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MAJOR INTERNATIONAL HUMAN RIGHTS INSTRUMENTS
AND CHARTS OF RATIFICATIONS

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MAJOR INTERNATIONAL HUMAN RIGHTS INSTRUMENTS
AND CHARTS OF RATIFICATIONS

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Dept. of External Affairs
Min. des Affaires étrangères

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PREFACE

This booklet contains the major international and domestic human rights instruments. These include:

- Canadian Charter of Rights and Freedoms
- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- Optional Protocol to the International Covenant on Civil and Political Rights
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention on the Elimination of All Forms of Discrimination against Women
- Declaration on the Right to Development

Also attached is a summary of those instruments to which Canada is a party and a chart of ratifications by the nations of the world.

THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS

CONSTITUTION ACT, 1982*

PART I

Canadian Charter of Rights and Freedoms

Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:

Guarantee of Rights and Freedoms

1. The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

"This measure that I introduce is the first step on the part of Canada to carry out the acceptance either of the international declaration of human rights or of the principles that actuated those who produced that noble document."

The Right Honourable John G. Diefenbaker, Canadian Bill of Rights, House of Commons, July 1, 1960

"Canadians could take no more meaningful step than to entrench firmly in our Constitution those fundamental rights and liberties which we possess and cherish."

The Right Honourable Lester B. Pearson, Introduction, Federalism for the Future, Ottawa, January 1968

"We must now establish the basic principles, the basic values and beliefs which hold us together as Canadians so that beyond our regional loyalties there is a way of life and a system of values which make us proud of the country that has given us such freedom and such immeasurable joy."

The Right Honourable Pierre Elliott Trudeau, 1981

* The resolution as passed by the Canadian Parliament in December, 1981, referred to the Constitution Act, 1981. However, when the legislation is passed by the British Parliament, it will become the Constitution Act, 1982.

Rights and freedoms in Canada

Explanation

This part of the *Constitution Act, 1982*, sets out a Canadian Charter of Rights and Freedoms that establishes for all Canadians protection of certain basic rights and freedoms essential to maintaining our free and democratic society and a united country.

This Charter of Rights applies to all governments – federal, provincial and territorial – and will provide protection of the following:

- fundamental freedoms
- democratic rights
- the right to live and to seek employment anywhere in Canada
- legal rights
- equality rights for all individuals
- official languages of Canada
- minority language education rights
- Canada's multicultural heritage
- native people's rights

Canadians have enjoyed many of these basic rights and freedoms as a matter of practice for many years. Certain rights were set out in the *Canadian Bill of Rights*, which was introduced by Prime Minister John G. Diefenbaker in 1960, as well as in various provincial laws. However, including them in a Charter of Rights, written into the Constitution, will clarify and strengthen them.

At the same time, though, in a democratic society, rights cannot be absolute; they must be qualified in order to protect the rights of others. For instance, freedom of speech must be qualified by libel and slander laws. Therefore this section will allow that the rights that the Charter guarantees will be subject to such limitations as are shown to be justified in a free and democratic society.

Certain Charter rights are subject to another kind of limitation. Fundamental freedoms, legal rights and equality rights could be subject to a "notwithstanding clause." This means that Parliament or a provincial legislature could pass legislation that conflicts with a

Fundamental
freedoms

Fundamental Freedoms

- 2. Everyone has the following fundamental freedoms:**
- (a) freedom of conscience and religion;**
 - (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;**
 - (c) freedom of peaceful assembly; and**
 - (d) freedom of association.**

"I share the commitment of many in this House and in this country to a very strong charter of rights..."

The Right Honourable Joe Clark, Leader of the Opposition, House Commons, February 23, 1981

specific provision of the Charter in one of those areas. Any such legislation would expire after five years unless specifically renewed. The value of this clause is that it will ensure that legislatures rather than judges have the final say on important matters of public policy. The provision will allow unforeseen situations to be corrected without the need for constitutional amendment.

The Charter enshrines certain fundamental freedoms for everyone in Canada. They are freedoms that custom and law over the years have made almost universal in our country. Now these freedoms will be protected by the Constitution.

As Canadians, we are guaranteed the right to worship, or not, as we wish, in the place of worship of our choice. Freedom of the press and other media is ensured and our right to gather in peaceful groups as well as our right to freedom of association is protected.

Democratic
rights of
citizens

Maximum
duration of
legislative
bodies

Continuation
in special
circumstances

Democratic Rights

3. Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.

4. (1) No House of Commons and no legislative assembly shall continue for longer than five years from the date fixed for the return of the writs at a general election of its members.

(2) In time of real or apprehended war, invasion or insurrection, a House of Commons may be continued by Parliament and a legislative assembly may be continued by the legislature beyond five years if such continuation is not opposed by the votes of more than one-third of the members of the House of Commons or the legislative assembly, as the case may be.

Even though we have, over the years, tended to take our rights for granted, there have been cases in Canada where some fundamental rights have been denied by laws of government.

For example, in 1937 the Alberta Legislature passed a law that would have required newspapers to reveal their sources of news and to publish without charge "information" supplied by the government. In 1937, the Quebec government's "padlock law" banned the propagation of Communism and Bolshevism by closing up and padlocking any premises used for those purposes. In the early 1950s a Quebec City bylaw, passed under the Charter of the City of Quebec, prohibited the distribution in the streets of any book, pamphlet or tract without permission of the chief of police. To Jehovah's Witnesses, the bylaw was a restriction of their rights as Canadian citizens to freedom of expression and freedom of religious practice.

The tradition of democratic rights in Canada is specifically guaranteed by the Charter. Citizens will have a constitutionally enshrined right to vote in elections for members of the House of Commons or a legislative assembly and to seek election to either of those houses.

The only restrictions that may be placed on your right to vote or run in an election will be those that are considered to be reasonable and justified, such as the age restriction for minors, mental incompetence, and certain restrictions on some election officials, such as returning officers, who may have to cast a deciding ballot. In the case of seeking elective office there may be some restrictions on judges because of the non-partisan nature of their office.

It is a well-established principle in a democracy that governments cannot continue their hold on power indefinitely without asking the voters for a new mandate. Now

Annual sitting
of legislative
bodies

5. There shall be a sitting of Parliament and of each legislature at least once every twelve months.

"Any legislature can prolong its own life for as long as it sees fit. The legislature of Manitoba prolonged its own life for a few months in 1908. The legislature of Ontario did the same in 1918 until after the return of the soldiers from overseas and again, for a year, in 1942, and again for the same period in 1943. In Saskatchewan in 1943 there was vigorous opposition, but the legislature extended its life for a year."

Senator Eugene Forsey, 1979, How Canadians Govern Themselves

Mobility of
citizens

Mobility Rights

6. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.

(2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right

(a) to move to and take up residence in any province; and

(b) to pursue the gaining of a livelihood in any province.

(3) The rights specified in subsection (2) are subject to

(a) any laws or practices of general application in force in a province other than those that discriminate among persons primarily on the basis of province of present or previous residence; and

Rights to
move and gain
livelihood

Limitation

the principle will be enshrined in law, in a section of the Charter that says no Parliament or provincial legislative assembly shall continue for more than five years, except in very extraordinary circumstances, such as war, insurrection or invasion. Even then, continuing the life of an elected assembly would be possible only with the approval of two-thirds of the members of Parliament or the legislature concerned.

The Charter will also provide that there must be a sitting of Parliament and each provincial legislature at least once every 12 months so that the government remains accountable to the elected members. This annual sitting rule for the federal Parliament is already covered by the *BNA Act*. However, previously there was no similar constitutionally entrenched rule for the provinces.

This section will provide that Canadians are free to enter, remain in, or leave Canada. An example of government interfering with mobility rights is the treatment of the Japanese-Canadians during, and after, World War II. In the early 1940s, cabinet issued an order under the authority of the War Measures Act which stripped them of their citizenship.

Mobility rights give all Canadian citizens and permanent residents the right to live and seek employment anywhere in Canada. For most of the years since Confederation in 1867, Canadians have assumed these rights existed and in fact exercised them, but never before were they guaranteed in our Constitution.

The mobility guarantee means that you will be able to move to any province or territory from any other, without hindrance, and look for work there. Or, you will be

Affirmative
action programs

(b) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.

(4) Subsections (2) and (3) do not preclude any law, program or activity that has as its object the amelioration in a province of conditions of individuals in that province who are socially or economically disadvantaged if the rate of employment in that province is below the rate of employment in Canada.

"... But here, where we are one country and all together, and we go from one province to another as we do from one county to another and from one town to another ..."

Sir John A. Macdonald, House of Commons Debates, 1882

"In this respect, I find it difficult to take seriously any concern that entrenching in our Constitution the right of people to live and work anywhere in Canada could frustrate legitimate provincial objectives. Indeed, it is my hope that some day it will be beyond the reach of government to discriminate against the free movement of services as well."

Honourable William Davis, Premier of Ontario, Financial Post Conference, Toronto, February 26, 1981

Legal Rights

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Life, liberty
and security
of person

able to live in one province and pursue the gaining of your livelihood in another. No general restrictions may be placed on you just because you come from another part of the country. However, this will not prohibit the provinces from setting residence requirements for certain social and welfare benefits existing in the provinces. Moreover, the ordinary rules of employment in the province will apply to newcomers the same as to long-time residents. These could include qualifications, union membership, experience, health and so on, providing these applied equally to residents and to people coming from outside the province.

However, a province in which the employment rate is below the national average will have the right to undertake affirmative action programs for socially and economically disadvantaged individuals.

It is interesting to note that Canadians have been highly mobile in recent years. During the year from October 1979 to September 1980, 421,854 people, or two per cent of the population, moved from one province to another province.

The rights outlined in these sections spell out the basic legal protection that will safeguard us in our dealings with the state and its machinery of justice. They are designed to protect the individual and to ensure simple fairness should he or she be subjected to legal proceedings, particularly criminal cases.

Search or seizure

Detention or imprisonment

Arrest or detention

8. Everyone has the right to be secure against unreasonable search or seizure.

9. Everyone has the right not to be arbitrarily detained or imprisoned.

10. Everyone has the right on arrest or detention

(a) to be informed promptly of the reasons therefor;

(b) to retain and instruct counsel without delay and to be informed of that right; and

(c) to have the validity of the detention determined by way of *habeas corpus* and to be released if the detention is not lawful.

"Our society is anchored as well on openness of our courts, and of our Legislative Assemblies, underpinned by a universal franchise, on fair procedure before adjudicative agencies, be they courts or other tribunals which, at least, means a right to be heard or to make representations before being condemned criminally or made liable civilly. In the administration of our criminal laws, special protections have developed for an accused, such as the rule against forced confessions, the presumption of innocence, and the privilege against self-incrimination. These values are not absolutes, but a heavy burden lies on any Legislative Assembly or Court to justify any attenuation of these. The Canadian Bill of Rights, operative on the federal level, has given sanctity to these values, short of constitutional entrenchment."

The Right Honourable Chief Justice Bora Laskin, University of Alberta, May 4, 1972

11. Any person charged with an offence has the right

(a) to be informed without unreasonable delay of the specific offence;

(b) to be tried within a reasonable time;

Proceeding in criminal and penal matters

These legal rights are an expansion of those included in the *Canadian Bill of Rights* of 1960, and most of them already exist in Canada by precedent and practice, or ordinary statute law. Enshrining them in the Constitution will ensure Canadians that they will not be able to be taken away from us easily by the state or its law enforcement agencies.

Specifically, we are guaranteed that the right to life, liberty and security of the individual will not be able to be taken away from us by the authorities of the state, except by laws and procedures that are lawful and fair.

These legal rights also prohibit unreasonable search or seizure. In addition, even though the law authorizing the search or seizure may be reasonable in itself, the manner in which it is executed by the police might be challenged as unreasonable in the circumstances; for instance, the police will not be able to use unnecessary force.

There is also the assurance that no person may be detained or held in an arbitrary manner. A police officer will have to show reasonable cause for detaining a person.

The rights on arrest or detention are designed to protect you against arbitrary or unlawful actions by law enforcement agencies. Therefore, anyone held or arrested by any authority will have the right to be told the reasons for being taken into custody, the right to be informed of the right to contact and consult a lawyer forthwith to obtain legal advice, and the right to have a court determine quickly whether the detention is lawful.

This section sets forth other important protections for any person charged with offences under federal or provincial law.

First, an accused person will have to be told promptly of the offence with which he or she has been charged, and brought to trial without undue delay. Also, the accused

Equality before
and under law
and equal
protection and
benefit of law

Affirmative
action programs

Equality Rights

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

"We have the occasion . . . to build for our children and the children of our children a better Canada—a Canada which will recognize the diversity and equality which should be in our society, a Canada which will protect the weakest in society . . . a Canada which will be an example to the world."

The Honourable Jean Chrétien, House of Commons, February 17, 1981

" . . . I would like this resolution, particularly the Charter of Rights and Freedoms, to hang on the wall of every classroom in every school in every region of Canada. I do not say this because I believe in propaganda. I say it because I believe constitutions are fundamentally about rights, rights are fundamentally about people and people from childhood on must be encouraged to acquire a deep understanding of their own liberties as well as an even deeper appreciation of the liberties of others."

Mr. Edward Broadbent, leader of the New Democratic Party, in the House of Commons, November 20, 1981

The equality rights included in the Charter will complement and add to the anti-discrimination provisions found in federal and provincial human rights legislation. This provision of the Charter comes into effect three years after patriation.

Under the Constitution all Canadians – regardless of race, national or ethnic origin, color, sex or age, as well as those who are physically or mentally disabled – will be equal before the law, and will enjoy equal protection and benefit of the law.

For the first time in Canadian history, the Constitution will make it clear that, for women, equality is not a right to be acquired, but a state that exists. It will ensure that women are entitled to full equality in law – and not just in the laws themselves but in the administration of law as well.

However, at the same time, nothing will rule out "affirmative action" programs designed to promote such things as equal employment opportunities for women.

Being handicapped is obviously a condition that requires special kinds of assistance and protection from discrimination. The Charter will, therefore, specifically allow for the establishment of special programs designed to promote opportunities for the disabled and will make certain these kinds of programs will be upheld by Canadian law.

Similarly, the Charter will also authorize affirmative action programs designed to improve the lot of other disadvantaged groups or individuals who may have suffered as a result of past discrimination.

Finally, the list of grounds of non-discrimination and the list for affirmative action is not exhaustive. This will enable the courts to develop new grounds of non-discrimination where the distinctions drawn are

Official
languages
of Canada

Official Languages of Canada

16. (1) English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada.

Official
languages of
New Brunswick

(2) English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick.

Advancement of
status and use

(3) Nothing in this Charter limits the authority of Parliament or a legislature to advance the equality of status or use of English and French.

Proceedings
of Parliament

17. (1) Everyone has the right to use English or French in any debates and other proceedings of Parliament.

Proceedings of
New Brunswick
legislature

(2) Everyone has the right to use English or French in any debates and other proceedings of the legislature of New Brunswick.

Parliamentary
statutes and
records

18. (1) The statutes, records and journals of Parliament shall be printed and published in English and French and both language versions are equally authoritative.

New Brunswick
statutes and
records

(2) The statutes, records and journals of the legislature of New Brunswick shall be printed and published in English and French and both language versions are equally authoritative.

Proceedings in
courts established
by Parliament

19. (1) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by Parliament.

considered unacceptable. This will also permit the development of affirmative action programs for other groups of people who may have suffered as a result of past discriminatory laws or practices.

The Charter confirms that English and French are Canada's official languages, meaning that you have the right, among other things, to communicate in English or French with the federal government and to receive services in the official language of your choice wherever there is a significant demand for services in that language. You also have the right to use English or French in Parliament and in all courts of law under federal jurisdiction. However, there is nothing in these sections that will require any member of the public to become bilingual. Rather, they will ensure that the federal government can serve members of the public in the official language of their choice.

The Charter also recognizes English and French as the official languages of New Brunswick, at the specific request of that province. The people of New Brunswick will have the constitutional right to use either official language in dealings with their government, in their legislative assembly and before the provincial courts. People of Quebec and Manitoba will continue to have the right to use either French or English in the provincial legislatures and before the courts of those provinces. The rights in these two provinces were established by the *BNA Act, 1867*, and the *Manitoba Act of 1870*.

Proceedings in
New Brunswick
courts

(2) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court of New Brunswick.

Communications
by public with
federal institutions

20. (1) Any member of the public in Canada has the right to communicate with, and to receive available services from, any head or central office of an institution of the Parliament or government of Canada in English or French, and has the same right with respect to any other office of any such institution where

(a) there is a significant demand for communications with and services from that office in such language;

or

(b) due to the nature of the office, it is reasonable that communications with and services from that office be available in both English and French.

Communications
by public with
New Brunswick
institutions

(2) Any member of the public in New Brunswick has the right to communicate with, and to receive available services from, any office of an institution of the legislature or government of New Brunswick in English or French.

Continuation
of existing
constitutional
provisions

21. Nothing in sections 16 to 20 abrogates or derogates from any right, privilege or obligation with respect to the English and French languages, or either of them, that exists or is continued by virtue of any other provision of the Constitution of Canada.

Rights and
privileges
preserved

22. Nothing in sections 16 to 20 abrogates or derogates from any legal or customary right or privilege acquired or enjoyed either before or after the coming into force of this Charter with respect to any language that is not English or French.

"The proposed Charter also protects the use of the French and English languages. I agree that a new Constitution should preserve the existing constitutional rights and obligations respecting the French and English languages."

*Honourable J. Angus MacLean, Premier of Prince Edward Island,
before the Special Joint Committee, Ottawa, November 27, 1980*

"The people who speak French in this country are not minorities. That is what the Official Languages Act says and that is what I want the Constitution to say. They are Canadians who exercise a right to speak one of the Canadian languages."

Honourable Richard Hatfield, Premier of New Brunswick, before the Special Joint Committee, Ottawa, December 4, 1980

"I do not object to the constitutional entrenchment of French and English language rights. The right to use French or English, or the right to receive some government services in either of those languages, is not, after all, a right which we claim as humans. It is an essential fact of Canada, an essential element of the Confederation bargain, and, as such, is an obvious candidate for inclusion in the Constitution."

Honourable Allan Blakeney, Premier of Saskatchewan, brief to the Special Joint Committee, Ottawa, December 19, 1980

Minority Language Educational Rights

23. (1) Citizens of Canada

- (a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or*
- (b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province,*

have the right to have their children receive primary and secondary school instruction in that language in that province.

This section of the Charter contains significant guarantees of minority language educational rights.

There are three main criteria that determine the rights of Canadian citizens of the English and French-speaking minorities in each province to have their children educated in their own language.

1. *Mother tongue.* If your mother tongue (first language learned and still understood) is French and you live in a mainly English-speaking province, you will have a constitutional right to have your children educated in French. This criterion is of vital importance to French-speaking Canadians outside Quebec as it ensures that

Continuity
of language
instruction

(2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

Application where
numbers warrant

(3) The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province

(a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction; and

(b) includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds.

Commencement of
paragraph 23(1)(a)
in respect of
Quebec

59. (1) Paragraph 23(1)(a) shall come into force in respect of Quebec on a day to be fixed by proclamation issued by the Queen or the Governor General under the Great Seal of Canada.

Authorization
of Quebec

(2) A proclamation under subsection (1) shall be issued only where authorized by the legislative assembly or government of Quebec.

Repeal of
this section

(3) This section may be repealed on the day paragraph 23(1)(a) comes into force in respect of Quebec and this Act amended and renumbered, consequential upon the repeal of this section, by proclamation issued by the Queen or the Governor General under the Great Seal of Canada.*

* Section 59 of the *Constitution Act*, 1982, is not a part of the Charter of Rights and Freedoms. However, it is reproduced here because it directly relates to the subject of minority language education rights.

French Canadian children have access to an education in French, even if their parents did not receive instruction in French.

2. *Language in which the parents were educated in Canada.* If you were educated in English in Canada and you live in Quebec, you can send your children to school in English in that province. Similarly, if you were educated in French in Canada and live in one of the other nine provinces, you can have your children educated in French in those provinces.

3. *Language in which other children in the family are receiving or have received their education.* If you have one child who has received primary or secondary school instruction in English or French in Canada, you have the right to have all your children educated in the same language.

All three criteria depend on there being enough children eligible for minority language education in an area to warrant setting up schools in that language for them out of public funds.

The second and third criteria – language in which parents and other children were educated – apply with respect to the minority language education systems (either French or English) in all 10 provinces. If you meet either of these criteria you are constitutionally guaranteed access to minority language education systems across Canada.

The first criterion – access by virtue of mother tongue applies in all provinces except Quebec.

In order to accommodate Quebec's concerns, the constitutional resolution varies the application of the mother tongue criterion (Section 23(1) (a) of the *Constitution Act, 1982*) for Quebec. This criterion will not apply to Quebec unless and until authorized by the legislative assembly or government of Quebec.

"I think we agree with the idea that we must have a Charter of Rights in the Constitution, it is something that we have suggested for a long time; and finally, I think that the question of linguistic rights, Mr. Trudeau's idea to guarantee minority language educational rights across Canada, is something that we must do and do fast. Mr. Trudeau has worked for these rights courageously for 15 years now and as you know, we are in complete agreement. In effect, there is much that is good in this text."

Mr. Robert Bourassa, former premier of Quebec, Radio-Québec, November 2, 1980

Enforcement

24. (1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.

(2) Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.

Enforcement of
guaranteed rights
and freedoms

Exclusion of
evidence bringing
administration of
justice into
disrepute

Until that authorization is received, only citizens who have been educated in English in Canada or have children educated in English in Canada have a constitutional right to have all their children educated in English in Quebec.

This section of the Charter allows a person or groups whose rights have been denied or infringed upon by law or by action taken by the state to apply to a court for a remedy deemed appropriate and just in the circumstances.

To illustrate how the enforcement provision might work, consider the following examples. If some public servant should attempt to prevent your group from religious worship, you would be able to apply for a restraining order and sue for damages, if any. If you were an accused person and denied bail without just cause, you would be able to apply to another court for a bail order. If the police were to break into and search your premises illegally and find evidence of a crime, the courts could exclude such evidence in a subsequent trial in which it is alleged that a right under the Charter has been infringed, and if the Court finds that the admission of such evidence would bring the administration of justice into disrepute. This power to exclude evidence in limited circumstances will permit the courts to preserve public respect for the integrity of the judicial process.

Aboriginal rights
and freedoms
not affected by
Charter

General

25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including

- (a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and**
- (b) any rights or freedoms that may be acquired by the aboriginal peoples of Canada by way of land claims settlement.**

Other rights
and freedoms not
affected by
Charter

26. The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada.

There are a number of provisions in the Canadian Charter of Rights and Freedoms and elsewhere in the new Constitution that will recognize and affirm the rights of the native peoples of Canada – Indian, Inuit and Métis.

Special provisions were written into the Constitution at the request of native organizations. Representatives of these groups argued forcefully for recognition that would help their people preserve their culture and identity, their customs, traditions and languages.

Section 25 of the Charter makes it clear that no other provision can be used in a way that will interfere with any special rights that the native people have now or may acquire. For example, any new benefits they may gain from a settlement of land claims would not run afoul of the general equality rights as set out in the Charter.

Further on in the Constitution, Section 35 states that the existing aboriginal and treaty rights of the aboriginal peoples of Canada are recognized and affirmed.

Moreover, there is a written commitment that within one year after the Constitution comes into force the Prime Minister will convene a constitutional conference that will include in its agenda an item respecting the aboriginal peoples of Canada. Representatives of the native peoples will be invited to participate in the conference.

This section ensures that, by specifically guaranteeing certain rights and freedoms in the Charter, the existence of any other rights will not be denied. In other words, the Charter does not pretend to be an exhaustive document concerning the rights of Canadians. What it does do is entrench *minimum* rights. Nothing in the Charter will be able to prevent Parliament or legislatures from adding to our rights

Multicultural
heritage

27. This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians.

"In (the new) Parliament there will be no question of race, nationality, religion or locality . . . The basis of action adopted by the delegates to the Quebec Conference in preparing the resolutions was to do justice to all – justice to all races, to all religions, to all nationalities and to all interests . . ."

Sir Hector-Louis Langevin, Father of Confederation, 1865

"For here (in Canada), I want the marble to remain the marble; the granite to remain the granite; the oak to remain the oak; and out of all of these elements, I would build a nation great among the nations of the world."

Prime Minister Sir Wilfrid Laurier, 1903

"Canada is a garden . . . into which has been transplanted the hardiest and brightest flowers of many lands, each retaining in its new environment the best of the qualities for which it was loved and prized in its native lands . . ."

The Right Honourable John G. Diefenbaker, 1961

Rights
guaranteed
equally to
both sexes

28. Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons.

Canadians are proud that this country has not become a melting pot, but has maintained its multicultural character. This is officially recognized in the Constitution under the provisions of the Charter stating that it shall be interpreted in such a way as to maintain and enhance the multicultural heritage of Canada.

This special clause ensures that all rights in the Charter are guaranteed equally to men and women. It was added at the request of women's groups to provide reassurance that their rights will be protected. This is one guarantee that *cannot* be overridden by a legislature or Parliament.

Rights respecting certain schools preserved

29. Nothing in this Charter abrogates or derogates from any rights or privileges guaranteed by or under the Constitution of Canada in respect of denominational, separate or dissentient schools.

Application to territories and territorial authorities

30. A reference in this Charter to a province or to the legislative assembly or legislature of a province shall be deemed to include a reference to the Yukon Territory and the Northwest Territories, or to the appropriate legislative authority thereof, as the case may be.

Legislative powers not extended

31. Nothing in this Charter extends the legislative powers of any body or authority.

The establishment and operation of religious schools will not be adversely affected by any other provisions of the Charter.

This ensures, for example, that neither the freedom of conscience and religion clause nor the equality rights clause, will be interpreted so as to strike down existing constitutional rights respecting the establishment and state financing of schools operated on a religious basis, with students and teachers selected according to their adherence to a particular religious faith.

This provision makes it clear that the Charter applies equally to the Yukon Territory and the Northwest Territories as it does to the provinces.

This section simply states the basic rule that nothing in the Charter will be intended to affect the distribution of powers carried over from the *British North America Act* as between Parliament and the provincial legislatures. The Charter neither transfers powers from the provincial to the federal order nor vice versa. What it does is ensure that Canadians will enjoy their basic rights without undue restraint by either order of government.

The Charter defines the relationship between government and citizens with respect to their rights and freedoms. Protection of rights as between individuals will continue to be governed by federal and provincial human rights laws.

Application
of Charter

Application of Charter

32. (1) This Charter applies

(a) to the Parliament and government of Canada in respect of all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and
(b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province.

Exception

(2) Notwithstanding subsection (1), section 15 shall not have effect until three years after this section comes into force.

Exception where
express declaration

33. (1) Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in section 2 or sections 7 to 15 of this Charter.

Operation of
exception

(2) An Act or a provision of an Act in respect of which a declaration made under this section is in effect shall have such operation as it would have but for the provision of this Charter referred to in the declaration.

Five year
limitation

(3) A declaration made under subsection (1) shall cease to have effect five years after it comes into force or on such earlier date as may be specified in the declaration.

Re-enactment

(4) Parliament or a legislature of a province may re-enact a declaration made under subsection (1).

Five year
limitation

(5) Subsection (3) applies in respect of a re-enactment made under subsection (4).

Except for section 15, dealing with equality rights, which will come into effect three years after actual patriation, all the other sections of the Charter apply at the time of patriation throughout Canada at the federal, provincial and territorial levels.

The reason for delay in applying the equality provisions is to give the federal, provincial and territorial governments time to review and change any laws that may not conform to the safeguards that will be provided by that section. This will eliminate a considerable amount of unnecessary and expensive legal action.

Under the agreement that broke the constitutional deadlock, both Parliament and provincial legislatures will retain a limited power to pass laws that may conflict with parts of the Charter of Rights concerning fundamental freedoms, legal rights and equality rights.

However, in order to do so, Parliament or a legislature will have to insert a clause declaring specifically that it is passing the law *notwithstanding* specified provisions of the Charter of Rights.

In addition, any federal or provincial law containing a "notwithstanding," or override clause, will have to be reviewed and the declaration re-enacted at least every five years or it will not remain in force.

In other words, if a government should propose a law that may limit some of the rights and freedoms set out in the Charter, it will have to say clearly that this is what it is doing and accept full responsibility for the political consequences.

"It (the legislative override) might actually encourage the courts to be more imaginative than they have been thus far. This has been one of the fears of the people who are opposed to the Bill of Rights, and that is that our court record thus far on the existing Bill of Rights wasn't that good. It's possible that what you now have arranged for in the protection of civil liberties would be an interplay between courts and Parliament. In other words, you won't be able to take away human rights without making it patent that you're doing so, and at the same stage the courts might say a certain law contravenes the Charter. It will make that whole argument public."

Mr. Walter Tarnopolsky, former president of the Canadian Civil Liberties Association, in an interview on Sunday Morning, CBC Radio Network, November 8, 1981

"The 'notwithstanding' clauses will be a red flag for opposition parties and the press ... That will make it politically difficult for a government to override the Charter. Political difficulty is a reasonable safeguard for the Charter."

"Canada at the moment is a parliamentary democracy in which the will of Parliament is supreme. If there were no notwithstanding in the proposed Constitution, this supremacy would shift to the judges who would decide whether or not a law offended the Constitution."

"By making it legally possible but politically difficult to override the Charter, they have married the two notions ... The result is a strong Charter with an escape valve for the legislatures."

Canadian Press news item, quoting Mr. Alan Borovoy, legal counsel to the Canadian Civil Liberties Association, in the Calgary Herald, Nov. 7, 1981

It is important to note that an override clause is very different from an "opting out" provision. No province will be able to opt out of the Charter of Rights and Freedoms.

Furthermore, as was noted earlier in this publication, the override clause will ensure that legislatures rather than judges have the final say on important matters of public policy, and that the Charter will continue to reflect our changing social values.

There is nothing new about the concept of an override clause. Similar clauses appear in the *Alberta Bill of Rights*, the *Saskatchewan Human Rights Code*, the *Quebec Charter of Rights and Freedoms*, and the *Canadian Bill of Rights*.

Citation

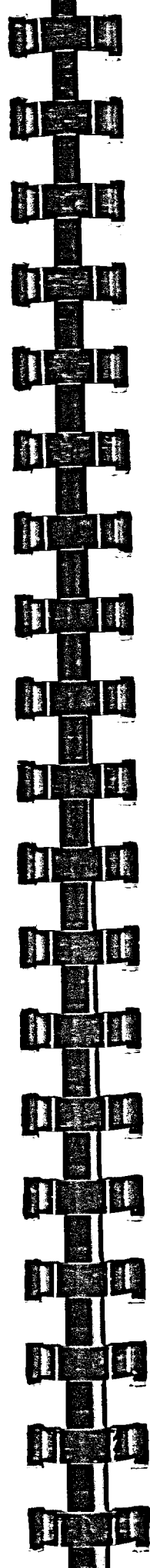
Citation

34. This Part may be cited as the *Canadian Charter of Rights and Freedoms*.

"The adoption of a Charter of Rights would be a public act enabling us to realize the dream we have nurtured of freedom and equality before the law everywhere across Canada."

Mr. Claude Ryan, leader of the Quebec Liberal Party, National Press Club, Ottawa, December 12, 1980

This section simply provides that the Charter shall be known as the Canadian Charter of Rights and Freedoms.



44. UNIVERSAL DECLARATION OF HUMAN RIGHTS,

signed Dec.10, 1948, G.A.Res.217A(III),
U.N. Doc.A/810, at 71(1948).

44. Universal Declaration of Human Rights, signed Dec. 10, 1948, G.A. Res. 217 A (III), U.N. Doc. A/810, at 71 (1948).

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas 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,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end 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, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality 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.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by

universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

STATES APPROVING

The declaration was adopted by a 48-0-8 vote by the United Nations and, to the extent that it creates legal obligations, is binding upon its membership. Member states abstaining from the vote on the declaration were:

Byelorussian SSR	South Africa
Czechoslovakia	Ukrainian SSR
Poland	USSR
Saudi Arabia	Yugoslavia

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17. INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS,

adopted Dec.16,1966, entered into force Mar.23, 1976,
G.A.Res.2200(XXI), 21 U.N. GAOR, Supp.(No.16)52,
U.N.Doc.A/6316(1966).

17. International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, *entered into force* Mar. 23, 1976, G.A. Res. 2200 (XXI), 21 U.N. GAOR, Supp. (No. 16) 52, U.N. Doc. A/6316 (1966).

PREAMBLE

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing 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,

Agree upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

a. To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

b. To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

c. To ensure that the competent authorities shall enforce such remedies when granted.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3. *a.* No one shall be required to perform forced or compulsory labour;

b. Paragraph 3 (*a*) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;

c. For the purpose of this paragraph the term "forced or compulsory labour" shall not include:

i. Any work or service, not referred to in sub-paragraph (*b*), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;

ii. Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

iii. Any service exacted in cases of emergency or clamity threatening the life or well-being of the community;

iv. Any work or service which forms part of normal civil obligations.

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2. a. Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

b. Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Article 11

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

4. No one shall be arbitrarily deprived of the right to enter his own country.

Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The Press and the public may be excluded from all or part of a trial for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

a. To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

b. To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

c. To be tried without undue delay;

d. To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

e. To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

f. To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

g. Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless

it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 19

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds,

regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- a. For respect of the rights or reputations of others;
- b. For the protection of national security or of public order (*ordre public*), or of public health or morals.

Article 20

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice the guarantees provided for in that Convention.

Article 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

3. No marriage shall be entered into without the free and full consent of the intending spouses.

4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Article 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- a. To take part in the conduct of public affairs, directly or through freely chosen representatives;
- b. To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- c. To have access, on general terms of equality, to public service in his country.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

PART IV

Article 28

1. There shall be established a Human Rights Committee (hereafter referred to in the present Covenant as the Committee). It shall consist of eighteen members and shall carry out the functions hereinafter provided.
2. The Committee shall be composed of nationals of the States Parties to the present Covenant who shall be persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience.
3. The members of the Committee shall be elected and shall serve in their personal capacity.

Article 29

1. The members of the Committee shall be elected by secret ballot from a

list of persons possessing the qualifications prescribed in article 28 and nominated for the purpose by the States Parties to the present Covenant.

2. Each State Party to the present Covenant may nominate not more than two persons. These persons shall be nationals of the nominating State.

3. A person shall be eligible for renomination.

Article 30

1. The initial election shall be held no later than six months after the date of the entry into force of the present Covenant.

2. At least four months before the date of each election to the Committee, other than an election to fill a vacancy declared in accordance with article 34, the Secretary-General of the United Nations shall address a written invitation to the States Parties to the present Covenant to submit their nominations for membership of the Committee within three months.

3. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties to the present Covenant no later than one month before the date of each election.

4. Elections of the members of the Committee shall be held at a meeting of the States Parties to the present Covenant convened by the Secretary-General of the United Nations at the Headquarters of the United Nations. At that meeting, for which two thirds of the States Parties to the present Covenant shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

Article 31

1. The Committee may not include more than one national of the same State.

2. In the election of the Committee, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems.

Article 32

1. The members of the Committee shall be elected for a term of four years. They shall be eligible for reelection if renominated. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these nine members shall be chosen by lot by the Chairman of the meeting referred to in article 30, paragraph 4.

2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of the present Covenant.

Article 33

1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations, who shall then declare the seat of that member to be vacant.

2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

Article 34

1. When a vacancy is declared in accordance with article 33 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to the present Covenant, which may within two months submit nominations in accordance with article 29 for the purpose of filling the vacancy.

2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Covenant. The election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of the present Covenant.

3. A member of the Committee elected to fill a vacancy declared in accordance with article 33 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article.

Article 35

The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.

Article 36

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.

Article 37

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.

2. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

3. The Committee shall normally meet at the Headquarters of the United Nations or at the United Nations Office at Geneva.

Article 38

Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.

Article 39

1. The Committee shall elect its officers for a term of two years. They may be re-elected.

2. The Committee shall establish its own rules of procedure, but these rules shall provide, *inter alia*, that:

a. Twelve members shall constitute a quorum;

b. Decisions of the Committee shall be made by a majority vote of the members present.

Article 40

1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights:

a. Within one year of the entry into force of the present Covenant for the States Parties concerned;

b. Thereafter whenever the Committee so requests.

2. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.

3. The Secretary-General of the United Nations may, after consultation with the Committee, transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.

4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.

5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

Article 41

1. A State Party to the present Covenant may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

a. If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of the present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter.

b. If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State.

c. The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged.

d. The Committee shall hold closed meetings when examining communications under this article.

e. Subject to the provisions of sub-paragraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in the present Covenant.

f. In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in sub-paragraph (b), to supply any relevant information.

g. The States Parties concerned, referred to in sub-paragraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing.

h. The Committee shall, within twelve months after the date of receipt of notice under sub-paragraph (b), submit a report:

i. If a solution within the terms of sub-paragraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

ii. If a solution within the terms of sub-paragraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when ten States Parties to the present Covenant have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 42

1. a. If a matter referred to the Committee in accordance with article 41 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an *ad hoc* Conciliation Commission (hereinafter referred to as the Commission). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution of the matter on the basis of respect for the present Covenant;

b. The Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission concerning whom no agreement has been reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties concerned, or of a State not party to the present Covenant, or of a State Party which has not made a declaration under article 41.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General of the United Nations and the States Parties concerned.

5. The secretariat provided in accordance with article 36 shall also service the commissions appointed under this article.

6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon the States Parties concerned to supply any other relevant information.

7. When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned:

a. If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter;

b. If an amicable solution to the matter on the basis of respect for human rights as recognized in the present Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached;

c. If a solution within the terms of sub-paragraph (b) is not reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties concerned, and its views on the possibilities of an amicable solution of the matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned;

d. If the Commission's report is submitted under sub-paragraph (c), the States Parties concerned shall, within three months of the receipt of the report, notify the Chairman of the Committee whether or not they accept the contents of the report of the Commission.

8. The provisions of this article are without prejudice to the responsibilities of the Committee under article 41.

9. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.

10. The Secretary-General of the United Nations shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties concerned, in accordance with paragraph 9 of this article.

Article 43

The members of the Committee, and of the *ad hoc* conciliation commissions which may be appointed under article 42, shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 44

The provisions for the implementation of the present Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties to the present Covenant from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

Article 45

The Committee shall submit to the General Assembly of the United Nations, through the Economic and Social Council, an annual report on its activities.

PART V*Article 46*

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 47

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART VI*Article 48*

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 49

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 50

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 51

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations shall thereupon com-

municate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 52

Irrespective of the notifications made under article 48, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

- a. Signatures, ratifications and accessions under article 48;
- b. The date of the entry into force of the present Covenant under article 49 and the date of the entry into force of any amendments under article 51.

Article 53

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 48.

RESERVATIONS AND DECLARATIONS

AFGHANISTAN

For text see No. 18, at 180.9.

AUSTRALIA

Articles 2 and 50. Australia advises that, the people having united as one people in a Federal Commonwealth under the Crown, it has a federal constitutional system. It accepts that the provisions of the Covenant extend to all parts of Australia as a federal State without any limitations or exceptions. It enters a general reservation that article 2, paragraphs 2 and 3, and article 50 shall be given effect consistently with and subject to the provisions in article 2, paragraph 2.

Under article 2, paragraph 2, steps to adopt measures necessary to give effect to the rights recognized in the Covenant are to be taken in accordance with each State Party's Constitutional processes which, in the case of Australia, are the processes of a federation in which legislative, executive and judicial powers to give effect to the rights recognized in the Covenant are distributed among the federal (Commonwealth) authorities and the authorities of the constituent States.

In particular, in relation to the Australian States the implementation of those provisions of the Covenant over whose subject matter the federal authorities exercise legislative, executive and judicial jurisdiction will be a matter for those authorities; and the implementation of those provisions of the Cove-

nant over whose subject matter the authorities of the constituent States exercise legislative, executive and judicial jurisdiction will be a matter for those authorities; and where a provision has both federal and State aspects, its implementation will accordingly be a matter for the respective constitutionally appropriate authorities (for the purpose of implementation, the Northern Territory will be regarded as a constituent State).

To this end, the Australian Government has been in consultation with the responsible State and Territory Ministers with the object of developing co-operative arrangements to coordinate and facilitate the implementation of the Covenant."

"Article 10. Australia accepts the principle stated in paragraph 1 of article 10 and the general principles of the other paragraphs of that article, but makes the reservation that these and other provisions of the Covenant are without prejudice to laws and lawful arrangements, of the type now in force in Australia, for the preservation of custodial discipline in penal establishments. In relation to paragraph 2 (a) the principle of segregation is accepted as an objective to be achieved progressively. In relation to paragraphs 2 (b) and 3 (second sentence) the obligation to segregate is accepted only to the extent that such segregation is considered by the responsible authorities to be beneficial to the juveniles or adults concerned."

"Article 14. Australia accepts paragraph 3 (b) on the understanding that the reference to adequate facilities does not require provision to prisoners of all the facilities available to a prisoner's legal representative.

Australia accepts the requirement in paragraph 3 (a) that everyone is entitled to be tried in his presence, but reserves the right to exclude an accused person where his conduct makes it impossible for the trial to proceed.

Australia interprets paragraphs 3 (a) of article 14 as consistent with the operation of schemes of legal assistance in which the person assisted is required to make a contribution towards the cost of the defence related to his capacity to pay and determined according to law, or in which assistance is granted in respect of other than indictable offences only after having regard to all relevant matters."

Australia makes the reservation that the provision of compensation for miscarriage of justice in the circumstances contemplated in paragraph 6 of article 14 may be by administrative procedures rather than pursuant to specific legal provision."

"Article 17. Australia accepts the principles stated in article 17 without prejudice to the right to enact and administer laws which, insofar as they authorise action which impinges on a person's privacy, family, home or correspondence, are necessary in a democratic society in the interests of national security, public safety, the economic well-being of the country, the protection of public health or morals or the protection of the rights and freedoms of others."

"Article 19. Australia interprets paragraph 2 of article 19 as being compatible with the regulation of radio and television broadcasting in the public interest with the object of providing the best possible broadcasting services to the Australian people."

"Article 20. Australia interprets the rights provided for by articles 19, 21 and 22 as consistent with article 20; accordingly, the Commonwealth and the constituent States, having legislated with respect to the subject matter of the article in matters of practical concern in the interests of public order (*ordre public*), the right is reserved not to introduce any further legislative provision on these matters."

"Article 25. The reference in paragraph (b) of article 25 to "universal and equal suffrage," is accepted without prejudice to law which provide that factors such as regional interests may be taken into account in defining electoral

divisions, or which establish franchises for municipal and other local government elections related to the sources of revenue and the functions of such government."

"*Convicted Persons.* Australia declares that laws now in force in Australia relating to the rights of persons who have been convicted of serious criminal offences are generally consistent with the requirements of articles 14, 18, 19, 25 and 26 and reserves the right not to seek amendment of such laws."

"*Discrimination and Distinction.* The provisions of articles 2 (1) and 24 (1), 25 and 26 relating to discrimination and distinction between persons shall be without prejudice to laws designed to achieve for the members of some class or classes of persons equal enjoyment of the rights defined in the Covenant. Australia accepts article 26 on the basis that the object of the provision is to confirm the right of each person to equal treatment in the application of the law."

AUSTRIA

Upon ratification:

1. Article 12, paragraph 4, of the Covenant will be applied provided that it will not affect the Act of April 3, 1919, State Law Gazette No. 209, concerning the Expulsion and the Transfer of Property of the House of Hapsburg-Lorraine as amended by the Act of October 30, 1919, State Law Gazette No. 501, the Federal Constitutional Act of July 30, 1925, Federal Law Gazette No. 292, and the Federal Constitutional Act of January 26, 1928, Federal Law Gazette No. 30, read in conjunction with the Federal Constitutional Act of July 4, 1963, Federal Law Gazette No. 172.

2. Article 9 and article 14 of the Covenant will be applied provided that legal regulations governing the proceedings and measures of deprivation of liberty as provided for in the Administrative Procedure Acts and in the Financial Penal Act remain permissible within the framework of the judicial review by the Federal Administrative Court or the Federal Constitutional Court as provided by the Austrian Federal Constitution.

3. Article 10, paragraph 3, of the Covenant will be applied provided that legal regulations allowing for juvenile prisoners to be detained together with adults under 25 years of age who give no reason for concern as to their possible detrimental influence on the juvenile prisoner remain permissible.

4. Article 14 of the Covenant will be applied provided that the principles governing the publicity of trials as set forth in article 90 of the Federal Constitutional Law as amended in 1929 are in no way prejudiced and that

a. paragraph 3, sub-paragraph (d) is not in conflict with legal regulations which stipulate that an accused person who disturbs the orderly conduct of the trial or whose presence would impede the questioning of another accused person, of a witness or of an expert can be excluded from participation in the trial;

b. paragraph 5 is not in conflict with legal regulations which stipulate that after an acquittal or a lighter sentence passed by a court of the first instance, a higher tribunal may pronounce conviction or a heavier sentence for the same offense, while they exclude the convicted person's right to have such conviction or heavier sentence reviewed by a still higher tribunal;

c. paragraph 7 is not in conflict with legal regulations which allow proceedings that led up to a person's final conviction or acquittal to be reopened.

5. Articles 19, 21 and 22 in connection with article 2 (1) of the Covenant will be applied provided that they are not in conflict with legal restrictions as provided for in article 16 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

6. Article 26 is understood to mean that it does not exclude different treatment of Austrian nationals and aliens, as is also permissible under article 1, paragraph 2, of the International Convention on the Elimination of All Forms of Racial Discrimination.

BARBADOS

"The Government of Barbados states that it reserves the right not to apply in full, the guarantee of free legal assistance in accordance with paragraph 3 (d) of article 14 of the Covenant, since, while accepting the principles contained in the same paragraph, the problems of implementation are such that full application cannot be guaranteed at present."

BELGIUM

Reservations

"1. With respect to articles 2, 3 and 25, the Belgian Government makes a reservation, in that under the Belgian Constitution the royal powers may be exercised only by males. With respect to the exercise of the functions of the regency, the said articles shall not preclude the application of the constitutional rules as interpreted by the Belgian State.

"2. The Belgian Government considers that the provision of article 10, paragraph 2(a), under which accused persons shall, save in exceptional circumstances, be segregated from convicted persons is to be interpreted in conformity with the principle, already embodied in the standard minimum rules for the treatment of prisoners [resolution (73)5 of the Committee of Ministers of the Council of Europe of 19 January 1973], that untried prisoners shall not be put in contact with convicted prisoners against their will [rules 7(b) and 85(1)]. If they so request, accused persons may be allowed to take part with convicted persons in certain communal activities.

"3. The Belgian Government considers that the provisions of article 10, paragraph 3, under which juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status refers exclusively to the judicial measures provided for under the regime for the protection of minors established by the Belgian Act relating to the protection of young persons. As regards other juvenile ordinary-law offenders, the Belgian Government intends to reserve the option to adopt measures that may be more flexible and be designed precisely in the interest of the persons concerned.

"4. With respect to article 14, the Belgian Government considers that the last part of paragraph 1 of the article appears to give States the option of providing or not providing for certain derogations from the principle that judgements shall be made public. Accordingly, the Belgian constitutional principle that there shall be no exceptions to the public pronouncements of judgements is in conformity with that provision. Paragraph 5 of the article shall not apply to persons who, under Belgian law, are convicted and sentenced at second instance following an appeal against their acquittal of first instance or who, under Belgian law, are brought directly before a higher tribunal such as the Court of Cassation, the Appeals Court or the Assize Court.

"5. Articles 19, 21 and 22 shall be applied by the Belgian Government in the context of the provisions and restrictions set forth or authorized in articles 10 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, by the said Convention."

Declarations

"6. The Belgian Government declares that it does not consider itself obligated to enact legislation in the field covered by article 20, paragraph 1, and that article 20 as a whole shall be applied taking into account the rights to freedom of thought and religion, freedom of opinion and freedom of assembly and association proclaimed in articles 18, 19 and 20 of the Universal Declaration of Human Rights and reaffirmed in articles 18, 19, 21 and 22 of the Covenant.

"7. The Belgian Government declares that it interprets article 23, paragraph

2, as meaning that the right of persons of marriageable age to marry and to found a family presupposes not only that national law shall prescribe the marriageable age but that it may also regulate the exercise of that right.

BULGARIA

For text see No. 18, at 180.9.

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

For text see No. 18, at 180.9.

CHILE

7 September 1976

Notification under article 14 of the Covenant

Chile signed the Covenant on Civil and Political Rights and ratified it on 10 February 1972. This Covenant entered into force internationally on [23] March 1976.

As you are aware, my country has been under a state of siege for reasons of internal defence since 11 March 1976; the state of siege was legally proclaimed by Legislative Decree No. 1.369.

The proclamation was made in accordance with the constitutional provisions concerning state of siege, which have been in force since 1925, in view of the inescapable duty of the government authorities to preserve public order and the fact that there continue to exist in Chile extremist seditious groups whose aim is to overthrow the established Government.

As a consequence of the proclamation of the state of siege, the rights referred to in articles 9, 12, 13, 19 and 25(b) of the Covenant on Civil and Political Rights have been restricted in Chile.

Derogation from these rights is expressly authorized by article 4 (1) of the Covenant.

I am informing the other States Parties of the foregoing, through you, in accordance with the provisions of article 4 (3) of the Covenant on Civil and Political Rights.

CONGO

The Government of the People's Republic of the Congo declares that it does not consider itself bound by the provisions of article 13, paragraphs 3 and 4, of the International Covenant on Economic, Social and Cultural Rights, or by the provisions of article 11 of the International Covenant on Civil and Political Rights.

CZECHOSLOVAKIA*Upon signature:*

The Czechoslovak Socialist Republic declares that the provisions of article 48, paragraph 1, of the International Covenant on Civil and Political Rights are in contradiction with the principle that all States have the right to become parties to multilateral treaties governing matters of general interest.

Upon ratification:

The provision of article 48, paragraph 1, is in contradiction with the principle that all States have the right to become parties to multilateral treaties regulating matters of general interest.

DENMARK

"1. The Government of Denmark makes a reservation in respect of Article 10, paragraph 3, second sentence. In Danish practice, considerable efforts are made to ensure appropriate age distribution of convicts serving sentences of imprisonment, but it is considered valuable to maintain possibilities of flexible arrangements.

"2. *a.* Article 14, paragraph 1, shall not be binding on Denmark in respect of public hearings. In Danish law, the right to exclude the press and the public from trials may go beyond what is permissible under this Covenant, and the Government of Denmark finds that this right should not be restricted.

"*b.* Article 14, paragraphs 5 and 7, shall not be binding on Denmark. The Danish Administration of Justice Act contains detailed provisions regulating the matters dealt with in these two paragraphs. In some cases, Danish legislation is less restrictive than the Covenant (e.g. a verdict returned by a jury on the question of guilt cannot be reviewed by a higher tribunal, cf. paragraph 5); in other cases, Danish legislation is more restrictive than the Covenant (e.g. with respect to resumption of a criminal case in which the accused party was acquitted, cf. paragraph 7).

"3. Reservation is further made to Article 20, paragraph 1. This reservation is in accordance with the vote cast by Denmark in the XVI General Assembly of the United Nations in 1961 when the Danish Delegation, referring to the preceding article concerning freedom of expression, voted against the prohibition against propaganda for war."

FINLAND

*Upon ratification:**Reservations*

"1. With respect to article 9, paragraph 3, of the Covenant Finland declares that according to the present Finnish legislation the administrative authorities may take decisions concerning arrest or imprisonment, in which event the case is taken up for decision in court only after a certain time lapse;

"2. With respect to article 10, paragraph 2 (*b*) and 3, of the Covenant, Finland declares that although juvenile offenders are, as a rule, segregated from adults, it does not deem appropriate to adopt an absolute prohibition not allowing for more flexible arrangements;

"3. With respect to article 13 of the Covenant, Finland declares that the article does not correspond to the present Finnish legislation regarding an alien's right to be heard or lodge a complaint in respect of a decision concerning his expulsion;

"4. With respect to article 14, paragraph 1, of the Covenant, Finland declares that under Finnish law a sentence can be declared secret if its publication could be an affront to morals or endanger national security;

"5. With respect to article 14, paragraph 3 (*d*), of the Covenant, Finland declares that the contents of this paragraph do not correspond to the present legislation in Finland inasmuch as it is a question of the defendant's absolute right to have legal assistance already at the stage of preliminary investigations;

"6. With respect to article 14, paragraph 7, of the Covenant, Finland declares that it is going to pursue its present practice, according to which a sentence can be changed to the detriment of the convicted person, if it is established that a member or an official of the court, the prosecutor or the legal counsel have through criminal or fraudulent activities obtained the acquittal of the defendant or a substantially more lenient penalty, or if false evidence has been

presented with the same effect, and according to which an aggravated criminal case may be taken up for reconsideration if within a year until then unknown evidence is presented, which would have led to conviction or a substantially more severely penalty;

"7. With respect to article 20, paragraph 1, of the Covenant, Finland declares that it will not apply the provisions of this paragraph, this being compatible with the standpoint Finland already expressed at the 16th United Nations General Assembly by voting against the prohibition of propaganda for war, on the grounds that this might endanger the freedom of expression referred in article 19 of the Covenant."

FRANCE

"1. The Government of the Republic considers that, in accordance with Article 103 of the Charter of the United Nations, in case of conflict between its obligations under the Covenant and its obligations under the Charter (especially Articles 1 and 2 thereof), its obligations under the Charter will prevail).

"2. The Government of the Republic enters the following reservation concerning article 4, paragraph 1: firstly, the circumstances enumerated in article 16 of the Constitution in respect of its implementation, in article 1 of the Act of 3 April 1978 and in the Act of 9 August 1849 in respect of the declaration of a state of siege, in article 1 of Act No. 55-385 of 3 April 1955 in respect of the declaration of a state of emergency and which enable these instruments to be implemented, are to be understood as meeting the purpose of article 4 of the Covenant; and, secondly, for the purpose of interpreting and implementing article 16 of the Constitution of the French Republic, the terms "to the extent strictly required by the exigencies of the situation" cannot limit the power of the President of the Republic to take "the measures required by circumstances".

"3. The Government of the Republic enters a reservation concerning articles 9 and 14 to the effect that these articles cannot impede enforcement of the rules pertaining to the disciplinary regime in the armies.

"4. The Government of the Republic declares that article 13 cannot derogate from chapter IV of Order No. 45-2658 of 2 November 1945 concerning the entry into, and sojourn in, France of aliens, nor from the other instruments concerning the expulsion of aliens in force in those parts of the territory of the Republic in which the Order of 2 November 1945 does not apply.

"5. The Government of the Republic interprets article 14, paragraph 5, as stating a general principle to which the law may make limited exceptions, for example, in the case of certain offences subject to the initial and final adjudication of a police court and of criminal offences. However, an appeal against a final decision may be made to the Court of Cassation which rules on the legality of the decision concerned.

"6. The Government of the Republic declares that articles 19, 21 and 22 of the Covenant will be implemented in accordance with articles 10, 11 and 16 of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950.

However, the Government of the Republic enters a reservation concerning article 19 which cannot derogate from the monopoly of the French radio and television broadcasting system.

"7. The Government of the Republic declares that the term "war", appearing in article 20, paragraph 1, is to be understood to mean war in contravention of international law and considers, in any case, that French legislation in this matter is adequate.

"8. In the light of article 2 of the Constitution of the French Republic, the French Government declares that article 27 is not applicable so far as the Republic is concerned."

GAMBIA

". . . for financial reasons free legal assistance for accused persons is limited in our constitution to persons charged with capital offences only. The Government of Gambia therefore wishes to enter a reservation in respect of Article 14(3) of the Covenant in question."

GERMAN DEMOCRATIC REPUBLIC

The German Democratic Republic considers that article 48, paragraph 1, of the Covenant runs counter to the principle that all States which are guided in their policies by the purposes and principles of the United Nations Charter have the right to become parties to conventions which affect the interests of all States.

GERMANY, FEDERAL REPUBLIC OF

"1. Articles 19, 21 and 22 in conjunction with Article 2 (1) of the Covenant shall be applied within the scope of Article 16 of the Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms.

"2. Article 14 (3) (d) of the Covenant shall be applied in such manner that it is for the court to decide whether an accused person held in custody has to appear in person at the hearing before the court of review (*Revisionsgericht*).

"3. Article 14 (5) of the Covenant shall be applied in such manner that:

a. A further appeal does not have to be instituted in all cases solely on the grounds the accused person—having been acquitted by the lower court—was convicted for the first time in the proceedings concerned by the appellate court.

b. In the case of criminal offences of minor gravity the review by a higher tribunal of a decision not imposing imprisonment does not have to be admitted in all cases.

"4. Article 15 (1) of the Covenant shall be applied in such manner that when provision is made by law for the imposition of a lighter penalty the hitherto applicable law may for certain exceptional categories of cases remain applicable to criminal offences committed before the law was amended."

GUINEA

Upon ratification:

In accordance with the principle whereby all States whose policies are guided by the purposes and principles of the Charter of the United Nations are entitled to become parties to covenants affecting the interests of the international community, the Government of the Republic of Guinea considers that the provisions of article 48, paragraph 1, of the International Covenant on Civil and Political Rights are contrary to the principle of the universality of international treaties and the democratization of international relations.

GUYANA

Upon ratification:

In respect of sub-paragraph (d) of paragraph 3 of article 14

"While the Government of the Republic of Guyana accept the principle of Legal Aid in all appropriate criminal proceedings, is working towards that end

and at present apply it in certain defined cases, the problems of implementation of a comprehensive Legal Aid Scheme are such that full application cannot be guaranteed at this time."

In respect of paragraph 6 of article 14

"While the Government of the Republic of Guyana accept the principle of compensation for wrongful imprisonment, it is not possible at this time to implement such a principle."

HUNGARY

For text see No. 18, at 180.10.

ICELAND

1. Article 8, paragraph 3 (a), in so far as it affects the provisions of Icelandic law which provide that a person who is not the main provider of his family may be sentenced to a term at a labour facility in satisfaction of arrears in support payments for his child or children.

2. Article 10, paragraph 2 (b), and paragraph 3, second sentence, with respect to the separation of juvenile prisoners from adults. Icelandic law in principle provides for such separation but it is not considered appropriate to accept an obligation in the absolute form called for in the provisions of the Covenant.

3. Article 13, to the extent that it is inconsistent with the Icelandic legal provisions in force relating to the right of aliens to object to a decision on their expulsion.

4. Article 14, paragraph 7, with respect to the resumption of cases which have already been tried. The Icelandic law of procedure has detailed provisions on this matter which it is not considered appropriate to revise.

5. Article 20, paragraph 1, with reference to the fact that a prohibition against propaganda for war could limit the freedom of expression. This reservation is consistent with the position of Iceland at the General Assembly at its 16th session.

INDIA

1. With reference to article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, the Government of the Republic of India declares that the words "the right of self-determination" appearing in those articles apply only to the peoples under foreign domination and that these words do not apply to sovereign independent States or to a section of a people or nation - which is the essence of national integrity.

2. With reference to article 9 of the International Covenant on Civil and Political Rights, the Government of the Republic of India takes the position that the provisions of the article shall be so applied as to be in consonance with the provisions of clauses (3) to (7) of article 22 of the Constitution of India. Further under the Indian Legal System, there is no enforceable right to compensation for persons claiming to be victims of unlawful arrest or detention against the State.

3. With respect to article 13 of the International Covenant on Civil and Political Rights, the Government of the Republic of India reserves its right to apply its law relating to foreigners.

4. With reference to articles 4 and 8 of the International Covenant on Economic, Social and Cultural Rights, and articles 12, 19(3), 21 and 22 of the International Covenant on Civil and Political Rights, the Government of the Republic of India declares that the provisions of the said articles shall be so applied as to be in conformity with the provisions of article 19 of the Constitution of India.

IRAQ

For text see No. 18, at 180.11.

ITALY

Upon ratification:

Article 9, paragraph 5. The Italian Republic, considering that the expression "unlawful arrest or detention" contained in article 9, paragraph 5, could give rise to differences of interpretation, declares that it interprets the aforementioned expression as referring exclusively to cases of arrest or detention contrary to the provisions of article 9, paragraph 1.

Article 12, paragraph 4. Article 12, paragraph 4, shall be without prejudice to the application of transitional provision XIII of the Italian Constitution, respecting prohibition of the entry into and sojourn in the national territory of certain members of the House of Savoy.

Article 14, paragraph 3. The provisions of article 14, paragraph 3 (*d*), are deemed to be compatible with existing Italian provisions governing trial of the accused in his presence and determining the cases in which the accused may present his own defence and those in which legal assistance is required.

Article 14, paragraph 5. Article 14, paragraph 5, shall be without prejudice to the application of existing Italian provisions which, in accordance with the Constitution of the Italian Republic, govern the conduct, at one level only, of proceedings instituted before the Constitutional Court in respect of charges brought against the President of the Republic and its Ministers.

Article 15, paragraph 1. With reference to article 15, paragraph 1, last sentence: "If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby," the Italian Republic deems this provision to apply exclusively to cases in progress.

Consequently, a person who has already been convicted by a final decision shall not benefit from any provision made by law, subsequent to that decision, for the imposition of a lighter penalty.

Article 19, paragraph 3. The provisions of article 19, paragraph 3, are interpreted as being compatible with the existing licensing system for national radio and television and with the restrictions laid down by law for local radio and television companies and for stations relaying foreign programmes.

JAPAN

Upon signature:

Recalling the position taken by the Government of Japan, when ratifying the Convention (No. 87) concerning Freedom of Association and Protection of the Right to Organise, that "the police" referred to in article 9 of the said Convention be interpreted to include the fire service of Japan, the Government of Japan declares that "members . . . of the police" referred to in paragraph 2 of article 8 of the International Covenant on Economic, Social and Cultural Rights as well as in paragraph 2 of article 22 of the International Covenant on Civil and Political Rights be interpreted to include fire service personnel of Japan."

LIBYA

For text see No. 18, at 180.12.

LUXEMBOURG

1. The Government of Luxembourg considers that article 10, paragraph 3, which provides that juvenile offenders shall be segregated from adults and accorded treatment appropriate to their age and legal status, refers solely to the

legal measures incorporated in the system for the protection of minors, which is the subject of the Luxembourg youth welfare Act. With regard to other juvenile offenders falling within the sphere of ordinary law, the Government of Luxembourg wishes to retain the option of adopting measures that might be more flexible and be designed to serve the interests of the persons concerned.

2. The Government of Luxembourg declares that it is implementing article 14, paragraph 5, since that paragraph does not conflict with the relevant Luxembourg legal statutes, which provide that, following an acquittal or a conviction by a court of first instance, a higher tribunal may deliver a sentence, confirm the sentence passed or impose a harsher penalty for the same crime. However, the tribunal's decision does not give the person declared guilty on appeal the right to appeal that conviction to a higher appellate jurisdiction.

3. The Government of Luxembourg further declares that article 14, paragraph 5, shall not apply to persons who, under Luxembourg law, are remanded directly to a higher court or brought before the Assize Court.

4. The Government of Luxembourg accepts the provision in article 19, paragraph 2, provided that it does not preclude it from requiring broadcasting, television and film companies to be licensed.

5. The Government of Luxembourg declares that it does not consider itself obligated to adopt legislation in the field covered by article 20, paragraph 1, and that article 20 as a whole will be implemented taking into account the rights to freedom of thought, religion, opinion, assembly and association laid down in articles 18, 19 and 20 of the Universal Declaration of Human Rights and reaffirmed in articles 18, 19, 21 and 22 of the Covenant.

6. The Government of Luxembourg recognizes, in accordance with article 41, the competence of the Human Rights Committee referred to in article 28 of the Covenant to receive and consider communications to the effect that a State party claims that another State party is not fulfilling its obligations under the Covenant.

MEXICO

Article 9, paragraph 5. Under the Political Constitution of the United Mexican States and the relevant implementing legislation, every individual enjoys the guarantees relating to penal matters embodied therein, and consequently no person may be unlawfully arrested or detained. However, if by reason of false accusation or complaint any individual suffers an infringement of this basic right, he has, *inter alia*, under the provisions of the appropriate laws, an enforceable right to just compensation.

Article 18. Under the Political Constitution of the United Mexican States, every person is free to profess his preferred religious belief and to practice its ceremonies, rites and religious acts, with the limitation, with regard to public religious acts, that they must be performed in places of worship and, with regard to education, that studies carried out in establishments designed for the professional education of ministers of religion are not officially recognized. The Government of Mexico believes that these limitations are included among those established in paragraph 3 of this article.

Article 13. The Government of Mexico makes a reservation to this article, in view of the present text of article 33 of the Political Constitution of the United Mexican States.

Article 25, subparagraph (b). The Government of Mexico also makes a reservation to this provision, since article 130 of the Political Constitution of the United Mexican States provides that ministers of religion shall have neither an active nor a passive vote, nor the right to form associations for political purposes.

MONGOLIA

Declaration made upon signature and renewed at ratification:

Same declaration, mutatis mutandis, as the one produced under "Byelorussian Soviet Socialist Republic".

NETHERLANDS

Upon ratification:

Reservations

"Article 10. The Kingdom of the Netherlands subscribes to the principle set out in paragraph 1 of this article, but takes the view that ideas about the treatment of prisoners are so liable to change that it does not wish to be bound by the obligations set out in paragraph 2 and paragraph 3 (second sentence) of this article.

"Article 12, paragraph 1. The Kingdom of the Netherlands regards the Netherlands and the Netherlands Antilles as separate territories of a State for the purpose of this provision.

"Article 12, paragraphs 2 and 4. The Kingdom of the Netherlands regards the Netherlands and the Netherlands Antilles as separate countries for the purpose of these provisions.

"Article 14, paragraph 3 (d). The Kingdom of the Netherlands reserves the statutory option of removing a person charged with a criminal offence from the courtroom in the interests of the proper conduct of the proceedings.

"Article 14, paragraph 5. The Kingdom of the Netherlands reserves the statutory power of the Supreme Court of the Netherlands to have sole jurisdiction to try certain categories of persons charged with serious offences committed in the discharge of a public office.

"Article 14, paragraph 7. The Kingdom of the Netherlands accepts this provision only insofar as no obligations arise from it further to those set out in article 68 of the Criminal Code of the Netherlands and article 70 of the Criminal Code of the Netherlands Antilles as they now apply. They read:

"1. Except in cases where court decisions are eligible for review, no person may be prosecuted again for an offence in respect of which a court in the Netherlands or the Netherlands Antilles has delivered an irrevocable judgement.

"2. If the judgement has been delivered by some other court, the same person may not be prosecuted for the same offence in the case of (1) acquittal or withdrawal of proceedings or (2) conviction followed by complete execution, remission or lapse of the sentence.

"Article 19, paragraph 2. The Kingdom of the Netherlands accepts the provision with the proviso that it shall not prevent the Kingdom from requiring the licensing of broadcasting, television or cinema enterprises.

"Article 20, paragraph 1. The Kingdom of the Netherlands does not accept the obligation set out in this provision in the case of the Netherlands.

Article 25 (c). The Kingdom of the Netherlands does not accept this provision in the case of the Netherlands Antilles.

Declarations

"[The Kingdom of the Netherlands] clarify that although the reservations [. . .] are partly of an interpretational nature, [it] has preferred reservations to interpretational declarations in all cases, since if the latter form were used doubt might arise concerning whether the text of the Covenant allows for the interpretation put upon it. By using the reservation-form the Kingdom of the Netherlands wishes to ensure in all cases that the relevant obligations arising out of the Covenant will not apply to the Kingdom, or will apply only in the way indicated.

"Article 10. Convicted prisoners serving an actual sentence of less than three months as a rule serve it in a House of Detention. As it is not feasible at present to have very short sentences served only in prisons, a reservation must be entered concerning the provisions of article 10, paragraph 2 (a).

"Since the provisions in question were drawn up, major changes have taken place in opinions on the treatment of prisoners; it is increasingly thought that there is a need for a selection criterion based on personality rather than on age. The Kingdom of the Netherlands does not wish to cut itself off from this development by binding itself to the provisions of article 10, paragraph 2 (b) and paragraph 3 (second sentence).

"Article 12, paragraphs 1, 2 and 4. The Kingdom of the Netherlands, a party to the Covenant, consists constitutionally of the countries of the Netherlands and the Netherlands Antilles.

"Admission and residence are regulated differently in these two countries. The Kingdom of the Netherlands wishes to establish beyond doubt that article 12 does not imply that legal residence in one of the countries confers a right of entry to the other.

"Article 14, paragraph 3 (d). Legislation of the Kingdom of the Netherlands in general accords with the principles set out in this article regarding the treatment of persons against whom criminal proceedings have been instituted.

"On some points, however, the provisions of this legislation do not accord with the precise wording of part of this article.

"The provision of article 14, paragraph 3 (d) that everyone must be tried in his presence is also a principle in the legislation of the Kingdom, but there are some exceptions. Under article 292 of the Code of Criminal Procedure of the Netherlands the presiding judge of the court may order a witness to be heard in the absence of the person charged with a criminal offence, provided the person charged is informed immediately of what has taken place in his absence; under article 303 a person charged with a criminal offence who disturbs the silence or order of the court and is warned by the presiding judge to no avail may be removed; under article 304 questions concerning the mental faculties of the person charged may be dealt with in his absence; and under article 500j questions concerning the personality or living conditions of the person charged may be dealt with in his absence.

"The Code of Criminal Procedure of the Netherlands Antilles contains provisions to the same effect. The Kingdom of the Netherlands takes the view that these provisions facilitate the proper administration of justice and they should therefore be retained.

"Article 14, paragraph 5. The principle of article 14, paragraph 5 that everyone convicted of a criminal offence must have the right to have his conviction and sentence reviewed by a higher tribunal is also found in the legislation of the Kingdom. Serious offences committed in the discharge of a public office by a specific small group of persons with governmental responsibilities, however, under article 178 of the Constitution are judged by the Supreme Court of the Netherlands as the tribunal having sole jurisdiction. The safeguarding of the individual's rights under the law, which is also the rationale behind article 14, paragraph 5 of the Covenant is here sought in the doubling of the number of judges which the Court normally comprises (ten instead of five). The prosecution in such cases is undertaken by the Procurator General to the Supreme Court, who, unlike ordinary public prosecutors, is appointed for life and is thus independent of the Government.

"Article 14, paragraph 7. It is not clear whether article 14, paragraph 7, lays down only the national or also the international application of the *ne bis in idem* principle. Under article 68 of the Criminal Code of the Netherlands and article 70

of the Criminal Code of the Netherlands Antilles the national application of the principle is guaranteed but there is some limitation to its international application. The Kingdom of the Netherlands states that it does not wish the application of the *ne bis in idem* principle to extend any further than under article 68 of the Criminal Code of the Netherlands and article 70 of the Criminal Code of the Netherlands Antilles as they now apply.

"Article 19, paragraph 2. Article 10, paragraph 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms states expressly that it (the article) shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises. A provision of this kind is lacking in article 19 of the Covenant, and there may therefore be doubt concerning whether this Article permits such a licensing system. A reservation has therefore been entered to exclude uncertainty on this point.

"Article 20, paragraph 1. It is extremely difficult to formulate a statutory prohibition of propaganda for war in such a way that excessive infringements of the freedom of expression are avoided. A criminal provision would have to be worded so that it related only to the use of armed violence in conflict with international law. The question is then what sort of violence as such is meant, and this question does not appear to lend itself to adjudication by domestic courts. Moreover, trials on this matter would soon take on a political nature, which should be avoided in general. These considerations and the reservation apply only to the Netherlands.

"Article 25 (c). Article 5, paragraph 3 (e), article 6, paragraphs 3 and 4 and articles 95 and 96 of the Antillean Public Servants' Substantive Law National Regulation contain rules concerning appointment and termination of employment that are less favourable to women than to men. Since these provisions cannot be dispensed with for the time being on economic and social grounds, a reservation has been entered on the matter in the case of the Netherlands Antilles."

NEW ZEALAND

Upon ratification:

Reservations

"The Government of New Zealand reserves the right not to apply article 10 (2) (b) or article 10 (3) in circumstances where the shortage of suitable facilities makes the mixing of juveniles and adults unavoidable; and further reserves the right not to apply article 10 (3) where the interests of other juveniles in an establishment require the removal of a particular juvenile offender or where mixing is considered to be of benefit to the persons concerned.

"The Government of New Zealand reserves the right not to apply article 14 (6) to the extent that it is not satisfied by the existing system for *ex gratia* payments to persons who suffer as a result of a miscarriage of justice.

"The Government of New Zealand having legislated in the areas of the advocacy of national and racial hatred and the exciting of hostility or illwill against any group of persons, and having regard to the right of freedom of speech, reserves the right not to introduce further legislation with regard to article 20.

"The Government of New Zealand reserves the right not to apply article 22 as it relates to trade unions to the extent that existing legislative measures, enacted to ensure effective trade union representation and encourage orderly industrial relations, may not be fully compatible with that article."

NORWAY

Subject to reservations to article 6, paragraph 4, article 10, paragraph 2 (b) and paragraph 3 "with regard to the obligation to keep accused juvenile persons and juvenile offenders segregated from adults" and to article 14, paragraphs 5 and 7 and to article 20, paragraph 1.

ROMANIA

Upon signature:

The Government of the Socialist Republic of Romania declares that the provisions of article 48, paragraph 1, of the International Covenant on Civil and Political Rights are at variance with the principle that all States have the right to become parties to multilateral treaties governing matters of general interest.

Upon ratification:

a. The State Council of the Socialist Republic of Romania considers that the provisions of article 48 (1) of the International Covenant on Civil and Political Rights are inconsistent with the principle that multilateral international treaties whose purposes concern the international community as a whole must be open to universal participation.

b. The State Council of the Socialist Republic of Romania considers that the maintenance in a state of dependence of certain territories referred to in article 1 (3) of the International Covenant on Civil and Political Rights is inconsistent with the Charter of the United Nations and the instruments adopted by the Organization on the granting of independence to colonial countries and peoples, including the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, adopted unanimously by the United Nations General Assembly in its resolution 2625 (XXV) of 1970, which solemnly proclaims the duty of States to promote the realization of the principle of equal rights and self-determination of peoples in order to bring a speedy end to colonialism.

SRI LANKA

"The Government of the Democratic Socialist Republic of Sri Lanka declares under Article 41 of the International Covenant on Civil and Political Rights that it recognizes the competence of the Human Rights Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant, from another State Party which has similarly declared under Article 41 its recognition of the Committee's competence in respect to itself."

SWEDEN

Sweden reserves the right not to apply the provisions of article 10, paragraph 3, with regard to the obligation to segregate juvenile offenders from adults, the provisions of article 14, paragraph 7, and the provisions of article 20, paragraph 1, of the Covenant.

SYRIA

For text see No. 18, at 180.14.

TRINIDAD AND TOBAGO

1. The Government of the Republic of Trinidad and Tobago reserves the right not to apply in full the provision of paragraph 2 of article 4 of the Covenant since section 7 (3) of its Constitution enables Parliament to enact legislation even though it is inconsistent with sections (4) and (5) of the said Constitution;

2. Where at any time there is a lack of suitable prison facilities, the Government of the Republic of Trinidad and Tobago reserves the right not to apply article 10 (2) (b) and 10 (3) so far as those provisions require juveniles who are detained to be accommodated separately from adults;

3. The Government of the Republic of Trinidad and Tobago reserves the right not to apply paragraph 2 of article 12 in view of the statutory provisions requiring persons intending to travel abroad to furnish tax clearance certificates;

4. The Government of the Republic of Trinidad and Tobago reserves the right not to apply paragraph 5 of article 14 in view of the fact that section 43 of its Supreme Court of Judicature Act No. 12 of 1962 does not confer on a person convicted on indictment an unqualified right of appeal and that in particular cases appeal to the Court of Appeal can only be done with the leave of the Court of Appeal itself or of the Privy Council;

5. While the Government of the Republic of Trinidad and Tobago accepts the principle of compensation for wrongful imprisonment, it is not possible at this time to implement such a principle in accordance with paragraph 6 of article 14 of the Covenant;

6. With reference to the last sentence of paragraph 1 of article 15—"If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby", the Government of the Republic of Trinidad and Tobago deems this provision to apply exclusively to cases in progress. Consequently, a person who has already been convicted by a final decision shall not benefit from any provision made by law, subsequent to that decision, for the imposition of a lighter penalty,

7. The Government of the Republic of Trinidad and Tobago reserves the right to impose lawful and/or reasonable restrictions with respect to the right of assembly under article 21 of the Covenant;

8. The Government of the Republic of Trinidad and Tobago reserves the right not to apply the provision of article 26 of the Covenant in so far as it applies to the holding of property in Trinidad and Tobago, in view of the fact that licences may be granted to or withheld from aliens under the Aliens Landholding Act of Trinidad and Tobago.

UKRAINIAN SOVIET SOCIALIST REPUBLIC

Declaration made upon signature and confirmed upon ratification:

Same declaration, mutatis mutandis, as the one reproduced under "Byelorussian Soviet Socialist Republic."

UNION OF SOVIET SOCIALIST REPUBLICS

Declaration made upon signature and confirmed upon ratification:

Same declaration, mutatis mutandis, as the one reproduced under "Byelorussian Soviet Socialist Republic."

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Upon signature:

"First, the Government of the United Kingdom declare their understanding that, by virtue of Article 103 of the Charter of the United Nations, in the event of any conflict between their obligations under Article 1 of the Covenant and their obligations under the Charter (in particular, under Articles 1, 2 and 73 thereof) their obligations under the Charter shall prevail.

"Secondly, the Government of the United Kingdom declare that:

"a. In relation to Article 14 of the Covenant, they must reserve the right not to apply, or not to apply in full, the guarantee of free legal assistance contained in sub-paragraph (d) of paragraph 3 in so far as the shortage of legal practitioners and other considerations render the application of this guarantee in British Honduras, Fiji and St. Helena impossible;

"b. In relation to Article 23 of the Covenant, they must reserve the right not to apply the first sentence of paragraph 4 in so far as it concerns any inequality which may arise from the operation of the law of domicile;

"c. In relation to Article 25 of the Covenant, they must reserve the right not to apply:

- "i. Sub-paragraph (b) in so far as it may require the establishment of an elected legislature in Hong Kong and the introduction of equal suffrage, as between different electoral rolls, for elections in Fiji; and
- "ii. Sub-paragraph (c) in so far as it applies to jury service in the Isle of Man and to the employment of married women in the Civil Service of Northern Ireland, Fiji, and Hong Kong.

"Lastly the Government of the United Kingdom declare that the provisions of the Covenant shall not apply to Southern Rhodesia unless and until they inform the Secretary-General of the United Nations that they are in a position to ensure that the obligations imposed by the Covenant in respect of that territory can be fully implemented."

Upon ratification:

"Firstly the Government of the United Kingdom maintain their declaration in respect of article 1 made at the time of signature of the Covenant.

"The Government of the United Kingdom reserve the right to apply to members of and persons serving with the armed forces of the Crown and to persons lawfully detained in penal establishments of whatever character such laws and procedures as they may from time to time deem to be necessary for the preservation of service and custodial discipline and their acceptance of the provisions of the Covenant is subject to such restrictions as may for these purposes from time to time be authorised by law.

"Where at any time there is a lack of suitable prison facilities or where the mixing of adults and juveniles is deemed to be mutually beneficial, the Government of the United Kingdom reserve the right not to apply article 10 (2) (b) and 10 (3), so far as those provisions require juveniles who are detained to be accommodated separately from adults, and not to apply article 10 (2) (a) in Gibraltar, Montserrat and the Turks and Caicos Islands in so far as it requires segregation of accused and convicted persons.

"The Government of the United Kingdom reserve the right not to apply article 11 in Jersey.

"The Government of the United Kingdom reserve the right to interpret the provisions of article 12 (1) relating to the territory of a State as applying separately to each of the territories comprising the United Kingdom and its dependencies.

"The Government of the United Kingdom reserve the right to continue to apply such immigration legislation governing entry into, stay in and departure from the United Kingdom as they may deem necessary from time to time and, accordingly, their acceptance of article 12 (4) and of the other provisions of the Covenant is subject to the provisions of any such legislation as regards persons not at the time having the right under the law of the United Kingdom to enter and remain in the United Kingdom. The United Kingdom also reserves a similar right in regard to each of its dependent territories.

"The Government of the United Kingdom reserve the right not to apply article 13 in Hong Kong in so far as it confers a right of review of a decision to deport an alien and a right to be represented for this purpose before the competent authority.

"The Government of the United Kingdom reserve the right not to apply or not to apply in full the guarantee of free legal assistance in sub-paragraph (d) of paragraph 3 of article 14 in so far as the shortage of legal practitioners renders the application of this guarantee impossible in the British Virgin Islands, the Cayman Islands, the Falkland Islands, the Gilbert Islands, the Pitcairn Islands Group, St. Helena and Dependencies and Tuvalu.

"The Government of the United Kingdom interpret article 20 consistently with the rights conferred by articles 19 and 21 of the Covenant and having

legislated in matters of practical concern in the interests of public order (*ordre public*) reserve the right not to introduce any further legislation. The United Kingdom also reserve a similar right in regard to each of its dependent territories.

"The Government of the United Kingdom reserve the right to postpone the application of paragraph 3 of article 23 in regard to a small number of customary marriages in the Solomon Islands.

"The Government of the United Kingdom reserve the right to enact such nationality legislation as they may deem necessary from time to time to reserve the acquisition and possession of citizenship under such legislation to those having sufficient connection with the United Kingdom or any of its dependent territories and accordingly their acceptance of article 24 (3) and of the other provisions of the Covenant is subject to the provisions of any such legislation.

"The Government of the United Kingdom reserve the right not to apply sub-paragraph (b) of article 25 in so far as it may require the establishment of an elected Executive or Legislative Council in Hong Kong and sub-paragraph (c) of article 25 in so far as it relates to jury service in the Isle of Man.

"Lastly the Government of the United Kingdom declare that the provisions of the Covenant shall not apply to Southern Rhodesia unless and until they inform the Secretary-General of the United Nations that they are in a position to ensure that the obligations imposed by the Covenant in respect of that territory can be fully implemented."

Notification under article 4 (3) of the Covenant

"The Government of the United Kingdom notify other States Parties to the present Covenant, in accordance with article 4, of their intention to take and continue measures derogating from their obligations under the Covenant.

"There have been in the United Kingdom in recent years campaigns of organised terrorism related to Northern Irish affairs which have manifested themselves in activities which have included murder, attempted murder, maiming, intimidation and violent civil disturbances and in bombing and fire-raising which have resulted in death, injury and widespread destruction of property. This situation constitutes a public emergency within the meaning of article 4 (1) of the Covenant. The emergency commenced prior to the ratification by the United Kingdom of the Covenant and legislation has, from time to time, been promulgated with regard to it.

"The Government of the United Kingdom have found it necessary (and in some cases continue to find it necessary) to take powers, to the extent strictly required by the exigencies of the situation, for the protection of life, for the protection of property and the prevention of outbreaks of public disorder, and including the exercise of powers of arrest and detention and exclusion. In so far as any of these measures is inconsistent with the provisions of articles 9, 10(2), 10(3), 12(1), 14, 17, 19(2), 21 or 22 of the Covenant, the United Kingdom hereby derogates from its obligations under those provisions."

VENEZUELA

Upon ratification:

Article 60, paragraph 5, of the Constitution of the Republic of Venezuela establishes that: "No person shall be convicted in a criminal trial unless he has first been personally notified of the charges and heard in the manner prescribed by law. Persons accused of an offence against the *res publica* may be tried *in absentia*, with the guarantees and in the manner prescribed by law". Venezuela is making this reservation because article 14, paragraph 3(d), of the Covenant makes no provision for persons accused of an offence against the *res publica* to be tried *in absentia*.

VIETNAM

Upon accession to the Covenants, the Government of the Socialist Republic of Vietnam deems it necessary to declare that the provisions of article 48, paragraph 1, of the International Covenant on Civil and Political Rights, and article 26, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights, under which a number of States are deprived of the opportunity to become parties to the Covenants, are of a discriminatory nature. The Government of the Socialist Republic of Vietnam considers that the Covenants, in accordance with the principle of sovereign equality of States, should be open for participation by all States without any discrimination or limitation.

OBJECTIONS

ARGENTINA

3 October 1983

[The Government of Argentina makes a] formal objection to the [declaration] of territorial extension issued by the United Kingdom with regard to the Malvinas Islands (and dependencies), which that country is illegally occupying and refers to as the "Falkland Islands".

The Argentine Republic rejects and considers null and void the [said declaration] of territorial extension.

BELGIUM

6 November 1984

[The Belgian Government] wishes to observe that the sphere of application of article 11 is particularly restricted. In fact, article 11 prohibits imprisonment only when there is no reason for resorting to it other than the fact that the debtor is unable to fulfil a contractual obligation. Imprisonment is not incompatible with article 11 when there are other reasons for imposing this penalty, for example when the debtor, by acting in bad faith or through fraudulent maneuvers, has placed himself in the position of being unable to fulfil his obligations. This interpretation of article 11 can be confirmed by reference to the *travaux préparatoires* (see document A/2929 of 1 July 1955).

After studying the explanations provided by the Congo concerning its reservation, [the Belgian Government] has provisionally concluded that this reservation is unnecessary. It is its understanding that the Congolese legislation authorizes imprisonment for debt when other means of enforcement have failed when the amount due exceeds 20,000 CFA francs and when the debtor, between 18 and 60 years of age, makes himself insolvent in bad faith. The latter condition is sufficient to show that there is no contradiction between the Congolese legislation and the letter and the spirit of article 11 of the Covenant.

By virtue of article 4, paragraph 2, of the aforementioned Covenant, article 11 is excluded from the sphere of application of the rule which states that in the event of an exceptional public emergency, the States Parties to the Covenant may, in certain conditions, take measures derogating from their obligations under the Covenant. Article 11 is one of the articles containing a provision from which no derogation is permitted in any circumstances. Any reservation concerning that article would destroy its effects and would therefore be in contradiction with the letter and the spirit of the Covenant.

Consequently, and without prejudice to its firm belief that Congolese law is in complete conformity with the provisions of article 11 of the Covenant, [the Belgian Government] fears that the reservation made by the Congo may, by

reason of its very principle, constitute a precedent which might have considerable effects at the international level.

[The Belgian Government] therefore hopes that this reservation will be withdrawn and, as a precautionary measure, wishes to raise an objection to that reservation.

FRANCE

The Government of the Republic takes objection to the reservation entered by the Government of the Republic of India to article 1 of the International Covenant on Civil and Political Rights, as this reservation attaches conditions not provided for by the Charter of the United Nations to the exercise of the right of self-determination. The present declaration will not be deemed to be an obstacle to the entry into force of the Covenant between the French Republic and the Republic of India.

GERMANY, FEDERAL REPUBLIC OF

21 April 1982

"The Government of the Federal Republic of Germany objects to the [reservation (i) by the Government of Trinidad and Tobago]. In the opinion of the Government of the Federal Republic of Germany it follows from the text and the history of the Covenant that the said reservation is incompatible with the object and purpose of the Covenant."

NETHERLANDS

12 June 1980

"In the opinion of the Government of the Kingdom of the Netherlands it follows from the text and the history of the Covenant that [reservation (i) by the Government of Trinidad and Tobago] is incompatible with the object and purpose of the Covenant. The Government of the Kingdom of the Netherlands therefore considers the reservation unacceptable and formally raises an objection to it:"

17 September 1981

I. Reservation by Australia regarding articles 2 and 50.

The reservation that article 2, paragraphs 2 and 3, and article 50 shall be given effect consistently with and subject to the provisions in article 2, paragraph 2, is acceptable to the Kingdom on the understanding that it will in no way impair Australia's basic obligation under international law, as laid down in article 2, paragraph 1, to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the International Covenant on Civil and Political Rights.

II. Reservation by Australia regarding article 10.

The Kingdom is not able to evaluate the implications of the first part of the reservation regarding article 10 on its merits, since Australia has given no further explanation on the laws and lawful arrangements, as referred to in the text of the reservation. In expectation of further clarification by Australia, the Kingdom for the present reserves the right to raise objection to the reservation at a later stage.

III. Reservation by Australia regarding "Convicted Persons."

The Kingdom finds it difficult, for the same reasons as mentioned in its commentary on the reservation regarding article 10, to accept the declaration by

Australia that it reserves the right not to seek amendment of laws now in force in Australia relating to the rights of persons who have been convicted of serious criminal offences. The Kingdom expresses the hope it will be possible to gain a more detailed insight in the laws now in force in Australia, in order to facilitate a definitive opinion on the extent of this reservation.”

6 November 1984

[*Same objection as the one made by Belgium*]

DECLARATIONS RECOGNIZING THE COMPETENCE OF THE HUMAN RIGHTS COMMITTEE UNDER ARTICLE 41

AUSTRIA

10 September 1978

On behalf of the Republic of Austria, I declare under article 41 of the Covenant on Civil and Political Rights that Austria recognizes the competence of the Human Rights Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant on Civil and Political Rights.

CANADA

29 October 1979

“The Government of Canada declares, under article 41 of the International Covenant on Civil and Political Rights, that it recognizes the competence of the Human Rights Committee referred to in article 28 of the said Covenant to receive and consider communications submitted by another State Party, provided that such State Party has, not less than twelve months prior to the submission by it of a communication relating to Canada, made a declaration under article 41 recognizing the competence of the Committee to receive and consider communications relating to itself.”

DENMARK

6 April 1978

“[The Government of Denmark recognizes], in accordance with article 41 of the International Covenant on Civil and Political Rights, opened for signature in New York on December 19, 1966, for a new period of five years from 23 March 1978 the competence of the Committee referred to in article 41 to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant.”

ECUADOR

6 August 1984

. . . The Government of Ecuador recognizes the competence of the Human Rights Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the aforementioned Covenant, as provided for in paragraph 1(a), (b), (c), (d), (e), (f), (g) and (h) of that article.

This recognition of competence is effective for an indefinite period and is subject to the provisions of article 41, paragraph 2, of the International Covenant on Civil and Political Rights.

FINLAND

19 August 1975

"Finland declares, under article 41 of the International Covenant on Civil and Political Rights that it recognizes the competence of the Human Rights Committee referred to in article 28 of the said Covenant, to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligation under this Covenant."

GERMANY, FEDERAL REPUBLIC OF

22 April 1976

The Federal Republic of Germany in accordance with article 41 of the said Covenant recognizes for a period of two years from the entry into force of that article the competence of the Human Rights Committee to receive and consider communications from a State Party insofar as that State Party has recognized in regard to itself the competence of the Committee and as corresponding obligations have been assumed under the Covenant by the Federal Republic of Germany and by the State Party concerned.

ICELAND

". . . The Government of Iceland . . . recognizes in accordance with article 41 of the International Covenant on Civil and Political Rights the competence of the Human Rights Committee referred to in article 28 of the Covenant to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant."

ITALY

15 September 1978

The Italian Republic recognizes the competence of the Human Rights Committee, elected in accordance with article 28 of the Covenant, to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant.

LUXEMBOURG

18 August 1983

"The Government of Luxembourg recognizes, in accordance with article 41, the competence of the Human Rights Committee referred to in article 28 of the Covenant to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant."

NETHERLANDS

11 December 1978

"The Kingdom of the Netherlands declares under article 41 of the International Covenant on Civil and Political Rights that it recognizes the competence of the Human Rights Committee referred to in article 28 of the Covenant to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant."

NEW ZEALAND

28 December 1978

"The Government of New Zealand declares under article 41 of the International Covenant on Civil and Political Rights that it recognises the competence of the Human Rights Committee to receive and consider com-

munications from another State Party which has similarly declared under article 41 its recognition of the Committee's competence in respect to itself except where the declaration by such a State Party was made less than twelve months prior to the submission by it of a complaint relating to New Zealand."

NORWAY

31 August 1972

"Norway recognizes the competence of the Human Rights Committee referred to in article 28 of the Covenant, to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant."

PERU

9 April 1984

Peru recognizes the competence of the Human Rights Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant on Civil and Political Rights, in accordance with article 41 of the said Covenant.

SENEGAL

5 January 1981

The Government of Senegal declares, under article 41 of the International Covenant on Civil and Political Rights, that it recognizes the competence of the Human Rights Committee referred to in article 28 of the said Covenant to receive and consider communications submitted by another State Party, provided that such State Party has, not less than twelve months prior to the submission by it of a communication relating to Senegal, made a declaration under article 41 recognizing the competence of the Committee to receive and consider communications relating to itself.

SPAIN

25 January 1985

The Spanish Government declares, with reference to the provisions of article 41 of the International Covenant on Civil and Political Rights, that it recognizes, for a period of three years starting on the date of the deposit of this Declaration, the competence of the Human Rights Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant.

SRI LANKA

11 June 1980

"The Government of the Democratic Socialist Republic of Sri Lanka declares under article 41 of the International Covenant on Civil and Political Rights that it recognizes the competence of the Human Rights Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant, from another State Party which has similarly declared under article 41 its recognition of the Committee's competence in respect to itself."

SWEDEN

26 November 1971

"Sweden recognizes the competence of the Human Rights Committee referred to in article 28 of the Covenant to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant."

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

20 May 1976

"The Government of the United Kingdom declare under article 41 of this Covenant that it recognizes the competence of the Human Rights Committee to receive and consider communications submitted by another State Party, provided that such other State Party has, not less than twelve months prior to the submission by it of a communication relating to the United Kingdom, made a declaration under article 41 recognizing the competence of the Committee to receive and consider communications relating to itself."

STATES PARTIES

(84 as of 1 July 1986)

Afghanistan	Lebanon
Austria	Libya
Australia	Luxembourg
Barbados	Madagascar
Belgium	Mali
Bolivia	Mauritius
Bulgaria	Mexico
Byelorussian SSR	Mongolia
Cameroon	Morocco
Canada	Netherlands
Central African Republic	New Zealand
Chile	Nicaragua
Colombia	Niger
Congo	Norway
Costa Rica	Panama
Cyprus	Peru
Czechoslovakia	Poland
Denmark	Portugal
Dominican Republic	Romania
Ecuador	Rwanda
Egypt	St. Vincent & the Grenadines
El Salvador	San Marino
Finland	Senegal
France	Spain
Gabon	Sri Lanka
Gambia	Sudan
German Democratic Republic	Suriname
Germany, Federal Republic of	Sweden
Guinea	Syria
Guyana	Tanzania
Hungary	Togo
Iceland	Trinidad & Tobago
India	Tunisia
Iran	Ukrainian SSR
Iraq	USSR
Italy	United Kingdom
Jamaica	Uruguay
Japan	Venezuela
Jordan	Vietnam
Kampuchea	Yugoslavia
Kenya	Zaire
Korea, Democratic Republic of	Zambia

U.S. ACTION

Message from the President Transmitting Four Treaties Pertaining to Human Rights, S. Exec. Doc. C, D, E & F, 95th Cong., 2d Sess. (1978).

International Human Rights Treaties: Hearings Before the Senate Comm. on Foreign Relations, 96th Cong., 1st Sess. (1979).

18. INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS,

adopted Dec. 16, 1966, entered into force Jan. 3, 1976, G.A.
Res. 220 (XXI), 21 U.N. GAOR, Supp.(No.16)49,
U.N. Doc.A/6316(1966).

18. International Covenant on Economic, Social and Cultural Rights, adopted Dec. 16, 1966, entered into force Jan. 3, 1976, G.A. Res. 220 (XXI), 21 U.N. GAOR, Supp. (No. 16) 49, U.N. Doc. A/6316 (1966).

PREAMBLE

The States Parties to the present Covenant.

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

Recognizing that these rights derive from the inherent dignity of the human person.

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights.

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of human rights and freedoms.

Realizing 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.

Agree upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Article 4

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- a. Remuneration which provides all workers, as a minimum, with:
 - i. Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
 - ii. A decent living for themselves and their families in accordance with the provisions of the present Covenant;
- b. Safe and healthy working conditions;
- c. Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
- d. Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

Article 8

1. The States Parties to the present Covenant undertake to ensure:
 - a. The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
 - b. The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;
 - c. The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
 - d. The right to strike, provided that it is exercised in conformity with the laws of the particular country.
2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.
3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Article 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

a. To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

b. Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

a. The provision for the reduction of the stillbirth rate and of infant mortality and for the healthy development of the child;

b. The improvement of all aspects of environmental and industrial hygiene;

c. The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

d. The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 13

The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

- a. Primary education shall be compulsory and available free to all;
- b. Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
- c. Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
- d. Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
- e. The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

Article 15

1. The States Parties to the present Covenant recognize the right of everyone:

- a. To take part in cultural life;
- b. To enjoy the benefits of scientific progress and its applications;
- c. To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

PART IV*Article 16*

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.

2. *a.* All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant;

b. The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts therefrom, from States Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts therefrom, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

Article 17

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant.

3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

Article 18

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

Article 19

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18.

Article 20

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

Article 21

The Economic and Social Council may submit from time to time to the

General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

Article 22

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

Article 23

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

Article 24

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 25

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART V

Article 26

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 27

1. The present Covenant shall enter into force three months after the date of

the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 28

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 29

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 30

Irrespective of the notifications made under article 26, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

- a. Signatures, ratifications and accessions under article 26;
- b. The date of the entry into force of the present Covenant under article 27 and the date of the entry into force of any amendments under article 29.

Article 31

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 26.

RESERVATIONS AND DECLARATIONS

AFGHANISTAN

The presiding body of the Revolutionary Council of the Democratic Republic of Afghanistan declares that the provisions of paragraphs 1 and 3 of article 48 of the International Covenant on Civil and Political Rights and provisions of paragraphs 1 and 3 of article 26 of the International Covenant on Economic, Social and Cultural Rights, according to which some countries cannot join the aforesaid Covenants, contradicts the international character of

the aforesaid treaties. Therefore, according to the equal rights to all States to sovereignty, both Covenants should be left open for the purpose of the participation of all States.

BARBADOS

"The Government of Barbados states that it reserves the right to postpone—

"a. The application of sub-paragraph (a) (1) of article 7 of the Covenant in so far as it concerns the provision of equal pay to men and women for equal work;

"b. The application of article 10 (2) in so far as it relates to the special protection to be accorded mothers during a reasonable period during and after childbirth; and

"c. The application of article 13 (2) (a) of the Covenant, in so far as it relates to primary education; since, while the Barbados Government fully accepts the principles embodied in the same articles and undertakes to take the necessary steps to apply them in their entirety, the problems of implementation are such that full application of the principles in question cannot be guaranteed at this stage."

BELGIUM

1. With respect to article 2, paragraph 2, the Belgian Government interprets non-discrimination as to national origin as not necessarily implying an obligation on States automatically to guarantee to foreigners the same rights as to their nationals. The term should be understood to refer to the elimination of any arbitrary behaviour but not of differences in treatment based on objective and reasonable considerations, in conformity with the principles prevailing in democratic societies.

2. With respect to article 2, paragraph 3, the Belgian Government understands that this provision cannot infringe the principle of fair compensation in the event of expropriation or nationalization.

BULGARIA

"The People's Republic of Bulgaria deems it necessary to underline that the provisions of article 48, paragraphs 1 and 3, of the International Covenant on Civil and Political Rights, and article 26, paragraphs 1 and 3, of the International Covenant on Economic, Social and Cultural Rights, under which a number of States are deprived of the opportunity to become parties to the Covenants, are of a discriminatory nature. These provisions are inconsistent with the very nature of the Covenants, which are universal in character and should be open for accession by all States. In accordance with the principle of sovereign equality, no State has the right to bar other States from becoming parties to a covenant of this kind."

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

Declaration made upon signature and confirmed upon ratification:

The Byelorussian Soviet Socialist Republic declares that the provisions of paragraph 1 of article 26 of the International Covenant on Economic, Social and Cultural Rights and of paragraph 1 of article 48 of the International Covenant on Civil and Political Rights, under which a number of States cannot become parties to these Covenants, are of a discriminatory nature and considers that the Covenants, in accordance with the principle of sovereign equality of States, should be open for participation by all States concerned without any discrimination or limitation.

CONGO

The Government of the People's Republic of the Congo declares that it does not consider itself bound by the provisions of article 13, paragraphs 3 and 4, of the International Covenant on Economic, Social and Cultural Rights, or by the provisions of article 11 of the International Covenant on Civil and Political Rights.

CZECHOSLOVAKIA

Upon signature:

The Czechoslovak Socialist Republic declares that the provisions of article 26, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights are in contradiction with the principle that all States have the right to become parties to multilateral treaties governing matters of general interest.

Upon ratification:

The provision of article 26, paragraph 1, of the Covenant is in contradiction with the principle that all States have the right to become parties to multilateral treaties regulating matters of general interest.

DENMARK

"The Government of Denmark cannot, for the time being, undertake to comply entirely with the provisions of Article 7 (d) on remuneration for public holidays."

FRANCE

1. The Government of the Republic considers that, in accordance with Article 103 of the Charter of the United Nations, in case of conflict between its obligations under the Covenant and its obligations under the Charter (especially articles 1 and 2 thereof), its obligations under the Charter will prevail.

2. The Government of the Republic declares that articles 6, 9, 11 and 13 are not to be interpreted as derogating from provisions governing the access of aliens to employment or as establishing residence requirements for the allocation of certain social benefits.

3. The Government of the Republic declares that it will implement the provisions of article 8 in respect of the right to strike in conformity with article 6, paragraph 4, of the European Social Charter according to the interpretation thereof given in the annex to that Charter.

GERMAN DEMOCRATIC REPUBLIC

The German Democratic Republic considers that article 26, paragraph 1, of the Covenant runs counter to the principle that all States which are guided in their policies by the purposes and principles of the United Nations Charter have the right to become parties to conventions which affect the interests of all States.

GUINEA

Upon ratification:

In accordance with the principle whereby all States whose policies are guided by the purposes and principles of the Charter of the United Nations are entitled to become parties to covenants affecting the interests of the international community, the Government of the Republic of Guinea considers that the provisions of article 26, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights are contrary to the principle of the

universality of international treaties and the democratization of international relations.

The Government of the Republic of Guinea likewise considers that article 1, paragraph 3, and the provisions of article 14 of that instrument are contrary to the provisions of the Charter of the United Nations, in general, and United Nations resolutions on the granting of independence to colonial countries and peoples, in particular.

The above provisions are contrary to the Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States contained in General Assembly resolution 2625 (XXV), pursuant to which every State has the duty to promote realization of the principle of equal rights and self-determination of peoples in order to put an end to colonialism.

HUNGARY

Upon signature:

"The Government of the Hungarian People's Republic declares that paragraph 1 of article 26 of the International Covenant on Economic, Social and Cultural Rights and paragraph 1 of article 48 of the International Covenant on Civil and Political Rights according to which certain States may not become signatories to the said Covenants are of a discriminatory nature and are contrary to the basic principle of international law that all States are entitled to become signatories to general multilateral treaties. These discriminatory provisions are incompatible with the objectives and purposes of the Covenants."

Upon ratification:

"The Presidential Council of the Hungarian People's Republic declares that the provisions of article 48, paragraphs 1 and 3, of . . . the International Covenant on Civil and Political Rights, and article 26, paragraphs 1 and 3, of the International Covenant on Economic, Social and Cultural Rights are inconsistent with the universal character of the Covenants. It follows from the principle of sovereign equality of States that the Covenants should be open for participation by all States without any discrimination or limitation."

INDIA

With reference to article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, the Government of the Republic of India declares that the words "the right of self-determination" appearing in those articles apply only to the peoples under foreign domination and that these words do not apply to sovereign independent States or to a section of a people or nation — which is the essence of national integrity.

With reference to articles 4 and 8 of the International Covenant on Economic, Social and Cultural Rights, and articles 12, 19 (3), 21 and 22 of the International Covenant on Civil and Political Rights, the Government of the Republic of India declares that the provisions of the said articles shall be so applied as to be in conformity with the provisions of article 19 of the Constitution of India.

With reference to article 7 (c) of the International Covenant on Economic, Social and Cultural Rights, the Government of the Republic of India declares that the provisions of the said article shall be so applied as to be in conformity with the provisions of article 16 (4) of the Constitution of India.

IRAQ

Upon signature:

"The entry of the Republic of Iraq as a party to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on

Civil and Political Rights shall in no way signify recognition of Israel nor shall it entail any obligations towards Israel under the said two Covenants."

"The entry of the Republic of Iraq as a party to the above two Covenants shall not constitute entry by it as a party to the Optional Protocol to the International Covenant on Civil and Political Rights."

Upon ratification:

"Ratification by Iraq . . . shall in no way signify recognition of Israel nor shall it be conducive to entry with her into such dealings as are regulated by the said [Covenant]."

JAPAN

Upon signature:

"1. In applying the provisions of paragraph (d) of article 7 of the International Covenant on Economic, Social and Cultural Rights, Japan reserves the right not to be bound by "remuneration for public holidays" referred to in the said provisions.

"2. Japan reserves the right not to be bound by the provisions of sub-paragraph (d) of paragraph 1 of article 8 of the International Covenant on Economic, Social and Cultural Rights, except in relation to the sectors in which the right referred to in the said provisions is accorded in accordance with the laws and regulations of Japan at the time of ratification of the Covenant by the Government of Japan.

"3. In applying the provisions of sub-paragraphs (b) and (c) of paragraph 2 of article 13 of the International Covenant on Economic, Social and Cultural Rights, Japan reserves the right not to be bound by 'in particular by the progressive introduction of free education' referred to in the said provisions.

"4. Recalling the position taken by the Government of Japan, when ratifying the Convention (No. 87) concerning Freedom of Association and Protection of the Right to Organise, that 'the police' referred to in article 9 of the said Convention be interpreted to include the fire service of Japan, the Government of Japan declares that 'members . . . of the police' referred to in paragraph 2 of article 8 of the International Covenant on Economic, Social and Cultural Rights as well as in paragraph 2 of article 22 of the International Covenant on Civil and Political Rights be interpreted to include fire service personnel of Japan."

KENYA

"While the Kenya Government recognizes and endorses the principles laid down in paragraph 2 of article 10 of the Covenant, the present circumstances obtaining in Kenya do not render necessary or expedient the imposition of those principles by legislation".

LIBYA

"The acceptance and the accession to this Covenant by the Libyan Arab Republic shall in no way signify a recognition of Israel or be conducive to entry by the Libyan Arab Republic into such dealings with Israel as are regulated by the Covenant."

MADAGASCAR

The Government of Madagascar states that it reserves the right to postpone the application of article 13, paragraph 2, of the Covenant, more particularly in so far as relates to primary education, since, while the Malagasy Government fully accepts the principles embodied in the said paragraph and undertakes to take the necessary steps to apply them in their entirety at the earliest possible date, the problems of implementation, and particularly the financial implications, are

such that full application of the principles in question cannot be guaranteed at this stage.

MALTA

"The Government of Malta recognises and endorses the principles laid down in paragraph 2 of article 10 of the Covenant. However, the present circumstances obtaining in Malta do not render necessary and do not render expedient the imposition of those principles by legislation."

MEXICO

The Government of Mexico accedes to the International Covenant on Economic, Social and Cultural Rights with the understanding that article 8 of the Covenant shall be applied in the Mexican Republic under the conditions and in conformity with the procedures established in the applicable provisions of the Political Constitution of the United Mexican States and the relevant implementing legislation.

MONGOLIA

Declaration made upon signature and renewed upon ratification:

Same declaration, mutatis mutandis, as the one reproduced under "Byelorussian Soviet Socialist Republic".

NETHERLANDS

Upon ratification:

Reservation

"Article 8, paragraph 1 (d). The Kingdom of the Netherlands does not accept this provision in the case of the Netherlands Antilles with regard to the latter's central and local government bodies."

Declarations

"[The Kingdom of the Netherlands] clarify that although it is not certain whether the reservation [. . .] is necessary, [it] has preferred the form of a reservation to that of a declaration. In this way the Kingdom of the Netherlands wishes to ensure that the relevant obligation under the Covenant does not apply to the Kingdom as far as the Netherlands Antilles is concerned.

"It is at present considered expedient not to grant all persons in central and local government service in the Netherlands Antilles the right to strike."

NEW ZEALAND

Upon ratification:

"The Government of New Zealand reserves the right not to apply article 8 to the extent that existing legislative measures, enacted to ensure effective trade union representation and encourage orderly industrial relations, may not be fully compatible with that article.

"The Government of New Zealand reserves the right to postpone, in the economic circumstances foreseeable at the present time, the implementation of article 10 (2) as it relates to paid maternity leave or leave with adequate social security benefits."

NORWAY

Subject to reservations to article 8, paragraph 1 (d) "to the effect that the current Norwegian practice of referring labour conflicts to the State Wages Board (a permanent tripartite arbitral commission in matters of wages) by Act of Parliament for the particular conflict, shall not be considered incompatible with the right to strike, this right being fully recognised in Norway."

ROMANIA

Upon signature:

The Government of the Socialist Republic of Romania declares that the provisions of article 26, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights are at variance with the principle that all States have the right to become parties to multilateral treaties governing matters of general interest.

Upon ratification:

a. The State Council of the Socialist Republic of Romania considers that the provisions of article 26 (1) of the International Covenant on Economic, Social and Cultural Rights are inconsistent with the principle that multilateral international treaties whose purposes concern the international community as a whole must be open to universal participation.

b. The State Council of the Socialist Republic of Romania considers that the maintenance in a state of dependence of certain territories referred to in articles 1 (3) and 14 of the International Covenant on Economic, Social and Cultural Rights is inconsistent with the Charter of the United Nations and the instruments adopted by the Organization on the granting of independence to colonial countries and peoples, including the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, adopted unanimously by the United Nations General Assembly in its resolution 2625 (XXV) of 1970, which solemnly proclaims the duty of States to promote the realization of the principle of equal rights and self-determination of peoples in order to bring a speedy end to colonialism.

RWANDA

The Rwandese Republic [is] bound, however, in respect of education, only by the provisions of its Constitution.

SWEDEN

Sweden enters a reservation in connexion with article 7 (d) of the Covenant in the matter of the right to remuneration for public holidays.

SYRIA

1. The accession of the Syrian Arab Republic to these two Covenants shall in no way signify recognition of Israel or entry into a relationship with it regarding any matter regulated by the said two Covenants.

2. The Syrian Arab Republic considers that paragraph 1 of article 26 of the Covenant on Economic, Social and Cultural Rights and paragraph 1 of article 48 of the Covenant on Civil and Political Rights are incompatible with the purposes and objectives of the said Covenants, inasmuch as they do not allow all States, without distinction or discrimination, the opportunity to become parties to the said Covenants.

TRINIDAD AND TOBAGO

In respect to article 8 (1) (d) and 8 (2):

"The Government of Trinidad and Tobago reserves the right to impose lawful and or reasonable restrictions on the exercise of the aforementioned rights by personnel engaged in essential services under the Industrial Relations Act or under any Statute replacing same which has been passed in accordance with the provisions of the Trinidad and Tobago Constitution."

UKRAINIAN SOVIET SOCIALIST REPUBLIC

Declaration made upon signature and confirmed upon ratification:

Same declaration, mutatis mutandis, as the one reproduced under "Byelorussian Soviet Socialist Republic".

UNION OF SOVIET SOCIALIST REPUBLICS

Declaration made upon signature and confirmed upon ratification:

Same declaration, mutatis mutandis, as the one reproduced under "Byelorussian Soviet Socialist Republic".

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Upon signature:

"First, the Government of the United Kingdom declare their understanding that, by virtue of Article 103 of the Charter of the United Nations, in the event of any conflict between their obligations under Article 1 of the Covenant and their obligations under the Charter (in particular, under Articles 1, 2 and 73 thereof) their obligations under the Charter shall prevail.

"Secondly, the Government of the United Kingdom declare that they must reserve the right to postpone the application of sub-paragraph (a) (i) of Article 7 of the Covenant in so far as it concerns the provision of equal pay to men and women for equal work, since, while they fully accept this principle and are pledged to work towards its complete application at the earliest possible time, the problems of implementation are such that complete application cannot be guaranteed at present.

"Thirdly, the Government of the United Kingdom declare that, in relation to Article 8 of the Covenant, they must reserve the right not to apply sub-paragraph (b) of paragraph 1 in Hong Kong, in so far as it may involve the right of trade unions not engaged in the same trade or industry to establish federations or confederations.

"Lastly, the Government of the United Kingdom declare that the provisions of the Covenant shall not apply to Southern Rhodesia unless and until they inform the Secretary-General of the United Nations that they are in a position to ensure that the obligations imposed by the Covenant in respect of that territory can be fully implemented."

Upon ratification:

"Firstly the Government of the United Kingdom maintain their declaration in respect of article 1 made at the time of signature of the Covenant.

"The Government of the United Kingdom declare that for the purposes of article 2 (3) the British Virgin Islands, the Cayman Islands, the Gilbert Islands, the Pitcairn Islands Group, St. Helena and Dependencies, the Turks and Caicos Islands and Tuvalu are developing countries.

"The Government of the United Kingdom reserve the right to interpret article 6 as not precluding the imposition of restrictions, based on place of birth or residence qualifications, on the taking of employment in any particular region or territory for the purpose of safeguarding the employment opportunities of workers in that region or territory.

"The Government of the United Kingdom reserve the right to postpone the application of sub-paragraph (i) of paragraph (a) of Article 7, in so far as it concerns the provision of equal pay to men and women for equal work in the private sector in Jersey, Guernsey, the Isle of Man, Bermuda, Hong Kong and the Solomon Islands.

"The Government of the United Kingdom reserve the right not to apply sub-paragraph 1 (b) of article 8 in Hong Kong.

"The Government of the United Kingdom while recognising the right of everyone to social security in accordance with article 9 reserve the right to postpone implementation of the right in the Cayman Islands and the Falkland Islands because of shortage of resources in these territories.

"The Government of the United Kingdom reserve the right to postpone the application of paragraph 1 of article 10 in regard to a small number of customary marriages in the Solomon Islands and the application of paragraph 2 of article 10 in so far as it concerns paid maternity leave in Bermuda and the Falkland Islands.

"The Government of the United Kingdom maintain the right to postpone the application of sub-paragraph (a) of paragraph 2 of article 13, and article 14, in so far as they require compulsory primary education, in the Gilbert Islands, the Solomon Islands and Tuvalu.

"Lastly the Government of the United Kingdom declare that the provisions of the Covenant shall not apply to Southern Rhodesia unless and until they inform the Secretary-General of the United Nations that they are in a position to ensure that the obligations imposed by the Covenant in respect of that territory can be fully implemented."

VIETNAM

For text see No. 17, at 170.31.

ZAMBIA

The Government of the Republic of Zambia states that it reserves the right to postpone the application of article 13 (2) (a) of the Covenant, insofar as it relates to primary education; since, while the Government of the Republic of Zambia fully accepts the principles embodied in the same article and undertakes to take the necessary steps to apply them in their entirety, the problems of implementation, and particularly the financial implications, are such that full application of the principles in question cannot be guaranteed at this stage.

OBJECTIONS

ARGENTINA

3 October 1983

[The Government of Argentina makes a] formal objection to the [declaration] of territorial extension issued by the United Kingdom with regard to the Malvinas Islands (and dependencies), which that country is illegally occupying and refers to as the "Falkland Islands".

The Argentine Republic rejects and considers null and void the [said declaration] of territorial extension.

FRANCE

The Government of the Republic takes objection to the reservation entered by the Government of India to article 1 of the International Covenant on Economic, Social and Cultural Rights, as this reservation attaches conditions not provided for by the Charter of the United Nations to the exercise of the right of self-determination. The present declaration will not be deemed to be an obstacle to the entry into force of the Covenant between the French Republic and the Republic of India.

GERMANY, FEDERAL REPUBLIC OF

15 August 1980

"The Government of the Federal Republic of Germany strongly objects, . . . to the declaration made by the Republic of India in respect of article 1 of the International Covenant on Economic, Social and Cultural Rights and of article 1 of the International Covenant on Civil and Political Rights.

"The right of self-determination as enshrined in the Charter of the United Nations and as embodied in the Covenants applies to all peoples and not only to those under foreign domination. All peoples, therefore, have the inalienable right freely to determine their political status and freely to pursue their economic, social and cultural development. The Federal Government cannot consider as valid any interpretation of the right of self-determination which is contrary to the clear language of the provisions in question. It moreover considers that any limitation of their applicability to all nations is incompatible with the object and purpose of the Covenants."

NETHERLANDS

12 January 1981

"The Government of the Kingdom of the Netherlands objects to the declaration made by the Government of the Republic of India in relation to article 1 of the International Covenant on Civil and Political Rights and article 1 of the International Covenant on Economic, Social and Cultural Rights, since the right of self-determination as embodied in the Covenants is conferred upon all peoples. This follows not only from the very language of article 1 common to the two Covenants but as well from the most authoritative statement of the law concerned, i.e. the Declaration on Principles of International Law concerning friendly Relations and Co-operation among States in accordance with the Charter of the United Nations. Any attempt to limit the scope of this right or to attach conditions not provided for in the relevant instruments would undermine the concept of self-determination itself and would thereby seriously weaken its universally acceptable character."

STATES PARTIES

(89 as of 1 July 1986)

Afghanistan	Lebanon
Australia	Libya
Austria	Luxembourg
Barbados	Madagascar
Belgium	Mali
Bolivia	Mauritius
Bulgaria	Mexico
Byelorussian SSR	Mongolia
Cameroon	Morocco
Canada	Netherlands
Central African Republic	New Zealand
Chile	Nicaragua
China, Republic of	Niger
Colombia	Norway
Congo	Panama
Costa Rica	Peru
Cyprus	Philippines
Czechoslovakia	Poland
Denmark	Portugal
Dominican Republic	Romania
Ecuador	Rwanda
Egypt	St. Vincent & the Grenadines
El Salvador	San Marino
Finland	Senegal
France	Solomon Islands
Gabon	Spain
Gambia	Sri Lanka
German Democratic Republic	Sudan
Germany, Federal Republic of	Surinam
Greece	Sweden
Guinea	Syria
Guyana	Tanzania
Honduras	Togo
Hungary	Trinidad & Tobago
Iceland	Tunisia
India	Ukrainian SSR
Iran	USSR
Iraq	United Kingdom
Italy	Uruguay
Jamaica	Venezuela
Japan	Vietnam
Jordan	Yugoslavia
Kampuchea	Zaire
Kenya	Zambia
Korea, Democratic Republic of	

37. OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL
AND POLITICAL RIGHTS,

adopted Dec. 16, 1966, entered into force Mar. 23, 1976,
G.A. Res. 2200 (XXI), 21 U.N. GAOR, Supp.(No.16)59,
U.N. Doc.A/6316 (1966).

37. Optional Protocol to the International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, *entered into force* Mar. 23, 1976, G.A. Res. 2200 (XXI), 21 U.N. GAOR, Supp. (No. 16) 59, U.N. Doc. A/6316 (1966).

The States Parties to the present Protocol,

Considering that in order further to achieve the purposes of the Covenant on Civil and Political Rights (hereinafter referred to as the Covenant) and the implementation of its provisions it would be appropriate to enable the Human Rights Committee set up in part IV of the Covenant (hereinafter referred to as the Committee) to receive and consider, as provided in the present Protocol, communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant.

Have agreed as follows:

Article 1

A State Party to the Covenant that becomes a party to the present Protocol recognizes the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of any of the rights set forth in the Covenant. No communication shall be received by the Committee if it concerns a State Party to the Covenant which is not a party to the present Protocol.

Article 2

Subject to the provisions of article 1, individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration.

Article 3

The Committee shall consider inadmissible any communication under the present Protocol which is anonymous, or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of the Covenant.

Article 4

1. Subject to the provisions of article 3, the Committee shall bring any communications submitted to it under the present Protocol to the attention of the State Party to the present Protocol alleged to be violating any provision of the Covenant.

2. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

Article 5

1. The Committee shall consider communications received under the present Protocol in the light of all written information made available to it by the individual and by the State Party concerned.

2. The Committee shall not consider any communication from an individual unless it has ascertained that:

a. The same matter is not being examined under another procedure of international investigation or settlement;

b. The individual has exhausted all available domestic remedies.

This shall not be the rule where the application of the remedies is unreasonably prolonged.

3. The Committee shall hold closed meetings when examining communications under the present Protocol.

4. The Committee shall forward its views to the State Party concerned and to the individual.

Article 6

The Committee shall include in its annual report under article 45 of the Covenant a summary of its activities under the present Protocol.

Article 7

Pending the achievement of the objectives of resolution 1514 (XV) adopted by the General Assembly of the United Nations on 14 December 1960 concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples, the provisions of the present Protocol shall in no way limit the right of petition granted to these peoples by the Charter of the United Nations and other international conventions and instruments under the United Nations and its specialized agencies.

Article 8

1. The present Protocol is open for signature by any State which has signed the Covenant.

2. The present Protocol is subject to ratification by any State which has ratified or acceded to the Covenant. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Protocol shall be open to accession by any State which has ratified or acceded to the Covenant.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

Article 9

1. Subject to the entry into force of the Covenant, the present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or instrument of accession.

2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or instrument of accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 10

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

Article 11

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the

proposal. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendment which they have accepted.

Article 12

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations. Denunciation shall take effect three months after the date of receipt of the notification by the Secretary-General.

2. Denunciation shall be without prejudice to the continued application of the provisions of the present Protocol to any communication submitted under article 2 before the effective date of denunciation.

Article 13

Irrespective of the notifications made under article 8, paragraph 5, of the present Protocol, the Secretary-General of the United Nations shall inform all States referred to in article 48, paragraph 1, of the Covenant of the following particulars:

- a. Signatures, ratifications and accessions under article 8;
- b. The date of the entry into force of the present Protocol under article 9 and the date of the entry into force of any amendments under article 11;
- c. Denunciations under article 12.

Article 14

1. The present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in article 48 of the Covenant.

RESERVATIONS AND DECLARATIONS

DENMARK

Upon ratification:

“With reference to Article 5, paragraph 2 (a), the Government of Denmark makes a reservation with respect to the Competence of the Committee to consider a communication from an individual if the matter has already been considered under other procedures of international investigation.”

ICELAND

. . . Iceland . . . accedes to the said Protocol subject to a reservation, with reference to article 5, paragraph 2, with respect to the competence of the Human

Rights Committee to consider a communication from an individual if the matter is being examined or has been examined under another procedure of international investigation or settlement. Other provisions of the Covenant shall be inviolably observed.

ITALY*Upon ratification:*

The Italian Republic ratifies the Optional Protocol to the International Covenant on Civil and Political Rights, it being understood that the provisions of article 5, paragraph 2, of the Protocol mean that the Committee provided for in article 28 of the Covenant shall not consider any communication from an individual unless it has ascertained that the same matter is not being and has not been examined under another procedure of international investigation or settlement.

LUXEMBOURG

The Grand Duchy of Luxembourg accedes to the Optional Protocol to the International Covenant on Civil and Political Rights on the understanding that the provisions of article 5, paragraph 2, of the Protocol mean that the Committee established by article 28 of the Covenant shall not consider any communications from an individual unless it has ascertained that the same matter is not being examined or has not already been examined under another procedure of international investigation or settlement.

NORWAY*Upon ratification:*

Subject to the following reservation to article 5, paragraph 2:
". . . The Committee shall not have competence to consider a communication from an individual if the same matter has already been examined under other procedures of international investigation or settlement."

SWEDEN*Upon ratification:*

On the understanding that the provisions of article 5, paragraph 2, of the Protocol signify that the Human Rights Committee provided for in article 28 of the said Covenant shall not consider any communication from an individual unless it has ascertained that the same matter is not being examined or has not been examined under another procedure of international investigation or settlement.

VENEZUELA*Upon ratification:*

For text see the reservation made by Venezuela in respect of article 14(3)(d) of the International Covenant on Civil and Political Rights, No. 17, at 170.30.

STATES PARTIES

(38 as of 1 July 1986)

Austria	Mauritius
Barbados	Netherlands
Bolivia	Nicaragua
Cameroon	Niger
Canada	Norway
Central African Republic	Panama
Colombia	Peru
Congo	Portugal
Costa Rica	St. Vincent and the Grenadines
Denmark	San Marino
Dominican Republic	Senegal
Ecuador	Spain
Finland	Suriname
France	Sweden
Iceland	Trinidad & Tobago
Italy	Uruguay
Jamaica	Venezuela
Luxembourg	Zaire
Madagascar	Zambia

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See also the references listed under the International Covenant on Civil and Political Rights, No. 17, at 170.33.

42.1 CONVENTION AGAINST TORTURE AND OTHER CRUEL,
INHUMAN OR DEGRADING TREATMENT OF PUNISHMENT,

adopted Dec. 10, 1984, G.A. Res. 46,39
U.N. GAOR Supp. (No. 51) at 197,
U.N. Doc. A/39/51 (1984).

42.1 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment, *adopted* Dec. 10, 1984, G.A. Res. 46, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984).

The States Parties to this Convention.

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that those rights derive from the inherent dignity of the human person,

Considering the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Having regard also to the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975,

Desiring to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world,

Have agreed as follows:

PART I

Article 1

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 3

1. No State Party shall expel, return ("*refouler*") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 4

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.

2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Article 5

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4 in the following cases:

(a) When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;

(b) When the alleged offender is a national of that State;

(c) When the victim is a national of that State if that State considers it appropriate.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 6

1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in article 4 is present shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary inquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or, if he is a stateless person, with the representative of the State where he usually resides.

4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 7

1. The State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.

2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State. In the cases referred to in article 5, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 5, paragraph 1.

3. Any person regarding whom proceedings are brought in connection with any of the offences referred to in article 4 shall be guaranteed fair treatment at all stages of the proceedings.

Article 8

1. The offences referred to in article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 5, paragraph 1.

Article 9

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of any of the offences referred to in article 4, including the supply of all evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of this article in conformity with any treaties on mutual judicial assistance that may exist between them.

Article 10

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such persons.

Article 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 12

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Article 13

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

Article 14

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.

2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

Article 15

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

Article 16

1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion.

PART II

Article 17

1. There shall be established a Committee against Torture (hereinafter referred to as the Committee) which shall carry out the functions hereinafter provided. The Committee shall consist of ten experts of high moral standing and recognized competence in the field of human rights, who shall serve in their personal capacity. The experts shall be elected by the States Parties, consideration being given to equitable geographical distribution and to the usefulness of the participation of some persons having legal experience.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals. States Parties shall bear in mind the usefulness of nominating persons who are also members of the Human Rights Committee established under the International Covenant on Civil and Political Rights and who are willing to serve on the Committee against Torture.

3. Elections of the members of the Committee shall be held at biennial meetings of States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

4. The initial election shall be held no later than six months after the date of the entry into force of this Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

5. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 3 of this article.

6. If a member of the Committee dies or resigns for any other cause can no longer perform his Committee duties, the State Party which nominated him shall appoint another expert from among its nationals to serve for the remainder of his term, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.

7. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 18

1. The Committee shall elect its officers for a term of two years. They may be re-elected.

2. The Committee shall establish its own rules of procedure, but these rules shall provide, *inter alia*, that:

(a) Six members shall constitute a quorum;

(b) Decisions of the Committee shall be made by a majority vote of the members present.

3. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this Convention.

4. The Secretary-General of the United Nations shall convene the initial meeting of the Committee. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

5. The States Parties shall be responsible for expenses incurred in connection with the holding of meetings of the States Parties and of the Committee, including reimbursement to the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 3 of this article.

Article 19

1. The States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.

2. The Secretary-General of the United Nations shall transmit the reports to all States Parties.

3. Each report shall be considered by the Committee which may make such general comments on the report as it may consider appropriate and shall forward these to the State Party concerned. That State Party may respond with any observations it chooses to the Committee.

4. The Committee may, at its discretion, decide to include any comments made by it in accordance with paragraph 3 of this article, together with the observations thereon received from the State Party concerned, in its annual report made in accordance with article 24. If so requested by the State Party concerned, the Committee may also include a copy of the report submitted under paragraph 1 of this article.

Article 20

1. If the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practised in the territory of a State Party, the Committee shall invite that State Party to co-operate in the examination of the information and to this end to submit observations with regard to the information concerned.

2. Taking into account any observations which may have been submitted by the State Party concerned, as well as any other relevant information available to it, the Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to the Committee urgently.

3. If an inquiry is made in accordance with paragraph 2 of this article, the Committee shall seek the co-operation of the State Party concerned. In agreement with that State Party, such an inquiry may include a visit to its territory.

4. After examining the findings of its member or members submitted in accordance with paragraph 2 of this article, the Committee shall transmit these findings to the State Party concerned together with any comments or suggestions which seem appropriate in view of the situation.

5. All the proceedings of the Committee referred to in paragraphs 1 to 4 of this article shall be confidential, and at all stages of the proceedings the cooperation of the State Party shall be sought. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report made in accordance with article 24.

Article 21

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention. Such communications may be received and considered according to the procedures laid down in this article only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be dealt with by the Committee under this article if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(a) If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;

(b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

(c) The Committee shall deal with a matter referred to it under this article only after it has ascertained that all domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention;

(d) The Committee shall hold closed meetings when examining communications under this article;

(e) Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for the obligations provided for in this Convention. For this purpose, the Committee may, when appropriate, set up an *ad hoc* conciliation commission;

(f) In any matter referred to it under this article, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

(g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;

(h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:

- (i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and the solution reached;
- (ii) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 22

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

2. The Committee shall consider inadmissible any communication under this article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of this Convention.

3. Subject to the provisions of paragraph 2, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to this Convention which has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

4. The Committee shall consider communications received under this article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.

5. The Committee shall not consider any communications from an individual under this article unless it has ascertained that:

(a) The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;

(b) The individual has exhausted all available domestic remedies; this shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention.

6. The Committee shall hold closed meetings when examining communications under this article.

7. The Committee shall forward its views to the State Party concerned and to the individual.

8. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by or on behalf of an individual shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration.

Article 23

The members of the Committee and of the *ad hoc* conciliation commissions which may be appointed under article 21, paragraph 1 (*e*), shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 24

The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.

PART III

Article 25

1. This Convention is open for signature by all States.
2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 26

This Convention is open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 27

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying this Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not recognize the competence of the Committee provided for in article 20.

2. Any State Party having made a reservation in accordance with paragraph 1 of this article may, at any time, withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 29

1. Any State Party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted by the Secretary-General to all the States Parties for acceptance.

2. An amendment adopted in accordance with paragraph 1 of this article shall enter into force when two thirds of the States Parties to this Convention have notified the Secretary-General of the United Nations that they have accepted it in accordance with their respective constitutional processes.

3. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendments which they have accepted.

Article 30

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party having made such a reservation.

3. Any State Party having made a reservation in accordance with paragraph 2 of this article may at any time withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 31

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under this Convention in regard to any act or omission which

occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

3. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

Article 32

The Secretary-General of the United Nations shall inform all States Members of the United Nations and all States which have signed this Convention or acceded to it of the following:

- (a) Signatures, ratifications and accessions under articles 25 and 26;
- (b) The date of entry into force of this Convention under article 27 and the date of the entry into force of any amendments under article 29;
- (c) Denunciations under article 31.

Article 33

1. This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States.

STATES SIGNATORY

(41 as of 1 Jan. 1986)

Afghanistan	Indonesia
Algeria	Italy
Argentina	Liechtenstein
Australia	Luxembourg
Belgium	Mexico
Bolivia	Netherlands
Brazil	Nicaragua
Byelorussian S.S.R.	Norway
Canada	Panama
Columbia	Peru
Costa Rica	Portugal
Cyprus	Senegal
Denmark	Sierra Leone
Dominican Republic	Spain
Ecuador	Sweden
Finland	Switzerland
France	U.S.S.R.
Gambia	United Kingdom
Greece	Uruguay
Iceland	Venezuela

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(For additional selections see No. 48, at 480.3.)

CONVENTION ON THE ELIMINATION OF ALL FORMS OF
DISCRIMINATION AGAINST WOMEN



Convention on the Elimination of All Forms of Discrimination
against Women

The States Parties to the present Convention,

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind including distinction based on sex,

Noting that States Parties to the International Covenant on Human Rights have the obligation to secure the equal rights of men and women to enjoy all economic, social, cultural, civil and political rights,

Considering the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women,

Noting also the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies promoting equality of rights of men and women,

Concerned, however, that despite these various instruments extensive discrimination against women continues to exist,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family, and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

Convinced that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,

Emphasizing that the eradication of apartheid, of all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women,

Affirming that the strengthening of international peace and security, relaxation of international tension, mutual co-operation among all States



irrespective of their social and economic status

irrespective of their social and economic systems, general and complete disarmament and in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries, and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence as well as respect for national sovereignty and territorial integrity will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women,

Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,

Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations,

Have agreed on the following:

PART I

Article 1

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2

States Parties condemn discrimination against women in all its forms agree to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national Constitutions or other appropriate legislation if not yet incorporated therein, and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

Article 3

States Parties shall take in all fields, in particular in the political, social economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in this Convention, but shall in no way entail, as a consequence, the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity, shall not be considered discriminatory.

Article 5

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

PART II

Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Article 8

States Parties shall take all appropriate measures to ensure to women on equal terms with men and, without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

PART III

Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured

in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

- (d) The same opportunities to benefit from scholarships and other study grants;

- (e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

- (f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;

- (g) The same opportunities to participate actively in sports and physical education;

- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to work as an inalienable right of all human beings;
- (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
- (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
- (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
- (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
- (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

(c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 above, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to family benefits;

(b) The right to bank loans, mortgages and other forms of financial credit;

(c) The right to participate in recreational activities, sports and in all aspects of cultural life.

Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which they play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(a) To participate in the elaboration and implementation of development planning at all levels;

(b) To have access to adequate health care facilities, including information, counselling and services in family planning;

(c) To benefit directly from social security programmes;

(d) To obtain all types of training and education, formal and non-formal including that relating to functional literacy, as well as the benefit of a community and extension services, inter alia, in order to increase the technical proficiency;

(e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;

(f) To participate in all community activities;

(g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

PART IV

Article 15

1. States Parties shall accord to women equality with men before the law.

2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. They shall in particular give women equal rights to conclude contracts and to administer property and treat them equally in all stages of procedure in court and tribunals.

3. States Parties agree that all contract and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family

relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution;
- (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children. In all cases the interests of the children shall be paramount;
- (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
- (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation. In all cases the interest of the children shall be paramount;
- (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
- (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

PART V

Article 17

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of 8 and, after its ratification or accession by the thirty-fifth State Party, of 23 experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.

The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.

6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of the present article following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.

7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.

(a) The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.

(b) The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

Article 18

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the Convention and on the progress made in this respect:

(a) Within one year after the entry into force for the State concerned;

(b) Thereafter at least every four years and further whenever the Committee so requests.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

Article 19

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.

Article 20

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.
2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee.

Article 21

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.
2. The Secretary-General shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

Article 22

Specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

PART VI

Article 23

Nothing in this Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained

- (a) in the legislation of a State Party; or
- (b) in any other international convention, treaty or agreement in force for that State.

Article 24

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.

Article 25

1. The present Convention shall be open for signature by all States.
2. The Secretary-General of the United Nations is designated as the depositary of the present Convention.
3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 26

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps if any, to be taken in respect of such a request.

Article 27

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 29

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those

parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 30

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed the present Convention.

DECLARATION ON THE RIGHT TO DEVELOPMENT

41/128. Declaration on the Right to Development

Date: 4 December 1986
Vote: 146-1-8 (recorded)

Meeting: 97
Report: A/41/925 and Corr.1

The General Assembly.

Having considered the question of the right to development,

1. Decides to adopt the Declaration on the Right to Development, the text of which is annexed to the present resolution.

ANNEX

Declaration on the Right to Development

The General Assembly.

Bearing in mind the purposes and principles of the Charter of the United Nations relating to the achievement of international co-operation in solving international problems of an economic, social, cultural or humanitarian nature, and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recognizing that development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom,

Considering that under the provisions of the Universal Declaration of Human Rights 194/ everyone is entitled to a social and international order in which the rights and freedoms set forth in that Declaration can be fully realized,

Recalling the provisions of the International Covenant on Economic, Social and Cultural Rights 195/ and the International Covenant on Civil and Political Rights, 196/

Recalling further the relevant agreements, conventions, resolutions, recommendations and other instruments of the United Nations and its specialized agencies concerning the integral development of the human being, economic and social progress and development of all peoples, including those instruments concerning decolonization, the prevention of discrimination, respect for, and observance of, human rights and fundamental freedoms, the maintenance of international peace and security and the further promotion of friendly relations and co-operation among States in accordance with the Charter,

Recalling the right of peoples to self-determination, by virtue of which they have the right freely to determine their political status and to pursue their economic, social and cultural development,

Recalling further the right of peoples to exercise, subject to relevant provisions of both International Covenants on Human Rights, 197/ their full and complete sovereignty over all their natural wealth and resources,

Mindful of the obligation of States under the Charter to promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Considering that the elimination of the massive and flagrant violations of the human rights of the peoples and individuals affected by situations such as those resulting from colonialism, neo-colonialism, apartheid, all forms of racism and racial discrimination, foreign domination and occupation, aggression and threats against national sovereignty, national unity and territorial integrity and threats of war would contribute to the establishment of circumstances propitious to the development of a great part of mankind,

Concerned at the existence of serious obstacles to development, as well as to the complete fulfilment of human beings and of peoples, constituted, inter alia, by the denial of civil, political, economic, social and cultural rights, and considering that all human rights and fundamental freedoms are indivisible and interdependent and that, in order to promote development, equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights and that, accordingly, the promotion of, respect for, and enjoyment of certain human rights and fundamental freedoms cannot justify the denial of other human rights and fundamental freedoms,

Considering that international peace and security are essential elements for the realization of the right to development,

Reaffirming that there is a close relationship between disarmament and development and that progress in the field of disarmament would considerably promote progress in the field of development and that resources released through disarmament measures should be devoted to the economic and social development and well-being of all peoples and, in particular, those of the developing countries,

Recognizing that the human person is the central subject of the development process and that development policy should therefore make the human being the main participant and beneficiary of development,

Recognizing that the creation of conditions favourable to the development of peoples and individuals is the primary responsibility of their States,

Aware that efforts to promote and protect human rights at the international level should be accompanied by efforts to establish a new international economic order,

Confirming that the right to development is an inalienable human right and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations,

Proclaiming the following Declaration on the right to development:

Article 1

1. The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.

2. The human right to development also implies the full realization of the right of peoples to self-determination, which includes, subject to relevant provisions of both International Covenants on Human Rights, 198/ the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.

Article 2

1. The human person is the central subject of development and should be the active participant and beneficiary of the right to development.

2. All human beings have a responsibility for development, individually and collectively, taking into account the need for full respect of their human rights and fundamental freedoms as well as their duties to the community, which alone can ensure the free and complete fulfilment of the human being, and they should therefore promote and protect an appropriate political, social and economic order for development.

3. States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom.

Article 3

1. States have the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development.

2. The realization of the right to development requires full respect for the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations.

3. States have the duty to co-operate with each other in ensuring development and eliminating obstacles to development. States should fulfil their rights and duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest and co-operation among all States, as well as to encourage the observance and realization of human rights.

Article 4

1. States have the duty to take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realization of the right to development.

2. Sustained action is required to promote more rapid development of developing countries. As a complement to the efforts of developing countries effective international co-operation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development.

Article 5

States shall take resolute steps to eliminate the massive and flagrant violations of the human rights of peoples and human beings affected by situations such as those resulting from apartheid, all forms of racism and racial discrimination, colonialism, foreign domination and occupation, aggression, foreign interference and threats against national sovereignty, national unity and territorial integrity, threats of war and refusal to recognize the fundamental right of peoples to self-determination.

Article 6

1. All States should co-operate with a view to promoting, encouraging and strengthening universal respect for and observance of all human rights and fundamental freedoms for all without any distinction as to race, sex, language and religion.
2. All human rights and fundamental freedoms are indivisible and interdependent; equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights.
3. States should take steps to eliminate obstacles to development resulting from failure to observe civil and political rights as well as economic, social and cultural rights.

Article 7

All States should promote the establishment, maintenance and strengthening of international peace and security and, to that end, should do their utmost to achieve general and complete disarmament under effective international control as well as to ensure that the resources released by effective disarmament measures are used for comprehensive development, in particular that of the developing countries.

Article 8

1. States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income. Effective measures should be undertaken to ensure that women have an active role in the development process. Appropriate economic and social reforms should be made with a view to eradicating all social injustices.
2. States should encourage popular participation in all spheres as an important factor in development and in the full realization of all human rights.

Article 9

1. All the aspects of the right to development set forth in this Declaration are indivisible and interdependent and each of them should be considered in the context of the whole.
2. Nothing in this Declaration shall be construed as being contrary to the purposes and principles of the United Nations, or as implying that any State, group or person has a right to engage in any activity or to perform any act aimed at the violation of the rights set forth in the Universal Declaration of Human Rights 199/ and in the International Covenants on Human Rights. 200/

Article 10

Steps should be taken to ensure the full exercise and progressive enhancement of the right to development, including the formulation, adoption and implementation of policy, legislative and other measures at the national and international levels.

General Assembly resolution 217 A (III).

General Assembly resolution 2200 A (XXI), annex.

RECORDED VOTE ON RESOLUTION 41/128:

In favour: Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belgium, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burma, Burundi, * Byelorussia, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic Kampuchea, Democratic Yemen, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Fiji, France, Gabon, Gambia, German Democratic Republic, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, India, Indonesia, Iran, Iraq, Ireland, Italy, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libya, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Romania, Rwanda, Saint Lucia, Saint Vincent, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, Spain, Sri Lanka, St. Christopher and Nevis, Sudan, Suriname, Swaziland, Syria, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, USSR, United Arab Emirates, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe.

Against: United States.

Abstaining: Denmark, Finland, Federal Republic of Germany, Iceland, Israel, Japan, Sweden, United Kingdom.

Absent: Albania, Dominica, Vanuatu.*

**INTERNATIONAL INSTRUMENTS
IN THE AREA OF HUMAN RIGHTS
TO WHICH
CANADA IS A PARTY**

**PREPARED BY THE HUMAN RIGHTS DIRECTORATE
OF THE DEPARTMENT OF THE SECRETARY OF STATE
DECEMBER, 1987**

INTERNATIONAL INSTRUMENTS IN THE AREA OF HUMAN RIGHTS TO WHICH CANADA IS A PARTY
(as of December 31, 1987)

300-1 1

NAME OF INSTRUMENT	ADOPTED BY	DATE OF ADOPTION	DATE OF ENTRY INTO FORCE INTERNATIONALLY	DATE OF CANADA'S SIGNATURE ¹	DATE OF CANADA'S RATIFICATION (R) OR ACCESSION (A) OR DEFINITIVE SIGNATURE (S) ²	DATE OF ENTRY INTO FORCE FOR CANADA	RESERVATIONS OR STATEMENTS BY CANADA
1. International Covenant on Economic, Social and Cultural Rights	United Nations General Assembly (U.N.G.A.)	Dec. 16, 1966	Jan. 3, 1976	-	May 19, 1976(A)	August 19, 1976	-
2. International Covenant on Civil and Political Rights	U.N.G.A.	Dec. 16, 1966	March 23, 1976	-	May 19, 1976(A) ³	August 19, 1976	-
3. Optional Protocol to the International Covenant on Civil and Political Rights	U.N.G.A.	Dec. 16, 1966	March 23, 1976	-	May 19, 1976(A) ³	August 19, 1976	-
4. International Convention on the Elimination of All Forms of Racial Discrimination	U.N.G.A.	Dec. 21, 1965	Jan. 4, 1969	August 24, 1966	Oct. 14, 1970(R)	Nov. 13, 1970	-
5. Convention on the Elimination of All Forms of Discrimination Against Women	U.N.G.A.	Dec. 18, 1979	Sept. 3, 1981	July 17, 1980	Dec. 10, 1981(R)	Jan. 10, 1982	Statement ⁴
6. Convention on the Prevention and Punishment of the Crime of Genocide	U.N.G.A.	Dec. 9, 1948	Jan. 12, 1951	Nov. 28, 1949	Sept. 3, 1952(R)	Dec. 2, 1952	-
7. Slavery Convention (1926)	League of Nations	Sept. 25, 1926	March 9, 1927	Sept. 25, 1926	Aug. 6, 1928(R)	Aug. 6, 1928	-
B. Protocol amending the Slavery Convention signed at Geneva on 25 September, 1926	U.N.G.A.	Oct. 23, 1953	Dec. 7, 1953	-	Dec. 17, 1953(S)	Dec. 17, 1953	-

INTERNATIONAL INSTRUMENTS IN THE AREA OF HUMAN RIGHTS TO WHICH CANADA IS A PARTY

2

NAME OF INSTRUMENT	ADOPTED BY	DATE OF ADOPTION	DATE OF ENTRY INTO FORCE INTERNATIONALLY	DATE OF CANADA'S SIGNATURE ¹	DATE OF CANADA'S RATIFICATION (R) OR ACCESSION (A) OR DEFINITIVE SIGNATURE (S) ²	DATE OF ENTRY INTO FORCE FOR CANADA	RESERVATIONS OR STATEMENTS BY CANADA
9. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery	United Nations Conference of Plenipotentiaries	Sept. 7, 1956	April 30, 1957	Sept. 7, 1956	Jan. 10, 1963(R)	Jan. 10, 1963	-
10. Convention relating to the Status of Refugees	U.N.G.A.	July 28, 1951	April 22, 1954	-	June 4, 1969(A)	Sept. 2, 1969	reservation ⁵
11. Protocol relating to the Status of Refugees	U.N.G.A.	Jan. 31, 1967	Oct. 4, 1967	-	June 4, 1969(A)	June 4, 1969	-
12. Convention on the Reduction of Statelessness	U.N.G.A.	Aug. 30, 1961	Dec. 13, 1975	-	July, 17, 1978(A)	Oct. 15, 1978	-
13. Convention on the Nationality of Married Women	U.N.G.A.	Feb. 20, 1957	Aug. 11, 1958	Feb. 20, 1957	Oct. 21, 1959(R)	Jan. 19, 1960	-
14. Convention on the Political Rights of Women	U.N.G.A.	March 31, 1953	July 7, 1954	-	Jan. 30, 1957(A)	April 30, 1957	reservation ⁶
15. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	U.N.G.A.	Dec. 10, 1984	June 26, 1987	Aug. 23, 1985	June 24, 1987(R)	July 24, 1987	-
16. Convention (nº 87) concerning Freedom of Association and Protection of the Right to Organize	International Labour Organization (I.L.O.)	July 9, 1948	July 4, 1950	-	March 23, 1972(R)	March 23, 1973	-

INTERNATIONAL INSTRUMENTS IN THE AREA OF HUMAN RIGHTS TO WHICH CANADA IS A PARTY

3

NAME OF INSTRUMENT	ADOPTED BY	DATE OF ADOPTION	DATE OF ENTRY INTO FORCE INTERNATIONALLY	DATE OF CANADA'S SIGNATURE ¹	DATE OF CANADA'S RATIFICATION (R) OR ACCESSION (A) OR DEFINITIVE SIGNATURE (S) ²	DATE OF ENTRY INTO FORCE FOR CANADA	RESERVATIONS OR STATEMENTS BY CANADA
17. Convention (n ^o 100) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value	I.L.O.	June 29, 1951	May 23, 1953	-	Nov. 16, 1972(R)	Nov. 16, 1973	-
18. Convention (n ^o 105) concerning the Abolition of Forced Labour	I.L.O.	June 25, 1957	Jan. 17, 1959	-	July 14, 1959(R)	July 14, 1960	-
19. Convention (n ^o 111) concerning Discrimination in Respect of Employment and Occupation	I.L.O.	June 25, 1958	June 15, 1960	-	Nov. 26, 1964(R)	Nov. 26, 1965	-
20. Convention (n ^o 122) concerning Employment Policy	I.L.O.	July 9, 1964	July 15, 1966	-	Sept. 16, 1966(R)	Sept. 16, 1967	-
21. Geneva Convention for the amelioration of the condition of the wounded and sick in armed forces in the field	International Committee of the Red Cross (I.C.R.C.)	Aug. 12, 1949	Oct. 21, 1950	Dec. 8, 1949	May 14, 1965(R)	Nov. 14, 1965	-
22. Geneva Convention for the amelioration of the condition of the wounded, sick and shipwrecked members of the armed forces at sea	I.C.R.C.	Aug. 12, 1949	Oct. 21, 1950	Dec. 8, 1949	May 14, 1965(R)	Nov. 14, 1965	-
23. Geneva Convention relative to the treatment of prisoners of war	I.C.R.C.	Aug. 12, 1949	Oct. 21, 1950	Dec. 8, 1949	May 14, 1965(R)	Nov. 14, 1965	-
24. Geneva Convention relative to the protection of civilian persons in time of war	I.C.R.C.	Aug. 12, 1949	Oct. 21, 1950	Dec. 8, 1949	May 14, 1965(R)	Nov. 14, 1965	-

- 1 A signature does not usually bind a State at international law because it is usually subject to ratification, acceptance, approval or accession.
- 2 Through ratification, accession, acceptance, approval or definitive signature, a State becomes bound to a treaty subject to reservations it has made.
- 3 An optional declaration under Article 41 of the Covenant was made by Canada on October 29, 1979. This declaration recognizes the competence of the Human Rights Committee created under the Covenant to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant.
- 4 Upon ratification, Canada made the following statement (declaration):

"The Government of Canada states that the competent legislative authorities within Canada have addressed the concept of equal pay referred to in article 11(1)(d) by legislation which requires the establishment of rates of remuneration without discrimination on the basis of sex. The competent legislative authorities within Canada will continue to implement the object and purpose of article 11(1)(d) and to that end have developed, and where appropriate will continue to develop, additional legislative and other measures."
- 5 Reservations to articles 23 and 24:

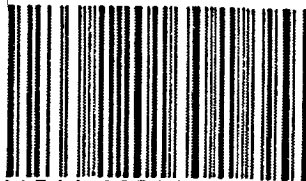
"Canada interprets the phrase 'lawfully staying' as referring only to refugees admitted for permanent residence; refugees admitted for temporary residence will be accorded the same treatment with respect to the matters dealt with in articles 23 and 24 as is accorded visitors generally."
- 6 Reservation:

"Inasmuch as under the Canadian constitutional system legislative jurisdiction in respect of political rights is divided between the provinces and the Federal Government, the Government of Canada is obliged, in acceding to this Convention, to make a reservation in respect of rights within the legislative jurisdiction of the provinces."

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