



Eighteenth session

DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Explanatory paper on measures of implementation
prepared by the Secretary-General

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ABBREVIATIONS

FAO	Food and Agriculture Organization of the United Nations
ILO	International Labour Organisation
UNESCO	United Nations Educational, Scientific and Cultural Organization
WHO	World Health Organization

I. Introduction

1. The present document has been prepared in compliance with General Assembly resolution 1843 B (XVII) of 19 December 1962 requesting the Secretary-General to submit to the Assembly at its eighteenth session an explanatory paper bringing up to date his annotations^{1/} on the texts of the draft International Covenants on Human Rights in the light of the developments that have taken place since the publication of that document, with a view to clarifying the main issues involved in the implementation of the International Covenants. In compliance with the above-mentioned resolution, this document is also being sent to Governments of Member States in order that they may communicate any observations thereon by 30 July 1963 for submission to the Assembly at its eighteenth session. Observations received from Member Governments will be submitted to the General Assembly in addenda to the present document.

2. Since the publication of the annotations there have been no developments in the United Nations directly connected with the measures of implementation of the draft Covenants.^{2/} There have been, however, certain developments outside the United Nations, particularly in the regional inter-governmental organizations, which are mentioned in the present paper because these developments relate to instruments comparable to the draft Covenants in scope and contents and deal with the question of implementation. These regional instruments are: the European Convention on Human Rights and Fundamental Freedoms of 1950 and a protocol to it of 1952,^{3/} which corresponds to the draft Covenant on Civil and Political Rights; the European Social Charter of 1961, which corresponds to the draft Covenant on Economic, Social and Cultural Rights; and the draft Convention on Human Rights prepared by the Inter-American Council of Jurists of the Organization of American States, which corresponds to both draft Covenants. Besides these instruments, and though strictly not comparable to them or to the draft Covenants, there have been certain

^{1/} Official Records of the General Assembly, Tenth Session, Annexes, agenda item 28 (part II), document A/2929.

^{2/} See A/2929, pp. 9-10, 67-103, 117-125.

^{3/} Although this Convention was adopted before the publication of A/2929, its provisions on measures of implementation came into play principally after that time.

developments in the ILO and UNESCO which are also of interest in so far as the problem of implementation is concerned. The ILO and UNESCO have adopted conventions which deal with some of the rights and freedoms covered in the draft Covenants. For instance, the ILO adopted the Abolition of Forced Labour Convention and the Indigenous Tribal Populations Convention, both of 1957; the Discrimination (Employment and Occupation) Convention, 1958; and the Social Policy (Basic Aims and Standards) Convention, 1961. In 1960, UNESCO adopted the Convention against Discrimination in Education. Because these and other human rights conventions which have been or may be adopted by the ILO and UNESCO are subject to the measures of implementation developed under the Constitutions of the ILO and UNESCO, references to these measures are made in this paper.

3. The draft Covenants include certain measures of implementation as integral parts of the Covenants, leaving the possibility open for one or more protocols to the Covenants to set out other, and perhaps more far reaching, measures of implementation. The regional instruments mentioned above also include certain measures of implementation as integral parts of those instruments. Further, they incorporate other measures of implementation in the form of optional clauses within the instruments. The UNESCO Convention against Discrimination in Education includes certain measures of implementation, but certain other measures are set out in the protocol of 1962 to that Convention. Under the ILO system the measures of implementation developed under the Constitution of the ILO for all conventions of the organization do not preclude other measures being included in those conventions.

II. Different measures of implementation for different human rights

4. Different measures of implementation have been included in the two draft Covenants on the ground that the nature of the rights and obligations laid down in each Covenant is distinct. Thus, economic, social and cultural rights are formulated in general terms with an over-all clause concerning permissible limitations to them, and they are to be achieved progressively; civil and political rights are defined more precisely, setting out in the case of each right the permissible limitations to it, and they are to be applied forthwith.
5. For the implementation of the Covenant on Civil and Political Rights, it is proposed to establish a system of reports by States Parties on the legislative or other measures, including judicial remedies, which they have adopted at any given time to give effect to the rights recognized therein. It is also proposed to establish a Human Rights Committee to which States Parties may submit complaints concerning failure to give effect to any provision of the Covenant. Further, States Parties may approach the International Court of Justice if the Committee is unable to reach a friendly solution of any matter referred to it. States Parties may also approach the Court independently concerning any dispute arising out of the interpretation or application of the Covenant in a matter within the competence of the Committee.
6. As for the implementation of the Covenant on Economic, Social and Cultural Rights, the draft Covenant would establish a system of periodic reports by States Parties concerning the progress made in achieving the observance of the rights recognized therein. Any complaints procedure for such rights, it was thought, would be impractical since it would be most difficult to determine what the rate of progress in any particular case should be.
7. The differences in the nature of the rights and the obligations to be undertaken by States Parties have also been used as the main criteria to determine the implementation measures which are to apply to instruments comparable to the draft Covenants. Thus, the European Convention and the protocol to it, which deal with civil and political rights, provide for a complaints procedure; the procedure is in many respects more far reaching than that proposed in the draft Covenant on Civil and Political Rights. The European Social Charter contains a reporting system which is comparable to that set out in the draft Covenant on

Economic, Social and Cultural Rights. Again, the Inter-American draft Convention on Human Rights, which deals with civil and political rights as well as with economic, social and cultural rights, nevertheless provides for different measures of implementation for the two sets of rights. Generally, these measures are similar to those proposed in the two draft Covenants. The implementation measures for civil and political rights, however, go further than those in the draft Covenant on Civil and Political Rights and are comparable more to those incorporated in the European Convention. A direct reporting system for civil and political rights is not contemplated in either the European Convention or the Inter-American draft Convention, but they both include indirect methods by which reports on such rights may be obtained.

8. The measures of implementation provided for in the Constitution of the ILO govern all conventions of the ILO irrespective of the nature of the rights, and they combine a system of reporting and complaints procedure and the possibility of referring certain matters to the International Court of Justice.

9. The UNESCO Constitution establishes a system of periodic reports on action taken by each Member State upon the recommendations and conventions adopted by the General Conference. In addition, the UNESCO Convention against Discrimination in Education provides for the submission of periodic reports, and the protocol to the Convention for a complaints procedure. The complaints procedure is very similar to that proposed in the draft Covenant on Civil and Political Rights.

10. According to the provisions of the draft Covenants, the reporting systems in both Covenants are to apply to article 1 - on self-determination - of both Covenants, and a separate system of implementation measures is to apply to the article in the draft Covenant on Civil and Political Rights. A provision on self-determination is included also in the Inter-American draft Convention in the part devoted to economic, social and cultural rights which, as indicated earlier, are to be implemented through a reporting system.

III. Implementation through a reporting system

11. It is evident from the preceding paragraphs that some form of reporting system has become a common method for encouraging promotion and observance of human rights. Not only are reporting systems contained in the proposed Covenants and regional instruments; they are also provided for conventions of the specialized agencies. Indeed, members of specialized agencies such as the ILO, UNESCO, FAO and WHO are obliged, under the constitutions of those agencies, to make periodic reports generally and not only on the implementation of conventions to which they may be parties. It should also be recalled that a system of periodic reports from Member States and from States members of the specialized agencies on developments in human rights was instituted by the Economic and Social Council in 1956.

A. Purpose of the reports

12. The purpose of the reports from States Parties to the Covenant on Economic, Social and Cultural Rights is to ascertain the progress made by them in achieving the observance of the rights recognized therein, and to know from them about any factors or difficulties affecting the degree of fulfilment by them of obligations under the Covenant. The reports asked for by the regional instruments relating to similar rights have the same purpose.

13. The aim of the reports from States Parties to the Covenant on Civil and Political Rights is to ascertain, at any given time, the legislative or other measures, including judicial remedies, which they have adopted and which give effect to the rights recognized therein, and in particular factors and difficulties, if any, affecting the progressive implementation of article 22, paragraph 4, of the Covenant, concerning equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. The first reports are to be submitted within one year of the entry into force of the Covenant for the State concerned. This requirement arises from the difference of opinion which appeared in connexion with the wording of article 2 of the draft Covenant on Civil and Political Rights which, as now drafted,^{4/} allows States, after they have become

^{4/} Article 2 of the draft Covenant on Civil and Political Rights has yet to be considered by the Third Committee of the General Assembly.

Parties to the Covenant, to adopt legislative or other measures as may be necessary to give effect to the rights recognized in that Covenant.

14. There are no comparable reporting systems for civil and political rights prescribed by the European Convention or the Inter-American draft Convention. Nevertheless, under the former, reports may be asked for by the Secretary-General of the Council of Europe, and, under the latter, reports may be asked for by the commission to be established under that convention. The purpose of these reports is to obtain an explanation of the manner in which the internal law of a State Party ensures the effective implementation of any or all of the provisions of the convention.

15. The purpose of the reports asked for in accordance with the constitution of the ILO is to ascertain the measures which are taken by States Parties to give effect, both in law and in practice, to the provisions of conventions.

16. The States Parties to the UNESCO Convention against Discrimination in Education are to give information in their reports on the legislative and administrative provisions which they have adopted and other actions which they have taken for the application of the Convention, including that taken for the formulation and the development of the national policy defined in article 4, as well as the results achieved and the obstacles encountered in the application of that policy.

17. Under the triennial reports requested by Economic and Social Council resolution 624 B (XXII), which is subject to review by the Commission on Human Rights when the Covenants together with measures of implementation come into force, States Members of the United Nations and members of the specialized agencies are to report on developments and the progress achieved in the field of human rights, and measures taken to safeguard human liberty, on the basis of the rights enumerated in the Universal Declaration of Human Rights and the right of peoples to self-determination.

B. Frequency of the reports

18. The reports on economic, social and cultural rights are to be submitted in stages to be determined by the Economic and Social Council after consultation with the States Parties and the specialized agencies concerned. Under the European Social Charter, the reports are to be submitted at two-yearly intervals.

The Inter-American draft Convention provides that intervals between reports on economic, social and cultural rights shall not be less than six months or more than one year as determined by the commission to be established under that Convention.

19. The reports on civil and political rights are to be submitted within one year of entry into force of the Covenant for the State Party concerned and thereafter whenever the Economic and Social Council so requests upon recommendation of the Commission on Human Rights and after consultation with the States Parties. Under the procedure for reporting on civil and political rights contemplated in the regional instruments, the frequency of reports is to be determined by the authority which is empowered to ask for them.

20. The ILO Constitution provides for annual reports on ratified Conventions; however, detailed reports are generally requested only every second year, except where on account of the importance or long standing of discrepancies the supervisory bodies request such reports to be made annually. In addition, reports on law and practice with regard to unratified Conventions and to Recommendations have to be submitted at appropriate intervals as requested by the Governing Body.

21. The UNESCO Constitution, as well as the Convention Against Discrimination in Education, provides for periodic reports in a manner to be determined by the General Conference. According to the rules of procedure governing this matter, adopted in 1950, in addition to general annual reports, member States shall submit to the General Conference special reports on the action they have taken to give effect to conventions adopted by the General Conference. Initial reports relating to any convention adopted shall be transmitted not less than two months prior to the opening of the first ordinary session of the General Conference following that at which such convention was adopted. The General Conference may further request member States to submit, by prescribed dates, additional reports giving such further information as may be necessary.

C. Action on the reports

22. It is proposed in the draft Covenants that the reports on both sets of rights are to be submitted to the Economic and Social Council, which may transmit them to the Commission on Human Rights for information, study and general

recommendations. States Parties and specialized agencies concerned may submit to the Council observations on any general recommendations made by the Commission. In the draft Covenant on Economic, Social and Cultural Rights, it is provided that the Council may, from time to time, submit to the General Assembly reports summarizing information received by it, indicating the progress made in achieving the general observance of those rights. The Council may also bring to the attention of the international organs concerned with technical assistance, or of any other appropriate international organ, any matters arising out of the reports which may assist such organs in deciding, each within its competence, on the advisability of international measures likely to contribute to the progressive implementation of the Covenant. States Parties agree that international action for achieving economic, social and cultural rights include such methods as conventions, recommendations, technical assistance, regional meetings and technical meetings and studies with Governments.

23. The reports called for under the European Social Charter are to be examined in the first place by a Committee of Experts appointed by the Committee of Ministers from a list of independent experts nominated by States Parties. The conclusions of this Committee are to be submitted for examination to a Sub-Committee of the Governmental Social Committee of the Council of Europe consisting of one representative of each State Party. This Sub-Committee is to present its conclusions, with the report of the Experts Committee, to the Committee of Ministers. The conclusions of the Committee of Experts are to be submitted also to the Consultative Assembly of the Council of Europe, which is to communicate its views on those conclusions to the Committee of Ministers. The Committee of Ministers, by a two-thirds majority, may, on the basis of the report of the Sub-Committee and after consultation with the Consultative Assembly, make to each State Party any necessary recommendations.

24. The Inter-American draft Convention provides that the commission to be established thereunder may bring to the attention of the appropriate international organizations any question deriving from the reports received from States Parties. It may also give publicity to the measures that it has adopted on the reports or the requests that it has made of other organizations, for the purpose of permitting the formation of national and international public opinion thereon.

25. Reports made under the ILO Constitution by States which have ratified conventions are examined, in the first place, by the Committee of Experts on the Application of Conventions and Recommendations, which consists of independent experts appointed in their personal capacity by the Governing Body of the International Labour Office, on the proposal of the Director-General. This Committee takes into account national legislation, as available from the reports themselves, official gazettes, collections of laws, etc., as well as information on practical application as provided, for example, in the reports or by employers' or workers' organizations (to which copies of the government reports must be supplied in accordance with the ILO Constitution). The observations of the experts are communicated by the Governing Body to Governments and to the International Labour Conference; the Conference also has before it a summary of the reports of the States Parties. This summary and the report of experts is considered at each general session of the International Labour Conference by the Conference Committee on the Application of Conventions and Recommendations, which is composed of Government, employers' and workers' representatives. In the Committee's deliberations employers' and workers' representatives may criticize the manner in which conventions are applied in their own countries or elsewhere and supplement the information given in the reports by information drawn from the experience of the organization which they represent. The representatives of Governments which are alleged to be in default, either in the observations of the Committee of Experts or in the course of the discussion in the Conference Committee, have an opportunity to explain any discrepancies between their obligations under a convention and their national law and practice in the past and to give assurances regarding the future. The discussion in the Conference Committee is summed up in a report which is submitted by it to the Conference. The reports of the Committee of Experts and the Conference Committee present a general picture of the progress achieved in the application of conventions. They lay stress upon the character of solemn treaty obligations possessed by the engagements assumed by the ratification of conventions. They may record views relating to problems of application of a general character which have met with general acceptance in the Conference. In recent years, the Conference Committee has in its report drawn the special attention of the Conference to particularly grave cases of non-compliance with obligations under the ILO Constitution or ...

ratified Conventions. The reports of the Conference Committee contain in an appendix a full record of the information and assurances given to it by government representatives. The Conference has usually adopted the reports of its Committee unanimously after debate of a general character.

26. Under the UNESCO Constitution, periodic reports are submitted to and considered by the General Conference. Member States are to submit special reports in connexion with any convention adopted by the General Conference. The General Conference will embody its comments on action taken by member States in pursuance of the convention in one or more general reports, which the Conference will prepare at such times as it may deem appropriate. The reports of the General Conference will be transmitted to member States, to the United Nations, to national commissions and to any other authorities specified by the General Conference.

27. Under the periodic reports system, the Commission on Human Rights transmits to the Economic and Social Council such comments, conclusions and recommendations of an objective and general character, in accordance with the Charter of the United Nations, on the basis of the information and reports, as it deems appropriate.

D. Role of the specialized agencies

28. Many of the economic, social and cultural rights and some of the civil and political rights also fall within the purview of specialized agencies such as the ILO, UNESCO, WHO and FAO. The role of these specialized agencies in achieving the observance of such rights is recognized in the Covenants, particularly in the Covenant on Economic, Social and Cultural Rights. The specialized agencies are to receive from States Parties copies of their reports to the Economic and Social Council, or relevant extracts therefrom, in respect of matters falling within the fields of activity of the agencies. These agencies are also to be consulted by the Economic and Social Council when the Council establishes the programme of reports for economic, social and cultural rights. The Council is also to make arrangements with them in respect of their reporting on the progress made in achieving the observance of rights falling within the scope of their activities, which may include particulars of decisions and recommendations on implementation adopted by their competent organs. Further, the specialized agencies may submit their observations to the Council on any recommendations made by the Commission on Human Rights on reports submitted under either of the Covenants.

29. The European Social Charter provides for a representative of the ILO to participate in the Committee of Experts in a consultative capacity, and the Inter-American draft Convention provides for the co-operation of "specialized organizations" in the reporting procedure for economic, social and cultural rights.

E. Role of non-governmental organizations

30. The draft Covenants do not contain any provisions associating non-governmental organizations in any way with the reporting system. There are certain provisions, however, in the European Social Charter and the Constitution of the ILO which do provide for the association of non-governmental organizations in their reporting systems.

31. Attention may be drawn also to resolution 888 B (XXXIV) of the Economic and Social Council, which invites non-governmental organizations in consultative status to submit comments and observations of an objective character on the situation in the field of human rights to assist the Commission on Human Rights in its consideration of the summaries of periodic reports.

32. Under the European Social Charter, the Sub-Committee of the Governmental Social Committee of the Council of Europe is to invite not more than two international organizations of employers and not more than two international trade union organizations to be represented as observers in a consultative capacity at its meetings. The Sub-Committee may also consult not more than two representatives of international non-governmental organizations having consultative status with the Council of Europe, in respect of questions with which the organizations are particularly qualified to deal, such as social welfare and the economic and social protection of the family. Furthermore, copies of the reports of each State Party are to be communicated to such of its national organizations as are members of the international organizations of employers and trade unions which are to be invited to be represented at meetings of the Sub-Committee. Comments of these national organizations are to be submitted to the Committee of Experts through the States Parties concerned if so requested by the organizations.

33. The Constitution of the ILO requires Governments to communicate copies of their reports to the representative organizations of employers and workers.

These organizations, in addition to being able to submit written observations concerning the manner in which conventions are applied in their country, are also represented in the Conference Committee on the Application of Conventions and Recommendations. In the Committee's deliberations, as mentioned earlier, employers' and workers' representatives have an opportunity to submit information and to offer their observations on the reports as well as to criticize the manner in which conventions are applied in their own countries or elsewhere.

IV. Implementation of civil and political rights

34. The provisions of the Covenant on Civil and Political Rights are intended to become part of the enforceable laws of the countries which become parties to it. States which become parties to the other instruments on similar rights referred to in this paper are also required to give effect to them in their national law. All these instruments provide also for certain procedures for consideration of any allegation of a violation of this or any other obligation undertaken under the instruments by a State Party. Most of these procedures or measures of implementation are of a remedial nature and are included as integral parts of the instruments. Some of the regional instruments incorporate certain of these measures in optional clauses, and the measures concerning consideration of allegations relating to the UNESCO Convention are incorporated in a protocol to that Convention. ILO conventions are governed by the measures of implementation set out in the Constitution of the ILO or instituted by the Governing Body and the Conference.^{5/}

5/ Special attention is drawn to the fact that the Governing Body of the International Labour Office established in 1950 a Fact-Finding and Conciliation Commission on Freedom of Association, consisting of nine independent experts appointed by the Governing Body, to which the latter may refer for examination allegations of infringements of trade union rights brought by Governments, employers' organizations or trade union organizations. The Commission is meant to be essentially a fact-finding body but it is authorized to discuss situations referred to it for investigation with the Government concerned, with a view to securing the adjustment of difficulties by agreement (See ILO Official Bulletin, Vol. XXXII, No. 5, 31 December 1949, "110th Session of the Governing Body of the International Labour Office", pp. 370-371).

In 1951, the Governing Body Committee on Freedom of Association was established, to undertake a preliminary examination of such allegations. This committee of nine members of the Governing Body is not called upon to express any view on the question whether a prima facie case had been made out; its responsibilities are essentially: (1) to consider for recommendation to the Governing Body whether cases are worthy of examination by the Governing Body and (2) where so determined affirmatively by the Governing Body, to attempt to secure the consent of the Governments concerned to the reference of such cases to the Fact-Finding and Conciliation Commission (Ibid., Vol. XXXIV, No. 3, 31 December 1951, "117th Session of the Governing Body of the International Labour Office", pp. 207-210. See also first report of the Governing Body Committee on Freedom of Association, reproduced in the Sixth Report of the ILO to the United Nations, annex V, pp. 169-237, and ninth report of the Committee, reproduced in the Eighth Report of the ILO to the United Nations, annex II, pp. 166-173).

35. Although it was thought that violations of civil and political rights would give rise to legal questions, settlement of allegations of such violations by a judicial body alone is not contemplated by any of the instruments.^{6/} Most of these instruments stress conciliation and persuasion by a permanent organ as the main method of remedying violations. Thus, the draft Covenant on Civil and Political Rights, while reserving the right of States Parties to submit to the International Court of Justice any dispute relating to the interpretation or application of the provisions of the Covenant, proposes that allegations, which can be made by States Parties only, should be submitted first to negotiation between the States concerned and then to a permanent body of good offices and conciliation. If this body fails to reach a solution, any of the States concerned may submit the matter to the International Court of Justice for its determination.

A. Initiation of allegations

(a) States Parties

36. All the instruments provide for allegations by States Parties against each other. Thus it is proposed that allegations may be made against a State Party to the Covenant on Civil and Political Rights which is "not giving effect to a provision of the Covenant". The European Convention refers to allegations by States Parties concerning "any alleged breach of the Convention". The ILO Constitution mentions complaints by a State Party against another State Party not securing "the effective observance of any Convention".

^{6/} Australia had submitted to the Commission on Human Rights a proposal for the establishment of an international court of human rights based on the Statute of the International Court of Justice, which provided that all signatory States of the Covenant should be ipso facto parties to the Statute of the Court and should be under an obligation to comply with the decision of the Court. The Court was to have final jurisdiction in all disputes arising out of the interpretation and application of the Covenant and of articles concerning human rights in any treaty or convention between States, as well as jurisdiction in all matters concerning the observance of human rights referred to it by the Commission on Human Rights. The latter could also obtain advisory opinions from the Court. The proposal provided for initiation of proceedings before the Court by States, individuals, groups of individuals and non-governmental organizations, stressing that in no case should conditions place the parties in a position of inequality before the Court. For the text of the proposal see Official Records of the Economic and Social Council, Ninth Session, Supplement No. 10, annex III.

(b) Individuals, groups of individuals and non-governmental organizations

37. Both the European Convention and the Inter-American draft Convention provide under certain conditions for petitions from individuals, groups and non-governmental organizations alleging violations by States Parties. The conditions are that the State Party against whom the petition is lodged should have beforehand agreed by declaration to be bound by the petitions procedure, and that the petitions procedure comes into force only when six States Parties have made such declarations.

38. Under the European Convention, any person, non-governmental organization or group of individuals "claiming to be the victim of a violation" may submit a petition. The Inter-American draft Convention accords the right of petition to any person or group of persons, or association, or corporation legally recognized by the public authorities of the State Party in which a violation is "alleged to have been suffered". In addition, those petitions have to conform to certain rules of admissibility which are referred to later (see paras. 58-59 below).

39. The petitions procedure of the European Convention came into force in 1955. By 1962, ten out of the fifteen States Parties to the European Convention had made declarations accepting the petitions provisions of the Convention.

40. Under the ILO Constitution, the same procedure as that applicable in the case of complaints by States Parties may be adopted by the Governing Body of its own motion or on receipt of a complaint from a delegate to the Conference. This provides an opportunity, inter alia, for representatives of employers' and workers' organizations, who are Conference delegates to set the complaints procedure in motion. In addition, the ILO Constitution provides expressly that an industrial association of employers or workers may make representations that "any of the members has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party".

41. Although the General Assembly had requested the Commission on Human Rights to consider and to draft provisions concerning the right of petition, all such proposals made in the Commission, including one for a separate protocol on

petitions, were either rejected or withdrawn.^{7/} One proposal was to allow petitions only from aggrieved persons directly affected by a violation. Another was to permit petitions from non-governmental organizations or only certain selected non-governmental organizations (with or without the selection being subject to approval of the States Parties) having consultative status with the Economic and Social Council. Still another advocated, on the lines of the League of Nations procedure relating to minorities treaties, that only the right of communicating to the permanent organ of implementation should be recognized and that action thereafter on any such communication from an individual, group or non-governmental organization should be left to the initiative of the organ or a State Party.

42. The main arguments for and against allowing individuals and non-governmental organizations to petition may be summarized as follows: those opposed argued, inter alia, that only States were subjects of international law; that the provisions of the Covenant would be fully safeguarded by a system of State-to-State complaints and that, international responsibility for the promotion of human rights being a relatively recent development, it would be unwise to allow other means of initiating proceedings which might not be acceptable to many countries; and that, specifically, the proposals were imprecise as to the rights to be accorded to the petitioners on the one hand and to the State concerned on the other, and contained no criteria by which the permanent organ of implementation could determine whether a matter was serious enough for it to exercise its conciliatory functions. Those in favour of allowing petitions, on the one hand, argued among other things that international law was not so restrictive as was claimed; that the problem of implementation had to be examined not only from the point of view of the rights of the State but also from that of the individual whose rights were being guaranteed; that a system of State-to-State complaints would, for various reasons, not ensure effective enforcement of the provisions of

^{7/} See A/2929, pp. 83-84, paras. 74-80. For the text of the draft protocol see Official Records of the Economic and Social Council, Fourteenth Session, Supplement No. 4, annex III A. Attention may be drawn also to "Suggested Regulations on the Subject of Petitions" (E/CN.4/93), which the Secretary-General was requested to prepare for the Commission on Human Rights, and to the report of the Secretary-General on the right of petition (E/CN.4/419).

the Covenant; and that, specifically, the experience of the Trusteeship Council and of the ILO did not bear out the fear that the right of petition would release a flood of malicious and groundless complaints which might overwhelm the permanent organ and paralyse its actions, that safeguards could be provided, such as rules governing admissibility and screening of petitions, and that matters, moreover, could not be brought before the permanent organ of implementation until all possible methods of redress within the State had been exhausted.

(c) Others

43. As already noted (see paragraph 40 above), under the ILO Constitution, the complaints procedure may be initiated by the Governing Body of the International Labour Office either on its own motion or on receipt of a complaint from a delegate to the International Labour Conference.

44. There are no comparable procedures included in the other instruments. The Commission on Human Rights has, however, forwarded to the Assembly a proposal for the appointment of a High Commissioner (Attorney-General) who would receive complaints of violations of the provisions of the Covenant from any source, with authority to initiate proceedings before the permanent organ of implementation.^{8/}

45. It was also suggested that the permanent organ of implementation proposed for the Covenant on Civil and Political Rights (Human Rights Committee) should be empowered to supervise the observance of the provisions of the Covenant and for that purpose to collect and receive information, including legislation and judicial decisions, on all matters relevant to the observance and enforcement of these provisions, with power to initiate an inquiry whenever it so decided by a special majority, such as by two thirds of its members, or even unanimously.

^{8/} See A/2929, pp. 84-85, paras. 84-86. The proposal for a High Commissioner (Attorney-General) for Human Rights submitted by Uruguay and transmitted to the General Assembly is reproduced in Official Records of the Economic and Social Council, Eighteenth Session, Supplement No. 7, annex III. A memorandum entitled "Bases of the proposal to establish a United Nations Attorney-General for human rights", previously submitted by Uruguay to the General Assembly, may be found in Official Records of the General Assembly, Sixth Session, Annexes, agenda item 29, document A/C.3/564.

B. Negotiations between States on allegations

46. Negotiations between States Parties concerned to settle an allegation are envisaged in the draft Covenant on Civil and Political Rights, the protocol to UNESCO's Convention Against Discrimination in Education and the Inter-American draft Convention. If a State Party considers that another State Party is not giving effect to a provision of the Covenant, it may by written communication bring the matter to the attention of that State. Within three months after the receipt of the communication, the receiving State shall provide the complaining State with an explanation in writing concerning the matter, which should include, to the extent possible and pertinent, references to domestic procedures and remedies taken, or pending, or available in the matter. If the matter is not adjusted to the satisfaction of both Parties (the UNESCO protocol refers here to "either by bilateral negotiations or by any other procedure open to them") within six months after the receipt of the initial communication by the receiving State, either State may refer the matter to the organ provided for in these instruments.

47. There are no similar provisions for direct negotiations between the parties to a dispute in either the European Convention or the ILO Constitution; nor have such provisions been suggested in connexion with allegations emanating from sources other than States Parties.

C. Submission of allegations to a permanent organ and the conditions of admissibility thereof

(a) Composition and election of the permanent organ

48. The instruments and draft instruments considered in Part IV of this survey all provide for the creation of some body or bodies to which allegations may be submitted. The draft Covenant on Civil and Political Rights provides for the establishment of a fact-finding and good offices committee. The European Human Rights Convention and the Inter-American draft Convention provide for fact-finding and conciliation commissions as well as for Human Rights Courts. The 1962 protocol to UNESCO's Convention Against Discrimination in Education provides for a conciliation and good offices commission. The ILO Constitution makes provision for the appointment of commissions of inquiry.

49. The draft Covenant on Civil and Political Rights provides for a committee of nine members; the UNESCO protocol for a commission of eleven; the Inter-American draft Convention for a commission of seven; and the European Convention for a commission consisting of a number of members equal to the number of Parties to that Convention.^{9/} In all four cases, only one national of any given State may serve on the committee or commission at any given time. All but the European Convention state expressly that members must be nationals of States Parties to the respective instruments. All specify that they serve in their individual capacity (the Inter-American draft adds that they represent, and act in the name of, all the Parties to the convention). The Inter-American draft and the UNESCO Protocol, like the draft Covenant on Civil and Political Rights, contain qualifications as to character and competence of the members, such as "high moral standing" and "acknowledged impartiality". The draft Covenant provisions call for "recognized competence in the field of human rights" and state that "consideration" is to be given to "the usefulness of the participation of some persons having a judicial or legal experience". Similar clauses appear in the Inter-American draft Convention, while the UNESCO protocol calls for an "endeavour" to include persons of "recognized competence in the field" (of education) and persons having "judicial experience, or legal experience, particularly of an international character". No such provisions are included in the European Convention, as far as the European Commission of Human Rights is concerned. The United Nations draft and the UNESCO protocol provide, moreover, that consideration be given to "equitable geographic distribution of membership and to representation of the different forms of civilization", to which the UNESCO protocol adds "as well as of the principal legal systems".

^{9/} At the time of writing, the Council of Europe has sixteen members, all but one of which are parties to the European Human Rights Convention. Switzerland will become a member of the Council of Europe on 6 May 1963.

50. The provisions governing election of the members of these committees or commissions show somewhat greater variation. The modes of election, in particular, differ. Nominations are, in effect, made by the Parties to the instruments concerned. The draft Covenant on Civil and Political Rights provides that the members of the Human Rights Committee be elected by the International Court of Justice, nominations being submitted by all States Parties to the Covenant. The members of the European Commission of Human Rights are elected by the Committee of Ministers, which consists of the Foreign Ministers of all States Members of the Council of Europe; nominations are submitted by each national group of representatives in the Consultative Assembly of the Council, on which all States Members of the Council are represented. The members of the Inter-American Commission for Human Rights, to be established under the Inter-American draft Convention on Human Rights, are to be elected by the Council of the Organization of American States,^{10/} but only the representatives of States Parties to the convention may take part in the voting. Nominations are to be submitted by each State Party to the Convention. Under the provisions of the UNESCO protocol, the members of the commission are elected by the General Conference of UNESCO, on which all members of UNESCO are represented; each State Party to the protocol is to submit nominations "after consulting its National Commission for UNESCO". The term of office is five years in the case of the United Nations draft Covenant; six years under the European Convention and the UNESCO protocol; and four years under the Inter-American draft Convention. As for the number and nationality of persons to be nominated by each State Party, the draft Covenant on Civil and Political Rights provides for a minimum of two and a maximum of four nominations from each Party, who may be nationals of the nominating State or of any other State Party; this latter provision is also included in the Inter-American draft, but the number of nominations required therein is three. The UNESCO protocol calls for "not more than four" nominations, all persons to be nationals of States Parties to the protocol. The European Convention calls for three candidates to be put forward by each national group in the Consultative Assembly, "of whom two at least shall be

^{10/} The Council includes one representative of each of the twenty-one members of the Organization of American States.

its nationals"; that is to say, there is no requirement that the third nominee be a national of a State Party. The draft Covenant on Civil and Political Rights and the UNESCO protocol state that members are eligible for re-election if re-nominated. The European Convention and the Inter-American draft state that they "may be re-elected".^{11/}

51. The Constitution of the ILO provides for the appointment, by the Governing Body of the International Labour Office, of commissions of inquiry to consider complaints and report thereon to the Governing Body. In the cases in which such commissions have been established, both the Governing Body and the commissions themselves have insisted on their judicial character, and the members of the commissions have been required to make a solemn declaration, corresponding to that made by judges of the International Court of Justice, to discharge their functions honourably, faithfully, impartially and conscientiously.

(b) Allegations by States Parties

52. All the instruments provide for submission of allegations made by a State Party to a permanent body. As noted above, however, the draft Covenant, the protocol to the UNESCO Convention and the Inter-American draft Convention require prior failure of direct negotiations between the States Parties concerned in an allegation as a condition precedent to submission by any of them of the allegations to the permanent body. Moreover, the protocol to the UNESCO Convention reserves the right of States Parties to have recourse, in accordance with general or

^{11/} As for the European Court of Human Rights, its judges are equal in number to the Members of the Council of Europe; no two judges may be nationals of the same State. They are elected (for nine years) by the Consultative Assembly of the Council of Europe, from a list of persons nominated by the members of the Council. Each member nominates three persons, of whom at least two are to be its nationals. Judges should be persons of "high moral character" and should possess "qualifications required for appointment to high judicial office" or be "jurisconsults of recognized competence". The provisions relating to judges of the proposed Inter-American Court of Human Rights are very similar, except that the judges are to be elected by the Council of the Organization of American States, the vote to be restricted to members who are Parties to the Convention.

special international agreements in force between them, to other procedures for settling disputes, including that of referring disputes by mutual consent to the Permanent Court of Arbitration at the Hague. The draft Covenant also proposes that the States Parties shall be free to refer a dispute to the International Court of Justice in a matter within the competence of the Human Rights Committee.

53. Normally, the permanent organ is to deal with an allegation submitted to it only after the exhaustion of domestic remedies. The draft Covenant on Civil and Political Rights, for instance, proposes that the Human Rights Committee shall deal with a matter referred to it only if available domestic remedies have been invoked and exhausted in the case. This is not to be the rule, however, where the procedures with a view to obtaining these remedies are unreasonably prolonged.

54. The protocol to the UNESCO Convention Against Discrimination in Education provides that the Commission shall deal with the matter only after it has "ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law". The European Convention stipulates that the Commission may deal with a matter only "after all domestic remedies have been exhausted, according to the generally recognized rules of international law, and within a period of six months from the date on which the final decision was taken". The Inter-American draft Convention provides that "except for those cases in which justice has been denied" the Commission shall "take cognizance only of matters submitted to it after all domestic remedies have been applied and exhausted, in accordance with generally recognized principles of international law and within six months of the date of the final decision of the domestic authorities".

55. When a complaint is received by the ILO from a Government, the Governing Body of the International Labour Office may, after previous communication with the Government concerned, if it thinks fit, appoint a Commission of Inquiry to consider the complaint and to report thereon.

56. Only the implementation provisions of the European Convention and the ILO Constitution are in force. Since the European Convention came into force in 1953, three allegations have been submitted by States Parties. Complaints under the ILO Constitution have been filed three times, and on two of these occasions were referred to a commission of inquiry.

(c) Allegations by individuals, groups and non-governmental organizations

57. As noted earlier, neither the draft Covenant nor the protocol to the UNESCO Convention provide for allegations from other than States Parties.

58. The provisions relating to petitions from individuals, groups and non-governmental organizations contained in the European Convention and the Inter-American draft Convention are similar. They provide in the first place for petitions to be submitted to the permanent organ of implementation. The permanent organ is not to deal with any petition which is anonymous, or which is substantially the same as a matter which has already been examined by it or has already been submitted to another procedure of international investigation or settlement and if it contains no relevant new information.

59. The permanent organ is to consider inadmissible also any petition which it considers incompatible with the Convention, manifestly ill-founded, or an abuse of the right of petition. Further, it shall reject any petition which is presented before all domestic remedies have been exhausted, under the same conditions as those relating to exhaustion of domestic remedies applying to allegations by States Parties. However, under the Inter-American draft Convention, the permanent organ may accept a petition if it has "knowledge that the petitioner was arbitrarily denied access to judicial remedies by the authorities of his country".

60. Since 5 July 1955, when the provisions relating to petitions in the European Convention came into effect, 1,749 petitions had been submitted to the European

Commission of Human Rights up to the end of 1962. Out of these, 7 petitions were declared admissible.^{12/}

61. In case of representations made to the ILO by an industrial association of employers and workers, the Governing Body of the International Labour Office decides whether the association from which a representation emanates is in fact an industrial association of employers or workers. Up to the beginning of 1963, eight such representations had been considered, the most recent in 1955. On one other occasion, a workers' delegate to the International Labour Conference made a complaint concerning his Government's non-observance of a convention.^{13/}

(d) Other allegations

62. Except as indicated in the preceding paragraph, the ILO procedure whereby the Governing Body of the International Labour Office may decide on its own motion or on receipt of a complaint from a delegate to the International Labour Conference to appoint a Commission of Inquiry to consider an allegation has not been invoked.

^{12/} The details for the various years are as follows:

	1955	1956	1957	1958	1959	1960	1961	1962	Total
Applications filed	138	104	101	96	233	291	344	442	1,749
Decisions taken	84	93	96	47	130	265	222	280	1,217
Applications rejected <u>de plano</u>	84	92	94	43	128	261	216	279	1,197
Applications rejected after communication to the Respondent Government	-	1	2	2	1	1	5	1	13
Applications declared admissible	0	0	0	2	1	3	1	0	7
Applications deleted from the list	5	4	6	1	2	7	14	5	44

^{13/} In this case, the Government gave an undertaking to the Governing Body as to remedial action, and no commission of inquiry was appointed.

63. As noted earlier, the other instruments dealt with in this paper do not incorporate any comparable provisions, though suggestions were made to include in the draft Covenant provisions for action by the Human Rights Committee proprio motu (see paragraphs 41 and 45 above).

D. Action on allegations by the permanent organ

64. The main function of the Human Rights Committee as proposed in the draft Covenant on Civil and Political Rights is to ascertain the facts relating to an allegation before it and to make available its good offices to the States concerned, with a view to "a friendly solution of the matter on the basis of respect for human rights as recognized" in the Covenant. The European Convention, the Inter-American draft Convention and the UNESCO protocol contain similar provisions.

65. In carrying out these functions, the permanent organ is entitled to call upon the States concerned to supply any relevant information; it may also seek advisory opinions on legal questions from the International Court of Justice on the proposed Inter-American Court of Human Rights, as the case may be.^{14/} In addition, the European Convention and the Inter-American draft Convention empower the permanent organ, if there is need in ascertaining the facts, to undertake an investigation, for the effective conduct of which the States concerned are to furnish all necessary facilities, after an exchange of views with the organ.^{15/} A similar provision for inclusion in the draft Covenant was not accepted.

^{14/} A protocol to the European Convention which is to be signed at Strasbourg on 6 May 1963 provides that the European Court of Human Rights can, at the request of the Committee of Ministers, give advisory opinions on legal questions concerning the interpretation of the Convention and the Protocols thereto other than questions relating to the content or scope of the rights or freedoms defined therein or questions which the Commission, the Court or the Committee of Ministers might have to consider in contentious proceedings; the decision of the Committee of Ministers to ask for an advisory opinion will be taken by a two-thirds majority.

^{15/} The European Commission of Human Rights in fact sent a sub-commission to Cyprus to investigate the situation on the spot in 1958 in connexion with a case brought by Greece against the United Kingdom.

66. Representations by industrial associations of employers or of workers made to the ILO are examined in the first instance on behalf of the Governing Body of the International Labour Office by a Committee composed of three members of the Governing Body chosen respectively from the government, employers' and workers' groups. Thereafter the Governing Body may communicate the representation to the Government against which it is made and invite that Government to make such statement on the subject as it may think fit.

67. Allegations arising out of a complaint by a State Party, or following a decision of the Governing Body to act on its own motion or on complaint of a delegate to the International Labour Conference, may be referred by the Governing Body of the ILO to a Commission of Inquiry for report thereon. The report of the Commission includes its findings on all questions of fact relevant to determining the issue between the parties and contains such recommendations as the Commission may think proper to meet the complaint. Member States of the ILO, whether directly concerned or not, are obliged to place at the disposal of the Commission all the information in their possession which bears on the subject matter of the complaint. In the two cases in which commissions of inquiry were appointed, information was sought from the parties, the governments of countries neighbouring upon or having important economic relations with the countries to which the allegations related, certain non-governmental organizations, by the hearing of witnesses and, in one case, by on-the-spot visits.

68. Generally, if a solution is reached, the organ to which a complaint or petition was referred is to confine its report to a brief statement of the facts and of the solution reached. Most often, the instruments also provide for the publication of these reports. The ILO Commissions of Inquiry, however, have, in both cases, published substantial reports setting out in detail the procedure followed, the background, the information gathered and the conclusions reached thereon.

E. Action on an allegation where the permanent organ reports failure to reach a solution

69. The draft Covenant on Civil and Political Rights proposes that if no solution is reached, the Human Rights Committee is to draw up a report on the facts and state its opinion as to whether the facts found disclose a breach by the

State concerned of its obligations under the Covenant. To the report are also to be attached the written and oral submissions made by the parties to the case. This report is to be sent to the States concerned and then communicated to the Secretary-General for publication. There are no other powers bestowed upon the Committee in such cases. For instance, the Committee is not entitled to make its own suggestions or recommendations. The sanction is that of the publicity of the report. However, any State Party concerned is at liberty to bring the case before the International Court of Justice after the Committee has drawn up its report.

70. Under the European Convention, if a solution is not reached, the Commission draws up a report on the facts and states its opinion as to whether the facts found disclose a breach by the State concerned of its obligation under the Convention. The report is transmitted to the Committee of Ministers and to the States concerned; neither of these are at liberty at this stage to publish the report. Unlike the Human Rights Committee, the Commission in transmitting the report to the Committee of Ministers may make such proposals "as it thinks fit".

71. After the transmittal of the report of the Commission, the question may be referred to the European Court of Human Rights if the States concerned have accepted the jurisdiction of the Court as compulsory in all cases or in the particular case. Eight of the States Parties to the Convention have by declarations agreed to accept the Court's jurisdiction as compulsory. A case may be brought before the Court by the Commission or by a State Party whose national is alleged to be a victim or which referred the case to the Commission or against which the complaint was lodged. So far the Court has considered two cases brought before it by the European Commission on Human Rights.

72. If the case is not submitted to the Court, or where the State Party concerned has not agreed to its jurisdiction, the Committee of Ministers must decide by a majority of two thirds whether there has been a violation. In the affirmative case, the Committee of Ministers prescribes a period during which the State Party concerned must take the measures required by its decision. If the State Party concerned has not taken satisfactory measures within the prescribed period, the Committee of Ministers decides by a two-thirds majority what effect to give to its original decision; at this stage the report of the Commission is published. The States

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Parties undertake to regard as binding on them any decision which the Committee of Ministers may take. Up to the present the Committee of Ministers has made decisions on two cases, which had not been referred to the Court,

73. The Inter-American draft Convention has similar provisions to the European Convention, including provisions concerning the establishment of, and referral of a matter to, the Inter-American Court of Human Rights. If the matter is not submitted to the Court, the draft Convention prescribes measures which are in some respect also similar to those included in the European Convention though they are not so far-reaching. In the case of the draft Convention, if the matter is not, or cannot be, referred to the Court it is referred back to the Commission which is to decide by an absolute majority vote of its members whether the State complained against, or against which a petition has been presented, has violated the obligations contracted under the Convention. In the affirmative case, the Commission is to prescribe a period during which the State Party concerned is to take the measures required by the decision of the Commission, and on failure of the State Party to comply with the decision, the Commission is to decide by an absolute majority vote of its members whether the report should be published.

74. The European Convention and the Inter-American draft Convention provide that the judgements of the European Court of Human Rights or the Inter-American Court of Human Rights, as the case may be, are final and binding upon the parties. They provide also that if the Court finds that a decision or a measure taken by a legal authority, or any other authority of a State Party, is completely or partially in conflict with the obligations arising from the Convention, and if the internal law of the said Party allows only partial reparation to be made for the consequences of this decision or measure, the decision of the Court shall, if necessary, afford just satisfaction to the injured party. The Inter-American draft Convention adds that in case of disagreement as to the meaning or scope of the judgement the Inter-American Court of Human Rights is to interpret it at the request of any of the parties. The execution of the judgement of the European Court is under the supervision of the Committee of Ministers. Supervision over the execution of the judgement of the proposed Inter-American Court is to be carried out by the Council of the Organization of American States.

75. Under the 1962 protocol to the Convention Against Discrimination in Education, the Commission contemplated therein is to draw up a report on the facts and to indicate its recommendations with a view to conciliation. This report is to be published. At the same time, any State Party concerned may bring the case before the International Court of Justice, provided the States concerned have agreed in advance to accept this procedure at the time of becoming Parties to the protocol.

76. Under the provisions of the Constitution of the ILO, the Commission of Inquiry set up by the Governing Body to consider complaints is to include in its report such recommendations as it may think proper on the steps which should be taken to meet the complaint and the period within which they should be taken. The parties are required to inform the Director-General within three months whether or not they accept the recommendations and, if not, whether they proposed to refer the complaint to the International Court of Justice. Any Government concerned which does not accept the recommendations of the Commission may refer the complaint to the International Court of Justice, which may affirm, vary or set aside any of the findings or recommendations of the Commission of Inquiry. If a State Party fails to carry out within the time prescribed the recommendations contained in the report of the Commission of Inquiry, or in the decision of the Court, the Governing Body may recommend to the International Labour Conference such action as it may deem wise and expedient to secure compliance therewith.

77. The ILO procedure for representations by industrial associations of employers or of workers provides that if no statement concerning the representation is received within a reasonable time from the government concerned, or if the statement when received is not deemed satisfactory by the Governing Body of the International Labour Office, the latter has the right to publish the representation and the statement, if any, made in reply to it.

F. Arbitration procedures

78. Only the protocol to the UNESCO Convention Against Discrimination in Education envisages implementation by recourse to arbitration procedures. It provides that the other procedures provided therein shall not affect the rights of States Parties to have recourse, in accordance with general or special

international agreements in force between them, to other procedures for settling disputes, including that of referring disputes by mutual consent to the Permanent Court of Arbitration at The Hague.

G. Judicial recourse

79. Except as regards representations by industrial associations of employers or of workers concerning an ILO convention - where publication of the representation and the statement of the Government concerned, if any, ends the matter - all the other procedures provide for the possibility of judicial recourse in the event of failure by the permanent organ to reach a solution. This recourse is confined to the States Parties to the instruments, and it does not extend to individuals and non-governmental organizations; but the European Convention and the Inter-American draft Convention provide for recourse to the European or Inter-American Court by the permanent organ (e.g. the European Commission on Human Rights) which they set up.

80. The European Court of Human Rights and the proposed Inter-American Court of Human Rights may only deal with a case after the permanent organ has acknowledged failure of its efforts to reach a friendly settlement. The International Court of Justice may also be seized of such a case under the provisions of the draft Covenant on Civil and Political Rights, the Constitution of the ILO and the protocol to the UNESCO Convention against Discrimination in Education. These instruments, however, also provide for the possibility of judicial recourse to the International Court of Justice independently of the other procedures of implementation which they contain. Under the draft Covenant and the Constitution of the ILO, such judicial recourse is open to any State Party to a dispute. Under the UNESCO Convention, the agreement of all States Parties to the dispute is a condition precedent to such a recourse, but under the protocol any State Party may agree in advance, and on the basis of reciprocity, to refer to the International Court any dispute on which no amiable solution has been reached by the Commission. The draft Covenant proposes that nothing therein contained shall prevent the States Parties from submitting to the International Court of Justice any dispute arising out of the interpretation or application of the Covenant in a matter within the competence of the Committee. Therefore, States Parties may independently have recourse to the International Court of Justice, without going through negotiation with each other concerning an allegation or through the procedure of the proposed Human Rights Committee.

V. Implementation of the article on self-determination

81 Both draft Covenants contain an identical article on self-determination (article 1), and they also provide that the implementation measures included in the two draft Covenants, as outlined above, should apply to the article. That is to say the reporting systems of both Covenants are to apply and the provisions concerning the consideration of allegations by States Parties proposed for the Covenant on Civil and Political Rights are to apply also. In addition, article 48 of the draft Covenant on Civil and Political Rights contains the following special measures for the implementation of the article on self-determination in that Covenant:

"Article 48

1. The States Parties to this Covenant, including those who are responsible for the administration of any Non-Self-Governing Territory, undertake to submit reports annually to the Committee on the measures taken by them to meet the obligations set forth in article 1 of this Covenant.
2. The States Parties to this Covenant who are responsible for the administration of any Non-Self-Governing Territory undertake through elections, plebiscites or other recognized democratic means, preferably under the auspices of the United Nations, to determine the political status of such territory, should the Committee make a proposal to that effect and such proposal be adopted by the General Assembly. Such decision shall be based on evidence of the desire of the inhabitants of such territory as expressed through their political institutions or parties.
3. The States Parties to this Covenant shall report to the Committee any violation of the right laid down in paragraph 3 of article 1." 16/

82. The only other instrument which includes an article on the right of self-determination is the Inter-American draft Convention on Human Rights. An article on self-determination is included in that draft Convention under the section relating to economic, social and cultural rights. The article is subject to the same measures of implementation as the economic, social and cultural rights, namely, through a reporting system (see part III above).

16/ Article 1, para. 3 of the draft Covenants, as adopted by the Third Committee, reads as follows:

"3. All the States Parties to the Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the United Nations Charter."

(Official Records of the General Assembly, Tenth Session, Annexes, agenda item 28 (part I), document A/3077, para. 77).)