
COMMISSION ON HUMAN RIGHTS

Fifth session

Item 13 of the provisional agenda

TRUSTEESHIP QUESTIONNAIRE

Memorandum by the Secretary-General

1. Under Article 88 of the Charter of the United Nations the Trusteeship Council shall formulate a questionnaire on the political, economic, social and educational advancement of the inhabitants of each trust territory and the Administering Authority shall make an annual report on the basis of such a questionnaire.
2. At its first session, the Trusteeship Council approved on 25 April 1947 a Provisional Questionnaire (T/44). At the same session the Trusteeship Council transmitted to the Economic and Social Council the Provisional Questionnaire for its advice and comments on those sections which deal with subjects of special concern to it.
3. The Economic and Social Council on 16 August 1947 adopted resolution No. 88 (V), which reads as follows:

The Economic and Social Council
Decides that the appropriate parts of the Provisional Questionnaire under Article 88 of the Charter transmitted by the Trusteeship Council to the Council for advice and comments should be referred to the various Commissions of the Council,
Requests the Secretary-General to place them on the agenda of these Commissions for report to the Council.
4. At its second session in December 1947, the Commission on Human Rights noted the Provisional Questionnaire prepared by the Trusteeship Council, and recommended to the Economic and Social Council the adoption of the following resolution:

The Economic and Social Council,
Having regard to the importance of the Trusteeship Council's Questionnaire in developing standards of social policy, and
Desirous of promoting the widest possible application of the International Bill of Human Rights,

/Requests

Requests the Trusteeship Council to consider the Human Rights section of its Questionnaire as provisional until the Commission on Human Rights is able to review it in the light of an approved Bill of Human Rights. (Paragraph 43 of E/600)^{1/}

5. It has been decided that the International Bill of Human Rights shall consist of three parts, a Declaration, a Covenant, and Measures of Implementation. Although the International Bill has not been completed in its entirety - only the Declaration having been adopted - the Commission on Human Rights may consider that it is at present in a position to review the Provisional Questionnaire in the light of the Declaration, reserving an opportunity to review it further after the Covenant and the Measures of Implementation have been adopted.

6. The Provisional Questionnaire contains a total of 247 questions. A section of the Questionnaire, namely, questions 136-148, is under the heading of "Human Rights and Fundamental Freedoms." It will be seen that the Universal Declaration of Human Rights is much wider in scope (covering as it does political, economic, social, and educational rights) than the substance of questions 136-148 of the Provisional Questionnaire.

7. The Commission may consider that it should not confine itself to reviewing questions 136-148 of the Questionnaire; it may decide to review such other questions as are related to human rights and fundamental freedoms (E/CN.4/24). However, since certain specialized agencies, such as ILO and UNESCO, and certain commissions of the Economic and Social Council, such as the Commission on the Status of Women and the Social Commission, have already made suggestions relating to certain aspects of human rights (T/232), the Commission may not find it necessary to make recommendations with regard to all the questions of the Questionnaire that are related to the recognition and observance of human rights and fundamental freedoms.

8. The comments on the Provisional Questionnaire which appear in the following pages have been prepared by the Secretary-General in the light of the Universal Declaration. They are revisions of existing questions or drafts of new questions. They are arranged within the framework of the Provisional Questionnaire and not in the order of the rights and freedoms as they appear in the Universal Declaration. Most questions are specific and concrete in nature in order to elicit precise answers, although a few are necessarily of general character.

9. In this memorandum the main purpose has been to add new ideas or underline certain rights and freedoms rather than to change the form or the wording of any question in the Provisional Questionnaire. As the Trusteeship Council has received and will further receive comments from the

^{1/} The attention of the Commission is called to the footnote of paragraph 43 of E/600, in which the representative of the Union of Soviet Socialist Republics made certain comments on the Questionnaire.

commissions of the Economic and Social Council and from the specialized agencies, and as that Council itself has to formulate a definitive questionnaire for each trust territory, the Commission on Human Rights may decide to confine itself to suggesting additional or supplementary questions and not concern itself with the precise form or wording of any question or the order or numbering thereof in the Questionnaire.

* * * * *

General administration

Questions 21-27 of the Provisional Questionnaire come under heading of "General Administration." It is suggested that the following supplementary questions might be added:

Have members of all sections of the population the right of equal access to public service in the Territory irrespective of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status? Are members of all sections of the population excluded from the civil service? Does public service apply the principle of equal pay for equal work? Is the knowledge of the language of the Administering Authority a pre-requisite for entry into the civil service?

Have members of all sections of the population the right to take part in the government of the Territory directly or through freely chosen representatives?

Judicial organization

Questions 28-34 come under the heading of "Judicial Organization." It is suggested that the following supplementary questions might be added:

Is every inhabitant recognized as a person before the law? Are all inhabitants equal before the law and entitled without discrimination to equal protection of the law?

What are the laws and procedures governing arrest, detention, and exile? Is there any effective guarantee against arbitrary arrest, detention or exile?

Is every person entitled to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of any criminal charge against him?

Has every person charged with a penal offence the right to be presumed innocent until proved guilty?

Does every person charged with a penal offence have all the guarantees necessary for his defence? What are those guarantees?

May any person be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence at the

/time

time when it was committed? May a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed?

Social conditions

Questions 121-135 come under the heading of "Social Conditions." The following supplementary questions might perhaps be added:

Are there practices of compulsory marriage and child marriage? If so, what measures have been taken to prohibit them?

Is there any limitation or restriction of marriage due to race, nationality or religion?

Are motherhood and childhood entitled to special care and assistance? Do children born in or out of wedlock enjoy the same social protection?

Are there laws or regulations which protect the individual against arbitrary interference with his privacy, family, home and correspondence, and against attacks upon his honour and reputation?

What conditions and regulations govern the freedom of movement and residence of members of all sections of the population within the borders of the Territory? Are there any reserves set aside for the exclusive use of the indigenous inhabitants? Are there any areas in which residence is banned to indigenous inhabitants? If so, state the reasons why such regulations are adopted.

Has every inhabitant the right to leave the Territory and to return to the Territory? Are there any restrictions of this right?

Has every inhabitant the right to own property alone as well as in association with others?

Human Rights and Fundamental Freedoms

Questions 136-148 come under the heading of "Human Rights and Fundamental Freedoms."

A few general questions might be added at the beginning of this section. They might read as follows:

During the year under review has the Administering Authority adopted any laws or procedures, or issued any executive orders of administrative regulations, which are designed to secure the recognition and observance of any rights and freedoms such as set forth in the Universal Declaration of Human Rights?

Have there been important judicial decisions concerning human rights during the year under review? Give a summary of these decisions.

Have there been serious disputes over or violations of human rights that were dealt with by the administrative branch of the Government? Give a summary of these instances.

/Has the

Has the Universal Declaration of Human Rights been translated into the languages of the inhabitants and has it been displayed and expounded in schools and other educational institutions?

Question 136 of the Provisional Questionnaire deals with the matter of discrimination on account of race, sex, language, or religion. It is suggested that the question might be re-worded as follows:

Is there any discrimination in law or in practice on account of race, colour, sex, language, religion, political and other opinion, national or social origin, property, birth or other status, with respect to such matters as residence, trade, property (including land ownership), marriage, schooling, hospitalization etc.? During the year under review has the Administering Authority taken any measure toward the abolition of any such discrimination if it exists?

Questions 137-139 concern freedom of opinion and expression. To these questions the following supplementary questions might be added:

Are there any newspapers in the native languages? Are there any films and any broadcasts made in the native languages?

Are there any laws or regulations which restrict freedom of opinion and expression?

Does the Administering Authority permit egress from and ingress into the territory of all news and information without censorship, editing or delay? During the year under review has there been any censorship in force? And, if so, for what reasons?

Question 140 refers to voluntary organizations. To this question may be added the following supplementary questions:

Does the law of the Territory recognize the freedom of peaceful assembly and association? Does the law require that indigenous voluntary organizations be registered or incorporated?

During the year under review has any indigenous assembly been dissolved or any indigenous association been outlawed? If so, give the reasons.

Labour conditions and regulations

Questions 149-160 concern labour conditions and regulations. Exhaustive comments have already been made by ILO and the Social Commission (T/232). The Commission on Human Rights might perhaps add a general question in the following form:

Are there laws or ordinances of the Territory which recognize and protect the right (a) to work, (b) to free choice of employment, (c) to just and favourable conditions of work, (d) to protection against unemployment, (e) to equal pay for equal work, (f) to just and /favourable

favourable remuneration, (g) to form and to join trade unions? If so, please state what those laws and ordinances are.

Educational advancement

Questions 219-243 concern educational advancement. It is to be noted that UNESCO has already made pertinent comments on these questions (T/232). However, the following additional questions may be asked:

Do public schools require pupils to study any religion and attend any religious services? Do private (mostly missionary) schools require pupils to study religion and attend religious services? Does the Administration, in granting financial assistance to private schools, make it a condition that religious courses and religious services should be voluntary?

Is elementary education free? Is it compulsory - in the whole territory, in any districts or provinces, or in any cities? Is secondary and higher education equally accessible to members of all sections of the population on the basis of merit?

May pupils of any race or religion attend any public schools? Are there such public schools where any pupils of any race or religion may attend? Or are public schools established on the basis of racial or religious segregation?
