



UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



GENERAL

E/CN.4/522
9 March 1951

ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS
Seventh session

YEARBOOK ON HUMAN RIGHTS

Memorandum by the Secretary-General

CONTENTS

	<u>Page</u>
A suggested programme for future Yearbooks on Human Rights. . .	2
Appendix A - Proposed plan for Yearbooks on Human Rights 1951 to 1955.	6
Appendix B - Rights and groups of rights not included in the Secretary-General's proposed plan for Yearbooks on Human Rights 1951 to 1955	10

A suggested Programme for future yearbooks on human rights

1. By resolution 303 H (XI) the Economic and Social Council requested the Secretary-General to continue the annual compilation and publication of the Yearbook on Human Rights. The resolution, moreover, laid down certain new principles on the basis of which future Yearbooks should be compiled, making specific provisions under paragraphs (a) and (b) as follows:

(a) Each volume of the Yearbook shall contain a compilation concerning the application, and so far as necessary, the evolution in as many countries as possible of one of the rights or of a group of closely related rights set forth in the Universal Declaration of Human Rights. This compilation shall be prepared from information supplied by Governments and may include digests of this information prepared by the Secretary-General and shall be documented by reference to legislative enactments and other authoritative sources;

(b) For this purpose, the Secretary-General will draw up a plan for the consideration of the Commission on Human Rights indicating, for a number of years ahead, which right or group of rights should be treated each year.

The resolution further provides that the Yearbook shall continue to record international and national developments concerning human rights.

2. In seeking to carry out his responsibilities in connexion with the implementation of sub-paragraph (b) of the above resolution, the Secretary-General has encountered certain difficulties in deciding which of several possible criteria should be used in establishing priority for the rights to be studied for a number of years ahead beginning with the Yearbook for 1951. Before making his own suggestions, the Secretary-General thought it well to call the Commission's attention to a number of the criteria on the basis of which a possible choice might be made.

3. One criterion is that of relevancy. A right, or group of rights, would be given priority if one of the organs of the United Nations were currently concerned in its implementation or study. For instance, at the present time, the Commission on Human Rights has on its provisional agenda for the seventh session, in addition to the draft international covenant on human rights and measures of implementation, the problem of old-age rights, the right of asylum, freedom to choose a spouse etc., and the question of the continuing validity of minorities

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treaties and declarations. Other organs are concerned with freedom of information, others with freedom of association (trade-union rights), forced labour and slavery.

4. Using a second kind of criterion, the Commission might wish to give priority to a compilation of those rights or groups of rights proclaimed in the Universal Declaration which have not as yet been given special consideration by the United Nations but which are likely at some later time to become of interest to United Nations bodies. For example, the Commission might wish to give priority to studies of the right to the inviolability of one's home, the secrecy of one's correspondence, or to the right to rest and leisure.

5. A negative criterion might be used if the Commission decided to refrain from giving priority to studies of rights on which information had been recently solicited or on which information is at present being sought by the United Nations or by specialized agencies. It may be noted for instance that a recent publication was issued by the United Nations concerning freedom of information, a compilation in two volumes, volume I containing comments of governments, volume II containing texts communicated by governments. Similarly, an analysis of conflicts of law in the field of the nationality of married women and a collection of constitutions, laws and other legal instruments relating to the nationality of married women has just been issued as a United Nations publication. Governments were also recently asked to reply to a questionnaire concerning slavery, and statements are now being received from governments in regard to certain aspects of non-discrimination and protection of minorities. However, it may be pointed out that information on the application and evolution of a particular right or of a closely related group of rights as required in the preparation of future Yearbooks will in most cases be quite different from the compilation of information supplied in response to the questionnaires instanced above. Such information supplied for the Yearbook would even tend to enhance the value of the previous replies received from governments.

6. The Commission would have a special interest in recalling that on the occasion of last year's celebration on Human Rights Day on 10 December 1950, the President of the General Assembly made a selection of the rights which he considered to be of outstanding significance at the present time. These rights were taken from articles 1, 5, 14, 21 and 25 of the Universal Declaration of Human Rights, and included: the equal dignity and rights of all human beings;

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prohibition of torture or cruel, inhuman or degrading treatment or punishment; the right to seek and enjoy asylum from persecution; the right to participation in the government of one's country, taking the will of the people as the basis for the authority of one's government; the right to social security.

7. In enumerating the above criteria which might be used in establishing a priority of rights, the Secretary-General is quite aware that he has by no means exhausted the possible list. Members of the Commission may well wish to suggest other criteria which might be employed. Moreover, the Secretary-General is aware that to select one criterion does not necessarily mean ignoring or excluding another criterion. For instance, information on a certain right may be useful because up to now it has been given little study by the United Nations and also because a decision has been recently taken to place the question of the protection of that right on the agenda of one of the United Nations bodies. In making its choice, therefore, the Commission may wish to use more than one criterion.

8. After giving due consideration to the whole problem, the Secretary-General has come to the conclusion that it might be most useful to adopt the criterion of relevancy as a basis of choice. He feels that to accept this criterion would greatly assist the work of the United Nations in providing information concerning the promotion of rights at the national level which would be of great value to those planning action at the international level. Information on rights and groups of rights as called for under resolution 303 H (XI) will be something much more than the enumeration of constitutional provisions and laws and the careful work involved in the preparation of such compilations will greatly assist the United Nations bodies which have those particular rights under their consideration. In addition, future Yearbooks prepared on the basis of the proposed procedure would be of particular use to scholars, students of international affairs, editors, teachers, and readers in general who wished to follow intelligently the issues in the field of human rights with which United Nations bodies are currently seized. On the basis, therefore, of the criterion of relevancy the Secretary-General has suggested a list of the rights to be treated in the years 1951 to 1955, indicating in each case the special considerations which have entered into his decision to assign priority to the right in question (appendix A).

9. It will be noted that in suggesting rights and groups of rights for the years 1951 to 1955, the Secretary-General has prepared two lists - one enumerating personal and political rights, the other economic, social and cultural rights. The

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order in which the lists appear does not indicate any preference on the part of the Secretary-General. The Commission may wish to assign priority either to list (I) or to list (II) or in some way combine the two lists so as to indicate a scheme of work for the ten-year period from 1951-1960.

10. There is another consideration which may be noted. The resolution of the Economic and Social Council (303 H (XI)) which governs the preparation of future Yearbooks refers to "one of the rights or of a group of closely related rights set forth in the Universal Declaration". A study of the Declaration itself reveals that its authors accepted the principle that certain rights naturally belong together and certain articles cover what may be called a family of rights. It appears to be the intention of the above resolution that that principle should be extended further and where it is thought useful rights mentioned in more than one article might be brought together in a single group. One advantage of such a procedure would be that it would provide a broad basis for each compilation. Another advantage of applying that procedure would be that it would be possible to cover most of the rights set forth in the Universal Declaration within a reasonably short space of time.

11. In case the Commission might wish to employ other criteria or select other rights in planning the preparation of future Yearbooks, a list of the rights in the Universal Declaration other than those mentioned in the Secretary-General's selection is included in appendix B.

APPENDIX A

PROPOSED PLAN FOR YEARBOOKS ON HUMAN RIGHTS 1951 TO 1955

1. Personal and political rights
1951

Equality before the law, equal protection of the law without any discrimination, equal protection against any discrimination in violation of the Universal Declaration, and equal protection against any incitement to such discrimination.

The principle of non-discrimination is embodied in the Charter of the United Nations and proclaimed in article 2 of the Universal Declaration of Human Rights. In addition, specific references to protection against discrimination and assurances of equality before the law are contained in article 7 of the Universal Declaration. The importance of the problem of discrimination in the whole field of the protection of human rights is constantly stressed in discussions of human rights before many bodies of the United Nations.

1952

Inviolability of the home, secrecy of correspondence, prohibition of arbitrary interference with privacy and prohibition of attacks upon honour and reputation.

The rights coming within this group, set forth in article 12 of the Universal Declaration, are partly already contained in the draft covenant and partly contained in additional articles proposed by several governments.

1953

Freedom to choose a spouse, marriage to be entered into only with the free and full consent of the intending spouses, the right to marry and found a family without discrimination due to race, nationality or religion, equal rights of husband and wife as to marriage, during marriage and at its dissolution, protection of the family by society and the State.

The relevancy of this group of rights, based on article 16 of the Universal Declaration, is demonstrated by the fact that some of them are listed for consideration on the provisional agenda of the seventh session of the Commission on Human Rights, at the initiative of the Commission on the Status of Women and by virtue of a decision of the Economic and Social Council. The question of equal
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rights of husband and wife as to marriage, during marriage and at its dissolution will be discussed by the Commission on the Status of Women at its fifth session and the preliminary report on the comparative status of men and women in family law is being prepared by the Secretary-General on the basis of information supplied by non-governmental organizations.

1954

The right to freedom of movement and residence, the right to leave any country including one's own and to return to one's country, the right to seek and enjoy in other countries asylum from persecution, and the prohibition of arbitrary exile.

This group of rights is set forth in articles 13 and 14 and in the last item of article 9 of the Universal Declaration. It is a subject with which the United Nations has been concerned in a number of aspects since its very beginnings, in a period when emigrants of all kinds, refugees seeking asylum and stateless persons have constituted large groups for whom special forms of protection have had to be devised. The Commission on Human Rights has on its agenda one of the rights associated with this group of rights, namely the right of asylum. Several governments and a specialized agency have proposed that the right of asylum should be embodied in the draft covenant on human rights.

1955

Right to participation in one's country's government directly or through freely chosen representatives, periodic and genuine elections by universal and equal suffrage and by secret vote, equal access to public service.

The rights included in this group are covered by article 21 of the Universal Declaration. The Commission on Human Rights will be concerned with them as parts of proposals advanced by different governments suggesting that this group of rights should be included in an additional article to the covenant. Moreover, the relevancy of such a group of rights is clearly demonstrated by the active interest of the Commission on the Status of Women in the question of political rights for women. At its fourth session, the Commission adopted a resolution requesting the Secretary-General to draft a convention which would grant equality of rights for men and women. A proposed draft convention is on the agenda of the fifth session of the Commission on the Status of Women and the Economic and Social Council will likely be asked to take further measures with a view to bringing such a convention into effect.

II. Economic, social and cultural rights

1951

Special care for and assistance to motherhood and childhood; the same social protection for all children whether born in or out of wedlock.

These economic and social rights are included in article 25, paragraph 2, and article 2 of the Universal Declaration. They are of immediate relevancy owing to the fact that since 1946 the Social Commission has been engaged in the discussion and preparation of a United Nations Declaration of the Rights of the Child. Such a draft declaration was transmitted to the Economic and Social Council, which, at its eleventh session, requested the Commission on Human Rights to give the draft declaration its consideration. It may also be noted that the care and protection of children displaced, impoverished and deprived of adequate nutrition as a result of war and its aftermath have been a practical concern of the United Nations and its specialized agencies during the last five years. The information to be requested in connexion with this group of rights would also include information on the status of children born out of wedlock as the Universal Declaration proclaims that all children born in or out of wedlock shall enjoy the same social protection, and article 2 bars discrimination based on birth or other status.

1952

Freedom of association in general and the right to form and to join trade unions for the protection of one's interests.

These rights are set forth respectively in article 20 and in article 23, paragraph 4, of the Universal Declaration. The draft covenant prepared at the sixth session sets forth the right of association in article 16. The Commission on Human Rights will be seized of several proposals for the inclusion of special articles on trade-union rights in the draft covenant. In addition, it will be recalled that, following upon the initiative taken by the Economic and Social Council, the International Labour Conference adopted international conventions in this field and the Governing Body of the International Labour Office established on its own behalf and on behalf of the United Nations a Fact-Finding and Conciliation Commission on Freedom of Association whose services have been accepted by the Economic and Social Council on behalf of the United Nations. At its twelfth session, the Economic and Social Council took a number of decisions concerning alleged infringements of trade-union rights. It will be noted that the group of
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rights is treated in the Universal Declaration partly as personal rights (freedom of association - article 20), and partly as economic and social rights (trade-union rights - article 23, paragraph 4).

1953

Right to education, availability of technical and vocational education, equal accessibility to secondary and higher education on the basis of merit, prior right of parents to choose the kind of education for their children.

These rights are set forth in article 26 of the Universal Declaration. The Commission will be seized of them at its seventh session as a result of proposals made by several governments that all or some of these rights should be included in the draft covenant. The necessity of assuring equal educational opportunities for men and women has been stressed at all sessions of the Commission on the Status of Women and progress in the realization of this educational equality is recorded in yearly reports prepared by the Secretary-General in collaboration with UNESCO.

1954

Right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond one's control

This group of rights is covered in articles 22 and 25, paragraph 1. They are among the most important of the economic and social rights recommended for inclusion in the covenant and consequently are immediately relevant to the Commission on Human Rights.

1955

The right to equal pay for equal work.

This right is covered in article 23, paragraph 2, of the Universal Declaration. In so far as this right applies to equality between men and women workers, it has been on the agenda of several sessions of the Economic and Social Council and of all the sessions of the Commission on the Status of Women and will probably be considered at its future sessions as well. The question of equal remuneration for work of equal value for men and women workers is on the agenda of the 33rd session of the International Labour Conference in 1951 with a view to the adoption of a convention or recommendation. The right to equal pay for equal work, however, means more than equal remuneration for men and women. It also rules out any discrimination in regard to pay based on race, colour, national origin or other grounds. Several proposals are before the Commission on Human Rights at its seventh session for the inclusion of this right in the draft international covenant on human rights.

APPENDIX B

RIGHTS AND GROUPS OF RIGHTS NOT INCLUDED IN THE SECRETARY-GENERAL'S
PROPOSED PLAN FOR YEARBOOKS ON HUMAN RIGHTS 1951 TO 1955

I. Personal and political rights

Right to life, liberty and security of person, prohibition of slavery, slave-trade and servitude.

Prohibition of torture or cruel, inhuman or degrading treatment or punishment.

Recognition of everyone as a person before the law.

Prohibition of arbitrary arrest and detention, right to a fair and public hearing and fair and public trial by an independent and impartial tribunal in the case of a criminal charge and in the determination of one's rights and obligations, right to be presumed innocent until proved guilty, nullum crimen sine lege, nulla poena sine lege.

Right to a nationality, and to change one's nationality, prohibition of arbitrary deprivation of nationality.

Right to own property alone as well as in association with others; no one shall arbitrarily be deprived of his property.

Right to freedom of thought, conscience and religion.

Right to freedom of opinion and expression.

Right to peaceful assembly.

II. Economic, social and cultural rights

Right to work, to free choice of employment, and to just and favourable conditions of work.

Right to rest and leisure, reasonable limitation of working hours and periodic holidays with pay.

Right to an adequate standard of living for one's self and one's family including food, clothing, housing, medical care and necessary social services.

Right of everyone to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement, right of the author to protection of his interests resulting from scientific and artistic production.
