

**ECONOMIC
AND
SOCIAL COUNCIL**

**CONSEIL
ECONOMIQUE
ET SOCIAL**

UNRESTRICTED

E/CN.4/95
21 May 1948ORIGINAL: ENGLISH-
FRENCH

COMMISSION ON HUMAN RIGHTS
DRAFTING COMMITTEE
Second Session

REPORT OF THE DRAFTING COMMITTEE TO THE
COMMISSION ON HUMAN RIGHTS

1. The second session of the Drafting Committee of the Commission on Human Rights opened on Monday, 3 May 1948, at the Interim Headquarters of the United Nations, Lake Success, New York. The Drafting Committee held twenty-five plenary meetings and terminated its work on Friday, 21 May 1948.

2. The following Representatives from Member Nations on the Drafting Committee attended:

Chairman:

<u>Mrs. Franklin D. Roosevelt</u>	<u>(United States of America)</u>	<u>Representative</u>
-----------------------------------	---------------------------------------	-----------------------

Vice-Chairman

and

Rapporteur:

<u>Dr. Charles Malik</u>	<u>(Lebanon)</u>	<u>Representative</u>
Mr. E. J. R. Heyward	(Australia)	Alternate
Mr. H. Santa Cruz	(Chile)	Representative
Dr. T. Y. Wu	(China)	Alternate
Prof. René Cassin	(France)	Representative
Mr. A. P. Pavlov	(Union of Soviet Socialist Republics)	Alternate
Mr. Geoffrey Wilson	(United Kingdom)	Alternate

3. The following representatives of Specialized Agencies were also present at the session:

Mr. Pierre Lebar	United Nations Educational, Scientific and Cultural Organization
Mr. Oliver Stone	International Refugee Organization
Mr. Wilfred Jenks, and)	International Labour Organization
Mr. R. W. Cox)	

/4. The following

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

Category A

Miss Toni Sender

Mr. J. Betten

Mr. Clark M. Eichelberger

American Federation of Labor

International Federation of
Christian Trade Unions

World Federation of United Nations
Associations

Category B

Dr. O. Frederick Nolde and)

Mr. S. Prentice, Jr.

Mr. M. Moskowitz

Mr. A. Liverhant

Commission of the Churches on
International Affairs

Consultative Council of Jewish
Organizations

Co-ordinating Board of Jewish
Organizations for Consultation with
the Economic and Social Council
of the United Nations

Mrs. Frieda S. Lidicker

International Alliance of Women -
Equal Rights, Equal Responsibilities

Prof. V. V. Pella

International Association of Penal
Law and International Bureau for
the Unification of Penal Law

Miss M. Strahler

International Committee of the
Red Cross

Miss M. Burgess

International Federation of Business
and Professional Women

Dr. Janet Robb

International Federation of University
Women

Miss C. Schafer

International Union of Catholic
Women's Leagues

Mrs. Lois Jessup

International Voluntary Service for
Peace

Mrs. F. C. Sawyer

Liaison Committee of Women's
International Organizations and
Associated Countrywomen of the
World

Mr. S. D. Wolkowicz and)

World Jewish Congress

Dr. F. R. Bienenfeld)

5. Having received communications from the Governments of France and Australia designating Mr. ORDONNEAU and Mr. HEYWARD as alterantes for the

/second session

second session for Professor CASSIN and Mr. HOOD respectively, the Drafting Committee decided that in accordance with the Rules of Procedure of Functional Commissions of the Economic and Social Council Mr. ORDONNEAU and Mr. HEYWARD had the right to vote. Owing to the fact that Professor CASSIN arrived on 10 May, before the termination of the session, he took his place in the Drafting Committee and voted. The Drafting Committee decided that this could not be considered as setting a precedent, and recommended that the Commission on Human Rights request the Economic and Social Council to reconsider the voting procedure established in the Rules of Procedure in regard to the voting rights of alternates.

Dr. AZKOUL (Lebanon) attended diverse meetings of the Drafting Committee, but did not vote, as alternate for Dr. Charles MALIK.

Mr. James P. HENDRICK participated without vote in one meeting of the Drafting Committee as alternate for Mrs. Franklin D. ROOSEVELT.

6. Professor John P. HUMPHREY, Director of the Division of Human Rights, represented the Secretary-General. Mr. John MALE and Mr. Edward LAWSON acted as Secretaries of the Committee.

7. The Drafting Committee adopted the Provisional Agenda (E/CN.4/AC.1/16) as its Agenda. The Committee discussed the Draft International Covenant on Human Rights first and then the Draft International Declaration on Human Rights, but it did not have the time to discuss the question of implementation.

8. The Drafting Committee took into account, in the course of its work, (a) the observations, suggestions, and proposals of governments on the draft of an International Declaration on Human Rights and the draft of an International Covenant on Human Rights prepared by the Commission on Human Rights at its second session (documents E/CN.4/82/Rev.1 and E/CN.4/82/Add.1 to 10); (b) the opinion of the United Nations Conference on Freedom of Information on Articles 17 and 18 of the Draft International Declaration on Human Rights and Article 17 of the Draft International Covenant on Human Rights (document E/CN.4/84); and (c) the suggestions made by the Commission on the Status of Women regarding the Draft International Declaration on Human Rights (document E/CN.4/81); but did not have the time to consider the instructions of the Economic and Social Council regarding implementation (Resolution 116 (VI) F).

9. The expression of the views of the members of the Drafting Committee is embodied in the summary records of meetings of the Committee (E/CN.4/AC.1/SR.20 to 44).

/10. On the basis

10. On the basis of its deliberations, as recorded in the summary records, the Drafting Committee prepared and forwarded to the Commission on Human Rights a redraft of the Draft International Declaration on Human Rights, appended to this Report as Annex A; and a redraft of the Draft International Covenant on Human Rights, appended to this Report as Annex B.

ANNEX A

DRAFT INTERNATIONAL DECLARATION ON HUMAN RIGHTS

Article 1

(The Drafting Committee did not have the time to consider this Article)

All men are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another like brothers.

Article 2

(The Drafting Committee did not have time to consider this Article)

In the exercise of his rights everyone is limited by the rights of others and by the just requirements of the democratic State. The individual owes duties to society through which he is enabled to develop his spirit, mind and body in wider freedom.

Article 3

(The Drafting Committee did not have time to consider this Article)

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

2. All are equal before the law regardless of office or status and entitled to equal protection of the law against any arbitrary discrimination or against any incitement to such discrimination, in violation of this Declaration.

Article 4

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

Article 5 (formerly Article 8)

Slavery is prohibited in all its forms.

Article 6 (formerly Article 5)

(Geneva text)

No one shall be deprived of his personal liberty or kept in custody except in cases prescribed by law and after due process. Every one placed under arrest or detention, shall have the right to immediate judicial determination of the legality of any detention to which he may be subject and to trial within a reasonable time or to release.

Article 7 (formerly Article 6)

(Geneva text)

Every one shall have access to independent and impartial tribunals in the determination of any criminal charge against him, and of his rights and obligations. He shall be entitled to a fair hearing of his case and to have the aid of a qualified representative of his own choice, and if he appears in person to have the procedure explained to him in a manner in which he can understand it and to use a language which he can speak.

/Article 8

Article 8 (formerly Article 7)

(Geneva text)

1. Any person is presumed to be innocent until proved guilty. No one shall be convicted or punished for crime or other offence except after fair public trial at which he has been given all guarantees necessary for his defence. No person shall be held guilty of any offence on account of any act or omission which did not constitute such an offence at the time when it was committed, nor shall he be liable to any greater punishment than that prescribed for such offence by the law in force at the time when the offence was committed.
2. Nothing in this Article shall prejudice the trial and punishment of any person for the commission of any act which, at the time it was committed, was criminal according to the general principles of law recognized by civilized nations.
3. No one shall be subjected to torture, or to cruel or inhuman punishment or indignity.

(Note 1: The Drafting Committee drafted the following article, in substitution of Articles 6, 7 and 8 above, and although it was rejected by a vote of 2 for, 3 against and 2 abstentions by the members of the Committee, it was decided to forward it nevertheless to the full Commission. The text of this alternative article reads as follows:

1. No one may be arbitrarily deprived of his liberty. Arrest, detention or imprisonment may be allowed only according to pre-existing law and in accordance with due process.
2. Every one who has been deprived of his liberty has the right to promptly informed of the reasons for his detention. Every one placed under arrest, detention or imprisonment shall have the right to immediate judicial determination of the legality of any detention to which he may be subject and to trial within a reasonable time or to release.
3. No one shall be imprisoned merely on the grounds of inability to meet a contractual obligation.
4. Every one has the right to compensation in respect of any unlawful arrest or deprivation of liberty.
5. The rights and obligations of each person and the criminal accusations against him must be determined or judged by independent and impartial tribunals, before which tribunals all persons are equal.
6. Every one accused of an offence must be judged within a reasonable time by courts established beforehand and in accordance with pre-existing laws in a public trial. The foregoing provision shall not prejudice the trial and punishment of any person for the commission of any act which, at the time it was committed, was criminal according to the general principles of law recognized by civilized nations.

/During the

During the trial, every one is entitled to:

- (a) the right to a fair hearing;
- (b) the right, in all criminal cases, to be presumed innocent until proved guilty; and
- (c) the right of defence. When any person who does not know the national language is prosecuted, he shall be assured full knowledge of all the material in the case through an interpreter and shall also have the right to address the court in his native language.)

(Separate Article)

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

(Note 2: The representative of the Soviet Union proposed the addition of the following to the second sentence of the first paragraph of Article 8, after the word "trial" (unofficial translation):

"subject to exceptions prescribed by law in order to guarantee to the accused person the right of defence.")

Article 9

Every one is entitled to protection under the law from unreasonable interference with reputation, family, home or correspondence.

Article 10

1. Every one is entitled to freedom of movement and residence within the borders of each State.

2. Every one has the right to leave any country, including his own.

Article 11

1. Every one has the right to seek and may be granted, in other countries, asylum from persecution.

2. Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution.

(Note: The representative of the Soviet Union proposed that the following text be substituted for the above text of Article 11 (unofficial translation):

"The right of asylum shall be granted to everyone persecuted because of his activity in defence of democratic interests, because of his activity in the field of science, or because of his participation in the struggle for national liberty.")

Article 12

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

/Article 13

Article 13

1. Men and women shall have equal rights as to marriage in accordance with the law. Marriage may not be contracted without the full consent of both intending spouses and before the age of puberty.
2. Marriage and the family shall be protected by the State and Society.

Article 14

Every one has the right to own such property as meets the essential needs of decent living, that helps to maintain the dignity of the individual and of the home, and shall not be arbitrarily deprived of it.

Article 15

Every one has the right to a nationality.

(Note: The representative of the Soviet Union proposed the addition of the following text after the first sentence of Article 15 (unofficial translation):

"The cases and the procedure of depriving a person of his nationality must be determined by national legislation.")

Article 16

1. Individual freedom of thought and conscience, to hold and change beliefs, is an absolute and sacred right.
2. Every person has the right, either alone or in community with other persons of like mind and in public or private, to manifest his beliefs in teaching, practice, worship and observance.

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

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

Articles 17 and 18

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

Every one shall have the right to freedom of thought and expression; this right shall include freedom to hold opinions without interference and to seek, receive and impart information and ideas by any means and regardless of frontiers.

II. Text submitted by the Union of Soviet Socialist Republics

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

/2. In order to

2. In order to ensure the right of the free expression of opinion for large sections of the peoples and for their organizations, State assistance and co-operation shall be given in providing the material resources (premises, printing presses, paper, and the like) necessary for the publication of democratic organs of the press.

Article 19

Every one has the right to freedom of peaceful assembly and to participate in local, national, international and trade union associations for the promotion, defence and protection of purposes and interests not inconsistent with this Declaration.

(Note: The representative of the Soviet Union proposed that the following be substituted for the text of Article 19 (unofficial translation):

"In the interest of democracy the freedom of assembly of public demonstration, of procession and of organization, of voluntary associations and unions and other organizations having a nazi, fascist or anti-democratic character, as well as their activity in whatever form shall be forbidden under penalty of the law.")

Article 20

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

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

Articles 21 and 22

(Geneva Text)

1. Every one without discrimination on grounds of race, sex, languages, religious belief or social origin and not under any legal disability has the right to take an effective part in the Government of his country. The State shall conform to the will of the people as manifested by elections which shall be periodic, free, fair and by secret ballot.
2. Every one shall have equal opportunity to engage in public employment and to hold public office in the State of which he is a citizen or a national.
3. Access to public employment shall not be a matter of privilege or favour.

Alternative text suggested by the United States

Every one is entitled to:

- (a) the right to take an effective part in the government of the State of which he is a national, including the right to participate in free and fair elections held periodically by secret ballot, and including opportunity to hold office and to engage in public employment; and

- (b) the right to a government which conforms to the will of the people,
/with full

with full freedom for minority opinion to persist and, if such is the people's will, to become the effective majority.

(Note: The Drafting Committee, not having had time to consider the following Articles - 23 to 33 inclusive - in detail, decided to transmit them to the Commission on Human Rights in the form as drafted by the Commission in Geneva, together with such alternative texts as members of the Drafting Committee expressly proposed for this purpose).

Article 23

(Geneva text)

1. Every one has the right to work.
2. The State has a duty to 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.
3. The State is bound to take all necessary steps to prevent unemployment.

Alternative text suggested by France

Every one has the right to work.

States are bound to take such measures as may be within their power to prevent unemployment and to ensure that all persons ordinarily resident in its territory have an opportunity for useful work.

Every worker has the right to receive pay which shall be commensurate with his ability and skill and which shall secure for himself and his family a full, decent and dignified life. He also has the right to fair and satisfactory working conditions. He shall be free to join trade unions for the protection of his interests.

Women shall work with the same advantages as men and receive equal pay for equal work.

Alternative text suggested by the United Kingdom

Every one has the right to work or maintenance.

Alternative text suggested by the United States for Articles 23 and 24

Every one is entitled to the right to work under fair and just conditions, to choose a vocation freely, and to join trade unions of his own choice for the protection of his interests in securing a fair standard of living for himself and his family.

Article 24

(Geneva text)

1. Every one has the right to receive pay commensurate with his ability and skill, to work under just and favourable conditions and to join trade unions for the protection of his interests in securing a decent standard of living for himself and his family.
2. Women shall work with the same advantages as men and receive equal pay for equal work.

(Note: see alternative texts suggested for Article 23 above)

Article 25

(Geneva text)

Every one without distinction as to economic and social conditions has the right to the preservation of his health through the highest standard of food, clothing, housing and medical care which the resources of the State or community can provide. The responsibility of the State and community for the health and safety of its people can be fulfilled only by provision of adequate health and social measures.

Alternative text suggested by France

Every one has a right to social security.

The State has a duty to maintain or ensure the maintenance of comprehensive measures for the security of the individual against various social risks. In particular, the individual shall be guaranteed against the consequences of unemployment, disability, old age, and the loss of livelihood in circumstances beyond his control.

Motherhood and children shall be granted special care and assistance.

Every one without distinction as to economic or social conditions has the right to protection of his health by all the appropriate means relating to food, clothing, housing and medical care to as great an extent as the resources of the State or community permit.

It is the duty of the State and the community to take all adequate health and social measures to meet the responsibilities incumbent upon them.

Alternative text suggested by the United States for Articles 25 and 26

Every one has the right to a standard of living necessary for health and general well-being, including social security and the opportunity to obtain adequate food, clothing, housing and medical care.

Article 26

(Geneva text)

1. Every one has the right to social security. The State has a duty to maintain or ensure the maintenance of comprehensive measures for the security of the individual against the consequence of unemployment, disability, old age and all other loss of livelihood for reasons beyond his control.
2. Motherhood shall be granted special care and assistance. Children are similarly entitled to special care and assistance.

(Note: See alternative texts suggested for Article 25 above)

Article 27

(Geneva text)

Every one has the right to education. Fundamental education shall be free and compulsory. There shall be equal access for higher education as can be provided by the State or community on the basis of merit and without distinction

/as to race, sex

as to race, sex, language, religion, social standing, financial means or political affiliation.

Alternative text submitted by France

Every one has a right to education. Fundamental education shall be free and compulsory. Every one shall have equal access to higher education so far as it can be provided by the State or community on the basis of merit and without distinction as to race, sex, language, religion, social standing, financial means or political affiliation.

Alternative text submitted by the United States

Every one is entitled to the right to free fundamental education and to equal access on the basis of merit to higher education.

Article 28

(Geneva text)

Education will be directed to the full physical, intellectual, moral and spiritual development of the human personality, to the strengthening of respect for human rights and fundamental freedoms and to the combating of the spirit of intolerance and ~~hatred~~ against other nations or racial or religious groups everywhere.

Alternative text submitted by France

Education will be directed to the full physical, intellectual and moral development of the human personality, to the strengthening of respect for human rights and fundamental freedoms. It shall combat the spirit of intolerance and hatred against other nations or racial or religious groups everywhere.

Article 29

(Geneva text)

1. Every one has the right to rest and leisure.
2. Rest and leisure should be ensured to every one by laws or contracts providing in particular for reasonable limitations on working hours and for periodic vacations with pay.

Alternative text submitted by France

Every one has a right to rest and leisure.

Rest and leisure should be ensured to every one by laws or contracts providing in particular for reasonable limitations on working hours and for periodic vacations with pay.

Every one has the right to participate in the cultural life of the community, to enjoy the arts and to share in the benefits that result from scientific discoveries.

/Article 30

Article 30

(Geneva text)

Every one has the right to participate in the cultural life of the community, to enjoy the arts and to share in the benefits that result from scientific discoveries.

Alternative text submitted by France

Authors of creative works and inventors shall retain, apart from financial rights, a moral right over their work or discovery, which shall remain extant after the financial rights have expired.

Article 31

Text proposed by the Drafting Committee (first session):

In States inhabited by a substantial number of persons of a race, language or religion other than those of the majority of the population, persons belonging to such ethnic, linguistic or religious minorities shall have the right, as far as compatible with public order, to establish and maintain schools and cultural or religious institutions, and to use their own language in the press, in public assembly and before the courts and other authorities of the State.

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

In States inhabited by well-defined ethnic, linguistic or religious groups which are clearly distinguished from the rest of the population, and which want to be accorded differential treatment, persons belonging to such groups shall have the right, as far as is compatible with public order and security, to establish and maintain their school and cultural or religious institutions, and to use their own language and script in the press, in public assembly and before the courts and other authorities of the State, if they so choose.

Alternative text submitted by France

In States inhabited by well-defined ethnic, linguistic or religious groups which are distinguished from the rest of the population, and which want to be accorded differential treatment, persons belonging to such groups shall have the right, as far as is compatible with public order and security, and in conformity with the degree of legislative unity in the State, to establish and maintain their schools and cultural or religious institutions and to use their own language and script.

Alternative text submitted by the United Kingdom

Minorities shall be entitled to preserve their culture, religion and language.

Alternative text submitted by the United States

(In lieu of Articles 29 and 30, and also of Article 31)

/Every one

Every one is entitled to obtain rest and leisure, to participate in the customs and the cultural life of the community and of groups in the community, to enjoy the arts, and to share in the benefits that result from scientific discoveries.

(Additional Article submitted by France)

It is the duty of every State to establish an efficient judicial and administrative system to prevent, punish and remedy any violation of the principles stated in the present Declaration.

The United Nations, recognizing the necessity for establishing an international court of appeal, recommends the adoption of all the international conventions aimed at the full implementation of the provisions of the Charter and of the present Declaration and, with the assistance of Member States, will take all the necessary measures to safeguard these rights and freedoms throughout the world.

Article 32

(Geneva text)

All laws in any State shall be in conformity with the purposes and principles of the United Nations as embodied in the Charter, insofar as they deal with human rights.

Alternative text submitted by France

In all States no laws on human rights shall be considered equitable unless they are in conformity with the purposes and principles laid down in the Charter

Article 33

(Geneva text)

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

Alternative text submitted by France

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

(Note: The Drafting Committee decided to transmit to the Commission on Human Rights the Draft International Declaration on Human Rights, submitted by the representative of China, which follows:

Article I

Every person has the right to life.

Article II

Every person has the right to freedom of conscience and belief, to freedom of assembly and of association, and to freedom of information, speech and expression.

/Article III

Article III

Every person has the right to a decent living; to work and leisure, to health, education, economic and social security.

Article IV

Every person has the right to take part in the affairs of his government directly or through his representatives.

Article V

Every person has the right to equal protection under law.

Article VI

Every person has the right to seek asylum from persecution.

Article VII

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

Article VIII

No person shall be subjected to arbitrary arrest or detention.

Article IX

No person shall be held in slavery or involuntary servitude or be subjected to torture or to cruel or inhuman punishment or indignity.

Article X

Every person is entitled to the human rights and fundamental freedoms set forth in this declaration without distinction as to race, sex, language or religion. The exercise of these rights requires recognition of the rights of others and the just requirements of the community in which he resides.)

ANNEX B

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS*

PART I

PREAMBLE**

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

Article 1

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

Article 2

Every State party hereto undertakes to ensure:

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

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

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

/(c) that such

- (c) that such remedy shall be enforceable by a judiciary whose independence is secured; and
- (d) that the police and executive authorities shall act in support of the enjoyment of these rights and freedoms.

Article 3

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

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

Article 4

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

I. Text Originally Submitted by the Commission on Human Rights

- 1. In time of war or other public emergency, a State may take measures derogating from its obligations under Article 2 above to the extent strictly limited by the exigencies of the situation.
- 2. (left over until implementation articles have been drafted).

II. Text Submitted by the Representative of the United States

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

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

- (1) that the limitations set forth in the Covenant without the additions suggested by other Governments are not all-inclusive;
- (2) that certain Governments which have suggested further limitations have stated that their lists are not all-inclusive; and
- (3) that the matter of restricting the rights and freedoms of the Covenant arises from many sources of law and that the Commission on Human Rights must find the solution for dealing with the problem caused by the omission of further probable limitations not yet enumerated.)*

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

PART II

Article 5

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

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

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

Article 6

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

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

This list is as follows:

1. Compulsory vaccination. (United States of America)
2. Legitimate medical and scientific experimentation in hospitals for the insane, with the consent of parent or guardian of the patient. (United States of America)

/3. Emergency

3. Emergency operations undertaken to save the life of patient, where the patient is unable to give his consent or where a person empowered to give consent on behalf of the patient gives such consent. (United States of America)

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

Article 7

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

Article 8*

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour except as a consequence of a conviction of crime by a competent court.
3. For the purposes of this Article, the term "forced or compulsory labour" shall not include:

(a) Any service of a purely military character, or service in the case of conscientious objectors, exacted in virtue of compulsory military service laws, provided that the service of conscientious objectors be compensated with maintenance and pay not inferior to what a soldier of the lowest rank receives;

(b) Any service exacted in cases of emergencies or calamities threatening the life or well-being of the community;

(c) Any minor communal services considered as normal civic obligations incumbent upon the members of the community, provided that these obligations have been accepted by the members of the community concerned directly or through their directly elected representatives.

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

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

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

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

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

Article 9

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

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

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

/5. Every

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

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

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

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

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

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

III. Text Proposed by the United States

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

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

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

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

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

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

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

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

Subsequently the French Draft Covenant was presented to the Committee (document E/CN.4/82/Add.8) and in the meeting of the Drafting Committee, held on 12 May 1948, the Chairman in her capacity of United States

/Representative

Representative suggested some additional specific limitations of the rights safeguarded in Article 9 of the Draft Covenant.

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

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

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

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

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

1. Arrest of persons who violate the provisions of the Covenant;
2. Arrest of persons suspected as spies;
3. Arrest of persons who trespass prohibited property or areas;

/4. Arrest

4. Arrest of persons who attempt to or destroy public property;
 5. Arrest of persons for disturbing public order such as shouting "Fire" in a theatre when there is no fire;
 6. Arrest of persons for speeding while driving through a crowded street in the city;
 7. Arrest of persons who attempt to commit suicide.
- V. This analysis is based on the following enumeration of limitations:
1. the limitations already contained in Article 9, sub-paragraph 2 (a) to (g) of the Draft Covenant as adopted at the second session of the Commission in Geneva;
 2. the items suggested by Governments and enumerated in document E/CN.4/AC.1/23;
 3. the additional specific limitations suggested by the United States of America on 12 May 1948;
 4. the limitations suggested by France.
 5. the limitations suggested by China.

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

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

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

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

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

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

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

/(d) Detention

(d) Detention of persons of unsound mind

This item covers item (d) of the Geneva Draft and item (d) of the French proposal. With regard to this item note should be taken of the Norwegian proposal, document E/CN.4/AC.1/23, item (2) and the United States proposal, item (i) above, suggesting that the Covenant should also cover the case of the arrest and detention of alcoholics.

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

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

Restrictions on aliens:

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

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

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

VI. Remaining Items

The following three additional items remain:

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

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

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

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

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

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

/Here the

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

The United States list further contains the item:

4. Other situations to be enumerated.

Article 10

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

Article 11

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

(Geneva text)

1. Subject to any general law not contrary to the purposes and principles of the United Nations and adopted for specific reasons of security or in the general interest, there shall be liberty of movement and free choice of residence within the borders of each State.
2. Any person who is not subject to any lawful deprivation of liberty or to any outstanding obligations with regard to national service shall be free to leave any country including his own.

Alternative text

1. No one shall be denied freedom of movement or residence within the borders of a Contracting State.
2. Any one shall be free to leave any country including his own.

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

1. Restrictions imposed for the well-being of helpless or dependent persons. (United States)
2. Restrictions imposed with respect to land or water constituting a public highway. (United States)
3. Restrictions imposed in the interest of public order, morals, health (e.g. quarantine) or safety. (United States)
4. Restrictions imposed in accordance with articles 8 and 9. (United States)
5. Restrictions imposed by reason of lawful detentions. (France)
6. Restrictions imposed because criminal proceedings are pending against him. (France)
7. Restrictions imposed because his departure must be prohibited in order to prevent the imminent commission of a crime or offence. (France)
8. Restrictions imposed on individuals who are "subject to any lawful deprivation of liberty or to any outstanding obligations with regard to national service tax liabilities or voluntarily contracted obligations binding the individual to the Government." (Netherlands)

/9. Restrictions

9. Restrictions imposed on an individual because of National Service, or of a judicial order restraining his departure without giving security on account of other alleged outstanding obligations. (United Kingdom)
10. Restrictions imposed on emigration to assist a neighbour country to control illegal immigration. (United Kingdom)
11. Restrictions imposed on emigration in the interest of protecting primitive or unsophisticated communities from exploitation abroad. (United Kingdom)
12. Restrictions imposed where labour has to be controlled and individuals required to work in specified industries and even in specific localities. (Union of South Africa)
13. Restrictions imposed where it is necessary in the interests of peace and good government to proclaim reserved areas in favour of the different sections of the population, and to restrict and control the free movement and free choice of residence on the part of individuals belonging to different sections of the population. (Union of South Africa)
14. Restrictions imposed in the interests of the general welfare and good government to restrict the influx of large numbers of unskilled labourers into urban areas in circumstances where an adequate supply of labour already exists, and housing accommodation is inadequate. (Union of South Africa))

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

Article 12

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

Article 13

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

- A. 1. In the determination of any criminal charge against him or of any of his civil rights or obligations, every one is entitled to a fair hearing before an independent and impartial tribunal.
2. In the determination of any criminal charge against him every one is entitled to:
 - (a) A public trial, though the press and public may be excluded from all or some of the portions thereof, other than the judgment, where considerations of security or

/morals are

morals are involved or the preservation of order in the court requires. Exceptions may be made in the interest of juveniles;

(b) Legal assistance of his own choosing; and

(c) The services of an interpreter to assist the accused if he cannot understand or speak the language used in court.

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

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

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

Article 14

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

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

Article 15

No one shall be deprived of his juridical personality.

Article 16

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

2. No one shall be denied freedom, either alone or in association, to manifest his belief in practice, and in worship and observance, and no one shall be required to do any act which is contrary to such worship and observance.

3. No one shall be denied freedom, either alone or in association, to give and receive any form of religious teaching, and to endeavour to persuade other persons of the truth of his beliefs.

/4. The above

4. The above rights and freedoms shall be subject only to such limitations as are prescribed by law and are necessary to protect public order and health, morals and the fundamental rights and freedoms of others.

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

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

Article 17

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

I. Text submitted by the Representative of France

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

B. Text submitted by the Representative of the Soviet Union

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

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

1. Every person shall have the right to freedom of thought and the right to freedom of expression without interference by governmental action; these rights shall include freedom to hold opinions, to seek, receive and

/impart information

impart information and ideas, regardless of frontiers, either orally, by written or printed matter, in the form of art, or by legally operated visual or auditory devices.

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

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

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

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

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

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

The list 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

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 of persons who are all or in part nationals of a High Contracting Party or who belong all or in part to a certain race. (Netherlands)
16. The prohibition of the dissemination of information calculated to engender feelings of hostility among inhabitants of various races. (Union of South Africa)
17. The prohibition of notices of prohibited meetings. (Union of South Africa)
18. The prohibition of opprobrious epithets, jeers or jibes in connection with the fact that any person has continued or returned to work or has refused to work for any employer, or the sending of information as to any such fact to any person in order to prevent any other person from obtaining or retaining employment, etc., etc. (Union of South Africa)
19. Other statements, expressions or publications which constitute offences or parts of offences under the common law or in terms of statutes, such as blasphemy, treasonable statements, uttering a forged instrument, perjury, contempt of court (covered in the drafts only to the extent to which it may be injurious to the independence of the judiciary or the fair conduct of legal proceedings), the use of indecent, /abusive or

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 childrens court. (Union of South Africa)

21. The prohibition of the disclosure of information obtained in an official or semi-official capacity, whether or not the disclosure will affect the national safety or the "vital" interests of the State. (Union of South Africa)

22. Restrictions upon the publication of a picture or a public entertainment, where the picture or entertainment is calculated to give offence to the religious convictions or feelings of any section of the public, or where it is calculated to bring any section of the public into ridicule or contempt, or is contrary to the public interest or good morals. (Union of South Africa)

23. Restrictions upon the publication of certain electoral matters. (Union of South Africa)

24. The restrictions imposed by the laws relating to copyright. (Union of South Africa)

25. Restrictions which it may be considered necessary to impose in order to eliminate or control subversive ideological propaganda. (Union of South Africa)

Article 18

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

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

(Note: 1. An

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

The prevention of foreign political interference (Netherlands)

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

(a) That a clause be added making public meetings subject to official authorization; and

(b) That it should be understood that the right to assemble does not include the right to hold pageants or processions in the streets.

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

Article 19

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

Article 20

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

Article 21 (deleted)

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

Article 22

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

PART III

Article 23

1. This Covenant shall be open for accession to every State Member of the United Nations or party to the Statute of the International Court of Justice and to every other State which the General Assembly of the United Nations shall, by resolution, declare to be eligible.

/2. Accession shall

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations, and as soon as _____ of the States Members of the United Nations have deposited such instruments the Covenant shall come into force between them. As regards any State which accedes thereafter, the Covenant shall come into force on the date of the deposit of its instrument of accession.
3. The Secretary-General of the United Nations shall inform all members of the United Nations and the other States referred to in paragraph 1 above of the deposit of each instrument of accession.

Article 24

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

- (a) With respect to any Articles of this Covenant which the Federal Government regards as wholly or in part appropriate for federal action, the obligations of the Federal Governments shall, to this extent, be the same as those of parties which are not Federal States;
- (b) In respect of Articles which the Federal Government regards as appropriate under its constitutional system, in whole or in part, for action by the constituent States, Provinces, or Cantons, the Federal Government shall bring such provisions, with favourable recommendation, to the notice of the appropriate authorities of the States, Provinces or Cantons at the earliest possible moment.

Article 25

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

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

Text proposed by the Representative of the Soviet Union

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

Article 26

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

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

Article 27 (deleted)

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

Proposed Additional Article

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

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