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COMMISSION ON HUMAN RIGHTS
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DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS
AND MEASURES OF IMPLEMENTATION

Observations of Governments received by the Secretary-General
pursuant to Economic and Social Council Resolution 501 B (XVI)

Norway

(Note of 1 March 1954 to the Secretary-General from the permanent
representative of Norway to the United Nations)

Acting upon instructions from his Government the Permanent Representative
of Norway has the honour to make the following observations:

Draft Covenant on Economic, Social and Cultural Rights

As regards Article 1 it is considered that the principle of the right of
self-determination hardly is suited for recognition in a legally binding
convention of the present character, as the formulation - and particularly the
implementation - of this principle will encounter a number of difficulties,
both on the legal and on the political level, which do not always assert
themselves fully in the same way with regard to other provisions in the Draft.
As a provision of this character will no doubt make it difficult for many
influential states to adhere to the Covenant, the elimination of this Article
will be regarded as an advantage. In any case the proposed formulation hardly
is satisfactory and seems to some extent to be contradictory.

The other changes contained in the Draft do not seem to give rise to
substantive objections from the Norwegian point of view. However, the Norwegian
Government does not feel inclined to enter into a detailed discussion of the
formulation of the various Articles until the Commission has produced a Draft
of the provisions regarding measures of implementation.

Draft Covenant on Civil and Political Rights

As regards Articles 1 and 48 of this Draft, reference is made to the observations made above with regard to a similar provision in the Draft Covenant on Economic, Social and Cultural Rights. To incorporate provisions of this kind in the Draft Covenant on Civil and Political Rights seems to involve a still greater risk, as the other provisions of this Draft have been given a form which renders their substance as concrete and unambiguous as possible.

With regard to Article 8 there seems to be good reasons for incorporating a clause which would make it clear that a person may be required to perform forced or compulsory labour on account of failure to pay due maintenance allowances. Reference is made to Act of 10th April 1915 (No. 3) Article 31 which authorizes forced labour in such cases in Norway.

As regards Article 9, paragraph 4, attention is drawn to the Permanent Delegation's note of 19 April 1950 concerning Article 9 of a previous draft. Under existing Norwegian legislation the proper administrative authorities are in special cases authorized to require compulsory hospitalization of persons who are suffering from contagious diseases. The same applies to compulsory hospitalization of insane persons who are considered dangerous. Such a decision can only be reversed by the Courts where it is based upon an erroneous construction of the law. The factual appraisal is not reviewable by the Courts. The Norwegian Government does not believe that these provisions are incompatible with Article 9, paragraph 4. If there should be any doubt on this point, it is suggested that the paragraph be given a more careful formulation.

The Norwegian Government considers that Article 10, paragraph 2, has been given a somewhat too restricted formulation. In accordance with the Norwegian Act of 12 December 1903 on Prison Administration and Forced Labour, Article 46, there seems to be a practical reason for making it admissible to place accused persons together with convicted persons in special cases. A proviso covering this contingency should therefore be added to Article 10, paragraph 2 of the Draft, for instance by inserting the term "normally" or a similar term between "shall" and "be".

Article 18, paragraph 2 is vague and seems to be superfluous in view of paragraph 1. It is proposed to delete paragraph 2. In connexion with this Article attention is drawn to the fact that the Norwegian Government has taken steps to amend Article 2 of the Constitution of Norway which in its present form is not in conformity with Article 18, paragraph 1, as Jesuits at present are not allowed to enter Norway.

In connexion with Article 23 (c) it should be mentioned that steps will probably be taken in the near future to amend the Norwegian Act of 24 June 1938 (No. 5) which as it stands at present might not be entirely in conformity with this Article, in so far as certain administrative restrictions are placed on the right of women to perform the duties of a minister of the National Church of Norway.

The enumeration in the second sentence of Article 24 should probably be replaced by a reference to Article 2 as has been done in the first part of Article 23.

The prohibition contained in Article 26 goes further than the existing Norwegian legislation (see in particular Articles 135, 140 and 142 of the Norwegian Penal Code). The Article should be given a more precise formulation.

The Norwegian Government has no particular observations to make with regard to the draft articles on measures of implementation (Part IV).
