

COUNCIL COMMITTEE ON NON-GOVERNMENTAL
ORGANIZATIONSLIST OF COMMUNICATIONS RECEIVED FROM NON-GOVERNMENTAL
ORGANIZATIONS GRANTED CATEGORY (b) OR (c)
CONSULTATIVE STATUS

This list is in accordance with the provisions of section IV paragraph 4, of the report of the Committee on Arrangements for Consultation with Non-Governmental Organizations, approved by the Council on 21 June 1946 (resolution 2/3 of 21 June 1946, in Official Records of the Economic and Social Council, first year, second session, pages 350-355).

World Jewish Congress (Congrès Juif Mondial)

By letter dated 11 May 1949, the World Jewish Congress submits a memorandum for the attention of the Human Rights Commission on the Draft Covenant on Human Rights, implementation and the question of petitions. This memorandum may be summarized as follows:

A. Extent of rights covered by the Covenant

The Congress states that the Draft Covenant omits all safeguards of social rights, which may be as important as adequate legal safeguards for the protection of the individual for the absence of social safeguards may weaken the effectiveness of the guarantee of legal rights. The Congress, therefore, hopes that the Commission will examine the advisability of including in the Covenant a number of the more important social rights, such as the right to work, the right to an adequate standard of living etc.

B. The wording of the sundry articles

The General Assembly, in resolution 217(III) indicated that the International Bill of Human Rights was to include a Declaration, a Covenant, and measures for implementation. Therefore the Declaration and Covenant constitute part of one and the same Bill. The Congress suggests, therefore, that except as concerns the reservations to be made in the Covenant, the corresponding articles of that document should use the identical language incorporated in the Declaration.

/C. Article 4

C. Article 4 of the Draft Covenant

This article grants the State the right to institute measures which derogate from its obligations under article 2 of the Draft Covenant, the State being the sole judge as to whether an emergency exists and the extent and character of the limitation required by "the exigencies of the situation". There is no provision for any international machinery to determine the necessity of such action.

The United States alternative text for article 4 is in one respect preferable in that it specifically excludes the derogation of human rights for the purposes of discrimination on account of race, sex, language, religion, political or other opinion, property status or national or social origin. On the other hand, it allows an even wider latitude to the State by granting the State the authority to derogate human rights in order to secure "the preservation of peace, order or security or the promotion of the general welfare." This would permit the curtailment of the human rights at the unilateral will of the State.

The "promotion of human welfare" is however, a constant feature of national life and in the absence of a specific situation requiring extraordinary measures, cannot involve the derogation of any basic human rights. Furthermore, since each article in the Draft Covenant contains restrictions which are, generally speaking, sufficient to cover not only the ordinary conduct of State affairs but emergencies as well, there is hardly any necessity for a blanket restrictive provision. Should the Commission decide otherwise, this derogation of human rights should relate only to the exercise of these rights and not to the remedies for their violation. Therefore, it should be stated that the derogation of human rights refers only to paragraph (a) of article 2. It should also be indicated that there are a number of human rights which even in instances of war or public emergencies, are not to be derogated further than provided for in the specific articles dealing with them and that in no case shall the curtailment of the rights involve discriminatory treatment on account of race, religion, sex, language or social origin. The following rights fall into this category:

1. Right to life (article 5)
2. Mutilation (article 6)
3. Torture (article 7)
4. Slavery (article 8, para. 1)
5. Liberty of movement (article 11)
6. Deprivation of liberty, fair trial (article 9, 13)
7. Prohibition of retroactive criminal laws (article 14)

/8. Deprivation

8. Deprivation of juridical personality (article 15)
9. Freedom of religion and conscience (article 16)
10. Right of assembly (article 18) and association (article 19)
11. Article 22 (Non-protection of destructive activities) must never be abrogated, especially since such abrogation would tend to aggravate the emergency.

The memorandum states that whatever restrictions on the exercise of human rights are permitted by the Covenant, it should be indicated that these do not invalidate obligations resulting from other international conventions or precedents. The memorandum also suggests that the Covenant establish the principle that the derogation of human rights is not to be within the sole jurisdiction of the various States, but should be regulated within the framework of the United Nations machinery.

The memorandum concludes by suggesting that if article 4 is included in the Covenant, it should be amended in accordance with the preceding suggestions, to read as follows:

(1) "In time of war or other public emergency a State may take measures derogating from its obligations under article 2(a) above to the extent strictly limited by the exigencies of the situation. However, the rights enumerated in articles 5, 6, 7, 8 (para. 1), 9, 11, 13, 14, 15, 16, 18, 19 and 22 must not be derogated under any circumstances, nor may they be implemented in such manner as to involve discrimination on the grounds of race, religion, sex, language or origin. Nor shall any restriction be imposed which may result in the denial of assistance or asylum to loyal aliens.

(2) "Any State party to this convention availing itself of the right of derogation within the limitations set forth above shall inform the Secretary-General of the United Nations at once of the measures which it has decided to enact and the reasons therefor. It shall suspend those measures at once if the international authorities designated in this convention shall disapprove of them; furthermore it shall inform the Secretary-General when the derogation has ceased to operate and the provisions of article 2 have been fully re-established.

"Nothing contained in this article shall be construed so as to limit the obligations of the parties to this Covenant to respect human rights resulting from other conventions in force among them or from principles of the law of nations derived from the usages established among civilized peoples or from the laws of humanity and the dictates of public conscience."
