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COMMISSION ON HUMAN RIGHTS

Seventh Session

SUMMARY RECORD OF THE TWO HUNDRED AND TWELFTH MEETING

held at the Palais des Nations, Geneva,
on Monday, 23 April 1951, at 3 p.m.

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(26 p.)

Present:

Chairman: Mr. MALIK (Lebanon)

Members:

Australia	Mr. WHITLAM
Chile	Mr. VALENZUELA
China	Mr. YU
Denmark	Mr. SORENSEN
Egypt	AZMI Bey
France	Mr. CASSIN
Greece	Mr. EUSTATHIADES
Guatemala	Mr. DUPONT-WILLEMIN
India	Mrs. MEHTA
Pakistan	Mr. WAHEED
Sweden	Mrs. ROSSEL
Ukrainian Soviet Socialist Republic	Mr. KOVALENKO
Union of Soviet Socialist Republics	Mr. MOROSOV
United Kingdom of Great Britain and Northern Ireland	Miss BONIE
United States of America	Mrs. ROOSEVELT
Uruguay	Mr. CIASULLO
Yugoslavia	Mr. JEVREMOVIC

Representatives of specialized agencies:

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

Representatives of non-governmental organizations:

Category A

International Confederation of Free Trade Unions	Miss SENDER

Category B and Register

Consultative Council of Jewish Organizations	Mr. BENTWICH Mr. MOSKOWITZ
Co-ordinating Board of Jewish Organizations	Mr. BERNSTEIN Mr. MOWSHOWITCH
International Council of Women	Mrs. CARTER
International Federation of University Women	Miss DUBOIS
Liaison Committee of Women's International Organizations	Miss ROBB
Women's International League for Peace and Freedom	Miss BAER
World Jewish Congress	Mr. BIENENFELD Mr. RIEGNER
World Union for Progressive Judaism	Mr. WOYDA Mr. MESSINGER

Secretariat

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

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 (E/1732, E/1927, E/CN.4/513, E/CN.4/515 and Add.1-17, E/CN.4/525, E/CN.4/527, E/CN.4/530, E/CN.4/549, E/CN.4/550, E/CN.4/551, E/CN.4/553, E/CN.4/555, E/CN.4/556, E/CN.4/557, E/CN.4/558) (continued)

The CHAIRMAN announced that certain amendments to the draft International Covenant had been submitted by the Indian delegation (E/CN.4/556); that a proposed protocol on petitions from individuals and non-governmental organizations had been submitted by the United States delegation (E/CN.4/557); and that the United Kingdom delegation had tabled a proposal for an additional article to be inserted after article 40 (E/CN.4/558).

Mrs. CARTER (International Council of Women), speaking at the invitation of the CHAIRMAN, said that she would not enlarge on the reasons for her conviction that it would be inexpedient to limit the right of petition, because the proponents of that view had already explained the matter adequately. She wished, however, briefly to state the reasons for her belief that the right of petition should only be extended to those international non-governmental organizations which were only accredited for the purpose. In that connexion, she invited the attention of the Commission to the resolution adopted in Athens on 8 April 1951 by the Triennial Conference of the International Council of Women, in which that Council took note of the provision in the existing draft International Covenant on Human Rights which conferred the right of petition on States alone, expressed the belief that such limitation of the right of petition would serve to defeat the very ends of the Covenant, and urged that the right of petition should be extended to include international non-governmental organizations accredited by the United Nations for that purpose.

Not all international non-governmental organizations were equipped or otherwise suited to deal with the matter, and they should therefore be carefully reviewed, to ensure, not only the maximum possible efficiency, but also that only those which displayed the greatest possible objectivity were granted the right of petition.

In her opinion, measures for implementation should be included in the Covenant itself. If the Covenant was genuinely designed to remedy injustices, the practical question of its effective implementation should be a primary consideration in drafting it.

Mr. BENTWICH (Consultative Council of Jewish Organizations), speaking at the invitation of the CHAIRMAN, recalled, in connexion with the Uruguayan proposal (E/CN.4/549), that the idea of establishing an office of a high commissioner for human rights had first been mooted in the Commission in December, 1947. The suggestion had been that a high commissioner or attorney-general should act as a link between individuals, groups or non-governmental organizations on the one hand, and the body which was to be responsible for dealing with complaints, whether the International Court of Justice or some other tribunal set up for the purpose, on the other. He hoped that the Commission would give full consideration to that idea.

He himself had served as an attorney-general in Palestine and, although a procureur-général might only be concerned with criminal prosecutions, under the British system an attorney-general was also a representative of the Crown, and the defender of public rights and interests in civil matters. When public rights were affected, it was the attorney-general who defended those rights on behalf of the individual; he also defended the interests of charitable institutions before the Courts.

The Uruguayan delegation was suggesting that there should be an officer to receive and examine all petitions and, in the case of petitions raising serious questions, either to bring the complaints before the Human Rights Committee, as provided in the draft Covenant, or, if the Uruguayan proposal itself was adopted, to present the case for the petitioner to the International Court of Justice.

It had been said that petitions could be screened efficiently by the Secretariat without the establishment of a new office. In his opinion, while

certain preliminary screening and the rejection of unacceptable petitions might be undertaken by the Secretariat under rules similar to those included in the Rome Convention drawn up under the aegis of the Council of Europe, disputes bearing on the violation of human rights were certain to involve legal problems, and he was convinced from his experience in the League of Nations that a judicial officer of high authority would be needed to ensure that such complaints were properly sifted and brought before the proper courts.

The objection had also been raised that adoption of the Uruguayan proposal would mean the creation of elaborate, bureaucratic machinery. That was possible, but in essence the proposal stressed the need for a high legal officer to examine and present certain petitions from individuals and groups. He suggested that it should be studied together with the proposals for implementing the provisions of the Covenant, to which it was complementary.

Mr. CASSIN (France) said that the general discussion which had taken place during the last three meetings had been highly instructive, and had shown members how much was to be gained from pondering their colleagues' views. He was pleased to note that certain members, instead of confining themselves strictly to the plan outlined at the Commission's last session, had tried to go farther back and to examine the whole question of the rôle of the Commission and the United Nations in the field of the observance of human rights.

Quoting the resolution (9(II)) on the Commission on Human Rights adopted by the Economic and Social Council on 21 June 1946, he said that it was clear from that text that the Council, without specifying any precise measures, desired the Commission to draw up provisions to ensure the observance of all human rights, as set forth in general terms in the United Nations Charter, and also the observance of the rights set forth in the Universal Declaration.

In the first place, therefore, the Commission's task was twofold: to ensure general respect both for the rights set forth in the Charter, and for the rights embodied or to be embodied in the Covenant. The Commission should

accordingly make provision for the effective observance of all human rights, even those not specifically mentioned in the Covenant. That was, in his view, an essential point.

It had been pointed out that implementation could take other forms than the establishment of a new United Nations body. The French delegation had, for instance, raised the question of the submission to a competent existing body of the United Nations of annual reports (on measures taken to ensure respect for human rights) by all Member States, whether they acceded to the Covenant or not. At a later stage, such reports might, during one pre-arranged year, be limited to replies to a definite question formulated by the Secretariat after consultation with governments. Unfortunately, neither the Commission nor the Economic and Social Council had had time to make an exhaustive study of that proposal, but when the Commission came to consider item 6 of the agenda, he would submit a similar one.

Several important questions had been raised during the general discussion. It had been questioned whether the establishment of international supervision, in particular supervision exercised by a body to be known, perhaps, as the Human Rights Committee, would or would not conflict with the terms of Article 2, paragraph 7, of the Charter. The representatives of Uruguay and Greece and other members of the Commission had replied that it would not. The Soviet Union representative, on the other hand, had maintained that it would. He himself had listened with close attention to the latter's arguments, in spite of the fact that the matter had been voted on by the General Assembly, since he had not wished to rule out such a thesis on *a priori* grounds.

He thought it might be said that the gap between the system proposed by the Soviet Union delegation, which consisted in strengthening by precise provisions the positive measures stipulated in each article with a view to the enjoyment of the human right recognized in that article, and the system of international supervision proposed by other delegations but rejected

by the Soviet Union representative, was not so wide as the latter appeared to think. In point of fact, of the two systems that advocated by the Union of Soviet Socialist Republics would, if rigidly applied, involve the more serious encroachment on national sovereignty, because its direct influence on States would be greater.

If the Soviet Union view prevailed, each of the States acceding the Covenant would be bound to put into effect the very detailed provisions contained in the Soviet Union draft. If, on the other hand, the Covenant went no farther than to declare that the signatory States must ensure respect for this or that human right, it would then be left to each of them to determine, in the light of its political, economic and social structure, what measures it should take to discharge its obligations.

Several of the provisions contained in the Soviet Union draft, particularly those relating to social security, trade union freedom and the exercise of suffrage rights, would, in his opinion, raise extremely complicated problems because of their incompatibility with the law of many States.

It could accordingly be said that, were the method proposed by the Soviet Union representative applied in the spirit in which it was conceived, it would, in fact, constitute an attempt to standardize the laws and regulations by which the several nations were governed, and would thereby constitute a clear breach of the principle of the diversity of nations.

It must be admitted that the idea of international supervision might, at first sight, appear repugnant, and that a number of countries would be most reluctant to submit to such intervention in their domestic affairs. He considered, however, that by defining in the Covenant the rights and freedoms it was desired to guarantee, and at the same time making provision for a system of international supervision which would be limited to what was necessary to ensure that an international agreement was being carried out in good faith, the principle of national sovereignty would be far less

seriously violated than it would be by the inclusion of a whole series of highly detailed rules in the Covenant.

His own conclusion, therefore, differed from that of the Soviet Union representative; he felt, in fact, that the States most jealous of their independence had less to fear from the system of international supervision than from the method envisaged in the Soviet Union proposal.

The General Assembly, the International Court of Justice, the Security Council, the Economic and Social Council and the Trusteeship Council were already authorised by the Charter, according to the nature of the case, to receive complaints regarding the violation by a State of its undertakings or of agreements to which it was a party. It would be wrong, however, to require those bodies to devote the bulk of their time to examining complaints which it would in any event be more advantageous to submit to an international supervisory body, at least for preliminary study. He therefore felt as he had already indicated, that the latter solution, which was that desired by the General Assembly, was more in harmony with the rights of States anxious to avoid excessive interference in their national affairs.

In the second place, and on the question whether the proposed body should be set up in pursuance of provisions contained in the Covenant itself, or by a separate instrument, he submitted - in connexion with the arguments adduced by the Indian representative, and to a certain extent by the representatives of Yugoslavia and Guatemala, in support of the latter solution - that it would indeed be perfectly logical to treat the question of the international supervision system separately from that of the definition of human rights in this or that covenant, provided the Commission could be certain that the Covenant itself would be ratified by all or nearly all countries.

Unfortunately, there was good reason to fear that the Covenant would not be ratified by all countries in the near future, and that certain large countries, for their own reasons, would not feel able to accede to it. That

involved a problem of equality and reciprocity, namely, was it admissible, or was it not, in the light of the special obligations assumed under the Covenant, which translated the recognition of and respect for human rights from the national to the international plane, that States which ratified the Covenant should be subject to the supervision of all States, although the former alone had accepted its obligations? Accordingly, the States desirous of participating in that tremendous advance in international law were anxious, and rightly so, to have certain safeguards, and would fully recognise the universal competency of the United Nations in respect of a universal obligation covering all countries. However, if it were a question of undertaking more onerous obligations with more specific and detailed commitments they would prefer that the international supervisory body should be a process of their own group, since it was they who were assuming the obligations.

While adopting that attitude, he nevertheless recognised the soundness of an observation made by the Indian representative, to the effect that it was not desirable in promoting the development of international law to create small groups within the United Nations. It was in that spirit that the French delegation had sought, at the sixth session, both to safeguard the rights of Contracting States and to uphold the principle of universality within the organization. It had therefore proposed that only States parties to the Covenant should be entitled to nominate candidates for appointment to the Human Rights Committee, while specifying that the whole international community would be entitled to voice its opinion when it came to selecting the members of the Committee from among the candidates. Going even further in that direction, and with a view to stressing the formal significance of the election, the French delegation would shortly propose that the actual selection of the members of the Committee should devolve upon the International Court of Justice, which was the supreme judicial organ

of the United Nations, and which, by reason of its position and independence, was not exposed to the political vicissitudes that sometimes affected other United Nations bodies. The idea of that proposal was to combine the system of restricting to States acceding to the Covenant the submission of candidatures, with that of final selection by the organization's most serene and exalted body. Its object was to establish a link between the States acceding to the Covenant and the other States Members of the United Nations.

In the third place, with regard to the name of the proposed Committee, he himself was somewhat reluctant either to support or to oppose the term "Committee". The representative of Pax Romana had suggested that it be called the "High Commission for Human Rights". He (Mr. Cassin) strongly opposed that suggestion, the adoption of which would mean that the present Commission on Human Rights would be relegated to second place. That would be unfair to the latter body - the fundamental guardian of human rights - which had been commissioned to study all the major problems arising in that field. The Commission was not entitled to step down; it was precluded from doing so by the provisions of the Charter.

Neither could the body be termed a "tribunal"; he had already formally objected to its being endowed with a judicial or arbitrative character. Perhaps it might be designated a "Council", although he feared that such a title might lead world opinion to identify it with the three existing Councils of the United Nations, whereas it would in fact be a conciliation body with much narrower powers. The question of the title, therefore, still remained open.

Turning, in the fourth place, to the question of procedures for the submission and examination of appeals, he recalled that the text adopted at the sixth session, provided that the Secretary of the Human Rights Committee should be a relatively low-ranking official chosen by the Secretary-General

from among the Secretariat. The French delegation, on the other hand, had proposed a method of appointment similar to that which it had suggested for members of the Committee themselves, namely, that the International Court of Justice should select the most suitable candidate for a post of that very special character. That proposal had become topical again since the Uruguayan representative had now submitted one that went very much further.

He recalled that, even before seeing the text, he had welcomed the Uruguayan proposal as an augury for the future, an ideal towards which the society of nations should strive. However, that proposal had met with a mixed reception in the Commission. Some members had expressed the fear that the high commissioner would be reduced from the position of an attorney-general to that of a "sorter of petitions". There was obviously a difference between such a rôle and the functions of a Secretary to the Committee on Human Rights appointed by the International Court of Justice. Other members had recommended different solutions, for instance, the setting up of a sub-committee to screen petitions and so on. He felt that those various suggestions had points in common, and wondered whether it would not be possible to find a solution which would allow some latitude for future development, while taking due account of existing factors, such as, for instance, the financial capacity of the United Nations. The French delegation had been the first to advocate, in 1948 and again in 1949, the immediate recognition of the right of individual and collective petition. The proposals it had made at that time should be ventilated. He was well aware of the difficulties arising out of the international situation, but he also knew that the measures he had proposed to the Commission represented a considerable advance. It was for that reason that his delegation was convinced that measures of implementation, as a whole, should be included in the Covenant on Human Rights, from which they could not be separated. The Covenant should be of such quality that it could be taken as a model for other covenants that might be drawn up in the future in respect of other special rights (right to nationality etc.).

In the matter of petitions, he urged the Commission to accept the suggestion that these should be dealt with in a separate protocol. He did not regard that solution with any great favour, but he was convinced that it would make for progress. An initial protocol on the right of petition could always be amplified at a later stage. Such a procedure would, he believed, result in earlier ratification of the Covenant by many States.

He considered that the adherence of a majority of the States Members of the United Nations was necessary but sufficient to bring the Covenant on Human Rights into force. As against that, a still larger number of ratifications or accessions should be required before a separate protocol on petitions could come into force, since that would constitute a very important landmark in the development of international law and would finally allot the individual his place as directly subject to international law. Fundamentally, that would depend upon awakening public opinion in the various countries, a task in which the non-governmental organizations would render assistance. The insertion in the Covenant of the provisions of the protocol might prevent ratification by some countries.

He had listened with much interest to the observations of the representative of a non-governmental organization regarding the long delays involved in exhausting the different remedies open to plaintiffs. In urgent cases the Committee on Human Rights should, perhaps decide a case at shorter notice.

He had noted, however, that at the fifth session of the General Assembly, a large number of delegations had been anxious that the respect due to the judiciary of the various countries should not be undermined. The status of national courts of justice must not be weakened by the fact that an international body was empowered to concern itself with complaints raised against their verdicts. Considerable caution was necessary in that connexion, and it should be borne in mind that the various national courts would continue to represent the authority to which citizens must normally apply in the first instance and that it would often be the correct application of the law or of regulations by the Courts that would give rise to appeals.

If the standing of the national courts was not upheld, the United Nations would very soon be overwhelmed, to the great detriment of the cause of human rights. Fundamental responsibility in that field rested with every nation. If the United Nations was to be made the sole instance and the sole means for ensuring observance of human rights, anarchy would prevail before very long, and the entire structure built up with so much effort would collapse.

He laid particular stress on the point that in the field of human rights the United Nations should remain the supreme instance, but should not supersede the various instances already existing under national judicial systems. In his opinion, therefore, the terms prescribed in the Covenant before recourse could be had to the Committee on Human Rights could not be reduced.

Should the organization be faced with a breach so serious as to threaten international peace and security, it would be the concern, not of the Committee on Human Rights, but of the Security Council or the General Assembly itself.

In the fifth and last place, the question arose as to the allocation of authority between the Committee on Human Rights and all the bodies competent to protect human rights, either already in existence, or yet to come. At international level there were primarily the higher bodies, namely, the General Assembly, the International Court of Justice, the Security Council, the Economic and Social Council and the Trusteeship Council, all of which took cognizance of the gravest issues justifying direct recourse to their authority.

The Soviet Union representative had stated that it was possible to conceive of provisions relating to economic and social rights, violations of which would be so serious that they could not be referred to a purely technical body for settlement. He (the French representative) shared that opinion. Take, for instance, the hypothetical case of a government's denying the right to work to all persons belonging to a certain race, or professing a certain religion, or speaking a certain language. That would involve not a technical, but a political or legal problem. If there were a threat to the peace, the matter would be referred to the Security Council; otherwise, it would fall to the Committee on Human Rights.

The Danish representative had argued with some emphasis that the normal measures for implementation were not applicable to economic and social rights. He (Mr. Cassin) acknowledged that such would in fact be the case in those instances where specific procedures might already have been worked out and adopted. Obviously, if a violation of economic or social rights of a purely technical character were involved it would be referred to the International Labour Organisation.

He considered, however, that a certain flexibility should be given to the measures to be adopted in defining the jurisdiction of the Committee on Human Rights, so as to avoid the possibility that a matter of which a court had already taken cognisance might be removed from the jurisdiction of that instance, and also to reserve to the specialized agencies the widest possible responsibility in the technical sphere. For the possible violation of any human right per se, a procedure similar to that proposed in respect of trade union freedom might be contemplated: the Committee on Human Rights would get in touch with experts or arbitrators appointed by the competent specialized agency, and a joint body would be set up.

In conclusion, he would add that the ideas which he had expressed were not exclusively his own. He had found inspiration in the statements made in the course of the discussion. If he had attempted to summarize the ideas contained in them, it was because the big problems which the Commission had to solve were not mere matters of drafting, but questions in which certain major issues had to be taken into account.

Mrs. ROOSEVELT (United States of America) felt that the adoption of her proposed protocol on petitions from individuals and non-governmental organizations (E/CN.4/557) would be in accordance with Section F of General Assembly resolution 421(V), which had left it open to the Commission on Human Rights to recommend whether provisions relating to petitions should be inserted in the Covenant itself, or in separate protocols.

Moreover, on ratifying the Covenant, all States would be obliged to accept the enforcement machinery it provided in connexion with complaints between States. But although she recognized that the proposal to accept petitions from individuals and groups was a step forward in the implementation of human rights, she was sure that not all States would be likely immediately to accept enforcement machinery relating to petitions. Provisions for such machinery should therefore be included in a separate protocol, so that inability on the part of certain States to accept such enforcement at the present time would not impede the coming into force of the Covenant.

She had used the word "protocol" in her proposal because that was the term chosen by the General Assembly to indicate close relationship with the Covenant. She did not, however, have any strong feelings about the terminology used in that connexion.

The protocol proposed by her delegation consisted of three substantive and two procedural articles. The purpose of article 1 was to extend the jurisdiction of the Human Rights Committee to petitions from individuals and non-governmental organizations. The enforcement machinery outlined in the draft Covenant should be applied in that connexion also. She had no objection, if other delegations so desired, to drawing up two separate protocols: one covering petitions from individuals, the other petitions from non-governmental organizations. Were that done, States would have the option of ratifying one or both protocols.

Article 2 set forth the procedure applicable to the consideration of petitions. Article 3 incorporated the applicable provisions of the draft Covenant. Articles 4 and 5 were similar to articles 42 and 45 of the draft Covenant except that, whereas 20 countries would be required to ratify or accede to the Covenant before it could come into force, the ratification or accession of only 15 States would be required for that purpose in the case of the protocol, since fewer States in all would be likely to ratify it. Although the submission

of her proposal did not prejudge the position which the United States Government would take with regard to the signing and ratifying of such a protocol, she was prepared to participate actively in its drafting, since, as a technical body, the Commission had the responsibility for drafting provisions on petitions and submitting them for consideration at the forthcoming sessions of the Economic and Social Council and the General Assembly.

Mr. VALENZUELA (Chile), confining his remarks for the time being to the United States' proposal in document E/CN.4/557, said that his delegation considered that two separate protocols should be drawn up, since there might well be States which, while recognizing the right of petition in the case of non-governmental organizations, would decline to extend it to individuals.

He had two substantive comments to make on the United States proposals.

First, sub-paragraph (a) of paragraph 1 of article 1 of the proposal provided that "individuals within the territory of a State Party to this Protocol" should be entitled to submit written petitions. The Chilean delegation was concerned about the use of the word "territory" in that connexion. Certain States had direct control, not only over the inhabitants of their own territories, but also over those of the non-self-governing territories under their jurisdiction. Without in any way suggesting that there would necessarily be grounds for petition by the inhabitants of such territories, he felt that it was essential that the purely legal position should be cleared up.

The question was, would the right of petition be granted to the inhabitants of such territories as the International Tangier Zone, the Condominium of the Anglo-Egyptian Sudan, and Southern Rhodesia in Africa; the Federation of Malaya, the Colony of Singapore and the Territory of New Guinea in Asia; and French, Dutch and British Guiana in South America?

That list was not exhaustive, but it was obvious that if the Commission retained the word "territory" without linking it up with the concept of

"jurisdiction", many thousands of human beings would be deprived of the right of petition. It would be advisable to request the Secretariat to complete statistics of all people who, without living on the territory of a given country, came under that country's jurisdiction.

With reference to paragraph 2 of article 5, his delegation felt that to make an amendment approved by the General Assembly subject to confirmation by a two-thirds majority of the States Parties to the Protocol was illogical; it would certainly detract from the weight which should properly attach to a decision of the General Assembly. It would be more logical to reverse the procedure, so as to eliminate the risk of a General Assembly decision remaining a dead letter if it failed to command the necessary two-thirds majority of the Parties to the Convention.

Finally, he had a comment on form relating to paragraph 2 of article 1. Although it was perfectly logical that the list of non-governmental organizations concerned should be approved by a two-thirds majority of States Parties to the Protocol, he did not think it would be necessary to convene a special meeting of representatives for that purpose every year. It would be better and simpler to authorize the Secretary-General to seek the approval of the governments concerned through the usual channels of communication open to him.

Mrs. MEHTA (India) asked the Uruguayan representative whether his proposal envisaged the appointment of a high commissioner to replace the Human Rights Committee, since he had said that the office of the high commissioner should be established in addition to any other international machinery which might be set up. If the high commissioner was to receive petitions from individuals and non-governmental organizations, the Uruguayan proposal should be considered together with the United States proposal.

In the General Assembly, the Indian delegation had opposed the drafting of a separate protocol, because it had felt that such action would be meaningless. No State would sign such a separate protocol. States had been given the option of acceding to the Rome Convention, but she had heard that very few States had

in fact done so. She felt that the protocol proposed by the United States delegation should either be included in the body of the Covenant, or dropped altogether.

AZMI Bey (Egypt) preferred that the provisions concerning petitions should be included in the Covenant proper. The individual would be the first victim of any violation of the principles laid down in the Covenant, and he therefore considered it would be unfair not to grant him the right to complain directly and with the least possible delay.

Opponents of that view maintained that States were generally very chary of ratifying instruments relating to petitions, and that such provisions would therefore better be inserted in a separate protocol in order to facilitate earlier ratification of the Covenant. But he would point out that such a solution would not remove the difficulty, in view of the Soviet Union representative's insistence on his proposal that articles 19-41 of the draft Covenant, that was to say, all the provisions concerning measures of implementation, be omitted.

In those circumstances, he reserved his position, should it be decided that the texts concerning petitions should appear in a separate instrument.

He would draw the attention of the Greek and Chilean representatives, who had referred to the application of the provisions of the Covenant and of any protocol concerning petitions to non-self-governing territories, to resolution 421(V) of the General Assembly, which requested the Commission to include in the Covenant an article directly designed to make the provisions of the Covenant and of the protocol, if any, applicable to such territories. In his view, that resolution was mandatory, and he regarded the question as already settled.

So far as concerned the particular case of the Anglo-Egyptian Sudan, the inhabitants of that condominium enjoyed exactly the same rights as Egyptian citizens.

The CHAIRMAN observed that the "colonial" clause would come up for discussion under item 3(e) of the agenda, and appealed to representatives to

refrain from raising it at the present stage.

Mrs. ROOSEVELT (United States of America) said, in answer to the points raised by the Chilean representative, that the United States proposals (E/CN.4/557) had been presented as a working draft; her delegation was therefore ready to consider amendments to them. As she had already said, it would have no objection to there being two separate protocols.

It would also be willing to re-draft the phrase "individuals within the territory of a State party to this Protocol" in article 1, paragraph 1, which had raised apprehensions in the mind of the Chilean representative.

With regard to article 5, paragraph 2, of the United States text, she believed that the procedure suggested was the usual one, namely, that an amendment to the Covenant once approved by the General Assembly would be referred to States for ratification.

Mr. CIASULLO (Uruguay), replying to the questions put to him by the Indian representative, explained that his proposal referred only to the appointment of a high commissioner; there was no question of attaching a committee or commission to him. In fact, that was the main point on which the Uruguayan proposal differed from the original suggestion of the Consultative Council of Jewish Organizations.

The United States representative had said she would have no objection to two separate protocols, one dealing with petitions from individuals, the other with petitions from non-governmental organizations. He felt that the provisions relating to the right of individuals to submit petitions should be included in the Covenant itself, whereas the text establishing the right of petition of non-governmental organizations should form a separate instrument.

Mr. EUSTIATHADES (Greece) recalled that the United States representative had been careful to state that the submission of a proposal for a protocol on petitions in no way prejudged the ratification of that protocol by the United States Government. The Greek delegation would like to make an explicit reservation to the same effect.

The Chilean representative had expressed concern about the right of the inhabitants of non-self governing territories to submit petitions. He personally felt that the same point might be raised in connexion with aliens, who did not appear to be included in the formula given in sub-paragraph (a) of paragraph 1 of article 1 of the United States proposal. To overcome the difficulty, he suggested that the wording of the Rome Convention be used, namely, "persons coming under their jurisdiction".

He was not yet in a position to state his attitude to the other articles of the United States proposal. He would have reservations to make in regard to certain points, for instance, article 4, paragraph 2, under which the protocol would come into force in respect of States ratifying it or acceding to it " as soon as fifteen States have deposited such instruments ... of ratification or accession". That number was surely insufficient; he recalled that the same question had been raised when the Rome Convention was being drafted. With regard to the optional clause in that Convention - a text similar to the separate protocol proposed by the United States delegation - the number of ratifications had been fixed at six, although only twelve or thirteen States had taken part in the preparation of the Convention. If it was desired to keep the same ratio, the number of States whose ratification or accession would be required before the protocol on petitions could come into force would have to be considerably greater than fifteen.

With regard to the question whether it was preferable for the provisions relating to petitions to be included in the Covenant or embodied in a separate protocol, he himself was in favour of the latter procedure, which would make it easier for a number of States to accept the measures of implementation laid down in the Covenant and ratify it. If a choice had to be made between the failure of a perhaps more complete system and the possibility of success of one part only of that system, there was no question of what the choice must be. The essential point was to ensure the widest possible ratification of the actual Covenant. Hence the provisions relating to petitions should comprise a separate protocol. If the right of petition was inserted in the Covenant

itself, very few States would ratify the latter, and it would be a failure. The Commission wanted to draft a covenant that would be a historic mile-stone, and that would only be possible if a very large number of States adhered to it, so that, alongside the Universal Declaration there would be a Universal Covenant.

Mr. MOROSOV (Union of Soviet Socialist Republics) stated that he wished to reply to some of the observations concerning his attitude to the question of implementation. He had been attacked from two diametrically opposite standpoints. His Government's conviction that the Covenant should contain provisions laying down specific obligations which governments would assume for the realization of the rights and freedoms proclaimed in it, was well-known, as was also its opposition to a system of international control which had no relation to genuine implementation. The United Kingdom representative had summarily dismissed the Soviet Union proposals on the ground that they went no further than article 1 of the draft Covenant itself. No member of the Commission would be able to accept so ill-founded an argument. He would not waste time in recapitulating all the instances of his Government's good faith at every stage of the discussions on the draft Covenant. It had consistently advocated that the Covenant should not only proclaim certain fundamental rights, but should also indicate the measures to be taken by governments to put them into effect. A careful perusal of article 1 of the Covenant would show that it meant very little indeed, whereas the Soviet Union proposals clearly laid down specific commitments.

The weakness of the argument adduced by the United Kingdom representative had been further exposed by the French representative, who had attacked the Soviet Union proposals for exactly the opposite reason, namely, that they went too far and would involve interference in the internal affairs of States. Indeed, the Commission had been treated to the unusual spectacle of the French representative championing the cause of national sovereignty against the alleged attempts of the Soviet Union representative to undermine it. It was hardly a fitting rôle for an advocate of a system of international control which, unlike the Soviet Union proposals, would entail real interference in the internal

affairs of States.

It was incontrovertible, and indeed only the United Kingdom representative had attempted to deny it, that the matters arising from the application of the Covenant would fall per se within the internal jurisdiction of States. Unless governments took the appropriate measures to make the rights enumerated in the draft Covenant a reality, it would remain a dead letter. The French representative, in affirming that the Soviet Union proposals constituted far-reaching interference in the internal affairs of States, had entirely misconceived the nature of the Commission's task of formulating the measures to be undertaken by governments to safeguard the rights and freedoms laid down in the draft Covenant. He had evidently failed, or was unwilling, to understand that the Commission was concerned with elaborating methods of implementation. If there was general agreement as to what was to be done for the protection of human rights, then it was necessary to indicate the kind of commitments which would have to be entered into by governments. They would be honoured by sovereign governments without any external interference on the part of international organs. The Soviet Union proposals were an attempt to amplify the draft Covenant, so as to indicate with the greatest clarity how the rights it proclaimed were to be realized. There was accordingly no justification whatsoever for rebutting the Soviet Union's proposals on the grounds that they constituted interference in the internal affairs of States.

In referring to the Soviet Union proposal contained in document E/CN.4/537, that an article should be inserted in the draft Covenant stating that: "Social security and social insurance for workers and salaried employees shall be provided at the expense of the State or of the employer, in accordance with each country's legislation", the French representative had been unable to reject it on grounds of principle, but had opposed it on a legal quibble, namely, that it did not take into account such persons as artists, lawyers and the like. But if it had only been a question of that, then the French representative could have proposed additions to the Soviet Union proposal. He had not done so; therefore, it had not been a question of that, but of something else. The

French representative had taken the same kind of attitude towards the Soviet Union suggestion that all citizens should be guaranteed the right to participate in the government of their country, and to enjoy the franchise without being required to fulfil certain conditions, such as property or other qualifications. That suggestion embodied generally accepted democratic proposals, and anyone wishing to oppose it would have to devise more convincing arguments than those adduced by the French representative.

He would not elaborate further in demonstrating that the French representative's attempt to discredit the Soviet Union proposals had ended in total failure.

The United Kingdom representative, taking upon herself the rôle of a legal expert, had attempted to prove that international control was consonant with the terms of the Charter, arguing that once the protection of human rights had been discussed at international level, the question ceased to rest within the purely internal competence of States. A study of Article 2, paragraph 7, of the Charter, in conjunction with the provisions of Article 1, would show that the matter was a great deal more complex, and that the application of the Covenant must not involve interference in the internal affairs of States. He opposed the inclusion in the draft Covenant of provisions which conflicted with the terms of the Charter. The Danish representative's proposal that the measures of implementation should not be extended to economic, social and cultural rights was proof that even the partisans of the implementation clauses had understood that a system of international control would involve interference in the internal affairs of states.

The proposed system of international control as provided for under articles 19 to 41 of the draft Covenant, and also by the Uruguayan proposal (E/CN.4/549), were not only contrary to Article 2, paragraph 7, of the Charter, but to the Charter as a whole. If, for example, a high commissioner were appointed and empowered to investigate violations of the Covenant, the status of the Security Council would be affected. If he were given the right of making recommendations to governments, the whole position of the General Assembly, as defined by the

Charter, would have to be reviewed. Those were legal considerations which could not be ignored. The Commission must preserve a sense of reality, and base its work on the Charter.

There seemed to be a curious connexion between the efforts of such members as the French and United Kingdom representatives, who for different reasons sought the rejection of the Soviet Union proposals, distorting their real meaning and obstructing attempts to secure genuine implementation, and their support of proposals which had no bearing on implementation and would only serve to increase international tension and extend the field of possible conflict. He could not accept the criticisms levelled at the Soviet Union proposals, and hoped that in the future such criticism would be more constructive, so that the provisions of the draft Covenant could be made effective in securing the realization of those human rights for the protection of which it had been designed.

Mr. CASSIN (France) explained that his objection to the Soviet Union proposal was that it recommended rules so uniform that they could not be adapted to the various conditions obtaining in States which differed very widely in organization and structure. In his view, it was not possible to specify with absolute precision in the Covenant all the measures to be taken. The aim should in each case be stated, but each government should be left to decide on the measures to be taken to attain it.

With regard to economic, social and cultural rights, he explained that he had never been opposed to international control, except in certain cases. In point of fact, he accepted international control in the case of technical violations, but considered that such control should be exercised primarily by the competent specialized agencies.

Miss BOWIE (United Kingdom) stated that in view of the late hour she would not reply immediately to the Soviet Union representative, but reserved her right to do so before the general debate was closed.

Mr. CASSIN (France) pointed out that the method of informal consultations between members of the Commission on the question of economic, social and cultural rights had given good results. He felt that it might be helpful if the next meeting of the Commission were deferred to enable members to hold similar consultations on the question of implementation.

The CHAIRMAN suggested that there be no meeting the following morning to give representatives time for private discussion.

Mrs. ROOSEVELT (United States of America) agreed that the Commission's work might be advanced if representatives were to hold informal consultations with a view to elaborating a definite text. She hoped that no further general discussion would be necessary, and that a decision might soon be taken on the various proposals submitted. The general debate had certainly been valuable in affording representatives an opportunity for full and free expression of their views, but the time had come to give them definite form.

It was agreed that the Commission should rise until the following afternoon.

The CHAIRMAN informed the Commission that he had received a request from Mr. van Hoeven Goedhart, the High Commissioner for Refugees, that he be permitted to send an observer to the closed meetings of the Working Group set up to consider item 3(b) of the agenda (economic, social and cultural rights). The Office of the High Commissioner for Refugees was not a specialized agency in the technical sense of the term, but it had been set up by the General Assembly to perform analogous functions, and he suggested that the Commission might grant the request.

It was so agreed.

The meeting rose at 6 p.m.