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Council Committee on Non-Governmental Organizations

PROPOSALS RELATING TO THE DRAFT COVENANT SUBMITTED  
TO THE COUNCIL BY THE COMMISSION ON HUMAN RIGHTS<sup>(1)</sup>

Statement submitted by the International League for  
the Rights of Man, a non-governmental organization  
granted consultative status in category B

A summary of the following statement was circulated under the symbol E/C.2/254. The Council Committee on Non-Governmental Organizations subsequently decided to have the statement circulated in extenso in accordance with paragraph 23 of Council Resolution 288 B (X).

I. "Draft of a first Covenant on Human Rights"

1. While paying tribute to the Commission's efforts to define certain individual and public rights and to establish, in particular, certain legal guarantees, the International League for the Rights of Man regrets that so many limitations have been imposed upon those rights. It considers that those limitations are too vague and may render illusory the exercise of the fundamental human freedoms.

(1) See item 19 of the Council's agenda.

In our view, the derogations provided for in Article 2 of the draft, relating to a state of emergency and public disaster, should be eliminated in cases other than those indicated in the draft and we support the proposals made by several delegations with the object of preventing such derogations from giving rise to undemocratic tendencies.

2. With regard to the articles concerning federal States and non-self-governing territories, which were referred back to the Council without a vote being taken, we re-affirm the conviction already set forth in our Note submitted to the Commission on 27 March 1950 (E/CN.4/NGO/4) namely, that the Covenant should cover in its entirety the states, provinces and cantons of Federal States, and also all self-governing territories.

3. We also wish to draw the Council's attention to the fact that the number of ratifications (20) required in the Commission's draft to bring the Covenant into force is much too high; half that number should suffice. The essential thing is that a start should be made with implementing the Covenant and that the Covenant should win the support of public opinion and, thereby, of governments. Otherwise, years might pass before the Covenant became a reality, as shown by the example of the Genocide Convention adopted by the General Assembly in 1948, which, on the eve of the 1950 Assembly, has not yet received the 20 ratifications required for its entry into force.

## II. "Additional Articles"

4. The Commission's draft Covenant, regarded as the draft of a "first" Covenant, does not contain all the individual and public rights proclaimed by the Universal Declaration of 1948, or the economic, social and cultural rights incorporated in that Declaration. Those rights which were left out of the "first" Covenant merely form the subject of annexes containing proposals submitted by a number of delegations.

The International League for the Rights of Man wishes to repeat with emphasis the view already expressed in its Note of 27 March (E/CN.4/NGO/4) as well as in a statement made to the Commission by its representative on 9 May 1950

(E/CN.4/480) the view that all those rights should form part of the Covenant now under discussion.

A. Individual and Public Rights

5. With regard to the individual and public rights not included in the Commission's draft, we consider that it would be altogether abnormal to separate them from the other rights in the same category. They include the right of asylum, the right of minorities to special protection, the right to inviolability of home and correspondence, the right to own property, and the right to take part in government - the inclusion of which in the Covenant was unequivocally supported by several delegations. Without the slightest doubt, they belong with the rights already approved by the Commission.

B. Economic, Social and Cultural Rights

6. With regard to economic, social and cultural rights, the League is more than ever convinced that a Covenant which contained only individual and public rights would have little worth, since the exercise of those rights depends, at bottom, upon the simultaneous enjoyment of economic, social and cultural rights. That axiom has been stated not only by the non-governmental organizations best qualified to express their views on the matter, but also by a number of delegates. The importance of economic, social and cultural rights has, moreover, been expressly recognized even by those delegates who opposed their inclusion in a "first Covenant" and put forward technical arguments to support that attitude.

Those arguments, however, the chief of which was that the Commission, having reached the end of its session, no longer had time to study that category of rights, cannot apply in the case of the Council which, we consider, will be able, at the beginning of its session, to instruct its competent committee to draft articles on economic, social and cultural rights in the light of the corresponding articles of the Universal Declaration adopted so enthusiastically by the General Assembly in 1948.

7. The League wishes to point out, in this connection, that the terms of the Commission's resolution recommending consideration of economic, social and cultural rights at its next session, are not such as to relieve the grave public misgivings caused by the relegation of that category of rights to a subsequent Covenant. That resolution does not even state that the adoption of such a Covenant should take place in the course of the 1951 session of the Assembly; it ignores the fact that all the rights form a single whole, temporarily separated for technical reasons only, but constituting a single body which should be taken into account, especially with regard to the measures of implementation. Merely to defer for subsequent study a category of rights of so essential a nature would not only delay recognition of those rights over a great part of the world but would also dangerously strengthen the tendency existing in certain circles to discriminate between the two groups of rights - a discrimination which is wholly unjustifiable both from the philosophical and juridical, as well as from the political, point of view.

8. In this connection, the League wishes to express its firm conviction that to destroy the fundamental unity of all individual, public, economic, social, and cultural rights - a unity recognised in several modern constitutions, and in the Universal Declaration - to divorce the Covenant from the realities of human life, would be to deprive it in advance of any possibility of action in the world to-day.

### III. Implementation

#### A. Organ of Implementation

9. The International League for the Rights of Man notes with satisfaction that the Commission has not adopted the view of those delegates who wished to entrust the implementation of the provisions of the Covenant to ad hoc bodies, but recommends the Council to establish a permanent body.

We must, however, point out that the body proposed by the Commission gives the impression of being permanent in name only, since it would perform only those functions which had previously been contemplated by the supporters of

ad hoc organs, that is to say, it would be able to act only after the breakdown of negotiations between States - between the State charged with failure to carry out its undertakings and the State bringing the charge. The body would act only at the request of one of those States and its action would simply be an attempt at mediation. It would not be entitled permanently to supervise the observance of the obligations accepted by the contracting States, or to take the slightest initiative, in face of a threat to human rights.

10. In view of the inadequate functions conferred upon the permanent organ of implementation, the League wishes to recall the proposals contained in its Note of 27 March 1950 (E/CN.4/NGO/4) which requested that the functions of the organ in question should be:

- (a) receiving periodically information from the contracting States about implementation of the Covenant through national measures;
- (b) initiating requests for such information;
- (c) publishing such information and any facts relating to implementation in periodic and special reports, and in a Year Book;
- (d) receiving complaints and petitions and asking for the comments of Governments thereon;
- (e) making enquiries by gathering information, by holding hearings and by field investigations;
- (f) establishing or re-establishing observance of human rights by conciliatory action; by juridical procedure - appeals to a Special Court of Human Rights or to the International Court of Justice; by publishing findings; by publicly presenting appeals or specific demands to the State concerned.

#### B. Right of Petition

11. With regard to the manner in which the machinery of the organ of implementation should be set in motion in the event of a violation of the rights guaranteed by the Covenant, the League is still convinced of the absolute necessity of granting the right of petition, not only to the contracting States - as is proposed in the Commission's draft - but also, and forthwith, to



individuals and groups and to non-governmental organizations, specifically granted the exercise of such a right.

In this connection we would refer to the arguments presented in our Note of 27 March 1950 (E/CN.4/NGO/4), to the statements made by our representative before the Commission on 25 April 1950, (E/CN.4/SR.158) and also to the arguments put forward by several members of the Commission.

12. We do not consider that any useful purpose would be served by adopting the suggestion made by certain delegates that there should be a special protocol open for the signature of States prepared to accept the right of petition by individuals, groups and organizations. It is to be feared that the very fact that the underlying principle of such an optional protocol would be in direct conflict with the principle of reciprocity and equality between contracting States, would prevent the majority from assuming the duties implicit in the recognition of the right of petition, and that the number of signatures would be infinitesimal.

13. Similarly, we are opposed to the suggestion made by some delegates to the effect that the right of petition should be granted to individuals, groups and organizations at a later stage, when greater experience has been gained in this field through the exclusive use of the right of complaint by States.

14. In this connection we wish to repeat what has already been said by us, by the representatives of other organizations and by several delegates, to the effect that such experience has been gained long since, at any rate in part, in the League of Nations, the International Labour Organization and, above all, the United Nations Trusteeship Council.

15. We should also like to point out that the exercise of the right of complaint by States can in no wise serve to provide the necessary experience for the subsequent use of the right of petition by individuals, groups and organizations. The right of complaint which is granted exclusively to States would place the concept of the international protection of human rights on the plane of intergovernmental relations, whereas the right of petition for which we ask would be exercised on an entirely different plane, that of direct relations between individuals and the international authority.

16. We must also emphasize that the right of petition cannot be considered as less important than the other human rights - as a supplementary guarantee in fact or as a luxury .... The truth is that it is an elementary human right and that there can be no implementation of a Covenant on Human Rights, if the right of complaint be refused to those whose other rights the Covenant is supposed to guarantee. The right of petition cannot therefore be housed in a wing, or in an annex to be added later, to the building now under construction. It is the very foundation stone of the edifice, which cannot be erected without it.

17. Finally, it is necessary to stress the importance of this right for the whole work of the United Nations. To decide that an individual may not petition that organization direct, even when his rights - rights recognized by that organization - are in question, would be tantamount to labelling the United Nations as merely an instrument in the service of governments. That would infallibly result in the destruction of all the hopes placed by the peoples on the organization whose Charter begins with the words: "We the peoples" .... Surely it is known what immense astonishment and limitless disappointment have been aroused in nearly all quarters of the globe by the fact that hitherto no action could be taken in regard to the thousands and thousands of "communications", drawing attention to violations of human rights which are pouring in to the United Nations? Moreover, that situation will continue should the Covenant refuse the right of petition to individuals, groups and organizations.

#### Conclusion

18. For all these reasons the International League for the Rights of Man requests the Economic and Social Council, during its eleventh session, to complete the unfinished work of the Commission, by:

1. abolishing the limitations imposed by the Commission upon the exercise of human rights; ensuring the application of the Covenant throughout the dependent territories of the contracting States, and providing for its rapid entry into force;

2. inserting in the Covenant all individual and public, as well as economic, social and cultural rights;
3. setting up a permanent organ of implementation with powers of supervision and intervention to ensure observance of, or restore the rights guaranteed in the Covenant;
4. granting the right of petitioning this body to individuals, groups and certain non-governmental organizations, and not only to States.

19. Should the Council not be in a position to complete this work in the course of its eleventh session, we would request it to recommend the General Assembly to take the matter in hand itself. Such a recommendation should take account of the possibility that it might be difficult for the Assembly to accomplish this task, among so many others, during the Fifth Ordinary Session of 1950. It might be suggested that in such a case it should refer the Covenant back to the Commission and not discuss it itself until its Ordinary Session of 1951, or, alternatively, that it should devote a special Session to this most important problem at the beginning of 1951, without previously referring it back to the Commission. Such a special session might be the most effective means of providing the world with as complete a Covenant on Human Rights as possible, and one which would really implement the promises made in the Charter, the principles proclaimed in the Universal Declaration, and would fulfil the hopes of the democratic peoples.