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UNITED NATIONS SEMINAR ON THE ESTABLISHMENT OF REGIONAL COMMISSIONS ON HUMAN RIGHTS WITH SPECIAL REFERENCE TO AFRICA

Background Paper
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Note: The opinions expressed in this paper are those of the author.

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Towards the Universal Declaration of Human Rights

When in 1215 A.D. the English barons gathered at Runnymede and demanded and extracted the Magna Carta from King John, little did they realise that they were striking the first historic blow for individual freedom. No doubt, it was primarily for themselves that they demanded various rights and privileges for their class from the King, but it gradually became clear as the years went by that the rights and freedoms that they were asking for were to be available for everyone in England and, as history has shown, for human beings everywhere since that time.

Almost six centuries later, the French Revolution of 1789 lit the light of liberty, equality and fraternity, again primarily for French revolutionaries, but again soon these rights, these freedoms gradually spilled over beyond the boundaries of France and became accepted by most European countries. Thomas Payne, in his "The Rights of Man", gave classical expression to the various rights and freedoms and made them individually and universally acceptable to mankind, especially after the American Revolution and the Declaration of 1776 followed by the Bill of Rights enshrined in the constitution towards the end of the eighteenth century. In the words of the Declaration of Independence the following time-honoured assurances are to be found: "We hold these truths to be self-evident; that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights Governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of Government becomes destructive of these ends, it is the right of the people to abolish it, and to institute a new Government ...".

It would not be too much to say that these three documents soon permeated, and universalized human rights in the constitutions of most of the world by the end of the nineteenth century, proclaiming the emergence of a new awareness in human relations and in the governments of the various countries of the free world. After the First World War, the League of Nations was founded in the belief that mankind would be spared the scourge of war for ever and that peace and harmony would reign among men. The League represented the first bold attempt at global co-operation on the political level, but it did not fully appreciate the fundamental principle that economic development and amelioration of the living conditions of the nations of the world were equally as important as the political. After the lessons of the depression in 1939, mankind was again plunged into the Second World War which taught all of us the lessons that political advancement not matched by economic and cultural improvements in the human condition was meaningless. We all witnessed the inevitable catastrophe of race wars and other inhuman practices produced by the madness of men. During the 1939-1945 war the Allies under the leadership of President Roosevelt of the United States proclaimed the four freedoms - freedom from fear, freedom from want, freedom from oppression and freedom from war. These four freedoms were proclaimed as the four most important that would save mankind from the scourge of man's inhumanity to man which largely characterized the atrocities and the degradations of the human person throughout the six years of war.

The delegates at San Francisco thereafter gathered together to plan a new and more humane world devoid of political domination by one nation over another and free from oppression of any kind. There was a great temptation for most of the delegates to embark upon a comprehensive

exercise of compiling a catalogue of human rights that should be enshrined in the Charter of the United Nations which would ensure that never again would there by any cause for another world war. The founding fathers of the new universal world organization, however, preferred to write a Charter in which human rights and fundamental freedoms should be guaranteed on the global level without an attempt at any too detailed enumeration of rights and freedoms which might not be capable of endorsement and implementation subsequently.[1] So it was that, when the Universal Declaration of Human Rights in 1948 came to be hammered out at the General Assembly on December 10 of that year, the overwhelming majority contented themselves with the adoption of a reasonably detailed but by no means exhaustive list of human rights and fundamental freedoms intended to be no more than as a supplement to the various basic rights and freedoms to be found in the existing constitutions of most the countries of the delegates.

The General Assembly was quite aware that it was not adopting a legally binding document which would serve the new international community for ever; rather, it at that time envisaged the subsequent elaboration of a covenant which should spell out in more detail and with greater precision of language the political and social rights as well as the economic and cultural rights of the individuals without which world peace could not be guaranteed. It was probably for this reason that the Universal Declaration as a fundamental document did not differentiate between civil and political rights, on the one hand, and economic, cultural and social rights on the other. As P. Modinos rightly observed: "Civil and political rights demand that in exercising its political functions a State shall respect fundamental

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[1] See, generally, H. Lauterpacht's "International Law and Human Rights", 1950.

human freedoms. It must protect the lives of its subjects, ensure equality before the courts, consult the people on the election of the legislative body. Civil and political rights enumerate, so to speak, the duties of the State towards the individual, limiting its rule to observing the declared rules and maintaining the established order. Economic and social rights, on the other hand, entail heavy obligations. They oblige the State to ensure its subjects the effective exercise of their rights with respect to employment and its duration, conditions of health and safety, remuneration, rest, dismissal, vocational training and social and medical assistance."[1] It must not be thought, however, that the General Assembly was unaware of these differences between the two groups of rights. It adopted the approach it did only becuase it did not consider that the elaboration of the human rights and fundamental freedoms to be protected should at this stage be exhaustive and too detailed because it felt that this would be a sure way of discouraging as wide a degree of participation in the adoption of the final document as possible.

The first group of States to follow the example of the United Nations in the field of human rights was the Council of Europe which on March 20, 1952 adopted the Convention for the Protection of Human Rights and the Protocol guaranteeing civil and political rights in a manner not dissimilar to that adopted in the Universal Declaration. The Council of Europe, however, went beyond the United Nations in that it provided in its Convention for two instruments, namely the Commission of Human Rights and the Court of Human Rights for the main purpose of ensuring that violations of those rights would be severely discouraged if not entirely eliminated.

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[1] See his "Introduction to Human Rights".

The European Convention, unlike the Universal Declaration of Human Rights of the United Nations, did not provide for economic, social and cultural rights.[1] The Legal Committee in presenting its report to the Consultative Committee of the Council on August 19, 1949 gave as part of its reasons the following: "We must first choose the objective that we shall attempt to achieve in the distant, near or immediate future. Naturally a desirable maximum goal, a theoretical idea, exists. This would be to draft for Europe a complete code of all freedoms and fundamental rights; all individual freedoms and rights and all so-called social freedoms and rights ... We should need years of mutual understanding, joint studies and experiments even to attempt, after many years and with some hope of success, to formulate a complete and general definition of all the freedoms and all the rights that Europe could grant to all Europeans. Therefore, let us lay aside, for the moment, this desirable maximum goal. ... This consists in defining the seven, eight or ten fundamental freedoms that are essential to democracy and that can be guaranteed by our countries to all their citizens."
On October 18, 1961 the Council of Europe duly promoted the European Social Charter guaranteeing economic and social rights, but excluding cultural rights apart from the exception of the right of parents to educate their children according to their own religious and philosophical beliefs. This cautious approach was deemed necessary in order to make the Charter more fairly widely acceptable to the majority of member States of the European Economic Community.[2]

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[1] See A.H. Robertson's "Human Rights in Europe", 1977. Also M. Moskovitz's "The Politics and Dynamics of World Order", 1968.

[2] For a study of this problem, see F. Vallat (ed.): "Introduction to the Study of Human Rights", 1970.

The second group of States that had followed the example of Europe was the Organization of American States. At the Bogota Conference in 1949 the American Declaration of Human Rights and Duties was adopted. The draft Convention on Human Rights approved by the Inter-American Council of Jurists at its fourth meeting in 1959 was transmitted to the Council of the Organization of American States for the purpose of its submission to the Eleventh Inter-American Conference. The Convention established at an international level two international organs - the Inter-American Commission for the Protection of Human Rights and the Inter-American Court of Human Rights. Unlike the European Convention on Human Rights, however, the Inter-American draft Convention contains provision in about fourteen articles recognizing economic, social and cultural rights (for example, the rights to employment, to social security, to education, and so on). The fourth meeting of the Inter-American Council of Jurists was widely attended but with reservations by three States. Argentina and Mexico felt that the provisions were so far-reaching as to have required greater study and deliberation. The delegation of the United States made a reservation with regard to the Commission and the Court and also to its participation in the organisms which might evolve from those instruments.

A third attempt was made by a group of African States at a Conference held in Lagos, Nigeria, under the auspices of the International Commission of Jurists, Geneva. The African jurists who attended the Lagos Conference on the Rule of Law in January 1961 adopted a series of elaborate resolutions appropriately termed "The Law of Lagos". Let us quote the following section

of the report: "An important section of the Law of Lagos set forth a declaration inviting the African governments to study the possibility of adopting an African Convention of Human Rights that would protect individuals aggrieved by violation of public or private law and enable them to seek redress before an international tribunal of appropriate jurisdiction. Though the realization of this project may not be within easy reach, it offers a major opportunity for positive action by the Commission's national sections in Africa and opens great prospects for strengthening the rule of law of that continent."[1] We may add the following paragraph from the Declaration itself (Law of Lagos): "That in order to give full effect to the Universal Declaration of Human Rights of 1948, this Conference invites the African governments to study the possibility of adopting an African Convention of Human Rights in such a manner that the conclusions of this Conference will be safeguarded by the creation of a court of appropriate jurisdiction and that recourse thereto be made available for all persons under the jurisdiction of the signatory States."[2]

The emphasis laid on the protection of fundamental human rights by the Lagos Conference may be seen also in the following additional paragraph: "That fundamental human rights, especially the rights to personal liberty, should be written and entrenched in the constitutions of all countries and that such personal liberty should not in peacetime be restricted without trial in a court of law."

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[1] International Commission of Jurists, Journal, Vol. III, Nos. 1-2, Spring 1961, Winter 1961, p. 6.

[2] See International Commission of Jurists, Journal, Vol. III, Nos. 1-2, Spring 1961 - Winter 1961, p. 9. The report of the whole conference will be found at pp. 3-28.

Unfortunately, however, no concrete step has so far been taken in furtherance of this noble objective. Instead, an African Commission of Jurists was established by a convention adopted by some 32 African States at a conference in Lagos in 1963, one of the principal objectives of the Commission being the study of African political institutions and legal ideas with particular reference to the promotion of the rule of law and the observance and protection of fundamental human rights throughout the continent. The African Commission of Jurists was unfortunately transferred by the Conference of 1963 to the Secretariat of the Organization of African Unity in Addis Ababa after the formal adoption of its constitution in Lagos. In the euphoria that followed the establishment of the Organization, it was hoped that the Commission of African Jurists would function well as the seventh Commission under the Charter. It was, however, obvious to some of us even then that this Commission was not quite like the other OAU Commissions which are essentially political and economic in character.

While it is true that the Charter of the United Nations does not contain an International Bill of Rights, the fact remains that it does provide for the promotion of human rights. It also provides for the creation of a Commission of Human Rights (Art. 68) and also for the fact that all member States pledge "to take joint and separate action in co-operation with the Organization for the achievement of universal respect for human rights". Many may think that it should also have provided for the creation of some international machinery for the enforcement of human rights. It is at least arguable that it should have defined the human rights and fundamental freedoms mentioned in the Preamble to the Charter, but it seems right that this has been left, as originally envisaged at San Francisco, to the Universal Declaration of Human Rights.

Human Rights in Relation to the Rule of Law

There is, no doubt, an organic relationship between the fundamental rights and freedoms, on the one hand, and the rule of law, on the other.[1] Attention may be drawn to the following proclamation in the Preamble to the Universal Declaration: "It is essential if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law." For this reason, the framers of the Declaration, in order to achieve the free development of the human personality, proceeded to divide these rights into four main groups: personal freedom and security of the person; special relationships and a right to own goods and property; religious, political and civil rights as well as economic, social and cultural rights. In addition, care was taken to include the corresponding duties which the individual, on the one hand, and the community on the other, undertake in order to ensure that their respective limits are not exceeded in order to maintain the social solidarity of each State.[2]

It is important to realise that the two international Covenants of Human Rights, in spelling out the respective limits of the two groups of rights, place due emphasis on the role of the individual. Thus, the Preamble to the International Covenant on Economic, Social and Cultural Rights proclaims "that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant". Exactly the same provision, word for word, occurs in the last preambular paragraph to the International Covenant on Civil and

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[1] P. N. Drost: "Human Rights as Legal Rights", 1965, describes the relationship admirably. A classic study is also to be found in "The Rule of Law and Human Rights (Principles and Definitions)", International Commission of Jurists, 1966, Geneva.

[2] See G. Ezejiofor's "Protection of Human Rights under the Law", 1964, for its useful discussion of the question with special reference to Africa. The general problems are analysed in H. Street's "Freedom, The Individual and the Law", Penguin, London, 1964.

Political Rights. It is true that the Covenants have been designed to promote and protect the rights of the individual, but the point is that both Covenants are intended primarily to speak to the various States Members of the United Nations in their internal dealings with their various citizens and not directly to citizens as between themselves. The fact that this emphasis has been laid on the inter-relationship between the individuals in respect of the two groups of rights is significant. It marks a milestone in the progress that the international community has made in recognizing the importance of "the worth and dignity of the individual", in order "to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women, of nations large and small".

It is significant that the Organization of African Unity paid scant regard to the inclusion of fundamental human rights in the provisions of its Charter. This is not really surprising when it is remembered that, from the inception of the idea of an international body on a regional level for the newly independent African States, the preoccupation was with safeguarding their political freedom, newly won, and for the preservation of the rights and equality of States in the conditions of the world two decades or so ago. Besides, the founding fathers of the Organization of African Unity that first met in Monrovia, Liberia, in May 1961, were not unmindful of the existence of the United Nations Charter and of the Universal Declaration of Human Rights to which most of them had by then subscribed. There was, therefore, the underlying assumption that these documents were also available to the new States until further steps were

taken to indicate the contrary, if any. Indeed, the Charter expressly contains references to the United Nations Charter which the member States of the OAU have expressly recognized and accepted. The International Court of Justice was fully accepted as the final court for the settlement of international disputes among the member States of the Organization.

It will be noticed that, when Article 22 of the OAU Charter provides for the establishment of a protocol for mediation, conciliation and arbitration, it does so for the express purpose of settling inter-regional disputes among its members, without any attempt to define human rights and freedoms in each State. There is a sense in which it may be said that the preoccupation has been, and continues to be that the member States diligently guard their hard-won independence and are very jealous of one another's political sovereignty.

In the Preamble to the Organization of African Unity's Charter is contained the principle of the inalienable right of all peoples to self-determination and to freedom, equality, justice and dignity which the founding fathers considered to be indispensable to the new Organization. No doubt, they were fully conscious of their responsibility to handle the human as well as the material resources of the continent for the advancement of their peoples, at the same time stating their common determination to promote understanding among their peoples and co-operation among their respective States "in a larger unity transcending ethnic and national differences". They stressed their determination not only to safe-guard and consolidate their hard-won political independence but also to fight against "neo-colonialism in all its forms". In addition to their resolve to reinforce the links between them by "establishing and strengthening common institutions", the Heads of State gathered in Addis Ababa reaffirmed

their faith that "the Charter of the United Nations and the Universal Declaration of Human Rights ... provide a solid foundation for peaceful and positive co-operation among States".

This emphasis is also to be found in Article 2 (1) of the OAU Charter which defines the purposes of the Organization as including the promotion of "international co-operation, having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights". This shows the adherence of the member States not only to the principles of the Charter, but also their determination to achieve the goal of international co-operation in practical terms within the meaning of Article 52 of the United Nations Charter which allows for regional arrangements for the strengthening of the United Nations. It is interesting to recall here the following provision of Article 52, paragraph 1: "Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the purposes and principles of the United Nations."

The emphasis on adherence to the United Nations Charter and particularly on their resolve to uphold the provisions of the Universal Declaration of Human Rights indicates the importance attached by the newly independent States of Africa to the promotion and protection of human rights even while emphasizing in Article 3 that the two basis principles of the Organization are (a) to pursue a policy of upholding the maintenance of the sovereign equality of all member States, and (b) the policy of non-interference in one another's domestic affairs.

It is important to emphasize that the Preamble to the Universal Declaration of Human Rights proclaims it "as a common standard of achievement for all peoples and all nations" and that "every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance".

Assessment of Existing Human Rights Implementation Machinery

Before we now go on to consider the specific problems of establishing machinery for the promotion and protection of human rights in other regions of the world apart from Europe and Latin America, it seems valuable to stop and consider a small number of questions which have application not only at international level but also at regional ones.

There is agreement on all hands that there has been sufficient theoretical provision defining and explaining the various human rights and freedoms that are in need of protection and promotion, but that what is lacking now is the establishment of adequate and effective machinery for their implementation even at the international level.[1] The United Nations Charter has itself established the Commission for Human Rights which has been functioning since the commencement of the work of the United Nations. There has been established over the years a series of Sub-Commissions to supplement the Commission's work.

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[1] See, e.g., M. Moskovitz's "Human Rights and World Order", 1968 and F. Vallat (ed.): Introduction to the Study of Human Rights, 1970.

A recent initiative has, however, been taken in the establishment of a Human Rights Committee which has been established also to supplement the work of the Human Rights Commission in New York. The Human Rights Legal Committee, consisting of 18 independent experts established by the International Covenant on Civil and Political Rights, of which there were 49 States parties by the end of its third session in January-February 1978, has as its first and main task the study of the States parties' reports on measures adopted, difficulties encountered and progress made in the protection of the rights provided for in the Covenant. There are two stages of the study: the first is the presentation of the State report by a government representative, upon which members of the Committee ask questions and make comments; and the second is the submission to the Committee of the answers to those questions as well as any supplementary information. The Committee thereupon proceeds to evaluate and analyse all the information available. There has been some controversy concerning the role of the Committee in dealing with States' reports. While one or two of its members have contended that the procedure envisaged in Article 40, paragraph 1, is "a reporting procedure, not an investigatory procedure", other members have maintained the view that there are in fact three elements involved: (a) the reports describe the measures adopted by the State concerned to give effect to the rights contained in the Covenant during a given period; (b) the progress made in the enjoyment of those rights by its citizens; and (c) "the factors and difficulties, if any" affecting the implementation of the Covenant. It seems clear that the latter is the right view if there is ever to be developed any worth-while jurisprudence in international law on this subject.

The second task of the Committee is provided for in the Optional Protocol, which recognizes the Committee's competence to receive individual communications. The Protocol has now been ratified by well over 80 States. Such communications are considered in private, and there does not seem to have been many submitted to the Committee so far.

The third task of the Committee is laid down in Article 41 of the Covenant which requires it to give consideration to inter-State complaints. For the procedure to come into effect, acceptance by at least ten States is necessary, but, so far, fewer than that number has done so.

Another problem is to determine the nature of the "reports" which the Committee, having done its work on the various annual States' reports, is required to submit to the General Assembly under Article 45 of the Covenant. One view is that since only a reporting procedure is contemplated by Article 40, paragraph 1, the Committee should only comment on the sufficiency of the information supplied to it and should not make any comment on individual States. Another view is, however, that the Committee should comment article by article on how the States concerned have been meeting the obligations under the Covenant as revealed by each State's report considered by the Committee from time to time. This would seem to be the better approach to the problem of assessing the implementation of the Covenant's provisions. Yet another question is whether the Committee is competent to interpret the Covenant in its task of evaluating and analysing the various States' reports as well as to comment thereon. There can be no doubt that it can, and not only States parties have the power to interpret the Covenant according to their own light. The Committee should surely in the last resort be able to assess and interpret the material before it in the light of its own findings.

On the issue of implementation of the human rights provisions in the Declaration and in the Covenants there is also the problem of strengthening the machinery so far available. In this connection, since 1963, the problem of establishing an office of a High Commissioner for Human Rights has been agitated in the General Assembly of the United Nations and elsewhere within the UN framework. The office of the High Commissioner for Human Rights is one in respect of which not much progress has, however, been made in the UN discussion of the subject over the years. Those in favour of the establishment of the office consider that the High Commissioner would both co-ordinate UN activities concerning human rights and also lend his "good offices" to the resolution of human rights problems, especially urgent ones arising between sessions of the General Assembly. On the other hand, opponents like the Soviet Union feel that the office would "replace inter-governmental co-operation by a bureaucratic administration likely to become a tool for interference in the domestic affairs of States", since, in its view, governments engaged in massive and flagrant violations of human rights would hardly be likely to brook any mediation or advisory assistance from other quarters. The exercise of "good offices" with the consent of the State concerned would constitute unwarranted interference in the domestic affairs of States contrary to Article 2 (7) of the UN Charter. The proponents of the office, however, consider that the powers of a High Commissioner could be so carefully defined as to avoid interference in essentially domestic affairs of States. It is nevertheless the case that intergovernmental co-operation in the field of human rights could better promote progress in real terms than downright condemnation or confrontation, although there are situations in which guarded pressures could provide desirable results.

In place of the office of High Commissioner has been proposed the institution of a Bureau of the Commission to act for purposes and in situations for which a Commissioner has been suggested. Another alternative proposal has been that the Chairman of the Commission shall be given power to "monitor", either in person or by delegation to the Sub-Commission or to a Commission member, the authority to deal with any urgent reports of gross violations which might be submitted to the Commission between sessions of the Assembly. A third proposal is that the Sub-Commission, made up of 26 independent experts, be authorized to convene from time to time to consider urgent cases. All these suggestions have their merits, but are limited by the fact that the substitutes are as ineffective as the substantive institution would be in practice unless the international community is ready and willing to accept an international Ombudsman for the promotion and implementation of human rights and fundamental freedoms throughout the world. There is a noticeable disagreement as to the list of gross violations in which the Chairman, Sub-Commission or the Bureau of the Commission could act in given cases.[1]

The office of the High Commissioner for Human Rights is a very fundamental one in the whole process of implementation of these rights.[2] If, however, the establishment of such an office at the international level has provoked so much controversy, it is possible that other problems are likely to arise if and when the suggestion to establish regional machinery for the promotion and protection of human rights is established. Such

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[1] See General Assembly resolution 32/130 for the lists which it was suggested should be given priority, especially in the case of the Bureau of the Commission.

[2] For a brief recent assessment, see J. A. Joyce's "The New Politics of Human Rights", 1978, pp. 215-219.

problems could be solved by also establishing regional deputy commissioners for human rights and accredit them to each regional human rights institution, namely the Commissions of Human Rights and the Court of Human Rights. Since one precondition for the establishment of the office of a High Commissioner at an international level would be that it must have regard to the various regional conventions and their peculiar nuances, it is inevitable that a Deputy High Commissioner should follow suit and try to perform his functions within the framework of the regional convention of human rights and its implementation machinery, particularly the Commission of Human Rights and the Court of Human Rights. There should be no insuperable difficulty in the way of acceptance of the office of the High Commissioner for Human Rights at international level as well as at the regional level so long as the performance of their functions is carried out with reasonable proficiency and imagination. A supplementary consideration would be to consider the extent to which it might be necessary to establish, at an appropriate stage, a Sub-Committee for Human Rights under the United Nations Human Rights Committee at Headquarters, at the regional seats of the machinery established for the purpose. Such local committees should be able to deal with issues of purely regional concern as provided for and defined in the relevant conventions.

Certain Prerequisites for Regional Human Rights Machinery

It follows from the foregoing that the success of the European Commission of Human Rights and the European Court of Human Rights, followed by the limited achievement in establishing the Inter-American Commission of Human Rights and the Inter-American Court of Human Rights, has inspired

the suggestion made in recent years that similar regional institutions be established in Africa, Asia and the Caribbean, for instance. It is to be noted, however, that these precedents in Europe and America have been made possible only because of the existence of a political organization in each case which has succeeded in bringing together the States and infused into them a common desire to unite their efforts in the achievement of the purposes envisaged in the various conventions of human rights. Even in the case of the tentative attempt to establish institutions of human rights in Africa to which we have referred, there has been the advantage of the Organization of African Unity providing a political framework for the desired establishment of machinery for the promotion and protection of human rights. It may be a question whether the African experiment, if and when seriously undertaken, would not achieve better results in consequence of the greater degree of cohesion and confidence gained by the member States of the OAU since its establishment some 15 or 16 years ago. It seems a very important point that the European Commission of Human Rights and the European Court of Human Rights have had greater success on the whole than the same institutions of the Inter-American Council mainly because of the greater homogeneity and constitutional democracy which has existed for a longer period in Europe than has been the case in the Americas, at least up to the time of the experiment in the latter region. In the case of the African region, independence has fostered sufficiently the growth of a limited amount of confidence in the territorial integrity and political cohesion of the several States of the OAU to warrant the assumption that the basis for inter-State collaboration and endeavour to achieve a common purpose is more likely to succeed now that many of the countries have through bilateral and multilateral agreements and treaties cemented their

friendship and international relations to such an extent that there is less fear of one another, especially in the light of the well-known OAU policy of respecting the territorial integrity and equality of member States as well as non-interference in one another's internal domestic affairs. In a number of ways also, many of the African member States have achieved comparable institutional and economic developments that could form a basis for the establishment of at least a nucleus of institutions for the protection and promotion of human rights in Africa.

In Asia, South-East Asia, and the Caribbean, on the other hand, there is as yet no political framework established in or for each region on which to hang, so to speak, the institutional arrangements like the Commission of Human Rights and the Court of Human Rights for each region. Unless it is assumed that there is no need for a common political framework for the existence of human rights institutions such as we have seen in Europe and the Americas and which we feel would be necessary for the establishment of similar institutions in Africa, it seems that in order for regional human rights machinery to be established effectively in these other areas of the world, steps must be taken for the peoples of each region to organize themselves on the basis of a common political framework as a necessary prelude to the establishment of human rights institutions thereat. It is, of course, a question whether such political framework for the human rights machinery should be established from on top, say by the United Nations itself, or whether, as seems logical and necessary, it should be established by the peoples themselves. The examples of Europe and the Americas in the case of regions which have established human rights institutions and even in the case of Africa which has yet to establish them, show clearly that a pre-existing political framework had been established by the initiative

of the States in each region and not by any intervention on the part of the United Nations. In the case of the establishment of regional institutional machinery for the protection and promotion of human rights, however, it is not absolutely necessary that the States constituting the political grouping should have achieved the same standards of common economic and social development before there can be meaningful co-operation. What is needed is no more than a relatively common standard of achievement backed by a determination to pool their resources together in the provision of services and the maintenance of purposes for the implementation of a reasonably wide measure of freedom in the political, social and economic fields. The Universal Declaration of Human Rights provides the clearest example of how new States in other regions of the world could adopt a modest but viable beginning in the field of promotion of human rights.

The establishment of regional commissions and regional courts might entail the consideration of a system of appeal or reference to the Court of Human Rights, that would have been established at the international level. There should not be any reference from a sub-commission at the regional level to the International Commission of Human Rights at the international level; the appeal should be from the regional courts to the International Court of Human Rights, from which, inevitably, appeals must lie to the International Court of Justice at The Hague.

In this connection it is to be noted that a recent experiment was tried in one of the series of regional seminars on human rights organized by the International Commission of Jurists. This was the seminar held in Barbados in September 1977 on "Human Rights and their Promotion in the Caribbean". The other institution collaborating with the International Commission of Jurists was the Organization of Commonwealth Caribbean Bar

Association. The seminar was attended by delegates from 16 countries in the area, a number of ministers and government officials, and Caribbean organizations like the Caribbean Community, Caribbean Conference of Churches, Caribbean Congress of Labour and OCCBA. Considered at the seminar were the two groups of economic, social and cultural rights as well as civil and political rights. Delegates at the seminar sponsored the establishment of a Continuation Committee for the purpose of implementing the recommendations, the main task being for the Committee to try to bring into existence a "regional co-ordinating organization" referred to in the conclusions and recommendations, and the hope was strongly expressed that this regional organization would include some at least of the Government representatives in the area. The task of the regional co-ordinating organization was to consider the drawing up of a Caribbean Declaration of Rights in the light of existing instruments, and to frame a Caribbean Convention on Human Rights especially adapted to the needs of the area. It is interesting to note the emphasis placed on the inclusion, in such a draft convention, of the following rights: the right to self-determination, the right for the individual to participate in the public affairs of the State, the right to work and freely join trade unions, the equal treatment of children born out of wedlock with those born in lawful wedlock, the status of women, the provision of free and compulsory primary education, the need for pre-primary education and adequate medical and health care. The seminar ended with a strong recommendation that all governments in the Caribbean region which have not yet done so should ratify the international instruments already in existence in the field of human rights. It is significant that the funds for the seminar had been provided by the Ford Foundation and the Netherlands Government. It does not seem necessary to emphasize that these

laudable initiatives on the part of the International Commission of Jurists in organizing these various seminars and conferences were the right step in the right direction. It is also clear, however, that the need for a regional political framework of some sort which must be based upon governmental collaboration is inevitable if real progress is to be made in the furtherance of the promotion and protection of human rights in the Caribbean area, as, indeed, in other regional areas like Africa, Asia and South-East Asia.

The Regional Idea for Africa

If we may now turn to the consideration of the problems raised by the possible establishment of machinery for the promotion and protection of human rights in Africa, we must first of all examine a number of preliminary factors without which the formulation of a convention on the basis of which a Commission for Human Rights and a Court of Human Rights could not be attempted. It is, however, unrealistic to pretend that the mere existence of the Organization of African Unity is sufficient to ensure a common approach to the problems of human rights and the assurance of their effective implementation after the establishment of the necessary machinery.

A peculiar feature of the African scene is the problem of new political systems such as the one-party State, the limited-party State, military regimes, minority governments, and liberation movements.

Let us first examine the one-party State idea from the point of view of human rights.[1] The most significant study of the problem is to be found in the International Commission of Jurists' Report entitled "Human Rights in a One-Party State", which was the subject of an international seminar convened by the Commission and held in Dar-es-Salam in

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[1] A preliminary study is contained in K. Panter-Brick's "Single Party Rule in Africa", London, 1966, and in Colin Legum's "Africa: a Handbook", London, 1966.

September 1976. The participants included Government Ministers and senior officials, judges, advocates, law lecturers, teachers and churchmen from six countries of East and Central Africa - Sudan, Tanzania, Zambia, Botswana, Lesotho and Swaziland. This report was discussed by the International Commission of Jurists at its 25th Anniversary Commission Meeting in Vienna in April 1977. We may attempt a summary of the main questions considered and the tentative conclusions reached at the Dar-es-Salam Conference as follows. The one-party system would appear to be more open to abuse of human rights and fundamental freedoms than a multiparty system because of the very nature of the political climate in which the various conventions of human rights and of fundamental freedoms in the more established democracies had germinated. On the other hand, a proliferation of political parties, whether in a developed or in a developing State, could equally endanger the free enjoyment of human rights unless there are supporting historical and cultural traditions and economic and social development within the States. The participants at the seminar showed real concern for the rule of law and fundamental human rights and broadly agreed that it could not prevail unless certain principles were observed and safeguarded:

(a) There should be freedom of choice within the electoral framework if democracy is to be assured. The one-party should guarantee genuine political popular choice among alternative candidates for election and no one should be compelled to vote for a particular candidate rather than another.

(b) Everyone should be free to join the party or to abstain from party membership or from membership in any other organization without penalty or deprivation of his or her civil rights.

(c) The one-party must maintain effective channels of popular criticism, review and consultation. The party must be responsive to the people and make it clear to them that this is party policy.

(d) In a one-party State, it is particularly important that (i) the policy-forming bodies of the party utilize all sources of information and advice, and (ii) within the party itself members should be completely free to discuss all aspects of party policy.

It is absolutely essential that, as in the multiparty State, in the one-party State the independence of the judiciary which is absolutely indispensable to the observance of the rule of law as we know it, as well as the independence of the legal profession, without which the administration of justice would be a sham, should be specially guaranteed within the State's constitution. It is equally essential that facilities should be readily available to every individual for speedy legal redress of grievances against administrative action by both party and government. Experience has shown that a political system based upon a democratic principle of government cannot function effectively without opposition which is maintained on the basis of mechanisms for continuous, impartial, and independent review and investigation of administrative activities and procedures. The institutions such as the ombudsman or parliamentary commissioner are necessary in any modern system of government based upon the rule of law.[1] There should be criticism and freedom of access to information in a one-party State, as in any other truly democratic system of government. The constitution of a one-party State should guarantee also the right to organize special interest associations, such as trade unions, professional,

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[1] See, e.g., T. E. Utley's "Occasion for Ombudsman", London, 1961.

social, religious and other organizations should be encouraged and protected. The freedom of such organizations to affiliate or not with established political parties is indispensable. Most important of all, however, is that, in a one-party State, all members of the society must be widely educated as to their human rights in order to ensure the effective exercise of those rights. The education of the individual should begin from primary school, through secondary school and post-secondary institutions like the colleges of technology and the universities. The necessary atmosphere must be created for the right to participate in discussions in students' groups regarding the various human rights documents and issues which are essential to the proper understanding of the fundamental human rights and freedoms among all sections of the populace. There should always be a national attitude on the part of the officials of the party and of the government to appreciate the limits on the exercise of power deriving from the recognition of fundamental human rights and the rule of law with regard to their day-to-day dealings with their fellow citizens.

As regards limited-party States, a constitutional innovation of which occurs in Egypt and Senegal, the position is that in each case only three parties of defined political tendencies are permitted. Such attempts not only to say what type of party would be permitted by the State machinery but also clearly to circumscribe political thinking and freedom of expression and association into arbitrary channels must be regarded as difficult to justify in any democratic society of today. While it is true that such constitutional arrangements might seem to permit greater freedom of choice than is permissible in one-party States and even in some nominally multiparty States, the very limitation imposed on the number or variety of political opinions and parties would seem to be incompatible with the

Universal Declaration of Human Rights and the two international Covenants. Indeed, the question may be asked, quite legitimately it would seem, why it has been that the number of political parties has been limited to three. Is it merely to avoid the criticism now popularly levelled against two-party systems or is it that, in the political judgment of these innovators in Senegal and Egypt, the necessary political permutations and combinations are exhaustively covered in such systems? The fixing of a particular number of parties or political arrangements for the promotion of the governmental activities of a State would seem to involve a measure of derogation from freedom of choice that should be available to the peoples of democratic societies for the administration of their internal as well as their external affairs.

As regards military regimes, which it may be noted are not confined to Africa or the Third World, human rights and fundamental freedoms do not automatically flourish without proper safeguards and eternal vigilance on the part of all the citizens. The rule of law is indispensable to the enjoyment and protection of human rights in every democratic society, and this requires the subordination of the civil authority to the constitution of the State and of the military establishment to the civilian authority. The idea of a military establishment subverting a legally constituted government acting within the constitution is a negation of the rule of law, although there are recent decisions[1] based upon Hans Kelsen's theory that a coup d'état may not necessarily be deemed to have established an illegal government if certain factors are present. These may be summarized as follows:

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[1] E.g., Madzimbamuto v. Lardner-Burke and anor. (1968) 3 W.L.R. 1129 (Southern Rhodesia); The State v. Dosso and anor. (1958) 2 Pakistan Supreme Court Reports, 180; Uganda v. Commissioner of Prisons, Ex parte Matovu (1966) E.A. 514; Isaac Boro v. The Republic and ors. (1970) S.C. 58/69 (Nigeria) (1966), S.C. 377/1966; (1967) N.M.L.R. 163 and Lakanmi and anor. v. Att.-General (Western State)

(a) There must have been an abrupt political change, i.e., a coup d'état or a revolution. It does not matter whether the change has been effected directly by a military junta or by a civilian or group of civilians subverting the existing legal order with or without the aid of the military. There can be a coup without the use of armed force.

(b) The change must not have been within the contemplation of an existing Constitution. If it were, then the change would be merely evolutionary, i.e., constitutional; it would not have been revolutionary.

(c) The change must destroy the entire legal order except what is preserved. In order for the coup d'état to be complete, the new regime need not have abrogated the entire existing constitution. It is sufficient that what remains of it has been permitted by the revolutionary regime.

(d) The new constitution and Government must be effective. There must not be a concurrent rival regime or authority functioning within or in respect of the same territory.[1]

Although military regimes are by their very nature normally antithetical to the rule of law and the observance of fundamental human rights that should go with it, nevertheless it is by no means the case everywhere and under all circumstances that fundamental human rights might not be allowed to flourish thereunder. The classic example of such an abnormal situation and which in fact has occurred in recent years, has been the case of Nigeria where the military regime that carried out a coup d'état in January 1966 suspended the constitution of the country but preserved the portions of it that dealt with fundamental human rights and also the portion that dealt with the judiciary. These two aspects of the constitution have been permitted

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[1] See Elias: "Africa and the Development of International Law", 1972, pp. 108-9. Also Hans Kelsen's "The General Theory of Law and State", (1961 edition), pp. 117 ff, 220.

by the successive military administrations of Nigeria to continue without any serious modifications, except, of course, during the period of the civil war. It might, no doubt, be that other examples exist in Africa or elsewhere, but it is important to draw attention to this Nigerian example. What is indeed noticeable from the discussions at international levels with regard to the Universal Declaration of Human Rights and the two Covenants has been the fact that many delegates even from some military regimes in Africa other than Nigeria have nearly always displayed proper concern for the continued practice and protection of fundamental human rights within their countries. Attention has often been drawn in such discussions to the exemplary courage displayed by individuals and groups who have been noted to have defied State power where fundamental human rights have occasionally been trampled upon. Fortunately, popular condemnation, even in certain instances expressed privately, would appear to be the normal reaction to displays of brutality, force or oppression on the part of the officials of military regimes.

We may now say a brief word about the question of minorities, by reference to which we mean non-dominant groups in a country. The rights of minorities relate to any gross violation of human rights involved in the domination of a people by a minority group in the same State, such as occurs in Zimbabwe, Namibia and South Africa where these have occurred; but we must also refer to the case of Burundi, which is an African State, where a minority group has been alleged to have violated the human rights and freedoms of a dominant group. In this respect, attention should be drawn to Article 27 of the International Covenant of Civil and Political Rights which provides international legal guarantees for the right of an ethnic minority to enjoy its own culture, of a religious minority to profess and practice its religion, and of a linguistic minority to use its own language.

There is no doubt that the problems of minorities have certain common elements; but the analysis of and solution to any particular minority problem must take into account the political, economic, geographical, social and historical contexts in which it arises. The freedom of the individual is inter-related with the cultural diversity of the society and the opportunities for free expression of minority languages, religions and cultures may contribute over-all to the freedom of the individual. The elimination of all forms of discrimination against minorities, ethnic, religious and other, promotes social stability and economic development of the community as a whole. If a minority makes a claim to autonomy within or seccession from a State, it must be done with moderation and by peaceful means and should be considered and dealt with in strict accordance with the principles of international law. Many African States' constitutions contain detailed provisions for the guarantee of minority and linguistic groups, and there have been surprisingly few cases in the courts of gross violations of such rights, although allegations of tribalism and nepotism often rear their heads in political controversy. One notable exception is perhaps Uganda until quite recently. The fact remains that, in Africa in particular, there is a clear need to discourage and seriously to eliminate all forms of discrimination against groups based on tribe, ethnic grouping and religious affiliation. Such practices are inimical to the observance of law and order in a democratic society which is the goal of each African State.[1]

Liberation movements, in their modern context in Africa, pose special problems for contemporary international law. The Hague Conventions of 1899 and 1907 provide, clearly inadequately, in our view, for the treatment

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[1] See I.C.J. Review, No. 18, June 1977, pp. 58-63.

of the various classes of persons involved in armed conflicts. Are those fighting colonial wars and wars of national liberation to be excluded from the limited protection granted by the Geneva Conventions, especially now that the United Nations has recognized the right to self-determination as a human right?

At the United Nations International Conference on Human Rights held in Teheran in 1968, there was adopted a resolution (No. XXIII) on The Protection of Human Rights in Armed Conflicts in which, after noting that "minorities, racial or colonial regimes which refuse to comply with the decisions of the United Nations and the principles of the Universal Declaration of Human Rights frequently resort to executions and inhuman treatment of those who struggle against such regimes" and considering that "such persons should be protected against inhuman or brutal treatment and also that such persons if detained should be treated as prisoners of war or political prisoners under international law" requested the General Assembly to invite the Secretary-General to study "(i) steps which could be taken to secure the better application of existing humanitarian international conventions and rules in all armed conflicts, and (ii) the need for additional humanitarian international conventions or for possible revision of existing conventions to ensure the better protection of civilians, prisoners and combatants in all armed conflicts and the prohibition and limitation of the use of certain methods and means of warfare". This resolution was affirmed on December 19, 1968 by the General Assembly in Resolution A/Res.2444 (XXIII) in expressly those terms.[1]

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[1] See I.C.J. Review, No. 1, March 1969, pp. 50-53.

At the last of the four sessions of the Conference on Humanitarian Law held in Geneva from 1974 to June 1977 were adopted Protocols I and II to the four 1949 Geneva Conventions. These Protocols have now secured certain limited rights to colonial freedom fighters, especially in ensuring for them, as appropriate, the status of prisoners of war and granting them protection against illegal detention, torture and other forms of cruel and inhuman treatment.[1]

The position of mercenaries, on the other hand, has been made more precarious, and enough progress has not been made for the establishment of desirable machinery for securing their fair trial. A Human Rights Convention for Africa should endeavour to provide certain well-defined guarantees for a fair and just trial of captured mercenaries.

One other problem which tends to dominate most discussions about human rights in Africa today is that relating to apartheid which, happily, has now been proscribed as a crime against humanity by the United Nations itself. On November 30, 1973, the General Assembly passed Resolution 3068 (XXVIII) adopting and opening for signature and ratification the International Convention on the Suppression and Punishment of the Crime of Apartheid. The Convention declares that apartheid is "a crime against humanity" and that it should be regarded as part and parcel of present-day international penal law. State Parties undertake to make the new crime part of their domestic law and to bring to justice in their own courts offenders over whom they acquire jurisdiction, whatever may be their nationality and wherever the crime may have been committed. There is, however, no provision yet for the creation of an international penal court

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[1] See I.C.J. Reviews, Nos. 12, 14, 16 and 19 for a detailed account of the four conferences and a summary of the decisions reached.

under the Convention. Although the definition of the "crime of apartheid" is considered by many as too wide, the Convention has the clear advantage of laying down some kind of guideline as to the nature of activities and practices that could be regarded by all fair-minded persons as constituting the obnoxious crime of apartheid as generally understood.[1]

The African attitude to the problem of apartheid may not unfairly be summarized in the following words of the Manifesto adopted by the Fifth Summit Conference of East and Central African States on Southern Africa at Lusaka, April 14-16, 1969. The Manifesto reads in part: "... We the leaders of East and Central African States meeting at Lusaka, 16 April 1969, have agreed to issue this Manifesto." In paragraph 4 occurs this declaration: "None of us would claim that within our own States we have achieved that perfect social, economic and political organization which would ensure a reasonable standard of living for all our people and establish individual security against avoidable action or miscarriage of justice. On the contrary, we acknowledge that within our own States the struggle towards human brotherhood and unchallenged human dignity is only beginning. It is on the basis of our commitment to human equality and human dignity, and on the basis of achieved perfection, that we take our stand of hostility towards the colonialism and racial discrimination which is being practised in Southern Africa. It is on the basis of their commitment to these universal principles that we appeal to other members of the human race for support."

This epitomizes the candid acceptance of the fact that the African States as a whole have, in their opposition to the crime of apartheid and in their frequent references to the inhuman treatment envisaged and carried

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[1] See Apartheid: Its Effects on Education, Science, Culture and Information. UNESCO Publication, Paris, 1967.

out under the practice of apartheid, nevertheless believe that apartheid is a peculiar form of crime against all forms of human rights. The African States do not claim perfection for their own States; on the contrary, they are conscious of the fact that these deficiencies exist within their own borders, but that they are determined to remove them and to continue to do their utmost to improve the human rights of their citizens. Are the minority governments in Southern Africa ready to show the same determination to promote human rights and fundamental freedoms everywhere within their territories? That is the question.

The authors of the Manifesto later on adverted to one crucial point, in paragraph 21, as follows: "There is one thing about South African oppression which distinguishes it from other oppressive regimes. The apartheid policy adopted by its Government, and supported to a greater or lesser extent by almost all its white citizens, is based on a rejection of man's humanity. A position of privilege or the experience of oppression in the South African society depends on the one thing which it is beyond the power of any man to change. It depends upon a man's colour, his parentage, and his ancestors ...". It is unnecessary to belabour the point in so far as the practice of apartheid is concerned, or to comment any further on it as a crime against humanity.[1]

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[1] See I.C.J. Review, No. 2, June 1969, pp. 55-61, for the text of the Lusaka Manifesto.

Summary of Conclusions

On the basis of the foregoing analysis, we may now attempt to put forward a few tentative conclusions. It is assumed that the idea of the establishment of a regional machinery for human rights somewhere in Africa would be acceptable to many people, and that early steps be taken to embark upon this task. The process of decolonization has gone so far that the new States be encouraged to strengthen their internal security and political stability by introducing progressive measures based on the rule of law and fundamental human rights. This is the more so when it is borne in mind that decolonization has often entailed the adoption of negative measures, on the part of both the colonial powers and the strugglers for independence. It is, therefore, as desirable for world order and world peace as it is necessary for the development of a democratic society within each newly independent State that the promotion and protection of human rights be given the earliest possible encouragement. Side by side with economic and social development must also go the transcendental requirements of individual freedom and intellectual happiness of the individual under the law. It may be objected that the African States be given more time to settle down to the solution of the problems of nation-building before they turn to tackling human rights. Such an attitude would seem to regard human rights and fundamental freedoms as luxuries that can wait. The truth is, however, that the sooner a State begins to make them available to its citizens, the more quickly can they catch on like a contagion, alike for the governors and the governed. To grow gradually but early in the enriching and ennobling atmosphere of human rights is conducive to a State's administration and a general ordering of its public affairs in so far as the citizens are concerned.

If, therefore, we agree that there should be a centre in Africa for the promotion and protection of human rights, it seems reasonable to suppose that the occasion of the present United Nations Conference on Human Rights in Monrovia, could be taken to adopt a resolution appealing to the Organization of African Unity to undertake the setting up of a study group to consider the establishment of an African Commission of Human Rights. Such a Commission, however, presupposes the prior adoption by the Organization of African Unity of an African Convention on Human Rights under which there should be a Commission of Human Rights and a Court of Human Rights.

The Convention should have the limited objective of being midway between the European Convention andthe Inter-American Convention - that is, neither too comprehensive nor too limited in scope. The United Nations Universal Declaration of Human Rights would be the basis of the text, with limited elements selected from the United Nations International Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. Sensitive issues like the right to work or to employment, the right to education, and the right to enjoyment of leisure would have to be so carefully defined as to be acceptable, especially to African States that have not ratified the three United Nations documents. The Organization of African Unity's Study Group or Legal Committee (or by whatever name called), which could be entrusted with the delicate task of preparing the basic text for subsequent consideration and adoption by the Assembly of Heads of State and Government would have to tread warily in assembling a repertory of States' constitutions and practices in the field of human rights. While not neglecting certain issues enamoured of African States, the authors of the text should set their face against a draft Convention based on an over-ambitious programme which includes an exhaustive list of human rights

and fundamental freedoms imaginable but which would secure ratification by only few of the African States. On the other hand, the draft Convention should not be so timid as to achieve little. It should, as someone has said in another connection, be like a lady's skirt, long enough to cover the subject matter, but short enough to be interesting.

Matters that ought to be mentioned in the provisions dealing with political and economic rights include apartheid and liberation movements, with which we have already dealt above. Since the member States of the Organization of African Unity would themselves be subject to the jurisdiction of the Commission and of the Court of Human Rights, it would be necessary to make multinational corporations operating in Africa to be similarly subject, for instance, to the jurisdiction of the two institutions in respect of such offences as the crime of apartheid, which might relate to the sales of arms to minority regimes, nuclear co-operation agreements with such regimes, and other national as well as international activities of companies involving such "blatant acts of complicity in the crime of apartheid, a crime against humanity".

Equally important should be the inclusion of clear and specific provisions setting out the rights of freedom-fighters and those engaged in wars of national liberation, at least as envisaged in the two recent Geneva Protocols extending the application of the 1899-1949 Conventions to those involved not in "armed conflicts" as such. Nor must it be forgotten that the rights of mercenaries and other guerrillas to fair and just trial when captured should be guaranteed in such a Convention. This is the meeting point between the law of human rights stricto sensu and the developed humanitarian law of today.

In this connection, the provisions of the United Nations' Sub-Commission's draft Body of Principles for the Protection of Persons in All Forms of Detention and Imprisonment already before the United Nations General Assembly should not be overlooked. This important document envisages the guarantee of human rights to detainees in peacetime and also protects within reasonable limits of the law the cases of conscientious objectors to military service and the like.

An African Court of Human Rights, similar to the European Court of Human Rights, should be established under the Convention, and should be organized and operated on somewhat similar lines as the latter. The Commission should be linked in its operations to the Court in the same way as is the European Commission to the European Court. The work of the African Commission could be supplemented at an early stage by a Human Rights Legal Committee similar to the recently established United Nations body, and with analogous status and functions. There should also be provision in the African Convention for the future establishment of ancillary bodies like the Sub-Commission for the Status of Women and Racial Discrimination.

It is a comforting thought to reflect that Monrovia, which played host to the first conference of the founding fathers of the Organization of African Unity in 1961, should now find itself called upon once again to extend its hospitality in 1979 to a United Nations conference convened to consider the possible initiation of action for the establishment of human rights machinery associated with the same Organization of African Unity. At the present conference, the Organization should not let slip the opportunity to begin helping to forge the necessary instruments for the promotion and protection of human rights in Africa.