

**ECONOMIC
AND
SOCIAL COUNCIL**

**CONSEIL
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ET SOCIAL**

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DRAFT DECLARATION
OF THE
INTERNATIONAL RIGHTS AND DUTIES OF MAN
Formulated by the
INTER-AMERICAN JURIDICAL COMMITTEE

In accordance with Resolutions IX and XL of the Inter-American Conference on Problems of War and Peace held at Mexico City, February 21-March 8, 1945, and submitted by the Delegation of Chile to the second part of the First Session of the General Assembly (cf. Document A/C.1/38).

ARTICLE I

RIGHT TO LIFE

Every person has the right to life. This right extends to the right to life from the moment of conception; to the right to life of incurables, imbecils and the insane. It includes the right to sustenance and support in the case of those unable to support themselves by their own efforts; and it implies a duty of the state to see to it that such support is made available.

The right to life may be denied by the state only on the ground of conviction of the gravest of crimes, to which the death penalty has been attached.

ARTICLE II

RIGHT TO PERSONAL LIBERTY

Every person has the right to personal liberty.

The right to personal liberty includes the right to freedom of movement from one part of the territory of the state to another, and the right to leave the state itself. It includes also freedom to establish a residence in any part of the territory, subject only to the restrictions that may be imposed by general laws looking to the public order and security of the state.

The right to personal liberty includes the inviolability of the domicile of the individual and of his personal correspondence.

The state may restrict this right only to the extent necessary to protect the public health, safety, morals and general welfare, in accordance with subsequent provisions of this Declaration.

The right of the state to call upon the services of the individual in time of emergency or to meet the necessities of national defense shall not be regarded as a limitation upon the fundamental right to personal liberty, but merely as a temporary restriction operating during the existence of the national need.

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No person shall be imprisoned or held in servitude in consequence of the mere breach of contractual obligations.

ARTICLE III

RIGHT TO FREEDOM OF SPEECH AND OF EXPRESSION

Every person has the right to freedom of speech and of expression.

This right includes freedom to form and to hold opinions and to give expression to them in private and in public, and to publish them in written or printed form.

The right to freedom of speech and of expression extends to the use of whatever means of communication are available: freedom to use the postal service, the public utilities of telegraph, telephone and radio communication; freedom to use the graphic arts, the theater, the cinema and other agencies for the dissemination of ideas.

The right to freedom of speech and of expression includes freedom of access to the sources of information, both domestic and foreign.

The right to freedom of speech and of expression includes the special and highly privileged right to freedom of the press.

The only limitations which the state may impose upon this freedom are those prescribed by general laws looking to the protection of the public peace against slanderous or libellous defamation of others, and against indecent language or publications, and language or publications directly provocative of violence among the people.

Censorship of the press is prohibited, whether by direct or indirect means, and all limitations imposed in the interest of public order shall only be applied subsequently to the publication of the material alleged to be of the offensive character described in the law. Censorship of the cinema may be in advance of publication, taking into account the particular form of publication and the necessity of protecting the public against matters offensive to accepted standards of conduct. The state may not retain a monopoly of radio broadcasting so as to deny

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to the individual the opportunity for the free expression of opinion through that instrumentality of communication.

ARTICLE IV

RIGHT TO FREEDOM OF RELIGIOUS WORSHIP

Every person has the right to freedom of religious belief and worship.

This right includes freedom of religious worship in public as well as in private; freedom of religious worship by groups as well as by individuals; freedom to maintain churches and other places of public worship and to assemble in them without restraint; freedom of parents to educate children in their particular religious belief; freedom of religious propaganda in spoken or written form.

The only restrictions which the state may place upon the right of freedom of religious worship are those called for by the requirements of public health, safety and good morals; and all such restrictions must be in accordance with general laws and administered without discrimination.

A distinction is recognized between strictly religious activities and other activities of an economic or financial character associated with the maintenance of religious worship but not forming an essential part of it. These economic or financial activities may be regulated by the state in accordance with the general laws governing such activities.

ARTICLE V

RIGHT TO FREEDOM OF ASSEMBLY

Every person has the right to assemble peaceably with others as a means of giving expression to views upon matters of common interest.

The state has the duty to permit the use of public places for purposes of general assembly. It has the right to be informed of meetings to be held in public places, to designate convenient localities, and to impose conditions upon the use of such places in the interest of the public order and safety. Similar conditions may be imposed upon

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assemblies in public and in private buildings. But the conditions imposed by the state upon the holding of public meetings must not be such as to impair substantially the right itself to hold such meetings; and no conditions shall be required for the assembly of small groups of persons whether in public or in private places.

The right of assembly includes the right to hold public parades, subject to the same restrictions to which assemblies are subject.

ARTICLE VI

RIGHT TO FREEDOM OF ASSOCIATION

Every person has the right to associate with other persons for the protection and promotion of legitimate interests.

The state has the right to adopt regulations governing the activities of associations, provided they are applied without discrimination against a particular group, and provided they do not impair substantially the right of association.

ARTICLE VII

RIGHT TO PETITION THE GOVERNMENT

Every person has the right, whether exercised by individual action or in conjunction with others, to petition the government for redress of grievances or to petition in respect to any other matter of public or private interest.

The publication of such petitions shall not be made a ground for penalizing in any way, directly or indirectly, the person or persons making the petition.

ARTICLE VIII

RIGHT TO OWN PROPERTY

Every person has the right to own property.

The state has the duty to cooperate in assisting the individual to attain in minimum standard of private ownership of property based upon the essential material needs of a decent life, looking to the

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maintenance of the dignity of the human person and the sanctity of home life.

The state may determine by general laws the limitations which may be placed upon the ownership of property, looking to the maintenance of social justice and to the promotion of the common interest of the community.

The right of private property includes the right to the free disposal of property, subject, however, to limitations imposed by the state in the interest of maintaining the family patrimony.

The right of private property is subject to the right of the state to expropriate property in pursuance of public policy, just compensation being made to the owner.

ARTICLE IX

RIGHT TO A NATIONALITY

Every person has the right to a nationality.

No state may refuse to grant its nationality to persons born upon its soil of parents who are legitimately present in the country.

No person may be deprived of his nationality of birth unless by his own free choice he acquires another nationality.

Every person has the right to renounce the nationality of his birth, or a previously acquired nationality, upon acquiring the nationality of another state.

ARTICLE X

RIGHT TO FREEDOM OF FAMILY RELATIONS

Every person has the right to be free from interference in his family relations.

It is the duty of the state to respect and to protect the reciprocal rights of husband and wife in their mutual relations.

Parents have a primary right of control over their children during minority, and they have a primary obligation to maintain and support them.

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It is the duty of the state to assist parents in the maintenance of adequate standards of child welfare within the family circle, and to promote as far as possible the ownership of individual homes as a means of fostering better family relations.

The state may restrict the control of parents over their children only to the extent that the parents themselves are unable to perform their duties towards their children or actually fail to do so. Where necessary, the state must itself provide for their protection and support.

ARTICLE XI

RIGHT TO BE FREE FROM ARBITRARY ARREST

Every person accused of crime shall have the right not to be arrested except upon warrant duly issued in accordance with the law, unless the person is arrested flagrante delicto. He shall have the right to a prompt trial and to proper treatment during the time he is in custody.

ARTICLE XII "

RIGHT TO A FAIR TRIAL

Every person accused of crime shall have the right to a fair public hearing of the case, to be confronted with witnesses, and to be judged by established tribunals and according to the law in force at the time the act was committed. No fines shall be imposed except in accordance with the provisions of general laws; and no cruel or unusual punishments.

ARTICLE XIII

RIGHT TO PARTICIPATE IN ELECTIONS

Every person, national of the state, has the right to participate in the election of the legislative and executive officers of the government in accordance with the provisions of the national constitution. The practical exercise of this right may, however, be conditioned by the duty of the person to show that he is competent to understand the principles upon which the constitution is based. The constitution of

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the state shall provide for a government of the people, by the people and for the people.

This right presupposes the right to form political parties.

No person shall be denied the right to hold public office, or to be appointed to any of the public services of the state of which he is a national, upon grounds of race or religion or sex or any other arbitrary discrimination; and the administration of the public services of the state shall, in respect to appointments and terms and conditions of service, be without favor or discrimination.

ARTICLE XIV

RIGHT TO WORK

Every person has the right to work as a means of supporting himself and of contributing to the support of his family.

This right includes the right to choose freely a vocation, in so far as the opportunities of work available make this possible, as well as the right to transfer from one employment to another and to move from one place of employment to another. Associated with the right to work is the right to form labor and professional unions.

Every person has the duty to work as a contribution to the general welfare of the state.

The state has the duty to assist the individual in the exercise of his right to work when his own efforts are not adequate to secure employment; it must make every effort to promote stability of employment and to insure proper conditions of labor, and it must fix minimum standards of just compensation.

The state has the right, in time of emergency, to call upon the services of the individual, in cases where such services are necessary to meet an urgent public need.

/ARTICLE XV

ARTICLE XV

RIGHT TO SHARE IN BENEFITS OF SCIENCE

Every person has the right to share in the benefits accruing from the discoveries and inventions of science, under conditions which permit a fair return to the industry and skill of those responsible for the discovery or invention.

The state has the duty to encourage the development of the arts and sciences, but it must see to it that the laws for the protection of trademarks, patents and copyrights are not used for the establishment of monopolies which might prevent all persons from sharing in the benefits of science. It is the duty of the state to protect the citizen against the use of scientific discoveries in a manner to create fear and unrest among the people.

ARTICLE XVI

RIGHT TO SOCIAL SECURITY

Every person has the right to social security.

The state has the duty to assist all persons to attain social security. To this end the state must promote measures of public health and safety and must establish systems of social insurance and agencies of social cooperation in accordance with which all persons may be assured an adequate standard of living and may be protected against the contingencies of unemployment, accident, disability and ill-health and the eventuality of old age.

Every person has the duty to cooperate with the state according to his powers in the maintenance and administration of the measures taken to promote his own social security.

ARTICLE XVII

RIGHT TO EDUCATION

Every person has the right to education.

The right of children to education is paramount.

The state has the duty to assist the individual in the exercise of

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the right to education, in accordance with the resources of the state. The opportunities of education must be open to all upon equal terms in accordance with their natural capacities and their desires to take advantage of the facilities available.

The state has the right to fix general standards to which educational institutions must conform, provided that these standards are in accord with other fundamental rights and are the same for public and for private schools.

The right to education involves the right to teach, subject to the restrictions which accompany the right to education.

ARTICLE XVIII

RIGHT TO EQUALITY BEFORE THE LAW

All persons shall be equal before the law in respect to the enjoyment of their fundamental rights. There shall be no privileged classes of any kind whatsoever.

It is the duty of the state to respect the fundamental rights of all persons within its jurisdiction and to protect them in the enjoyment of their rights against interference by other persons.

In all proceedings in relation to fundamental rights the state must act in accordance with due process of law and must assure to every person the equal protection of the law.

All restrictions imposed upon fundamental rights must be such only as are required by the maintenance of public order; and they must be general in character and applicable to all persons within the same class.

ARTICLE XIX

RIGHTS AND DUTIES CORRELATIVE

Rights and duties are correlative; and the duty to respect the rights of others operates at all times as a restriction upon the arbitrary

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exercise of rights.

ARTICLE XX

INCORPORATION OF DECLARATION INTO
MUNICIPAL LAW

The provisions of this Declaration shall be a part of the law of each individual state, to be respected and enforced by the administrative and judicial authorities in the same manner as all other laws of the state.

The provisions of this Declaration shall not be abrogated or modified except in accordance with the terms of an inter-American agreement or an agreement of the United Nations binding upon the American States.

ARTICLE XXI

PROCEDURE IN CASES INVOLVING ALIENS

In the case of aliens alleging violation of the foregoing fundamental rights by the state in which they are resident, the complaint shall be decided first by the courts of the state itself; and in cases in which a denial of justice is alleged by the state of which the alien is a national, the case, failing diplomatic settlement, shall be submitted to an International Court, the statute of which shall be included as an integral part of the instrument in which the present Declaration is to be adopted.

Rio de Janeiro, December 31, 1945

(S) Francisco Campos
(S) F. Nieto del Rio
(S) Charles G. Fenwick
(S) A. Gomez Robledo
