

THE DRAFT INTERNATIONAL DECLARATION OF HUMAN RIGHTS*

Although the Economic and Social Council has not yet (August 20th) taken any formal decision in the matter, it will probably refer the draft International Declaration of Human Rights to the third session of the General Assembly of the United Nations which opens in Paris on September 21st. This draft is a revision of the draft Declaration that was reproduced in the March issue of the Canadian Bar Review.

It will be recalled that the drafts of this Declaration, of the International Convention or Covenant on Human Rights, and of the suggestions for the implementation of the latter, which had been prepared by the Commission on Human Rights at its Geneva session in December 1947, were forwarded to all the Member States of the United Nations for their comments. On the basis of the comments received, the Drafting Committee of the Commission met at Lake Success in May of this year. The Drafting Committee devoted most of its three weeks' session to a detailed examination and revision of the draft Covenant. The Commission, however, which also met at Lake Success later in the same month, devoted practically all its time to the draft Declaration, although there was a general discussion of the question of implementation at the end of the session. The Commission therefore was able to prepare only a final draft of the Declaration; and this was referred to the Seventh Session of the Economic and Social Council. Nevertheless, the Commission recognized that in approving the draft Declaration it had not completed its task and agreed that it would proceed with work on the Covenant and measures for implementation after the next meeting of the General Assembly, that is to say, probably early in 1949.

When the Seventh Session of the Economic and Social Council met in Geneva on July 19th there were so many items on its agenda relating to human rights that it was found necessary to set up a special committee to discuss them. These items were the report of the Commission on the Status of Women, the draft convention on Genocide, the Final Act of the United Nations Conference on Freedom of Information (including three draft conventions and some 43 resolutions), and the report of the Commission on Human Rights (including the draft Declaration of Human Rights). But, notwithstanding the fact that this

*The introductory remarks were specially prepared for the Review by Mr. John P. Humphrey, Director of the Division of Human Rights, United Nations.

special Committee of the Council on Human Rights held some 26 meetings, it was unable to consider in detail all the items on its agenda; and the plenary session was obliged to recall some of the items including the report of the Commission on Human Rights. At the date of writing, the general discussion on the draft Declaration which is planned for the plenary session has not yet taken place; but there is every expectation that the Council will decide to forward the draft to the General Assembly.

It will be for the General Assembly to decide whether it will adopt a Declaration of Human Rights at its Paris session or whether it should wait until it also has before it the draft Covenant and measures for implementation. Assuming that it does adopt a Declaration, it is clear that the work of the Commission on Human Rights is not yet completed; for, as indicated by the Commission itself, it will have to turn at its next session to the problem of the Covenant and Implementation.

The text of the draft Declaration of Human Rights follows:

DRAFT INTERNATIONAL DECLARATION OF HUMAN RIGHTS

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; and

WHEREAS disregard and contempt for human rights resulted, before and during the second world war, in barbarous acts which outraged the conscience of mankind and made it apparent that the fundamental freedoms were one of the supreme issues of the conflict; and

WHEREAS it is essential, if mankind is not to be compelled as a last resort to rebel against tyranny and oppression, that human rights should be protected by a regime of law; and

WHEREAS the peoples of the United Nations have in the Charter determined to reaffirm faith in fundamental human rights and in the dignity and worth of the human person and to promote social progress and better standards of life in larger freedom; and

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

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 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 by nature 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, property or other status, or national or social origin.

Article 3

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

Article 4

1. No one shall be held in slavery or involuntary servitude.
2. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 5

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

Article 6

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

Article 7

No one shall be subjected to arbitrary arrest or detention.

Article 8

In the determination of his rights and obligations and of any criminal charge against him, everyone is entitled in full equality to a fair hearing by an independent and impartial tribunal.

Article 9

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 offence on account of any act or omission which did not constitute an offence, under national or international law, at the time when it was committed.

Article 10

No one shall be subjected to unreasonable interference with his privacy, family, home, correspondence or reputation.

Article 11

1. Everyone has the right of freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own.

Article 12

1. Everyone has the right to seek and be granted, in other countries, asylum from persecution.

2. Prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations do not constitute persecution.

Article 13

No one shall be arbitrarily deprived of his nationality or denied the right to change his nationality.

Article 14

1. Men and women of full age have the right to marry and to found a family and are entitled to equal rights as to marriage.

2. Marriage shall be entered into only with the full consent of both intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection.

Article 15

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 16

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 17

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 18

Everyone has the right to freedom of assembly and association.

Article 19

1. Everyone has the right to take part in the government of his country, directly or through his freely chosen representatives.

2. Everyone has the right of access to public employment in his country.

3. Everyone has the right to a government which conforms to the will of the people.

Article 20

Everyone, as a member of society, has the right to social security and is entitled to the 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 set out below.

Article 21

1. Everyone has the right to work, to just and favourable conditions of work and pay and to protection against unemployment.
2. Everyone has the right to equal pay for equal work.
3. Everyone is free to form and to join trade unions for the protection of his interests.

Article 22

1. Everyone has the right to a standard of living, including food, clothing, housing and medical care, and to social services, adequate for the health and well-being of himself and his family and to security in the event of unemployment, sickness, disability, old age or other lack of livelihood in circumstances beyond his control.
2. Mother and child have the right to special care and assistance.

Article 23

1. Everyone has the right to education. Elementary and fundamental education shall be free and compulsory and there shall be equal access on the basis of merit to higher education.
2. Education shall be directed to the full development of the human personality, to strengthening respect for human rights and fundamental freedoms and to combating the spirit of intolerance and hatred against other nations and against racial and religious groups everywhere.

Article 24

Everyone has the right to rest and leisure.

Article 25

Everyone has the right to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement.

Article 26

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

Article 27

1. Everyone has duties to the community which enables him freely to develop his personality.

2. In the exercise of his rights, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of morality, public order and general welfare in a democratic society.

Article 28

Nothing in this Declaration shall imply the recognition of the right of any State or person to engage in any activity aimed at the destruction of any of the rights and freedoms prescribed herein.

Note: The Commission has not considered the following article since measures of implementation were not in its third session:

“Everyone has the right, either individually, or in association with others, to petition or to communicate with the public authorities of the State of which he is a national or in which he resides, or with the United Nations.”

HUMAN RIGHTS AND CHRISTIANITY

And then, out of the bankruptcy of the old religion [of ancient Rome], and the chaos which followed, there came a new religion — Christianity. It changed all that had been. It raised religion to a new level. It made of it a spiritual, instead of a material thing. It told of one God, not of many, one God Who was Omnipotent and Infinite, a Pure and Perfect Spirit Who dwelt outside Nature, a Creator of Heaven and Earth, a Universal God, the Father of all, with no chosen people, country or clan; the Creator of man whom He made to His “own image and likeness”. To him, He gave a body which was mortal, a soul which is immortal. He told man that he owed one allegiance to Caesar and another to God and in the realm of that spiritual allegiance to God, Caesar must ever be an intruder and a trespasser, and there, far above the lashing sea of human interest, out of reach of the waves of human passion, flourish those green pastures sacred to the dignity of man — it is there that, for the first time, human rights and fundamental freedoms bloomed. (From the Presidential Address delivered by Mr. John T. Hackett, K.C., at the Thirtieth Annual Meeting of the Canadian Bar Association, Montreal, August 31st, 1948)