

COMMISSION ON HUMAN RIGHTS

THIRD SESSION

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

Note by the Secretary-General

The Commission on Human Rights at its Second Session decided to refer Articles 17 and 18 of the Draft International Declaration on Human Rights and Article 17 of the Draft International Covenant on Human Rights to the Sub-Commission on Freedom of Information and of the Press for its consideration and report, and to request the Economic and Social Council to refer these Articles to the Conference on Freedom of Information for its own consideration and report (document E/600, paragraph 33).

The Economic and Social Council by its resolution 118 (VI) decided:

- A. To remit Articles 17 and 18 of the Draft International Declaration on Human Rights (document E/600, Annex A) to the United Nations Conference on Freedom of Information for its consideration and report.
- B. To request the Conference to express its view upon the two texts on Freedom of Information submitted for inclusion in the International Covenant on Human Rights by the Drafting Committee on the International Bill of Human Rights and the Sub-Commission on Freedom of Information and of the Press.

In compliance with this request the United Nations Conference on Freedom of Information considered these articles and passed the following resolution: (Final Act E/CONF.6/79, Annex B):

DRAFT DECLARATION AND DRAFT COVENANT ON HUMAN RIGHTS

THE UNITED NATIONS CONFERENCE ON FREEDOM OF INFORMATION,  
HAVING CONSIDERED the resolution of the Economic and Social Council  
of 3 March 1948 referring to the Conference for its consideration and  
report Articles 17 and 18 of the Draft Declaration on Human Rights and  
Article 17 of the Draft Covenant on Human Rights with the recommendations  
of the Sub-Commission on Freedom of Information and of the Press,

IS OF THE OPINION that:

I. Articles 17 and 18 of the Declaration may be embodied in  
one Article as follows:

Everyone 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. Article 17 of the Draft Covenant on Human Rights may be as  
follows:

1. Every person shall have the right to freedom of thought  
and the right to freedom of expression without interference  
by governmental action; these rights shall include freedom  
to hold opinions, to seek, receive and impart information  
and ideas, regardless of frontiers, either orally, by written  
or printed matter, in the form of art, or by legally operated  
visual or auditory devices.
2. The right to freedom of expression carries with it duties  
and responsibilities and may, therefore, be subject to penalties,  
liabilities or restrictions clearly defined by law, but only  
with regard to:

- (a) matters which must remain secret in the interests  
of national safety;
- (b) expressions which incite persons to alter by  
violence the system of Government;
- (c) expressions which directly incite persons to commit  
criminal acts;
- (d) expressions which are obscene;
- (e) expressions injurious to the fair conduct of legal  
proceedings;
- (f) infringements of literary or artistic rights;
- (g) expressions about other persons natural or legal  
which defame their reputations or are otherwise injurious  
to them without benefiting the public;

(h) the systematic diffusion of deliberately false or distorted reports which undermine friendly relations between peoples and states;

A state may establish on reasonable terms a right of reply or a similar corrective remedy.

3. Measures shall be taken to promote the freedom of information through the elimination of political, economic, technical or 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.

III. THE CONFERENCE having considered the above Articles of the Declaration and the Covenant, and the Second Report of the Sub-Commission,

IS OF THE OPINION that Article 17 of the Covenant is intended to apply to the freedom of expression of individuals as well as to the freedom of media of information and, considering there are particular provisions in many sources of law which restrict the freedom of expression and information other than those permitted by Draft Article 17 suggested above,

RESOLVES, that the problem created by the omission of such provisions be called to the attention of the Commission on Human Rights.

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