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Item 18

REPORT OF THE COMMISSION ON HUMAN RIGHTS (SEVENTH SESSION)

Observations of Governments on the Draft International
Covenant on Human Rights

8. UNION OF SOUTH AFRICA

(Note dated 8 August 1951 from the Deputy
Permanent Representative of the Union of
South Africa to the United Nations)

The Deputy Permanent Representative of the Union of South Africa presents his compliments to the Secretary General of the United Nations and with reference to the Secretary-General's note No. SOA 317/1/01(1) of the 13th June 1951, has the honour to state that the Government of the Union of South Africa has given consideration to the question of whether they should at this stage offer detailed comments on the draft Covenant on Human Rights.

Notwithstanding later amendments to the draft Covenant recommended by the Commission on Human Rights, the standpoint of the Union Government is still as set forth in the Deputy Permanent Representative's evenly numbered note of the 13th February 1951 to the Secretary-General.*

It will be recalled that in the opinion of the Union Government, the discussions showed that there still exists a wide divergence of views as to which rights and freedoms are susceptible to enforcement by international machinery.

*/ Note by the Secretary-General: The observations of the Government of the Union of South Africa referred to will be found in Document E/CN.4/515/Add.1.

Furthermore, a great deal of further study is necessary of the actual drafting of each article in order to find a text which would effectively cover an enormous variety of differing standards, conditions and circumstances. Finally, the Union Government believes that if the tendency to expand the field to be covered by an international instrument carrying with it full legal obligations continues, the position will be reached where any such instrument will in practice prove unenforceable or that it may not command allegiance of a sufficient number of States so as to permit of its being regarded as of universal international application.

The vast majority of rights and freedoms described in the Human Rights Commission's draft are in principle, and subject to details of drafting, acceptable to the Union Government for inclusion in an instrument of full legal validity but there are certain articles to which the Union Government could not fully subscribe in their present form. The Union Government feels that this is no doubt true of a number of other States. The heterogeneous nature of communities, traditional customs and circumstances of nations which comprise United Nations membership should be fully recognised.

Having regard to the very complex difficulties in finding formulae and words to cover all circumstances, the Union Government is of the opinion that the most earnest consideration should be given to arrangements whereby it would be possible for Member States to accede to the Covenant with reservations as to particular articles. The Union Government believes that on this basis more articles of the Covenant would become effective of application in a larger number of States than would be the case on a basis which did not permit of reservations since if a State is not permitted to accede to the Covenant with reservations in respect to one or two articles, it will in practice not be able to accede to the Convention at all.