DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS
AND MEASURES OF IMPLEMENTATION

Civil and Political Rights
Memorandum by the Secretary-General

<table>
<thead>
<tr>
<th>TABLE OF CONTENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paragraphs</td>
</tr>
<tr>
<td>Introduction</td>
</tr>
<tr>
<td>I. Proposals on Additional Rights</td>
</tr>
<tr>
<td>Right of women to equality with men</td>
</tr>
<tr>
<td>Rights of minorities</td>
</tr>
<tr>
<td>Right of petition</td>
</tr>
<tr>
<td>Right of persons in detention</td>
</tr>
<tr>
<td>Right to protection against &quot;double jeopardy&quot;</td>
</tr>
<tr>
<td>(the rule re bis in idem)</td>
</tr>
<tr>
<td>Right to inviolability of the home</td>
</tr>
<tr>
<td>Right to secrecy of correspondence</td>
</tr>
<tr>
<td>Right to protection of privacy, home, correspondence, honour and reputation</td>
</tr>
<tr>
<td>Right of asylum</td>
</tr>
<tr>
<td>Right to a nationality and the right to change one's nationality</td>
</tr>
<tr>
<td>Right to marriage and right of the family to protection of society and the State</td>
</tr>
<tr>
<td>Right to own property</td>
</tr>
<tr>
<td>Right to vote, right to be elected to public office, right of access to public service</td>
</tr>
<tr>
<td>Right of parents to choose the kind of education that shall be given to their children</td>
</tr>
<tr>
<td>Section</td>
</tr>
<tr>
<td>--------------------------------------</td>
</tr>
<tr>
<td>II. Comments on Existing Articles</td>
</tr>
<tr>
<td>Preamble and Article 2</td>
</tr>
<tr>
<td>Preamble, paragraph 1</td>
</tr>
<tr>
<td>Article 2, paragraph 2</td>
</tr>
<tr>
<td>Article 2, paragraph 3 (b)</td>
</tr>
<tr>
<td>Article 3, paragraph 2</td>
</tr>
<tr>
<td>Article 3, paragraph 3</td>
</tr>
<tr>
<td>Article 6</td>
</tr>
<tr>
<td>Articles 8 and 10</td>
</tr>
<tr>
<td>Article 8, paragraph 1</td>
</tr>
<tr>
<td>Article 8, paragraph 3</td>
</tr>
<tr>
<td>Article 12, paragraph 1</td>
</tr>
<tr>
<td>Article 12, paragraph 2</td>
</tr>
<tr>
<td>Article 12, paragraph 4</td>
</tr>
<tr>
<td>Article 15, paragraph 3; Article 16, paragraph 3; Article 17 and Article 18, paragraph 2: Limitations clauses</td>
</tr>
<tr>
<td>Article 16, paragraph 3</td>
</tr>
<tr>
<td>Article 19</td>
</tr>
</tbody>
</table>
Introduction

1. In resolution 421 B (V) the General Assembly expressed the opinion that the list of rights in the "first eighteen articles" of the draft Covenant did not contain certain of the most elementary rights and that the wording of some of those articles should be improved in order to protect more effectively the rights to which they referred; and accordingly called upon the Economic and Social Council to request the Commission on Human Rights to revise the provisions on civil and political rights in the draft Covenant with a view to including additional rights and with a view to defining the rights as well as the limitations thereto with the greatest possible precision.

2. At its eighth session the Commission revised the provisions on civil and political rights in the draft Covenant but it did not have time to consider the inclusion of additional rights. Before that session were documents E/CN.4/528 and Add.1 on the "adequacy of the first eighteen articles" of the draft Covenant. Earlier comments on those articles may be found in documents E/L.68 and A/C.3/534 (General Assembly, Official Records, fifth session, agenda item 63, Annexes).

3. The present paper discusses the substantive provisions of the draft Covenant on Civil and Political Rights, and is divided into two parts: (1) proposals on additional rights and (2) comments on existing articles.

I. Proposals on Additional Rights

4. During the debate in the Third Committee of the General Assembly at its sixth session the representative of Denmark asked the Secretariat whether all the rights set forth in the Universal Declaration of Human Rights were covered by the articles of the draft Covenant then under discussion (A/C.3/390, para.42). In response to this request the Secretary-General submitted to the Third Committee a memorandum (A/C.3/566, General Assembly, Official Records, sixth session, agenda item 29, Annexes) showing which of the rights proclaimed in the Universal Declaration of Human Rights were not provided for in the draft Covenant. The rights of a civil or political nature enumerated by the Secretary-General and the rights of a similar nature suggested by governments or their representatives for inclusion in the draft Covenant are set out below together with references, where appropriate, to the corresponding articles of the Universal Declaration of Human Rights.
Additional Rights

Right of women to equality with men

Right of minorities

Right to an effective remedy for acts violating fundamental rights guaranteed by the constitution or by law

Right of petition

Right of persons in detention

Right to protection against "double jeopardy" (the rule ne bis in idem)

Right to protection of privacy

Right to protection against arbitrary interference with one's family

Right to the inviolability of the home

Right to the secrecy of correspondence

Right to protection against attacks upon one's honour and reputation

Right of asylum

Right to a nationality and to protection against arbitrary deprivation of one's nationality

Right to change one's nationality

Right to marriage

Right of the family to protection of society and the State

Right to property and to protection against arbitrary deprivation of one's property

Right not to be compelled to belong to an association

Right to participate in government

Right of equal access to public service

Right to vote

Right of parents to choose the kind of education that shall be given to their children

Corresponding articles of the Universal Declaration

Article 2

Article 8

Article 9

Article 12

Article 12

Article 12

Article 12

Article 14

Article 15

Article 15

Article 16(1) and (2)

Article 16(3)

Article 17

Article 20(2)

Article 21(1)

Article 21(2)

Article 21(2)

Article 26(3)
Right of women to equality with men

5. The representative of Chile has proposed the following article (E/2256, Annex II, A):

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

Rights of Minorities

6. The representative of the Union of Soviet Socialist Republics has proposed the following article (E/2256, Annex II, A):

"The State shall ensure to national minorities the right to use their native tongue and to possess their national schools, libraries, museums and other cultural and educational institutions."

7. The representative of Yugoslavia has proposed the following article (E/2256, Annex II, A):

"Every person shall have the right to show freely his membership of an ethnic or cultural group, to use without hindrance the name of his national group, to learn the language of this group and to use it in public or private life, to be taught in this language, as well as the right to cultural development together with other members of this national group without being subjected on that account to any discrimination whatsoever, and particularly such discrimination as might deprive him of the rights enjoyed by other citizens of the same State."

8. The Sub-Commission on Prevention of Discrimination and Protection of Minorities has proposed the following article (E/2256, Annex II, A):

"Persons belonging to ethnic, religious or linguistic minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language."

9. The Sub-Commission has also proposed the following additional article (E/2256, Annex II, A):

"Any advocacy of national, racial or religious hostility that constitutes an incitement to violence shall be prohibited by the law of the State."
Right of petition

10. Under General Assembly resolution 217 B (III), the Commission on Human Rights was requested to examine the problem of petitions while studying the draft Covenant on Human Rights and measures of implementation. Reference may be made to the observations of the representative of Cuba on the right of petition at the fourth session of the General Assembly (A/FV/224).

Right of persons in detention

11. The representative of France has proposed the following article (E/2256, Annex II, A):

"All persons deprived of their liberty shall be treated with humanity. Accused persons shall not be subjected to the same treatment as convicted persons."

"The penitentiary system shall comprise treatment directed to the fullest possible extent towards the reformation and social rehabilitation of prisoners."

12. The International Group of Experts on the Prevention of Crime and the Treatment of Offenders has supported this proposal and suggested that an express provision should be made in this article, or elsewhere in the Covenant, providing for the separation of persons held for trial from convicted criminals. The Group has proposed the following text for the first paragraph of the article (E/CN.4/523, para.8):

"Any person who is deprived of his freedom shall be treated with humanity. Persons held for trial shall not be subjected to the same treatment as convicted persons. They should at least be detained in separate quarters."

Right to protection against "double jeopardy" (the rule ne bis in idem)

13. The Government of the Philippines has suggested that the Covenant should contain a provision that no person shall be twice punished for the same offence (E/CN.4/515/Add.2).

Right to inviolability of the home

14. The Government of Israel has proposed an article (E/CN.4/515/Add.6, para.6) to the effect that:

---

Article XXIV of the American Declaration of the Rights and Duties of Man of 1948 reads: "Every person has the right to submit respectful petitions to any competent authority, for reasons of either general or private interest, and the right to obtain a prompt decision thereon."
"The dwelling of every person is inviolable and shall not be entered or searched except in accordance with the law and in the manner therein prescribed."

Right to secrecy of correspondence

15. The Government of Israel has proposed an article (E/CN.4/515/Add.6, para.6) to the effect that:

"Private correspondence as well as telegraphic and telephonic communications shall not be intercepted, except when authorized by law in the interests of the national security, public safety and the economic well-being of the country."

Right to protection of privacy, home, correspondence, honour and reputation

16. The representative of the Philippines has proposed the following article (E/2256, Annex II, A):

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

1/ The American Declaration of the Rights and Duties of Man contains the following articles:

Article V. "Every person has the right to the protection of the law against abusive attacks upon his honour, his reputation, and his private and family life."

Article IX. "Every person has the right to the inviolability of his home."

Article X. "Every person has the right to the inviolability and transmission of his correspondence."

Article 8 of the European Convention on Human Rights of 4 November 1950 reads as follows:

"(1) Everyone has the right to respect for his private and family life, his home and his correspondence.

"(2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."
Right of asylum

17. The right of asylum was discussed by the Commission at its eighth session. The proposal of the Soviet Union (E/CN.4/L.164) and the joint proposal of Chile, Uruguay and Yugoslavia (E/CN.4/L.190/Rev.2), together with amendments thereto, were rejected (E/2256, paras.201-204).

Right to a nationality and the right to change one's nationality

18. The Director-General of the International Refugee Organization stated that the provisions in Article 15 of the Universal Declaration and various proposals made for the elimination of statelessness reflected the opinion that the right to a nationality could best be secured if nobody were deprived of his nationality nor allowed to renounce his nationality without acquiring another (E/CN.4/528, para.33). Attention is drawn to the fact that on the agenda of the International Law Commission is an item on "nationality including statelessness".

---

1/Article XXVII of the American Declaration of the Rights and Duties of Man reads:

"Every person has the right, in case of pursuit not resulting from ordinary crimes, to seek and receive asylum in foreign territory, in accordance with the laws of each country and with international agreements."

2/Article XIX of the American Declaration of the Rights and Duties of Man reads:

"Every person has the right to the nationality to which he is entitled by law and to change it, if he so wishes, for the nationality of any other country that is willing to grant it to him."
Right to marriage and right of the family to protection of society and the State. The Government of the Philippines has proposed that an article should be drafted along the lines of Article 16 of the Universal Declaration of Human Rights for inclusion in the Covenant (E/CN.4/515/Add.2). Article 16 of the Declaration reads as follows:

"(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

"(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

"(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State."

Right to own property.

20. At its eighth session the Commission decided to adjourn its debate on a French proposal relating to the right to own property (E/2256, paras.144-147).

1/ The American Declaration of the Rights and Duties of Man contains the following articles:

Article VI. "Every person has the right to establish a family, the basic element of society, and to receive protection therefor."

Article VII. "All women, during pregnancy and the nursing period, and all children have the right to special protection, care and aid."

Article 12 of the European Convention on Human Rights reads:

"Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right."

2/ Article XXIII of the American Declaration of the Rights and Duties of Man reads:

"Every person has a right to own such private property as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home."

Article 1 of the Protocol of 20 March 1952 to the European Convention on Human Rights reads:

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided by law and by the general principles of international law.

"The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."
Right to vote, right to be elected to public office, right of access to public service 1

21. The representative of Yugoslavia has proposed the following article (E/2256, Annex II, A):

"Every citizen shall have the right to take part in the government of the State by means of a democratic ballot which shall ensure absolute secrecy and complete freedom of expression of the will of individuals without any discrimination whatsoever.

"Every citizen shall likewise have the same right of access to any State or public office."

22. The representative of the Soviet Union has proposed the following article (E/2256, Annex II, A):

"Every citizen, irrespective of race, colour, national origin, social position, property status, social origin, language, religion or sex shall be guaranteed by the State an opportunity to take part in the Government of the State, to elect and be elected to all organs of authority on the basis of universal, equal and direct suffrage with secret ballot, and to occupy any State or public office. Property, educational or other qualifications restricting the participation of citizens in voting at elections to representative organs shall be abolished."

1/Article 3 of the Protocol to the European Convention on Human Rights reads:

"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."

The Convention on the Political Rights of Women adopted by the General Assembly at its seventh session on 20 December 1952 contains the following substantive articles:

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."
Right of parents to choose the kind of education that shall be given to their children.

23. This right has already been the subject of paragraph 3, Article 14 of the draft Covenant on Economic, Social and Cultural Rights. The representative of the Netherlands has suggested that this right should form an article in the Covenant on Civil and Political Rights (A/C.3/SR.363, paras. 9-10).

II. Comments on Existing Articles

Preamble and Article 2

24. In the French text of the Preamble and Article 2 the expression "Les Hautes Parties contractantes" is used, whereas in the English text the relevant expressions are "The States Parties hereto" and "Each State Party hereto". In order to conform with recent United Nations practice it is suggested that the French texts be changed to "Les Etats Parties au présent Pacte" and "Chacun des Etats Parties au présent Pacte".

Preamble, paragraph 1

25. In the first paragraph of the Preamble, the English expression "principles proclaimed in the Charter of the United Nations" is translated into French as "principes exprimés par la Charte des Nations Unies". The word "exprimés" should be changed to "proclamés".

Article 2, paragraph 2

26. The English text of this paragraph reads: "Where not already provided for by existing legislative or other measures, each State undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of this Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in this Covenant." The French text reads: "Les Hautes Parties contractantes s'engagent à prendre, en accord avec leurs procédures constitutionnelles et avec les dispositions du présent Pacte, les arrangements devant permettre l'adoption de telles mesures d'ordre législatif ou autre, propres à donner effet aux droits reconnus dans le présent Pacte qui ne seraient pas déjà en vigueur."

1/ Article 2 of the Protocol of 20 March 1952 to the European Convention on Human Rights reads:

"No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions."
27. The English and French texts may be slightly reworded as follows:

**English:** "Each State Party undertakes to adopt, in accordance with its constitutional processes and with the provisions of this Covenant, legislative or other measures necessary to give effect to the rights recognized in this Covenant, if such measures are not already in force."

**French:** "Chacun des Etats parties s'engage à adopter, en accord avec ses procédures constitutionnelles et avec les dispositions du présent Pacte, les mesures d'ordre législatif ou autre propres à donner effet aux droits reconnus dans le présent Pacte si de telles mesures ne sont pas déjà en vigueur."

**Article 2, paragraph 3 (b)**

28. Paragraph 3 (b) of Article 2 reads: "To develop the possibilities of judicial remedy and to ensure that any person claiming such a remedy shall have his right thereto determined by competent authorities, political, administrative or judicial".

29. The order of the two clauses of this paragraph (to develop... and to ensure...) might be reversed so that what each State Party undertakes to ensure immediately would precede what it undertakes to develop in the future. This change would also make clear that "such a remedy" refers to the "effective remedy" mentioned in paragraph 3 (a) and not to the "judicial remedy" mentioned in paragraph 3 (b).

**Article 3, paragraph 2**

30. The English equivalent of the French expression "la disposition précédente" is "this provision". The English expression may be changed to "the foregoing provision".

**Article 3, paragraph 3**

31. This paragraph may conceivably be interpreted to mean merely that the State Party shall inform the other States Parties, immediately upon the termination of a derogation, of the provisions derogated from, the reasons for derogation and the date of termination. In order to make it clear that the word "immediately" does not refer simply to the completion of this entire process, it is suggested that the provision should read: "Any State Party hereto availing itself of the right of derogation shall, through the intermediary of the Secretary-General, (i) upon making a derogation, immediately inform the other States Parties of the provisions from which it has derogated and the reasons by which it was actuated; and (ii) upon terminating a derogation, immediately inform the other States Parties of the date on which it has terminated such derogation."
32. The English text begins with the words "Any State Party hereto" and the French text begins "Les Etats contractants". It is suggested that the French text be changed to "Tout Etat partie au présent Pacte".

Article 6

33. The International Group of Experts on the Prevention of Crime and the Treatment of Offenders has suggested a provision to the effect that the use of torture to obtain confessions or statements, whether in writing or verbally, from a person charged with a crime shall be subject to severe penalties (E/CN.4/523, paragraph 9).

Articles 8 and 10

34. These articles contain comprehensive provisions protecting individuals against arrest and detention and stipulate a number of important guarantees for those charged with criminal offences. The Commission may wish to consider whether provision should not also be inserted for the protection of persons whose detention is of a merely preventive character and is not based on criminal charges, a situation which, for example, the draft Covenant (Article 3) permits in a state of public emergency (A/C.3/534, paragraph 14).

Article 8, paragraph 1

35. The International Group of Experts on the Prevention of Crime and the Treatment of Offenders considered that except in cases of flagrante delicto it should not be possible to make any arrest unless by order of a judicial authority. It suggested that after the sentence "No one shall be subjected to arbitrary arrest or detention," a new provision should be added reading as follows:

"Any arrest made, without judicial authority, except in cases of flagrante delicto, shall be considered as arbitrary."

The Group was of the opinion that this provision would more clearly define the expression "arbitrary arrest" which had been the subject of discussion by the Commission on Human Rights at several meetings (E/CN.4/523, paragraph 6).

Article 8, paragraph 3

36. The English equivalent of the French phrase "une autre autorité habilitée par la loi à exercer des fonctions judiciaires" is "other officer authorized by law to exercise judicial power". The English expression may be changed to read "other authority vested by law with the exercise of judicial functions".
37. The English equivalent of the French clause "devra être jugé...ou libéré" is "shall be entitled to trial...or to release". The English clause might be changed to read,"shall be tried...or released".

Article 12, paragraph 1/

38. The first clause of this paragraph reads: "All persons shall be equal before the courts or tribunals". This clause may very well be an independent paragraph as it is intended to cover the whole of Article 12.

39. This paragraph contains a sentence which in English reads: "In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law." In French, the sentence reads as follows: "Toute personne a droit à ce que sa cause soit entendue équitablement et publiquement par un tribunal compétent, indépendant et impartial, établi par la loi, qui décidera soit des contestations sur ses droits et obligations de caractère civil, soit du bien-fondé de toute accusation en matière pénales dirigée contre elle."

40. While both texts are very clear, they are not in complete concordance. They may be slightly rephrased as follows:

   English: "Every person shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal, established by law, which shall determine any criminal charge against him, or his rights and obligations in a suit at law."

   French: "Toute personne a droit à ce que sa cause soit entendue équitablement et publiquement par un tribunal compétent, indépendant et impartial, établi par la loi, qui décidera soit du bien-fondé de toute accusation en matière pénales dirigée contre elle, soit des contestations sur ses droits et obligations de caractère civil."

41. The English expression "suit at law" in paragraph 1 of Article 12 on the one hand and the French expressions "de caractère civil" and "contentieuse" on the other hand may not have the same meaning. Furthermore it is submitted for consideration whether the expression "suit at law" covers public law actions

1/ Attention is drawn to Article XVIII of the American Declaration of the Rights and Duties of Man which reads: "Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby the courts will protect him from acts of authority that, to his prejudice, violate any fundamental constitutional rights."
and proceedings of administrative courts such as proceedings in certain jurisdictions relating to nationality, tax assessments, etc.

42. The last clause of this paragraph reads: "but any judgment rendered in a criminal case or in a suit at law shall be pronounced publicly except where the interest of juveniles otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children". This clause may be taken to signify inter alia that where the proceedings concern matrimonial disputes or the guardianship of children, judgment not merely need not, but shall not, be pronounced publicly. To meet this difficulty it is suggested that the clause might be slightly reworded as follows: "but any judgment rendered in a criminal case or in a suit at law shall be pronounced publicly except where the interest of juveniles, or of persons involved in proceedings concerning matrimonial disputes or the guardianship of children, otherwise requires."

Article 12, paragraph 2

43. This paragraph contains a clause which in French reads "pour sa défense, il a droit..." and in English reads "in the determination of any criminal charge against him, everyone shall be entitled..." The words "in the determination of any criminal charge against him" may be changed to "in his defense".

44. The International Group of Experts on the Prevention of Crime and the Treatment of Offenders has suggested the following changes (underlined) in paragraph 2:

"Any person held for trial or charged with a criminal offense shall be presumed innocent until proved guilty...

(a)...
(b)...
(c)...
(d) to challenge all charges and examine all evidence, to examine and have examined..."

The slight change in the first sentence of the text was suggested by the Group of Experts for the sake of greater accuracy; the addition to sub-paragraph (d) was suggested with a view to stating more clearly the right of any person charged with a criminal offense, not only to examine the witnesses against him or to obtain attendance of witnesses on his behalf, but also to challenge all charges and examine all evidence brought against him (E/CN.4/523, paragraph 7).
45. From a linguistic point of view it would be desirable to redraft sub-paragraph (d) to read: "To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as apply to the Prosecution in respect of witnesses against him."

Article 12, paragraph 4

46. The French equivalent of the English clause "a new or newly discovered fact shows conclusively that..." is "un fait nouveau ou nouvellement révélé prouve que..." It is suggested that "d'une façon concluante" may be added after "prouve".

Article 15, paragraph 3; Article 16, paragraph 3; Article 17 and Article 18, paragraph 2; Limitations clauses

47. These limitations clauses are similar in content but different in wording. It may be advisable to have a uniform text in so far as it relates to the following four concepts: national security or public safety, public order, public health and public morals.

Article 16, paragraph 3

48. In English, this paragraph begins with "the exercise of the rights..."; in French "l'exercice des libertés..." It is suggested that the English should read "the exercise of the right..." and the French "l'exercice du droit...", the right referred to being the right to freedom of expression.

1/ In a memorandum (E/CN.4/528) on the "general adequacy of the first eighteen articles" the Secretary-General raised the question whether the English expression "public order" and the French expression "l'ordre public" should be used as an exception to freedom to manifest one's religion, freedom of expression, the right of assembly and the right of association. In civil law countries "l'ordre public" is a fundamental legal concept which is used principally as a basis for voiding or restricting private agreements, the exercise of police power or the application of foreign law. The common law counterpart of "l'ordre public" is not "public order" but rather "public policy". The English expression "public order" is not a recognized legal concept; in its ordinary English sense it would presumably mean merely the absence of public disorder. The English expression "public order" is not equivalent to -- and is indeed substantially different from -- the French expression "l'ordre public" (or the Spanish expression "orden público"). Furthermore, these expressions are vague and indefinite and may well constitute a basis for far-reaching derogations from the rights guaranteed.
49. Neither in the English text nor in the French is there a conjunction between clauses (1) and (2). It is suggested that (1) and (2) may be joined by "or".

Article 19

50. Article 19 provides inter alia that the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination. The Commission may wish to consider the possibility of adding a prohibition to the effect that "each State Party to the Covenant undertakes not to lend the assistance of its judicial, executive or administrative organs for the purpose of enforcing or practising discrimination" (A/C.3/534).