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**STUDY OF  
DISCRIMINATION IN THE MATTER OF  
POLITICAL RIGHTS**

*by Hernán Santa Cruz  
Special Rapporteur of the Sub-Commission  
on Prevention of Discrimination  
and Protection of Minorities*



**UNITED NATIONS**

**New York, 1962**

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NOTE

The *Study of Discrimination in the Matter of Political Rights* is the third of a series of studies undertaken by the Sub-Commission on Prevention of Discrimination and Protection of Minorities with the authorization of the Commission on Human Rights and the Economic and Social Council. A *Study of Discrimination in Education*, the first of the series, was published in 1957 (Sales No. : 57.XIV.3), and the *Study of Discrimination in the Matter of Religious Rights and Practices*, the second of the series, was published in 1960 (Sales No. : 60.XIV.2). The Sub-Commission is now preparing studies on discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, and on discrimination against persons born out of wedlock.

The views expressed in this study are those of the author.

FEB 28 1967

## FOREWORD

In preparing this report, the Special Rapporteur bore in mind the general directives which had been given him by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and which may be summarized as follows:<sup>1</sup>

(i) The report should be undertaken on a global basis and with respect to all the grounds of discrimination condemned by the Universal Declaration of Human Rights, but special attention should be given to instances of discrimination that are typical of general tendencies and instances where discrimination has been successfully overcome.

(ii) The report should be factual and objective and should deal with the *de facto* as well as the *de jure* situation . . .

(iii) The report should point out the general trend and development of legislation and practices with regard to discrimination . . . , stating whether their tendency is towards an appreciable elimination or reduction of discrimination, whether they are static, or whether they are retrogressive.

(iv) The report should also indicate the factors which in each instance have led to the discriminatory practices, pointing out those which are economic, social, political, or historic in character and those resulting from a policy evidently intended to originate, maintain or aggravate such practices.

(v) The report should be drawn up not only to serve as a basis for the Sub-Commission's recommendations, but also with a view to educating world opinion.

(vi) In drawing up the report full advantage should be taken of the conclusions already reached with respect to discrimination by other bodies of the United Nations or by the specialized agencies.

(vii) In addition to the material and information which he is able to collect and which he shall embody in his report in the form of an analysis, the Special Rapporteur shall include such conclusions and proposals as he may judge proper to enable the Sub-Commission to make recommendations for action to the Commission on Human Rights.

In accordance with resolution B of the Sub-Commission's sixth session (E/CN.4/703, para. 97), as amended by the Commission on Human Rights at its tenth session, the study is based upon information relating to States Members of the United Nations and of the specialized

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<sup>1</sup> See *Official Records of the Economic and Social Council, Eighteenth Session, Supplement No. 7*, Report of the tenth session of the Commission on Human Rights (E/2573), para. 377.



agencies. This excludes from the study various countries of vast territory and population as, for example, the mainland of China. In this matter the Special Rapporteur is bound by the decisions taken by the Sub-Commission and the Commission. However, it seems to him that whereas the primary objective of the study is considered to be the elimination of discrimination in the matter of political rights by means of the widest possible knowledge of discriminatory practices, as well as of the measures to combat them adopted on the national and international level throughout the entire world, the exclusion of these countries restricts the global character of the study and limits the basis of his conclusions and proposals.

The analysis of material which is presented in chapters III and IV of the report has been prepared, not with a view to criticizing, implicitly or explicitly, the operation of any particular Government but rather in the hope of finding certain general principles, elaborating the basic provisions in the Universal Declaration of Human Rights, which might be applied universally in order to promote the recognition and enjoyment of political rights and the eradication of discrimination in respect of those rights. For this reason no country or territory is referred to by name except in a few instances where the facts are already a matter of public record in documentation made available to the Special Rapporteur by the Secretary-General. However, full information relating to each country will be found in the respective Conference Room Paper.

The Special Rapporteur has endeavoured to carry out this study in a constructive spirit, and in the exact manner specified in the relevant resolutions. This is neither an investigation nor an exposé of violations of the political rights set forth in the Universal Declaration of Human Rights. It is rather a global survey of the nature and extent of discrimination in the matter of political rights, intended to serve as a foundation for proposals directed towards the eradication of such discrimination. For this reason the endeavour of the Special Rapporteur has been to state the facts as he has found them in the documentation available to him, and to evaluate those facts in the light of his understanding of public freedom and of the concept of a democratic society as set forth in the Universal Declaration of Human Rights. He fully shares the views expressed by the late Mr. Dag Hammarskjöld, then Secretary-General, in the speech delivered at the opening of the twelfth session of the Commission on Human Rights, in which he said :

“... it is in the general interest to give to these studies a positive direction and to avoid a sterile registration of charges against Member Governments. The purpose of such studies should be not to list cases where Governments may have violated human rights, but the much more constructive and useful one of studying techniques that have been found useful in certain countries in solving relevant problems and which could be used by other countries having the same, or similar problems...”

New York  
15 September 1962

Hernán SANTA CRUZ  
*Special Rapporteur*

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## CHAPTER I

### THE MEANING OF DISCRIMINATION IN THE MATTER OF POLITICAL RIGHTS

In the modern world, political rights are regarded as human rights — “ the equal and inalienable rights of all members of the human family ” — which should be protected by law. These rights are set forth in the Universal Declaration of Human Rights, proclaimed by the General Assembly of the United Nations on 10 December 1948 as “ a common standard of achievement for all peoples and all nations ”.

This Study, in accordance with decisions taken by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Commission on Human Rights and the Economic and Social Council, relates primarily to the political rights set forth in article 21 of the Declaration, which reads :

#### *“ 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.”

In addition to proclaiming these particular political rights, the Declaration also sets forth certain related political and civil rights, such as the right to life, liberty and security of person (article 3), the right to recognition everywhere as a person before the law (article 6), the right to equality before the law and to equal protection of the law (article 7), the right to a nationality (article 15), the right to freedom of opinion and expression (article 19), and the right to freedom of peaceful assembly and association (article 20) ; as well as a number of closely associated economic, social and cultural rights, including the right to work (article 23), the right to education (article 26), and the right freely to participate in the cultural life of the community (article 27).

The mutual relationship between political rights on the one hand and economic, social and cultural rights on the other hand becomes clearly apparent when the material collected for the study is surveyed and analysed. One sees then that the partition of these human rights

into categories is a conventional one, and that it is impossible to classify them in a hierarchy of values.

The effective exercise of political rights is a means of attaining all other rights and freedoms. Thus the eradication of discrimination in respect of these rights may be viewed as a way — and perhaps even the most effective way — of suppressing other forms of discrimination and helping all peoples to enjoy their human rights and fundamental freedoms.

Of equal importance are the economic, social and cultural rights, for without them an individual cannot aspire to be the person envisaged by the Universal Declaration of Human Rights as the ideal of the free man.

Therefore, although the emphasis of this study is mainly upon political rights and in particular those proclaimed in article 21, it is not possible to separate them completely from other civil and political rights and from the related economic, social and cultural rights. The effort to strike a perfect balance is rarely if ever wholly successful, and the actual situation in many countries is that one or the other is accorded a clear priority. Yet it must be borne in mind that neither the Universal Declaration of Human Rights, nor any other pronouncement of the United Nations, recognizes any such priority.

#### THE PROHIBITION OF DISCRIMINATION IN THE MATTER OF POLITICAL RIGHTS

The principle of equality of rights for all without any discrimination is set forth in the Preamble and in Article 1, paragraph 3; and Articles 13, 55 c, 62 and 76 c of the Charter of the United Nations, and is elaborated in articles 2 and 7 of the Universal Declaration of Human Rights, which state that :

##### *“ 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 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.”

The meaning of the principle of equality, when applied to the political rights proclaimed in article 21 of the Declaration, may be clarified by an analysis of these articles.

First, the fact that the grounds of discrimination enumerated in paragraph 1 of article 2 of the Declaration are only illustrative and not exhaustive is made clear by the use of the term "such as" and the expression "or other status". The meaning of this paragraph, when read in conjunction with article 21, is that everyone has the same political rights, and is entitled to enjoy those rights on equal terms and without any discrimination. This meaning is emphasized, in paragraph 1 of article 21, by the use of the word "everyone".

The prohibition of discrimination works both ways. On the one hand, the implication is that no adverse distinction, exclusion or limitation should be directed against any individual, or group of individuals, solely on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. On the other hand, there is the implication that no undue preference should be given such individuals or groups.

Paragraph 2 of article 2 must also be examined carefully in order to clarify its meaning in relation to article 21. It will be realized that until a country or territory has achieved full self-government, the political rights of its peoples cannot be enjoyed with the same completeness as would be the case in an independent country or territory. In this connexion it should be borne in mind that the General Assembly, in the Declaration on the granting of independence to colonial countries and peoples which it adopted at its 947th plenary meeting on 14 December 1960, has stated that "the subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to world peace and co-operation".

Article 7 of the Universal Declaration of Human Rights is important because it provides the means whereby the principle of equality may be transformed into reality. It prohibits the introduction of any form of discrimination by law, and places an obligation upon the State not only to protect the individual against discrimination in violation of the Declaration, but also to protect him against any incitement to such discrimination.

Article 8 is no less significant, as it recognizes the right of everyone to invoke the assistance of the judiciary against violations of human rights by the administration of his country or by private persons, and authorizes the judiciary to correct such violations. The article reads:

*" 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."

Undoubtedly, a fundamental guarantee for the effective exercise of political rights is the recognition of those rights in constitutions and other legislation, and the existence of independent and impartial tribunals — as referred to in article 10 of the Universal Declaration of Human Rights — which would be seized of violations of those rights and would correct them.

Finally, reference must also be made to article 28, as it sets forth the ultimate conditions necessary for the realization of all human rights. This article proclaims that :

*“ 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.”

This article reflects the view that attainment of formal equality is not enough and that the ultimate goal must be real social justice and a really good social order. It recognizes that the establishment of a just social and international order is a prerequisite for the enjoyment of human rights. Like Article 55 of the Charter, it confirms the close relationship between the maintenance of peace and security, the existence of economic and social progress and development, and the full enjoyment of human rights and fundamental freedoms, and consequently the responsibility of the international community to participate effectively in the achievement of these goals.

LIMITATIONS WHICH MAY BE IMPOSED UPON EXERCISE  
OF POLITICAL RIGHTS

It must be borne in mind that article 2 does not imply that no limitations whatsoever may be imposed upon the exercise of human rights. Article 29 restricts these “ 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 ”. Further, it adds that “ these rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations ”.

It is difficult to elaborate upon the meaning of article 29 when read in conjunction with article 21, since in dealing with political rights “ the just requirements of morality, public order, and the general welfare in a democratic society ” may be interpreted in a great variety of ways. Suffice it to say that public authorities sometimes tend to place the broadest possible interpretation upon these terms, especially when they seek to rationalize discriminatory actions restricting the enjoyment of political rights.

However, an essential supplementary guarantee against arbitrary action on the part of public authorities is provided in article 8 of the

Declaration, referred to above, and the boundary beyond which no one may step is set forth in article 30, which provides that :

*“ 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. ”*

This provision, the primary purpose of which is clearly to ensure greater freedom in the enjoyment of human rights, debars not only any State, but also any individual or group of persons — including the public authorities — from engaging in activities or performing acts aimed at the destruction of those rights.

Finally, it should also be borne in mind that the Third Committee of the General Assembly, in adopting article 1 of the draft Covenant on Civil and Political Rights, stated that :

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

#### HOW DISCRIMINATION IN THE ENJOYMENT OF POLITICAL RIGHTS OCCURS

Discrimination in the enjoyment of political rights originates either in law or in practice, and in either case it may be direct or indirect in nature. In nearly all countries today such discrimination is contrary to the law. Only in a few exceptional cases are discriminatory practices sanctioned by law.

The most serious form of discrimination in this field occurs when an element of the population is denied, by law or its interpretation, any or all of the rights proclaimed in article 21 of the Universal Declaration of Human Rights, or is permitted to exercise those rights only under conditions inferior to those established for the remainder of the population, solely because of its race, colour, sex, language, religion, political or other opinion, national or social origin, birth or other status, or the status of the country or territory in which it resides. The denial may be a direct one, aimed at a specified group, or it may be an indirect one, couched in apparently general terms, but in fact aimed at a particular group.

Where, on the other hand, discrimination in the matter of political rights is prohibited by law, or equality of treatment is prescribed in general terms, this fact alone does not solve the problem, although it may be regarded as a step towards its solution. The subordinate texts which implement these arrangements or which permit the exclusion or suspension of political rights (electoral laws, regulations and the like) may permit or even promote discriminatory practices. Furthermore, even though the Government itself does not interfere with the enjoyment of



political rights, it may fail to take a sufficiently forceful stand to prevent such interference by private persons or groups.

*De facto* discrimination in the exercise of political rights occurs when members of a particular group are denied — by acts outside the law or even contrary to the law — the opportunity to enjoy any or all of the rights set forth in article 21, or are permitted to exercise these rights only under conditions inferior to those established for the remainder of the population, solely because of the real or supposed collective characteristics of the group. The acts referred to here are of great variety; some are direct while others are indirect. Among the direct methods of restricting or denying the exercise of political rights are exclusion of qualified persons from electoral rolls, non-admission of voters to the place where elections are held, refusal to give ballots to members of the group, refusal to accept ballots from members of the group, refusal to consider ballots prepared by members of the group as valid, and refusal to count such ballots. Among the indirect methods are the use by public officials — usually within but sometimes outside the authority or the discretion granted them by law — either of literacy tests or of property, tax, or other qualifications which are more difficult for members of a particular group to meet than for the remainder of the population, in order to disqualify members of that group. In addition, public authorities sometimes become parties to the misinterpretation, or even the distortion, of the popular will by law or partisan administration of elections or by their failure to enforce laws prohibiting offences against the purity of elections, such as bribery, venality, intimidation, “repeating” (the casting of more than one vote by a single voter), or “personation” (voting in the name of another person). Such elections lose much of their meaning because they are not genuine expressions of the will of the people.

Discrimination of an indirect character also occurs when members of a particular group are denied, or restricted in their exercise of, other rights essential to the enjoyment of political rights, such as the right to freedom of opinion and expression or the right to freedom of peaceful assembly and association, solely on the ground of the real or supposed collective characteristics of the group.

The most far-reaching form of discrimination in this field, of course, is that which is directed not against one or several particular groups, but against all or nearly all the groups comprising the population of a country or territory, and which may amount to a complete denial — to all but the ruling group — of any political rights whatsoever. This also may occur either in law — as in the case where a single ruler or a ruling group legally exercises all political power without reference to the will of the people — or in fact, as in the case where the will of the people cannot be freely expressed because of trickery, coercion, intimidation, bribery, venality or the fact that the election is otherwise not genuine.

Whereas legal discrimination perforce can only result from acts of public authorities, *de facto* discrimination may also result from acts of

private individuals or groups. In this connexion attention may be drawn again to articles 7 and 30 of the Declaration, which provide respectively that " All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination ", and that " 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. "

THE MEANING OF THE RIGHT OF EVERYONE TO TAKE PART  
IN THE GOVERNMENT OF HIS COUNTRY

The first paragraph of article 21 states that the right of everyone to take part in the government of his country may be exercised " directly or through freely chosen representatives ". The third paragraph states that the will of the people, which should be the basis of the authority of government, " shall be expressed in periodic and genuine elections which shall be by universal and equal suffrages and shall be held by secret vote or by equivalent free voting procedures ".

The second paragraph of article 21 does not specify how the right of equal access to public service is to be exercised. However, " access to public service " clearly refers to election, appointment, or assignment to public office or to the performance of public functions.

The term " directly or through freely chosen representatives " may require some clarification. In the past, all members of a political unit could be called together in an assembly for the purpose of enacting legislation, dealing with the collection or disbursement of funds, or electing public officials. Such direct participation in government is almost impossible nowadays because modern political units are frequently composed of millions of people whose meeting together in one place would be impossible. Further, the problems of government are infinitely more complicated now than ever before, and their solution requires special training, technical knowledge, and skills which not all individuals possess. It is still possible for the masses of people, however, to express their collective will either by voting on questions of broad government policy, by approving or disapproving texts placed before them, or — as is more often the case — by electing representatives who will be responsible to them.

A few forms of organized direct participation of the people in government subsist today. For example, several of the small cantons of Switzerland continue to centre political authority in their mediaeval *Landsgemeinde* or annual assembly of all the citizens.<sup>1</sup> In addition, a number of countries provide for such institutions as the popular initiative, the referendum, and the recall.

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<sup>1</sup> See Shotwell, Gooch, Zurcher, Loewenstein and Florinsky, *Government of Continental Europe*, New York : Macmillan and Co., revised edition, 1952, p. 355.

There are also indirect methods by which the people participate in the process of government, such as the expression of their opinion by means of mass meetings or petitions, or through the use of various media of communication. Clearly these expressions of opinion cannot be disregarded by any government ; they are not only not objectionable, but necessary. The importance of the right to freedom of association and assembly, as well as the right to freedom of opinion and expression, will be emphasized later.

Both direct and indirect forms of participation of the people in the government may be exploited by unscrupulous individuals or demagogues, including those who seek or hold public office. Mass meetings or petitions, for example, may be officially inspired and in no way spontaneous. By appeals to perfectly legitimate and even noble feelings, such as patriotism, such manifestations may be used to delude the people and to serve as a pretext for the establishment or maintenance of a régime which is not truly representative of the popular will. Similarly, media of mass communication, when monopolized or otherwise controlled by a government, a ruler or ruling group, or powerful private interests, may be used to misinterpret, or even to falsify or to subvert, the will of the people. Lobbies and pressure groups, which in some circumstances perform an important function by keeping public officials in touch with public opinion, may in some instances harm the public interest by exerting undue influence upon those officials or upon legislative and other governmental bodies.

The participation of individuals in the government of their country through freely chosen representatives is now almost universally accepted as the normal rule. The tendency of voters, indeed, is to leave more and more of the policy decisions of government to such representatives. Such an arrangement is in line with the provisions of article 21 as long as the representatives exercise real power within the State. However, in some countries the real power is in the hands of an individual, or of a group not chosen by the people, and the elected representatives are authorized to deal only with comparatively minor matters, or to offer advice or to make proposals which can be disregarded, or to adopt legislation which can be ignored or vetoed. When real power is exercised, without controls, by an hereditary ruler, a strong executive, a bureaucracy, an oligarchy, or by any other privileged class, group, party or organization, the majority of the people cannot enjoy their political rights. The same is of course even more true when there is no representative assembly, or when no procedure is available by which those who exercise power may be changed or replaced. At the same time it must be borne in mind that the setting up of representative bodies — even if such bodies have only a limited deliberative or advisory competence or are confined to regional or local matters — may constitute a first and most important step towards the establishment of truly representative government in a country or territory where no such bodies have existed before. It is also true that in some cases the concentration of political power in the hands of a strong executive is only transitional or transitory.

Article 21 does not specify whether elections to public office should be by direct vote — meaning that the voter casts his ballot directly for a particular candidate or list of candidates — or an indirect one — meaning that he casts his ballot for electors or members of an elective body who in turn choose a particular candidate or list of candidates. While advantages are claimed for each of these systems, it may be pointed out that certain dangers present in any election may be somewhat more acute in the case of an “indirect” one. For example, the opinions of the candidates selected indirectly may not coincide with those of the majority of the voters.

The term “periodic and genuine elections” also may require some clarification. The condition that elections should be periodic applies mainly to elections to select by vote persons to hold public office. This condition is generally considered to be an essential guarantee against perpetuation in office of individuals who may have lost the confidence of the electorate. Normally elections should be held at reasonable intervals and with sufficient frequency to enable the people of a country, or of a political or administrative unit thereof, to take an effective part in the government by exercising control over their representatives, but not so often as to impair the efficiency of those representatives or of the government. Elections scheduled as a result of the dissolution of an elected body or the recall of an elected public official, while not “periodic”, nevertheless would be in conformity with the basic purpose of this principle.

The condition that elections should be “genuine” applies not only to elections held to choose representatives, but also to public consultations on any important question, such as a determination as to the future status of a country or territory (plebiscite), a vote to approve or to disapprove a measure adopted or under consideration by the legislature (referendum), a vote for or against the removal of an officeholder before the expiration of his legal term (recall), or a vote to adopt or to reject a measure proposed by qualified voters (initiative). Genuine elections are those in which the will of the people is truthfully and accurately reflected. To achieve this result, voting procedures must be honest and not fraudulent in nature; an election cannot be termed “genuine” if voters have been coerced, threatened with reprisals, or bribed, or if their votes have been purchased. Nor can an election be termed “genuine” if dishonest acts have been committed or condoned by public officials — that is, if they have prepared election rolls improperly, allowed the same individual to vote repeatedly, permitted certain individuals to impersonate others, counted counterfeit ballots or not counted all the valid ones, and so on.

Closely related to the idea that elections should be “genuine” is the stipulation that they “shall be held by secret vote or by equivalent free voting procedures”. Secrecy of the vote — which implies the use of a ballot which does not identify the voter — is considered to be primarily an essential guarantee against coercion and intimidation. It should be noted, however, that the requirement of secrecy does not

apply to the identification of the voter before he casts his ballot or to the counting of the votes which have been cast; on the contrary, publicity at these stages is essential if the election is to be "genuine".

"Equivalent free voting procedures" are mentioned as an alternative to the secret vote in order to provide a means by which illiterates, as well as handicapped persons, may participate in elections; the essential idea of both terms is to ensure the freedom of the voter. However, the Commission on Human Rights, in preparing the draft Covenant on Civil and Political Rights at its tenth session in 1954, did not retain the concept of "equivalent free voting procedures". Since the Declaration of Human Rights was adopted, in 1948, new techniques have been developed which enable even illiterate and handicapped persons to vote by secret ballot.

The wisdom of holding elections by secret ballot is sometimes questioned in countries which have only recently achieved self-government. In such countries it is often argued that elections are but a means to an end, which is genuine representation, and that therefore the selection of individuals whose views command respect and approval in the areas represented is to be preferred to a system under which inexperienced men might be elected. Moreover, it is even maintained that it would be absurd and morally indefensible to ask a primitive or ignorant person to vote on a matter about which he knows nothing. While representation through free and democratic elections remains the ultimate goal of such countries, the general feeling of the people is that they need first to pass through a transitional stage before achieving this ideal.

Article 21 further prescribes that elections shall be by "universal and equal suffrage". Use of the term "universal suffrage" once again reaffirms the principle that everyone has the right to take part in the government of his country, as well as the idea that this participation should be ensured in the broadest possible sense, i.e., in all elections of general interest, whether on the national, state, district, municipal or other level. However, neither the term "universal suffrage" nor the word "everyone" can be taken literally in this context, as certain basic requirements for the exercise of political rights are accepted almost everywhere as being non-discriminatory. Among these are nationality and soundness of mind. Further, only persons of a certain age, usually specified by law, are permitted to exercise political rights.

Certain other requirements are sometimes prescribed for the exercise of all or certain political rights, among them literacy, the ownership of property, or the payment of certain taxes. The mere existence of such requirements may be considered discriminatory.

The question has been raised whether it is preferable, in some newly independent countries where the educational level is extremely low, to introduce universal and equal suffrage only in stages as part of the gradual establishment of the democratic system best suited to that country's needs. Those who favour this approach argue that some recent

attempts to grant certain peoples all their political rights at once have led to disastrous consequences, and that as a result several States had to retrace their steps in the matter of instituting universal and equal suffrage. But the general feeling is that comparative backwardness on the part of a country or a people can never justify any denial — even on a temporary basis — of the political rights set forth in article 21 of the Universal Declaration of Human Rights.

A step-by-step approach to universal and equal suffrage does not seem to correspond to the concept set forth in the Declaration, as gradualism is not mentioned in article 21. The immediate establishment of universal and equal suffrage, on the other hand, seems to be called for not only by article 21 but also by the General Assembly's Declaration on the granting of independence to colonial countries and peoples (resolution 1514 (XV)) in which it is stated, *inter alia*, that "inadequacy of political, economic social or educational preparedness should never serve as a pretext for delaying independence", and that "immediate steps should be taken, in . . . all . . . territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom". If the General Assembly has called for the granting of immediate independence to all colonial countries and peoples — or, in other words, for the exercise by them of the right of self-determination — it has implicitly recognized the right of all nationals to take part in the exercise of the right of self-determination, because this principle has been proclaimed by the international community as having as its ultimate goal the enjoyment of individual freedom by all human beings. It would be illogical to assume that, once full independence is achieved, the same will of the people should not be respected.

The meaning of "equal suffrage" is that all voters should participate in all elections and other public consultations on the same terms, and that each vote should have the same weight. Generally speaking, its connotation may be summed up in the phrase, "One man, one vote".

However, "equal suffrage" can be destroyed by numerous acts and procedures connected with the holding of elections and other public consultations, such as the selection of an inadequate voting system, the arbitrary establishment of electoral district boundaries, or the improper counting of ballots or tabulation and proclamation of the votes. The correct organization of all these matters is essential not only for preventing discrimination but also for ensuring that elections are "genuine".

In most countries the electoral system is designed to make possible a certain equality of representation on the basis of population (i.e., to make the ratio of representatives to inhabitants roughly the same in each election district). In addition, in many countries, the system is also

designed to ensure a certain equality of representation for each political or administrative unit. But even the most simple majority system, whereby the candidate who receives the greatest number of votes in a constituency is selected to represent the entire constituency — thus in effect according no weight at all to the votes cast by the minority — has been attacked on the ground that it produces inequality of suffrage. Consequently in some countries electoral systems are employed which endeavour to ensure to each political party or organization representation in proportion to its numerical strength. While such “proportional representation” systems have produced stable and effective governments in some areas, they have not had this effect in other parts of the world. A number of countries have rejected various forms of proportional representation after a brief trial because they noted an undesirable tendency, under such a system, towards a multiplication of political organizations and towards a situation in which no single party was able to obtain a clear-cut mandate to bear the full responsibility of government.

The mere division of a country into election districts, for each of which a minimum representation is prescribed, may inadvertently lead to a different value being placed upon the vote of those who live in different districts. Thus in two districts, each electing the same number of representatives, the vote of a farmer in a sparsely settled rural area may in fact be equivalent to the votes of two, ten, or even a hundred persons residing in a heavily populated industrial area. Such differences in the weight of individual votes may even be considered desirable in certain cases, as when they result from an effort to provide representation not only for the people of an area but also for its various political units.

The special circumstances of each case — such as the federal structure of certain States, which calls for equal representation of each component political unit, without regard to its size or population, in one of the legislative chambers — must be taken into consideration in determining whether or not there is discrimination. Such circumstances must also be borne in mind when assessing extraordinary measures designed to ensure the fair representation of a particular element of the population which has been so long exploited, or subjected to an inferior status, or deliberately hampered in its political development in the past that preferential treatment is necessary to put it on an equal footing with the rest of the population. In the latter instance it is important that any such special measures should be temporary in nature and should be discontinued as soon as no longer required; otherwise they would become discriminatory preferences.

Happily, laws and practices which directly accord unequal weight to the votes of different elements of the population of a country or territory are not very common nowadays, and are being eliminated. There remain, however, the deliberate organization of voting systems which in fact reduce the representation of a particular element of the population of a country or territory below the normal ratio, and

the crafty manipulation of electoral procedures or district boundaries in such a way as to favour a particular candidate, a policy, or a section of the electorate over any other. Such practices, being clearly contrary to the principle of equal suffrage, are unquestionably discriminatory in their effect.

#### THE MEANING OF THE RIGHT OF EVERYONE TO EQUAL ACCESS TO PUBLIC SERVICE IN HIS COUNTRY

The right of everyone to equal access to public service in his country involves access to elective public office as well as access to appointive public office. While clearly a political right, it is often closely linked to the right to work, set out in article 23 of the Universal Declaration of Human Rights, since public service constitutes what may be broadly termed "public employment".

From the point of view of equal access to elective public office, discrimination arises when an otherwise qualified individual is denied the right to stand for election to a public office or to a publicly elected body solely because of his race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, or the status of the territory to which he belongs. In this context the term "otherwise qualified" implies that the individual in question is a national of the country, that he resides there and in the political unit in which he seeks election, and that he meets all legally established conditions as to age and the inherent requirements of the office.

The principle of non-discrimination requires that the bulk of those employed in the public service should be chosen impartially and without regard to their political beliefs. Public posts in many countries are divided broadly into two categories: those which require participation in the determination of basic questions of policy, and those which do not. Usually the filling of high-level policy-making posts by individuals who share the political views of the administration in power is not deemed to be discrimination. Sometimes certain of these posts are reserved for the opposition or for some other minority. The problem which arises stems from the lack of any generally acceptable objective criteria for determining which jobs require "policy-making" and which do not. There are, however, characteristic abuses which in many cases amount to discrimination. Among these are devices by which individuals are debarred even from non-policy-making posts in the career civil service because their opinions differ from those of the governing group.

The main criteria for access to a career in the public service should be the individual's qualifications, his experience, his competence, and his demonstrated ability to hold the office or to perform the function in question. Of course the appointee must be ready and willing to do his best for the good of the State, and should not be engaged in any activities prejudicial to its security. Apart from these considerations, however, no law or practice should prevent any otherwise qualified individual from



being appointed to any public post in his country solely because of his race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, or the status of the territory to which he belongs.

Discrimination occurs when an otherwise qualified individual is denied the right to hold an appointive public office in his country, or in any political unit thereof in which he resides, solely because of the real or supposed collective characteristics of the group to which he belongs. In this connexion it must be borne in mind that public service includes not only public offices and publicly elected bodies, but also career civil service posts to which individuals may be appointed or assigned, including those in the executive, legislative and judicial branches of the government, in the civil and military services, in the foreign service and diplomatic corps, and even posts which are primarily political in character. It also includes various public functions, such as military or jury service. The meaning of non-discrimination in this broad context is not only that everyone should have access to all such forms of public service, but that this access should be on the same terms for everyone with regard to such matters as qualifications, exemptions, salaries and other emoluments, old-age and retirement benefits, opportunities for promotion, and so on. Further, it must be realized that the nature and conditions of the tasks to be fulfilled may have an important bearing upon the choice of individuals to perform a particular job.

Occasionally special measures of protection are taken to ensure the fair representation in the public service of a country of an element of the population which has been so long maltreated that preferential treatment is necessary to put it on an equal footing with the rest of the population. Here the problem is similar to that considered above in connexion with the question of fair representation of various groups, and should be resolved in the same spirit.

Recourse procedures have been instituted in many countries to provide a remedy for acts violating the right to equal access to the public service. Where access to elective public office is involved, persons who feel that they have been discriminated against at any stage in an election have the right to challenge the results before an independent and impartial authority, such as an electoral commission, and ultimately before the judiciary. Where access to appointive public office is involved, the appeal of a person who feels that he is the victim of discrimination may be directed in the first instance to the civil service or public service commission or other administrative body which makes the appointment, and again ultimately to the judiciary. As seen above, the right to such recourse is proclaimed in article 8 of the Universal Declaration of Human Rights.

## CHAPTER II

### THE IMPORTANCE OF OTHER RIGHTS TO THE FULL ENJOYMENT OF POLITICAL RIGHTS

The formal recognition of political rights is not enough to ensure their full enjoyment. To achieve this goal, as has already been pointed out, a number of related rights must also be recognized and exercised, and adequate opportunities for the enjoyment of all human rights must be provided.

Among the related rights, without which the political rights set forth in article 21 of the Universal Declaration of Human Rights are virtually meaningless, are the right to a nationality, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association — sometimes called political rights; and the right to work, the right to education, and 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 — usually designated as economic, social and cultural rights. Nearly all other human rights might be added to the list — for example, the right to life and the right to recognition as a person before the law are certainly relevant.

There is closest possible interrelationship between the two categories of rights — a fact which cannot be stressed too much in a study of this sort. The exercise of political rights is one of the most effective means of ensuring the effective protection of economic, social and cultural rights. And conversely, full recognition and enjoyment of economic, social and cultural rights provides one of the best means of ensuring the effective protection of political rights.

The exercise of political rights, indeed, constitutes a factor indispensable to the progressive development of conditions in which economic, social and cultural rights can be fully enjoyed. Moreover, economic, social and cultural rights are essentially dynamic concepts, the scope and meaning of which are continuously being perfected, and their steady and progressive development can be ensured only through the exercise of political rights in a climate of freedom.

Without political rights there would be no certainty that people would be able to live in circumstances of freedom, law and justice under which the enjoyment of economic, social and cultural rights is possible. But in the same way political rights can be meaningless if respect is not ensured for economic, social and cultural rights. The two groups of rights are so intimately interrelated that the absence of one makes enjoyment of the other incomplete if not impossible.

Sometimes stress is laid upon the exercise of political rights, while in other cases emphasis is placed upon the enjoyment of economic, social and cultural rights. The problem is not so much to strike a balance between these two approaches as to find the one which permits, in a given country, the full and free development of the human personality, both from the material and the spiritual point of view.

#### THE RIGHT TO A NATIONALITY

Article 15 of the Universal Declaration of Human Rights reads :

“ 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.”

The right to a nationality is of particular importance because normally only nationals of a country enjoy political rights. An important consideration which the General Assembly took into account in drafting article 15 was the need to prevent a recurrence of events which occurred before and during the Second World War, when thousands were stripped of their nationality — and consequently of all political rights — by arbitrary government action.<sup>1</sup>

The modern tendency is for States to confer citizenship upon all their nationals, including any who may once have enjoyed only a subordinate status. However, in a few countries refusal or delay in conferring citizenship upon certain elements of the population still occurs. In addition, revocation of nationality or citizenship is sometimes used as either a threat or a sanction.

Fortunately, such instances are exceptional today. For the most part it is accepted that every national of a country is entitled within that country to the same political rights, without any distinction, and that no one should be denied nationality, or deprived of nationality, as a means of depriving him of political rights.

It is regrettable that the *de facto* status of “ second-class citizenship ”, which is contrary to these principles, often persists in practice long after legal equality has been established. This occurs mainly where political rights have only recently been conferred upon peoples who previously had enjoyed a subordinate or “ protected ” status, and where

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<sup>1</sup> The so-called Nürnberg Laws of 15 September 1935, for example, confined German Jews to the status of “ subjects ” (*Staatsangehörige*), as distinguished from “ citizens ” (*Reichsbürger*), thus depriving them of all political rights. Further, in countries occupied by the Nazis between 1939 and 1944-1945, many nationals were deprived of citizenship because of their political opinions or as a result of discriminatory measures directed against masonic organizations or against Jews, and many naturalized citizens were denaturalized.

neither the authorities nor the general public have as yet completely accepted the implication of equal citizenship status for all peoples. Sometimes "second-class citizenship" is only a residual problem, as when the political rights of the whole population of a country or territory are recognized suddenly and the authorities find it impossible to prepare every element of the population to enjoy these rights immediately; in other cases the problem is a continuing one, representing a widespread and persistent unwillingness or inability on the part of the general public to discontinue long-standing practices based upon theories of inequality. In either case, "second-class citizenship" is discriminatory and should be eradicated.

#### THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION

Article 19 of the Universal Declaration of Human Rights reads :

*" 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."

Freedom of opinion is, of course, purely a private matter, belonging to the realm of the mind, and it is generally agreed that no law can regulate an individual's political or other opinion and that no power should attempt to dictate what opinion he should or should not entertain. Freedom of expression, on the other hand, is a public matter, a matter of human relationship, and is therefore subject to legal as well as moral restraint.

The wording of article 19, as adopted by the General Assembly, reflects the view of most Governments that they have a responsibility to secure to all lawful inhabitants of their countries and territories freedom to seek, receive and impart information and opinions without interference and regardless of frontiers; and that no State should regulate or control the use or availability of any means of communication in any manner discriminating against any lawful resident on political or any other grounds. There is, furthermore, agreement that the right to freedom of opinion and expression may be restricted by law in the case of expressions which *inter alia* incite persons to alter the system of government by violence.

It may be noted that the text of article 19 of the draft Covenant on Civil and Political Rights, adopted by the Third Committee of the General Assembly on 19 October 1961, contains the following provision :

" The exercise of the right provided for in the foregoing paragraph (the right to freedom of expression) carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall be such only

as are provided by law and are necessary, (1) for respect of the rights and order (*ordre public*), or of public health or morals.”  
order (*ordre public*), or of public health or morals.”

The principles of article 19 of the Declaration had already been spelled out in some detail in texts adopted by the Third Committee in 1959 and 1960 for inclusion in the proposed draft Convention on Freedom of Information.<sup>2</sup> In that case limitations upon the exercise of freedom of expression were confined “to such necessary restrictions as are clearly defined by law and applied in accordance with the law in respect of : national security and public order (*ordre public*) ; systematic dissemination of false reports harmful to friendly relations among nations and of expressions inciting to war or to national, racial or religious hatred ; attacks on the founders of religions ; incitement to violence and crime ; public health and morals, the rights, honour and reputation of others ; and the fair administration of justice ”. Further, it was stated that these restrictions “shall not be deemed to justify the imposition by any State of prior censorship of news, comments and political opinions, and may not be used as grounds for restricting the right to criticize the government ”.

In this connexion it may be recalled that the General Assembly has repeatedly, in resolutions 290 (IV), 381 (V) and 819 (IX), called upon every nation :

“To promote, in recognition of the paramount importance of preserving the dignity and worth of the human person, full freedom for the peaceful expression of political opposition . . . and full respect for all the other fundamental rights expressed in the Universal Declaration of Human Rights.”

The right to freedom of opinion and expression, always of great importance, acquires added significance at the time of election cam-

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<sup>2</sup> In the preamble of the draft Convention it is recognized “that the free interchange of accurate, objective and comprehensive information and of opinions, both in the national and in the international spheres, is essential to the cause of democracy and peace and for the achievement of political, social, cultural and economic progress ” and that “in order to achieve these aims the media of information should be free from pressure or dictation, but that these media, by virtue of their power for influencing public opinion, bear to the peoples of the world a great responsibility, and have the duty to respect the truth and to promote understanding among nations ”. Article 1 provides that the Contracting States should, *inter alia*, “undertake to respect and protect the right of every person to have at his disposal diverse sources of information”, and “secure to its nationals, and to such nationals of every other Contracting State as are lawfully within its territory, freedom to gather, receive and impart without governmental interference, save as provided in article 2, and regardless of frontiers, information and opinions orally, in writing or in print, in the form of art or by duly licensed visual or auditory devices ”. The article provides further that no Contracting state should “regulate or control the use or availability of any of the means of communication . . . in any manner discriminating against any of its own nationals or of such of the nationals of any other Contracting State as are lawfully within its territory on political grounds or on the basis of their race, sex, language or religion ”.

paigns, when it is essential for the prospective voter to form his own opinion and to express it freely, and for the candidates to put forward their views without fear of retaliation. As the Economic and Social Council has recognized in the draft Declaration on Freedom of Information, transmitted to the General Assembly in resolution 756 (XXIX), "newspapers, periodicals, books, radio, television, films and other media of information play an important part in enabling people to acquire the knowledge of public affairs necessary for the discharge of their responsibilities as citizens, and in shaping the attitudes of peoples and nations to each other". The Council has therefore recommended that the General Assembly include in the proposed Declaration the following provisions :

*" Article 3*

" Media of information should be employed in the service of the people. No Government or public or private body or interests should exercise such control over media for disseminating information as to prevent the existence of a diversity of sources of information or to deprive the individual of free access to such sources. The development of independent national media of information should be encouraged."

*" Article 4*

" The exercise of these rights and freedoms entails special responsibilities and duties. Those who disseminate information must strive in good faith to ensure the accuracy of the facts reported and respect the rights and the dignity of nations, and of groups and individuals without distinction as to race, nationality or creed."

In some countries there is government ownership and control of all media of information, while in others economically powerful interests control, interfere with, or otherwise exercise undue influence upon such media, or decide who shall have access to them. Clearly neither situation is in accord with the principles set out in article 3 above. Where the media of information are privately controlled, Governments sometimes find it necessary to apply special measures<sup>3</sup> designed either to maintain or to redress the balance, particularly during electoral campaigns, as a means of ensuring freedom for the expression of political opinion.

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<sup>3</sup> For example, with a view to equalizing electoral campaign facilities available to the various candidates as far as practicable, the regulations of one country provide that election posters can only be placed on special boards made available by the Government. Each candidate is assigned equal space for the display of a specified number of posters of a given size. The mailing of campaign literature is also regulated: each candidate may send to registered voters only a certain number of circulars and other election materials. The cost of mailing is borne by the State, and the mailing itself is supervised by an independent and impartial commission. Each candidate pays for the printing of his own materials, but these expenses are reimbursed by the Government if the candidate obtains a prescribed minimum percentage of the votes cast. Failure to observe the regulations is punishable by a fine, and if the commission finds that the results of the vote have been affected by the failure to observe the regulations, the election is ruled invalid.

## THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

Article 20 of the Universal Declaration of Human Rights reads :

*“ 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.”

As the article does not specify the type of assembly or association to which it refers, it may be assumed that assemblies convened or associations formed for political purposes are included. “ Peaceful ” assemblies and associations, in this context, have been defined as those conducted “ without uproar, disturbance, or the use of arms ”.<sup>4</sup> Paragraph 2 of the article stresses the voluntary nature which associations normally should have, and prohibits the exertion of pressure upon individuals to join any association the purpose of which might be contrary to their political views or interests.

The corresponding article of the draft Covenant on Civil and Political Rights, adopted by the Third Committee of the General Assembly on 26 October 1961, reads as follows :

*“ Article 20*

“ 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 freedom of others.”

The draft Covenant on Civil and Political Rights also contains a provision relating to trade union rights. Article 21, adopted by the Third Committee of the General Assembly on 31 October 1961, reads as follows :

*“ Article 21*

“ (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 prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order, 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 or of the police in the exercise of this right.

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<sup>4</sup> See *Official Records of the Third Session of the General Assembly, Part. 1, Third Committee*, summary record of the 131st meeting, p. 445.

“ (3) Nothing in this article shall authorize States parties to the International Labour Convention of 1948 on 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.”

#### THE RIGHT TO WORK

Article 23 of the Universal Declaration of Human Rights contains the following provisions :

##### “ 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...”

Many aspects of the right to work affect the enjoyment of the political rights set forth in article 21. For example, if a worker does not have free access to the labour market, or if there is no free choice of employment and he is compelled to work or assigned to work by the authorities, he may find it impossible to move to an area where he could exercise his political rights. Migrant, seasonal and unemployed workers frequently cannot meet the residence or other requirements established for the exercise of these rights. Furthermore, those who control employment are sometimes in a position to exercise powerful pressure upon workers, and thereby to influence their votes.

Both the right to work and the right to equal pay for equal work have been the subject of extensive study by the International Labour Organisation (ILO). As the outcome of a study initiated by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the ILO has prepared a Convention concerning Discrimination in Respect of Employment and Occupation (ILO Convention 111), and a Recommendation on the same subject (ILO Recommendation 111). It has also prepared a Convention on Equal Remuneration for Work of Equal Value for Men and Women Workers (ILO Convention 100), and a corresponding Recommendation (ILO Recommendation 90). At the request of the Commission on the Status of Women, the Economic and Social Council has repeatedly urged the acceptance by Governments of the principle of equal pay for equal work (resolutions 385 H (XIII), 504 G (XVI), and 587 C (XX)). All these instruments and recommendations have a direct bearing upon the exercise of political rights because they apply, *inter alia*, to employment in the public service.

The Convention and the Recommendation concerning Discrimination in Respect of Employment and Occupation prohibit any



distinction in employment and occupation — which would seem to include all forms of “public service” — on the ground of political opinion. In addition, the Convention places upon Contracting Members an obligation to pursue a policy of non-discrimination in respect of all employment under their direct control.<sup>5</sup>

Both the Convention and the Recommendation contain a text imposing a limitation upon the application of the principle of non-discrimination in the matter of employment and occupation (article 4 of the Convention and section II (7) of the Recommendation), reading as follows:

“Any measures affecting an individual who is justifiably suspected of, or engaged in, activities prejudicial to the security of the State shall not be deemed to be discrimination, provided that the individual concerned shall have the right to appeal to a competent body established in accordance with national practice.”

This provision has been criticized on the ground that the mere suspicion that an individual is engaged in activities prejudicial to the security of a State cannot justify the denial of employment or occupation. Moreover, in practice, the application of this limitation might easily give rise to serious abuses against individuals who do not share the political opinions of the Government or of their employers. While the limitation might be justified in respect of access to highly sensitive positions connected with the foreign or defence services, it can never be justified as a general rule.

The right to equal pay for equal work has also been the subject of thorough study by the International Labour Organisation. Its Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, adopted on 29 June 1951, contains the following provision :

“ Article 2

“ Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent

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<sup>5</sup> Article 1 of the Convention concerning Discrimination in Respect of Employment and Occupation reads in part :

“ 1. For the purpose of this Convention the term ‘ discrimination ’ includes :

“ (a) Any distinction, exclusion or preference made on the basis of . . . political opinion . . . which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation . . .

“ 2. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.”

Under article 3 of the Convention, each Member for which the Convention is in force undertakes, by methods appropriate to national conditions and practices

“ . . . d) To pursue the policy (designed to promote equality of opportunity and treatment in employment and occupation) in respect of employment under the direct control of a national authority. ”

The Recommendation contains corresponding texts (Section I and II (3)).

with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.”

The corresponding Recommendation is somewhat more precise in this respect ; it proposes that appropriate action should be taken by each State Member of the ILO, after consultation with the workers' organizations concerned or, where such organizations do not exist, with the workers concerned :

“ (a) To ensure the application of the principle of equal remuneration for men and women workers for work of equal value to all employees of central government departments or agencies ;

“ (b) To encourage the application of the principle employees of State, provincial or local government departments or agencies, where these have jurisdiction over rates of remuneration.”

#### THE RIGHT TO FORM AND JOIN TRADE UNIONS

The fourth paragraph of article 23 of the Universal Declaration of Human Rights states that :

“ Everyone has the right to form and join trade unions for the protection of his interests.”

The extent to which this right — so closely linked to the right to work — may be extended to the public service has been the subject of considerable controversy. The Freedom of Association and Protection of the Right to Organize Convention, adopted by the International Labour Conference in 1948, contains the following provision :

#### “ Article 9

“ The extent to which the guarantees, provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations . . . ”

An identical provision appears in article 5 (1) of the Convention Concerning the Application of the Principles of the Right to Organize and to Bargain collectively, adopted by the ILO in 1949. Both instruments include, however, a clause (article 9 (2) of the former convention and article 5 (2) of the latter) to the effect that “. . . ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom, or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention ”.

The provision relating to trade union rights contained in article 21 of the Draft Covenant on Civil and Political Rights has been referred to above in connexion with the right to freedom of peaceful assembly and association.

In addition, article 8 of the draft Covenant on Economic, Social and Cultural Rights, which also deals with the right to form and to join trade unions and which was adopted by the Third Committee in 1957, contains a provision identical to the second sentence of the article reproduced above.<sup>6</sup>

#### THE RIGHT TO EDUCATION

Article 26 of the Universal Declaration of Human Rights reads in part :

*“ Article 26*

“ (1) Everyone has the right to education . . .

“ (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 . . .”

When this article was being drafted, it was pointed out that since education is the first prerequisite for progress in the realization of political rights, every extension of education tends to combat discrimination in respect of these rights. One question which arose at the time was whether the State and society should guarantee a certain level of education to all, or whether secondary and higher education should remain accessible only to those able to meet the cost of the study. Because of the importance of education to the enjoyment of political rights, those who would not go so far as to recognize an obligation of States to guarantee secondary and higher education for all suggested that education should nevertheless be made free at these higher levels.

Obviously, an individual's potentialities for taking part in the government of his country and for access to its public service are greater if he is well educated and less if he is illiterate. Certain educational qualifications may be an important and even an inherent requirement for many posts in the public service, whether such posts are filled by election, appointment or assignment. Education must therefore be

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<sup>6</sup> An explanation of the considerations which led to the adoption of this text is given in the report of the Third Committee (A/3525, p. 25), as follows :

“ . . . Some representatives thought that it was neither necessary nor desirable to adopt so general a phrase as ‘ or the administration of the State ’. They considered that, while restrictions on the right of ‘ armed forces ’ or the ‘ police ’ were generally recognized, there was no uniformity of practice concerning the application of the rights in the article to civil servants and government employees which warranted such a restriction. Moreover, the proposed restriction might have a prejudicial effect on the development of trade unions in countries where large numbers of persons were employed in State enterprises. On the other hand, it was explained that the amendment did not deny the rights of the armed forces, or the police or of the administration of the State, but merely provided for the possibility of lawful restrictions.”

considered as one of the fundamental bases upon which the development of equality of access to the public service must rest.

Discrimination in education has already been the subject of a thorough study by United Nations and of action by UNESCO. The Study of Discrimination in Education,<sup>7</sup> prepared by Mr. Charles D. Ammoun, Special Rapporteur of the Sub-Commission, stresses in many places the extent to which the exercise of the right to education affects the enjoyment of political and other rights. It is therefore not necessary to deal with this question in greater detail here.

#### THE RIGHT FREELY TO PARTICIPATE IN THE CULTURAL LIFE OF THE COMMUNITY

Article 27 of the Universal Declaration of Human Rights reads in part :

“ 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.”

In adopting this article, the General Assembly reflected the view of many countries that science should never be linked to political considerations as scientific development could then be used for purposes prejudicial to the political rights of the individual. Some of those who voted for the text had in mind the so-called scientific theories of the period of the Second World War, which bestowed “ racial superiority ” upon certain groups of people and deprived others of political rights as a first step in the effort to destroy them altogether.

The authors of the article also bore in mind the fact that privileged groups in a country sometimes arrogate to themselves the enjoyment of national treasures of culture and science, with the result that social and political, as well as cultural, progress is impeded for the bulk of the population. The ultimate effect of such action is similar to the effect of denial of the right to education, for it is participation in the cultural life of the community on a level of intellectual equality which promotes recognition of political rights and at the same time develops the minds of individuals to the point where they can participate effectively in public life. Moreover, in many cases association for cultural purposes is the first step towards political association.

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<sup>7</sup> United Nations, *Study of Discrimination in Education*, Sales No. 57.XIV.3.

### CHAPTER III

## NATURE AND SCOPE OF DISCRIMINATION IN THE MATTER OF POLITICAL RIGHTS

The ideal situation, in which discrimination has been completely eliminated and all peoples exercise their political rights effectively, has not yet been achieved, although some countries are well on the road to this goal. The discrimination which subsists takes many forms. In some cases, where elections are not held at all or where they are infrequent or not genuine in character, it amounts to the denial of political rights to all but the ruler or the ruling group. In other cases it takes the form of unjust limitations upon the universality or equality of suffrage, based upon some such ground as race or colour, sex, language, literacy, religion, political or other opinion, property, national or social origin, birth or other status. In still others it is a matter of unjustified restrictions upon access to public service and functions.

#### THE MEANING OF "EVERYONE" IN ARTICLE 21

There can be no doubt that when article 21 of the Universal Declaration of Human Rights proclaims that "Everyone has the right to take part in the government of *his* country", it refers to nationals only (as distinguished from aliens), i.e., to all individuals linked to a particular State by a tie of allegiance ; and that it refers to all nationals, without any distinction.

In some countries, the principle is that political rights are the prerogative of all nationals without regard to whether nationality was acquired at birth or through naturalization. In other, however, naturalized persons are by law temporarily excluded from, or restricted in, the enjoyment of certain political rights. Thus naturalized persons are sometimes required to wait a stated number of years before they become eligible to vote or to hold public office. Sometimes the law provides for two types of naturalization : the first enables an individual to exercise all the rights enjoyed by a national by birth except political rights ; the second permits him to enjoy political rights as well. To justify such arrangements it is argued that only nationals by birth have a right to the nationality of a country, and that if a Government can refuse to grant nationality to a foreigner altogether, it can equally well grant such nationality accompanied by reasonable restrictions.

While the formalities and procedures for obtaining nationality

through naturalization always require a certain amount of time, any undue delays in the granting of nationality to those who are eligible for it may be discriminatory. Moreover, once an individual has acquired nationality by naturalization, he should enjoy the same political rights as any other national.

In some countries nationals may be deprived of their nationality — and consequently of their political rights — on grounds which are political in character; indeed, the possibility of deprivation of nationality is sometimes used as a threat or sanction against those who do not agree with the policies of the Government of their country. Thus nationality may sometimes be taken from any national found guilty of a political crime, or any national, who has fled his country after committing a political offence. In other cases only naturalized persons may be deprived of nationality, as for example when such a person commits a specific act of disloyalty or when his general attitude indicates that he has stronger feelings for his native land than for his adopted country.

As has already been pointed out, disqualification from the exercise of political rights of aliens, of nationals who have not yet reached the age specified by law, or of insane persons, is not normally considered to be discriminatory.

#### DISTINCTIONS ON THE GROUND OF RACE OR COLOUR

In some countries those whose ethnic origin differs — or is believed to differ — from that of the predominant group are relegated by law or in practice to an inferior status under which they are denied the exercise of their political and other rights. Such racial policies are a flagrant violation of the Charter of the United Nations and of the Universal Declaration of Human Rights, and are inconsistent with the obligations of a Member State. They lead to international friction and their continuance endangers international peace and security.

Perhaps the most odious instance of discrimination of this type is the policy of *apartheid*, or complete separation of racial groups, which has been adopted, retained, and even further developed in spite of repeated condemnation by the General Assembly.

On 5 December 1952 the General Assembly established the United Nations Commission on the Racial Situation in the Union of South Africa, to study the racial situation in that country, and subsequently designated M. Henri Laugier, M. Dantes Bellegarde, and the writer as members of that Commission. In its reports<sup>1</sup> the Commission pointed

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<sup>1</sup> United Nations, *Official Records of the General Assembly, Eighth Session, Supplement No. 16 (A/2505 and A/2505/Add.1)*; *Ninth Session, Supplement No. 16 (A/2719)*; *Tenth Session, Supplement No. 14 (A/2953)*. See also reports of the Committee on South West Africa, *Official Records of the General Assembly, Fifteenth Session, Supplement No. 12 (A/4464)*; *Sixteenth Session (A/4926)*.

out that "the doctrine of racial superiority" on which the policy of *apartheid*<sup>2</sup> is based is scientifically false, "extremely dangerous to international peace and international relations", contrary to "the dignity and worth of the human person", "in conflict with the solemn declarations in the Preamble of the United Nations Charter", and "contrary to the purposes of international economic and social co-operation laid down in Article 55 of the Charter".

### *The right to vote*

The most serious effect of *apartheid*, from the point of view of this study, is the total denial of the right to vote and the right to stand for election to public office to large groups of people solely on the basis of their race or colour.

Where these rights are not totally denied, separate electoral lists and separate representation, based upon race or colour, have been established. Sometimes these are said to have been introduced at the request of elements of the population who thought of themselves primarily in terms of racial origin and were not satisfied with a system which did not recognize racial or cultural differences. While it is possible that separate lists might be used in such a way as to ensure an equal, or even a proportionately stronger, representation for the minority as compared to the predominant group, in most cases they have had the opposite effect of entrenching and perpetuating the domination of the ruling elements, mainly because the representatives of each group tend to devote themselves exclusively to the interests of those who voted for them. Thus the system of separate representation has proved more likely to crystallize and to perpetuate communal interests than to decrease discrimination. Under such a system members of minority communities usually find themselves unable to play an effective role in the formulation of the policies of their Government.

Discrimination in the matter of political rights takes a somewhat different form in some countries and territories where distinctions as between indigenous persons and citizens are legally sanctioned, but where any indigenous person may acquire all the rights of citizenship, including political rights, if he proves that he satisfies certain

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<sup>2</sup> In the first report of the Commission, *apartheid* is defined as a policy based "on the general principles of *differentiation* corresponding to differences of race and/or colour and/or level of civilization; as opposed to *assimilation*; of the maintenance and perpetuation of the individuality (identity) of the different colour groups of which the population is composed, and of the separate development of these groups in accordance with their individual nature, traditions and capabilities; as opposed to *integration*". In its practical application this policy involves arrangements and endeavours including, *inter alia*, separation, e.g., with respect to residential zones, public utilities, transport, entertainment, etc.; measures concerning political rights, e.g., separate electoral lists, separate representation in Parliament and in the Provincial Councils; also a territorial segregation, e.g., the fact of reserving fairly extensive territories for the exclusive use of one population group, e.g., the "Native territories".

requirements. In areas where this was the case until recently, one of the requirements was that the indigenous person should speak the language of the predominant group correctly, a second that he should be able to support himself and the dependent members of his family, a third that his conduct should be good, and a fourth that he should have attained a level of education and acquired the habits which are a condition for the application of the public and private law to all other citizens. Needless to say, in practice it was almost impossible for any considerable number of indigenous persons to meet these requirements and thereby to win the opportunity to exercise their political rights.

Although measures have been taken recently to abolish the legal distinction between indigenous persons and other nationals in some territories, the former indigenous persons are in fact still deprived of their political rights because most of them cannot read or write, and thus are unable to pass the "literacy" tests prescribed for prospective voters.

Sometimes the requirements for "assimilation" of indigenous persons are not so strict; and any individual who has ceased to be nomadic and who has had a formal education may be exempted from protective laws on the ground that he is living as the equal of a non-indigenous person, and may then vote, stand for election to any public office or be appointed to any non-elective post. However, indigenous persons, including aborigines, are still an outstanding exception to the general rule that all nationals of a country are entitled to the same political rights, including the right to vote.

Discrimination in the matter of political rights takes still another, and quite different, form in countries where it is prohibited by the national law, but where that law has not yet been fully implemented.

For example, in countries where there is a federal distribution of powers and where the exercise of political rights depends to a large extent upon the authorities of various political or administrative units, the attitude of the central government may be in favour of complete eradication of discrimination in respect of those rights whereas some of the component units resist the application of this principle. A determined effort by the various branches of the central government, and particularly by its judiciary, may be necessary in order to overcome this resistance. Certainly in no case should the federal structure of the State excuse a lack of effective action on the part of the central government.

A federal government, for example, may experience difficulty in ensuring that the local requirements for voting, or for access to the public service, are applied equally to all persons regardless of race or colour, and that no elements of the population are denied the right to vote on any such ground. It may even find it necessary to create special administrative bodies to study registration and voting patterns, to supervise the implementation of national constitutional principles and the enforcement of national laws pertaining to elections, and to institute



civil actions and criminal proceedings wherever necessary for this purpose. In such countries the survival of discriminatory practices is usually openly acknowledged to exist, but the general tendency is towards their eradication.

#### *Access to public service*

Discrimination on the ground of race or colour with regard to access to the public service also takes several forms. Frequently, where discrimination with regard to the right to vote is sanctioned by the law, a corresponding "colour bar" is applied in the public service. Where discrimination with regard to the right to vote exists contrary to the national law, *de facto* discrimination in the public service is also likely to be found. Indeed, there is often a vicious circle in which a minority's lack of voting strength leads to reduced participation in public employment of members of the group, which in turn makes for political apathy on the part of the minority.

In some countries and territories which follow a policy of separation on the basis of race or colour in respect of the right to vote, dual civil service systems, segregated on the basis of race or colour, have been organized. Where such systems are in effect, there is usually one in which members of the predominant group, which frequently consists of expatriate personnel, may advance to the highest positions in the public service, and a second in which members of the minority, usually indigenous officers, may advance only to a pre-determined level regardless of their training, experience, or ability. Such "localization" of civil service trainees and employees has in several cases resulted in serious unrest amongst the indigenous personnel. Moreover, the scarcity of trained indigenous workers has made it extremely difficult to organize the government of such territories after they have attained their independence, and has been at the root of many troubles both for the territories concerned and for the international community.

In other countries following such a policy of separation, there is only one civil service system, but it includes a "colour bar" by which the higher posts are reserved for members of one racial group, semi-skilled labour is performed by members of a second group, and unskilled labour by members of a third group, and by which even when members of various racial groups are employed in identical or similar positions, their remuneration and other benefits are different.

In areas where discrimination with regard to the right to vote is illegal but exists contrary to the law, a similar situation is usually to be found with regard to access to the public service. While non-discriminatory standards are established by law and appointments to the career civil service are made on the basis of suitability and as a result of competitive examinations, members of the minority group are in fact concentrated in lower-level jobs and are restricted in promotion. In some cases special machinery has been established to combat this *de facto* situation.

## DISTINCTIONS ON THE GROUND OF SEX

Great progress has been achieved in a relatively short time in combating discrimination on the ground of sex in the matter of political rights. Before the turn of the century women could take part in the government of their countries only in a few instances. By 1945, at the time of the signature of the United Nations Charter, some 50 per cent of the sovereign States of the world had recognized the right of women to vote and to stand for public office. Today women enjoy these rights in over 90 per cent of the States, including practically all those which have recently become independent. This change has come about, in many instances, as the result of the amendment of constitutional and other legal texts. The United Nations Commission on the Status of Women has played a leading role in promoting such changes and in educating public opinion to accept them. However, in spite of this generally favourable legal situation, women still are not always able, in fact, to play a sufficiently active role in governmental affairs, usually because of prejudice, apathy, or lack of education. Furthermore, women have been permitted to exercise their political rights only by stages; generally they have first acquired the right to vote and only later the right to stand for election, appointment or assignment to the public service.

### *The right to vote*

In some countries women still do not exercise the right to vote; in others, they may vote but only under limitations not imposed upon men. Sometimes only literate women may vote, while men are exempted from any literacy qualification. In some cases the law has established higher age requirements for women voters than for men. In other cases women have been allowed to exercise their right to vote only in certain elections, such as local, municipal or provincial elections, while men have voted in all elections. In some federal States women have been permitted to vote in certain of the component units long before they could exercise this right on the national level.

### *Access to public service*

In several countries women still do not have equal access with men to the public service, either elective or appointive, or may enter public employment only on terms different from those applied to men. Moreover, even in countries where such discrimination is not sanctioned by law, the number of women actually occupying public posts is almost invariably lower than that of men. Such *de facto* discrimination is often explained by the fact that, by tradition, women are oriented towards other activities, and also by prejudice against their participation in the public service. The fact that public offices have been available to women only for a comparatively short time is another factor in this situation.

For these reasons women are candidates for election to public office

less frequently than men, and find it generally more difficult to secure the support of political parties and organizations. As a result, the number of women elected to public office, in every country of the world, is considerably lower than the number of men.

In many countries women still find it very difficult to obtain appointment or assignment to top-level or policy-making positions in the public service or in particular branches thereof such as the foreign service, the judiciary, or the armed forces. Moreover, when they are employed the terms and conditions under which they work are often inferior to those accorded to men in such important matters as remuneration, promotion, and retirement.

#### DISTINCTIONS ON THE GROUND OF LITERACY

The term "illiterate" is generally used in speaking of one who cannot read or write. In some countries literacy is required as a condition for the exercise of certain political rights. Problems arise however in determining who is literate and who is illiterate.

##### *The right to vote*

In some countries only literate persons, as determined by simple tests of reading and writing, are eligible to vote. In other countries individuals are allowed to vote whether literate or illiterate, and various methods have been devised to ensure that they understand what they are doing. The modern tendency in elections and other public consultations is to use symbols and other devices in order to permit illiterate as well as literate voters to cast their ballots without assistance.

In countries where literacy is required of voters, the explanation is usually given that only a person who can read and write can vote intelligently. While there may have been some substance to this argument in the days before the development of modern methods of mass communication such as radio and television, the fact is that where literacy tests subsist they have in many cases been maintained as a device for eliminating, or at least discouraging, prospective voters belonging to particular elements of the population.

The requirements that voters should be able to read and write is especially prejudicial to women, who in many countries receive a lower standard of education than men, as well as to individuals in the lower economic levels and to indigenous persons. Indeed, it would appear that in some countries literacy requirements have been perpetuated in a deliberate effort to reduce the number of such persons eligible to vote.

##### *Access to public service*

Not only literacy, but also certain educational qualifications, may be an important and even an inherent requirement of many public

offices. Thus a judge — whether elected or appointed — must have certain basic legal training, and even the lowest post office clerk must be able to read and write. Such minimal qualifications generally are not discriminatory. However, unduly high qualifications have the effect of unjustly reserving the public service to members of privileged groups and of excluding individuals who are perfectly capable of filling them, and are therefore discriminatory.

#### DISTINCTIONS ON THE GROUND OF LANGUAGE

In countries where the population includes persons who speak languages other than those officially recognized by the Government, the requirement that public officials know one of the official languages is not normally considered discriminatory, as such knowledge is regarded as an inherent requirement of the post. However, when citizens of a country are denied the right to vote because they cannot pass a literacy test in a language which is not their mother tongue, this may be deemed discrimination.

##### *The right to vote*

In some countries language tests for immigration are more lenient than those for voting, and as a result many naturalized immigrants are prevented from taking part in the government of their adopted country because they are not yet sufficiently familiar with its language. Such linguistic restrictions may be even more discriminatory than literacy requirements, since the prospective voter may be denied the right to cast his ballot on the ground of "illiteracy" even though he is highly literate in his mother tongue. Restrictions of this nature are even more unjustifiable when applied to nationals by birth who have lived in one part or territory of a country, where they have been educated in a particular language, and have moved to another part or territory where a different language is officially recognized.

##### *Access to public service*

If knowledge of a particular language, or even of several languages, is regarded as an inherent requirement of a public office, it is not discriminatory to limit candidates or applicants seeking that office to those who have the required, linguistic ability.<sup>3</sup>

However, if linguistic qualifications which go beyond the inherent requirements of the particular public office are established, these are discriminatory. Fortunately, few examples of this type of discrimination

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<sup>3</sup> Article 1 (2) of the Discrimination (Employment and Occupation) Convention 1958 (ILO Convention 111) provides that "Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination."

are to be found, and the development of modern interpretation systems for use in legislative bodies where several languages are recognized, as well as the growing use of multilingual forms and documentation in the public service, are fast eliminating the last remaining vestiges.

In a few countries, however, a certain amount of discrimination subsists against those who do not speak the language of the country or of a region, particularly in the lower echelons of the public service where linguistic knowledge is not truly an inherent requirement of the job.

#### DISTINCTIONS ON THE GROUND OF RELIGION

From the point of view of the juridical relationship between State and religion, countries have been classified into three categories :<sup>4</sup> those which have an Established Church or State religion, those in which several religions are recognized by the State, and those in which the State and religion are separate. Discrimination in the matter of political rights on the ground of religion takes different forms in each of these categories of countries.

##### *The right to vote*

Where there is an Established Church or a State religion, persons who leave the officially recognized religion are sometimes deprived of their political rights, including the right to vote. Wherever this occurs, it constitutes a serious discrimination on the ground of religion.

##### *Access to public service*

The same kind of discrimination is often applied in respect of access to the public service. On the other hand, in some countries having an Established Church or a State religion, members of the officially recognized religion or belief are accorded privileges not available to non-members. For example, clerics of the official religion may be regarded as officials of the Government while those of other groups do not enjoy such a status. Moreover, the Head of State may be required, either by law or by tradition, to be a member of the official religion, and in some cases this requirement may extend to many or even to all persons holding policy-making positions in the government, or at least to a fixed proportion of such posts.

Such privileges, although inherent in the structure of the State and sometimes understandable when viewed in their historical perspective, are nevertheless discriminatory against those who do not belong to the Established Church or the State religion.

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<sup>4</sup> United Nations, *Study of Discrimination in the Matter of Religious Rights and Practices*, by Arcot Krishnaswami, Sales No. 60.XIV.2, chapter IV.

In a few countries where several religions are officially recognized, quota systems have been initiated whereby certain elective and appointive posts in the public service are distributed to members of recognized religious communities according to a formula established by tradition or agreement. Such arrangements, while absolutely necessary to the maintenance of the structure of the State and therefore indispensable, may nevertheless give rise to discrimination first because they call for the selection of public service personnel primarily on the basis of community membership rather than on merit, and secondly because they exclude from public service members of religious communities not recognized by the State.

In countries where the State and religion are separate, there is usually no problem of legal discrimination in the matter of political rights on the ground of religion. However, in the case of some such countries the highest posts in the public service may in fact be inaccessible to members of certain religious groups, or even to all persons who hold certain religious or other beliefs.

#### DISTINCTION ON THE GROUND OF POLITICAL OR OTHER OPINION

The laws of many countries recognize the right of everyone to freedom of opinion and expression and freedom of peaceful assembly and association. Individuals holding a wide variety of views take part in the government of those countries and have access to their public service.

However, in some countries the expression of any opinion in opposition to the position of the Government, or of the political party or organization in power, is considered to be "subversive". In others, either all or certain categories of people belonging to specified political parties or organizations are restricted in the exercise of their political rights, and in some cases the parties themselves are either limited in their functions or outlawed. The significance of the latter type of restriction — which sometimes operates against the majority of the population of a country, can only be realized when it is noted that in many such countries all candidates for any elective office must first be nominated by a political party or organization.

The opinions of individuals are usually changeable, particularly in the political sphere, and in most countries continuous efforts are being made, by propaganda and other devices, to alter those opinions. For the most part, such efforts are commendable. As already noted, the Economic and Social Council has recognized that "newspapers, periodicals, books, radio, television, films, and other media of information play an important part in enabling people to acquire the knowledge of public affairs necessary for the discharge of their responsibilities as citizens . . .". In some cases, however, Governments or private bodies or interests have used control over such media to prevent

the existence of a diversity of sources of information or to deprive the individual of free access to those sources. Such control may be said to discriminate against all those who do not agree with the position of the Government or of the special interests involved.

### *The right to vote*

Perhaps the most far-reaching type of discrimination on the ground of political or other opinion is that to be found in an absolute monarchy, where no elections are held. The situation is not very different in countries where a strong executive has disbanded all representative bodies and reserved for himself and a few close associates the exercise of all political rights. In a third group of countries the external forms of free elections are maintained — eligible voters register and cast their ballots — but false results are announced as a result of manipulation of the voters, their ballots, or the ballot boxes.

In still other countries all nationals may vote and elections are held by universal, equal and secret vote, but voters have no choice; they must cast their ballots for a particular candidate or list of candidates because only one nomination, or list, is submitted to them, and other nominations are not permitted. In some cases this may arise from the amalgamation of all political parties into a single united front which considers each candidate, resolves conflicts between various nominating groups and candidates, and presents the voters with an agreed list of nominees before the actual election takes place. Such a process, when carried out objectively and in good faith in exceptional circumstances — for example, in a time of national danger — may give satisfaction to all elements of the population. However, if such a united front is achieved, or if a single list of candidates is put forward, as a result of imposition either by the Government, political “bosses”, or by powerful interests who do not represent “the will of the people”, the result is discrimination.

While it is argued that there need not be a political opposition in a country which claims to be a democracy, but only the possibility for such an opposition to exist, the irreducible minimum in this respect would seem to be that there should be a larger number of candidates on any electoral list than offices to be filled, and that the voters should have a reasonably broad choice of candidates nominated by various parties and organizations, and even of candidates who are not members of any particular party or organization.

### *Access to public service*

Persons whose political opinion coincides with that of the political party or organization which obtains a majority of the votes are usually given a certain preference in appointment to important non-elective posts. This is not normally considered to be discriminatory, as long as the bulk of the personnel selected for the career civil service is chosen on the

basis of individual merit and fitness as determined objectively without regard to political or other opinion. In some countries, provision is made to allot a certain proportion of important non-elective posts to members of minorities, or of groups which have in the past been the victims of discrimination, or of the opposition.

However, in some countries general agreement with the position of the government on political matters is considered to be a prerequisite for holding any post in the public service, and this policy is extended even to unimportant routine jobs. Such a restriction upon the right of access to public service clearly goes beyond the limitations recognized as being justifiable in article 29 of the Universal Declaration of Human Rights, and is therefore discriminatory. Furthermore, if considerable sectors of the country's economy are operated by the government, this may lead to a *de facto* denial of the right to work on the ground of political opinion.

### *Political parties*

Political opinion is frequently expressed by political parties and organizations sponsoring certain ideas of government or maintaining certain political principles or beliefs. Discrimination on the ground of political opinion is therefore directed not only against individuals, but against political parties and organizations as such.

The most drastic type of discrimination in this sphere, found in some countries, consists of the total suppression of all political parties and organizations. While clearly discriminatory, such action has been explained in most cases as a temporary emergency measure, necessary to the survival and growth of the State. However, in some notable instances it has become a permanent arrangement reflecting the philosophy of the Government, and therefore a persistent form of discrimination directed against almost all the nationals of that country.

Sometimes dissolution or prohibition of political parties or organizations is coupled with further discriminatory measures (such as a directive prohibiting members of the dissolved parties or organizations from undertaking any partisan activity), or with creation of a governmental political organization to assume the functions usually performed by voluntary political groups.

In some countries there are provisions making unlawful any body of persons which advocates or encourages the overthrow of the country's constitution, its social structure, or its Government by force, violence, or sabotage. There are also provisions outlawing particular political parties or organizations on the same ground. In this connexion two facts must be recognized : (1) that a State whose institutions are based upon the will of the people has the right to defend itself against subversive activities and propaganda, and (2) that any individual has the right to resist discrimination, oppression, or the denial of human rights and fundamental freedoms. It is therefore quite clear that in some cases



provisions of the type mentioned above are properly based upon the principle set forth in article 30 of the Universal Declaration of Human Rights that "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"; but that in other cases such provisions are, on the contrary, abuses of that principle and therefore discriminatory.

In some countries particular political parties, specified by name, have been declared illegal and outlawed. Individuals who become or remain members of such parties or organizations may be permanently disqualified from exercising the right to vote or from holding any post in the public service. This action is explained by one of the countries concerned on the ground that although the organizations specified are purportedly political parties, they are in fact conspiracies organized to overthrow the Government not only by force and violence but also by deceit, subversion and other illegal means, for the purpose of establishing in the country a totalitarian régime subject to alien domination and control.

Because so many complex factors are involved in the two situations referred to above, a determination as to which provisions of this kind are in line with articles 29 and 30 of the Universal Declaration of Human Rights, and which are discriminatory, can only be made in specific cases where all the facts are known.

In certain countries, political parties or organizations representing the opinion of members of a particular ethnic group — sometimes constituting a numerical majority in the country — have been prohibited or temporarily suspended, and the leaders of such organizations have been subjected to arbitrary imprisonment and deportation.<sup>5</sup> There can be no doubt that action of this type is discriminatory.

Finally, in some countries a particular political party or organization is recognized by the State, and it is considered that there is no ground for the existence of other parties. In other countries where a similar basic arrangement is made, additional political parties or organizations are recognized, but only on condition that they form with the "leading" party a common front and submit to its leadership. In such countries individuals whose political views differ from those of the sole or leading party or organization cannot cast their ballots for any nominee other than those put forward or approved by that party or organization.

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<sup>5</sup> In one such case the fifteenth session of the General Assembly found it necessary, after expressing its deep concern over such developments, to urge the Government concerned to instruct the competent authorities "to cease the arbitrary imprisoning and deporting of Africans, including the leaders and members of the . . . Organization, and to ensure the free exercise of political rights and freedom of expression by all sections of the population".

## DISTINCTIONS ON THE GROUND OF PROPERTY

Property-owning qualifications were once widely prescribed as a prerequisite for those seeking to vote or to be elected or appointed to the public service, and were explained on the ground that the ownership of property was a reliable indicator of fitness for participation in government. Today, however, only a few countries require a prospective voter or public servant to own property or to pay real estate taxes.

Nevertheless, in a few countries no one is eligible to vote in certain local elections unless he owns property. In one case such property requirements disqualify almost half of the parliamentary electors from participation in local government affairs. In other cases no one is eligible for election or appointment to certain important posts unless he owns property or has an income of stated value.

In some countries or territories property-owning and tax-paying qualifications of a higher-than-normal standard are applied in the case of certain elements of the population, and are used as a means of discrimination; for example, white citizens may be permitted to vote although they do not own property, while otherwise eligible non-white citizens must own property of a certain value before they may register or vote. In such cases there is discrimination not only on the ground of property, but also on the ground of race or colour.

But even where there is no such differentiation, property and tax-paying requirements invariably disfranchise a significant number of people, as only a small percentage of the world's people own property or pay real estate taxes. Any restriction on voting or on access to the public service of a country on grounds of property ownership or tax payment would seem to be both objectionable in principle and discriminatory.

Equally discriminatory, of course, is any privilege granted to owners of property, whether in law or in practice. For example, persons holding property are sometimes legally entitled to vote not only in their place of residence but also in the locality where their property is situated, and some members of certain legislative bodies are elected by the votes of property-holders only. Such cases, which are contrary to the principle of equality of suffrage, occur only infrequently nowadays.

In this connexion a word must be said about the political privileges frequently enjoyed, in fact if not in law, by large property-owners and other individuals and groups whose power stems from their wealth and the extent of their holdings, and who use this power to exert economic pressure in order to promote the interests of candidates of their choice. In some countries the extremely high cost of any electoral campaign, and the difficulties which candidates experience when seeking to avail themselves of public information media, constitute a veritable *de facto* discrimination against candidates for public service who do not have extensive wealth or the backing of powerful interests.

## DISTINCTIONS ON THE GROUND OF NATIONAL ORIGIN

Certain aspects of the problem of discrimination in the matter of political rights on the ground of national origin have already been examined in connexion with the consideration of discrimination in this field on the grounds of race, colour and language. However, a few remaining questions may be examined here.

In a great many cases the most important elective and appointive public posts, such as Head of State, Member of the Cabinet, or Member of the Legislature, are reserved exclusively either to nationals by birth or to nationals whose parents were nationals by birth. Such arrangements, when desired by the peoples of the country, can hardly be considered discriminatory.

In some countries residents who are of a particular foreign origin, or whose parents or ancestors came from a particular country or area, find it extremely difficult if not impossible to obtain the nationality of the country, while residents who originated in another country or area experience no such difficulty.

While every State has the right to grant or to refuse its nationality, any distinction made in the exercise of political rights between those who acquired nationality by birth and those who acquired it by naturalization, or between nationals whose ancestors were residents of the country and those whose ancestors were foreigners, or between nationals who originated in different countries or areas, is discriminatory.

In this connexion it may be noted that whereas nationals by birth are seldom deprived of their nationality, the nationality laws of a number of countries provide for de-naturalization of naturalized persons under a number of specified circumstances. If an individual is deprived of his nationality as a means of depriving him of his political rights, this is discrimination.

## DISTINCTIONS ON THE GROUND OF SOCIAL ORIGIN OR BIRTH

Political rights are no longer believed to stem from heredity or from the fact of belonging to a particular social category, class, or caste, such as the "nobility", except in a few instances which are thought of as relics of the past. For example, in a number of countries retaining a monarchical form of government, the crown is still reserved for members of a particular family. In some other countries hereditary rulers or chiefs elect the highest officials of the Government, and in still others a legislative body is composed of hereditary members or members appointed for life. Such arrangements, when viewed in their historical context, can hardly be considered discriminatory as long as they are desired by, and not imposed upon, the peoples of the country.

## DISTINCTIONS ON THE GROUND OF " STATUS "

Restrictions upon the exercise of political rights are frequently imposed upon individuals having " clerical status ", or those having the status of public servants, such as soldiers and policemen. These restrictions usually apply only in respect of access to elective public office, and in most cases do not affect the right to vote or to seek non-elective public office.

### *The right to vote*

In some countries clerics are disqualified from voting, and in a few they are not allowed to join political parties, to form associations of a political character, or to participate in election campaigns. While clearly discriminatory, such restrictions can usually be traced back to a time when there were abuses arising from the union of State and religion, a situation which ultimately led to rebellion and eventually to the separation of the State and religion.

In several countries members of the armed forces and of the police are disqualified from voting or from taking part in other political activities, primarily in an effort to maintain their objectivity and neutrality as between various political factions. However, there can never be any justification for depriving such persons of the right to vote. Restrictions of this type must be condemned as discriminatory, particularly where there is compulsory military service and citizens are not free to decide whether or not they will enter the armed forces.

### *Access to public service*

Regulations barring clerics from access to the public service are quite widespread. In a number of countries they are excluded either from all public offices or from certain important ones. In some countries they cannot teach in the public schools. Such restrictions, while undoubtedly discriminatory in their effect, must be evaluated in their historical perspective.

The reason usually given for barring soldiers and policemen from seeking elective public office is the influence which such political activities might have upon discipline, as in the case where a person of low rank runs for office against his commander. Other reasons sometimes adduced in explanation of this policy include the need to prevent officers from influencing the votes of their men, the desire to prevent a further seizure of power by military personnel in countries which had undergone experiences of that kind in the past, and the political tradition of the country.

In the case of other public servants there may be additional reasons : they include the possibility that a conflict might arise between the individual's duties towards his administration and his responsibilities

to those who vote for him, the fact that as a public servant he might not be able to express his opinions freely, and the fear that he might misuse his public post in such a way as to exert pressure upon voters.

It is very doubtful if such restrictions in respect of access to public office, imposed upon specific categories of public servants in the interests of the majority of the population, should be considered discriminatory. In practice, public servants who decide to seek elective posts usually resign or obtain a leave of absence before undertaking any political activities.

#### DISTINCTIONS ON THE BASIS OF THE POLITICAL, JURISDICTIONAL OR INTERNATIONAL STATUS OF A COUNTRY OR TERRITORY

The colonial system, which most of the people of the world now ardently desire to end, is to a large extent based upon the assumption of the inequality of human beings. While in a few dependent territories wise policies have been developed which have led to voluntary and friendly associations with metropolitan countries, in others the colonizers have disregarded not only the interests but even the life and existence of the indigenous inhabitants, and have subjected them to exploitation, repression, cruelty and discrimination in their own countries of birth. As a device to increase their profits and to protect their investments in the colonies, they have maintained an order in which all forces of progress were paralysed by practices designed to strip the colonized peoples not only of their human rights and fundamental freedoms, including their political rights, but even of their human identity and dignity. They have sometimes attempted to justify these measures by claiming that they have a "civilizing" mission to perform — a mission entrusted to them because of their innate superiority.

With these considerations in mind the General Assembly, in its Declaration on the granting of independence to colonial countries and peoples, has expressed the belief "that the process of liberation is irresistible and irreversible and that, in order to avoid serious crises, an end must be put to colonialism and all practices of segregation and discrimination associated therewith".

## CHAPTER IV

### NATIONAL MEASURES AIMED AT COMBATING DISCRIMINATION IN THE MATTER OF POLITICAL RIGHTS

On the national level, a wide variety of measures is taken to combat discrimination in the matter of political rights, either by Governments, political parties, or organizations such as trade unions, women's and youth groups, bar associations, legal aid societies, civil liberties unions.

Most of the modern constitutions, for example, now affirm, in addition to the traditional concept of equality before the law, the basic principle of non-discrimination. This principle is implemented by further legislative and administrative measures setting standards for the conduct of elections and the organization of the public service, and safeguarded by an independent judiciary to which appeal can be made when discrimination occurs. In some countries specific and direct measures are taken to protect the political rights of particular elements of the population.

In addition many Governments, recognizing the importance of an informed and responsible electorate, contribute to the education of their citizens for civic responsibility, either through the public schools or through informational campaigns.

Political parties and organizations not only provide an outlet through which public opinion may express itself, but also give financial, legal and other assistance to those who are compelled to carry through legal proceedings in order to secure the recognition of their rights by the authorities but do not have the means for doing so. They also carry on educational and informational campaigns designed to promote an increasing awareness of the functions and duties of citizenship.

#### FORM OF THE MEASURES TAKEN BY GOVERNMENTS

##### *Constitutional provisions*

There can be no doubt that the very fact of the inclusion of provisions prohibiting discrimination or ensuring equality before the law in the constitution or the fundamental law of a country is of paramount importance, as such provisions establish a mandate to be followed by all public authorities in the exercise of their functions. Further, they contribute to the moulding of public opinion in a sense adverse to

discrimination. The effectiveness of such provisions is further enhanced when they are enforced by concrete and specific legislative action directed against encroachments by individuals or groups of individuals as well as against arbitrary acts on the part of the public authorities.

On the other hand, as has been pointed out above, discrimination in the matter of political rights is sometimes — although very rarely at present — inherent in constitutional texts referring to the structure of the State or to the mode of selection and vesting of functions in the public authorities. Such discrimination can be eradicated, in many cases, only by constitutional changes, which can be effected by special procedures usually set forth in the constitution itself. If such changes are not made in time, the people may find it necessary to exercise their inherent right to resist oppression.

Constitutional amendments had to be adopted recently in several countries in order to facilitate the participation of all nationals in the government. Such action was necessary, in several cases, before women could be granted the franchise ; or before differences in the status of individuals, based upon real or imaginary collective characteristics of the group to which they belong, could be abolished ; or before a law to prohibit the holding of certain public offices for life could be enacted. Needless to say, any constitutional changes ensuring the progressive development of a country towards a truly representative government tend to decrease the extent of discrimination in the matter of political rights.

#### *Legislative action*

In a few countries which have no written constitution, ordinary legislative action fulfils the role assumed elsewhere by constitutional amendments. But in most countries the legislature's main task is to implement constitutional principles by the preparation of concrete legal provisions. It promotes the eradication of discrimination in the matter of political rights by the preparation of electoral laws and of statutes regulating conditions of employment in the public service based upon the principles of equality and non-discrimination, by the enactment of laws protecting voting freedom generally, and by the repeal of out-of-date legislation which has come to be considered discriminatory in effect.

In recent years legislatures in many countries have enacted new electoral laws, or revised old ones, with the aim of putting into effect the principles of universal adult suffrage. Most of these laws are designed in a general way to ensure impartiality in the organization and conduct of voting. They protect against public or private infringement of the right to vote by a variety of methods, such as by establishing special machinery to supervise elections, penalizing those who seek to disturb freedom of voting by coercion, bribery, venality, force or threats, providing sanctions against government officials who take advantage of their public authority to influence an election, or making it an offence

for an employer not to grant a qualified voter who is in his employ the opportunity to cast his ballot.

In their endeavour to set aside outmoded practices, legislatures in several cases have repealed discriminatory laws, abolished dual electoral and civil service systems, and broadened the possibility of exemption from protective measures so that a larger proportion of "protected persons" might be judged "assimilated" and consequently entitled to exercise their political rights.

In several countries the legislature has provided penal or other sanctions against those found guilty of violating political rights. Such laws normally punish officials and private persons found guilty of serious irregularities in connexion with any stage of the electoral process. Moreover, in at least one country, denial of any post in the civil service or in any branch of the armed forces, owing to prejudice based on race or colour, has been made a criminal offence.

All such legislative measures contribute to the eradication of discrimination in the matter of political rights. Their effectiveness is increased, of course, when they provide for recourse to an independent and impartial tribunal by those who feel that they have been discriminated against.

#### *Judicial action*

In many countries the judiciary plays an important role in the protection of political rights, and sees to it that they are not unduly restricted or denied. In some such countries, where the judiciary has the power to control the conformity of ordinary law with the provisions of the constitution, it may put out of operation a legislative text which conflicts with the constitutional principle of equality in the enjoyment of political rights. The judiciary may also entertain various actions relating to other undue restrictions or denials of guaranteed political rights. For example, it may declare irregular elections to be invalid, punish persons guilty of offences connected with elections or with the employment of public service personnel, or award damages or other remedies to victims of discrimination. Because of the importance of the role played in these matters by public authorities, the punishment prescribed for offenders who are public officials is usually more severe than for those who are private individuals. For the same reason, damages may sometimes be claimed not only from the author of the wrongful act, but also from the authority on whose behalf he acted.

In certain countries the judiciary may, if certain conditions are fulfilled, act even before a denial of political rights has occurred by issuing an injunction to prevent it; or it may issue a writ ordering public authorities to perform a specific duty prescribed by the laws regulating elections or the public service. Sometimes, in order to make actions for the judicial remedies described above readily available to everyone, the formalities are simplified and there are no costs.



In a considerable number of countries regular or special tribunals may hear and pass judgement upon charges relating to discrimination in the conduct of elections or in related matters. Because these acts often affect not only the individual directly concerned, but also the electorate as a whole, the right to bring action before these tribunals may be open not only to an aggrieved person but to any national, who may for example protest the omission from an electoral list of the name of anyone who is entitled to vote, or the inclusion of the name of anyone not entitled to vote. Similarly, any national may attack before such a tribunal, on ground of irregularity, the proceedings followed in voting, counting the ballots, or computing the results. In some countries, however, tribunals are limited to dealing only with allegations which would, if proved, modify the results of the election.

#### *Administrative action*

There are many ways in which administrative authorities act to prevent discrimination in the matter of political rights. In some countries an administrative organ, such as an election commission or an electoral court, is empowered to solve all or most of the problems arising out of elections, and sometimes to certify and to proclaim the results. In others special bodies have been created to keep under constant review the way in which political rights are exercised, and when necessary to take direct remedial action or to bring the matter before the courts. Similarly in some countries an administrative organ, such as a public service or civil service commission, deals with problems relating to equal access to the career civil service. In a number of countries there are special administrative tribunals to which those who feel that they have been unjustly deprived of their political rights may appeal. In such tribunals it is possible to deal not only with *de jure* discrimination but also with allegations of *de facto* discrimination in circumstances where, to all intents and purposes, the letter of the law is being respected.

In this connexion the basic importance of the attitude of administrative authorities towards the exercise of political rights cannot be stressed too much. Discrimination is certainly more likely to be eradicated when these authorities take an active and determined interest in the problem and exert strong moral leadership in working for its solution than when they adopt an attitude of passivity and leave the initiative to others.

Moreover, administrative officials may determine by their attitude and public acts whether or not an election is "genuine". On the one hand, they may provide the necessary safeguards against trickery, coercion, venality, bribery, intimidation, and other undesirable practices. On the other hand, they may condone such practices or even participate in them. It goes without saying that in the latter case no law aimed at the eradication of discrimination in the matter of political rights can operate effectively. It is for this reason that, in a number of countries, election commissions or tribunals, as well as public service and civil

service bodies, do not form part of the normal administrative machinery, but instead are especially composed in a way intended to make them impartial and independent of other branches of government.

## NATURE OF THE MEASURES TAKEN BY GOVERNMENTS

### *Measures to promote periodicity of elections*

If the will of the people of a country is truly to be the basis of the authority of its Government, that will must manifest itself from time to time. Elections and other public consultations, if held often enough, enable the voters to exercise effective control over the policies of their Government and those who implement them. How often this should be is a matter on which there is a wide difference of opinion, and of course the differing circumstances which exist in each particular country must be taken into account. In this connexion it may be observed that if elections and other public consultations are held too frequently, the result may be public apathy and a large percentage of absenteeism.

In a number of countries the holding of elections at periodic intervals, ranging from two to eight years, is considered to be an effective guarantee against loss of control of the government by the people. In others, elections are held whenever necessary, which in practice usually means whenever the incumbent legislature refuses to adopt the policies recommended by the executive. However, even in the latter group of countries a limit is normally put upon the maximum duration of a legislative session and other steps are taken to ensure that the representatives of the people, once elected, do not remain in office indefinitely unless their mandate is renewed at reasonable intervals.

In many countries where the head of the Government is elected, specific limits are placed upon the length of his term and, in some cases, upon the number of terms he can serve. In many countries a term of four or five years, and a maximum of two terms, is considered to be normal. In one case no person who has served one term as head of the Government can ever occupy this post again. In certain countries no member of the family of a retiring head of the Government is eligible to succeed him immediately.

Sometimes particular days or dates are specified by law for general elections to national offices, and for provincial and municipal elections as well. At intervals of several years, all elections for offices which are to be filled at that time are held throughout the country. In such cases the date on which elected officials should assume their functions is also specified. Where elections are held after the dissolution of the legislature, the law usually prescribes that they should be scheduled within a stated period and makes it illegal to postpone them beyond that period.

Four or five years appears to be the most widely accepted term of office for members of legislative bodies, and a number of countries

provide that members of such bodies should serve for such a period. In some countries the legislature continues in office for a five-year period, then is automatically dissolved. In others the term varies considerably, from two years to nine. In most cases where the term exceeds five years, provision is made whereby a stated proportion of the legislative body is elected every second or third year, thus providing for rotation among the members and a certain continuity of membership. In many cases where countries have a bicameral system, the lower house is renewed *in toto* at each election whereas the upper house is renewed only in part.

In a few countries the legislature can be adjourned or dissolved at any time by the Head of State ; in some cases of this kind the concept of periodicity of elections is protected by a provision that a new election must be held after a clearly-specified lapse of time, or that a date for a new election must be established in the order dissolving the legislature.

Needless to say, undue postponement of scheduled elections may defeat the purpose of any provisions regulating periodicity ; for this reason many countries regard postponement as a very serious act which can only be taken by the Head of State or by the legislature in clearly defined circumstances such as a state of war. One of the few valid reasons for the postponement of voting is the fact that insurmountable difficulties make it impossible to complete, in due time, arrangements which would enable all eligible voters to cast their ballots ; in such a case postponement is considered preferable to deprivation of the right to vote.

#### *Measures to promote universality of suffrage*

The principle of universality of suffrage requires first of all that the right to vote should be ensured to all nationals who meet the age and other conditions prescribed by law, without any discrimination. The constitutions of many countries contain provisions to this effect. In other countries such provisions are found in electoral laws and administrative regulations. But mere recognition of the principle is not enough, and in some areas strenuous efforts are made to attain the highest possible percentage first in the registration of prospective voters and later in their participation in all voting procedures.

In many countries, compulsory registration and voting have been introduced. Penal sanctions, fines, or the loss of certain civil or political rights are imposed upon qualified citizens who fail to exercise their right to vote.

Certain other countries have not endeavoured to compel attendance at the polls by law on the ground that any such measure tends to alter the basic concept of the right of everyone to take part in the Government of his country, and to make it instead a duty imposed upon him by the State. The countries which have established compulsory registration and voting particularly the newly independent and under-developed countries among them, explain that they have done so in order to educate the public and to stimulate the interest of the people in public affairs.

In a number of countries, the duty has been put upon administrative officials to take the initiative in placing all eligible voters on the electoral lists. The tentative lists are published, and any voter has the right to bring an omission or an unjustified inscription to the attention of those authorities with a request for correction. If the request is rejected, an appeal against the decision may be taken to the judiciary. And in almost all countries it has been made mandatory to locate registration and voting sites in such a way as to make them easily accessible to all qualified voters and to establish registration and voting procedures which will not result in an undue waste of time or effort for the voters.

In other countries strenuous efforts are made, stopping just short of legal compulsion, to increase the percentage of participants in elections and other public consultations, sometimes with spectacular success. On election day much of the machinery of the State is devoted to this purpose, and the failure of a qualified voter to cast his ballot may be regarded as an unpatriotic act.

In a number of countries emphasis is placed upon enlightening voters as well as increasing their numbers. Efforts of the Government and of private citizens and groups are aimed at providing the prospective voter with all the information he needs in order to cast his ballot intelligently, and at the same time at arousing in him sufficient personal interest in the results of the election to overcome his natural inertia. In such countries primary emphasis is placed upon the education and development of an informed and responsible electorate.

In nearly all countries where elections are held—and there are still some countries where they are unknown—the modern trend appears to be towards the goal of universal suffrage. Old restrictions and disqualifications are being removed gradually, and new ones are only rarely being imposed.

Independent election commissions or tribunals, charged with the preparation of electoral rolls and the conduct of elections, have proved effective in many countries in reducing the incidence of arbitrary refusal by administrative authorities to allow otherwise qualified persons to register or to vote on grounds such as race, sex, language, or religion. Bodies of this type are usually empowered to consider challenges and complaints and to settle them in accordance with the law. Their decisions, in turn, are often subject to judicial review.

Other measures taken to promote universality of suffrage include arrangements for the casting of absentee ballots by individuals who are prevented from appearing in person at the polls, holding elections on an official day of rest, or the granting of a reasonable time to employed workers for the purpose of recording their vote, without any loss of pay.

Many once widespread disqualifications of broad categories of voters are no longer prevalent in modern election laws, although they still exist in isolated cases. Among these are disqualification based upon status or condition—e.g., disfranchisement of the clergy, of members of the armed forces or the police, or persons convicted of certain crimes,

or of persons dependent upon charity—and disqualification based upon “unworthiness”—e.g., disfranchisement of undischarged bankrupts. The blind, deaf mutes, and other physically handicapped persons are no longer so widely disqualified as in the past; indeed, special measures are taken in some countries to facilitate their vote. The same applies to those who are engaged in occupations which impel them to move frequently or to stay abroad. Whereas nationality by birth was once required in many countries as a prerequisite for the enjoyment of any political rights, today most countries permit naturalized citizens, as well as those who have acquired nationality by marriage, to exercise these rights, although in many countries the exercise of political rights is postponed for a stated period after the acquisition of nationality.

Indeed, many countries have tended to reduce their list of grounds for disqualification to a bare minimum, which in some cases now includes only insanity and the specific order of a court. In recent years some countries have reduced their list of grounds even further by constitutional amendments abolishing deprivation of electoral rights by court decision as a penalty for criminal offences.

Finally, it is necessary to stress once again the interrelationship between political rights and economic, social and cultural rights. It is not possible, in under-developed countries, to achieve universal participation in elections without first raising the standards of living and broadening the educational level of the masses of people. Consequently any measure tending in this direction may be considered as a factor favouring the achievement of universal suffrage.

#### *Measures to promote equality of suffrage*

The basic principle of equality of suffrage—“one man, one vote”—is now almost universally accepted and applied in practice. Electoral systems in which an individual might be entitled to vote more than once in a single constituency, or in more than one constituency—depending upon his material wealth, his social position, or his education—have all but disappeared.

A primary purpose of the election machinery established in most countries today is to ensure that no individual shall cast his ballot more than once in any particular election. This machinery ranges all the way from elaborate pre-election registration systems, whereby the *bona fides* of each prospective voter may be examined and challenged before election day, to the simple but none the less effective solution of marking each voter with indelible ink as he casts his ballot so that he can be identified immediately should he attempt to vote a second time.

A second aspect of equality of suffrage is that each vote should be accorded equal weight. If, to elect a single representative, 5,000 votes are required in one constituency and only 1,000 in another, the weight of each vote in the latter area is correspondingly greater than that of each vote in the former. Where such differences in weight have not been established deliberately, they usually occur as a result of shifts of popu-

lation, as when a great many rural inhabitants move to urban areas, or from one political sub-division to another. The result of such a shift is that fewer votes are required to elect one representative in the deserted area while more votes are required in the area of destination.

In order to correct the inequality which results from changes of this kind, periodic readjustments of the basis of representation are undertaken by a large number of Governments ; the representation of each political unit is computed by a mathematical formula applied to the population of that unit with a view to the maintenance of a constant ratio between the number of eligible voters and the number of representatives. Normally, where such machinery exists, it is brought into operation automatically at regular intervals, usually within a short time after each national census.

In this connexion it should be noted that equality of suffrage can be destroyed by the practice of establishing separate electoral colleges or electoral rolls for various elements of the population of a country. This practice, which divides eligible voters into categories and places each upon a different footing, has fortunately become obsolete except in a few countries where it is maintained either as a special measure for the protection of a particular element of the population which otherwise would not have fair representation in the government, or as an admittedly discriminatory device.

#### *Measures to promote secrecy of the vote*

Secrecy of the vote is a comparatively modern innovation. Up to the nineteenth century it was generally accepted that voting was a public function which should be exercised in public, and the practice was for each elector to state his preference in a loud voice so that everyone might know his choice. This "open vote" system was abandoned because of the opportunity it furnished for intimidation of electors by public officials, employers or pressure groups, and in time it was replaced by the secret vote which is now universally accepted in principle—at least as concerns votes cast to choose between candidates for public office—and is applied in nearly every country in the world.

A great variety of measures has been adopted by Governments for the purpose of ensuring secrecy of the vote. All these methods differ because of the differences in polling places, ballots, ballot boxes, and voting machines, but all have the same basic aims. Essentially their purpose is to enable every elector to mark or to cast his ballot in private, and to ensure that no one observes him in this act or ascertains from him how he has voted or intends to vote.

In most countries those in attendance at a polling station are enjoined from interfering with an elector when casting his ballot, from attempting to obtain any information as to the candidate for whom the elector has voted or is about to vote, from inducing or endeavouring to induce any elector to show his ballot to anyone after he has marked it, and from communicating to any other person any information as to the

candidate for whom any elector is about to vote or has voted. Those in attendance at the counting of the votes may not obtain any information as to the person who has cast any particular ballot, or communicate such information to any other person.

Further, in some countries it is illegal for an elector to declare openly, in a polling station, for whom he intends to vote or has voted, or to show his ballot paper to anyone after he has marked it; and sometimes, the law forbids even the courts to require any elector to state how he intends to cast, or has cast, his vote.

Of course, provisions of this nature should not be applied as rigidly in the case of voters who cannot follow the normal procedure on account of inability to read or physical incapacity; in such cases it is usually considered more important that their vote be recorded with the help of a person whom the voter trusts, who of course then assumes an obligation not to divulge how the vote was cast.

*Measures to promote the genuine character of elections  
and other public consultations*

In nearly every country where elections or other public consultations are held, they are regulated by constitutional texts or by electoral laws or regulations. Such provisions which may be either permanent or temporary (for one election only) in nature, and either national, provincial, or municipal in scope, usually govern every phase of the electoral process and contain safeguards against such serious abuses as fraud, bribery, venality, coercion or intimidation of voters.

In a number of countries, electoral laws or regulations established independent and impartial bodies charged with the supervision of elections and election officials. Such bodies usually have the power to remove any official who does not perform his duties properly, and are authorized to examine and decide any controversy arising out of an election—subject only to review by the appropriate court—and to fine, imprison, or otherwise punish offenders. The independence and impartiality of such a body, and the swiftness with which it may act when an abuse occurs, ensures the genuine character of the election which it supervises.

The most common measures against electoral fraud, appearing in the laws of nearly all countries, prohibit forgery or destruction of ballots, “stuffing” of ballot boxes or manipulation of voting machines, or the manufacture or importation of boxes having secret compartments in which marked ballots could be stored before an election or diverted, misplaced or manipulated after the voting has taken place.

Many countries provide specifically for the attendance at registration offices and polling stations, as well as at the counting of the ballots, of representatives of each candidate for election, or of each political party or organization. These representatives may challenge those who seek to register or to vote, and verify each ballot as it is counted. Where challenges are disputed the question is settled either by the election commission or tribunal or, if necessary, by the judiciary.

Compulsory accountability of election expenditures is directed primarily against bribery, although in some countries its purpose may also be to set a limit on these expenditures, in order to equalize the opportunities of rich candidates and poor ones. Many Governments require detailed reports from all candidates for public office of campaign contributions and expenditures, place a limit upon the total amount which can be received or spent in an election campaign, and prohibit the receipt of contributions from corporations or individuals having financial or contractual dealings with the public authorities. In addition, they make unlawful the solicitation or receipt of any money tendered for the purpose of inducing an elector to vote in a particular way.

Measures against intimidation generally prohibit any attempt, by violent means, duress, or threats, to influence an elector's vote or to persuade him to abstain from voting; and any attempt to disturb the conduct of an election. In some countries officials in the public service, and in particular the police and members of the armed forces, are forbidden to request electors to give, or not to give, their votes to a particular candidate.

At the same time, most Governments recognize that they have a special responsibility to ensure the widest possible freedom of opinion and expression and freedom of peaceful assembly and association in the campaigning period which normally precedes elections. Accordingly they make every effort to afford rival candidates substantially equal opportunities to hold public meetings, to organize public displays, to issue advertisements, circulars and publications, and otherwise to present their views freely to the electorate.

It frequently happens that on election day only one nominee, or only the number of nominees required by law to be elected to represent a constituency, is on the ballot, no other candidates having been nominated or all others having withdrawn. In such cases the procedure in many countries is to declare such nominee or nominees elected without any voting. Where flagrant cases have arisen of nomination of candidates and subsequent withdrawal for improper motives, it has been found necessary to take action to prevent such acts.

#### *Measures to promote equal access to elective public office*

Whereas Governments once were inclined to place many strict conditions upon the eligibility of nationals to seek election to public office and thus to confine candidatures to members of the privileged classes, the modern tendency is to reduce to a minimum the possible grounds for disqualification and to promote, both in law and in fact, the fullest possible equality of access to elective public office. However, this of course does not apply to elective public offices with certain inherent requirements, such as legal training and experience in the case of elected judges.

Stipulations that candidates for such office should be nationals by birth, or that they should possess a stated independent income, or that



they should have particular educational qualifications, are no longer much in evidence. Instead many Governments now guarantee, in constitutions or electoral laws, that every national shall have equal access to elective public office without any discrimination. Generally speaking, all that is now required of a candidate for public office is that he should be qualified as an elector in his own constituency. In many cases, however, there is a minimum age requirement somewhat higher than that set for electors, since a certain maturity is considered to be an inherent requirement of most public posts. But there seems to be a general tendency to lower age requirements.

Further, some Governments have tended recently to drop the demand for organizational sponsorship of candidates for public office and to make it possible for a candidacy to be initiated solely on the independent petition of a stated number of qualified electors. In some such countries the law states specifically that political party affiliation is not necessary for one to be a candidate for public office.

On the other hand, some Governments have tended to restrict to organized political parties the right to nominate candidates for elective public posts. In some such countries the establishment of political parties or organizations by groups composed of a reasonable minimum number of voters is free, and consequently this system does not give rise to discrimination. However, in countries where there is a limitation on the establishment of political organizations, the system may lead to serious discrimination against all those who do not share the views of any of these organizations.

Needless to say, the lowering of formal requirements for nominees has made possible many candidatures that might otherwise never have been put forward, and has drawn into public life many individuals and groups having a real contribution to make to the government of their country.

At the same time, certain Governments have found it necessary in some cases to strengthen provisions designed to prevent the election to public posts of certain categories of persons, such as members of the armed forces and the police, public officials, and individuals whose private interests might be expected to conflict with the interests of the State. In most cases such action has occurred as a result of historical circumstances, which have to be examined carefully and objectively before it can be determined whether or not the effect of the action is to promote equality or to institute discrimination.

#### *Measures to promote equal access to appointive public office*

The tradition of an impartial non-political career civil service has become firmly established in many countries during the past century. In order to promote this tradition, which has its roots in the principle of selection by order of merit as established by competitive examination, without any discrimination, many Governments have set up civil service commissions, responsible only to the legislature. Such commissions may function on the provincial and local, as well as on the national, level.

The functions of these bodies may range through the whole gamut of personnel action, and include the examination of candidates, their appointment, evaluation and ranking, their service rating, the checking of their records, their transfer and promotion, the safeguarding of their tenure, and their compensation, retirement and pension. In addition, bodies of this type are often called upon to implement legal provisions against discrimination in the career civil service, such as a prohibition of any inquiry by appointing officers concerning the race, religion or political affiliation of a candidate for employment. In some cases, in addition, they receive, examine, and adjust complaints, and conduct programmes of education and persuasion designed to eliminate the causes of discrimination.

*Measures for the protection of particular elements of the population*

In certain countries special measures are taken to protect the political rights of those who differ from the rest of the people by virtue of certain characteristics, such as race, language or religion. Similar measures are also taken, in a few cases, to protect the political rights of women.

When such people are localized in one part of the country and form a local majority, a measure of autonomy or self-government is sometimes granted to them as a means of protecting these rights. Where the groups are large and each group is sufficiently numerous, the problem is sometimes solved by the establishment of a federal system of government whereby each group is able to exercise self-government in many matters of local interest and at the same time to be assured of full participation in the central government in all matters of national interest.

Such solutions are not possible when the various peoples are intermingled and widely dispersed. Then, in order to keep the minority from being deprived of fair representation in the Government, some countries have adopted measures of protection designed to fit the special circumstances of each particular case.

For example, in one country where conditions have made it almost impossible for a particular community to have fair representation in legislative bodies, the law authorizes the President of the country to nominate two members of that community to the lower chamber of the central legislature if in his opinion the community is not adequately represented therein. Further, each Governor of a political unit is empowered to nominate to legislative assemblies of that unit as many members of the community as he considers appropriate. These measures were originally to cease to have effect after a ten-year period; however, they have recently been extended for a further period of ten years.

Similarly, when authorities in one newly independent country undertook to elaborate constitutional provisions relating to the enjoyment of political rights, they found that much thought had to be given to the question of whether it would be desirable to make special provision in the

legislature for racial groups which might not otherwise secure representation through the electoral process. It was agreed that such provision should be contemplated only in cases where there was, at the time, no real prospect of adequate representation by other means. Representatives of the various racial groups indicated clearly that they would not in any event wish separate racial representation to continue for any length of time, but they felt that during the initial stages, until the political life of the country had developed more fully on non-racial lines, some very limited provision for nomination in respect of racial minorities should be made, with the understanding that the position should, however, be reviewed before the end of an initial period of four years. Accordingly two racial communities were accorded separate representation in the form of one nominated seat each, while the interests of a third group were safeguarded by the reservation of a nominal seat in the legislature for someone charged with representing their interests. Subsequently, when the situation was reviewed two years later, the provisions establishing separate representation of the various ethnic groups were dropped as being no longer necessary for the purpose which they had been intended, and a new law was adopted prescribing that in dividing each State into constituencies for the purpose of electing members of the central and provincial legislature, due allowance should be made for the distribution of the different communities.

In several countries with large aborigine populations or backward elements, seats in the legislature are allotted to these communities even though it is recognized that under normal circumstances members of these groups could be expected to exercise their political rights only to a very limited extent in view of the unsettled nature of their livelihood and the inability of many to meet residential or literacy qualifications. In such cases only members of the group accorded such special consideration are eligible for election to a reserved seat; in addition, they are also eligible for election to fill any unreserved seat.

A slightly different arrangement is to be found in one case where no distinction is made between "Europeans" and an ethnic minority in the terms on which the franchise is granted or denied in the elections for the House of Representatives, but where the country is divided, for the purpose of the representation of the minority people, into four special districts set up for that minority. A "European" is not qualified to be registered in a minority electoral district, and a member of the minority, other than a half-caste, may not register in a European electoral district. The election of four representatives of the minority is thus ensured, and the Government states that this legislative representation, which was designed to ensure the protection of the interests of the members of the minority, "has given them a proportionately higher representation in Parliament than the European electors".

In a few other cases provision is made for the political representation of minority groups in Parliament. Sometimes a similar result is achieved by means of a system of proportional representation.

In several countries the entire electoral system is based upon

acceptance, whether by law or by agreement, of an arrangement for the separate representation of various communities or confessional groups. In one such country, the confessional distribution of seats in the legislature is established by the electoral law, and under an agreement the highest offices of the State are allotted to members of the various communities. In another, the country is divided into electoral districts and the law designates the number of candidates who may be elected in each unit and their religion, and the ethnic or tribal group to which each must belong.

Occasionally provision is made for the separate representation of women in legislative bodies. Thus in one case the law provides that "in the various kinds of elections, the number of women to be elected shall be fixed", and as a result a quota has been established whereby for every four members of the national assembly there must be one additional woman member and for every ten representatives of all the local assemblies there must be one additional female representative. In another case women, apart from being represented by members for the constituencies in which they reside, are represented by ten additional women members.

Special measures for the protection of particular elements of the population of a country are also sometimes adopted in respect of the right to equal access to the public service. In many cases these take the form of a quota system, public or clandestine, by which fair representation of such groups in public offices is ensured.

A special situation sometimes arises where several distinct groups within a country speak different languages. The problem is a two-fold one: on the one hand, to ensure to everyone the right to equal access to the public service irrespective of his language; on the other hand, to ensure to each group that official business is transacted in a language which can be understood by the persons served. One way of solving this problem is to recognize that knowledge of the local language is an inherent requirement of all posts in a particular area.

Another special situation arises in countries where the public service was once to a large extent staffed by individuals who did not belong to the majority group. Not yet able to compete with members of the former privileged group in terms of qualification, members of the now predominant majority are nevertheless gradually replacing them either with the tacit or outright approval of the Government, or even with the sanction of the law.

The difficulty which arises in connexion with all special protective measures is that they tend to become discriminatory with the passage of time. They may be said to be justified only so long as the political, economic, social and cultural conditions of the peoples concerned prevent them from enjoying the benefits of the general laws of their country. But their effect is clearly discriminatory if they are continued beyond the time when they are necessary or are used in such a way as to create or to prolong an undue preference.

### *Educational and other measures*

The importance of an enlightened electorate has already been stressed. In this respect education plays a vital role. One of the important functions of the public schools is to educate youth to its civic responsibilities. Outside the schools other educational methods—such as campaigns of publicity and propaganda—are used to enlighten the public as to the undesirability of discrimination in the matter of political rights. Through education, nationals of a country become increasingly aware of their political rights and of the need for their protection.

With regard to the public service, it has been found that prejudice often diminishes or even disappears when members of a group, formerly discriminated against in public employment because they were considered “backward”, are given the necessary training and an opportunity to demonstrate their ability.

Other indirect techniques for combating discrimination in this area include the general improvement of working conditions, the effective elimination of any differentials as between members of different groups in respect of pay or conditions of employment, and the establishment of a definite tenure for all employees in the public service.

#### MEASURES TAKEN BY NON-GOVERNMENTAL ORGANIZATIONS AND INDIVIDUALS

While the role of public authorities in combating discrimination in the matter of political rights must be recognized as paramount, that of non-governmental organizations and individuals is also essential.

Primarily non-governmental organizations encourage full citizen participation in elections and other public consultations, and provide a means whereby public opinion concerning political matters may express itself in advance of formal elections. Trade unions, women's, youth and veterans' organizations, and civic bodies of all kinds frequently join in efforts to keep the electorate informed and to assist the voters in casting their ballots intelligently. The importance of such activities, particularly on the part of organizations that are politically disinterested, cannot be overlooked, and it is vitally important that organizations of this type should have a defined legal status in order that they may be able to express their views without fear.

Individuals—with the assistance of non-governmental organizations where necessary—also play a vital role, not only by voting and seeking election or appointment to the public service, but also by resisting any discriminatory practices or infringements of political rights. In defending his political rights the individual may find himself in opposition to his own Government, and may have to test those rights against the overwhelming power of the State. It is, however, of fundamental importance that he should endeavour to maintain those rights with every means

at his disposal, since a Government which is not determined to protect political rights is in a particularly advantageous position to infringe them. Indeed, the main examples in history of the infringement of political rights have been of infringements by Governments, and some of the worst threats to those rights today come from Governments.

The ideal, of course, may be said to lie in co-operation between the authorities of Government, non-governmental organizations, and individuals, with a balance struck between governmental measures, which alone can ensure the complete eradication of discrimination in the matter of political rights, and non-governmental activities designed to initiate or to improve those measures or to promote and if necessary to compel their implementation.

## CHAPTER V

### INTERNATIONAL MEASURES AIMED AT COMBATING DISCRIMINATION IN THE MATTER OF POLITICAL RIGHTS

Measures of various kinds have been adopted on the international level with the aim of combating discrimination in the matter of political rights. Some of these measures have had a universal application, while others have been regional in scope.

The treaties of peace and other instruments concluded after the Second World War, for example, contain provisions relating to, or affecting political rights. A number of resolutions adopted by the General Assembly of the United Nations, as well as one adopted by the Security Council, deal with the enjoyment of political rights, either generally or in relation to particular situations. The General Assembly has also adopted the Convention on the Political Rights of Women. In addition, several International Labour Organisation conventions refer to political rights. Moreover, on a regional level, concerted action has been taken by certain countries of Europe, of Latin America, and of the African-Asian area to promote or to protect the political rights of peoples of those areas and to eradicate discrimination in respect of those rights.

#### TREATIES OF PEACE AND OTHER INSTRUMENTS CONCLUDED AFTER THE SECOND WORLD WAR

After the Second World War the concept of the protection of human rights was incorporated in various treaties of peace as a reflection of the Charter of the United Nations, which considers respect for human rights and fundamental freedoms to be an important factor for the maintenance of international peace and security.

All of the treaties of peace signed at Paris on 10 February 1947, as well as the State Treaty for the Re-establishment of an Independent and Democratic Austria, dated 15 May 1955, contain provisions relating to, or affecting, political rights. These treaties stipulate that each former enemy State, and Austria, shall take all measures necessary to ensure to all persons under its jurisdiction, without distinction as to race, sex, language or religion, the enjoyment of all human rights and of the fundamental freedoms, including freedom of expression, of press

and publication, of religious worship, of political opinion and of public meeting.<sup>1</sup>

The treaties of peace with Hungary and Romania contain, in addition, clauses prohibiting discrimination between persons of Hungarian or Romanian nationality, as the case may be, on the ground of their race, sex, language or religion, whether in reference to "their persons, property, business, professional or financial interests, status, political or civil rights or any other matter".<sup>2</sup>

The treaty of peace with Italy contains a special section II, on nationality, civil and political rights, in which one article provides that Italian citizens who were domiciled on 10 June 1940 in territory transferred by Italy to another State<sup>3</sup> under the treaty "shall... become citizens with full civil and political rights of the State to which the territory is transferred...".<sup>4</sup>

Further, there is annexed to the Memorandum of Understanding between the Governments of Italy, the United Kingdom, the United States of America and Yugoslavia Regarding the Free Territory of Trieste, initialled in London on 5 October 1954, a Special Statute in which the Governments of Italy and Yugoslavia agree that:<sup>5</sup>

"The members of the Yugoslav ethnic group in the area administered by Italy and the members of the Italian ethnic group in the area administered by Yugoslavia shall enjoy equality of rights and treatment with the other inhabitants of the two areas.

"This equality implies that they shall enjoy:

"(a) Equality with other citizens regarding political and civil rights...

"(b) Equal rights in acquiring or performing any public services, functions, professions and honours;

"(c) Equality of access to public and administrative office..."

#### ACTIVITIES OF A GENERAL NATURE WITHIN THE FRAMEWORK OF THE UNITED NATIONS

##### *Essentials of peace*

In resolution 290 (IV), entitled "Essentials of Peace", adopted on 1 December 1949, the General Assembly called upon every nation "to

<sup>1</sup> United Nations *Yearbook on Human Rights* (1947), Treaty of Peace with Bulgaria, article 2, p. 390; Treaty of Peace with Finland, article 6, p. 391; Treaty of Peace with Hungary, article 2 (1), p. 392; Treaty of Peace with Italy, article 15, p. 393; Treaty of Peace with Romania, article 3 (1), p. 397; see also *Yearbook on Human Rights* (1955), Survey of Human Rights in Austria in 1955, p. 10.

<sup>2</sup> United Nations *Yearbook on Human Rights* (1947), Treaty of Peace with Hungary, article 2 (2), p. 392; Treaty of Peace with Romania, article 3 (2), p. 397.

<sup>3</sup> States to which formerly Italian territory was transferred are: France, Yugoslavia and Greece.

<sup>4</sup> United Nations *Yearbook on Human Rights* (1947), Treaty of Peace with Italy, article 19, p. 393.

<sup>5</sup> *Ibid.* (1954), article 2, p. 398.



promote, in recognition of the paramount importance of preserving the dignity and worth of the human person, full freedom for the peaceful expression of political opposition . . . and full respect for all the other fundamental rights expressed in the Universal Declaration of Human Rights". Subsequently the General Assembly, in resolution 819 (IX), entitled "Strengthening of peace through the removal of barriers to the free exchange of information and ideas", adopted on 11 December 1954, called upon all Governments to give effect faithfully to resolution 290 (IV), "as a guide to the achievement of a genuine peace with freedom and justice".

*Draft International Covenant on Civil and Political Rights.* The draft International Covenant on Civil and Political Rights deals with political rights in article 23. The text of this article, which was adopted by the Third Committee of the General Assembly on 8 November 1961, is as follows :<sup>6</sup>

" Article 23

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

" (a) To take part in the conduct of public affairs, directly or indirectly 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) Of access, on general terms of equality, to public service in his country."

Other articles of the draft Covenant deal with rights mentioned elsewhere in this study (chapter II) as being closely related to political rights.

*Convention concerning the Abolition of Forced Labour*

The International Labour Conference at its fortieth session adopted, on 25 June 1957, the Convention Concerning the Abolition of Forced Labour (ILO Convention 105),<sup>7</sup> by which each ratifying member undertakes (article 1) to suppress and not to make use of any form of forced or compulsory labour " (a) as a means of political coercion or education or as punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system . . . "

*Convention Concerning Discrimination in Respect of Employment and Occupation*

The International Labour Conference at its forty-second session adopted, on 23 June 1958, the Convention Concerning Discrimination

<sup>6</sup> E/2573, annex 1 b.

<sup>7</sup> United Nations Yearbook on Human Rights (1957), p. 303.

in Respect of Employment and Occupation (ILO Convention 111),<sup>8</sup> by which each ratifying member undertakes "to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof". The policy is to be pursued *inter alia* in respect of employment under the direct control of a national authority.

At the same time the Conference also adopted a Recommendation on this subject, containing corresponding provisions (ILO Recommendation 111).<sup>9</sup>

ACTIVITIES WITHIN THE FRAMEWORK OF THE UNITED NATIONS  
WITH REFERENCE TO PARTICULAR SITUATIONS

*Palestine*

On 29 November 1947 the General Assembly adopted resolution 181 (II), on the future government of Palestine, in which it recommended to the United Kingdom, as the mandatory Power for Palestine, and to all other Members of the United Nations, the adoption and implementation of a Plan of Partition with Economic Union. The Plan, annexed to the resolution, set forth *inter alia* the following steps preparatory to independence (part. I, section B) :

" 9. The Provisional Council of Government of each State shall, not later than two months after the withdrawal of the armed forces of the mandatory Power, hold elections to the Constituent Assembly which shall be conducted on democratic lines.

" The election regulations in each State shall be drawn up by the Provisional Council of Government and approved by the Commission...

" 10. The Constituent Assembly of each State shall draft a democratic constitution for its State and choose a provisional government... The constitutions of the States shall... include *inter alia* provisions for :

" (a) Establishing in each State a legislative body elected by universal suffrage and by secret ballot on the basis of proportional representation, and an executive body responsible to the legislature ;

" ...

" (d) Guaranteeing to all persons equal and non-discriminatory rights in civil, political, economic and religious matters and the enjoyment of human rights and fundamental freedoms, including freedom of religion, language, speech and publication, education, assembly and association..."

The plan further called for a Declaration to be made to the United Nations by the Provisional Government of each proposed State before

<sup>8</sup> *Ibid.* (1958), p. 307.

<sup>9</sup> *Ibid.*, p. 308.

independence, that Declaration to contain *inter alia* the following clauses (part II, section C, chapter (2)) :

“ . . .

“ 2. No discrimination of any kind shall be made between the inhabitants on the ground of race, religion, language or sex.

“ 3. All persons within the jurisdiction of the State shall be entitled to equal protection of the laws.”

#### *Racial situation in the Union of South Africa*

In resolution 616 B (VII) the General Assembly declared “ that in a multiracial society harmony and respect for human rights and freedoms and the peaceful development of a unified community are best assured when patterns of legislation and practice are directed towards ensuring equality before the law of all persons regardless of race, creed, or colour, and when economic, social, cultural and political participation of all racial groups is on a basis of equality ”. It further affirmed “ that governmental policies of Member States which are not directed towards these goals, but which are designed to perpetuate or increase discrimination, are inconsistent with the pledges of the Members under Article 56 of the Charter ”. The General Assembly established on 5 December 1952 a Commission consisting of three members to study the racial situation in the Union of South Africa in the light of the purposes and principles of the Charter, with due regard to the provisions of several specifically mentioned Articles thereof and resolutions of the United Nations on racial persecution and discrimination. In the following years the Commission submitted three reports to the General Assembly, in each of which it dealt with acts and orders providing for differences in the treatment of various groups with respect, *inter alia*, to their political rights.<sup>10</sup>

The Government of the Union of South Africa made it clear that it regarded the resolution as contrary to Article 2, paragraph 7, of the Charter, which precludes the United Nations from intervening “ in matters which are essentially within the domestic jurisdiction of any State ”. Consequently, it did not recognize the Commission or co-operate with it.

The General Assembly examined each of the Commission's reports and adopted resolutions thereon.<sup>11</sup> Resolution 917 (X), adopted after examination of the third report, did not provide for the continuance of the Commission.

The General Assembly has subsequently included an item entitled

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<sup>10</sup> See *Official Records of the General Assembly, Eighth Session, Supplement No. 16* (A/2505 and Add. 1), chapter VI, section II ; chapter VII, section II ; chapter VIII, section II ; *Ninth Session, Supplement No. 16* (A/2719), chapter IV, sections I and II ; chapter VI, section I (3) ; *Tenth Session, Supplement No. 14* (A/2953), chapter II, section III.

<sup>11</sup> See General Assembly resolutions 721 (VIII), 820 (IX) and 917 (X).

“ The Question of Race Conflict in South Africa resulting from the policies of *apartheid* of the Government of the Union of South Africa ” on the agenda of each subsequent session, and has adopted resolutions 1016 (XI), 1178 (XII), 1248 (XIII) 1375 (XIV) and 1598 (XV) on this question.

Moreover the Security Council, at its 856th meeting on 1 April 1960, after having considered a complaint submitted by twenty-nine Member States (S/4279 and Add. 1) concerning “ the situation arising out of the large-scale killings of unarmed and peaceful demonstrators against racial discrimination and segregation in the Union of South Africa ”, adopted a resolution calling upon the Government of the Union of South Africa “ to initiate measures aimed at bringing about racial harmony based on equality in order to ensure that the present situation does not continue or recur and to abandon its policies of *apartheid* and racial discrimination ”.

#### *South West Africa*

The General Assembly established, by resolution 749 A (VIII) of 28 November 1953, a Committee on South West Africa, to function “ until such time as an agreement is reached between the United Nations and the Union of South Africa ”. The Committee was requested, *inter alia*, to “ examine, within the scope of the Questionnaire adopted by the Permanent Mandates Commission of the League of Nations in 1926, such information and documentation as may be available in respect of the Territory of South West Africa ”.

The Committee subsequently submitted reports to each session of the General Assembly, and each report has included a section on political conditions in the Territory.<sup>12</sup> The General Assembly has examined each of these reports and adopted resolutions thereon.<sup>13</sup> In one of these resolutions (resolution 1054 (XI)) it drew the attention of the Government of the Union of South Africa to the Committee’s recommendations concerning, *inter alia*, “ the extension to all the inhabitants of representation in the existing territorial legislature ”, and “ the basing of public employment on qualifications other than race and the progressive training of non-Europeans for higher posts in the Administration ”. In a second resolution (resolution 1245 (XIII)), it expressed its deep

<sup>12</sup> *Official Records of the General Assembly, Ninth Session, Supplement No. 14 (A/2666)*, annex V, section II, paras. 10-75; *Tenth Session, Supplement No. 12 (A/2913)*, annex II, section II, paras. 13-71; *Eleventh Session, Supplement No. 12 (A/3151)*, annex 11, section II, paras. 24-51; *Twelfth Session, Supplement No. 12 (A/3626)*, annex I, section II, paras. 25-37; *Thirteenth Session, Supplement No. 12 (A/3906)*, part III, section II, paras. 56-79; *Fourteenth Session, Supplement No. 12 (A/4191)*, part II, section III, paras. 61-89; *Fifteenth Session, Supplement No. 12 (A/4464)*, part II, section III, paras. 125-249; *Sixteenth Session (A/4926)*.

<sup>13</sup> See General Assembly resolutions 851 (IX), 941 (X), 1054 (XI), 1140 (XII), 1245 (XIII) and 1360 (XIV).

concern "regarding the social, economic and political situations now prevailing in the Territory".

The General Assembly, at its fifteenth session, adopted seven resolutions relating to South West Africa (resolutions 1563, 1564, 1565, 1566, 1567, 1568 and 1593 (XV)). In one of these (resolution 1564 (XV) of 18 December 1960, on political freedom in South West Africa), the General Assembly expressed its deep concern regarding the report that leaders of the South West Africa Peoples Organization and other Africans in the Territory of South West Africa were being subjected to arbitrary imprisonment and deportation, and urged the Government of the Union of South Africa "to instruct the competent authorities in the Mandated Territory of South West Africa to cease the arbitrary imprisoning and deporting of Africans, including the leaders and members of the South West Africa Peoples Organization, and to ensure the free exercise of political rights and freedom of expression for all sectors of the population". In a second (resolution 1568 (XV) of 18 December 1960), the General Assembly expressed regret "that the Government of the Union of South Africa has so far failed to respond to the repeated appeals of the General Assembly asking it to revise a policy which infringes the fundamental rights and freedoms of the indigenous inhabitants of South West Africa and imposes upon them disabilities of various kinds, hindering their political, economic and social advancement", deprecated the application, in the Territory of South West Africa, of the policy of *apartheid*, and called upon the Union Government "to revoke or rescind immediately all laws and regulations based on that policy". In a third (resolution 1593 (XV) of 16 March 1961) the General Assembly recorded its special concern over the refusal of the Mandatory Power to implement resolution 1568 (XV), and likewise noted with concern "the continued acts whereby, since 1950, the Government of the Union of South Africa has attempted to bring about the assimilation of the Territory of South West Africa, and in particular the so-called referendum of 5 October 1960 in which only the 'European' inhabitants of the Territory were permitted to take part". The General Assembly appealed to those Members of the United Nations which have particularly close and continuous relationships with the Government of the Union of South Africa "to bring, as a matter of urgency, all their influence to bear on that Government with a view to ensuring that it shall adjust its conduct to its obligations under the Charter of the United Nations and shall give effect to the resolutions adopted by the General Assembly".

The General Assembly, in resolution 1568 (XV), invited the Committee, in addition to its normal tasks, to go to the Territory to investigate the situation and to ascertain and make proposals on the conditions for restoring a climate of peace and security and the steps which would enable the indigenous inhabitants to achieve a wide measure of internal self-government designed to lead them to complete independence as soon as possible. After considering a preliminary report by the Committee, the General Assembly in resolution 1596 (XV) noted with deep regret

that the Government of the Union of South Africa had refused to co-operate with the United Nations by facilitating the mission of the Committee, and requested the Committee to proceed to discharge the tasks entrusted to it. In its report on the implementation of these resolutions (A/4926), the Committee stated *inter alia* that the policy of *apartheid* "is the most pervasive feature of the administration of the Mandated Territory and extends to all aspects of life of the Native population, as illustrated in particular by the following :

' (a) In the political field, the Native population is completely deprived of all political and civic rights — the right to vote or to be elected, to participate in the affairs of government, to have freedom of movement and expression, to organize themselves into political parties in pursuit of their legitimate interests and aspirations — all these being the exclusive monopoly of the small White minority...'

### *Hungary*

By resolution 1132 (XI) the General Assembly established, on 10 January 1957, a Special Committee on the Problem of Hungary. The Committee submitted an interim report on 20 February 1957 (A/3546). A fuller report was submitted on 12 June 1957 (A/3592) including a Chapter entitled "The Reassertion of Political Rights" (Chapter XIII) and one entitled "Political Rights After the Revolution" (Chapter XIV). This report was endorsed by the General Assembly in resolution 1133 (XI), adopted on 14 September 1957. The Committee later submitted a supplementary report, dated 14 July 1958 (A/3849), which the General Assembly also endorsed in resolution 1312 (XIII). In the same resolution, the General Assembly *inter alia* deplored "the continuing repression in Hungary of fundamental rights of the Hungarian people and of their freedom of political expression...".

The Government of Hungary did not participate in these activities, maintaining that the Committee "violates, in its function, the Charter of the United Nations".

### ACTIVITIES WITHIN THE FRAMEWORK OF THE UNITED NATIONS RELATING TO THE POLITICAL RIGHTS OF WOMEN

In 1946 the General Assembly, in resolution 56 (I), recommended to all Member States which had not yet granted women political rights equal to those granted to men that they "adopt measures necessary to fulfil the purposes and aims of the Charter in this respect". On the initiative of the Commission on the Status of Women and in compliance with the General Assembly's resolution, the Economic and Social Council, in resolution 154 A (VII), recommended to the States Members of the United Nations that they grant full political rights to women.

The General Assembly at its seventh (1952) session adopted the Convention on the Political Rights of Women, which as of 1 June 1962

had been signed by forty-two States, and ratified or acceded to by thirty-six. The Convention contains the following substantive provisions :<sup>14</sup>

*“ Article 1*

“ Women shall be entitled to vote in all elections on equal terms with men, without any discrimination.

*“ Article 2*

“ Women shall be eligible for election to all publicly-elected bodies, established by national law, on equal terms with men, without any discrimination.

*“ Article 3*

“ Women shall be entitled to hold public office and to exercise all public functions, established by national law, on equal terms with men, without any discrimination.”

The Economic and Social Council, in resolution 504 E (XVI) and 547 B (XVIII), urged Member States which had not yet done so to sign and ratify or accede to the Convention, and requested that States Parties report to it every two years on the measures taken by them to implement its provisions. In resolutions 154 B (VII), 385 G (XIII), and 771 B (XXX), the Council recommended to States Members of the United Nations and of the specialized agencies that they take the necessary steps to remove legal and other obstacles impeding the access of women—and particularly married women—to public services and functions and the exercise by them of such functions. Further, in resolution 652 B (XXIV), the Council invited non-governmental organizations “ to continue their activities in support of the political rights of women, and to apply their efforts towards increasing public support in the various countries for the signature and ratification of, or accession to, the Convention ”.

The Secretary-General has circulated to the General Assembly each year since 1948, pursuant to resolution 120 A (VI) of the Council, a memorandum on constitutions, electoral laws and other legal instruments relating to the political rights of women. The latest memorandum in the series (A/5153) was circulated to the seventeenth (1962) session, and like earlier memoranda in the series embodies, where available, provisions which grant, restrict or deny women the right to vote and to be elected. In addition to these texts the memorandum presents tables dealing with the following questions :

- I. Countries where women may vote in all elections and are eligible for election on an equal basis with men (96) ;
- II. Countries where the right to vote and/or the eligibility of women are subject to limitations not imposed on men (8) ;

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<sup>14</sup> United Nations *Yearbook on Human Rights* (1952), p. 376.

- III. Countries where women have no voting rights and are not eligible for election (9) ;
- IV. Countries which have taken action since the signature of the United Nations Charter (1945) confirming, granting or extending full or limited political rights to women (69) ;
- V. Dates on which women were granted the right to vote ;
- VI. Countries which have signed, ratified or acceded to the Convention on the Political Rights of Women as at 1 June 1962 (48).

Another activity in this field, initiated by the General Assembly in resolution 926 (X), is the holding of a series of regional seminars under the Programme of Advisory Services in the Field of Human Rights. Some of these seminars are designed to assist women who have recently acquired political rights, or do not fully exercise them, in developing their understanding of civic responsibility and increasing their participation in the public life of their countries.

The first such seminar, on " Civic Responsibilities and Increased Participation of Asian Women in Public Life ", was held in August 1957 in Bangkok, Thailand (ST/TAO/HR 1). The General Assembly, at its twelfth session that year, adopted resolution 1163 (XII), in which, noting with satisfaction the success of the seminar, it expressed the hope that such seminars would be held as frequently as possible in the near future. In May 1959 a seminar on the participation of women in public life was held in Bogotá, Colombia (ST/TAO/HR 5). A third seminar on this subject was held in December 1960 in Addis Ababa, Ethiopia (ST/TAO/HR 9).

At its fifteenth session, in 1961, the Commission on the Status of Women expressed its interest in the study of discrimination in the matter of political rights, and requested the Secretariat to make it available to the Commission at its next session (E/3464, para. 23).

#### ACTIVITIES WITHIN THE FRAMEWORK OF THE UNITED NATIONS RELATING TO NON-SELF-GOVERNING AND TRUST TERRITORIES

The Charter of the United Nations states, in its Declaration Regarding Non-Self-Governing Territories (Chapter XI), that Members of the United Nations which have or assume responsibilities for the administration of such Territories accept as a sacred trust the obligation to ensure, with due respect for the culture of the peoples concerned, " their political, economic, social and educational advancement, their just treatment, and their protection against abuses " ; and also " to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each Territory and its peoples and their varying stages of development ". In Chapter XII, establishing the International Trusteeship System, the



Charter states that one of the basic objectives of the system shall be "to promote the political, economic, social and educational advancement of the inhabitants of the Trust Territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each Territory and its peoples and the freely expressed wishes of the peoples concerned, as may be provided by the terms of each Trusteeship Agreement".

*Declaration on the Granting of Independence to Colonial Countries and People*

In resolution 1514 (XV), entitled "Declaration on the granting of independence to colonial countries and peoples", the General Assembly declared *inter alia* that immediate steps should be taken, in Trust and Non-Self-Governing Territories or all other territories which had not yet attained independence, to transfer all powers to the peoples of those Territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom.

*Non-Self-Governing Territories*

During the year beginning 16 June 1960 and ending 15 June 1961, the Secretary-General received information on fifty-one Territories from six Administering Members under Article 73 e of the Charter, as compared with fifty-six Territories the previous year. Administering Members used as a guide the revised Standard Form adopted by the General Assembly, which makes it optional to transmit information on the political development of the peoples of each Territory. The Governments of Australia, the Netherlands, New Zealand and the United States of America, as in previous years, included information under this optional category.

The General Assembly, in resolution 1535 (XV), expressed the view that while rapid economic, social and educational advancement must be directed towards the independence of the Territories, the inadequate level of development in these fields should not serve as a pretext for deferring their accession to independence. It urged the Administering Members, once again, to extend their full co-operation by transmitting information of a political and constitutional character; and further urged them to strengthen their efforts in the economic, social and educational fields with the full participation of the indigenous inhabitants in all areas of activity.

The Governments of Portugal and Spain were invited by the General Assembly, in resolution 1542 (XV) of 15 December 1960, to participate in the work of the Committee on Information from Non-Self-Governing Territories. The Committee, at its twelfth session held from 24 April to 26 May 1961, examined the question of the exercise of political rights,

including the right to vote, and heard statements by Administering Members on the exercise of these rights in Territories under their administration. Some members of the Committee considered that the situation with regard to the extension to all inhabitants of the full exercise of basic political rights, and in particular the right to vote, was far from satisfactory in many Territories.

The Committee recommended that all steps should be taken by Administering Members to implement Assembly resolution 1536 (XV), endorsing the view that racial discrimination was a violation of human rights and constituted a deterrent to progress in all fields of development in Non-Self-Governing Territories, and recommending that the Administering Members immediately rescind or revoke all laws and regulations which tend to encourage or sanction, directly or indirectly, discriminatory policies and practices based on racial considerations and that they do their utmost to discourage such practices by all other means possible. The Committee observed that a bold and realistic approach on the part of Administering Members and Territorial Governments was required if the problem of racial discrimination was to be solved. It further stated that since prejudice was one of the most important factors contributing to racial discrimination, it was the duty of the Governments concerned to guide public opinion.

In a report to the fifteenth session of the General Assembly (A/4526), the Special Committee of Six which the Assembly had appointed to study the principles which should guide Members in determining whether or not an obligation existed to transmit information under Article 73 e of the Charter noted that since 1946 over 100 million people in some thirty dependent Territories had attained the goals set forth in Chapter XI, and that many independent States which had previously been Non-Self-Governing Territories had been admitted to membership in the United Nations. The report of the Committee pointed out that the right of independent peoples to choose their own destiny was more universally accepted today than at any other time since the signing of the United Nations Charter, and emphasized that the progressive development of self-government must take into account the particular circumstances of a Territory and the aspiration of its peoples, and must be in tune with the movement towards freedom and equality everywhere.

The General Assembly, in resolution 1541 (XV), approved with some modifications twelve principles suggested by the Committee of Six to guide Members in assessing their obligations under Article 73 e. The principles stated, *inter alia*, that (a) a *prima facie* obligation existed to transmit information under Article 73 e on Territories geographically separated and ethnically and culturally distinct from the administering country; (b) that full self-government could be reached by the achievement of independence or free association or integration with an independent State; (c) that free association should be the result of a free and voluntary choice by the peoples of the Territory concerned expressed through informed and democratic processes, and should be one which

retains for the peoples of the Territory which is associated with an independent State the freedom to modify the status of that Territory through the expression of their will by democratic means and through constitutional processes ; (d) that the associated Territory should have the right to determine its internal constitution without outside interference, in accordance with due constitutional processes and the freely expressed wishes of the peoples ; (e) that integration with an independent State should be on the basis of complete equality between the peoples of the erstwhile Non-Self-Governing Territory and those of the independent country with which it is integrated, that the peoples of both Territories should have equal status and rights of citizenship and equal guarantees of fundamental rights and freedoms without any distinction or discrimination, and that both should have equal rights and opportunities for representation and effective participation at all levels in the executive, legislative and judicial organs of government ; (f) and that integration should come about only after the integrating Territory had attained an advanced stage of self-government with free political institutions, so that its peoples would have the capacity to make a responsible choice through informed and democratic processes, and should be the result of the freely expressed wishes of the Territory's peoples acting with full knowledge of the change in their status, their wishes having been expressed through informed and democratic processes, impartially conducted and based on universal adult suffrage.

The General Assembly, in resolution 1542 (XV), considered that certain Territories under the Administration of Portugal were Non-Self-Governing Territories within the meaning of Chapter XI of the Charter, and declared that an obligation existed on the part of the Government of Portugal to transmit information concerning these Territories. At the same session the representative of Spain stated that his Government had decided to transmit to the Secretary-General the information pertaining to the Territories referred to in Chapter XI of the Charter. The twelfth session of the Committee on Information was attended by the representative of Spain, who provided the Committee orally with information on conditions, including political conditions, in Fernando Po, Rio-Muni and the Spanish Sahara.<sup>15</sup> The Committee noted with regret the absence of the representative of Portugal, and that Portugal had not yet transmitted information under Article 73 e.

The General Assembly, in resolution 1534 (XV), on the preparation and training of indigenous civil and technical cadres in the Non-Self-Governing Territories, noted that there were serious shortages of trained personnel in the Territories, and requested the Administering Members to prepare special reports setting out all available information on the training facilities for, and the current strength, composition, and state of preparation of, civil and technical services in the Territories

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<sup>15</sup> United Nations, *Report of the Committee on Information from Non-Self-Governing Territories, Official Records of the General Assembly, sixteenth session, Supplement No. 15 (A/4785), annex V.*

under their administration. The information received was examined by the Committee at its twelfth session. Some members of the Committee pointed out that much of this information emphasized the "localization" of civil service personnel, whereas the General Assembly was concerned primarily with the training of the indigenous inhabitants to enable them to staff their own national civil services upon the attainment of self-government. Further, the continued existence of separate civil services organized along racial lines was incompatible with the objectives contained in General Assembly resolution 1534 (XV). The Committee reported to the General Assembly that it had not been able to examine the question fully because of the lack of information, and arranged for all the available information to be placed before the General Assembly at its sixteenth session.

### *Trust Territories*

Each Trusteeship Agreement contains provisions relating to the political advancement of the inhabitants of the Territory in question, generally providing that the Administering Authority shall assure to the inhabitants of the Territory a progressively increasing share in its administrative and other services, and shall develop the participation of the inhabitants in advisory and legislative bodies and in the Government of the Territory. The Administering Authorities submit information on developments in the political field regularly to the Trusteeship Council.

The Trusteeship Council, in its report to the General Assembly on its activities from 1 July 1960 to 19 July 1961,<sup>16</sup> pointed out that the attainment of the objective of self-government or independence was imminent for four Trust Territories, namely, Ruanda-Urundi, Tanganyika, the Cameroons under British administration and Western Samoa. The general elections and the referendum on the question of the Mwami, held in Ruanda-Urundi in 1961 under United Nations supervision, were expected to furnish the basis for the Territory's independence. The date of independence for Tanganyika has been advanced by the Administering Authority from 28 December 1961 to 9 December 1961. The Trusteeship Agreement relating to the Cameroons under British administration is to be terminated (a) with respect to the Northern Cameroons, on 1 June 1961, upon its joining the Federation of Nigeria as a separate province of the Northern Region of Nigeria, and (b) with respect to the Southern Cameroons, on 1 October 1961, upon its joining the Republic of Cameroun. The Trusteeship Agreement for Western Samoa is to be terminated on 1 January 1962, when the Territory will become independent.

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<sup>16</sup> United Nations, *Report of the Trusteeship Council, 1 July 1960 - 19 July 1961, Official Records of the General Assembly, sixteenth session, Supplement No. 4 (A/4818)*, chapter V, paras. 2-6.

## ACTIVITIES OUTSIDE THE FRAMEWORK OF THE UNITED NATIONS

Outside the general framework of the United Nations, a number of Governments have participated on a regional basis in activities aimed at the eradication of discrimination in the matter of political rights. Activities of European States have been centred mainly in the Council of Europe, those of Latin American States in the Organization of American States, and those of other regions in separate conferences held at Bandung, Cairo, Accra, Monrovia and Belgrade.

### *Council of Europe*

The Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950, reaffirms the profound belief of the signatory Governments "in those fundamental freedoms which are the foundation of justice and peace in the world and are best maintained on the one hand by an effective political democracy and on the other by a common understanding and observance of the human rights upon which they depend".<sup>17</sup>

Under the provisions of the Convention, the Contracting Parties undertake to secure for everyone within their jurisdiction a series of rights and freedoms, including freedom of expression, freedom of assembly and freedom of association.

On 20 March 1952 a Protocol was signed at Paris on behalf of the fifteen Governments signatory to the Convention. The Protocol, which, entered into force on 18 May 1954, contains the following provision :<sup>18</sup>

" *Article 3.* The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature."

To ensure the observance of these rights, article 19 of the Convention provides for the setting up of a European Commission of Human Rights and a European Court of Human Rights. Both organs are now functioning.<sup>19</sup>

To date, ten of the fifteen members of the Council of Europe have subjected themselves to the right of petition to the European Commission of Human Rights, and eight of the fifteen have accepted the jurisdiction of the European Court of Human Rights.

### *Organization of American States*

One of the principles of the Charter of the Organization of American States, signed at the Ninth International Conference

<sup>17</sup> United Nations *Yearbook on Human Rights* (1950), p. 420.

<sup>18</sup> *Ibid.* (1952), p. 411.

<sup>19</sup> *Ibid.* (1950), pp. 422-425. The Statute of the Commission may be found in section III of the Convention ; the Statute of the Court in section IV.

of American States, held at Bogotá from 30 March to 2 May 1948, is that "the solidarity of the American States and the high aims which are sought through it require the political organization of those States on the basis of the effective exercise of representative democracy". A second principle is that the fundamental rights of the individual are proclaimed without distinction as to race, nationality, creed or sex.<sup>20</sup>

### *American Declaration of the Rights and Duties of Man*

The Ninth International Conference of American States also adopted the American Declaration of the Rights and Duties of Man, containing the following provisions relating to political rights :<sup>21</sup>

#### *" Article 20*

" Every person having legal capacity is entitled to participate in the government of his country, directly or through his representatives, and to take part in popular elections, which shall be by secret ballot, and shall be honest, periodic and free.

#### *" Article 22*

" Every person has the right to associate with others to promote, exercise and protect his legitimate interests of a political, economic, religious, social, cultural, professional, labour union or other nature."

The Declaration also contains the following provisions relating to duties of every individual :

#### *" Article 32*

" It is the duty of every person to vote in the popular elections of the country of which he is a national, when he is legally capable of doing so.

#### *" Article 34*

" It is the duty of every able-bodied person to render whatever civil and military service his country may require for its defence and preservation, and, in case of public disaster, to render such services as may be in his power.

" It is likewise his duty to hold any public office to which he may be elected by popular vote in the State of which he is a national.

#### *" Article 38*

" It is the duty of every person to refrain from taking part in political activities that, according to law, are reserved exclusively to the citizens of the State of which he is an alien."

### *Convention on the Granting of Political Rights to Women*

An Inter-American Convention on the Granting of Political Rights to Women was adopted at the same Ninth International Conference of American States, on the basis of a draft prepared by the Inter-American

<sup>20</sup> *Ibid.* (1948), p. 437.

<sup>21</sup> *Ibid.*, pp. 441-442.

Commission of Women. This Convention contains the following provisions :<sup>22</sup>

*“ Article 1*

“ The High Contracting Parties agree that the right to vote and to be elected to national office shall not be denied or abridged by reason of sex.”

The Inter-American Commission of Women has been actively engaged in promoting political rights for women on a basis of equality throughout the western hemisphere, and on many occasions has urged Governments of the American republics which have not already done so to incorporate provisions to this effect in their fundamental law.

*Other instruments*

Instruments containing provisions furthering the principle of the effective exercise of representative democracy as a basis for ensuring the solidarity of the American Republics and the collective security of the Inter-American System have been adopted at the Ninth and Tenth Inter-American conferences, held at Bogotá (1948) and at Caracas (1954) respectively, as well as at the fourth, fifth and seventh Meetings of Consultation of Ministers of Foreign Affairs, held at Washington (1951), Santiago de Chile (1959), and San José de Costa Rica (1960), respectively. The instrument in which this principle of the effective exercise of representative democracy has been developed to the greatest extent is the Declaration of Santiago.

*Declaration of Santiago*

The Fifth Meeting of Consultation of Ministers of Foreign Affairs adopted the Declaration of Santiago, expressing “ the general aspiration of the American peoples to live in peace under the protection of democratic institutions, free from all intervention and all totalitarian influence ”. The Declaration expresses the view that “ the faith of the peoples of America in the effective exercise of representative democracy is the best vehicle for the promotion of their social and political progress ”. It declares *inter alia* the following principles :<sup>23</sup>

“ 2. The Governments of the American republics should be the result of free elections.

“ 3. Perpetuation in power, or the exercise of power without a fixed term and with the manifest intent of perpetuation, is incompatible with the effective exercise of democracy.

“ 6. The systematic use of political proscription is contrary to American democratic order.

<sup>22</sup> *Ibid.* (1948), p. 439.

<sup>23</sup> *Fifth Meeting of Consultation of Ministers of Foreign Affairs*, Final act, 1960, Pan American Union, pp. 4-6.

“7. Freedom of the press, radio, and television, and, in general, freedom of information and expression, are essential conditions for the existence of a democratic régime.”

*Proposal for an inter-American convention on human rights*

At the fifth Meeting of Consultation of Ministers of Foreign Affairs of the American States, held in Santiago, Chile, from 12 to 18 August 1959, a resolution was adopted (resolution VIII) expressing the view that the climate in the western hemisphere is favourable to the conclusion of a convention on human rights, and charging the Inter-American Council of Jurists, one of the technical organs of the Council of American States, to elaborate a draft convention on human rights establishing an Inter-American Court of human rights and other appropriate organs. The draft, prepared by the Council of Jurists at its fourth session, held in Santiago from 24 August to 9 September 1959, contains the following provisions :<sup>24</sup>

“ Article 2

“ . . .

“ (3) In no case shall capital punishment be inflicted for political offences.

“ Article 16

“ All citizens shall enjoy the following rights and opportunities, with the exceptions established by their national laws, which may not abridge the guarantees provided in Article 17 of this Convention :

“ (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 by secret ballot, which guarantees the free expression of the will of the voters ;

“ Article 17

“ All persons are equal before the law. The law shall prohibit discrimination and guarantee to all persons equal and effective protection against any discrimination for reasons of race, colour, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.”

The draft convention includes a series of provisions (part IV, articles 65 to 88) on the organization of an Inter-American Court of Human Rights.

*Inter-American Commission on Human Rights*

The Fifth Meeting of Consultation of Ministers of Foreign Affairs of the American States also created an Inter-American Commission on

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<sup>24</sup> *Final Act of the Fourth Meeting of the Inter-American Council of Jurists, Santiago, Chile, 24 August to 9 September 1959, Pan American Union, Washington, D.C., January 1959, pp. 48-75.*



Human Rights, composed of seven members elected, as individuals, by the Council of the Organization of American States from panels of three names presented by the Governments.

The Statute of the Commission, prepared by a special committee, was approved by the Council of the Organization of American States at a meeting held on 25 May 1960. The function of the Commission, according to article 1 of the Statute, is to promote respect for human rights. Article 2 stipulates that human rights are understood to be those set forth in the American Declaration of the Rights and Duties of Man.

The Inter-American Commission on Human Rights has held two sessions, the first on October 1960 and the second on April 1961. During the first session, the Commission adopted a draft amendment of the Statute, regarding chapter III, on Competence and Procedure, and approved for inclusion in its general work programme two topics of special interest in connexion with the prevention of discrimination in the matter of political rights: "4. Improvement of electoral procedures and measures that should be adopted to assure suffrage rights" and "6. Measures designed to protect and implement the rights to freedom of investigation, opinion, and of the expression and dissemination of ideas...". A Rapporteur was appointed by the Commission to study each of these topics. During the second session the Commission adopted a resolution concerning the procedure to be followed with reference to communications or claims received alleging violations of human rights within the American States.

#### *Further studies*

Finally, the Fifth Meeting of Consultation of Ministers of Foreign Affairs entrusted to the Inter-American Council of Jurists the study of "the possible juridical relationship between respect for human rights and the effective exercise of representative democracy, and the right to set in motion the machinery of American international law in force". At the same time it entrusted to the Inter-American Peace Committee the study *inter alia* of "the relationship between violations of human rights or the non-exercise of representative democracy, on the one hand, and the political tensions that affect the peace of the hemisphere on the other" and "the relationship between economic underdevelopment and political instability".<sup>25</sup>

#### *Activities in other regions*

The Asian-African Conference, convened upon the invitation of the Prime Ministers of Burma, Ceylon, India, Indonesia and Pakistan, met in Bandung, Indonesia, from 18 to 24 April 1955 to consider problems of common interest and concern to countries of Asia and Africa and to discuss ways and means by which their people could achieve fuller

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<sup>25</sup> *Fifth Meeting of Consultation of Ministers of Foreign Affairs*, Final Act, 1960, *op. cit.*, pp. 7-8.

economic, cultural and political co-operation. The Conference *inter alia* deplored "the policies and practices of racial segregation and discrimination which form the basis of government and human relations in large regions of Africa and other parts of the world" and expressed the view that "such conduct is not only a gross violation of human rights, but also a denial of the fundamental values of civilization and the dignity of man".<sup>26</sup>

The Afro-Asian People's Solidarity Conference, held in Cairo, United Arab Republic, from 26 December 1957 to 1 January 1958, adopted a resolution<sup>27</sup> in which it condemned policies of racial discrimination in whatever form they existed, and recommended to all Governments that steps should be taken, in every country where racial discrimination was practised, to ensure, *inter alia*, (a) repealing all laws and regulations legalizing racial discrimination or segregation or *apartheid* . . . (c) granting all persons above a certain age the right of candidature and voting for Parliament irrespective of their colour, race or creed . . . and (e) granting equal rights of citizenship without any reservation.

The Conference adopted resolutions relating to respect for human rights and the prevention of racial discrimination. The most important of its decisions, which took the form of a declaration entitled "Promotion of World Peace and Co-operation", lists the ten factors which, in the opinion of the Conference, would effectively contribute to the maintenance and promotion of international peace and security. The first factor mentioned is the "respect for fundamental human rights and for the Purposes and Principles of the United Nations Charter", while the third is "recognition of the equality of all races".

Another passage in the final communique deals specifically with the problem of racial discrimination; it is worded in part as follows:

"The Asian-African Conference deplored the policies and practices of racial segregation and discrimination which form the basis of government and human relations in large regions of Africa and in other parts of the world. Such conduct is not only a gross violation of human rights, but also a denial of the fundamental value of civilization and the dignity of man.

"The Conference . . . reaffirmed the determination of the Asian-African peoples to eradicate every trace of racialism that might exist in their own countries; and pledged to use its full moral influence to guard against the danger of falling victims of the same evil in their struggle to eradicate it."

The Conference of Independent African States, meeting in Accra, Ghana, from 15 to 22 April 1958, condemned<sup>28</sup> the practice of racial

<sup>26</sup> *Asian-African Conference*, issued by the Information Service of Indonesia, Embassy of the Republic of Indonesia, New Delhi, 1955, p. 210.

<sup>27</sup> *Afro-Asian People's Solidarity Conference*, issued by the Foreign Languages Publishing House, Moscow, 1958, pp. 232-233.

<sup>28</sup> *Conference of Independent African States, Declarations and Resolutions*, Parliament House, Accra, Ghana, 22 April 1958, p. 7.

discrimination and segregation in all its aspects all over the world, appealed to Governments, religious bodies and spiritual leaders to intensify their efforts to combat and eradicate this form of injustice, and recommended to participating Governments that they should take vigorous measures to eradicate where they arise vestiges of racial discrimination in their respective countries.

The same Conference, meeting in Monrovia, Liberia, from 4 to 8 August 1959, again condemned<sup>29</sup> the practice of racial discrimination and segregation, called upon Members of the United Nations and all peoples of the world to associate themselves with the resolutions passed by the United Nations and the Bandung and Accra Conferences condemning this inhuman practice, and recommended that "the different Governments take such measures as to contribute effectively to persuade the Union of South Africa to implement the resolutions of the United Nations on racial questions".

The Second Conference of Independent African States, held in Addis Ababa, Ethiopia, from 14 to 25 June 1960, paid homage "to all victims of the shameful policy of *apartheid* and racial discrimination", and decided "to assist the victims of racial discrimination and furnish them with all the means necessary to attain their political objectives of liberty and democracy".<sup>30</sup>

The Belgrade Conference of Non-aligned Nations, held in Belgrade from 1 to 6 September 1961, included the following statements in its Final Declaration :

" 8. The participants in the Conference resolutely condemn the policy of *apartheid* . . . and demand the immediate abandonment of this policy. They further state that the policy of racial discrimination anywhere in the world constitutes a grave violation of the Charter of the United Nations and the Universal Declaration of Human Rights."

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<sup>29</sup> *Conference of Independent African States*, documents, resolution VII : Racial Discrimination.

<sup>30</sup> *Africa Weekly*, vol. VIII, No. 4, New York, 8 July 1960, p. 3.

## CHAPTER VI

### TRENDS, CONCLUSIONS AND GENERAL PRINCIPLES

It is incontestable that in the countries and territories surveyed, the scope of political rights has been considerably broadened in recent years. Universal and equal suffrage by secret ballot has been extended in many countries. At the same time, self-government and independence have been achieved in almost all of the formerly Non-Self-Governing and Trust Territories.

Moreover, many once widely-established limitations or restrictions upon the exercise of political rights have gradually been removed. Disqualification on the ground of sex, at one time almost universal, is now found only rarely. Disqualification of illiterates is being discarded as new methods of mass communication make it possible for them to take an effective part in public affairs. Adherence to a particular religious faith, ownership of property, and payment of certain taxes—all once considered necessary prerequisites to participation in the Government—are generally no longer required. The removal of each of those disqualifications may be said to represent real progress in the eradication of discrimination in the matter of political rights. Also the independence attained in the last few years by scores of peoples has allowed the enjoyment of political rights to several hundreds of millions of individuals.

There has been a trend in recent years towards improvement of standards of living in some under-developed areas. A number of countries with a high rate of illiteracy and a low per capita income have made considerable strides, either alone or through international co-operation, towards providing opportunities for their inhabitants to enjoy economic, social and cultural rights. The favourable climate thus created in the economic and social fields has almost invariably led to an improvement in the recognition and enjoyment of political rights.

On the other hand the work of the United Nations and the existence of the Universal Declaration of Human Rights have exercised a great influence in the extension of political rights. Global and regional instruments ensuring respect for political rights have been prepared and have entered into force. These, coupled with a tremendous increase in the scope of international co-operation to improve economic and social conditions throughout the world, have made it manifest that political rights are not only to be recognized and observed, but made a living reality.

It must nevertheless be pointed out that the rate of progress, fast as it may be, is not fast enough. For although countless persons have cast their first ballot during those years, or have won election or appointment to public offices formerly barred to them, millions are still deprived by discrimination on grounds such as race, sex, language or religion of the elementary right to take part in the Government of their own country ; they are limited or restricted in the exercise of their right to vote or stand for election, and they do not have access to public service on equal terms with others. Moreover, without freedom to exercise their political rights, these people lack the sanction necessary to control the policies or the personnel of Government, and thus are unable to win recognition of other human rights, including their economic, social and cultural rights. There are still several million people who inhabit territories which have not yet attained political autonomy and therefore do not exercise the rights which are dealt with in this study. The progressive elimination of colonialism will surely have the effect of considerably extending the area of application of political liberties.

In addition to the progress generally achieved in the field of political rights, mention must be made of the continued existence of discriminatory practices which represent regressive phenomena. Throughout this report the opinion has been stated repeatedly that what really safeguards the dignity of the human person is the totality of the rights laid down in the Universal Declaration of Human Rights ; and the inseparable relation between the enjoyment of political rights and of economic, social and cultural rights has accordingly been emphasized.

In certain places it is noted that, even where there is an adequate protection of political rights, the scope and effectiveness of the exercise of those rights is shrinking, owing to a deterioration in the living conditions of the majority and an increase in the social and economic differences between various sectors of the population. In a number of countries—and this is particularly true of the so-called under-developed countries—standards of living have occasionally sunk so low that they have actually undermined human dignity. Under such conditions there can be no complete or efficient fulfilment of political rights. A veritable *de facto* discrimination has thus been created against persons who lack education, who have poor health or who live in a perpetual state of need and economic distress, while economic power and influence remain in the hands of minority groups, which include in some instances not only nationals of the country but also foreigners. In order to correct the resultant inequalities, some Governments had found it necessary to resort to vigorous measures for the purpose of raising the standard of living of the common man and thereby broadening the democratic basis of the country. Lack of such action or of international co-operation for the creation of decent living conditions, in order to provide equal opportunities for all—in other words, failure to establish a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights can be fully enjoyed—is tantamount to insufficient protection for the exercise of political rights.

In many countries the active protection of economic, social and cultural rights has been given great prominence, while the respect for political rights has not been accorded the same importance. In this respect, it should be stated that economic, social and cultural rights being of an essentially dynamic character, and therefore perfectible, limitation of the enjoyment of political rights not only constitutes discrimination in respect of these, but also prevents the enjoyment of economic, social and cultural rights, which can only be ensured in an atmosphere of political freedom. For this reason it is clear that the progressive disappearance of the tendency to conceive of the exercise of political rights and of economic, social and cultural rights in a partial and unbalanced way, which does not agree with the conception of the Charter and of the Declaration, would represent a noteworthy advance towards the elimination of discrimination in respect of both categories of rights.

Recent years have also witnessed the accession or consolidation of régimes of force which suppress political rights, either openly or covertly. This of course should be distinguished from the general modern trend towards a strengthening of the executive branch of government, with a corresponding weakening of the relative strength of the legislative branch, due to the complexities of modern government and the need to take many highly technical decisions. As long as effective popular control is fully maintained through elections and by other means, no objection can be raised. But in some countries strong executives have armed themselves with the legal right to make every major political decision, to determine the acts of subordinate organs unconditionally, and to promulgate, rescind or alter the laws and regulations, and sometimes even the judicial decisions, by which the country is governed. Some others have maintained an elaborate facade of government based upon the will of the people, and have even organized "spontaneous" participation of the masses in the process of government—provided that it is carefully arranged to suit their own ends. In such countries—sometimes even in spite of frequent elections and widespread suffrage—discrimination in the matter of political rights is prevalent because the majority of the population is deprived by trickery—such as coercion, intimidation, bribery, venality, fraudulent "stuffing" of ballot boxes, or inaccurate counting of votes—of its right to take part in the government. The remarkable thing is that, despite the existence of some very autocratic and unscrupulous Governments since the beginning of the twentieth century, the human spirit has in so many cases managed to reassert itself and to re-establish recognition of human rights and fundamental freedoms. Moreover, it is noteworthy that nowadays even the most autocratic and unscrupulous Governments do not admit that they are depriving anyone of political rights.

In other countries strong executives exist on a temporary rather than a permanent basis. Government of this type is sometimes resorted to as an emergency measure ; it differs from the first type in that the arrangement is supposed to be terminable and that sometimes the powers

of the executive are restricted by law. While its effect is temporarily to deprive practically all nationals of their political rights, it may be acceptable if it actually serves to bring into existence, as rapidly as possible, the forms and practices of government based upon the will of the people.

In still another category of countries where strong executives have assumed power, their announced purpose is one of political adjustment through experimentation. Thus executives in several newly-independent countries, citing as justification the unfamiliarity of their peoples with democratic processes and their dissatisfaction with the slowness of economic progress, have installed systems wherein representative government is introduced only progressively and by pre-determined, well-defined stages. Here achievement of the ultimate goal, which in some cases is visualized as a type of democracy quite different from any which other countries have adopted, is considered to require the temporary imposition of restrictions upon the exercise of all or certain political rights during a more or less prolonged period of trial and error while the various arrangements which are in vogue in different countries and regions of the world are analysed, synthesized, and tried out on a small scale before a final decision is made. And here again the question arises whether such restrictions are truly temporary in nature, in which case they may be considered to be justified, or whether their real aim is to delay indefinitely ultimate accountability of the executive to the will of the people.

Occasional reversion to government by a strong executive may be termed a "childhood illness" which afflicts many countries in the early stages of their development as independent States. It was a phenomenon in Latin America during the nineteenth century. The hope may be expressed that in other regions, where independence has been acquired more recently, the periods of popular government will progressively lengthen as has been the case in the Latin American countries.

It may be said that the eradication of discrimination in the enjoyment of political rights is sometimes a lengthy process, in which results are achieved only in successive stages. Individuals or groups which have been the victims of discrimination often achieve recognition of their political rights by the Governments of their countries only gradually, and many additional years may elapse before the whole gamut of political rights is ensured to them both in law and in fact. Some, for example, win recognition of the right to vote first, and only later achieve recognition of the right to equal access to the public service. For others, the process is reversed; their right to perform certain public functions is first recognized, and only later are they permitted to vote or to stand for public office. In some cases, individuals or groups may achieve partial enjoyment of certain political rights long before full equality is recognized. For example, their right to vote in elections may be recognized, but on conditions of eligibility different from those established for the remainder of the population.

In assessing such cases of incomplete or partial enjoyment of political rights it is necessary to bear in mind the general trend that is apparent ; if that trend is towards eventual full enjoyment of all political rights the situation, while perhaps acceptable as a temporary expedient, is certainly more encouraging than if the trend is in the opposite direction.

Generally speaking, it is the public authorities in each country or territory and in each political unit who hold the key to the eradication of discrimination in the enjoyment of political rights, and they have an obligation to intervene in any situation militating against the full enjoyment of those rights. Their duty in this respect may be considered to be a three-fold one.

First, they must create the general conditions necessary for the enjoyment of all human rights, including political rights. In this respect they have an obligation to solve the problems of misery, poverty, want and ignorance, and to raise living standards ; as well as an obligation to ensure that all people who have recently been allowed to exercise their political rights, or are about to be allowed to do so, are educated in their role as citizens, in order that they may be prepared to exercise those rights intelligently.

Secondly, they must adopt and apply all measures necessary to ensure to everyone, without any discrimination, the opportunity to exercise his political rights, and thereby to make the will of the people truly the basis of the authority of government. In the case of States responsible for the administration of dependent territories, these measures must be extended to those territories, as well as to the metropolitan area, in accordance with the principle of equal rights and self-determination of peoples set forth in Article 1 of the Charter, the obligations assumed under Article 73 thereof, and the Declaration of the General Assembly on the granting of independence to colonial countries and peoples.<sup>1</sup>

Finally, they must prevent private individuals from denying or limiting the exercise of political rights.

In this connexion, it must be stressed again that the eradication of discrimination in the enjoyment of political rights is a means—and perhaps the most effective means—of extirpating other forms of discrimination and of helping all peoples to enjoy all human rights and fundamental freedoms. Moreover, full and equal participation in all facets of public life is essential not only to the attainment of an equal status for all members of the human family but also to the building of a better civilisation based upon the sharing by all of the responsibility for decisions of common interest.

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<sup>1</sup> See in this connexion paragraphs 3 and 4 of resolution 1514 (XV) of the General Assembly.



The essential conclusions emerging from this study of freedom and non-discrimination in the matter of political rights may be summarized in the form of general principles, elaborating and clarifying the principles set forth in the Universal Declaration of Human Rights and particularly articles 2 and 21 thereof.

Such general principles, setting out what might be considered to be a minimum list of essential political rights, without which it is impossible even to speak of political freedom, could serve to educate not only public opinion, but also Governments. Furthermore, if agreement can be reached upon such general principles, this may lead in time to the establishment of international instruments for the purpose of promoting the enjoyment of these rights and the extension of these principles.

It is of course essential that any such principles should be common standards of general nature as far as possible, and objective in nature. It would be extremely dangerous and harmful to attempt to divide the countries of the world into arbitrary categories—based, for example, upon differences in their political development or economic status—and to draft separate sets of principles in order to cover these different cases. However, for the very reason that such differences do exist, it cannot be expected that any general principles could be applied immediately in all States. Their full and final application would necessarily depend upon circumstances of history and of economic and social development, as well as many other factors.

The principles suggested below reflect the substance of articles 2 and 21, and other articles of the Universal Declaration of Human Rights, but go a little further in detail, and in some instances propose further progress. In so doing they may expose areas of disagreement on some concepts and expressions, inasmuch as certain words do not have the same meaning everywhere. But this is a problem common to the formulation of any general principles, and in this case an effort has been made to resolve it by the use of simple descriptive terms on which there can be little misunderstanding or disagreement.

However, one very important fact must be borne in mind : even the most complete conformity with the principles set out below does not automatically guarantee that the will of the people of a country is the basis of the authority of its government. For example, in countries where elections are held at reasonable intervals by universal and equal suffrage and by secret vote, the true authority of the government may nevertheless be found to rest not with the masses of the people or with their chosen representatives, but with a strong executive, a political party or organization, or a minority group. In such cases the authorities may even place excessive emphasis upon the forms and procedures of democracy in order to conceal the fact that its substance has been snatched away and that all real power is being wielded by individuals who were never freely chosen by the majority of the people.

With these considerations in mind, the following general principles are put forward for consideration by governments and by the international community :

## GENERAL PRINCIPLES ON FREEDOM AND NON-DISCRIMINATION IN THE MATTER OF POLITICAL RIGHTS

### *Preamble*

*Whereas* the peoples of the world in the Charter of the United Nations have proclaimed their determination to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to promote social progress and better standards of life in larger freedom,

*Whereas* the Charter sets forth, as one of the purposes of the United Nations, the promotion and encouragement of respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

*Whereas* the Universal Declaration of Human Rights, further elaborating the principle of non-discrimination, proclaims that everyone is entitled to all the rights and freedoms set forth therein without distinction of any kind, including political opinion, and provides that 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.

*Whereas*, since the interests of the many are often disregarded when political power is in the hands of the few, the right of everyone to take part in the government of his country is the condition indispensable for the effective enjoyment by all of other human rights, including economic, social and cultural rights.

*Whereas* the exercise of political rights is directly linked to the existence of freedom of opinion and expression and freedom of peaceful assembly and association,

*Now therefore* the following general principles are proclaimed to ensure recognition of the right of everyone to take part in the government of his country and of other related political rights, and to prevent discrimination in the enjoyment of these rights :

### I. *Political rights of nationals*

(a) Every national<sup>2</sup> of a country is entitled within that country to the same political rights without distinction of any kind, such as race, colour, sex, language, literacy, religion, political or other opinion, national or social origin, property, birth or other status.

(b) No one shall be denied nationality, or deprived of nationality, as a means of depriving him of political rights.

(c) The age and other conditions prescribed by law for the exercise of any particular political right shall be the same for all nationals of a country.

### II. *Universality of suffrage*

Every national is entitled to vote in any national election or other public

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<sup>2</sup> The term "national" is used here as applying to any individual linked to a particular State by a tie of allegiance.

consultation held in his country, and in any other election or public consultation held in the political or administrative unit thereof in which he resides.

### III. *Equality of suffrage*

(a) Every national is entitled to vote in any election, or other public consultation for which he is eligible, on equal terms, and each vote shall have the same weight.

(b) When voting is conducted on the basis of electoral districts, the number of seats in the elected body allotted to each district shall bear to the total number of seats in that body a proportion as nearly as possible equal to the proportion which the population of that district bears to the total population of the country. Where a bicameral system is in operation, this principle applies at least to one of the houses.

(c) For any election or public consultation held by direct vote there shall be one general electoral roll, and every eligible national shall be included in that roll.

### IV. *Secrecy of the vote*

(a) Every voter shall be able to vote in such a manner as to prevent disclosure of how he has voted or intends to vote.

(b) No voter shall be required to state, in any legal proceeding or otherwise, how he voted, or intends to vote, and no one shall attempt to obtain from any voter, directly or otherwise, information as to how he has voted or intends to vote.

### V. *Periodicity of elections*

Elections to all elective public offices shall be held at reasonable intervals, in order to ensure effective control by the people of their representatives.

### VI. *Genuine character of elections and other public consultations*

(a) Every voter shall be free to vote for the candidate or list of candidates he prefers in any election to public office, and shall not be compelled to vote for any specified candidate or list of candidates.

(b) Every voter shall be free to vote for or against any proposal submitted to a plebiscite, referendum, or other public consultation.

(c) All elections and other public consultations shall be supervised by authorities whose independence and impartiality is ensured and whose decisions are open to challenge before the judiciary or other independent and impartial bodies.

(d) Freedom of opinion and expression and freedom of peaceful assembly and association are essential to the enjoyment of political rights, and shall be ensured to all candidates and their supporters in the case of elections to public office and to the supporters and opponents of any proposal submitted to a plebiscite, referendum, or other public consultation.

(e) Full freedom shall be ensured for the peaceful expression of political opposition.<sup>3</sup>

<sup>3</sup> This principle is based upon the text adopted by the General Assembly in resolution 290 (IV), entitled "Essentials of Peace".

#### VII. *Access to elective public office*

(a) Every national shall be eligible on equal terms for election to any elective public office in his country or in any political or administrative unit thereof in which he resides, provided he meets the inherent requirements of the office.

(b) The extent to which this principle shall be applied to those, including members of the armed forces, whose election might result in a conflict between their duties or personal interests and the interests of the community as a whole, shall be determined by law.

#### VIII. *Access to non-elective public office*

(a) Every national shall be eligible on equal terms to hold any non-elective public office in his country, or any political or administrative unit thereof in which he resides, provided he meets the inherent requirements of the office.

(b) The extent to which this principle shall be applied to those whose appointment or assignment to a non-elective public office might result in a conflict between their duties or personal interests and the interests of the community as a whole, shall be determined by law.

(c) All appointments to the career civil service of a country shall be made on an objective and impartial basis.

#### IX. *Measures to ensure the adequate representation of certain elements of the population*

Special measures taken to ensure the adequate representation of an element of the population of a country whose members are in fact prevented by political, economic, social or cultural conditions from enjoying equality with the rest of the population in the matter of political rights shall not be deemed to be discrimination, provided that such measures are continued only so long as there is need for them, and only to the extent that they are necessary.

#### X. *Limitations*

The rights and freedoms proclaimed above shall in no case be exercised contrary to the purposes and principles of the United Nations. They 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 national security, public order, morality and the general welfare in a democratic society.

## CHAPTER VII

### PROPOSALS

It will be for the Sub-Commission on Prevention of Discrimination and Protection of Minorities, which initiated this study, to make recommendations on its own responsibility to the Commission on Human Rights for further action by the international community to eradicate discrimination in the matter of political rights.

If this study has demonstrated anything at all, it has shown that the present measures for the eradication of discrimination in the matter of political rights are far from satisfactory. On the one hand, the measures taken on a national level by many Governments are weak and ineffective, and some Governments are not only indifferent to such discrimination but—what is even worse—are the instigators of it. On the other hand, the international community—in spite of all the valuable activities mentioned in chapter V above—has not yet been able to fulfil all the obligations placed upon it by the Charter. The covenants on human rights have not yet been completed ; only a few of the many serious violations of human rights have even been discussed in the United Nations, and in many cases where there was some discussion the action taken has been insufficient.

This study has attempted to outline in simple terms the nature of the problem and to suggest some general principles and minimum standards which might serve to educate Governments and world opinion. However, it is obvious that the study cannot alone correct the faults which it exposes. The point has now been reached at which the Sub-Commission must assume responsibility for outlining a programme of action which, if implemented by Governments through national and international measures taken within the framework of the United Nations, would eventually extirpate any vestiges of discrimination in the matter of political rights. Such a programme would, of course, supplement the far-reaching approach to the problem which the United Nations has already taken in its Charter, in the Universal Declaration of Human Rights, the Convention on the Political Rights of Women, the draft Covenant on Civil and Political Rights, and many other instruments.

In order to facilitate the Sub-Commission's task, which is certain to be a very difficult and delicate one, it might be useful to set out here a few tentative proposals which could at least serve as a basis for discussion.

## DISSEMINATION OF THE STUDY

The Sub-Commission will recall that previous studies in this series, including the Study of Discrimination in Education and the Study of Discrimination in the Matter of Religious Rights and Practices, have been printed and circulated for the use *inter alia* of Governments, specialized agencies, research centres and individuals interested in the problems with which they dealt. It may be that the Sub-Commission could express its views on the dissemination of the information contained in this report.

## PREPARATION OF DRAFT PRINCIPLES

The Sub-Commission may consider the desirability of reviewing the general principles set out in the preceding chapter of this study with a view to formulating a series of draft principles on freedom and non-discrimination in the matter of political rights which could be sent forward to superior bodies of the United Nations for adoption.

Such draft principles might elaborate and interpret the non-discrimination provisions of the Charter and the Universal Declaration of Human Rights as applied in particular to the political rights set out in article 21 of the Declaration. Indeed, they might be somewhat similar in scope to the principles on freedom and non-discrimination in education and in the matter of religious rights and practices which the Sub-Commission prepared at its ninth and twelfth sessions respectively.

When completed by the Sub-Commission after due consideration, these draft principles would, of course, supersede the general principles suggested earlier in this study, as they would have a certain international validity by virtue of their adoption by an organ of the United Nations.

## PREPARATION OF INTERNATIONAL OR REGIONAL INSTRUMENTS

The Sub-Commission may wish to consider whether it could usefully recommend the preparation of any international or regional instruments for the purpose of eradicating discrimination in the matter of political rights. In this connexion it must be borne in mind that the United Nations has already concluded the Convention on the Political Rights of Women, and that it is now in the process of drafting the proposed Covenant on Civil and Political Rights. It should also be recalled that a protocol to the European Convention on Human Rights contains an undertaking by contracting States "to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature".<sup>1</sup>

It cannot be doubted that the draft Covenant on Civil and Political

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<sup>1</sup> United Nations *Yearbook on Human Rights* (1950), p. 411.

Rights, when completed and adopted, will represent an important step forward in the fight against discrimination in the matter of political rights, and the General Assembly already has given full priority to the preparation of this very important international instrument. Nevertheless it is quite clear that a number of years probably will pass before the Covenant can be completed and put into force partly because of the number of highly controversial issues which have been raised by texts presented for inclusion in the present draft. It is quite possible that a more restricted instrument, dealing specifically and exclusively with the eradication of discrimination in respect of the political rights set out in article 21 of the Universal Declaration of Human Rights, could be completed more rapidly and could enter into force at an earlier date. This instrument could take the form of an international convention, a declaration of general principles, or both.

Of course, it would be somewhat premature to decide on the form of the instrument before determining whether or not agreement could be reached on principles. If however there can be a meeting of minds on the standards to be applied, then serious consideration might be given to whether their incorporation into a convention would be the best way to promote the enjoyment of political rights by all without discrimination, or whether a simple declaration setting forth the principles would be adequate.

Whether or not an international instrument is prepared, groups of countries in various regions of the world might be encouraged to collaborate in the preparation of regional instruments designed to eradicate discrimination in political rights in their particular areas. Regional instruments of this type not only protect the inhabitants of the area, but also serve as an "infectious example" for other regions, leading them to make similar efforts. As noted above, certain European countries have, in recent years, become parties to the European Convention on Human Rights and to its protocol, establishing machinery to ensure recognition and enjoyment of certain political rights. This achievement has led Latin American countries to accelerate their own efforts aimed at the preparation of a similar regional agreement, which had been in abeyance since the idea was first put forward at the Conference of Chapultepec in 1945. The Latin American countries appear to be in a particularly good position at the present time to prepare a regional instrument to eradicate discrimination in the matter of political rights, pending completion and adoption of the Covenant on Civil and Political Rights, because these countries are already parties to a system of international co-operation, because there is no basic difference of opinion among the great majority of them as to the nature of political rights, and because there exists among them a strong conviction that all members of the system should adhere to the principle of representative democracy.

Even if a whole series of regional texts were to be prepared, there would still be room for an international instrument on the subject, if only as an aid to greater uniformity. Indeed, such action on a regional basis could be preparatory to broader action by the United Nations.

## REPORTS ON DISCRIMINATION IN THE MATTER OF POLITICAL RIGHTS

It is possible that the triennial reporting procedure of the Commission on Human Rights could provide a suitable framework within which Governments could indicate their progress towards combating discrimination in this field; if not, a separate reporting procedure might be envisaged. Consideration could also be given to the possibility of collecting additional material from non-governmental organizations in consultative status. In any event, all the material collected by the Secretary-General could be submitted to the appropriate organ of the United Nations at regular intervals for examination, comment and recommendation as to any further action to be taken.

If the triennial reporting procedure is not sufficient, special reports could be called for; these could follow the general lines of the report presented annually to the General Assembly by the Secretary-General, on constitutions, electoral laws and other legal instruments relating to the political rights of women, and would deal with discrimination based upon grounds other than sex. Such reports could be based primarily upon information furnished by Governments, and provision for the submission of reports on this subject could be made in the international instrument mentioned above.

## REGIONAL SEMINARS ON THE ENJOYMENT OF POLITICAL RIGHTS BY ALL

The regional seminars on the political rights of women which have already been held in various parts of the world have concentrated mainly upon methods of increasing women's participation in political activities. They have brought together key people for short periods of time to stimulate their thinking and through their leadership to encourage greater awareness of the problems involved and the varying techniques which may be adopted for their solution. They have dealt not only with the formal aspects of political rights, but also with the rights and duties of citizenship and the various factors which affect women's participation in public life.

There are many countries in the world today where political rights have only recently been acquired by the bulk of the population, and where men as well as women must learn how to take part in the government of their country. In areas where there are several such countries, seminars might well serve as a means for the exchange of information, the sharing of experience, and the creation of new attitudes with regard to the exercise by all peoples of their political rights. Such seminars could be organized by the Secretary-General at the request of a host Government.

Seminars of this kind might also make it possible to obtain a true and up-to-date picture of the situation in various countries and regions, and to consider how difficulties—particularly those of an administrative



character—could be overcome. They would provide an opportunity for the assembling of full documentation and for the undertaking of exhaustive studies on particularly troublesome aspects of the problem, and thus would make it possible to analyse the reasons why some States have not yet found it possible to maintain the standards proclaimed in Article 21 of the Universal Declaration of Human Rights. Moreover, the reports of the seminars would supplement the information available to the Commission on Human Rights in the triennial reports.

The main problem which arises in this connexion stems from the stipulation in resolution 926 (X) of the General Assembly, which authorizes the convening of seminars to consider matters relating to human rights, that the Secretary-General may organize seminars only at the request of a State Member of the United Nations; to date no Member State has requested the organization of a seminar dealing with the prevention of discrimination on any ground except that of sex. The proposal made by the Sub-Commission at its twelfth session, in resolution 10 (XII), that the Secretary-General should be requested by the Economic and Social Council to organize, on his own initiative, a series of seminars of experts, to be nominated by Governments and acting in their individual capacity, to study various aspects of and techniques for the prevention of discrimination and the protection of minorities, was not sent forward to the Council by the Commission on Human Rights.

#### ASSISTANCE TO GOVERNMENTS TO ENSURE FREE ELECTIONS OR OTHER PUBLIC CONSULTATIONS

Apart from its normal function of supervising elections and plebiscites when called upon to do so by the General Assembly, the United Nations has occasionally been called upon to provide expert assistance to the Government of an independent country, at its request, to ensure the freedom of elections or other public consultations.

For example, in February 1958 the United Nations, at the request of the Government of Costa Rica, supplied a list of eminent persons from which that Government selected three whom it invited to be present in Costa Rica during the national elections of February 1958. These persons subsequently submitted a report to the Government, and one of them remained in the country for a period to make a personal report to the Government on its electoral laws and procedures. The Government accepted his recommendations and requested the services of an expert to implement them. The expert subsequently spent three months in Costa Rica, early in 1960, and made a detailed report to the Government on the country's electoral laws and procedures. These activities were carried on under the Programme of Advisory Services in the Field of Human Rights.

It might be useful for the United Nations to anticipate the possibility of receiving similar requests from Governments in the next few years,

and to prepare itself to meet such requests. While many Governments are quite rightly proud of their ability to hold free elections and to ensure the enjoyment of political rights by all nationals without discrimination, there are others which might recognize that, owing to special circumstances, they do not have the necessary means at their disposal. There might also be cases where a Government which is quite able to ensure the freedom of its own elections would wish to make it clear to the world that there was no irregularity.

Countries can no longer afford to function in isolation ; each must seek a basis for co-operation and collaboration with its neighbours and with the international community. Moreover, every country is now open, more than ever before in history, to the judgement of world opinion ; it is no longer possible to conceal the facts ; particularly when the Government of a country does not truly represent the will of its people. The co-operation which a Government receives depends largely upon the legitimacy of its mandate ; for this reason a number of Governments might find it advantageous for the world to know that they were chosen in free elections conducted under adequate guarantees of political rights, including the assistance of internationally recognized experts. The United Nations should be prepared to deal expeditiously with such requests for assistance, considering each one on its merits and of course respecting at all times the sovereignty of the States concerned.

## Annexes

### ANNEX I

#### GENERAL PRINCIPLES ON FREEDOM AND NON-DISCRIMINATION IN THE MATTER OF POLITICAL RIGHTS<sup>1</sup>

##### *Preamble*

*Whereas* the peoples of the world in the Charter of the United Nations have proclaimed their determination to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to promote social progress and better standards of life in larger freedom,

*Whereas* the Charter sets forth, as one of the purposes of the United Nations, the promotion and encouragement of respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

*Whereas* the Universal Declaration of Human Rights, further elaborating the principle of non-discrimination, proclaims that everyone is entitled to all the rights and freedoms set forth therein without distinction of any kind, including political opinion, and provides that 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,

*Whereas*, since the interests of the many are often disregarded when political power is in the hands of the few, the right of everyone to take part in the government of his country is the condition indispensable for the effective enjoyment by all of other human rights, including economic, social and cultural rights.

*Whereas* the exercise of political rights is directly linked to the existence of freedom of opinion and expression and freedom of peaceful assembly and association,

*Whereas* these rights can only be effectively guaranteed in a world in which the principles of the Charter, especially the principle of self-determination, and the principles enshrined in the declaration on the granting of independence to colonial territories and peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960, shall have full application.

*Now therefore* the following general principles are proclaimed to ensure recognition of the right of everyone to take part in the government of his country

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<sup>1</sup> The Sub-Commission on Prevention of Discrimination and Protection of Minorities formulated these general principles on freedom and non-discrimination in the matter of political rights at its fourteenth (1962) session, after examining the draft principles submitted by the Special Rapporteur (see chapter VI of this report). The Sub-Commission transmitted the general principles to the Commission on Human Rights for further consideration and adoption.

and of other related political rights, and to prevent discrimination in the enjoyment of these rights :

#### I. *The right of all peoples to self-determination*

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

#### II. *Political rights of nationals*

(a) Every national of a country is entitled within that country to full and equal political rights 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.

(b) No one shall be denied nationality, or deprived of nationality, as a means of denying him or depriving him of political rights.

(c) The age, length of residence and other conditions prescribed by law for the exercise of any particular political right shall be the same for all nationals of a country or inhabitants of a political unit, as the case may be.

#### III. *Freedom of opinion and association*

Freedom of opinion and expression and freedom of peaceful assembly and association are essential to the enjoyment of political rights. These freedoms, and the access to the facilities and means for their exercise, shall be ensured to all persons at all times.

#### IV. *Universality of suffrage*

Every national is entitled to vote in any national election, referendum or plebiscite held in his country, and in any such public consultation held in the political or administrative unit thereof in which he resides. The right to vote shall not be dependent upon literacy or any other educational qualifications.

#### V. *Equality of suffrage*

(a) Every national is entitled to vote in any election, or other public consultation for which he is eligible, on equal terms, and each vote shall have the same weight.

(b) When voting is conducted on the basis of electoral districts, the said districts shall be established on an equitable basis such as would make the results most accurately and completely reflect the will of all the voters.

(c) For any election or public consultation held by direct vote there shall be one general election roll, and every eligible national shall be included in that roll.

#### VI. *Secrecy of the vote*

(a) Every voter shall be able to vote in such a manner as not to involve disclosure of how he has voted or intends to vote.

(b) No voter shall be compelled to state, in any legal proceeding or otherwise,

how he voted, or intends to vote, and no one shall attempt to obtain from any voter, directly or otherwise, information as to how he has voted or intends to vote.

#### VII. *Periodicity of elections*

Elections to all elective public offices shall be held at reasonable intervals, in order to ensure that the will of the people shall at all times be the basis of the authority of government.

#### VIII. *Genuine character of elections and other public consultations*

(a) Every voter shall be free to vote for the candidate or list of candidates he prefers in any election to public office, and shall not be compelled to vote for any specified candidate or list of candidates.

(b) Every voter shall be free to vote for or against any proposal submitted to a plebiscite, referendum, or other public consultation.

(c) The conduct of elections and other public consultations, including the preparation and periodic revision of the electoral roll, shall be supervised by authorities whose independence and impartiality are ensured and whose decisions are subject to appeal to the judicial authorities or other independent and impartial bodies.

(d) Full freedom shall be ensured for the peaceful expression of political opposition, and also for the organization and free functioning of political parties and the right to present candidates for election.

#### IX. *Access to elective public office*

(a) Every national shall be eligible on equal terms for election to any elective public office in his country or in any political or administrative unit thereof in which he resides.

(b) The extent to which this principle shall be applied to those whose election might result in a conflict between their duties or personal interests and the interests of the community as a whole, shall be determined by law.

#### X. *Access to non-elective public office*

(a) Every national shall be eligible on equal terms to hold any non-elective public office in his country or in any political or administrative unit thereof in which he resides.

(b) The extent to which this principle shall be applied to those whose appointment or assignment to a non-elective public office might result in a conflict between their duties or personal interests and the interests of the community as a whole, shall be determined by law.

(c) All appointments to the career civil service of a country shall be made on an objective and impartial basis.

#### XI. *Measures which shall not be considered discriminatory*

The following measures prescribed by law or regulation shall not be considered discriminatory :

(a) Reasonable requirements for the exercise of the right to vote or the right of access to elective public office ;

(b) Reasonable qualifications for appointment to public office which stem from the nature of the duties of the office ;

(c) Measures establishing a reasonable period which must elapse before naturalized persons may exercise their political rights, provided that they are combined with a liberal naturalization policy.

(d) Special measures taken to ensure :

(i) The adequate representation of an element of the population of a country whose members are in fact prevented by political, economic, religious, social, historical, or cultural conditions from enjoying equality with the rest of the population in the matter of political rights ;

(ii) The balanced representation of the different elements of the population of a country ;  
provided that such measures are continued only so long as there is need for them, and only to the extent that they are necessary.

## XII. *Limitations*

The rights and freedoms proclaimed above shall in no case be exercised contrary to the purposes and principles of the United Nations. They 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 public order (*ordre public*), morality and the general welfare in a democratic society. Any limitation which may be imposed shall be consistent with the purposes and principles of the United Nations.

## XIII. *Constitutional guarantee*

The rights and freedoms proclaimed above shall in no case be exercised in constitutions or other fundamental laws none of which should be subject to repeal or alteration by ordinary legislative procedure.

## XIV. *Recourse to independent tribunals*

Any denial or violation of these rights and freedoms shall entitle the aggrieved person or persons to recourse to independent and impartial tribunals.

## XV. *Application of principles*

These principles shall apply to all independent countries and to countries which are under alien domination.

## ANNEX II

### HOW THE STUDY WAS PREPARED

A study of discrimination in the matter of political rights was suggested to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its fifth (1952) session, and was included by the Sub-Commission in its list of projected studies. The list was subsequently approved by the Commission on Human Rights and the Economic and Social Council.

In January 1956, the Sub-Commission decided to proceed with this study, and appointed the undersigned as its Special Rapporteur. It instructed him to follow the same general procedure as had been followed in the case of study of discrimination in education.

Accordingly, the Special Rapporteur proceeded first to collect,<sup>2</sup> analyse and verify the relevant material. His main sources were : (a) the Governments of States Members of the United Nations and of the specialized agencies ; (b) the Secretary-General of the United Nations ; (c) the specialized agencies of the United Nations ; and (d) non-governmental organizations, particularly those in consultative status with the Economic and Social Council. This material was supplemented when necessary by reference to the writings of recognized scholars and scientists.

With the assistance of the Secretariat of the United Nations, the Special Rapporteur prepared a draft summary of material for each of eighty-eight States Members of the United Nations or of the specialized agencies. He wishes in this connexion to express his deep appreciation to all who contributed data for use in the study, and particularly to the Governments and non-governmental organizations concerned. At the same time he must express his regret that, despite his own requests and a special call for co-operation addressed to them by the Second United Nations Conference of Non-Governmental Organizations Interested in the Eradication of Prejudice and Discrimination, non-governmental organizations contributed in smaller measure to this study than they had to the earlier studies initiated by the Sub-Commission. Representatives of some of the organizations explained that resources for the necessary inquiry and research had not been available to them, and that they had met with difficulties, arising directly from the discriminatory practices themselves, in gathering information. The Special Rapporteur, while realizing that his requests for information placed a heavy burden upon non-governmental organizations which many were unable to assume, feels that it is none the less regrettable that a number of organizations with large resources and unquestioned competence in the matter of political rights, including several which represent the trade union movement, failed to take advantage of the opportunity to co-operate in this important global study. It is particularly regrettable that some organizations which had complained of the existence of political discrimination and had demanded the right of those deprived of political rights.

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<sup>2</sup> The Outline used in the collection of information and in the preparation of Conference Room Papers is reproduced as annex III.

to petition the United Nations, did not come forward with precise data on this subject when requested to do so.

The list of organizations which submitted material for the study is as follows :

*Category A*

World Federation of Trade Unions

*Category B*

The Anti-Slavery Society (United Kingdom)

Co-ordinating Board of Jewish Organizations

Inter-American Press Association

International Council of Women

International Federation of Business and Professional Women

International Federation of Women Lawyers

International League for the Rights of Man

*Pax Romana*

Society of Comparative Legislation (France)

Women's International League for Peace and Freedom

*Register*

Liberal International, World Liberal Union

St. Joan's International Alliance

The draft of each summary was forwarded to the Government concerned with the request that comments or supplementary data, if any, should be submitted within a two-month period. Where comments or supplementary data were received within this specified time, they were taken into account by the Special Rapporteur in revising the monographs. Where no such comments or supplementary data were received, the draft monographs were not revised. All monographs, whether or not revised, were circulated to Governments and to members of the Sub-Commission as "Conference Room Papers", and were made available on request to bodies and persons interested in the study. In accordance with a decision of the Economic and Social Council (resolution 664 (XXIV)), they were not issued as documents.

The eighty-eight Conference Room Papers prepared in this manner<sup>3</sup> contain material relating to discrimination in the matter of political rights in the following countries :

Afghanistan	Canada	Ethiopia
Albania	Ceylon	Federation of Malaya
Argentina	Chile	Finland
Australia	China	France
Austria	Colombia	Germany (Fed. Rep. of)
Belgium	Costa Rica	Ghana
Bolivia	Cuba	Greece
Brazil	Czechoslovakia	Guatemala
Bulgaria	Denmark	Guinea
Burma	Dominican Republic	Haiti
Byelorussian SSR	Ecuador	Honduras
Cambodia	El Salvador	Hungary

<sup>3</sup> Papers were not prepared for States admitted as Members of the United Nations late in 1960 and during 1961, no replies having been received to a request for information addressed to sixteen of those States on 10 April 1961.



Iceland	Morocco	Sudan
India	Nepal	Sweden
Indonesia	Netherlands	Switzerland
Iran	New Zealand	Thailand
Iraq	Nicaragua	Tunisia
Ireland	Norway	Turkey
Israel	Pakistan	Ukrainian SSR
Italy	Panama	Republic of South Africa
Japan	Paraguay	USSR
Jordan	Peru	United Arab Republic
Korea (Republic of)	Philippines	United Kingdom
Laos	Poland	United States
Lebanon	Portugal	Uruguay
Liberia	Romania	Venezuela
Libya	San Marino	Viet-Nam (Republic of)
Liechtenstein	Saudi Arabia	Yemen
Luxembourg	Spain	Yugoslavia
Mexico		

On the basis of the information available to him, the Special Rapporteur prepared first an interim report (E/CN.4/Sub.2/L.124), and later a progress report (E/CN.4/Sub.2/L.147), a memorandum (E/CN.4/Sub.2/L.158), and a draft report (E/CN.4/Sub.2/L.217).

The interim report was examined by the Sub-Commission at its tenth session, in January 1958. In resolution C (E/CN.4/764, para. 160), the Sub-Commission expressed the conviction that, in conducting a study on discrimination in the matter of political rights, constant care should be taken, in accordance with the instructions laid down in the relevant resolutions of the Commission on Human Rights and with full awareness and understanding of existing situations, to make a constructive contribution towards the drawing up of objective and general recommendations in accordance with the United Nations Charter, as well as towards the educating of world public opinion. It added that such a study could be extremely useful in bringing the situation as regards political rights in all countries more and more into line with the provisions of the Charter and the Universal Declaration of Human Rights.

The progress report was examined by the Sub-Commission at its eleventh session, in January 1959. In resolution C (E/CN.4/778, para. 134), the Sub-Commission requested the Secretary-General "to provide the necessary assistance to enable the Special Rapporteur to submit a draft report to the Sub-Commission at its twelfth session, and a final report at its thirteenth session". This request, together with its financial implications, was drawn to the attention of the Economic and Social Council by the Commission on Human Rights. The Council at its twenty-eighth session approved a statement (resolution 742 (XXVIII), annex, para. 5) "that the study of discrimination in the matter of political rights should be completed without additional costs, and that therefore the Sub-Commission . . . and the Commission on Human Rights should adjust their programmes accordingly".

In the memorandum which he submitted to the Sub-Commission at its twelfth session, in January 1960, the Special Rapporteur pointed out that under the programme envisaged by the Council it would not be possible to complete the study until 1962. As he was not sure that he would have the time to continue the preparation of the study for several more years, and above all because of his duties as Regional Representative of the Food and Agriculture Organization in

Latin America, which he had carried out since 1 January 1959, he requested the Sub-Commission to relieve him of his mission and to select a replacement.

After examining the memorandum the Sub-Commission in resolution 4 (XII), urged the Special Rapporteur to reconsider his decision and to continue his work on the study until it had been completed.

In the light of this request the decision was reconsidered, and the Special Rapporteur advised the Secretary-General on 16 May 1960 that he would continue his work.

The draft report was examined by the Sub-Commission at its thirteenth session, in January 1961. In resolution 1 (XIII) the Sub-Commission invited the Special Rapporteur, taking into account the exchange of views which had occurred, to complete his final report in time for it to be considered by the Sub-Commission at its fourteenth session. This final report is based principally upon the earlier drafts, revised as necessary in the light of discussions in the Sub-Commission and in the Commission on Human Rights.

## ANNEX III

### OUTLINE USED IN THE COLLECTION OF INFORMATION

#### I. BACKGROUND INFORMATION OF A GENERAL CHARACTER

##### 1. *Organization of the country and public institutions*

[Concise description of : (a) the structure of the State (i.e., whether unitary, federal, or non-unitary comprising autonomous or dependent provinces or territories) ; (b) mode of selection of and vesting of functions in the public authorities (including any material particulars concerning local authorities) ; (c) the legal status of parties and other groups participating in political life.]

##### 2. *Composition of the population*

[Statistical or other data indicating the country's total population (and, in the case of federal or non-unitary States, the population of the constituent, autonomous or dependent units, such as States, cantons, provinces, territories, etc.), and the proportion accounted for in the population by individuals differing from the rest of the population by reason of race, colour, language, religion, political or other opinion, national or social origin, property, birth or other status, if the difference affects the right of these individuals to take part in the government.]

#### II. RIGHT TO TAKE PART IN THE GOVERNMENT OF THE COUNTRY

##### 3. *Electorate*

[Information showing whether the conditions to be fulfilled for the purpose of participating in the elections and other popular consultations, such as plebiscites, referenda, etc., of the country (and, in the case of federal or non-unitary States, of the constituent, autonomous or dependent units, such as States, cantons, provinces or territories) are in law and in fact applied equally to everyone, 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.]

##### 4. *Eligibility for elective public office*

[Information showing whether the conditions governing eligibility for elective public office legislative, executive, administrative and judicial—in the country (and, in the case of federal or non-unitary States, in the constituent, autonomous or dependent units, such as States, cantons, provinces, or territories) are in law and in fact applied equally to everyone, 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.]

#### 5. *Access to non-elective public office*

[Information showing whether the conditions governing access to non-elective public office—legislative, executive, administrative and judicial—in the country (and, in the case of federal or non-unitary States, in the constituent, autonomous or dependent units, such as States, cantons, provinces or territories) are in law and in fact applied equally to everyone, 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.]

#### 6. *Separate representation of distinct groups*

[As regard countries in which provision is made for the separate representation of men and women or of individuals who differ from the rest of the population by reason of race, colour, language, religion, national or social origin, property, birth or other status, information concerning the special conditions governing the electorate, eligibility to elective public office and access to non-elective public office—legislative, executive, administrative and judicial—in the country (and, in the case of federal or non-unitary States, in the constituent, autonomous or dependent units, such as States, cantons, provinces or territories), with particulars showing whether these special conditions are more favourable or less favourable than those applied to the rest of the population.]

### III. OTHER HUMAN RIGHTS AFFECTING THE RIGHT TO TAKE PART IN THE GOVERNMENT

7. [In so far as (a) the right to freedom of opinion and expression and (b) the right to freedom of peaceful assembly and association affect the right to take part in the government of the country (and in the case of federal and non-unitary States, of the constituent, autonomous or dependent units, such as States, cantons, provinces or territories), information showing whether everyone, 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, is entitled, in law and in fact, to exercise equally the rights referred to in (a) and (b).]

8. [Information showing whether the law and the practice concerning deprivation of nationality do not interfere with the right of everyone to take part in the government of his country, 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.]