UNITED NATIONS

ECONOMIC AND SOCIAL COUNCIL

GENERAL
E/CN.4/SR.177
12 May 1950

ENGLISH
ORIGINAL: FRENCH

COMMISSION ON HUMAN RIGHTS

Sixth Session

SUMMARY RECORD OF THE HUNDRED AND SEVENTY-SEVENTH MEETING

Held at Lake Success, New York,
on Tuesday, 2 May 1950, at 2.30 p.m.

CONTENTS:

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

Miss BOWIE	United Kingdom of Great Britain and Northern Ireland
Mr. ORIBE	Uruguay
Mr. JEVREMOVIC	Yugoslavia

Representative of a specialized agency:

Mr. LEMOINE	International Labour Organisation (ILO)

Representatives of non-governmental organizations:

Category A

Miss SENDER	International Confederation of Free Trade Unions (ICFTU)

Category B

Mrs. ALETA	Catholic International Union for Social Service
Mr. NOLDE) Mrs. NOLDE)	Commission of the Churches on International Affairs
Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mr. HALPERIN	Co-ordinating Committee of Jewish Organizations
Mrs. VAN DEN BERG	International Alliance of Women
Miss ROBB	International Federation of University Women
Mr. BEER	International League for the Rights of Man
Miss SIXSAMIA	International Union of Catholic Women's Leagues

Secretariat:

Mr. SCHWELB	Acting Director, Commission on Human Rights
Mr. LIN MOUSHENG) Mr. DAS)	Secretaries of the Commission

OTHER QUESTIONS

1. The CHAIRMAN proposed that, at the meeting it would hold at 3 p.m. on 3 May, the Commission should study the reports of the Committee on the Yearbook (E/CN.4/459), the Committee on Communications (E/CN.4/460) and the Committee on Prevention of Discrimination and Protection of Minorities (E/CN.4/450).

It was so decided.

/2. The CHAIRMAN

2. The CHAIRMAN further announced that a Member State had asked for a copy of the summary record of a closed meeting held by the Commission some time previously. She recalled the provisions of rule 40 of the rules of procedure and said that in her opinion there was no reason for not granting that request. She therefore proposed that the summary record in question should be dispatched.

It was so decided.

IMPLEMENTATION MEASURES (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) (continued)

General discussion (continued)

3. Mr. CASSIN (France) noted that the Commission was discussing the question of whether, in order to ensure effective observance of human rights, an international organ should be established or whether an ad hoc body would be sufficient. He himself was in favour of a permanent international organ.

4. He recalled that, in 1948, the French representative had had the same conviction as the Australian representative that there should be both a covenant with provisions as broad as possible and implementation measures which were as complete as possible. The French representative had then thought of proposing the establishment of a permanent commission with very extensive powers to which complaints might be submitted by States, groups of individuals or individuals. He did not consider that idea as a final aim, but as a short term objective.

5. However, as between a covenant of wide scope accompanied by very complete implementation measures, but which would be signed only in fifty years time, and a more modest covenant accompanied by adequate implementation measures,

he preferred the second solution. He did not think it advisable to visualize the establishment of an organization similar to a specialized agency. The question of human rights was of so fundamental a nature for the United Nations that its separation from the Organization could not be considered.

6. He thought that in speaking of a permanent organ, the existence of the Commission on Human Rights, which had been foreseen by the Charter (Article 68), which did exist and which was carrying out its functions, should not be forgotten. Although the Economic and Social Council had not given that Commission all the powers it could have wished, the Commission should not surrender the task of general supervision of human rights and as far as that particular function was concerned, he thought it was unnecessary to establish another organ.

7. He then spoke of the commission visualized in the French proposal; he felt it was essential to set it up from the very outset. It would no doubt be said that such a commission would probably be unnecessary, for in all likelihood few complaints would be submitted by a State against another State; it would also be said that it would be better not to overtax the Organization's budget by establishing a permanent new organ. He did not propose that the body referred to in the French proposal should be a permanent one in the material and physical sense of the word nor that it should have as broad a scope as the International Court of Justice. In his opinion, there should be a permanent group of eminent persons selected for their competence whose function it would be to hear complaints from States on violations of human rights. The costs involved in the adoption of such a proposal would not be much higher than those involved in the adoption of the United States and United Kingdom proposal though the results would differ considerably from the legal viewpoint and the moral power of the body envisaged in the French proposal would be immeasurably greater.

8. The necessity for setting up a permanent body could also be queried, since it must be assumed that that body would begin by considering only those complaints which were submitted by one State against another State and such cases would be relatively infrequent. He thought that there was/ considerable difference between an

ad hoc body and a general permanent body. An ad hoc commission might occasionally be able to solve a specific case but it could not establish precedents, whereas the decision of a permanent body constituted a precedent with binding force for the future.

9. The permanence of the commission suggested in the French proposal might be ensured by the principle of rotation; three of the permanent members of the commission would be replaced after three years and the other four after five years. Mr. Cassin asked the members of the Commission to consider that that draft would confine itself to making preparations for the future, whereas the measures of implementation advocated in the other drafts would probably have to be rescinded at a later date when more advanced measures were under consideration.

10. He proposed a small commission which should be as non-political as possible, particularly since the complaints lodged by one State against another were often political in nature. He had given a great deal of thought to the question before proposing that the commission should be a body that was restricted to a closed group of States. If small ad hoc commissions were set up or a permanent commission composed solely of representatives of signatory States, with members elected by their States, that might discourage countries which had not yet signed the covenant from adhering to that instrument and taking their place within the circle. He had tried to reconcile the absolute right of signatory States not to submit to the control of non-signatory States with the universality of the community of man.

11. The new international law which the Commission on Human Rights was in the process of creating could and should be established by degrees. The Charter and the Universal Declaration of Human Rights had taken the question of human rights out of the exclusive jurisdiction of States. That represented a great step forward and it was logical to give an international organization a right to check the good faith in which signatory States were implementing the provisions of the covenant.

12. The representative of India had linked the question of the permanent organization to the question of who would be entitled to submit complaints to it.

Mr. Cassin admitted that the question of reciprocity was essential. It was impossible that members of the commission should be nationals of non-signatory countries; nor was it possible that non-signatory countries should be entitled to submit complaints. By signing the covenant States would renounce part of their national sovereignty and the States which did so could not allow themselves to be put in the dock by countries which refused to assume the obligations contained in the covenant. That was a problem which would still have to be solved.

13. The representative of France felt that no partial solution should be adopted until the Commission had obtained a picture of the whole situation. On the other hand, if the ultimate objective was clear, it was advisable to proceed slowly. He reminded the Commission that under the Constitution of France his country was ready to agree to any diminution of its sovereignty so long as it was reciprocal.

14. In conclusion, he stated that the members of the Commission must place the interests of human rights above their prestige and their personal and national self-esteem. He recalled the terms of the Economic and Social Council resolution 7(I) containing the Commission's terms of reference and stated that if the Commission clearly affirmed its right to exercise a general supervision over the respect of human rights and if, furthermore, it provided for the establishment of a permanent commission to consider violations, it would have made very great progress.

15. Miss BOWIE (United Kingdom) recalled that the United States and United Kingdom proposal differed essentially from the French proposal. She agreed with the French representative, however, that only States should be entitled to lodge complaints.

16. The United Kingdom did not desire that the decisions taken on the matter by the Commission at its sixth session should be final because the whole matter was in the experimental stage. The United States and United Kingdom were therefore opposed to the setting up of a permanent body for, were it later to prove to be badly organized or functioning unsatisfactorily, it would be almost impossible to get rid of it. On the other hand, a non-permanent body, forced to sit almost continuously by the number of cases it had to deal with, could easily be made permanent.

/17. She did not

17. She did not think that the body to be set up by the Commission should have a judicial character. It should confine itself to finding facts. Consequently, it should not be composed of eminent jurists: its members should be chosen for their impartiality and humanity. Most of the complaints brought to that body would raise human rather than legal problems and so the legal element should not preponderate.

18. One of the difficulties facing the Commission was that they did not know the number or type of complaints with which the international body would be called upon to deal. The mere fact of announcing the establishment of such a body would probably affect the number of communications regarding human rights. If, however, communications regarding purely individual cases and those of an obviously political nature were eliminated only a modest number would remain which could be dealt with easily by a small fact-finding body.

19. She was not opposed to the idea of mediation contained in article 16 of the French draft, but thought that the proposed body should be essentially a fact-finding one: the necessity for mediation would arise spontaneously during the hearings.

20. Mr. WHITLAM (Australia) was pleased to note that the Indian representative favoured the ultimate establishment of a judicial body. The Commission had to settle the provisions of a legal instrument. The covenant would be a treaty and, once it came into force, would become part of international law. That was why members of the Commission should consider the creation, in the future, of a judicial body.

21. Australia had suggested, from the outset of the consideration of human rights, the setting up of an international court of human rights (annex III, document E/1371). That proposal could not be put into practice at once but it should be seriously considered in the future, perhaps by the International Law Commission.

/22. If the

22. If the covenant worked as the members of the Commission hoped it would, disputes would arise, of which some would be fully justified, others would be less so, while still others would have no justification at all. It was therefore necessary to foresee some sort of selection and for that reason to study the facts. The methods used to bring out the facts were thus of considerable importance if it was desired to assess such facts correctly. Mr. Whitlam felt that it was essential to build up experience in such an extremely important and very delicate matter.

23. It was not correct to suggest that the French delegation proposed that a court or tribunal should be set up. Although the proposal required that members of the future body should have the qualities of judges, the body itself would not have a judicial character. It would merely establish the facts and lay down the procedure to be used in settling disputes. The Commission should examine that proposal with great care not only because of the intrinsic value of the idea, but also on account of the suggestion that the permanent body should be given the form of an institution.

24. His Government had studied the question and felt bound, at that stage of the discussion, to support the United States and United Kingdom proposal as a first step. It was in fact necessary to proceed cautiously. Should that first experiment succeed, the Commission could then consider increasing the scope and powers of the international body.

25. The CHAIRMAN, speaking as the representative of the United States, said that her delegation and that of the United Kingdom believed that it was undesirable to set up a costly and unwieldy body before knowing the extent of the work it would have to do. She was therefore in favour of beginning by establishing ad hoc bodies which would be competent to deal with State to State complaints. If, later on, as the result of a growing number of complaints, the need to set up a permanent organ made itself felt, it would always be possible to substitute such an organ for the existing ad hoc bodies. She pointed out that most countries would be more disposed to adhere to the covenant if the machinery for implementation was not too cumbersome.

26. With regard to the French proposal, she said that in the opinion of her delegation, the members of the body responsible for implementation ought not to be chosen by the International Court of Justice, since that would be tantamount to authorizing the nationals of countries which had not ratified the covenant to participate in the appointment of the members of the body responsible for dealing

/with violations

with violations of the covenant. The United States argued that only the representatives of contracting States should sit on that body. Should the States be unable to come to an agreement, as presently envisaged, it would lie with the Secretary-General to appoint the members of the body in question.

27. The United States delegation was also unable to support the French proposal that the members of the body responsible for implementation should be selected from the panel of the Permanent Court of Arbitration, in view of the fact that that panel had been constituted for the establishment of a purely judicial body.

28. The United States delegation thought that such a procedure would be too restrictive. It preferred instead to establish a separate panel of persons nominated for their ability and high moral integrity, who would be willing to serve on a body responsible for dealing with violations of human rights.

29. Lastly, she defined the attitude of her delegation with regard to the functions which should be bestowed on the international body. Such an organ should not carry out duties of mediation or conciliation, as the French representative wished; it should restrict itself to fact-finding and leave to world public opinion the task of exercising pressure on States in order to obtain a settlement of disputes. It should be remembered that it was necessary above all to correct conditions in countries which violated the covenant. It was therefore preferable not to emphasize mediation or conciliation. That was why the international organ should above all seek to know the facts and to focus world public opinion on those facts.

30. Mrs. MEHTA (India) said that she had listened to the speech of the French representative with attention and respect. She had feared that France had gone back entirely on the proposal regarding the right of petition which it had submitted to the Commission in the previous year; she was glad, therefore, to note that fundamentally the position of France remained unchanged and that the French representative was simply advocating a prudence which most delegations recognized as essential in so delicate a matter. The Government of India also believed that it was necessary to go forward by easy stages and that at the current stage it was impossible to set up anything better than a conciliation commission; nevertheless, it considered that the ultimate aim should be the institution of a judicial body to deal with complaints regarding violations of human rights.

31. As the Australian representative had emphasized, the primary consideration was to guarantee a certain amount of permanence to the system which would be established. That meant the abandonment of the idea of the ad hoc bodies which the United Kingdom and United States delegations proposed to establish, in favour of a permanent body which

/would be

would be developed in the light of acquired experience. The Indian Government had no pre-conceived idea as to the composition or the functions of such a body; but the Commission should however settle immediately the question of principle, of whether or not it was to recommend the establishment of a permanent body.

32. She did not think that an ad hoc body meeting to settle a particular case and responsible solely for an investigation into that case would be able effectively to guarantee that human rights would be respected. On the other hand, a permanent commission, enjoying the confidence of States and of the people, would create the jurisprudence on which the protection of those rights would be based in the future.

33. Mr. NISOT (Belgium) thought that the joint draft submitted by the United Kingdom and the United States should prove to be the most effective. When a violation of human rights occurred, the most important thing was duly to establish the facts, in order to bring them to the knowledge of the world, as among peaceful sanctions the verdict of public opinion was one of the most telling. The joint draft provided that the investigations would be entrusted to men, some of whom would be selected by the Governments in dispute and would therefore enjoy the confidence of those Governments. Furthermore, the men in charge of the investigations could be chosen for their knowledge of problems bearing on the case in point. Experience had shown that such an ad hoc group, appointed on the basis of the requirements of the case, was able to take more enlightened, more direct and more fruitful action than a body whose members were appointed in advance on a permanent basis and with no factual knowledge of the special cases they would eventually be called upon to discuss.

34. Miss SENDER (International Confederation of Free Trade Unions) pointed out that it would be unnecessary to establish the proposed organ on a permanent basis if its only duty was to draw public attention to violations of human rights. There would even be no need to go so far as to set up a

new organ in view of the fact that, as could be seen from the official records of the Economic and Social Council, there had already been many cases of violations being brought to the attention of world public opinion by United Nations organs.

35. She felt that, if the new organ were to do useful work, it should be established as a conciliation and arbitration body. Moreover, the right of complaint should not be limited to Governments since experience had shown that where there were numerous cases of violations, only in exceptional instances were they the subject of a formal complaint. The granting of petitions, if not to individuals, at least to representative groups, should be considered.

36. Although the Commission was no doubt justified in wishing to proceed gradually, it could however reveal forthwith its intention to take action by adopting a resolution in which it would agree to take a second step in the right direction within a definite period, say, two years.

37. The CHAIRMAN, speaking as representative of the United States of America, observed that the recommendations of the new organ would not be binding even if it were to be given the power of arbitration and conciliation. A State guilty of violating human rights would not be bound to accept those recommendations. It seemed hardly likely, moreover, that a dispute resulting from a violation of the covenant on human rights would lend itself to compromise. That was why the United States delegation was so strongly in favour of a committee so constituted as to command public respect which alone could prevail upon a State found guilty by that committee to accept its recommendations.

38. Mrs. MEHTA (India) pointed out, in reply, that conciliation did not necessarily entail the enforcement of any decisions taken. A permanent commission might usefully intervene in cases of violation of human rights and might contribute to the settlement of at least a few. The Indian delegation could not agree with the United States representative as to the

power of public opinion. For instance, despite the fact that world public opinion was still interested in the case, the position of the Indians in the Union of South Africa had scarcely improved during the past four years. The direct intervention of a competent body would no doubt have led to more tangible results.

39. Mr. MALIK (Lebanon) recalled that the Charter provided expressly for the settlement of disputes through conciliation and arbitration and had set up a detailed system for the settlement of all problems affecting international peace and security. Moreover, for the past two years the Interim Committee of the General Assembly had been considering the establishment of conciliation machinery. The Commission on Human Rights should draw on those sources, so that its action would be consistent with that of other United Nations bodies in a matter directly involving the Charter.

40. Mr. Malik agreed with the Indian representative that the Commission should first take a decision of principle as to whether a permanent organ or an ad hoc committee should be established. It should next settle the second question of principle as to whether recourse to the organ would be limited to the States parties to the covenant. In that connexion, it was a matter of regret that certain delegations had changed their position since the previous session. A new vote would to some extent be a test which would show to what point the situation had deteriorated since the previous year with respect to the protection of human rights.

41. The Lebanese delegation, for its part, wished to submit an amendment to the French proposal. That amendment would not change the substance of the proposal but would widen its scope and make it more acceptable to the Lebanese delegation. It provided for the inclusion of a second paragraph worded in the following terms:

> "The Commission shall also receive complaints with respect to alleged violations of the provisions of the Covenant in States parties to the Covenant, filed by national non-governmental organizations recognized by the State in which the violation is alleged to have taken place, as competent to file such complaints, or filed by international non-governmental organizations recognized by the Economic and Social Council as competent to file such complaints."

/42. Such

42. Such a system would be more flexible than that contemplated in the French proposal. He hoped that the French representative would be able to follow it and thus agree to take another step on the way to progress. For that matter, the representatives of the non-governmental organizations which the Commission had heard at the beginning of the general discussion of the question of enforcement had also pointed to that same way. It was not by chance that among the organizations which had made such a constructive contribution to the Commission's work, were two bodies representing a human group which more than any other had a thorough knowledge of all the problems concerned with human rights which was based upon personal experience.

43. The CHAIRMAN said even if it did not fully share the views expressed by the representatives of the non-governmental organizations, the entire Commission was grateful for the interest they had shown in its work and for the enlightening contribution they had made.

44. Speaking as the representative of the United States of America, she drew the attention of the Lebanese representative to the fact that his amendment modified the substance of the French proposal. In her opinion, such a proposal should be included not in the covenant itself but in a protocol which the signatory States of the covenant would be free to accept or reject.

45. Mr. KYROU (Greece) agreed with the United States representative that the Lebanese amendment appeared to change profoundly the scope of the French proposal. For its part, the Greek delegation supported the joint proposal which permitted the establishment of a system for implementation far more flexible than that provided for in the French proposal.

46. Miss BOWIE (United Kingdom) saw no reason why certain representatives continued to presume that the States signing the covenant would surely not respect the provisions nor fulfil the commitments which they had freely undertaken. Those States were democracies which, true to their principles, attached primary importance to the question of human rights.

47. In reply to the observations of the Indian representative, Miss Bowie said she was convinced that the position taken by world public opinion as well as by certain sections of public opinion in the country itself regarding the situation of the minorities in the Union of South Africa, would not fail to produce a salutary effect on the Government concerned and could not therefore be termed useless.

/48. Mr. SORENSON

48. Mr. SORENSON (Denmark) pointed out that he had already expressed his Government's point of view on the problem of the implementation of the covenant. He would therefore confine himself to a few remarks on the proposals which had been put before the Commission. In the first place, the question of the permanent or non-permanent nature of the enforcement body should not be dissociated from the question of the functions to be asisnged to that body, and that of determining who would have the right to lodge complaints.

49. He had already stressed the fact that it was dangerous to assign to States alone the right to lodge a complaint in case of violation of human rights, as that would transform the disputes about the implementation of the covenant into political disputes. He considered however that it was useless to vote on that question of principle. The members of the Commission should therefore have a thorough exchange of views in order to attempt to find the greatest possible measure of agreement between themselves.

50. The question of the permanence or non-permanence of the body to be set up was important only when considered from the point of view of the functions to be assigned to it. From that angle, it was to be noted that an ad hoc body would be more likely to assume a political character, whereas a permanent body would rapidly assume a judicial character. He could not see how the committees proposed in the joint proposal could subsequently become judicial bodies unless the Commission radically changed its position of principle. On the other hand, a permanent body could easily be transformed into a judicial organ without it being necessary to amend the covenant. That was why, despite the fact that in the matter of functions the body proposed by the French delegation differed but very slightly from that proposed by the United States and the United Kingdom, the former was capable of evolution while the latter was not. Mr. Sorenson earnestly requested the delegations of the United States and the United Kingdom to reconsider their position on that point and if possible to make a concession which would enable the Commission to achieve almost complete agreement.

51. The representative of Denmark would also be pleased if the delegations of the United States, the United Kingdom and France could reach agreement on the functions of the proposed body. The representative of the United States had

/said that

said that the activity of that organ should be limited to ascertaining the facts and that world public opinion would do the rest. Mr. Sorenson did not share that view and pointed out that, in spite of world public opinion, the situation in Spain had not improved. Moreover, the introduction of mediation procedure was quite feasible, as was proved by the experience of ILO, and that procedure was likely to achieve greater success.

52. In conclusion, Mr. Sorenson reaffirmed his desire to see the delegations of the United States and the United Kingdom modify their position somewhat in order to achieve the greatest possible measure of agreement within the Commission. Obviously any agreement in the field of human rights arrived at without the participation of the United States and the United Kingdom would have no real and effective significance.

53. Mr. CASSIN (France), in reply to the criticisms which had been voiced against the French proposal, made it clear that the permanent commission which he proposed was not intended to be an international court. As the representative of Denmark had indicated, it nevertheless presented the advantage of being capable of evolving and taking on a judicial character at the appropriate moment. To satisfy the representative of the United States, Mr. Cassin was prepared to amend article 15 of his proposal in order to grant the commission in question the right to ascertain facts regarding violations of human rights, in addition to its mediation functions. In that connexion, Mr. Cassin noted that conciliation did not mean bargaining, as certain representatives seemed to interpret it. The conciliation procedure which he contemplated was intended to lead a State, at the request of another State, to redress violations of the covenant which it might have committed, for example, by cancelling an illegal decree. Conversely, it might be shown that the complainant State had been misinformed. The proposed commission was called upon to issue recommendations in public session. The French proposal very carefully referred to the commission as an advisory body, in order to mark its character. Therefore, so far as the functions of the future body were concerned, Mr. Cassin felt that it was possible to find common ground between the French proposal and the joint proposal.

/54. The basic

54. The basic question was still therefore a matter of setting up an organ which was capable of development. Mr. Cassin appealed to the representatives of the United States and the United Kingdom to take a conciliatory step in that direction.

55. Finally, the representative of France admitted that in his proposal States and States alone were given the right to lodge complaints with the commission, although his country was a fervent champion of the right of individual petition. But France, regardless of its position of principle in the matter, wished above all to see the covenant ratified as quickly as possible. The French Government was of opinion that for the time being ratification by only one-half of the signatory States should be enough to give force of law to the covenant. If, however, the right of petition were introduced, a considerably larger number of ratifications would have to be contemplated because, in order to make the individual subject to international law, much greater juridical support than seemed possible at the present time would be necessary. The entry into force of the covenant would thereby be delayed. The French delegation hoped that the right of petition could be accorded subsequently in a protocol annexed to the covenant.

56. Mr. ORIBE (Uruguay) said it was impossible to over-emphasize the importance of the general question of implementation in relation to the work of the Commission but to the activities of the United Nations as a whole. In consequence, he wished to make clear the position of principle of his Government in the matter.

57. The Uruguayan delegation desired, in the first place, to point out that while the Commission's most urgent job was to complete the task, allotted to it in precise and definite terms, of drafting implementation measures to ensure the enforcement of the covenant on human rights, its present attitude should not be interpreted as an acceptance of the argument that because of their general nature the provisions of the Charter in the field of human rights imposed no positive obligation on Member States and could therefore not be given any practical application. On the contrary, by ratifying the United Nations Charter and, in

particular, Articles 55 and 56 of the Charter, the States Members had contracted a positive legal obligation to promote respect for human rights and the fundamental freedoms. Although those rights and freedoms had not yet been conclusively defined and although the manner in which they were to be implemented had not yet been determined, the fact remained that they involved a legal obligation under the same positive customary law which bound the signatory States of the Charter. Thus, even if there had been no Universal Declaration of Human Rights, the States Members would still have been obliged to set up international machinery of implementation in order to ensure the effective protection of the rights and freedoms which, according to the Charter, constituted the cardinal principles of international organization.

58. The Uruguayan delegation considered that the advisory powers which the Charter conferred upon organs of the United Nations necessarily carried with it an additional power, that of seeking information and carrying out investigation. The experience of the General Assembly was very instructive on that point. Mr. Oribe drew the Commission's attention to the fact that the internal doctrine of implied powers inherent in the United Nations Organization had been formally accepted and applied by the International Court of Justice when it had interpreted the Charter in giving its advisory opinion on the question of reparation for injuries incurred in the service of the United Nations.

59. With regard to the specific problem of the implementation of the international covenant on human rights, the Uruguayan Government considered that it raised questions of legal procedure which should be settled in accordance with purely legal methods and not by means of political expedients such as appeasement, conciliation, compromise or mutual concessions. Indeed, by virtue of the Charter and the covenant on human rights now being prepared, the respect of human rights had become an essentially international matter, and any violation of those rights concerned the international community as a whole. Consequently, the primary objective of any implementation procedure must be, not to settle disputes, but to establish the facts of the matter, so as to restore legal conditions which had been impaired and to provide reparations for injuries suffered.

/60. In the

60. In the second place, the Uruguayan delegation considered that the establishment of effective measures for implementation of the covenant on human rights hinged upon the creation of permanent organs with supervisory, fact-finding and negotiating powers. It was therefore prepared to support the establishment, on a permanent basis, of a special control organ the functions of which would be clearly defined in the covenant. Those functions should be limited to the following: (a) general supervision of the implementation of the covenant, irrespective of any denunciation by the parties or complaint; (b) examination of petitions and investigations of violations brought to its notice; (c) mediation between the parties to the conflict with a view to restoring the legal situation, or in order to secure reparation for the wrong suffered. Finally, when no settlement could be reached, the dispute should be compulsorily referred to the International Court of Justice or any other judicial organ established for the purpose to which both States and individuals would have access.

61. In the third place, the Uruguayan Government would like the right of petition to be granted to individuals, groups of individuals and non-governmental organizations, for it considered that right to be the best guarantee of the covenant and absolutely essential for its effective implementation. Theoretically speaking, the position of the Uruguayan delegation was based on the principle that the recognition of human rights and fundamental freedoms in the Charter implied tacit recognition of the individual as a subject of international law. Mr. Oribe did not think it necessary to review, in detail, the history of the right of petition as exercised by individuals. He emphasized, however, that the right was given fullest recognition in the Constitution of Uruguay. The right of petition must be considered as one of the inherent fundamental rights of every subject of international as well as national law. In any organized society, an individual subjected to an injustice had no other recourse but to appeal to authority, whether national or international. The right of petition was an element of the legal personality of the individual. The delegation of Uruguay noted that none of the proposals submitted to the Commission mentioned the recognition or rights or the conditions exercising them. It reserved the right to submit at the appropriate moment a concrete proposal with a view to including the right of petition in the measures of implementation of the international covenant on human rights.

/62. Mr. MALIK

62. Mr. MALIK (Lebanon) stated that by saying that some members had reversed their position of principle, he had merely emphasized an objective and undeniable fact. The limits of possibility were not as rigid as some seemed to believe; he recalled that, at the time when the Convention on Genocide had been drafted, some delegations had completely reversed their positions as regards the timeliness and the contents of that Convention. That proved that States were liable to change their views. His remarks had been purely persuasive in character.

63. The CHAIRMAN suggested that the delegations of the United States, the United Kingdom and France should consult together with a view to drawing up a joint draft.

64. Mrs. MEHTA (India) and Miss BOWIE (United Kingdom), thought that the Commission should first decide whether the organ to be constituted should be permanent or non-permanent.

65. Mr. MALIK (Lebanon) said that the delegations of the United States, the United Kingdom and France were free to have an exchange of views if they so desired; but they were not entitled to prepare a joint text on behalf of the Commission before the latter had voted on several points of principle.

66. Mr. NISOT (Belgium) questioned the utility of voting on abstract texts detached from the texts which would eventually determine the form and scope of the proposed body.

67. Mr. ORIBE (Uruguay)was also opposed to voting on the question of the permanent nature of the proposed organ. The Commission should decide on certain other aspects of the problem, such as the question of the functions to be vested in that organ. The delegation of Uruguay was in favour of granting it powers of control. He felt therefore that the general debate should be continued in order to clear up all those points.

/68. Mr. CASSIN

68. Mr. CASSIN (France) was in favour of a vote on the permanence of the proposed organ, but only after all delegations had made known their views on the matter.

69. Mr. SORENSON (Denmark) thought that a compromise text prepared by the delegations of the United States, the United Kingdom and France had excellent chances of success. He repeated that a vote would solve nothing, since protection of human rights could not be ensured without the participation of the United States and the United Kingdom.

70. Mr. RAMADAN (Egypt) said that he wished to make a statement on behalf of his delegation. He therefore proposed that the general discussion should not be closed.

It was so decided.

The meeting rose at 5.55 p.m.