UNITED NATIONS

ECONOMIC AND SOCIAL COUNCIL

GENERAL

E/CN.4/SR.168
4 May 1950

ENGLISH
ORIGINAL: FRENCH

COMMISSION ON HUMAN RIGHTS

Sixth Session

SUMMARY RECORD OF THE HUNDRED AND SIXTY-EIGHTH MEETING

Held at Lake Success, New York,
on Tuesday, 25 April 1950, at 11 a.m.

CONTENTS:

Chairman:	Mrs. ROOSEVELT	United States of America
Members:	Mr. WHITLAM	Australia
	Mr. NISOT	Belgium
	Mr. VALENZUELA	Chile
	Mr. CHANG	China
	Mr. SORENSON	Denmark
	Mr. RAMADAN	Egypt
	Mr. CASSIN	France
	Mr. KYROU	Greece
	Mrs. MEHTA	India
	Mr. MALIK	Lebanon
	Mr. MENDEZ	Philippines

Members (continued):

Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mr. CRIBE	Uruguay
Mr. JEVREMOVIC	Yugoslavia

Also present: Mrs. GOLDMAN — Commission on the Status of Women

Representative of a specialized agency:

Mr. LEMOINE	International Labour Organisation (ILO)

Representative of a non-governmental organization in Category A:

Miss SENDER	International Confederation of Free Trade Unions (ICFTU)

Representatives of non-governmental organizations in Category B:

Mrs. NOLDE	Commission of the Churches on International Affairs
Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mr. BERNSTEIN	Co-ordinating Board of Jewish Organizations
Mr. HUNTINGTON	Friends World Committee for Consultation
Mr. CRUIKSHANK	Inter-American Council of Commerce and Production
Miss TOMLINSON	International Federation of Business and Professional Women
Miss ROBB	International Federation of University Women
Mr. BEER	International League for the Rights of Man
Mr. PERLSWEIG	World Jewish Congress
Mrs. MUDGE	World's Young Women's Christian Association (World YWCA)

Secretariat:

Mr. SCHWELB	Assistant Director of the Division of Human Rights
Mr. LIN MOUSHENG Mr. DAS	Secretaries of the Commission

/MEASURES OF

MEASURES OF IMPLEMENTATION (E/1371, annex III, E/CN.4/366, E/CN.4/353/Add.10, E/CN.4/353/Add.11, E/CN.4/444; E/CN.4/358, chapter IX; E/CN.4/164/Add.1, E/CN.4/419)

General debate

1. The CHAIRMAN opened the general debate on the question of measures of implementation which was the subject of item 4 of the Commission's agenda.

2. Mrs. MEHTA (India) remarked that the Commission was discussing the question of measures of implementation in its entirety for the first time. It was a pity that so few governments had replied to the questionnaire which the Commission had sent to them at the end of its fifth session. The intricacy of the problem might be the reason why there had been so few replies. The Commission would however have to find a solution in spite of the various difficulties that confronted it and she was sure that its efforts would be crowned with success.

3. The problem of measures of implementation resolved itself into five questions which, if answered satisfactorily, would enable the Commission to reach its goal. Those five questions were:

(1) whether international machinery was necessary;

(2) whether the measures of implementation should form part of the covenant of human rights or should form a separate instrument;

(3) whether the international machinery should be in the form of a permanent body or an ad hoc body created to consider each case;

(4) whether the members of such a body should be appointed or elected, and by whom;

(5) what should be the functions of such a body.

4. With regard to the first question, the Indian delegation was of the opinion that international implementation machinery was necessary for ensuring the observance of human rights. It had been argued that measures of implementation at the international level would encroach on the national sovereignty of a State thus violating Article 2, paragraph 7, of the Charter. She recalled that under Article 1 of the Charter, the United Nations had undertaken to protect and promote human rights and fundamental freedoms. That provision would cease to have any meaning if the United Nations were not empowered to take measures against those who violated human rights.

/5. As to

5. As to the second question, her delegation preferred that the measures of implementation should form an instrument separate from the covenant; the machinery which would be set up elsewhere should, however, be mentioned in the covenant. If the international covenant on human rights was not to be the only document of its kind it would be better for implementation measures to be placed in a separate document, for they would apply to all covenants. Moreover, and that was a more important reason, those implementation measures would be drawn up for the supervision of the observance of human rights of all individuals, whether or not they were nationals of a signatory State of the covenant. Even if there was no covenant, the United Nations should, in accordance with the obligations of the Charter, visualize measures to be taken to ensure the safeguarding of human rights. Consequently, if those measures were incorporated in the covenant, their scope would be restricted and the object for which they were created, which was to supervise the observance of human rights of all individuals coming under the jurisdiction of the United Nations, would be defeated. It might then be wondered whether the covenant was an indispensable instrument. She thought the covenant might be described as the outcome of the effort of certain States to ensure the implementation of human rights as they were defined in the covenant; it was a guarantee for the States which signed it since it defined the terms in which they were prepared to carry out their obligations.

6. So far as the third question was concerned, she indicated that if the machinery established was to control and supervise the observance of human rights, it could not be in the nature of an ad hoc committee. If, however, the idea was that the machinery should come into existence only when a dispute arose, and its sole mission was to serve as an investigating and fact-finding body, then it was not necessary for it to be permanent. The hypothesis of those who supported the idea of a non-permanent organ, that there would be few complaints, implied that only States would have a right to complain. If that were so, there might never be any complaints, for a State would hesitate before making a complaint against another State. The question would then arise of who would ensure the observance of human rights on behalf of the United Nations if there was no permanent organ to do so. Would Member States undertake the work and supervise each other? Such a procedure, instead of strengthening peace, would lead to political intrigues and perhaps to war. She felt, therefore, that it was absolutely necessary to have a permanent organ which would ensure a more effective and permanent safeguarding of human rights.

/7. As to

7. As to the fourth question, her delegation would prefer such an organ to be elected by the General Assembly, by a definite majority, so that it could command the confidence of as many States as possible. She did not wish to enter into details regarding its composition and election procedure, as those questions could easily be settled once the question of principle of a permanent or non-permanent organ had been decided.

8. On the fifth question, she thought that if the Commission wished to give the organ to be set up a judicial function, it would have to be an international court, and it would then have to be decided whether the competence of the existing International Court of Justice would merely be extended or whether a separate court of human rights would be established. In the latter case, the decisions of that organ would have to be binding on the parties concerned and the question of the enforcement of its decisions would also arise. Her delegation felt therefore that, for the time being, the international machinery to be set up should not be in the nature of a judiciary: it should rather be a conciliation committee, the main task of which would be to ensure the observance of human rights. If any violation of those rights was brought to its notice, the committee would investigate the matter and by means of negotiation would try to obtain a withdrawal of the complaint. If it failed to do so, it would report its failure to the General Assembly through the Commission on Human Rights of the Economic and Social Council.

9. In conclusion, she proposed that instead of embarking on a detailed examination of the various proposals before them, members of the Commission should take a decision on the issues of substance which she had raised; a small committee might later be appointed to work out the details.

10. Mr. KYROU (Greece) thought the problem of implementation measures was the most important question before the Commission. The Commission had made considerable progress in drafting the international covenant on human rights, by means of which it was attempting to transform the general principles contained in the Universal Declaration of Human Rights into exact provisions of positive law. But it was obvious that the covenant had its own particular legal character and must be complemented by special provisions for its implementation. Members of the Commission were drafting a convention which conferred rights on individuals other than the signatories of the convention and it was therefore imperative to define clearly who would exercise the actions arising from those rights. Provisions for implementation were therefore necessary.

/ 11. His delegation

11. His delegation would be guided in the discussion by one consideration: to see the covenant become an instrument binding upon the States which signed it. It believed in the need, and even the urgent need, for the adoption of international legislation for the protection of human rights.

12. The debate would perhaps show that the Commission was embarking upon nothing less than the beginning of a vastly important development in human history. It ought, therefore, to proceed with great caution. The article proposed jointly by the United Kingdom and United States delegations (E/CN.4/444), was an example, it was undoubtedly more complete than the original versions submitted by those delegations. Such meticulous precision could not fail to produce good results. It was to be hoped that the Commission would be inspired by practical considerations, for only thus could its bold planning become a useful and abiding reality.

13. Mr. JEVREMOVIC (Yugoslavia) said that his Government's views with regard to the measures of implementation were well known, as it had submitted its proposals in writing. He would comment on the separate provisions as the Commission considered them.

14. In general, however, he believed that it was almost useless to discuss the measures of implementation at that stage, since such a debate could be of value only after the provisions of the covenant had assumed their final form. It was at that stage that the measures to implement the covenant could be considered on the basis of the comments submitted by the signatory States. It was useless to grapple with the problem of the measures of implementation before the drafting of the covenant had been completed.

15. The CHAIRMAN, speaking as the representative of the United States of America, thought that the results of the Commission's endeavour to draft the article of the covenant on the measures of implementation would be the decisive test of its realism and wisdom. It was indeed important that the Commission should achieve substantial progress at the current session; it was equally important that it should not overreach itself in an effort to do more than it was able, and thereby endanger the progress which it had made thus far in the field of human rights.

/ 16. The United States

16. The United States Government believed that the measures for implementation to be embodied in the covenant should be positive measures. It thought, however, that the Commission should avoid over-elaborate procedures. It was particularly important that the Commission's first step in the field of implementation should be a modest one. Advance should therefore be cautious and slow; it should be made step by step and the Commission should learn from experience. States Members of the United Nations were free to ratify or not to ratify the covenant. States which were prepared to assume the obligations in the covenant should not be compelled to accept elaborate enforcement machinery.

17. The joint United Kingdom and United States proposal (E/CN.4/444) was a good beginning. It provided that only States ratifying the covenant might bring charges and that they could do so only against other ratifying States. Thus, Governments would not act irresponsibly and arguments would be presented in an orderly manner. Efforts would be made to confine the charges strictly to matters of human rights. That procedure might promote international understanding and provide valuable experience, upon which the Commission would be able to build for the future.

18. The United Kingdom and the United States believed that the article on measures of implementation proposed by them should be included in the covenant itself and should be regarded as the initial machinery for implementation. Any Government adhering to the covenant must be prepared to accept that minimum machinery for its implementation.

19. The procedure proposed was designed to avoid disputes between States; it provided that instances of alleged violations of the covenant which were not corrected by a State Party should be brought to the attention of an ad hoc human rights committee. It was to be hoped that complaints filed under that procedure would be genuine cases in which human rights were in real jeopardy and in which the result of the proceedings would be an improvement in the situation. Persons well known for their wisdom and integrity would serve on the committee and undertake a full study of the facts involved. They would serve in their individual capacity. The results of an investigation would be made public by the Secretary-General.

20. The authors of the proposal believed that in that way the constructive force of public opinion would be brought to bear in such a manner as to remedy the situations which had given rise to the complaints and simultaneously improve the understanding of the principles of human rights on a world-wide scale.

/21. She might

21. She might perhaps wish to go further than the proposal did, but she felt that it was the surest and wisest way to reach the Commission's goal of human freedom everywhere for everyone.

22. Mr. HOARE (United Kingdom) fully supported the remarks of the United States representative. As representing one of the authors of the joint proposal contained in document E/CN.4/444, he wished, however, to make some additional observations, and in doing so would follow the division suggested by the Indian representative at the beginning of the meeting.

23. With regard to the first question, he was convinced of the necessity of setting up international enforcement machinery.

24. It must be acknowledged that the views of the Governments differed on the second question. The Indian Government preferred a separate instrument, whereas the United Kingdom thought that a provision dealing with implementation should be embodied in the covenant itself. That such provisions should be the subject of a separate document would not, in his opinion, be sufficient, for such a procedure might enable States to ratify the covenant without binding themselves to apply the measures of implementation, which meant that they would in fact be able to evade their obligations under the covenant.

25. As regards the third question, the United Kingdom representative thought that the primary function of the contemplated organ would be to establish the facts and to attempt conciliation or mediation. That function could be assumed by an international court -- the International Court of Justice already in existence or a new international court -- by a permanent commission or by a special committee. The calendar of the International Court of Justice was not overburdened and an extension of its competence, rather than the establishment of a new organ, could therefore be envisaged if the organ were to be a judicial body. He preferred, however, that, in view of the nature of its functions, the organ concerned should not be a court or judicial body but a committee.

26. As for the fourth and fifth questions, the United Kingdom, like the United States of America, would prefer that the organ in question should not be permanent. He believed that it would be difficult to constitute a permanent international committee which would be recognized as impartial if the idea of constituting a body of a juridical character were rejected. The ad hoc committee would be composed of five members, two of whom would represent the States parties to the dispute, and of three other members agreed upon by the parties or in default of agreement chosen by the Secretary-General from a list drawn up by the Member States.

/27. The United Kingdom

27. The United Kingdom attached great importance to the publication of the conclusions of the Ad Hoc Committee, as it felt that the best means of assuring respect for human rights was to publicize widely the decisions upon any complaints which might be filed, whether or not the complaints were well founded. Such publicity would have a profound effect upon world public opinion and would also influence the implementation of human rights.

28. Mr. Hoare agreed entirely with the Greek and United States representatives that it was desirable to proceed cautiously. All the members of the Commission were aware of the difficulties involved in the drafting of the articles of the covenant which had already taken up the time of the Commission during five sessions. The difficulty might perhaps be even greater in respect of measures of implementation if they were to cover the extremely wide field which some had suggested. In the excellent study submitted by the Secretariat on the question of petitions (E/CN.4/419) the difficulties of applying that right had been clearly indicated. Although the Secretariat was not trying to suggest a solution it emphasized how delicate the matter was. Too much haste, therefore, on the part of the Commission, would risk endangering all that had been accomplished so far.

29. Mr. SORENSON (Denmark) observed that the discussion of the question of implementation placed the Commission on ground which had been carefully prepared by the preliminary exchanges of views which had taken place during the preceding session, the observations received from the various Governments and the excellent documentation submitted by the Secretariat on the right of petition. The principal task remaining was therefore one of carefully weighing the merits of the various proposals submitted and of taking the necessary decisions of principle.

30. Generally speaking, it might be said that there was no difference of opinion on the necessity of completing the covenant on human rights by measures of implementation. There was, however, less agreement on what those measures should be. In that connexion the Danish Government would let itself be guided by an overriding consideration: the necessity of obtaining the largest measure of agreement possible. If only a small number of States subscribed to the covenant and to the measures of implementation, the Commission would

/certainly

certainly have failed in its task. As a member of the Secretariat had so clearly pointed out, some thought, in that connexion, that it would be preferable not to conclude a covenant than to conclude one of only limited scope. The Commission must undoubtedly decide in due time whether to adopt that opinion and whether it believed itself bound to declare that the time did not appear to be propitious for the drafting of an international convention on human rights the authority of which would not be challenged. For the time being, however, the Danish representative would only act on the assumption that the Commission unanimously recognized the need of a covenant and of measures of implementation. For that reason he wished to offer some general preliminary observations.

31. In the first place, the Danish Government believed that the measures of implementation should be set forth in a separate instrument, for it was to be anticipated that the procedures to be established would have to be revised from time to time in the light of actual experience. It seemed preferable that those revisions should be applicable to an instrument separate from the covenant. That would, on the one hand, facilitate the process of revision and, on the other, would avoid any temptation to modify the very principles of the covenant.

32. Unlike the United Kingdom, the Danish Government thought that States should be able to adhere to the covenant without being obliged to subscribe simultaneously to the measures of implementation. It believed that the Commission would have reason to congratulate itself if the covenant were ratified by a large number of States, even if not all of those States accepted immediately the obligations regarding implementation. It did not, however, attach primary importance to that question and would gladly accept any solution likely to find favour with the majority. That was also true in respect of the kind of international organ to be set up. Although the Danish Government would prefer an organ of a legal nature, it would support any proposal assured of receiving the largest number of votes.

33. On the other hand, his Government attached great importance of principle to the decision to be taken on the powers to be given to the international organ. Judging from their joint proposal, it seemed that the United Kingdom and the United States of America desired to attribute to it merely the functions of a committee of inquiry. The United Kingdom representative had pointed out, however,

/in the statement

in the statement he had just made, that the organ concerned should also be endowed with mediatory powers. It was to be hoped that the joint proposal, which contained no such provision, would ultimately be broadened in the light of the debate, for any organ empowered only to conduct inquiries would merely play a very small part in the implementation of the covenant. The joint United Kingdom-United States proposal appeared to be based on the premise that the weight of public opinion would act as an effective counter-agent in cases of the violation of human rights. There were, however, numerous historical instances in which the subjects of a country condemned by public opinion rallied behind their rulers, whose disrepute appeared rather to strengthen their will to resist than to exercise a positive influence on them.

34. The Danish Government appreciated the concern of the United Kingdom and the United States of America regarding the need to proceed with caution. The settlement of international disputes by arbitration and conciliation as a preliminary to approaching the International Court of Justice was not, however, a new method, and no question of innovation or untimeliness was therefore involved. The Secretary-General's memorandum on the right of petition gave a detailed account of the procedure successfully followed by the International Labour Organization for ensuring compliance with international conventions concluded under its auspices (E/CN.4/419, paragraph 22). Furthermore, in resolution 277 (X) the Economic and Social Council had recommended a similar procedure in regard to complaints of the violation of trade union rights. It seemed desirable to extend the application of that method and to invest wider functions in the international body charged with the implementation of the covenant than those envisaged by the United Kingdom and the United States of America.

35. The final and, in the opinion of the Danish Government, the most important question at issue was to determine who should have the right to seize the organ in question. It was essential to avoid over-burdening the international organ in the initial stages. If, however, the right to seize the organ was confined to States, all violations of human rights would assume a political character. Weaker States would never lodge complaints against stronger States,

/while

while friendly States would abstain from mutual denunciations. In those circumstances it was doubtful whether the protection of human rights would be effectively ensured. In the opinion of the Danish Government, it would be better to accord the right of petition to individuals, at first, if necessary, in a limited form. It was probable that the right would be abused but means of prevention were available. The experience of the League of Nations in that field, and the convincing precedents in the work of the United Nations itself would serve as a guide.

36. In conclusion, he said it was a matter of deep regret to his Government that the United States of America and the United Kingdom, which had always striven for the recognition of human rights and the fundamental freedoms, should have felt unable to take the initiative in submitting a proposal in keeping with the new conception of the rights of the individual. There was little object in adopting measures unacceptable to those two countries, which enjoyed a special position in the world, and the Danish delegation would therefore support their joint proposal, which it regarded as the minimum action to be taken in the matter. It would, however, be glad to support any more liberal proposal which was acceptable to those two countries.

37. Mr. CASSIN (France) proposed that, before proceeding to a discussion of the substance of the proposals before it, the Commission should hear the views of the non-governmental organizations concerned which represented a fair cross-section of public opinion. Those organizations would bring new considerations to the Commission's notice.

It was so decided.

38. The CHAIRMAN invited the representative of the International League for the Rights of Man to submit the views of his organization.

39. Mr. BEER (International League for the Rights of Man) declared that two essential questions should be settled during the general debate on the implementation of the future covenant on human rights: the nature of the implementation organ and the means of setting that organ in motion.

40. With regard

40. With regard to the first point, the International League for the Rights of Man favoured the establishment of a permanent organ, not an ad hoc organ to be brought into action only when a violation of the covenant was reported and constituted on the basis of previously established lists.

41. Ad hoc commissions could fulfil only part of the functions which should normally be assigned to an implementation machinery. The principal duties of such an organ, however, were to prevent violations of the covenant; to ensure, by means of constant supervision, that it was applied; to collect information, and to draft and publish periodical reports. Those functions required a permanent organ. A permanent organ would, moreover, serve a useful purpose in noting violations of the covenant. The implementation organ should, furthermore, have the right to act on its own authority without deferring such action until a complaint had been filed. It could not do so unless it was permanent. Every argument adduced at San Francisco in favour of a permanent Security Council was equally valid in the case of the implementation organ for the covenant on human rights.

42. The ideal solution would be to establish the organ as a specialized agency, which would receive the support and co-operation of all the other United Nations bodies, and would be in a position to refer a case to any one of the latter, according to the nature of the problem. In view of the fact, however, that the number of States Members of those United Nations bodies which would accept the covenant was not yet known, the permanent implementation organ should be so constituted as to be in a position to act independently and to maintain direct relations with the International Court of Justice or the Ad Hoc court of human rights.

43. With respect to the second point, namely the setting in motion of the implementation machinery, he thought that the following should be entitled to submit complaints: 1. individuals or groups of individuals; 2. non-governmental organizations; 3. the Contracting States.

/44. The right

44. The right of petition was, in fact, the most elementary human right. The very thorough study made by the Secretariat (E/CN.4/419) showed that such a right can be exercised. Abuse of that right might of course, give rise to certain disadvantages which, however, could be overcome through careful preliminary examination of petitions and through consultation with Governments. It was feared, on the other hand, that Governments which did not accept the covenant might, for purposes of propaganda, instigate petitions in countries which adhered to it.

45. However, there was no better way to assert the superiority of democratic regimes than to make it possible for their peoples to call upon an international authority in order to obtain redress for whatever wrongs they might have suffered. The right of individuals to file complaints with a permanent committee would, therefore, constitute the most effective propaganda for the ideals of democracy. That was why the Commission on Human Rights could not deny them that right.

46. He recalled that the right of petition had already been granted to the inhabitants of Trust Territories. He mentioned a number of petitions upon which the Trusteeship Council had taken action and said that to deny the inhabitants of administering States a right granted to the inhabitants of Trust Territories under their administration would be to discriminate in reverse.

47. With respect to the right of petition of non-governmental organizations, the International League for the Rights of Man did not regard it as a substitute for the individual right of petition, but as an essential complement to that right whenever individuals and groups were prevented from exercising it.

48. Finally, the right of petition of States was self-evident. It was particularly useful in cases where violations of human rights might result in a threat to international peace and security.

49. The International League for the Rights of Man was, however, irrevocably opposed to any system of implementation of the covenant which would only allow States to report violations of human rights. States would no doubt hesitate to exercise that right in the case of violations committed by friendly or allied States. On the other hand, they would be tempted to abuse their right in the case of States with which they entertained unfriendly relations. Finally, if the right of petition were confined to States, individuals might complain in secret to foreign Governments.

/50. In conclusion,

50. In conclusion, the representative of the International League for the Rights of Man drew the Commission's attention to a general objection which had been raised to the League's claims. It had been alleged that it would be unwise to establish a powerful permanent organ immediately and to grant international right of petition to individuals and groups of individuals. It had also been alleged that to do so would constitute a revolutionary procedure.

51. It would be nothing of the kind. If there had been a revolution, it had begun at San Francisco five years ago, when provisions regarding the universal and effective respect of human rights had been included in the Charter of the United Nations.

52. The logical consequence of that revolution was effective implementation.

53. The CHAIRMAN invited Miss Sender, representative of the International Confederation of Free Trade Unions, to present the views of her organization to the Commission.

54. Miss SENDER (International Confederation of Free Trade Unions) said that in the course of its work the Commission on Human Rights had taken every care to see that the draft covenant would be an instrument capable of practical application. It was important that the same care should be taken with regard to the machinery for implementation which would be the instrument through which the covenant would be applied.

55. It was a pity that fewer Governments than might have been wished had replied to the questionnaire sent out to them. Nevertheless, the comments that had been received contained useful suggestions, and she hoped that the Commission would adopt the most valuable of them in order to avoid disappointing the hopes, given new vigour by the Universal Declaration of Human Rights, which the peoples of the world had in the United Nations

56. In her opinion, the joint proposal of the United Kingdom and the United States of America represented the minimum on which agreement in the Commission was possible. Nevertheless, the Commission should not be too cautious, for fear of failing in the task with which it had been entrusted.

/57. Thus,

57. Thus, it ought not to restrict to Governments only the right of lodging complaints with the international organ responsible for implementation. The Danish representative had pointed out the political consequences which such a decision might have. It could also be said that Governments parties to a dispute might take advantage of the opportunity to attack each other, to the detriment of peace. The International Confederation of Free Trade Unions believed that the right should be open to certain non-governmental organizations, at least, in case it was thought that it should not be granted to individuals. In that case, the Commission would have to determine which organizations should be empowered to appeal to the international organ and it would have to regulate their admission to that organ. She considered that the contracting States themselves should select those non-governmental organizations. She emphasized that the solution which she advocated had a great advantage in that the international non-governmental organizations represented a large number of countries which, even if they did not ratify the covenant, had nevertheless undertaken to respect the Universal Declaration of Human Rights. Moreover, non-governmental organizations composed exclusively of members which had not ratified the covenant, would be able to appeal against any violation committed by the contracting States.

58. With regard to the machinery for implementation properly so-called, she believed that it was indispensable to set up a permanent international organ, the work of which would be supplemented in each country by a regional commission responsible for determining to what extent the signatory States would safeguard the application of the provisions of the covenant. Any complaint entered by those regional organs would be brought before the permanent international organ. It would also be necessary to provide special organs responsible for conciliation and mediation, and to make provision for the opportunity of recourse to the International Court of Justice or to an international court specially set up for that purpose, in cases where efforts at mediation and conciliation had failed to solve the dispute in question. It was very likely, however, that the Court would only be able to formulate recommendations as long as the concept of national sovereignty prevailed. It would be for the General Assembly to take steps in respect of countries which did not take into account the Court's recommendations.

/59. She recalled

59. She recalled that the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities had requested that provisions should be made to grant individuals and non-governmental organizations the right to place petitions before an international organ. The Sub-Commission had only taken such a stand after serious consideration, and she invited the Commission on Human Rights to follow its example and to give deep thought to the suggestions which she had just made and to all the other proposals of which it was seized, taking into account the useful and constructive elements which they contained. In conclusion, she hoped that the Commission would not let itself be unduly influenced by the fact that two great Powers had submitted a proposal, and that it would be able to liberalize the terms of that proposal to the greater good of the peoples of the world.

60. The CHAIRMAN asked the members of the Commission whether they wished to hear a statement by the representative of the International Labour Organisation on the procedures followed by that body in the implementation of conventions and recommendations. She pointed out that the Secretary-General's report on the Right of Petition (E/CN.4/419) gave a detailed summary of those procedures.

61. Mr. SORENSON (Denmark), Mr. WHITLAM (Australia) and Mr. ORIBE (Uruguay) said that they wished to hear the ILO representative.

62. Mr. LEMOINE (International Labour Organisation) said that he would give a very brief summary of the manner in which the ILO had provided for the implementation of labour conventions and the way in which it dealt with the claims and complaints submitted to it.

63. Articles 19 and 22 of the ILO Constitution explained the procedure adopted in regard to the implementation of its conventions. Under the terms of paragraph 5 of article 19, when a convention was adopted by the Conference, each member submitted that convention to "the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action."

The Member, having obtained the approval of the competent authority or authorities communicated its formal ratification to the Director-General of the ILO and took whatever measures were necessary to put the provisions of the convention into effect. When a convention had been ratified, the ILO member must, under the terms of article 22, submit to the International Labour Office an annual report on the measures taken to give effect to the provisions of that convention.

64. Under the terms of article 23, the Director-General submitted to the Conference a summary of the information and reports communicated to him on the implementation of articles 19 and 22.

65. Under the terms of article 19, paragraph 5, sub-paragraph (e) "If the Member does not obtain the consent of the authority or authorities within whose competence the matter lies, no further obligation shall rest upon the Member except that it shall report to the Director-General of the International Labour Office at appropriate intervals... the position of its law and practice in regard to the matters dealt with in the Convention and showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention... ".

66. Mr. Lemoine thought that the procedure followed by the ILO regarding the representations and complaints was of more immediate interest to the Commission. That procedure was, in short, as follows:

67. Under the terms of article 24 of the ILO Constitution "in the event of any representation being made to the International Labour Office by an industrial organization of employers or workers that any of the Members has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party, the Governing Body may communicate this representation to the Government aganst which it is made, and may invite that Government to make such statement on the subject as it may think fit." Article 25 explained the procedure which could be followed when the Government in question did not reply within a reasonable time, or when its reply was not deemed satisfactory by the Governing Body.

68. Under the terms of article 26 "Any of the Members shall have the right to file a complaint with the International Labour Office if it is not satisfied that any other Member is securing the effective observance of any Convention which both have ratified... ".

/69. The procedures

69. The procedures provided in articles 24 and 26 differed very slightly, but in both cases the Governing Body could, if it thought fit, set up a Commission of Enquiry to study the question raised and to file a report on the subject.

70. Article 29 provided that the Director-General of the International Labour Office should communicate the report of the Commission of Enquiry to the Governing Body and to each of the Governments concerned in the complaint; those Governments had to state whether or not they accepted the recommendations of the Commission of Enquiry or whether they wished to refer the complaint to the International Court of Justice.

71. He thought that he had given a summary of the basic procedures followed by the ILO in connexion with claims and complaints and the implementation of conventions, but he could be called upon if members of the Commission desired more complete details.

The meeting rose at 1 p.m.

4/5 p. m.