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COMMISSION ON HUMAN RIGHTS

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DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS

Recapitulation of amendments to Articles 9 and 10

Article 9

Original text in document E/800:

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

/United States

United States of America (E/CN.4/170)

1. No State shall subject any one to arbitrary arrest or detention.
2. Any one who is arrested shall be informed promptly of the reasons for his arrest and any charges against him. (Delete paragraph 2 of the Commission draft since a general guarantee of liberty has too many limitations for a generalization of this right.)
3. The accused in a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. Pending trial, release on bail or other condition to appear for trial shall satisfy the requirements of release.
4. Any one who is deprived by the State of his liberty by arrest or detention shall be entitled to 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. This remedy may not be suspended unless when in cases of rebellion or invasion the public safety may require it.\*
5. (Delete).

United Kingdom (E/CN.4/188)

1. No one shall be deprived of his liberty except when permitted by law in the case of:
  - (a) The arrest of a person for the purpose of bringing him before a court on a reasonable suspicion of having committed a crime or a breach of the peace, or where such arrest is reasonably considered to be necessary to prevent his committing a crime or committing or provoking a breach of the peace; or
  - (b) The arrest and detention of a person for non-compliance with the lawful order of a court; or
  - (c) The detention of a person imposed by sentence of a court after conviction of an offence; or
  - (d) The detention of a person of an unsound mind and of a person suffering from a serious infectious disease; or
  - (e) The parental or quasi-parental custody of a minor; or
  - (f) The arrest and detention of a person to prevent his unauthorized entry into the country or to ensure his departure as soon as practicable after having effected or attempted to effect an unauthorized entry; or

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\* Omit underlined sentence if Article 4 is revised along lines United States proposal.

(g) The arrest and detention of a person against whom deportation proceedings are pending; or

(h) /Cases covered by Article 8 of this Covenant/

2. Any person who is arrested shall be informed promptly of the reasons therefor. Any person who is arrested under the provisions of sub-paragraph (a) of paragraph 1 of this Article shall be brought promptly before a court and shall be tried within a reasonable time or released.

3. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

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

France (E/CN.4/198)

4. Every one who is deprived of his liberty by arrest or detention shall have an effective remedy equivalent to habeas corpus ....

5. Every person who has been unlawfully arrested or deprived of liberty shall have an enforceable right to compensation.

Australia (E/CN.4/201)

After "arrest or detention" in clause 4 of Article 9 the following words should be added: "except an enemy alien lawfully detained as a prisoner of war".

Egypt (E/CN.4/203)

In sub-paragraph (b) of paragraph 2 of Article 9, replace the word "Court" by the words "Judicial authority".

Lebanon (E/CN.4/206)

(1) No one shall be subjected to arrest or detention save in the execution of the sentence of a court following his conviction of a crime for which the penalty of deprivation of liberty is provided by existing law.

(2) This article shall not apply to arrest or detention effected for the following purposes:

(Delete sub-paragraph "c").

Article 10

Original text in document E/800:

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

United States of America (E/CN.4/170)

No State shall imprison any one solely on the ground of inability to pay a contractual debt.

Philippines (E/CN.4/211)

(Amendment to United States Amendment E/CN.4/170)

No State shall imprison any one on the ground of inability to pay a contractual debt.

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