting Committee, His Majesty's Government consider that, in so far as they are reasonable limitations, they are provided for in the text of paragraph 2 proposed above.

3. Philippines

Freedom of expression should be included in the Covenant on Human Rights in order that this Covenant may be complete. However, the limitations on such freedom should be agreed upon in a separate Covenant after the work of the Conference on Freedom of Information shall have been completed. Therefore, article 17 should be formulated as follows:

/"Subject

"Subject to such limitations as may be agreed upon in a separate Convention, every person shall have the right to freedom of thought and 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 or by written or printed matter, in the form of art, or by legally operated visual or auditory devices."

This text is based upon the formula submitted by the United Nations Conference on Freedom of Information.

4. Denmark

The Danish Government would prefer the article to have the wording given under A, as proposed by the representative of France.

5. France

The French Government proposes the following text:

"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. Measures shall be taken with a view to removing any political, economic, technical or other obstacles likely to interfere with the freedom of information.

"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 in a democratic society,<sup>1/</sup> national security, good morals, respect for law and the reputation or rights of other persons."

<sup>1/</sup> The insertion of the words "in a democratic society" after "public order" was proposed by the representative of France at the fifth session of the Commission on Human Rights, and was suggested by article 29 of the Universal Declaration of Human Rights. It is applicable to articles 18 and 19 as well as to article 17.

Article 18<sup>1/</sup>

Everyone has the right to freedom of peaceful assembly. No restrictions shall be placed on the exercise of this right other than those prescribed by law and which are necessary to ensure national security, public order, the protection of health or morals, or the protection of the rights and freedoms of others.

1. United States

The first sentence of this article should be revised to read as follows:

"Every one shall have the right to be free from governmental interference to assemble peaceably. No restrictions shall be placed on the exercise of this right other than those prescribed by law and which are necessary to ensure national security, public order, the protection of health or morals, or the protection of the rights and freedoms of others."

2. Philippines

The following paragraph should be added:

"2. Every one has the right to petition the government for the redress of his grievances."

The right of petition is fundamental and should not be omitted from this Covenant.

3. France

The French Government proposes the following text:

"The right of assembly is recognized. No restrictions shall be placed on the exercise of this right other than those imposed in pursuance of the law in order to ensure national security, public order in a democratic society, the protection of health and morals or the protection of the rights and freedoms of others."

(These are actually purely drafting changes: the word "peaceful" in the first sentence appears unnecessary in view of the limitations contained in the second sentence.)

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<sup>1/</sup> For comments by the representatives of France and USSR made at the fifth session, see document E/1371, annex II, page 34.

Article 19<sup>1/</sup>

1. Everyone has the right to freedom of association with others.

2. This freedom shall be subject only to such limitations as are pursuant to law and as are necessary for the protection of national security, public order, public safety, health or morals, or the fundamental rights and freedoms of others.

3. National legislation shall neither prejudice, nor be applied in such a manner as to prejudice, the guarantees provided for in the International Convention on Freedom of Association and Protection of the Right to Organize, in so far as States parties to that Convention are concerned.

1. United States

Paragraph 1 should be revised to read as follows:

"Every one shall have the right to be free from governmental interference to associate with others."

Paragraphs 2 and 3: No change is proposed.

2. United Kingdom

It has been the consistent view of His Majesty's Government that the terms of the Covenant should define the obligations of States which accede to it in clear and precise terms. His Majesty's Government consider it reasonable to provide for the possibility of certain restrictions on the full freedom of association of members of the armed forces, of the police and of the administration of the State and it does not seem clear that such restrictions are necessarily permissible under paragraph 2 of this article as at present drafted.

2. Further His Majesty's Government consider that the language used to describe the limitations in this article should be the same as that used in article 18.

They therefore propose that paragraph 2 should be amended to read:

"2. No restrictions shall be placed on the exercise of this right other than those prescribed by law and which are necessary to ensure national security, public order, the protection of health and morals or the protection of the rights and freedoms of others, provided that this Article shall not prevent the imposition of restrictions on the exercise of this right by members of the armed forces, the police or the administration of a State."

1/ For comments by the representatives of France and the USSR made at the fifth session, see document E/1371, page 34.

/3. Philippines

3. Philippines

The words "or for the prevention of war" should be added to paragraph 2. This idea is not necessarily included in the words "national security".

4. France

Delete paragraph 1 and replace by the following:

"The right of association is recognized; a person may not be compelled to join an association."

Paragraph 2: delete the words "This freedom" and replace by "The freedom of association", after which insert the words: "shall be exercised in the forms prescribed by law and".

Article 20<sup>1/</sup>

1. All are equal before the law and shall be accorded equal protection of the law.

2. Everyone shall be accorded all the rights and freedoms defined in this Covenant without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. Everyone shall be accorded equal protection against any incitement to such discrimination.

1. United States

Paragraph 1. Change the word "are" to "shall be", so that this paragraph would read as follows:

"1. All shall be equal before the law and shall be accorded equal protection of the law."

Paragraph 2. No change is proposed.

Paragraph 3. This paragraph should be omitted from the Covenant on the ground that it is open to abuse. Its retention in the Covenant may encourage the enactment of legislation limiting freedom of speech and press.

2. United Kingdom

The first paragraph of this Article appears not to take account of the permissible legal disabilities to which minors and persons of unsound mind may be subject. His Majesty's Government consider therefore that the paragraph should be amended to read:

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1/ 1. For comments by the representative of the United States, made at the fifth session, see document E/1371, page 35.

2. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, at its third session, considered that this article (as well as articles 13 paragraph (d), 16 and 21) was one of the texts of the draft Covenant related to the prevention of discrimination and the protection of minorities, and decided to recommend: (a) that paragraph 1 of the present article 20 remain in its present position as article 20; and (b) that paragraphs 2 and 3 form a separate article, which should be given a position in the Covenant similar to that of the analogous non-discrimination article (article 2) of the Universal Declaration of Human Rights (document E/CN.4/358, page 24).

"1. All are equal before the law and shall be accorded equal protection of the law provided that this Article shall not be held to forbid the imposition of reasonable legal disabilities on minors and persons of unsound mind."

3. Philippines

Economic opinion and educational attainment should be added to paragraph 2, which should be revised so as to read as follows:

"2. Every one shall be accorded all the rights and freedoms defined in this Covenant without discrimination on any ground such as race, colour, sex, language, religion, political, economic or other opinion, national or social origin, property, educational attainment, birth or other status."

The sponsorship of any economic reform should not be any ground for discrimination. Nor should illiteracy or little education constitute a pretext for inequality before the law.

4. Denmark

The Danish Government reserves the right to put forward comments at a later date, if necessary, regarding the drafting of paragraph 2.

5. Netherlands

In conformity with the formulation of article 2 the beginning of paragraph 2 of this article should read as follows:

"2. To everyone shall be ensured the rights and freedoms defined in this Covenant without discrimination .....". In connexion with the provisions of paragraph 1 the third paragraph is redundant.



Article 21<sup>1/</sup>

Note. The Commission decided by 5 votes to 3 with 4 abstentions, to postpone consideration of the following texts of article 21 until it had considered article 17.

Texts before the Commission at its fifth session

1. Text proposed by the representative of the Union of Soviet Socialist Republics.

[/The propaganda in whatever form of fascist-Nazi views and the propaganda of racial and national superiority, hatred and contempt shall be prohibited by law.]

2. Text proposed by the representative of France.

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

1. United States

This paragraph should be omitted from the Covenant on the ground that it is open to abuse. Its retention in the Covenant may encourage the enactment of legislation limiting freedom of speech and press.

2. United Kingdom

His Majesty's Government consider that the revision of this article proposed by the representative of France is the better of the two alternatives.

2. Whereas, however, they consider that the advocacy of national, racial or religious hostility that constitutes an incitement to violence can and should be forbidden they consider that the advocacy of such hostility constituting an incitement to hatred is not easy to define as a penal offence and they agree with the comment of the representative of the United States that the inclusion of such a phrase in the Covenant might encourage the enactment of legislation limiting freedom of speech and of the Press. They therefore propose the deletion of the words "or hatred".

1/ 1. For comments by the representative of the United States made at the fifth session, see document E/1371, Annex II, page 35.

2. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, at its third session, considered that this Article (as well as articles 13, paragraph (d), 16 and 20) was one of the texts of the draft covenant related to the prevention of discrimination and the protection of minorities, and decided that the text for article 21, as proposed by the representative of the USSR, was not acceptable; but that the Sub-Commission would support the inclusion of the alternative text proposed by the representative of France, (document E/CN.4/358, E/CN.4/Sub.2/117, Page 24)

/3. Philippines

3. Philippines

This article should be formulated as follows:

"Every act which tends to stir up hatred or violence against any person or group of persons by reason of race, colour, sex, language, religion, political, economic or other opinion, national or social origin, property, educational attainment, birth or other status, shall be prohibited by the law of the State."

If freedom of speech and of the press is included in this Covenant, as it should be included, then article 21 is necessary.

4. Netherlands

The provisions proposed by the representatives of France and the Union of Soviet Socialist Republics do not fit in with the system of the Covenant and should therefore not be included in the Covenant.

5. France

The French Government still favours the following text, which was proposed by its representative at the fifth session of the Commission on Human Rights:

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

Article 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 defined herein or at their limitation to a greater extent than is already provided for in this Covenant.

2. Nothing in this Covenant may be construed as limiting or derogating from any of the rights and freedoms which may be guaranteed to all under the laws of any Contracting State or any conventions to which it is a party.

United States

Paragraph 1. This paragraph should be omitted from the Covenant because it is vague, unnecessary and open to abuse.

Paragraph 2. This paragraph should be omitted from the Covenant because it is vague, unnecessary and open to abuse.

PART III

Article 23<sup>1/</sup>

1. This Covenant shall be open for signature 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 States have deposited such instruments, the Covenant shall come into force between 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 ratified or acceded, of the deposit of each instrument of ratification or accession.

1. United States

Paragraph 1. No change is proposed.

Paragraph 2. Insert the figure "15" before the word "States" in the first sentence, so that this paragraph would read as follows:

"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 15 States have deposited such instruments, the Covenant shall come into force between 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."

Paragraph 3. No change is proposed.

2. United Kingdom

His Majesty's Government agree with the comments of the representative of the United States on this article as recorded in annex II to the Commission's report (E/1371).

<sup>1/</sup> For comments by the representative of the United States made at the fifth session, see document E/1371, annex II, page 36.

/3. Yugoslavia

3. Yugoslavia

The right of accession should be granted also to States not members of the United Nations, subject to the right of the General Assembly to exclude a particular non-member State when there exist reasonable grounds for it.

4. France

Paragraph 2: the French Government proposes that the entry into force of the Covenant should be contingent on ratification by a majority of the Members of the United Nations, including the permanent members of the Security Council.

Article 24<sup>1/</sup> 2/

Note. The Commission decided by 12 votes to none, with 3 abstentions, to submit the following texts to Governments together with the record of the discussions at its fifth session.

I. Text contained in the report of the third session of the Commission (E/800)

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.<sup>7</sup>

II. Texts before the Commission at its fifth session

1. Text proposed by the representative of the United States of America to replace paragraph (a)

In(a) With respect to any articles of this Covenant which the Federal Government regards as appropriate under its constitutional system, in whole or in part, 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;<sup>7</sup>

2. Text proposed by the representative of India:

In(a) In respect of any articles 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 are not federal states.

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1/ See document E/CN.4/SR.129.

2/ For comments by the representative of the United States made at the fifth session, see document E/1371, annex II, page 36.

In(b) In respect

(b) In respect of any articles of this 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), the Federal Government shall bring such provisions with favourable recommendations to the notice of the appropriate authorities of the units.]

3. Text proposed by the representative of the United Kingdom for the second sub-paragraph:

[Each Federal State party to this Covenant shall at the request of another State party report what effect has been given to the provisions of this Covenant by the Governments of the constituent States, provinces or cantons following the recommendation referred to in the preceding paragraph.]

1. United States

This article should read as follows:

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

(a) With respect to any articles of this Covenant which are determined in accordance with the constitutional processes of that State to be appropriate in whole or in part 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) With respect to articles which are determined in accordance with the constitutional processes of that State to be appropriate in whole or in part for action by the constituent states, provinces, or cantons, the federal government shall bring such articles, with favourable recommendation, to the notice of the appropriate authorities of the states, provinces or cantons at the earliest possible moment."

2. United Kingdom

Articles 24 and 25

His Majesty's Government will support the inclusion in the Covenant of Articles intended to make suitable provision for the particular constitutional circumstances of Federal States or of Metropolitan States with dependent overseas territories.

2. In this connexion, His Majesty's Government has noted with interest the decision of the Social Commission at its fourth session (E/CN.5/SR.76, pages 3 - 7 and E/1359, pages 22) that it was not competent to decide questions of international law such as are raised by these two articles and to "refer consideration of the Article to a higher body". His Majesty's Government consider that the Social Commission has established a useful precedent by this decision and suggest that the Human Rights Commission should follow the same procedure and to refer these two Articles to the Economic and Social Council, which should in its turn refer them to the Sixth Committee of the General Assembly.

3. There is one further comment which his Majesty's Government in the United Kingdom feel obliged to make in this connexion. The constitutional circumstances which oblige them to press for the inclusion in many international agreements of a Colonial Application Article have been explained by United Kingdom delegates on many occasions in many different bodies of the United Nations. His Majesty's Government feel bound to point out that these constitutional considerations apply with all their force to the Covenant on Human Rights. If therefore the Covenant, as finally drawn up, has no such article His Majesty's Government will have no option but to oppose it.

3. Philippines

The text proposed by the representative of India seems to be the most satisfactory.

4. Netherlands

The Netherlands Government prefer the text proposed by the representative of India supplemented by the text proposed by the representative of the United Kingdom.

5. France

The French Government would be willing to agree to the text contained in the draft communicated to the Secretary-General of the United Nations by the United States Government on 20 December 1949. This text is an improvement on that submitted by the United States Government at the third session of the Commission on Human Rights, since it is more objectively drafted and offers the additional advantage of being closer to the text submitted by the representative of India.



Article 25

Note. The Commission decided by 7 votes to 4, with 2 abstentions, to submit the following texts to Governments, together with the record of the discussion at its fifth session.<sup>1/</sup>

I. Texts contained in the report of the third session of the Commission (E/800)

(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 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 Union of Soviet Socialist Republics:

[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.]

II. Texts before the Commission at its fifth session

1. Text proposed by the representative of the United States of America:

[Any State may, at the time of signature or the deposit of its instrument of ratification or accession or at any time thereafter, declare by notification addressed to the Secretary-General of the United Nations that this Covenant shall extend to all or any of the territories for the international relations of which it is responsible. This Covenant shall extend to the territory or territories named in the notification from the date of receipt by the Secretary-General of the United Nations of this notification.]

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<sup>1/</sup> See document E/CN.4/SR.129.

Each State party to this Covenant undertakes to take as soon as possible the necessary steps in order to extend the application of this Covenant to such territories, subject, where necessary for constitutional reasons, to the consent of the Governments of such territories.]

2. Text proposed by the representative of the Union of Soviet Socialist Republics:

(If the Commission adopts in full the wording of article 25 proposed by the Drafting Committee (E/800) or a similar wording, redraft the first line to read:

"A State party to this Covenant shall..."

If the Commission adopts the text for article 25 proposed by the representative of the Soviet Union (E/800), the above amendment will disappear.)

3. Text proposed by the representative of the Philippines:

[The provisions of the present Covenant shall extend or be applicable to a signatory metropolitan State as well as to all the territories, be they non-self-governing, trust, or colonial territories, which are being administered or governed by such metropolitan State.]

1. United States

This article should read as follows:

"Any State may, at the time of the deposit of its instrument of ratification or accession or at any time thereafter, declare by notification addressed to the Secretary-General of the United Nations that this Covenant shall extend to all or any of the territories for the international relations of which it is responsible. This Covenant shall extend to the territory or territories named in the notification from the date of receipt by the Secretary-General of the United Nations of this notification.

"Each State Party to this Covenant undertakes, with respect to those territories to which the Covenant is not extended at the time of ratification or accession, to take as soon as possible the necessary steps in order to extend the application of this Covenant to such territories, subject, where necessary for constitutional reasons, to the consent of the Governments of such territories."

2. United Kingdom

(See under article 24 joint comments on articles 24 and 25)

/3. Philippines

3. Philippines

The text proposed by the representative of the Philippines should be adopted. It reads as follows:

"The provisions of the present Covenant shall extend or be applicable to a signatory metropolitan State as well as all the territories, be they non-self-governing, trust, or colonial territories, which are being administered or governed by such metropolitan State."

4. Netherlands

The Netherlands Government prefer the text proposed by the representative of the United States.

5. France<sup>1/</sup>

The French Government proposes to accept the text submitted by the United States Government at the fifth session:

"Any State may, at the time of signature or the deposit of its instrument of ratification or accession or any time thereafter, declare by notification addressed to the Secretary-General of the United Nations that this Covenant shall extend to all or any of the territories for the international relations of which it is responsible. This Covenant shall extend to the territory or territories named in the notification from the date of receipt by the Secretary-General of the United Nations of this notification.

"Each State party to this Covenant undertakes to take as soon as possible the necessary steps in order to extend the application of this Covenant to such territories, subject, where necessary for constitutional reasons, to the consent of the Governments of such territories."

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<sup>1/</sup> Articles 24 and 25 should be considered together since a number of States or Unions of States have a complex structure and in that way resemble Federal States.

Article 26

Note: The Commission decided by 9 votes to none, with 3 abstentions, to examine the following texts when article 23 was finally established, and to submit them to Governments, together with the record of the discussion at its fifth session.<sup>1/</sup>

I. Text contained in the report of the third session of the Commission (E/800)

(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.<sup>2/</sup>

II. Texts before the Commission at its fifth session

1. Text proposed by the representative of the United States of America.

An amendment to this Covenant shall come into force when it has been ratified by two-thirds of the States parties to this Covenant. Such an amendment shall be binding only on those parties which have ratified it.<sup>3/</sup>

2. Text proposed by the representative of Iran and the Philippines as an amendment to the above United States text.

Any signatory State or Member State of the United Nations shall have the right to initiate amendments to this Covenant.<sup>4/</sup>

3. Text submitted by the representative of the United Kingdom.

1. Proposed amendments to this Covenant shall first be considered by a Committee consisting of representatives of all parties to the Covenant and shall be submitted to the General Assembly for approval.

2. Such amendments shall come into force when they have been adopted by a resolution of the General Assembly and accepted by ... States parties to the Covenant in accordance with their respective constitutional processes.

<sup>1/</sup> See document E/CN.4/SR.130.

<sup>3/</sup> When such

Article 26 (Cont.)

3. When such amendments come into force they shall be binding on those parties which have accepted them, leaving other parties still bound by the provisions of the Covenant which they have accepted by accession, including earlier amendments which they have accepted.]

1. United States

This article should read as follows:

"1. Proposed amendments to this Covenant shall first be considered by a Committee consisting of representatives of all parties to the Covenant and shall be submitted to the General Assembly for approval.

"2. Such amendments shall come into force when they have been adopted by a resolution of the General Assembly and accepted by fifteen 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, leaving other parties bound by the provision of the Covenant which they have accepted by ratification or accession, including earlier amendments which they have accepted."

2. United Kingdom

His Majesty's Government considers that the General Assembly ought to approve amendments proposed to the Covenant before they are accepted by the parties to it.

3. Philippines

The text proposed by the representative of the United States together with the amendment suggested by the representatives of Iran and the Philippines is preferable. This article should therefore read as follows:

"An amendment to this Covenant shall come into force when it has been ratified by two-thirds of the States parties to this Covenant. Such an amendment shall be binding only on those parties which have ratified it.

"Any signatory State or member State of the United Nations shall have the right to initiate amendments to this Covenant."

/4. France

4. France

The French Government would be willing to support the text proposed by the United Kingdom representative at the fifth session of the Commission on Human Rights, subject to the changes made for the sake of greater accuracy; these changes are underlined in the following text:

"1. Proposed amendments to this Covenant shall first be considered by a Committee consisting of representatives of all parties to the Covenant and shall be submitted to the General Assembly for approval.

"2. Such amendments shall come into force when they have been adopted (French: adoptés) by the General Assembly and ratified (French: ratifiés) 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 ratified (French: ratifiés) 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 (French: ratifiés)."

The French Government also considers that the following article, previously proposed by its representative to the Commission on Human Rights, should be included in the Covenant after article 9 or article 10 of the present draft.

"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."

Lastly, the French Government feels that it would be desirable to alter the present numbering of the articles, as it would appear somewhat illogical to separate national guarantees (articles 2 to 4 inclusive) from international guarantees (articles 23 to 26) by the list of defined rights.

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PART II ADDITIONAL ARTICLES FOR THE COVENANT

A. GENERAL COMMENTS

1. United States (with special reference to the Australia and USSR proposals)

New Articles: Many of the proposals submitted by Australia and the USSR (set forth on pages 47-50 of document E/1371) deal with subjects which, in keeping with the spirit and intent of the Universal Declaration of Human Rights, would lend themselves to incorporation in international agreements "to secure their universal and effective recognition and observance". Depending upon the subject matter to be dealt with, such agreements in these fields might take the form of separate, detailed conventions or of additional articles incorporated in later, separate protocols to the International Covenant on Human Rights.<sup>1/</sup>

The United States believes, however, that the drafting of articles dealing with the types of subjects covered in many of the Australian and USSR proposals should be undertaken only after the most careful consideration and the fullest possible exploration, especially in the light of the differing levels of economic and social development attained or attainable in each of the Member States, of what provisions can, with any degree of feasibility and efficacy, be included in such agreements. Such consideration and exploration will take considerable time.

The Commission has already devoted several years to the development of the articles in the draft Covenant. To undertake, at this time, the consideration, exploration and drafting of articles dealing with many of the subject matters dealt with in the new articles proposed by Australia and USSR would, in the view of the United States, seriously hamper the completion of the Covenant at the next session of the Commission. It is important, the United States feels, that every possible effort should be made for the completion of the Covenant at the next session of the Commission in order that the draft Covenant may be forwarded to the Economic and Social Council in time to enable the Council to submit the draft Covenant to the General Assembly for its consideration at its fifth (1950) session.

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<sup>1/</sup> The subject of trade union rights is of course already provided for in article 19 of the draft Covenant.

/However,

However, in order that there may be the speediest possible progress made in the progressive developments of such international agreements as may be found feasible of being undertaken to secure the universal and effective recognition and observance of the human rights set forth in the Universal Declaration, the United States proposes that the Commission, at its next session, begin the exploration of the extent to which it would be feasible to include in subsequent conventions or protocols matters dealt with in the Universal Declaration but not to be included in the initial covenant on human rights. It is the feeling of the United States that, in the course of such exploration, the Commission not only should consider carefully the report of the Secretary-General undertaken, pursuant to the Commission's resolution at its fifth session, with respect to the activities of other bodies of the United Nations and the specialized agencies in matters within the scope of articles 22-27 of the Universal Declaration but also should obtain the views of and the facts available to such bodies and agencies bearing upon the measures which may, in the light of economic development among the Member States, be undertaken with respect to these matters.

2. Philippines<sup>1/</sup>

Two kinds of additional articles are necessary:

- (1) On economic and social matters; and
- (2) On other subjects.

3. France<sup>2/</sup>

In accordance with the principles set forth in the Preamble to the Constitution of the French Republic, the French Government is prepared to join in the drafting of any convention calculated to give effect to the articles of the Universal Declaration which cover the rights and freedoms not defined in the first draft Covenant.

It recognizes, moreover, the important functions entrusted to the Commission on Human Rights under Article 68 of the United Nations Charter.

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<sup>1/</sup> See the Philippine's proposals concerning these two types of additional articles, under Sections B and K below.

<sup>2/</sup> See also under Section B below.

Yet, the French Government would point out that thorough technical discussions will be necessary to define certain rights to be guaranteed by a convention, including the right to nationality, asylum and child welfare. Such discussions, even if conducted under the auspices and supervision of the Commission on Human Rights, cannot be organized in time for their results to be incorporated in the present draft Covenant of Human Rights which world public opinion considers should be concluded in the near future.

B. GENERAL COMMENTS ON ARTICLES ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

1. United Kingdom

His Majesty's Government are opposed to the inclusion of articles dealing with these rights in the Covenant. In their view it is impossible, within the limits of this instrument, to define such rights and any permissible limitations of them with sufficient precision to form the subject of international obligations. Experience has proved that to prescribe effectively the obligations of States in securing these economic and social rights to their citizens it is necessary to detail elaborate regulations such as are contained in the many existing conventions and similar instruments of the specialized agencies within whose competence it properly lies to deal with the subjects in question. It would not be appropriate that provisions of this elaborate nature should be included in the Covenant; on the other hand any brief statement of obligations in general terms would be meaningless in the case of those rights and completely ineffective in securing them. For these practical reasons His Majesty's Government consider that the articles should not be included in the Covenant.

2. Philippines

The following additional articles on economic and social matters are proposed by the Philippines in its comments:

1. No one shall be unjustly deprived of his citizenship nor for any cause denied the right to change his citizenship (Revised form of article 15, Declaration of Human Rights)
2. Men and women of the age fixed by law, without any limitation due to race, nationality, religion, or social or economic condition, have a right to marry and to form a family. (Revised version of article 16 of the Declaration of Human Rights)
3. Every child is entitled to parental care, to receive at least free elementary education, and to live in an atmosphere conducive to his physical, moral and intellectual development. (From article 356, New Civil Code of the Philippines)
4. (1) Every person has a right to work under just terms and conditions.  
(2) The State shall provide for the fixing of minimum wages, which shall afford every one and his family a safe and worthy  
/existence.

existence. There shall be equal pay for equal work. (From article 23, paragraph 2, Declaration of Human Rights)

- (3) The State shall fix the hours of work so that they shall neither be excessive nor unreasonable. There shall be holidays with pay. The work of women and children shall be strictly regulated for their protection.
- (4) The State shall establish, in so far as practicable, a social security system for old age, sickness, disability, accident, unemployment, orphanhood, widowhood and other causes of need.
- (5) Trade unions shall not be interfered with, except for the maintenance of public order and the prevention of fraud or intimidation.

3. Denmark

The Danish Government considers that articles dealing with economic and social questions should not be included in the Covenant.

4. Netherlands

For the time being the Netherlands Government deem it unadvisable that provisions concerning economic and social matters should be included in the Covenant; in case this should happen it would be difficult to adopt different measures of implementation with regard to the sections of the Covenant concerned.<sup>1/</sup>

5. Yugoslavia

The provisions on economic and social rights of man should be included in the Covenant, and these provisions should be implemented in the same way as the other articles of the Covenant.

6. France

(For the paragraphs which precede this part of the Comments of the French government, see Part II, A, above)

The French Government also points out that it will be desirable to conduct at least equally thorough technical discussions with a view to finding suitable

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<sup>1/</sup> (From the Netherland's reply to the questionnaire on measures of implementation)

formulae for the affirmation, in the first draft convention, in sufficiently precise form, of a number of other rights of vital importance, namely the social, economic and cultural rights which are already or soon will be engaging the particular attention of such specialized agencies as the ILO, UNESCO, WHO, FAO and others, all of which are bodies to which most United Nations Members belong.

In these circumstances the French Government feels that it would be advisable to defer study of this particular problem for the time being.

The advantage of this would be that it would enable the formulation of the present convention to be improved. Moreover, the intervening period between now and the next convention might with advantage be employed in the search for a special method of collaboration between the Member States which belong to the specialized agencies concerned and the Member States which are not represented on these agencies, with a view to drafting the international conventions which will define and guarantee certain categories of rights.

Should the Commission on Human Rights, however, deem it necessary and possible here and now to find a suitable definition for some, at least, of the rights in question, the French Government would then reserve the right to submit certain proposals.

#### 7. India

To make the Covenant acceptable to a large number of States, the Government of India are of the opinion that the present Covenant should not include economic and social rights for which a separate covenant or covenants might be drawn up later.....

As the Government of India are in favour of the provision of socio-economic rights in a separate covenant or covenants, new articles, if necessary, will be proposed when the separate covenant is taken up.

C. COMMENTS ON TRADE UNION RIGHTS

1. United States

The subject of trade union rights is of course already provided for in Article 19 of the draft Covenant. (Footnote to the United States comment on new articles.)

2. United Kingdom

With regard to trade union rights, His Majesty's Government consider that article 19 deals with the right of association in a manner suitable to the nature of the Covenant. Detailed provisions regarding a particular type of association would be inappropriate there, and, in the case of trade union rights, are better left to the body specially competent in such matters, the ILO which has in fact adopted two recent conventions dealing specifically with such rights, the Convention concerning Freedom of Association and Protection of the Right to Organize (1948) and the Convention concerning the Right to Organize and to Bargain Collectively (1949).

3. Philippines

Trade unions shall not be interfered with, except for the maintenance of public order and the prevention of fraud or intimidation.

(From the additional articles on economic and social matters proposed by the Philippines.)

D. ARTICLES ON ECONOMIC, SOCIAL AND CULTURAL MATTERS  
PROPOSED BY THE USSR

Text of articles proposed by the representative of the Union of Soviet Socialist Republics to precede the present article 22 of the draft covenant

[It is the duty of the State to guarantee to everyone the right to work and to choose his occupation in such a manner as to create conditions which will exclude the threat of death from hunger and from exhaustion.]

[Women shall enjoy in their work rights and privileges which shall not be less than those enjoyed by men and they shall receive equal pay with men for equal work.]

[The right to rest and leisure shall be guaranteed by the State to everyone employed in enterprises and institutions, either by law or on the basis of collective agreements providing, in particular, for a reasonable limitation of working hours and for periodic holidays with pay.]

[Social security and social insurance for workers and employees shall be effected at the expense of the State or at the expense of the employers in accordance with the laws of each country.]

[The State shall take all necessary measures, legislative measures in particular, to ensure decent living accommodation to every person.]

[Access to education shall be open to all without distinction of race, sex, language, economic situation or social origin and this right shall be ensured by the State by the provision of free elementary education, a system of scholarships and the requisite system of schools.]

[The State shall ensure the development of science and education in the interests of progress and democracy and in the interests of ensuring international peace and co-operation.]

[1. The implementation of trade union rights, which are inviolable and essential for improving the life and economic welfare of workers, shall be guaranteed to all hired workers without distinction as to nationality, race, religion, sex, occupation, political or philosophical views.

2. All regulations of whatever kind directed against trade union organizations by hired workers and employees shall be prohibited.

3. Trade union organizations shall have the right freely to elect all their representatives, to make their own administrative arrangements and democratically to fulfil their functions and tasks in the interests of their members, and shall be protected against any interference on the part of public authorities or officials. Public authorities or officials may not attempt to exert pressure of any kind whatsoever, whether directly or indirectly, upon trade unions and their members. Public authorities or officials shall be required

/to abstain from



to abstain from founding, financing or interfering in the direction of trade union organizations.

4. The right to strike shall be guaranteed.

5. Legislative measures shall be adopted to enable trade union organizations to participate in the determination of economic and social policy in undertakings and on the local, regional and national levels.

6. Trade union organizations shall have the right to amalgamate on a trade, inter-union, local, regional and national basis and to affiliate to international trade union organizations.

7. No one may prevent an international trade union organization from fulfilling its functions and communicating with the organizations affiliated to it.]

1. United States

(See reference to this proposal in the United States comments compiled in Part II A, above)

2. Netherlands

The matters with which these articles deal are not suitable as yet to be regulated in detail in the present draft Covenant. Partly they are, moreover, under the competence of specialized agencies such as the International Labour Organisation which already has dealt with or is still dealing with some of the above-mentioned matters.

E. ARTICLES ON ECONOMIC, SOCIAL AND CULTURAL MATTERS PROPOSED BY AUSTRALIA

Text of articles proposed by the representative  
of Australia

Every person shall have the right to work, and each State shall take such measures as may be within its power to ensure that all persons ordinarily resident in its territory have an opportunity for useful work.

In order to ensure fair and reasonable wages and working conditions, in occupations where wages and conditions are not determined by collective bargaining, or other arrangements are not available against exceptionally low wages, the State shall establish and maintain machinery for fixing minimum wages and conditions.

Everyone shall have the right to social security through medical care and to safeguards against absence of livelihood caused by unemployment, illness or disability, old age, or other reasons beyond his control.

Each State shall ensure by law that there shall be reasonable limitations on working hours.

Everyone has the right to education. Free education shall be available for all at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be equally accessible to all on the basis of merit.

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

1. United States

(See reference to this **proposal** in the United States comments compiled in Part II.

2. Netherlands

The observations made with regard to the proposals of the USSR representative apply also to these proposals.

F. COMMENTS ON ARTICLE PROPOSED BY FRANCE ON PERSONS DEPRIVED  
OF LIBERTY AND ON PENITENTIARY SYSTEMS

Text of article proposed by the representative of France to  
to follow the present article 9 or 10 of the draft covenant

[All persons deprived of their liberty shall be treated  
with humanity. Accused persons shall be preserved from any  
corrupting influence.

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

1. United Kingdom

Since by its very nature this article applies only to a small element in  
the population it cannot, in the opinion of His Majesty's Government, be held to  
deal with a fundamental human right. His Majesty's Government therefore consider  
it inappropriate for inclusion in the Covenant.

2. Netherlands

The proposed article does not fit in with the system of the Covenant, as it  
is not the formulation of a human right or freedom. In connexion with the  
provisions of article 6 of the draft Covenant the first sentence of the proposed  
article seems redundant.

G. COMMENTS ON ARTICLE PROPOSED BY THE UNION OF SOVIET SOCIALIST REPUBLICS  
ON PARTICIPATION IN THE GOVERNMENT OF THE STATE

Text of article proposed by the representative of the Union of Soviet Socialist Republics to precede the present article II of the draft covenant

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.7

1. United Kingdom

His Majesty's Government in the United Kingdom do not consider that participation in the government of the State can be dealt with thus briefly in one article. In no State has the right either to vote or to take part in the government been enjoyed even by citizens without any qualification. The qualifications required have differed, and it is His Majesty's Government's view that the variety of circumstances to be considered may justify the imposition of a variety of qualifications as a condition of the exercise of these rights. They do not therefore consider that the Covenant should contain an article on this subject.

2. Netherlands

The Netherlands Government doubt whether any article concerning this matter belongs in the present draft Covenant. In any event they prefer the text of the paragraphs 1 and 2 of article 21 of the Universal Declaration of Human Rights.

H. COMMENTS ON ARTICLE PROPOSED BY THE USSR ON NATIONAL  
SELF-DETERMINATION AND ON NATIONAL MINORITIES

Text of article proposed by the representative of the Union of Soviet Socialist Republics to precede the present article 20 of the draft Covenant

Every people and every nation shall have the right to national self-determination. States which have responsibilities for the administration of Non-Self-Governing Territories shall promote the fulfilment of this right, guided by the aims and principles of the United Nations in relation to the peoples of such Territories.

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.

1. United Kingdom

The right to national self-determination cannot, in the opinion of His Majesty's Government, be described as a right of the individual. The inclusion of an article to deal with it would therefore, in their opinion be inappropriate.

Since the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities is considering the question of the inclusion in the Covenant of provisions regarding the protection of minorities His Majesty's Government consider that it would be desirable to await the Sub-Commission's proposals before deciding on such an article.

2. Netherlands

This article should not be included in the Draft Covenant, as this question falls under the competence of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

I. COMMENTS ON ARTICLE PROPOSED BY THE UNITED KINGDOM ON  
DECLARATIONS BY STATES ACCEDING TO THE COVENANT

Text of article proposed by the representative of the United Kingdom to follow the present article 23 of the draft covenant

Every instrument of accession shall be accompanied by a statement that the provisions of this Covenant have been accepted as international obligations in accordance with the necessary constitutional procedure of the acceding State, and by a solemn declaration of the State that full and complete effect to these provisions is or is about to be given by the law of that State.

1. Netherlands

This article would seem to be redundant.

J. COMMENTS ON ARTICLE PROPOSED BY DENMARK ON RESERVATIONS TO THE COVENANT

Text of article proposed by the representative of Denmark to follow the present article 23 of the draft covenant

If the existing laws of a State regarding any of the specific rights and freedoms defined in this Covenant do not give full effect to the provisions of the Covenant, such State may, by an express statement made to that effect on deposit of its instrument of ratification or accession, reserve its right to maintain its existing law on the subject.

Any State making such a reservation shall furnish the Secretary-General of the United Nations with full information on its domestic law regarding the questions covered by the reservation, and the Secretary-General shall bring such information to the attention of other States parties to the Covenant. Furthermore, a State making any such reservation undertakes to examine the possibilities of modifying its legislation, within a reasonable space of time, with a view to giving full effect to the provisions of this Covenant. The competent organs of the United Nations may request the State to inform them what progress is being made in this respect.]

1. United Kingdom

Although they consider this particular text too wide, His Majesty's Government in the United Kingdom are sympathetic to the idea contained in it. The representatives of the United Kingdom on the Commission have always advocated the precise enumeration of the limitations permissible on each of the rights with which the Covenant deals. His Majesty's Government is still emphatically of the opinion that only a Covenant drafted on these lines will be effective. They do not therefore favour the drafting of the Covenant in the form which is apparently envisaged by the representative of Denmark, i.e. that the Covenant should consist merely of a series of unqualified statements of rights to which States, in acceding, would attach their own lists of limitations. Such a Covenant would, in the opinion of His Majesty's Government, be in danger of being misunderstood by the general public. There are certain limitations to each right which are required by all Governments alike and these, in the opinion of His Majesty's Government, should be enumerated in the text of the Covenant itself. On the other hand, His Majesty's Government recognize that some Governments may, owing to the particular circumstances applicable in their territories, reasonably require to impose further limitations on particular rights. If there were no provisions made in the Covenant for meeting the requirements of such Governments they would be unable to accede to /it. His

it. His Majesty's Government are therefore giving consideration to an article on the lines suggested by the representative of Denmark which would allow such Governments, when acceding to the Covenant, to make particular reservations in the case of particular articles.

2. Denmark

As regards the additional articles proposed by members of the Commission which are listed in annex I, under B of the report, the Danish Government would prefer the inclusion in the Covenant of the article proposed by the Danish representative for insertion after article 23 and reproduced on pages 50 and 51 of the mimeographed document E/1371. The intention of the article in question is to enable each of the acceding States to make reservations on individual provisions of the Covenant. It is held that such an article in the form proposed by the Danish representative would make it easier to give effect to the Covenant without lowering the general level of its provisions.

3. Netherlands

The Netherlands Government deem it useful to include an article concerning the possibility of acceptance with reserves as this may lead a greater number of states to ratify or to accede to the Covenant.



K. ADDITIONAL ARTICLES ON OTHER SUBJECTS PROPOSED  
IN ITS COMMENTS BY THE PHILIPPINES

Philippines

The following are additional articles on other subjects:

1. "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".

2. "No one shall be deprived of his property without due process of law."

This guaranty is found in many constitutions. No Covenant of human rights is complete without such a safeguard against confiscation.

3. "No private property shall be taken unless just compensation has first been paid."

This is also an important guaranty against confiscation of property.

L. PROPOSALS OF THE SUB-COMMISSION ON PREVENTION OF  
DISCRIMINATION AND PROTECTION OF MINORITIES.

1. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, at its second session, adopted a proposal recommending that the Commission on Human Rights include in the draft Covenant a provision pledging the contracting States not to use governmental licensing arrangements, or to permit restrictions, prohibiting the entry into any business, profession, vocation or employment of a citizen by reason of his race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (document E/CN.4/351, paragraph 18).

2. The Sub-Commission also adopted at that session a recommendation for the Commission on Human Rights to include in the draft International Covenant on Human Rights a provision pledging each contracting State to furnish the Secretary-General, at his request, with full information regarding legislative measures for the protection of any minority within their jurisdiction, and regarding the status of such minorities in the light of the provisions of the Universal Declaration of Human Rights (document E/CN.4/351, paragraph 22).

3. At its third session, the Sub-Commission decided to submit to the Commission on Human Rights for inclusion in the International Covenant on Human Rights, the following article on measures for the protection of minorities:

"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." (document E/CN.4/358, paragraph 47).

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