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DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS
 AND MEASURES OF IMPLEMENTATION

OBSERVATIONS AND SUGGESTIONS BY NON-GOVERNMENTAL ORGANIZATIONS

(Memorandum by the Secretary-General)

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/1. Preamble
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OBSERVATIONS AND SUGGESTIONS BY NON-GOVERNMENTAL ORGANIZATIONS

(Memorandum by the Secretary-General)

I. INTRODUCTION

1. In resolution 544 (VI), the General Assembly calls upon the Economic and Social Council to request the Commission on Human Rights, to take into consideration, inter alia, such views as non-governmental organizations may think fit to advance regarding articles on economic, social and cultural rights. Non-governmental organizations in categories A and B and on the Register have made several observations and suggestions on various problems relating to the draft International Covenant on Human Rights and measures of implementation in written statements which they submitted to the Commission at its sixth and seventh sessions, and to the Economic and Social Council at its twelfth and thirteenth sessions.
2. This memorandum draws attention to any comments which may still be relevant to the Commission's work on the draft Covenant and measures of implementation. The statements contain observations and suggestions on the adequacy of the catalogue of rights in the first eighteen articles of the draft Covenant, on the drafting of these articles, on economic, social and cultural rights, on measures of implementation, on the federal clause and on the question of reservations. They are summarized in the sections which follow under appropriate subject headings.
3. These statements were drafted, with one exception (E/CN.4/NGO/34), prior to the sixth session of the General Assembly, and are therefore based on the understanding that civil and political and economic, social and cultural rights would be embodied in one Covenant. Comments on the principle of including these rights in one, two or a series of covenants have not been included as they no longer appear to be relevant.
4. On the question of implementation the statements concern both the provisions to be included in the Covenant, and the adoption of measures designed to guarantee the protection of human rights, which would be applicable to all Member States. Observations and suggestions on both these questions are included in this memorandum.

/II. ADEQUACY

II. ADEQUACY OF THE CATALOGUE OF RIGHTS IN THE FIRST EIGHTEEN ARTICLES (PARTS I AND II) OF THE PRESENT COVENANT

A. General considerations

5. Some non-governmental organizations express their disappointment that the draft Covenant does not contain all the provisions proclaimed in the Universal Declaration of Human Rights (Catholic International Union for Social Service, E/CN.4/NGO/29; International League for the Rights of Man, E/CN.4/NGO/24 and 4; and International Federation of Christian Trade Unions, E/CN.4/NGO/23). In certain cases organizations mention the rights which they especially wish to be added to the draft Covenant, and in other instances suggestions are made for actual texts of provisions. These are given in section B below.

B. Individual rights

1. Right of women to equality with men

6. The International Council of Women, while noting that articles 1, 12 and 17 of the draft Covenant relate to the status of women, believes that it is essential that the Covenant include a declaration to the general effect that: No State shall make or permit any law or regulation discriminating on account of sex (E/CN.4/NGO/25, paragraph 1 and E/C.2/317).

2. Right of minorities

7. The International League for the Rights of Man is in favour of including an article on the rights of minorities in the Covenant, even if it is intended later to adopt an international agreement specifically dealing with this question (E/CN.4/NGO/4, paragraph 3).

3. Right of asylum

8. Several organizations urge that the right of asylum be included in the Covenant (Caritas Internationalis, E/CN.4/NGO/33; Pax Romana, E/CN.4/NGO/30; Co-ordinating Board of Jewish Organizations, E/CN.4/NGO/26; International League for the Rights of Man, E/CN.4/NGO/24; International Federation of Christian Trade Unions, E/CN.4/NGO/23; and World Jewish Congress, E/CN.4/NGO/21).

9. Caritas Internationalis and Pax Romana suggest that the provision regarding this right should be based on article 14 of the Universal Declaration

of Human Rights. Pax Romana suggests that article 9 of the present Covenant be amended as follows:

- "1. Everyone has the right to seek and to enjoy in other countries asylum from persecution."
2. Present article 9.
- "3. No State shall expel or turn back aliens seeking asylum to territories where their life or freedom would be endangered by reason of their religion, race or political opinions." (E/CN.4/NGO/30, Section III).

10. The Co-ordinating Board of Jewish Organizations and the World Jewish Congress suggest that the right of asylum be incorporated in the Covenant by amending article 9. The Co-ordinating Board proposes the following text, the amendments being underlined:

- "1. No alien legally admitted to the territory of a State shall be expelled therefrom except on established legal grounds which do not discriminate on the basis of race, sex, language or religion, and according to non-discriminatory procedures and safeguards which shall in all cases be provided by law.
2. No alien shall be expelled or returned in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

The World Jewish Congress suggests that the following be added to article 9 as a second paragraph:

"Everyone has the right to seek and to enjoy in other countries asylum from persecution. No refugee from persecution lawfully in the territory of one of the Contracting States shall be expelled save on grounds of national security or public order and in pursuance of a decision reached in accordance with due process of law, and no Contracting State shall expel or return such refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality or political opinion. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations."

4. Right to protection against double jeopardy

11. The International League for the Rights of Man supports the inclusion of a provision forbidding a second prosecution for the same crime (E/CN.4/NGO/24, paragraph 2).

5. Right to inviolability of the home and related rights

12. The International Federation of Christian Trade Unions regrets the omission of any reference to legal protection against interference with a citizen's privacy, family, home or correspondence, and against attacks on his honour and reputation (E/CN.4/NGO/23, paragraph 1).

6. Right to marriage

13. Many organizations express the view that the principles of article 16 of the Universal Declaration of Human Rights relating to marriage and the family should be incorporated in the Covenant (Saint Joan's International Social and Political Alliance, E/CN.4/NGO/34; Caritas Internationalis, E/CN.4/NGO/33; Pax Romana, E/CN.4/NGO/30; Catholic International Union for Social Science, E/CN.4/NGO/29; International League for the Rights of Man, E/CN.4/NGO/24, International Federation of Christian Trade Unions, E/CN.4/NGO/23; International Council of Women, E/CN.4/NGO/25; Liaison Committee of Women's International Organizations, E/CN.4/NGO/17; International Alliance of Women, E/CN.4/NGO/16; World Movement of Mothers, E/CN.4/NGO/9).

14. The Liaison Committee of Women's International Organizations draws attention to the following wording:

"1. The family deriving from marriage is the natural and fundamental unit of society which is best protected by a system of monogamy. All persons shall have equality before the law in all matrimonial questions. No marriage shall be contracted before the age of puberty and without the free consent of both intending spouses.

"2. Marriage and the family shall be protected by the State and society." (E/CN.4/NGO/17, paragraph 2).

7. Right to Property

15. Pax Romana expresses the opinion that the right to own property should be protected in the Covenant, if only in general terms as in the Universal Declaration. It is also stated, however, that provision should be made for

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protection against arbitrary confiscation of property and for adequate compensation in case of expropriation (E/CN.4/NGO/30, Section V). The International League for the Rights of Man and the International Federation of Christian Trade Unions also support the inclusion of a provision on the right to own property, (E/CN.4/NGO/24 and 23).

8. Right of parents in relation to their children's education

16. Pax Romana, the Catholic International Union for Social Service, and the International Federation of Christian Trade Unions emphasize the importance of including a provision in the Covenant guaranteeing the right of parents to choose their children's education (E/CN.4/NGO/30, 29 and 23).

9. Right to participate in government

17. Pax Romana (E/CN.4/NGO/30, Section VI) and the International League for the Rights of Man believe that the Covenant should guarantee the right of the citizen to take part in the government of his country (E/CN.4/NGO/30, Section VI and E/CN.4/NGO/24, Section I, paragraph 1).

10. Right to self-determination

18. The International League for the Rights of Man believes that the right of national self-determination should be included in the Covenant, and expresses the view that the right to belong to an independent national entity is as much an individual right as the right to take part in the government of one's country (E/CN.4/NGO/24, Section I, paragraph 1).

III. ADEQUACY OF THE DRAFTING OF THE FIRST EIGHTEEN
ARTICLES OF THE PRESENT COVENANT

A. General observations

19. General comments by non-governmental organizations on the drafting of the articles relate to the question of limitations and exceptions, the use of such words as public order, health or morality, and non-discrimination on grounds of sex.

20. The International Federation of Business and Professional Women believes that the rights and their permissible limitations should be more completely and precisely stated in each article (E/CN.4/NGO/20, paragraph 6). The International League for the Rights of Man is of the view that certain limitations of human rights are necessary in an international instrument in so far as they define those rights, and make it clear how they can be exercised and guaranteed, but the exercise and protection should not be jeopardized by subordinating them to national laws or to emergency situations. National laws should be adjusted to the Covenant, and emergency limitations confined to times of war or armed rebellion. If limitations are contained in a general article, it should be clearly stated to which particular rights they apply (E/CN.4/NGO/4, paragraph 6).

21. The International League opposes all provisions which, in practice, would deny rights on the pretext of maintaining public order, health or morality, or protecting public safety, since this would permit certain governments to suppress essential rights at will (E/CN.4/NGO/24, paragraph 2B).

22. The International Federation of Business and Professional Women asks the Commission to consider safeguarding the principle of "no discrimination and equal opportunity for women" throughout the Covenant, and urges that the non-discrimination clause appearing in article 17 of the present draft be insistently reiterated throughout the Covenant, (E/CN.4/NGO/20, paragraph 2). The Liaison Committee of Women's International Organizations recommends that in the provisions of the Covenant the expression "everyone" should always be used with reference to non-discrimination on grounds of sex, pointing out that if women are mentioned only occasionally, this might imply that they are not covered unless specifically mentioned (E/CN.4/NGO/19).

/B. Preamble

B. Preamble and individual articles

1. Preamble

23. The International Catholic Press Union suggests that the preamble should contain some reference to the divine origin of human rights (E/C.2/316, page 4).

24. Pax Romana considers that the reference to the Universal Declaration of Human Rights in the second paragraph of the preamble is too weak, and suggests the following wording:

"Subscribing to the principles enunciated in the Universal Declaration of Human Rights and undertaking to promote respect for the rights contained therein" (E/CN.4/NGO/30, Section I).

25. The International Federation of Business and Professional Women criticizes the omission in the draft Covenant of any reference to responsibilities inherent in rights, and suggests the following amendment as an addition to the third paragraph of the Preamble:

"and that it follows that those acquiring rights assume the responsibilities inherent therein." (E/C.2/301).

2. Article 2

26. The Co-ordinating Board of Jewish Organizations believes that the present wording may leave too wide a loophole for States to evade their obligations under the Covenant and suggests the following amendment to paragraph 1 of article 2 (the amendment suggested is underlined):

"In the case of a state of emergency caused by an enemy invasion or a state of war or in the case of public commotion or disaster gravely upsetting the normal life in the territory of a State ..."

(E/CN.4/NGO/26, Section A).

27. The Co-ordinating Board of Jewish Organizations and the World Jewish Congress propose the inclusion of a clause on non-discrimination to follow the first sentence of paragraph 2 of the present article 2.

The Co-ordinating Board suggests the following wording:

"No derogation may be made from any provision in the Covenant prohibiting measures of discrimination on the grounds of race, sex, language or religion" (E/CN.4/NGO/26, Section A).

The World Jewish Congress submits the following wording:

"Similarly no derogations may be made of Article 1, paragraph 1 and Article 17 in so far as non-discrimination for reasons of race, religion, sex or language is concerned." (E/CN.4/NGO/21, Section I).

3. Article 3

28. The International League for the Rights of Man supports the inclusion of a provision that capital punishment may only be carried out after a unanimous judgment by an authorized court (E/CN.4/NGO/24, paragraph 2).

4. Article 4

29. Certain organizations suggest that the words: "involving risk, where such is not required by his state of physical or mental health" should be deleted from article 4 (Saint Joan's International Social and Political Alliance, E/CN.4/NGO/34, International Federation of Business and Professional Women, E/CN.4/NGO/20, Liaison Committee of Women's International Organizations, E/CN.4/NGO/17).

30. Pax Romana proposes that article 4 be made into two articles. One would consist of the first sentence of the present article 4 and read:

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

The other would read:

"No one shall be subjected to physical mutilation or to any medical or scientific measure in the prophylactic, diagnostic, therapeutic or experimental field which is opposed to the right of the human person to enjoy his own physical or mental integrity." (E/CN.4/NGO/30, Section II).

5. Article 6

31. The International League for the Rights of Man suggests that explicit provision should be made against preventive detention without trial in a court of law (E/CN.4/NGO/24, paragraph 2A).

32. The World Jewish Congress urges the Commission to delete the words "on a criminal charge" in paragraph 4 of article 6, pointing out that the Nazis arrested, detained or held thousands in protective custody for violating not a criminal law, but administrative, fiscal or other regulations (E/CN.4/NGO/21, Section III).

6. Article 9

33. Certain organizations suggest amendments to include the right of asylum in this article (See paragraphs 9 and 10).

7. Article 10

34. For the reasons mentioned in paragraph 32 above, the World Jewish Congress proposes the deletion of the word "criminal" in paragraph 2 of article 10. (E/CN.4/NGO/21, Section IFF).

35. The same Organization also suggests that it should be made clear that article 10 (article 13 of the fifth session draft) prohibits any punishment other than on the basis of a fair and public hearing by an independent and impartial tribunal. It is pointed out that the Nazis annihilated millions of persons on the basis of administrative action (E/CN.4/NGO/7, paragraph (5)).

8. Article 13

36. The Commission of the Churches on International Affairs urges that paragraph 1 of article 13 (Article 16 of the fifth session draft) be accepted without deletion or modification, since its provisions are vitally important. It is also suggested that the Covenant should, by a formally accepted interpretation or by an explicit reference following paragraph 1, recognize the right of parents or guardians to freedom from interference in determining the religious education of their children (E/CN.4/NGO/10).

37. Several organizations are concerned about the limitations clause in paragraph 2 of this article. The Co-ordinating Board of Jewish Organizations suggests the following amendment (underlined):

"Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are pursuant to law and are reasonable and necessary to protect basic public morals or the fundamental rights and freedoms of others."

It is argued that the only religious practice which would seriously jeopardize public safety, order or health is one that would tend to be destructive of the fundamental rights and freedoms of others and if such is not the case, there is no justification for restricting this right. While it is admitted that "public morals" is extremely difficult to define, it is thought that the area of ambiguity may be decreased by adding the word

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"basic". (E/CN.4/NGO/26, Section 1). The World Jewish Congress is of the view that the words "morals" and "health" in paragraph 2 are superfluous and open to abuse, and should be deleted (E/CN.4/NGO/21, Section VII (b)). The Agudas Israel World Organization suggests the deletion of the whole paragraph in view of the far reaching limitations clause (E/CN.4/NGO/12).

38. The Commission of the Churches on International Affairs expresses the view that the stipulation that limitations are applied only to the manifestations of one's religion or belief recognizes an important distinction and should be retained. It is also suggested, with regard to the phrase "pursuant to law", that a general article be included in the Covenant defining the manner in which the references to law in the Covenant should be interpreted (E/CN.4/NGO/10).

39. The Agudas Israel World Organization suggests the addition of the following provision to this article:

"Children whose parents were killed in a war or other catastrophe shall be brought up in the religion of their parents."

If such a provision is not adopted for inclusion in the Covenant it is suggested that the Commission recommend to the Economic and Social Council that it request the Governments of countries where there are surviving children of the victims of Nazi oppression to adopt measures which would lead to: (a) the education in the Jewish religion of the surviving Jewish orphans until such time as they become of sufficient age to make free and independent decisions as to their religion and (b) the appointment of guardians of such orphans who are members of the same faith as their murdered parents (E/CN.4/NGO/12).

40. The Service Civil international suggests the addition of a paragraph to article 13 (Article 16 of the fifth session draft) relating to conscientious objection to armed service, drafted in the following terms:

"Anyone whose religious beliefs or deep convictions forbid him to participate either directly or indirectly in armed conflict shall, in countries where there is compulsory military service, be guaranteed the right to perform a civilian service in place of service with the armed forces." (E/CN.4/NGO/1 and Add.1).

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The Friends World Committee for Consultation also believes that the right of conscientious objection to military service should be recognized in the Covenant, and submits an appendix to its statement for the Commission's consideration when it drafts the sections of the Covenant which bear on this question (E/CN.4/NGO/11).

9. Article 14

41. The International League for the Rights of Man emphasizes the danger of undue restrictions in the article on freedom of information (E/CN.4/NGO/24, Section B).

42. The World Jewish Congress suggests the addition of the following clause to paragraph 3 of article 14:

"... or for the prevention of the dissemination of racial and religious hatred or intolerance."

It is argued in favour of such an addition that incitement to such hatred in Nazi Germany led to terrible atrocities; that the Covenant should prohibit such incitement in view of the fifth paragraph of the Preamble to the Charter and paragraph 3 of the Preamble to the constitution of UNESCO; that the principles of the Charter cannot be achieved in propaganda arousing racial or religious hatred is permitted; and that its omission would defeat the purpose of article 7 of the Universal Declaration of Human Rights (E/CN.4/NGO/21, Section III (c)).

43. The World Jewish Congress also suggests the words "morals" and "health" be deleted from paragraph 3 as being superfluous and open to abuse (E/CN.4/NGO/21, Section III (b)).

10. Article 15

44. The World Jewish Congress suggests the deletion of the words "morals" and "health" in article 15 for the same reasons (E/CN.4/NGO/21, Section III (b)).

IV. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

A. Rights to be included

45. The International Confederation of Christian Trade Unions and the International Federation of Business and Professional Women suggested, at the seventh session of the Commission, before Part III of the present Covenant was drafted, those rights which they wished to see included among provisions on economic, social and cultural rights. The former organization mentioned the following: the right to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration for work done ensuring for the worker and his family an existence worthy of human dignity, to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay, to social security and the worker's right to form and to join trade unions of his choice for the protection of his interests (E/CN.4/NGO/23, section 2). It was also suggested that the most practical guarantees possible should be drawn up relating to cultural advancement for the working masses. The International Federation of Business and Professional Women suggested that the following provisions of the Universal Declaration of Human Rights should be considered for inclusion in the covenant: Article 17 (right to own property); Article 20 (right to freedom of assembly and association); Article 23 (right to work); Article 26 (right to education). The Norwegian Federation also suggested the inclusion of provisions regarding health allowances, old age pensions and protection from unemployment (E/CN.4/NGO/20).

46. At its seventh session the Commission had before it, in drafting the articles on economic, social and cultural rights, texts suggested by the World Federation of Trade Unions on the right to work, to just and favourable working conditions, to social security or social insurance, to rest and leisure, to adequate housing, to non-discrimination, the equal right of women to work and access to employment and their right to protection during pregnancy, on the right to education and access to manifestations of cultural life and to scientific knowledge, and the right to form and join trade unions

/(E/CN.4/NGO/23).

(E/CN.4/NGO/28). It also had before it the text of an article on the right to education suggested by the World Jewish Congress (E/CN.4/NGO/21, section II (b)).

B. Adequacy of the drafting of Part III of the present Covenant

Article 19

47. The World Jewish Congress expresses the view that Article 19, paragraph 4, might lead to an interpretation which is not intended, since a number of rights, in particular cultural rights, can and should be realized at once as they are not dependent on the economic development of any country. It is suggested that the following sentence be added to this paragraph:

"Rights whose realization is not dependent on available resources shall be immediately realized." (E/C.2/299, paragraph 5).

Article 20

48. The International Catholic Press Union is of the view that the present drafting of Article 20 places the concept of work in a perspective which does not correspond to the full reality of man and that it should be stressed that the satisfactory development of the spiritual and moral life requires either renunciation or freely chosen poverty, or such social and material conditions as protect the individual from the demoralizing effects of destitution or the constraint of being obliged to work (E/C.2/316).

Article 25

49. The World Medical Association does not approve of the wording of the second sentence of Article 25. It is of the view that the Article should not make it appear that legislation is the only method of accomplishing the desired aim, which may frequently be accomplished without legislation or with legislation limited to certain categories of persons or of services. It considers that such a provision would arouse opposition and may interfere with the adoption of the Covenant (E/C.2/323).

V. MEASURES OF IMPLEMENTATION

A. The Human Rights Committee (Part IV - Articles 33 - 59
of the present Covenant)

1. The right of petition

50. Many organizations have consistently urged the Commission and the Economic and Social Council to include in the Covenant provisions permitting individuals, groups and non-governmental organizations to submit petitions concerning violations of human rights and not to confine this right to States (Saint Joan's International Social and Political Alliance, E/CN.4/NGO/34; International League for the Rights of Man, E/CN.4/32, 24 and 4; Pax Romana, E/CN.4/NGO/31; World Federation of United Nations Associations, E/CN.4/27; International Council of Women, E/CN.4/NGO/25 and E/C.2/317 and Corr.1; International Federation of Christian Trade Unions, E/CN.4/NGO/23; World Jewish Congress, E/CN.4/NGO/21, 13 and E/C.2/299; International Federation of Business and Professional Women, E/CN.4/NGO/20, 8 and E/C.2/302; Liaison Committee of Women's International Organizations E/CN.4/NGO/17; All India Women's Conference, E/CN.4/NGO/5; International Confederation of Free Trade Unions, E/C.2/285; and Consultative Council of Jewish Organizations, E/C.2/315).

51. It is pointed out that to omit the right of petition for individuals and non-governmental organizations would make it difficult to obtain the support of public opinion for the Covenant and the importance of such support in securing respect for human rights is emphasized (International League for the Rights of Man, E/CN.4/NGO/32; Pax Romana, E/CN.4/NGO/31; and the World Federation of United Nations Associations, E/CN.4/NGO/27).

52. The Consultative Council of Jewish Organizations believes that the likelihood of the Covenant being invoked under the proposed system of State to State complaints seems remote (E/C.2/315, page 1). The International League for the Rights of Man observes that if the right of petition is granted only to States this would, in principle, transform disputes between individuals and their governments into disputes between governments and thus affect international relations without offering sufficient guarantees for genuine implementation of the Covenant (E/CN.4/NGO/4). The World Jewish

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Congress, while not suggesting that the right of intervention by States should be limited, points out that individuals or groups whose rights are violated, will have no recourse but to seek foreign intervention if they wish to invoke the Covenant. This may have an unsettling influence on the internal situation in the State concerned and weaken the chances for redress of grievances. The limitation of the right of petition to States, it is thought, is more likely to result in an extension of the area of diplomatic conflict than in the protection of human rights. Attention is drawn also to the special dangers to small States, which, on the whole, will be less likely to seek to be protagonists in major diplomatic conflicts (E/CN.4/NGO/13, paragraphs 1-4).

53. Several organizations are of the view that the right of petition, if not accorded to individuals, should be granted international non-governmental organizations selected in some appropriate manner.

54. The International League for the Rights of Man points out that such a procedure would cover situations where individuals find it impossible to complain against the national authorities (E/CN.4/NGO/4, paragraph 12). Pax Romana states that individuals might fear reprisals in complaining to some international authority, and governments might prevent any communication between an individual and such authority. International non-governmental organizations, however, could act without State supervision and so preserve the necessary freedom of action. If the right of petition is given to international organizations which have consultative status, that status would provide a guarantee of the responsible character of the petition, since organizations place too high a value on recognition by the United Nations to run the risk of losing it through a frivolous act or an ill-founded charge (E/CN.4/NGO/31, pages 2-3).

55. The World Jewish Congress is in favour of granting the right of petition to certain international non-governmental organizations which have consultative status and suggests the insertion in the Covenant of the following article:

"International non-governmental organizations enjoying consultative status with the Economic and Social Council under Article 71 of the Charter are entitled to submit petitions to the Committee provided that such organizations are included in a list drawn up by the Secretary-General on the direction of the Economic and Social Council. This direction shall take into account that the non-governmental organizations to be included in the list have shown their serious and effective interest in sincerely defending human rights and fundamental freedoms." (E/CN.4/NGO/21, section IV(1)).

56. The International League for the Rights of Man suggests that petitions by non-governmental organizations should be based on the following considerations: that the organizations selected should be among those having consultative status, regardless of whether in category A or B; that they should have a special competence in human rights, in general or in relation to a special category of rights, or be representative of large sections of peoples having need of international protection of their rights; that they furnish evidence of their attachment to the principles of the Covenant, the Charter and the Universal Declaration of Human Rights; that they be international; national organizations should act through the international organizations with which they are affiliated; that they be independent of both governments and political parties (E/CN.4/NGO/24, paragraph 3). In an earlier statement the organization suggests that the selection of non-governmental organizations to be granted the right of petition should be made expressly for that purpose by the implementation body (E/CN.4/NGO/4, paragraph 12).

57. The International Confederation of Free Trade Unions states that only the States which ratify the Covenant should have the right to designate the non-governmental organizations which they are confident would handle complaints conscientiously (E/C.2/285, page 3).

58. The need for adequate safeguards against abuse of the right of petition is generally recognized.

59. The World Federation of United Nations Associations reports that its General Council has asked its permanent commission on human rights to

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investigate possible methods of overcoming the difficulties involved in granting the right of petition to individuals (E/CN.4/NGO/27).

60. The International League for the Rights of Man does not consider the right of petition an absolute right but part of a system in which the most careful safeguards should surround the receipt and examination of all petitions (E/CN.4/NGO/24, section II, paragraph 1).

61. The League urges that the Human Rights Committee be permitted to initiate inquiries into violations of human rights upon receipt of complaints by individuals or non-governmental organizations when a majority of the Committee is convinced that an inquiry is merited. It assumes that the Committee would make its own rules to prevent abuses and to handle private complaints in an orderly manner (E/CN.4/NGO/32, paragraph 3).

62. In a previous statement the League envisages a procedure to guard against abuses, but sufficiently speedy to assure the complainants that their petition would get serious consideration. The following four steps are suggested: ordinarily petitions would be receivable only after it has been shown that all domestic remedies have been exhausted; petitions would be carefully screened to avoid the trivial and unmerited; those accepted would be examined in accordance with established rules as to their reception; and they would be transmitted to the government concerned for comment. Only after the comments of the government had been received would the organ established by the United Nations study the petitions on their merits (E/CN.4/NGO/24).

63. Pax Romana suggests that a sub-committee of the Human Rights Committee or a High Commissioner should screen all petitions submitted and forward them to the Committee only when it is convinced of the serious nature of the complaint. In any case a list of all petitions received should be submitted to the Human Rights Committee with the reasons for declining to take further action where this would be appropriate (E/CN.4/NGO/31).

64. The International Federation of Christian Trade Unions makes the following suggestions regarding procedure for handling petitions from non-governmental organizations: petitions must not be at variance with the principles of the Charter; they must be submitted to the Human Rights

Committee following a decision by the executive organ of the non-governmental organization in question; they must quote the actual terms of the decision taken by that organ; the Committee may require further information, orally or in writing, from the organization and/or the persons signing the decision, and it will then decide whether the petitions are receivable; if so, they will be treated as complaints lodged by States signatory to the convention or conventions on human rights. Another general safeguard suggested by the Federation is that anonymous petitions and those drafted in abusive language or dealing with complaints of a trivial nature shall not be receivable (E/CN.4/NGO/23).

2. The powers and functions of the Human Rights Committee

65. In a statement submitted to the Economic and Social Council, at its thirteenth session, the World Jewish Congress criticizes the measures of implementation in Part IV of the present Covenant on the grounds that they are designed to avoid public discussion of and investigation into the infringement of human rights. Particular attention is drawn to Article 47 (d) in this connexion (E/C.2/299).

66. In the same statement the organization urges the adoption of an additional article, which would permit the Human Rights Committee, by decision reached in accordance with Article 47 (b), to be seized of violations of the Covenant on its own motion when the facts before it appear, in its view, to warrant such consideration. Suggestions along these lines were submitted by the World Jewish Congress to the Commission at its sixth session (E/CN.4/NGO/13, paragraph 7).

67. The International League for the Rights of Man suggests that the Human Rights Committee be permitted to go beyond inquiry by processing a case which a majority finds deserving of it, from whatever source the information regarding an alleged violation has been received. It is pointed out that similar authority is given by the Charter to the Secretary-General in relation to the Security Council in the case of threats to the peace (E/CN.4/NGO/32, paragraph 3 (2)).

68. The League has also suggested that the implementation agency should be given large authority and complete independence, and should exercise the

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following functions: 1. To supervise the application of the Covenant in the contracting States; 2. To receive periodic reports from the contracting States on the actual application of the covenant, and study them for publication with comment. Reports from organizations recognized by the United Nations should also be received and studied; 3. To make enquiries on the spot of complaints of violations under a procedure assuring the co-operation of governments; 4. To report violations of the Covenant to governments and, where necessary, to other organs of the United Nations and to the public; 5. To make recommendations to governments; 6. To receive and study petitions from governments, organizations and individuals; 7. To act on its own initiative on any reported violations of the Covenant; 8. To refer issues and problems, as occasion may require, either to the International Court of Justice or to a special court to be established and to any organ of the United Nations (E/CN.4/NGO/24, paragraph 4).

3. Exhaustion of domestic remedies and action in urgent cases

69. The International League for the Rights of Man expresses the view that the international authority should not be invoked until all remedies within a country have been exhausted. National remedies should not however be so slow or complicated that they have the effect of denying recourse to the International authority. In exceptionally serious cases, such as where the death penalty is involved, an appeal to the international authority should be made possible during the course of action within the country (E/CN.4/NGO/21, Section XI, paragraph 1).

70. The World Jewish Congress also believes that some provision should be made for urgent cases where lives are in danger, and suggests the addition of the following article after the present Article 57 (Formerly Article 41):

"In cases of urgency, particularly in cases where the lives, liberties or other basic fundamental human rights of individuals are immediately threatened, the Committee is not bound to follow the procedure as directed in Articles 52 to 57. In such event, the Committee may decide by a majority vote on the procedure to be followed with a view urgently to completing investigations and recommending remedies. This rule shall be applied also in cases brought before the Committee by non-governmental organizations as mentioned in Article ____." (E/CN.4/NGO/21, Section IV(2)).

4. Referral of a dispute to the International Court of Justice - Article 59

71. In a communication submitted to the Economic and Social Council at its thirteenth session the World Jewish Congress expresses the view that under Article 59 of the present Covenant, the International Court of Justice is almost totally deprived of competence in matters of human rights and that the exclusion of the competence of the Court is contrary to the spirit of the Charter. It is urged that Article 59 be deleted (E/C.2/299).

B. Protocol on the right of petition

72. The Co-ordinating Board of Jewish Organizations urges that the Commission provide, in a protocol to the Covenant, for the extension of the jurisdiction of the Human Rights Committee to receive and deal with communications submitted by individuals and by certain non-governmental organizations alleging non-compliance with the Covenant by States ratifying or acceding to the protocol. The selection of such non-governmental organizations might appropriately be made by the Economic and Social Council and the covenanting States (E/CN.4/NGO/26, Section III).

73. The International League for the Rights of Man is against the inclusion of all means of private action in a separate protocol and argues that it would be ineffective, since few States would be likely to ratify it (E/CN.4/NGO/32, paragraph 2). If States are allowed to accept or reject the implementation measures separately, the organization believes this would create a confusion among them which would result finally in no implementation at all (E/CN.4/NGO/24, paragraph 5).

C. Office of a United Nations Attorney General or High Commissioner for Human Rights

74. At the sixth session of the Commission the Consultative Council of Jewish Organizations submitted a proposal relating to an Attorney General for Human Rights. It contained suggestions relating to the organization, functions, receivability of petitions, exhaustion of local and diplomatic remedies, position before commissions, election and analogies with municipal law (E/CN.4/NGO/6).

/D. Observations

D. Observations and suggestions relating to measures which would be applicable to all Member States

1. Establishment of the Human Rights Committee by resolution of the General Assembly

75. In a statement submitted to the Commission at its seventh session the Co-ordinating Board of Jewish Organizations points out that the Human Rights Committee is envisaged by the Commission merely as a committee "to ascertain the facts and make available its good offices to the States concerned with a view to a friendly solution of the matter ..." It suggests that such a body could be established more quickly and with jurisdiction not limited to States signatory to the Covenant if it were set up by a resolution of the General Assembly (E/CN.4/NGO/26, page 8).

2. National Commissions on Human Rights

76. At the sixth and seventh sessions of the Commission the Co-ordinating Board suggested that the Commission recommend the adoption by the General Assembly of a resolution urging that each Member State establish a permanent national commission on human rights. Its functions would be: to gather information concerning legal and social developments affecting human rights within the Member State; to appraise the policies, practices and enforcement programmes of governmental authorities, private individuals, and groups within the Member State in so far as they affect human rights; to report its findings to its government, and recommend measures to be taken for the increased protection of human rights. Each Member State would keep the Secretary-General informed of the activities of its national commission and of the findings and recommendations of such commission. The Secretary-General would report these to the Commission on Human Rights. The Co-ordinating Board also suggested that while this recommendation was intended to be applicable to all Member States, the Commission might well consider including such a procedure among the measures of implementation of the Covenant (E/CN.4/NGO/3 and 26, pages 7-8).

3. Annual reports by Member States

77. The Co-ordinating Board suggests also that the General Assembly urge each Member State to adopt all practicable measures concerning the protection and enforcement of human rights, so as to narrow the gap between present practices

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and the standards established by the Declaration and the Covenant. Reports on such action should be transmitted to the Secretary-General by Member States for study and reference to the Commission on Human Rights (E/CN.4/NGO/3, page 4 and E/CN.4/NGO/26, page 8).

4. Surveys concerning the observance of human rights

78. In a statement submitted to the Commission at its sixth session the Co-ordinating Board suggests that the Secretary-General might be authorized to study communications received alleging violations of human rights, with a view to ascertaining whether they raise issues which merit further study by the United Nations, and to report thereon to the Commission. If it considers the issues raised to be worthy of further consideration the Commission might authorize the Secretary-General, or appoint a committee of experts, to make a survey of the problems raised, or investigate the matter itself. Such surveys would not necessarily be confined to the particular violations alleged, but might cover the wider area of human rights observance in the field referred to. All sources of information concerning the general and specific issues involved would be used in making the survey and not merely those mentioned in the communication itself. A report would be made to the Commission, which would make appropriate recommendations to the Economic and Social Council. It is suggested that, as a beginning, the Council might be requested to amend resolution 75 (V) to authorize the Commission on Human Rights, when it deems it appropriate, to make recommendations on communications received alleging violations of human rights. Safeguards against the use of such a procedure to embarrass governments could be provided (E/CN.4/NGO/3, pages 5-7).

79. In a communication submitted at the sixth session of the Commission the International League for the Rights of Man suggests that if a genuinely adequate covenant cannot early be adopted, a system of implementation of the Universal Declaration should be envisaged. A General Assembly commission might be established with the right to receive and request information from Member States and non-governmental organizations concerning human rights in various countries, and with the right of investigation. On this basis the General Assembly might discuss the human rights situation existing in the world and make appropriate recommendations (E/CN.4/NGO/4, paragraph 16).

VI. THE FEDERAL STATE CLAUSE AND RESERVATIONS

1. Federal State clause

80. The International League for the Rights of Man expressed the view at the sixth and seventh sessions of the Commission that the Covenant should be made to extend to all parts of a federal state (E/CN.4/NGO/24, paragraph 4 and E/CN.4/NGO/4, paragraph 14).

81. The International Federation of Business and Professional Women is of the view that a federal clause should be included in the Covenant to enable federal States to ratify it with due regard for legal responsibilities reserved to or shared with constituent States, and at the same time assume the same responsibilities as unitary governments. However, it is suggested that an annual report should be submitted by a Federal State on the observance of the human rights contained in the Covenant in the constituent States, which could be widely publicized (E/CN.4/NGO/20, paragraph 6).

2. Reservations

82. The International League for the Rights of Man expresses the view that if signatory States are given the right to withhold support of particular articles, it would be contrary to the basic principle of reciprocity between States, and therefore dangerous to the observance of such articles even in other States not making such reservations (E/CN.4/NGO/24, paragraph 2 c).