

COMMISSION ON HUMAN RIGHTS

THIRD SESSION

OBSERVATIONS OF GOVERNMENTS ON THE DRAFT INTERNATIONAL
DECLARATION ON HUMAN RIGHTS, THE DRAFT INTERNATIONAL
COVENANT ON HUMAN RIGHTS, AND METHODS OF APPLICATION

COMMUNICATION RECEIVED FROM THE FRENCH GOVERNMENT

I. DRAFT DECLARATION

PREAMBLE

We, the Peoples of the United Nations,

1. WHEREAS ignorance and contempt for human rights are one of the root causes of human suffering, and of the threats and barbarous acts which have outraged the conscience of mankind before and more especially during the last world war;
2. WHEREAS there can be no peace without respect for human rights and freedoms; that respect for these rights and freedoms can be assured to all only by abolishing war and the threat of war;
3. WHEREAS the establishment of a system in which human beings have freedom of speech and belief and are protected from terror and hardship was proclaimed to be the highest stake in the recent conflict;
4. WHEREAS in the opening lines of the Charter of 26 June 1945 we reaffirmed our faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of all men and women;
5. WHEREAS one of the objects of the United Nations is to achieve international co-operation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion;
6. WHEREAS it is essential, if mankind is not to be compelled, as a last resource, to revolt against tyranny and oppression, that human rights should be protected by the community of nations and guaranteed both by international and by national law;

/HAVE RESOLVED

HAVE RESOLVED to define in a solemn Declaration the essential rights and fundamental freedoms of the human being, so that this Declaration may be held constantly before all members of the world society to remind them at all times of their rights and duties, and so that the United Nations and its members may steadfastly apply the principles thus laid down,

AND HAVE THEREFORE adopted the following Declaration:

Article 1

All members of the human family are born free and equal in dignity and rights. They remain so by virtue of the laws. They are one brotherhood. Each is responsible for the life, liberty and dignity of all.

Article 2*

Man owes duties to the society which allows him to shape and freely develop his personality. In their discharge, the right of each is limited only by the rights of others and by the just laws of the democratic State.

Article 3

Every one is entitled to all the rights and freedoms set forth in this Declaration without any distinction of race, colour, sex, language, religion, opinion, status or national or social origin.

The equality of all men before the law is an inviolable rule. The law affords protection against arbitrary discrimination and against incitements to such discrimination.

Article 4

Every one has a right to life, to liberty and security of person. Slavery, in all its forms, shall be prohibited. Its practice is a challenge to the conscience of the world.

Article 5

No one shall be deprived of his personal liberty or kept in custody except in cases prescribed by the 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 is subject. He has the right to demand trial or release within a reasonable time.

Article 6

Every one shall have access to independent tribunals which may, after fair discussion, impartially determine his rights and obligations

* This Article may in due course be merged in Article 29.

or the authenticity of any charges made against him. He shall be entitled to have the procedure explained to him and to state his own case in a language which he knows.

Article 7

Any person is presumed to be innocent until he has been legally proved guilty. No one shall be held guilty except after a public trial* at which he has been given all the safeguards necessary for his defence.

No one shall be convicted for any act or omission which did not constitute a criminal offence at the time when it was committed. No one may be given a heavier sentence than that laid down by the law in force at the time the offence was committed. This 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.

The horror inspired by crime shall never justify the use of cruel or degrading treatment either for its discovery or for its punishment. Torture in all its forms shall be eliminated from modern law.

Article 8

The law shall protect the honour and reputation of citizens, the freedom of private and family life and the inviolability of the home and of the secrecy of correspondence.

Article 9

Subject to any general law not contrary to the purposes and principles of the United Nations Charter 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; individuals shall have the right to leave their own country and, if they so desire, to acquire the nationality of any country willing to grant it.

Article 10

Every one shall have the right to seek asylum from persecution. The United Nations is bound to secure them such asylum. Prosecutions genuinely justified by crimes against common law or by acts contrary to the purposes and principles of the United Nations shall constitute persecution.

Article 11

Every one has the right, everywhere in the world, to be recognized as a legal person and to the enjoyment of fundamental civil rights.

* This provision does not preclude a hearing in camera.

Article 12

The family deriving from marriage is the natural and fundamental unit of society. Men and women of marriageable age shall have equal freedom to contract marriage in accordance with the law.

Marriage and the family shall be protected by the State and society.

Article 13

Property is a right. Its regulations shall conform with the laws of the country where the property is situated. No one shall be arbitrarily deprived of his property.

Article 14

Every one has the right to a nationality. It is the duty of the United Nations and the Member States to prevent statelessness.

All persons who do not enjoy the protection of any Government shall be placed under the protection of the United Nations.

Article 15

Personal freedom of thought and conscience, freedom to hold or change one's beliefs, are absolute and sacred rights.

Every person has the right, either alone or in association, to manifest his beliefs, subject to respect for public order, by teaching and practising them, and by worship and observance.

Article 16

(Subject to reservation)

No person may be interfered with on account of his ideas or opinions. Every one, on his own responsibility, is free to express, impart and publish these ideas or opinions. Every one has the right to obtain and seek, without hindrance, any information on ideas and facts. There shall be freedom of expression either by word, in writing, in the press, in books or by any other means. Access to all channels for the communication of ideas shall be open to all.

Article 17

Every one has the right to peaceful assembly and to membership in local, national and international associations for purposes of a political, economic, religious, social, cultural, trade union or any other character, not inconsistent with this Declaration.

Article 18

Every one has the right, either individually, or in association with others, to communicate with or to petition the public authorities of the State of which he is a national or in which he resides, and, in respect of human rights, the relevant organs of the United Nations.

/Article 19

Article 19

Every citizen without discrimination has the right, either personally or through his representatives, to take part in the management of public affairs in 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.

Article 20

Every one shall have equal opportunity to engage in public employment in the State of which he is a citizen or a national.

Access to public employment shall not be a matter of privilege or favour.

Article 21

Everyone has the right to work.

The State is bound to take such measures as may be within its 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.

Article 22

Everyone 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.

Mothers and children shall be granted special care and assistance.

Everyone 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.

Article 23

Everyone has a right to education. Fundamental education shall be free and compulsory. Everyone 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.

Article 24

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 25

Everyone has a right to rest and leisure.

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

Everyone 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 26

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 27

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.

Article 28

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

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 29

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 30

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.

II. DRAFT COVENANT

Article I

The States parties hereto, being resolved to give effect to the general principles proclaimed in the United Nations Charter and specified in the International Declaration on Human Rights and Fundamental Freedoms adopted by the General Assembly of the United Nations on have agreed to conclude a preliminary convention, defining the practical scope of certain of these principles.

Article II

Every State party hereto undertakes to ensure:

- (a) that its laws secure to all persons under its jurisdiction, whether citizens, persons of foreign nationality or stateless persons, the enjoyment of these human rights and fundamental freedoms;
- (b) that any person whose rights or freedoms are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
- (c) that such remedies shall be determined by a court whose independence is secured; and
- (d) that its executive authorities shall act in support of the enjoyment of these rights and freedoms.

Article III*

1. In time of war or other public emergency, a State may take measures derogating from its obligations under Article II above to the extent strictly limited by the exigencies of the situation.
2. 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 the measures cease to operate and the provisions of Article II are being fully executed.

Article IV

No one may be deprived of his life save in pursuance of a judicial sentence and in compliance with a provision of the criminal law prescribing such sentence.

* This Article was formerly Article IV; it became Article III on the deletion of the original Article III, which was made redundant by the incorporation in the Covenant of measures for implementation.

Article V

It shall be unlawful to subject any person to any form of physical mutilation or medical or scientific experimentation against his will.

Article VI

No person shall be subjected to any form of torture or to cruel, inhuman or humiliating treatment.

Article VII

1. No person shall be held in slavery or servitude.
2. No person shall be required to perform forced or compulsory labour in any form, save in the following cases:
 - (a) any penalty lawfully imposed by judicial sentence in compliance with a law prescribing such penalty;
 - (b) any service of a purely military character or service imposed on conscientious objectors, if prescribed by domestic law;
 - (c) any service exacted in cases of calamities or emergencies threatening the life or well-being of the community;
 - (d) any communal services accepted by the members of the community or their elected representatives.

Article VIII

1. No person shall be deprived of his liberty save in the case of:
 - (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.
2. Any person who is arrested shall be informed immediately of the charges against him or of the reasons for his arrest.

Any person who is arrested under the provisions of sub-paragraphs (a) or (b) of paragraph 1 of this Article shall be brought promptly before a judge and shall be tried within a reasonable time or released.

Cases under sub-paragraphs (e) and (f) shall be tried without delay.

3. Every person who is deprived of his liberty shall have an effective remedy equivalent to "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.

4. Every person who has been unlawfully arrested or deprived of liberty, shall be entitled to compensation.

Article IX

No person shall be imprisoned or held in servitude in consequence of the mere breach of a contractual obligation.

Article X

Subject to any laws which are consistent with the United Nations Charter and based on reasons of security or the general interest, every person has the right:

(a) to travel and freely choose his residence within the borders of each State;

(b) to leave the territory of any State unless he has been lawfully detained, or criminal proceedings are pending against him, or his departure must be prohibited in order to prevent the imminent commission of a crime or offence.

Article XI

Aliens legally admitted to the territory of a State may only be expelled therefrom in accordance with the forms and guarantees which the law shall prescribe.

Article XII

1. Every person may enforce his rights before the courts and may be assisted by a qualified representative of his own choice.

2. No person shall be convicted or punished for crime except after public trial, save in cases in which publicity would be prejudicial to national security.

3. All sentences shall be pronounced in public.

Article XIII

No person shall be condemned on account of any act or omission which did not constitute a crime at the time it took place. No person may be given a heavier sentence than that laid down by the law in force at the time the offence was committed. This 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.

/Article XIV

Article XIV

No one shall be deprived of his juridical personality.

Article XV

Personal freedom of thought and conscience, and freedom to hold or change one's beliefs, are absolute and sacred rights.

Every person has the right, either alone or in association, to manifest his beliefs, subject to respect for public order, by teaching and practising them and by worship and observance.

Article XVI

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.

Article XVII

The right of assembly is recognized subject only to the restrictions necessary to ensure the security of persons or places, order or freedom of movement.

Article XVIII

The right of association is similarly recognized provided that right is exercised in the forms prescribed by law and is directed to lawful aims such as the defence and protection of the legitimate interests of the members of the association or the dissemination of information under Article XVI. Associations shall enjoy the rights and freedoms set forth in Articles XV and XVI.

Article XIX

There shall be no discrimination based on race, sex, nationality, language, religion, opinions or social status.

The law shall prohibit any arbitrary discrimination or incitement to such discrimination.

Article XX

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.