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COMMISSION ON HUMAN RIGHTS

Seventh Session

SUMMARY RECORD OF THE TWO HUNDRED AND TENTH MEETING

held at the Palais des Nations, Geneva,
on Friday, 20 April 1951, at 3 p.m.

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Present:

Chairman: Mr. MA'K (Lebanon)
later Mr. CASSIN (France), First Vice-Chairman

Members:

Australia	Mr. WHITLAN
Chile	Mr. VALENZUELA
China	Mr. YU
Denmark	Mr. SCHRENSEN
Egypt	AMEI Bey
France	Mr. CASSIN Mr. LEROY-SEAU LIEU
Greece	Mr. EUSTATHIADES
Guatemala	Mr. DUPONT-WILLEMEN
India	Mrs. MENTA
Pakistan	Mr. WAHEEL
Sweden	Mrs. RÖSSEL
Ukrainian Soviet Socialist Republic	Mr. KOVALENKO
Union of Soviet Socialist Republics	Mr. KHRUSHCHEV
United Kingdom of Great Britain and Northern Ireland	Miss BOWIE
United States of America	Mrs. ROOSEVELT
Uruguay	Mr. CIASULLO
Yugoslavia	Mr. JEVREMOVIĆ

Representatives of specialized agencies:

International Labour Organisation	Mr. COX
United Nations Educational, Scientific and Cultural Organization	Mr. SARA Mr. BARMATE

Representatives of non-governmental organizations:

Category A

International Confederation of Free Trade Unions	Miss SENDER
International Federation of Christian Trade Unions	Mr. EGGEMANN

Category B and Register

Caritas Internationalis	Abbé HAAS
Catholic International Union for Social Service	Miss de ROGER Mrs. SCHLADER
Consultative Council of Jewish Organizations	Mr. MASKWITZ
Co-ordinating Board of Jewish Organizations	Mr. BERNSTEIN Mr. MUMSHOWITZ
International Council of Women	Miss CARTER
International Federation of University Women	Miss ROBB
International Union of Catholic Women's Leagues	Miss de ROGER Miss ARCHINARD
Pax Romana	Mr. HABICHT
Women's International League for Peace and Freedom	Miss BAER
World Jewish Congress	Mr. BISSENFELD Mr. RIEGNER
World Union for Progressive Judaism	Mr. WOJDA

Secretariat

Mr. Humphrey	Representing the Secretary-General
Mr. Das	Secretary to the Commission

1. DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION
(item 3 of the agenda):

- (c) Consideration of provisions for the receipt and examination of petitions from individuals and organizations with respect to alleged violations of the Covenant: studies of questions relating to petitions and implementation (continued) (E/2732, E/1927, E/CN.4/513, E/CN.4/515 and Add.1-17, E/CN.4/525, E/CN.4/527, E/CN.4/531, E/CN.4/549, E/CN.4/550, E/CN.4/551)

The CHAIRMAN, requesting the Commission to continue its consideration of item 3(c) of the agenda, called upon the representative of the World Union for Progressive Judaism to make a statement.

Mr. WOYDA (World Union for Progressive Judaism) said that the World Union for Progressive Judaism was a religious organization. There was therefore no need for him to draw attention to the great importance of defining and implementing human rights, the spiritual origins of which were to be found in the Book of Books. He would, however, express his thanks to the members of the Commission and to the United Nations for their admirable endeavours to draw up a covenant which, it was to be hoped, would guarantee those eternal and indispenable rights in terms of contemporary conditions of life.

He would like, at the appropriate time (that was, in connexion with item 3 (a) of the agenda), to make a statement on article 13 of the draft International Covenant, which dealt with religious freedom. The other question of great concern to his organization was that of the provisions for the receipt and examination of petitions lodged by individuals and organizations. His conviction that every human being should have the right of petition was based on a number of considerations. As the Indian representative had already reminded the Commission, one of the aims of the international trusteeship system was the promotion of the political, economic, social and educational advancement of the inhabitants of the Trust Territories; another was the encouragement of respect for human rights and fundamental freedoms without distinction of race, sex or religion. In accordance with that system,

the Trusteeship Council received petitions not only from States, but from individuals and organizations as well. Why then should an individual in a country with an advanced civilization be deprived of a right which was recognized in a territory that was being administered on behalf of the United Nations? Further, article 25 of the Convention for the protection of human rights and fundamental freedoms, signed at Rome in 1950 under the aegis of the Council of Europe, granted the right of petition to any person, non-governmental organization or group of individuals claiming to be the victim of a violation of the rights set forth in the Convention. It would be regrettable if a right recognized by a regional convention was denied by the United Nations.

Should the Commission, however, feel that the right of petition could not be granted to individuals - a decision which the World Union would greatly regret - that right should at least be granted to non-governmental organizations.

It had been argued that if individuals and organizations were granted the right of petition, the body appointed to deal with petitions might be swamped with petitions, and the right abused. Such fears hardly seemed justified, judging by the experience of the Trusteeship Council and the Minorities Committee of the Council of the League of Nations. Indeed, the experience of both those bodies had shown beyond doubt that grievances had occasionally had to be set right as the outcome of petitions received from individuals. Still less did he find it possible to believe that the right of petition would be misused by a non-governmental organization in consultative status. In dealing with so important a question, fear should not be the impelling motive. There were ways in which abuses could be guarded against, as was to be seen from the decisions taken in 1923 by the League of Nations on the procedure relating to minority questions. If it proved necessary to do so, it would always be possible to frame regulations to prevent misuse and ensure the proper exercise of a fundamental right.

In conclusion, he would plead for a positive decision, not only because the right of petition belonged to all human beings, but also because the United Nations would benefit by granting it. Moreover, a provision limiting to

governments the right to initiate remedies for wrongs might result in inaction. It was the better part of wisdom to investigate complaints and, if they were found to be justified, to devise means of conciliation, in order to prevent the development of legitimate discontent and foster peace.

Mrs. ROOSEVELT (United States of America) drew attention to the amendment submitted by her delegation (E/CN.4/550) to article 33(c) of the draft International Convention, which she hoped would prove acceptable to the Commission.

Turning to the Yugoslav proposal relating to measures of implementation (E/CN.4/551), she stated that her Government was opposed to the exclusion from the draft Covenant of measures which, as at present conceived, provided certain machinery to deal with complaints as between States. As she had already indicated, the United States Government would be prepared to see the right of petition of individuals and non-governmental organizations formulated in a separate protocol, to be accepted by Governments as soon as they were able to do so; and the petitions provided for in such a protocol should be receivable by the standing Human Rights Committee to be set up under articles 19-41 of the draft Covenant. That would make the appointment of a high commissioner unnecessary.

She had some doubts about the Indian representative's proposal that all countries, even if they had not ratified the Covenant, should have the right to lodge complaints against States parties to the protocol. Such an attitude would make it virtually superfluous to draft a covenant, since it assumed the existence of a body of international law capable of being enforced. Ratification of an instrument meant the acceptance of obligations and of their implementation as between States parties to it. She would urge the Commission to give very careful consideration to that point.

Mrs BOWIE (United Kingdom) said that she had not yet had time to study the Uruguayan proposal, but she was familiar with a similar proposal which the Uruguayan delegation had laid before the Commission at its last session,

which had been based essentially on one that had emanated from a non-governmental organization, the Consultative Council of Jewish Organizations, the year before that. Those projects certainly gave members much food for thought. On the whole, however, her attitude was the same as that of the Australian representative. It was too early to consider the establishment of the office of a high commissioner on as elaborate a scale as that now suggested; a start should be made with the committee of seven proposed in the draft Covenant.

As to the right of individuals to present petitions, her Government's position had not changed since the last session. Many difficulties would arise if a scheme which still represented a new idea were to be expanded too rapidly at the outset. The Indian representative had contended that the United Nations was going back on the achievements of the League of Nations, but she (Miss Bowie) would point out that under the League there had been no general right of petition; that right had been limited to the Minorities Treaty of the League, and each complaint had first had to be sponsored by a State before the League Council could take it up. It was certainly true that at the Commission's sixth session the proposal that individuals should be granted the right of petition had only been rejected by a small majority, and if members of the Commission manifested a strong desire to incorporate that right in a separate protocol, or in an article for voluntary acceptance by States, on similar lines to article 25 of the Rome Convention for the protection of human rights and fundamental freedoms promulgated by the Council of Europe, her delegation would not oppose it.

She must reiterate two proposals made by her delegation at the last session concerning the Human Rights Committee. First, there must be no overlapping jurisdiction; she would in due course submit a draft article to cover that point. Secondly, the Human Rights Committee should be able to request opinions on legal questions from the International Court of Justice. A study of that question had been made by the Secretariat, and on that point too she would submit a proposal.

She was still firmly convinced that measures of implementation should be included in the Covenant, since thus and thus only could a distinction be

established between a covenant and a declaration. She was consequently unable to accept the Indian representative's argument that implementation would be made more effective if the appropriate measures were included in a separate protocol. She feared that the ratification of a covenant without obligations to implement its provisions would bring the instrument itself into disrepute.

She was now prepared to support the French representative's proposal that the International Court of Justice be associated with the election of members to serve on the Human Rights Committee, as that would add to the prestige of the Committee.

Mr. BERNSTEIN (Co-ordinating Board of Jewish Organizations), speaking at the invitation of the CHAIRMAN, also supported the proposal that individuals and non-governmental organizations be granted the right of petition, and considered that such a provision should be included in an appropriate protocol or protocols.

He supported the Indian representative's suggestion not only for the reasons given by her, but also on the grounds that the draft implementation clauses in the Covenant proposed not a judicial, but only a fact-finding or good offices body. If the committee to be set up was to function on those lines, then surely no covenant was required either to create it or to empower it to carry out its functions.

In May, 1949, he had warned the Commission that it would take at least a year, or even two, for a covenant to be drafted, adopted by the General Assembly, and ratified by a sufficient number of governments to make it effective. As things were to-day, he feared that it would take a very long time indeed before the work was accomplished. The problems meanwhile remained. If the machinery of implementation was to be set up on the lines he had just set out, then he would submit that the General Assembly itself could create it without delay and so meet an urgent need. That was a realistic approach to the problem, and by no means inconsistent with the development of the whole issue of human rights within the United Nations.

Mr. HADICHT (Fax Romana), speaking at the invitation of the CHAIRMAN, pointed out that, as the French representative had very rightly remarked at a previous meeting, the international instrument which the United Nations was engaged in drawing up was a covenant of exceptional importance and without precedent in history. Even if, as some representatives had regretfully observed, the circumstances might not be propitious to a complete implementation of some of the provisions to be included in the Covenant, the body responsible for ensuring its application should nevertheless be endowed with all possible prestige in the eyes of public opinion. From that point of view, the title "Human Rights Committee" prescribed in article 19 of the Draft Covenant would appear to be unduly unassuming, and the adoption of some other designation such as, for instance, United Nations High Commissioner for the Protection of Human Rights was to be preferred.

Again, as the Greek representative had already stated in the General Assembly, the membership of seven proposed for the Committee was too small, having regard to the great responsibilities it would be called upon to bear. In order to make it more representative of world opinion, and to allow of wider geographical distribution of its membership, the Committee should be enlarged.

The representatives of Ethiopia and France had quite rightly requested in the General Assembly that the Committee should be made up in such a way as to offer all possible guarantees of its independence and competence, and that it should be as completely divorced from politics as possible.

The proposed procedure for the submission of appeals to the Committee would appear in some cases to be excessively slow. One could not deliberate for two years when the life, liberty and integrity of a human being were at stake, and the United Nations organ responsible for the implementation of the Covenant should be able to act with extreme rapidity in cases of violation of fundamental rights. On the other hand, in more complicated matters, slower procedure might bring better results.

Even if, as had been very clearly explained by the French representative, there might be legal difficulties in the way of appointing an Attorney General for human rights as proposed by the Uruguayan delegation, provision should nevertheless be made for the appointment by the United Nations of a personage who would be empowered to receive complaints of breaches of the Covenant. Such a personage should be clothed with the requisite amount of prestige; he might, for instance, be given the title of High Commissioner for Human Rights. He should be free to decide which complaints should in his opinion be submitted to the Committee for consideration, the Committee itself, however, remaining the final judge of the receivability of an appeal.

The question of petitions, to which a number of representatives had already referred, was one of the utmost importance, and it was regrettable that the draft Covenant did not mention it. As had been said by the Indian representative, it was to be feared that a State might hesitate to avail itself of the right to submit a complaint against another State in the event of a violation of human rights.

It might be difficult to grant individuals the right of petition, the exercise of which, moreover, might at times expose them to the risk of reprisals, it would be advisable to accord it to non-governmental organizations. There could be no doubt that such organizations in consultative status would take every care not to abuse such right of petition, and would only forward serious and well-founded complaints. They held their consultative status in too high esteem to risk its being withdrawn as a result of their sponsoring unfounded accusations or irresponsible action with regard to the observance of human rights.

The CHAIRMAN said that the non-governmental organizations were naturally interested in the whole problem of human rights, since they had taken a very active share in the first definitions of human rights and fundamental freedoms drafted at San Francisco in 1945. Those organizations represented the ordinary suffering and working people, and therefore had a special contribution to make to the Commission's work. The members of the Commission certainly had the individual constantly in mind, but had at the same time to act as the official representatives of their governments. He was sure that all members joined him in welcoming the participation of the non-governmental organizations in the Commission's deliberations.

Mr. EGGERMANN (International Federation of Christian Trade Unions), speaking at the invitation of the CHAIRMAN, pointed out that to limit to States the right of petitioning the Human Rights Committee would undoubtedly weaken the Covenant. It must not be forgotten that the Covenant constituted not only an obligation mutually binding States, but also a collective obligation on the part of the signatory States vis-à-vis their own citizens. It would not always be possible for an individual or group of individuals to appeal to the good offices of a State other than their own; moreover, the experience of the International Labour Organisation showed that a State was always reluctant to make a complaint against another State.

In granting a right of intervention to non-governmental organizations, the Commission would simply be following the example set by the Constitution of the

International Labour Organisation, which granted professional organizations extensive rights, in particular that of criticising governments. When the Constitution of the International Labour Organisation had been revised, new rights had been granted to employers' and workers' organizations which had thenceforward taken part in supervising the application of conventions. Today, nobody questioned the admirable results of that revolutionary innovation in international law.

Further, the Statute of the International Court of Justice explicitly provided for the possibility of international non-governmental organizations intervening before the Court.

If that right of intervention in respect of the protection of human rights were granted to non-governmental organizations in consultative status, there would be a guarantee that such organizations would only submit to the Human Rights Committee complaints based on reasonable grounds. Further, the right of intervention could be made subject to certain restrictions: for example, it could be laid down that no petition could be received which was contrary to the principles of the Charter, and that no petition could be submitted to the Committee unless it was made the subject of a formal decision by the executive officers of the non-governmental organization sponsoring it, which would thus assume the responsibility. The Committee could seek additional information from the petitioning organization, and then decide whether or not it was receivable. If it considered it receivable, the petition would be treated as a complaint submitted by a signatory State.

The International Federation of Christian Trade Unions would be grateful if the Commission would take those suggestions into consideration.

Mr. CIASULLO (Uruguay) confirmed that the proposal he had submitted had originally been based on suggestions made earlier by the Consultative Council of Jewish Organizations. In his opinion, it might serve as a basis for discussion in connexion with the drafting of the implementation clauses of the Covenant.

He laid particular stress on two important points: the recognition of the right of petition by the individual, and the creation of a body independent of States to receive such petitions. That body's procedure should be so prescribed as to allow the body to act in clear cases of violation of the rights of the individual.

He proposed the appointment of a high commissioner because it seemed to him essential to make provision for a controlling body which could classify petitions, undertake a preliminary examination with a view to rejecting unfounded complaints, and then proceed to an enquiry.

It was, he thought, essential that the implementation provisions should be embodied, not in a separate protocol but in the Covenant itself, which should form one whole. He would not, however, make the mistake of adopting an uncompromising attitude; it might, in fact, be necessary to contemplate additional protocols concerning the implementation of the measures to be taken in cases of infringement of the provisions of the Covenant.

Mr. Cassin (France), First Vice-Chairman, took the Chair.

Mr. VALENZUELA (Chile) remarked that although the right of petition by the individual could be admitted as an ideal, the difficulties of implementing such a principle should not be lost to sight. The Commission should not confuse the goal to be attained with the methods to be employed; the struggle for the development of human rights in the international community on the one hand, and action on behalf of human beings whose rights had been violated on the other, should be considered as two distinct problems. If the aim was to defend the rights of the individual, the procedure seemed too slow. If, on the other hand, the Commission was attempting to increase respect for human rights throughout the world, the procedure might seem too rapid. In any case, in the present-day international community the desire to set up machinery capable of defending all human beings whose rights might be violated seemed excessively idealistic.

It would be seen from pages 4 and 5 of the Secretary-General's memorandum on measures of implementation (E/CN.4/530) that, at the fifth session of the General Assembly and the twelfth session of the Economic and Social Council, the Soviet Union delegation had proposed the deletion from the Covenant of the provisions relating to implementation on the grounds that they constituted an attempt to interfere in the domestic affairs of States. Moreover, differences of opinion were to be noted among the countries which accepted the principle of the provisions concerning implementation.

Mr. LEROY-BEAULIEU (France), intervening on a point of order, pointed out that the French text of the Uruguayan proposal had not been distributed, so that a certain number of delegations had still not been able to study it. He therefore asked that further discussion be deferred until the document had been distributed in both working languages.

Mr. SÖRENSEN (Denmark) supported the French representative's point of order in principle, but observed that discussion of the Uruguayan proposal had been begun even before the English text had been made available. With all due respect to the French representative, he believed that the discussion could be continued on the basis of the oral statement made by the sponsor of the proposal.

Mr. MOROSOV (Union of Soviet Socialist Republics) also sympathized with the French representative's observations on the need for documents being translated into the official languages in time.

Mr. EUSTATHIODES (Greece) pointed out that the French representative's observation could equally well apply to cases where a document submitted to the Commission was circulated in French only. He would suggest that the Commission agree in principle that the Commission could discuss a proposal only when it had been distributed in the two working languages, unless that gave rise to serious difficulties for the Secretariat.

Mr. LEROY-BEAULIEU (France) remarked that the rule was that any text submitted for discussion by the Commission should be available in both the working languages.

The CHAIRMAN requested members to refrain from discussing the point of procedure until the various speakers who had already notified their intention of speaking in the general discussion had been heard.

Mr. VALENZUELA (Chile) remarked incidentally that his delegation, whose working language was Spanish, had to make the best of the documents distributed to it in French, English and Russian.

Resuming his statement, he said, with reference to the Yugoslav proposal (E/CN.4/551) that the provisions relating to implementation be removed from the Covenant and embodied in a separate protocol, that he would like to know whether the Yugoslav representative thought that the Commission should draft the protocol during the present session, or defer that task to a later one.

The Chilean Government thought that the Commission should stick to what was practicable. It would accordingly favour the inclusion in the Covenant of provisions giving every State the right to submit complaints to the Human Rights Committee. As it was, a considerable advance would have been made if a State were to consent to be indicted by another State before an international tribunal on a charge of violation of human rights.

A certain number of delegations, going even further, had declared that it should be possible for complaints to be submitted by approved non-governmental organisations, and a proposal to that effect had also been made by his own delegation (E/CN.4/530, paragraph 102). It would seem, however, that a practical solution to that question might be found in framing a separate protocol establishing the right of individuals to submit petitions, accession to such a protocol being optional, and binding only on those States which ratified it. As there could be no hope that a majority of the Commission would be in favour of the right of individuals to submit petitions, the inclusion of such a provision in the Covenant itself would have no effect in practice. Hence, a separate protocol would be better, in order to improve the implementation machinery.

There were some excellent and constructive ideas in the Uruguayan proposal, but he had some doubts about article 31 et seq. of that draft, which proposed setting up a complete international administration for the purpose of supervising the application of the International Covenant. It was absolutely essential to avoid multiplying new international bodies, which meant an undue financial burden for Member States.

Mr. DUPONT-WILLEMEN (Guatemala) said that the attitude of his Government, as set forth in paragraph 98 of document E/CN.4/530, remained unchanged. He thought that very serious consideration should be given to his proposal. In his delegation's opinion, it was essential that general provisions concerning implementation should be included in the body of the Covenant, since otherwise the latter would in effect be nothing but a repetition of the Universal Declaration.

On the other hand, to accord the right of petition to individuals might give rise to such complications that it would no doubt have to be embodied in a separate document. The question was a delicate one, and he would like to reserve his final decision.

In principle, the Guatemalan Government was in favour of granting the right of petition not only to non-governmental organizations, but also to individuals since that would be the most democratic solution. It would no doubt prove difficult to protect the competent body from being submerged under a flood of ill-founded petitions, but that was a problem that would have to be solved.

As to the title of the body to be entrusted with the application of the Covenant, the term "Committee" seemed somewhat humdrum; something more appropriate should be found.

Mrs. MENA (India) recalled that at its second session the Commission had decided that the International Bill of Human Rights should be divided into three parts: a declaration; a covenant; and measures of implementation.

The declaration was intended to lay down the general principles, the covenant to restate them in legal form, and the third instrument to provide the machinery of implementation. That decision had been accepted by the United States representative. Since the supervisory rôle was to be assumed by the United Nations, the measures of implementation could not form part of the Covenant. Furthermore, in accordance with the decision to which she had just referred, a series of protocols had been foreseen relating to different groups of right, the general machinery being made applicable to them all. Her Government considered that the supervisory functions should be independent of the States signatories of the Covenant, the responsibility devolving on the United Nations as a whole.

As to the individual's right of petition, she accepted the United Kingdom representative's correction of her statement about League of Nations procedure, but would point out that it had been precisely that procedure that had been responsible for the small number of complaints laid before the League. Her Government was anxious that the individual should have direct access to the United Nations. If only non-governmental organizations were granted that right, some non-governmental agency would be needed to lodge complaints against States, since it was neither fair nor just that rights should be conferred on transgressor States while those who suffered from the transgressions were deprived of them.

Mr. JEVREMOVIC (Yugoslavia) wished to raise one point in connexion with the Chilean representative's statement. There could be no question of deciding whether the Commission should or should not study measures of implementation at the present session, since in point of fact it was already doing so. The Commission might decide to bring the discussion to a close, or to defer further consideration to a later session, but that was another matter.

Mrs. RÖSSEL (Sweden) considered it essential for the full protection of human rights that provisions should be included in the Covenant which would grant the right of petition to individuals. It would be wrong to restrict that right to States. While she had not yet definitely made up her mind on the best method of screening petitions, she doubted whether it would be advisable to set up

a special office at that stage. It might perhaps be best to entrust screening to the Human Rights Committee, a procedure which would resemble that laid down by the Rome Convention, articles 25, 26 and 27 of which might, she submitted, be usefully reproduced as a document by the Secretariat. She also believed it preferable that the provisions relating to petitions from individuals should be included in the Covenant itself. In view of the desirability of making it feasible for as many States as possible to adhere to the Covenant, she would not, however, exclude the possibility of part of the measures of implementation being dealt with in a separate instrument.

Miss BOWIE (United Kingdom) supported the Swedish representative's suggestion, and asked whether the whole of the Rome Convention would not be circulated to members.

Mr. HUMPHREYS, representing the Secretary-General, stated that in addition to the information just requested the Commission would shortly have before it an analysis of the Rome Convention which the Secretariat was preparing.

Mrs. ROOSEVELT (United States of America) observed, with regard to the Indian representative's reference to the inclusion of measures of implementation in a separate instrument, that the general view appeared to have changed since 1947, and that it was now considered that the measures in question should be incorporated in the first International Covenant and be made applicable to any subsequent covenant on human rights. She was not sure that she fully understood the position taken by the Indian representative in that connexion. The Covenant would have to be adopted by the United Nations and ratified by Member States before it could be put into effect, so that she could not see how it would be possible, as the Indian representative appeared to be suggesting, that the implementation provisions should be accepted only by the United Nations, and not necessarily ratified by the States adhering to the Covenant.

Mrs. MENTA (India) stated that the Commission had been requested to make proposals about international machinery for supervising the observance of human rights, and had given effect to that request in part III of the Bill of Human Rights. She could not see why measures of implementation should be linked specifically to the Covenant, for the intention was that such machinery should be set up for the supervision of all human rights, and that all violations of the latter should be communicated to any supervisory body set up.

Mrs. ROOSEVELT (United States of America) found it difficult to see how such an arrangement could be made a workable proposition.

Mr. SØRENSEN (Denmark) experienced the same difficulty as the United States representative. If measures of implementation were embodied in a separate protocol, which would have to be ratified, fewer States would ratify the protocol than adhered to the Covenant, which would narrow the field of application of the latter.

A number of speakers had deprecated the setting up of unnecessary international machinery. It was true that his Government, like others, had taken that view in the Economic and Social Council, and had even advocated a review of the existing machinery. But while it might seem inconsistent that he should now be supporting the suggestion that a special office be set up in connexion with the implementation of human rights, he nevertheless had good reasons for doing so.

For one thing, screening machinery would be necessary if and when provision was made for the right of petition by individuals. If a High Commissioner's office were not established, something along the lines of the arrangements for handling petitions to the Trusteeship Council would have to be developed under the Covenant on Human Rights, that was to say, a body similar to the Council's ad hoc Committee on Petitions. It was true that the Rome Convention had no provisions for implementation, but in that case the number of States adhering was relatively limited, so that the number of petitions to be expected under that convention would be smaller than under the proposed Covenant.

Another reason for setting up a high commissioner's office was that the function of screening petitions from individuals was a judicial matter, and could not, he felt, be adequately done by government representatives; it would be preferable for it to be exercised by an independent body such as the suggested office. True, secretariats had performed similar functions in the past, but in the present case, in addition to administrative handling, the petitions would require critical screening, which could best be carried out by an independent body.

His third reason for supporting the proposal for a high commissioner's office related to the procedure that would have to be adopted when complaints came before the Human Rights Committee. If the right of petition were granted to individuals, they, or their representatives, would require to be admitted to hearings before the Committee on the same footing as the parties against whom charges were made. In fact, it might be better if a permanent representative for the defence of the interests of individual petitioners were to sit in the high commissioner's office. In his view, the latter need not be very large, as it might be possible to arrange for the Secretariat of the Human Rights Committee to serve the high commissioner as well. To his mind, the most important consideration was that the interests of the individual petitioner should be defended by an independent person capable of resisting pressure by governments.

Mr. LEROY-BEAULIEU (France) asked the Danish representative how he thought that the high commissioner, if it were agreed to appoint one, could be made independent of all political influence.

Mr. SØRENSEN (Denmark) submitted that much would depend upon the personality of the high commissioner himself, and it would be necessary to see that the right type of person was appointed.

Mr. LEROY-BEAULIEU (France) had no doubt that men capable of remaining independent and impartial did exist, but wished to know what system the Danish representative had in mind to make sure that the General Assembly would choose a person of that stamp.

Mr. SÖRENSEN (Denmark) pointed out that the General Assembly of the United Nations already proceeded to the election of the members of the International Court of Justice.

Mr. LEROY-BEAULIEU (France) was still not entirely convinced.

Mr. VALENZUELA (Chile) remarked that all members of the Commission were representatives of governments, and as such subject to political influence. He did not, however, think that they could be considered as lacking in independence and impartiality.

Mr. JEVREMOVIĆ (Yugoslavia) said that some misunderstanding had apparently arisen over his suggestion that the measures of implementation should form a separate protocol. There were two different questions to be considered; that of a separate protocol, and that of ratification. The ratification of a separate protocol could, however, easily be linked with the ratification of the Covenant. It followed that a separate protocol did not imply separate ratification. The matter was one on which the Commission must take a decision, but he wanted to emphasize the fact that the only point he had raised in his proposal was that of a separate protocol containing the measures of implementation.

Mr. MOROSOV (Union of Soviet Socialist Republics) said that the remarks of the French and Danish representatives revealed the difficulties attending an analysis of measures of implementation. In the course of the discussions on the International Declaration of Human Rights and the draft Covenant, his delegation had frequently emphasized the importance it ascribed to the enforcement of the provisions of any covenant on human rights. His countrymen had a saying that there was no point in passing a law if you did not enforce it. Thus, when considering the substantive provisions of a covenant on human rights, his delegation was concerned to see that appropriate provisions were included for their enforcement. It would be recalled that at its fifth session the General Assembly had, at the suggestion of the Soviet

Union delegation, decided that it was necessary to include provisions in the Covenant which would oblige States to contribute to the implementation of any provisions embodied in the covenant on human rights, and to take measures to ensure the full enjoyment of such rights. That was a correct interpretation of the term "implementation."

All the suggestions made by his delegation on the matter of economic, social and cultural rights contained a specific reference to measures of implementation. When it had proposed an article to the effect that every citizen should be guaranteed by the State an opportunity of taking part in the government of the State, to elect or be elected to all organs of authority on the basis of universal, equal and direct suffrage with secret ballot, and to occupy any State or public office, it had emphasized that it was not sufficient to proclaim such a principle, but had added that property, educational or other qualifications limiting the participation of citizens in voting at elections to representative organs would have to be abolished. Unless that was done, there could be no question of fulfilling the right of participation by the individual in the government of the State.

When proposing that every people and every nation should have the right to national self-determination, his delegation had deemed it necessary also to include a provision that the State should secure to minorities the right to use their native tongue and to possess their national schools, libraries, museums and other cultural and educational institutions. The same applied to all the other provisions proposed by the Soviet Union for insertion in the Covenant, and it would continue to urge full implementation along similar lines. He hoped that all those who were sincerely concerned with the problem would support his delegation's efforts.

The draft Covenant contained a number of provisions (articles 19 - 41) that had no kinship whatever with the principle of implementation to which he had just referred. The success of the Commission's work in that direction would depend entirely on the manner in which the relevant provisions were framed. He had noted considerable discrepancies between the statements of those who favoured

an extreme form of implementation: discrepancies with regard to the place in the Convention at which measures of implementation should be included, and discrepancies in the statements of those who believed that those measures should apply only to certain rights. Some members had maintained that implementation measures should not apply to economic, social and cultural rights. That seemed to emphasize the fragile structure of the countries they represented; otherwise, what interpretation could be given to statements to the effect that violation of the first eighteen articles of the draft Covenant should bring the international machinery of implementation into operation, whereas that machinery should not be invoked in the case, for example, of death due to the violation of economic rights? His delegation re-affirmed its contention that articles 19 - 41 of the draft Covenant adopted at the sixth session had no bearing on the general system of implementation to be adopted for the enforcement of the rights enshrined in the Covenant. Those articles provided for methods of supervising the implementation of the Covenant, which constituted an attempt at interference in the domestic affairs of States, and an encroachment on their sovereignty. A number of the statements made in the course of the discussion confirmed that view. Retention of those articles would merely lead to an extension of international conflict, and a further violation of the principles of the Charter of the United Nations.

The representative of Uruguay had referred to Article 1 of the Charter, presumably to its third paragraph, in which mention was made of international co-operation, and not of a system of measures which would be at variance with the Charter and would enable one State to interfere in matters that were the domestic concern of another. Moreover, paragraph 7 of Article 2 of the Charter laid it down that the United Nations could not interfere in matters which were essentially within the domestic jurisdiction of any State and could not require Members to submit such matters to settlement under the Charter. Some of the proposals that had been made in the course of discussion ran counter to that paragraph. It was essential that full provision be made in the Covenant, requiring States to ensure adequate measures for the enforcement of the rights embodied in it, and not an artificial system of so-called implementation which

had no connexion with the true meaning of that word.

His delegation, therefore, was submitting a draft resolution, which he hoped would shortly be circulated, to the effect that articles 19 - 41 of the draft Covenant should be deleted, since they suggested methods of supervising the implementation of the Covenant that constituted an attempt at interference in the domestic affairs of States and an encroachment on their sovereignty.

His delegation had frequently emphasized that everyone should have the right to petition against a violation by States of human rights. Such a right was fundamental, and should be recognized by all Member States. In the Soviet Union, complaints by individuals received prompt attention, which meant that the right in question was enjoyed by all citizens of his country. But the question seemed to have been translated to an entirely different plane so far as the Covenant was concerned, quite contrary to the Charter, Article 87 of which laid down that the General Assembly, and, under its authority, the Trusteeship Council, might accept petitions and examine them in consultation with the Administering Authorities of Trust Territories. That provision had been included with a view to protecting the elementary needs of Trust Territories, where there was no sovereign authority to consider such matters as falling within its domestic competence. His delegation took the view that petitions under the Covenant should be filed in accordance with the procedure laid down in the Charter.

In conclusion, he appealed to the Commission not to remit the draft International Covenant to the Economic and Social Council or to the Assembly without first deleting articles 19 - 41.

Miss BOWIE (United Kingdom) said that the position of the Soviet Union with regard to article 2, paragraph 7, of the Charter was very well-known. Equally well-known was the position of the other delegations with whom it was common ground that the observance and protection of human rights had, under the terms of the Charter, ceased to be a matter essentially or solely within the domestic jurisdiction of States. What did puzzle her in the speech just made by the Soviet Union representative was that he claimed that the present draft

before the Commission, unlike the Soviet Union proposals, made no provision for implementation by States of the rights set out. Nothing could in fact be clearer than article 1 of the draft, that essential implementation by States must be secured. Article 1 (2) required a State to take the necessary steps to adopt such legislative or other measures as were necessary and article 1 (3) required the States to give an effective remedy in case of violation including cases where the violation was committed by persons acting in an official capacity. He therefore thought that the Soviet Union representative's criticisms of the proposals of the other delegations were quite unfounded.

Mr. CIASULLO (Uruguay) stated that there seemed to be some inconsistency in the attitude of the Soviet Union delegation which, while applauding all proclamations of rights, refused to admit any measure to implement them.

The Soviet Union proposal just put forward, that the provisions concerning implementation be deleted from the Covenant on the grounds that they constituted attempts at interference in the domestic affairs of States, had already been rejected by a majority of the General Assembly, and the Soviet Union representative, who had not let slip the opportunity of referring to the Assembly's decision concerning the insertion of economic, social and cultural rights in the Covenant, should abide by that other decision of the Assembly, even if it ran counter to his views.

In conclusion, he expressed his support for the United Kingdom representative's interpretation of Article 2, paragraph 7, of the Charter.

2. QUESTION OF THE COMMISSION'S DOCUMENTATION

The CHAIRMAN reverted to the point of order raised by the French representative earlier in the discussion, and pointed out that, under the Commission's rules of procedure, working documents need not necessarily be issued in the five official languages, but had to be circulated in the two working languages. It was, however, permissible for a proposal to be first circulated in the language in which it had been submitted, and for the version in the second

working language to be distributed later.

In that connexion, he would point out that delays in the circulation of important Secretariat documents, such as had taken place at the beginning of the present session, should in future be avoided, as they in turn delayed the work of the delegations.

Mr. HUMPHREY, representing the Secretary-General, drew attention to the fact that all the documents listed in document E/CN.4/510/Rev.1 had been circulated in French, with the exception of the papers on the H. C. Convention (E/CN.4/524), economic and social rights (E/CN.4/529), the rights of the child (E/CN.4/512), human rights day (E/CN.4/531), and the first fourteen articles of the Covenant (S/CN.4/528). It would be noted that the Secretariat had prepared a paper covering the whole field of decisions taken by the General Assembly (E/CN.4/513). Although it might well have confined itself to the provision of such a paper, it had, nevertheless, sought to help the Commission by preparing others. The translation of such a document as the Uruguayan proposal contained in document E/CN.4/549 naturally took some time. Most of the basic documents had been circulated to governments in French and English, in full conformity with the six-weeks' rule. Most of them had also been produced in Russian, and there was a working agreement between the Soviet Union delegation and the Secretariat whereby the latter indicated which documents it required in Russian. The Secretariat would naturally make every endeavour to assist the Commission, particularly in the matter of documentation, but he requested members to submit papers as early as possible.

Mr. LENOY-BEJULIEU (France) pointed out that the French delegation did not question the Secretariat's goodwill, and was indeed grateful for the effort it had made to publish as many documents as possible. It simply desired that papers drawn up in one of the working languages should also be circulated in the other since there were delegations which could work in only one of the working languages.

Mr. NJROSOV (Union of Soviet Socialist Republics) expressed his appreciation of the help his delegation had received from the Secretariat over documentation in Russian.

The CHAIRMAN also wished to acknowledge the efforts made by the Secretariat during the week to circulate the documents in the two working languages.

He requested the Secretariat to prepare a survey of the various proposals on implementation which had been made by members and by the representatives of non-governmental organisations in the course of the foregoing discussion.

The meeting rose at 6 p.m.