

COMMISSION ON HUMAN RIGHTSSECOND SESSIONREPORT OF THE WORKING PARTYON AN INTERNATIONAL CONVENTION ON HUMAN RIGHTSCHAPTER IIntroduction

1. On 4 December 1947, the Commission on Human Rights adopted a resolution that the Commission proceed without delay to consider the Draft Declaration on Human Rights contained in Annex "F" and the Draft Articles for Inclusion in the Convention contained in Annex "G" of the Report of the Drafting Committee and, to that end, established three working parties to deal respectively with the problem of the Declaration, the Convention or Conventions, and Implementation. The Chairman of the Commission appointed the members for Chile, China, Egypt, Lebanon, the United Kingdom and Yugoslavia on the working party on the problem of the Convention or Conventions.
2. The working party held nine meetings from 5 December to 10 December inclusive and the following members were present:

Chile:	absent
China:	Dr. Wu, Nan-Ju
Egypt:	Mr. Omar Loutfi
Lebanon:	Dr. Charles Malik
United Kingdom:	Lord Dukeston
Yugoslavia:	Dr. V. Ribnikar

At the first three meetings, China was represented by Dr. Wu, C.S.,

the regular alternate of Dr. P.C. Chang being absent at the meetings of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities which were in session concurrently. The following members were represented by observers at various meetings of the working party:

Australia:	Mr. T. Jordan Clarke
India:	Sir D. Mitra
Ukrainian S.S.R.:	Mr. Michael Klekovkin
United States of America:	Mr. Herzog Plaine Miss Marjorie Whiteman

The following representatives of specialized agencies and non-governmental organizations in categories "A" and "B" also attended various meetings of the working party:

Specialized Agencies: M.P. de Briey,
M. Jean de Givry
(International Labour Organization)

Mr. Weis,
Miss Barblé
(International Refugee Organization)

M. Jacques Havet
(U.N.E.S.C.O.)

Non-Governmental
Organizations in
Category "A"

Miss Toni Sender (American
Federation of Labor)

Mr. P.J.S. Serrarens
(International Federation of
Christian Trade Unions)

M. Robinet de Cléry
(Inter-Parliamentary Union)

Non-Governmental
Organizations in
Category "B"

Mr. O. Frederick Nolde
(Commission of the Churches
on International Affairs)

Mr. Milton Winn
(Consultative Council of
Jewish Organizations)

Mr. A.G. Brotman
(Co-ordinating Board of
Jewish Organizations)

Mr. C. Pilloud
(International Committee of
the Red Cross)

Miss van Eeghen
(International Council of Women)

Mlle de Romer
(International Union of Catholic
Women's Leagues)

Dr. Bienenfeld
(World Jewish Congress)

3. The Director of the Division of Human Rights, Professor John P. Humphrey, opened the meeting and called for the election of officers. The working party decided to waive the rule relating to elections by secret ballot. Lord Dukeston, the member from the United Kingdom, was nominated and elected Chairman, and Dr. Charles Malik, the member from the Lebanon, was nominated and elected Rapporteur.

4. In accordance with its terms of reference, the working party decided to proceed, article by article, with Annex "G" of the Report of the Drafting Committee. As to the United States draft (document E/CN.4/37), it was decided that Mr. H. Plaine, the United States observer, would present and explain any appropriate text of that draft.

5. Dr. V. Ribnikar, the member from Yugoslavia, desires the following statement to be included in this report:

"The text of the Draft Convention is very incomplete and cannot even be regarded as an outline. It merely contains definitions of a certain number of civil and political rights and omits all reference to social, economic and other rights. The Working Group has simply touched up the rough sketch of a Convention drawn up by the Drafting Committee, mainly with a view to bringing it into line with the laws at present in force in two countries: the United Kingdom and the United States, without attempting to add other essential provisions to the text. The draft has remained a rough sketch and nothing more.

To seek to transform this sketch into an international convention would be in vain. The moral effect of such a draft convention, with all the restrictions of rights and freedoms which it contains would be disastrous. The peoples of the world would be deeply disappointed. For this reason I shall vote against the Draft Convention in its present form."

6. The working party instructed the Rapporteur to make this Report as concise as possible and therefore for a fuller account of the proceedings of these meetings reference should be made to the summary records (documents E/CN.4/AC.3/1 to 9 inclusive).

7. The draft convention which is submitted to the consideration of the Commission is contained in Chapter II below. This draft does not contain articles concerning violations of the Convention and the manner in which petitions concerning violations shall be dealt with because the working party considered that these matters fall more properly within the terms of reference of the working party on Implementation.

8. In addition, the working party submits to the consideration of the Commission the adoption of four resolutions or recommendations contained in Chapter III below.

CHAPTER II

Proposed Draft International Bill of Human Rights *

PART I

Article 1

The States parties hereto declare that they recognize the principles set forth in Part II hereof as being among the human rights and

* (The member from China, Dr. Wu-Nan-Ju, suggests that the term "International Bill of Human Rights" be replaced by the term "International Convention on Human Rights".)

fundamental freedoms founded on the general principles of law recognized by civilized nations.

Article 2

Every State is, by international law,^x under an obligation 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 such laws, respecting these human rights and fundamental freedoms, conform with the general principles of law recognized by civilized nations;
- (c) 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;
- (d) that such remedies shall be enforceable by a judiciary whose independence is secured; and
- (e) that its police and executive officers shall act in support of the enjoyment of these rights and freedoms.

Article 3

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 Bill shall supply an explanation as to the manner in which the law of that State gives effect to any of the said provisions of this Bill of Rights.

(Articles to be added on Violations and Communications)

x (Dr. Wu (China) suggests that the phrase "is, by international law" should be replaced by the phrase "shall be".)

PART II

Article 4

1. It shall be unlawful to deprive any person of his life save in the execution of the sentence of a court following on his conviction of a crime for which this penalty is provided by law.

2. It shall be unlawful to procure abortion except in a case in which it is permitted by law and is done in good faith in order to preserve the life of the woman, or on medical advice to prevent the birth of a child of unsound mind to parents suffering from mental disease, or in a case where the pregnancy is the result of rape.

Article 5

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

Article 6

It shall be unlawful to subject any person to torture in any form, or to cruel or inhuman indignity.

Article 7

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 other than labour exacted as a punishment for crime of which the person concerned has been convicted by due process of law.

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 of a non-military character in the case of conscientious objectors, exacted in virtue of compulsory military service laws;

(b) any service exacted in cases of emergency created by fire, flood, famine, earthquake, violent epidemic or epizootic disease, invasion by animals, insect or vegetable pests, or similar

calamities or other emergencies threatening the life and 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.*

Article 8

1. No person shall be subjected to arbitrary arrest or detention.

2. 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 has the right to be informed promptly of the charges against him. Any person who is arrested under the provisions of sub-paragraphs (a) or (b) of paragraph 2

* (The working party passed a resolution No. 3 which is to be found in Chapter III of this Report recommending to the Commission that this question be referred to the International Labour Organization for further study and report.)

of this Article has the right to be brought promptly before a judge, and to trial within a reasonable time or to be released.

4. Every person who is deprived of his liberty 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.*

Article 9

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

Article 10

Every 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.

Article 11

No alien legally admitted to the territory of a State may be arbitrarily expelled therefrom.

Article 12

In the determination of any criminal charge against him or of any of his civil rights or obligations, every person is entitled to a fair hearing before an independent and impartial tribunal and to the aid of a qualified representative of his own choice. No person shall be convicted or punished for crime except after public trial.

Article 13

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

* (It was the sense of the working party, upon request by the United States observer, that the requirements of this paragraph are not limited to compensation by the State.)

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.

Article 14

1. No person shall be deprived of his juridical personality.
2. No person shall be restricted in the exercise of his civil rights save in the case of:
 - (a) minors;
 - (b) persons of unsound mind; and
 - (c) persons convicted of crime for which such restriction is provided by law.

Article 15

1. Every person shall have the right to freedom of religion, conscience and belief, including the right, either alone or in community with other persons of like mind, to hold and manifest any religious or other belief, to change his belief, and to practise any form of religious worship and observance, and he shall not be required to do any act which is contrary to such worship and observance.
2. Every person of full age and sound mind shall be free, either alone or in community with other persons of like mind, to give and receive any form of religious teaching and to endeavour to persuade other persons of full age and sound mind of the truth of his beliefs, and in the case of a minor the parent or guardian shall be free to determine what religious teaching he shall receive.
3. 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 welfare, morals and the rights and freedoms of others.

Article 16

(Drafting Committee draft)

1. Every person shall be free to express and publish his ideas orally, in writing, in the form of art or otherwise.
2. Every person shall be free to receive and disseminate information of all kinds, including both facts, critical comment and ideas by books, newspapers, or oral instruction, and by the medium of all lawfully operated devices.
3. The freedoms of speech and information referred to in the preceding paragraphs of this Article may be subject only to necessary restrictions, penalties or liabilities with regard to: matters which must remain secret in the interests of national safety; publications intended or likely to incite persons to alter by violence the system of Government, or to promote disorder or crime; obscene publications; (publications aimed at the suppression of human rights and fundamental freedoms); publications injurious to the independence of the judiciary or the fair conduct of legal proceedings; and expressions or publications which libel or slander the reputations of other persons.

(United States draft)

Every one shall have the right to freedom of information, speech and expression. Every one shall be free to hold his opinion without molestation, to receive and seek information and the opinion of others from sources wherever situated, and to disseminate opinions and information, either by word, in writing, in the press, in books or by visual, auditive or other means.*

* (The working party decided not to elaborate the final text on this subject and recommends to the Commission the adoption of draft resolution 1 contained in Chapter III of this Report)

(It should be noted that the United States draft proposal for a Convention contains a general limitation article which would be applicable to this Article and which reads as follows: "The full exercise of these rights requires recognition of the rights of others and protection by law of the freedom, general welfare and security of all."

Article 17

All persons shall have the right to assemble peaceably for any lawful purpose including the discussion of any matter, on which under Article 16 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 necessary for:

- (a) the protection of life or property;
- (b) the prevention of disorders; or
- (c) the prevention of the obstruction of traffic or the free movement of others.

Article 18

All persons shall be free to constitute associations, in whatever form may be appropriate under the law of the State, for the promotion and protection of their legitimate interests and of any other lawful object, including the dissemination of all information of which under Article 16 the dissemination is unrestricted. The rights and freedoms set forth in Articles 15 and 16 shall be enjoyed by such associations.

Article 19

Every person shall be entitled to the rights and freedoms set forth in this Bill of Rights without distinction as to race, colour, sex, language, religion, political or other opinion, property status, or national or social origin. Every person shall be entitled to equal protection under the law.

(Article 20)

(It was suggested by the United States observer that, in lieu of the specific limitations upon the rights enumerated in each Article, there be one general limitation clause expressed in the following manner: "The full exercise of these rights requires recognition of the rights of others and protection by law of the freedom, general welfare and security of all.")

PART III

Article 21

1. This Bill of Rights 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 whom the General Assembly of the United Nations shall, by resolution, declare to be eligible.

(Alternative United States suggestion: "It being in the interest of humanity that the rights and obligations enunciated herein shall be as wide-spread as possible, this Convention shall be open for accession by all States, whether or not members of the United Nations.")

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 two-thirds of the States Members of the United Nations have deposited such instruments the Bill of Rights shall come into force between them. As regards any State which accedes thereafter, the Bill of Rights shall come into force on the date of the deposit of its instrument of accession.

3. Every deposit of an instrument of accession shall be accompanied by a statement that this Bill of Rights has been approved in accordance with the constitutional processes of the State concerned for the acceptance of the obligations of a treaty and by a solemn declaration made by the Government of the State concerned that full and complete effect to the provisions of Part II is given by the law

4. 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 22

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

(a) With respect to any Articles of this Bill of Rights which the federal government regards as wholly or in part appropriate for federal action, the obligations of the federal government 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 a favorable recommendation, to the notice of the appropriate authorities of the States, Prinvinces or Cantons.

Article 23

This Bill of Rights shall apply in respect of any Colony or overseas territory of a State party hereto, or to any territory subject to the suzerainty or protection of such State, or to any territory in respect of which such State exercises a mandate or trusteeship, when that State has acceded on behalf and in respect of such Colony or territory.

The State concerned shall, if necessary, seek the consent at the earliest possible moment of the governments of all such colonies and territories to this Bill and accede on behalf and in respect of each such colony and territory immediately its consent has been obtained.

Article 24

1. Amendments to this Bill of Rights 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 Bill.

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 Bill which they have accepted by accession including earlier amendments which they have ratified.

Article 25

The Articles of this Bill of Rights constitute an inseparable and organic whole.

CHAPTER III

Recommendation and Draft Resolutions submitted to the Commission

1. Draft Resolution on Freedom of Information

The Commission on Human Rights resolves:

1. that freedom of expression and of information is, in its opinion, one of the most fundamental freedoms;
2. that this freedom must be included in the Convention on Human Rights;
3. that the Commission, having before it two texts on this subject, one submitted by the United States of America and one by the Drafting Committee, decides not to elaborate a final text on this question until it hears the views of the Sub-Commission on Freedom of Information and of the Press and of the International Conference on Freedom of Information, and remits to them these two texts for their consideration;
4. that, in their consideration, the above-mentioned two bodies should be requested also to take into account the two resolutions of the General Assembly on this question (Document A/C.1/228

"Measures to be taken against Propaganda and the Inciters of a new War" and Document A/C.3/180 "Slanderous Information");

5. that they should be requested also to consider the social, economic and political conditions which will render this fundamental freedom real;

6. that they be requested also to consider the possibility of excluding from this freedom publications and other media of public expression which aim or tend to inflict injury, or incite prejudice or hatred, against persons or groups because of their race, language, religion, or national origin.

2. Draft Resolution on Stateless Persons

"The Commission on Human Rights is of the opinion that it is desirable that the United Nations should give early consideration to the position of persons who do not enjoy the protection of any State."

3. Draft Resolution on Minor Communal Services

"The Commission on Human Rights resolves that paragraph 3 (c) of Article 7 of this Bill of Human Rights be referred to the International Labour Organization for early consideration and report in the light of the Forced Labour Convention of 1930."

4. Recommendation concerning the Right of Asylum

This Working Party recommends that the Commission on Human Rights should examine at an early opportunity the question of the inclusion of the right of asylum of refugees from persecution in the Bill of Human Rights or in a special Convention for that purpose.