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COMMISSION ON HUMAN RIGHTS

Seventh Session

SUMMARY RECORD OF THE TWO HUNDRED AND NINTH MEETING

held at the Palais des Nations, Geneva
on Friday, 20 April 1951, at 10.30 a.m.

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(24 p.)

Present:

Chairman Mr. MALIK (Lebanon)

Members:

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

Representatives of specialized agencies:

International Labour Organisation	Mr. JENKS Mr. COX
United Nations Educational, Scientific and Cultural Organization	Mr. SABA
World Health Organization	Mr. BERTRAND

Representatives of non-governmental organizations:

Category A

World Federation of Trade Unions	Mr. FISCHER
International Confederation of Free Trade Unions	Miss SENDER
International Federation of Christian Trade Unions	Mr. EGGERMANN
World Federation of United Nations Associations	Mr. ENNALS

Category B and Register

Caritas Internationalis	Abbé HAAS
Catholic International Union for Social Service	Miss de ROMER Mrs. SHRADER
Commission of the Churches on International Affairs	Mr. NOLDE
Consultative Council of Jewish Organizations	Mr. MOSKOWITZ
Co-ordinating Board of Jewish Organizations	Mr. BERNSTEIN Mr. MOWSHOWITCH
International Federation of University Women	Miss ROBB
International Union for Child Welfare	Mrs. SMALL
International Union of Catholic Women's Leagues	Miss de ROMER Miss ARCHINARD
Pax Romana	Mr. HABICHT
Women's International League for Peace and Freedom	Miss BAER
World Jewish Congress	Mr. BIENENFELD Mr. RIEGNER
World Union for Progressive Judaism	Mr. WOYDA

Secretariat

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

1. REQUEST FROM THE PERMANENT REPRESENTATIVE OF MEXICO TO THE UNITED NATIONS TO SEND AN OBSERVER TO MEETINGS OF THE WORKING GROUP ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The CHAIRMAN announced that he had received a letter from the Permanent Representative of Mexico to the United Nations requesting permission to send an observer to the private meetings of the Working Group on Economic, Social and Cultural Rights. The Commission would have to take a decision on the matter in the same way as it had decided the previous day, to allow the representatives of the specialized agencies to participate in the work of the Group, and to invite representatives of non-governmental organizations to attend its meetings. He added that, if the Commission approved the request, any similar request from another State Member of the United Nations would automatically have to be granted.

Mr. CASSIN (France) considered that all Member States should be allowed to send observers to private meetings, either of the Commission or of the Working Group.

Mr. VALENZUELA (Chile) unreservedly supported the Mexican request. He thought the Commission might contemplate allowing States which were not members of the Commission to take part in the proceedings of the Working Group, and accord them prerogatives at least equal to those enjoyed by the specialized agencies.

Mr. MOROSOV (Union of Soviet Socialist Republics) said that his delegation considered that the decision to discuss economic, social and cultural rights in closed meetings was most regrettable from the point of view of the maintenance of the Commission's prestige and authority. Subject to that general observation, he welcomed any increase, however small, in the attendance at meetings of the Working Group, and supported the request of the Permanent Representative of Mexico.

Mr. JEVROMOVIĆ (Yugoslavia) also supported the Mexican request. There would be nothing in the deliberations of the Working Group which would need to be hidden; indeed, the greater the number of observers able to attend, the better.

The CHAIRMAN took it that the Commission granted the request. He would reply to the Mexican Permanent representative accordingly, and if any other Member State made a similar request in the future he would reply in the affirmative without referring the matter to the Commission. He added that, after consultation with the interested specialized agencies, it had been agreed that the Working Group would not be able to meet before Thursday, 26 April 1951 at the earliest.

The Chairman's intentions were unanimously approved.

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

(b) INCLUSION IN THE COVENANT OF PROVISIONS CONCERNING ECONOMIC, SOCIAL AND CULTURAL RIGHTS (continued) (E/CN.4/542, E/CN.4/547)

The CHAIRMAN recalled that the previous day the Egyptian representative had announced his intention of submitting amendments to the Danish proposal (E/CN.4/542) in connexion with item 3 (b) of the agenda. At that time, however, the text of the Egyptian amendment (E/CN.4/547) had not been available. Now that the Egyptian document had been distributed, he considered it only fair to allow the Egyptian representative to speak on his proposed amendments, although the general discussion on item 3 (b) had been completed.

AZMI Bey (Egypt) stated that the amendments submitted by his delegation to the Danish proposal, which he had already suggested should be taken as the basis for the Commission's work, represented an attempt to reconcile the ideas put forward during the general discussion.

The Egyptian amendment began by proclaiming the rights to work, education and cultural progress, and health, corresponding to the activities of three of the specialized agencies.

In the case of the right to education and cultural progress, he had followed the text submitted by the United Nations Educational, Scientific and Cultural Organization, with a few minor changes. In the case of the right to health, he had reproduced the World Health Organization's proposal verbatim. Finally, in the case of the right to work, while still feeling regret that the International Labour Organisation had not yet submitted specific proposals, he had added to the Danish text on that right references to the free exercise of trade union rights and to the principle of equal pay for equal work for men and women.

He hoped that his amendments would make the Danish proposal an even more useful working paper for the Commission.

(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).

The CHAIRMAN announced that the Uruguayan representative wished to submit proposals in connexion with item 3 (c) of the agenda; the text of those proposals would be distributed for the afternoon meeting*

Mr. CIASULLO (Uruguay), introducing the proposal submitted by his delegation in accordance with General Assembly resolution 421 (V), said that the draft was based on a text submitted by the Consultative Council of Jewish Organizations which the Uruguayan delegation had taken up and sponsored during the fifth session of the General Assembly.

The text in question had proposed additions and amendments to Part III of the draft International Covenant, which, it would be recalled, provided for the

*Document E/CN.4/549

establishment of a Human Rights Committee consisting of seven members, elected by a somewhat special procedure. In that same part, the right of petition was granted solely to States, it being provided that should the matter not be adjusted to the satisfaction of the parties, that was, the States, concerned within a period which might be as long as eighteen months, the Human Rights Committee might take action. Such action, however, could go no further than the drawing up of a report.

A number of countries, among them his own, had pointed out the grave defects of part III of the draft Covenant, criticizing it on the grounds that it accorded no right of petition to individuals and associations, that it involved a risk of political conflict between the State petitioning and the State accused, should the Human Rights Committee fail to negotiate a settlement, and that the only guarantee of human rights it offered was the publication of a report by that Committee.

The Commission should bear in mind that the Universal Declaration of Human Rights adopted by the General Assembly related to the rights of man, and not to the rights of States. So long as the individual had no right of appeal, there was nothing to guarantee him the exercise of the rights proclaimed in the Universal Declaration. Yet, under the draft Covenant elaborated by the Commission at its previous session, individuals would not be entitled to submit petitions.

His proposal offered two solutions to that problem. It gave the individual the right to submit complaints to a special body, and at the same time authorized that body to take certain steps once it was established that the complaint before it related to the violation of a right proclaimed in the Covenant. His delegation considered that the primary responsibility for guaranteeing the application of the Covenant must fall upon each individual State. However, to supervise the observance of those rights, it proposed

that a central body should be set up, which might be supplemented by similar bodies at regional level. Of course the functions and powers of the new body would in no way encroach on those of United Nations organs established by the Charter.

The office of United Nations high commissioner for human rights, which his draft proposed should be established, would be filled by a person appointed by the General Assembly from a panel of candidates submitted by the States parties to the Covenant. The high commissioner would be authorised to receive complaints submitted by individuals, groups of individuals, national and international non-governmental organizations and inter-governmental organizations. On receipt of a petition, the high commissioner would undertake a preliminary investigation to determine the merits of the complaint, and would then decide whether action should be taken upon the petition. Should he decide to take action, he could either propose a settlement by negotiation, or bring the complaint before a special committee to be set up by the Security Council.

The Uruguayan delegation wished it to be clearly understood that its proposal related solely to civil rights, and not to economic, social and cultural rights, for which it did not wish to propose any measures of protection until the Commission had taken a decision as to their inclusion in the draft Covenant.

It was only logical that if an individual was to enjoy the rights proclaimed in the Covenant, he must of necessity have the power to protest against a violation of them. It was accordingly necessary to set up a body competent to receive such complaints. Such indeed was the intention of General Assembly resolution 421 (v) and of Article 28 of the Universal Declaration of Human Rights.

The proposed procedure would also be in harmony with the spirit illuminating Article 1, paragraph 3, of the Charter, and with the most modern legal doctrine. Its adoption would be the most decisive step the United Nations could take in the interest of peace, and would afford the Commission an opportunity of making a substantial contribution to that progress.

He would like to anticipate two objections which might be raised to his proposal. His procedure might be interpreted as an intervention in the domestic affairs of States, in violation of paragraph 7 of Article 2 of the Charter. It could, however, be argued in that connextion that matters could be considered as lying within the domestic jurisdiction of a State only so long as they were not made subject to any provision under international law. Questions relating to respect for human rights would, however, be so subject the moment the Covenant on Human Rights came into force.

It might also be asserted that the procedure contemplated in his delegation's proposal could not be put into practice in view of the existing political situation. He considered, on the contrary, that the moment had come to complete by the signature of a covenant, the work that had been begun in 1948 with the adoption of the Universal Declaration of Human Rights.

Considerable progress had already been made in the international field. Up to 1919, States had limited themselves to declarations. Later, they had gone so far as to sign covenants , and since 1945 the maintenance of international peace and security had been ensured by the provisions of Chapters VI and VII of the United Nations Charter.

AZMI Bey (Egypt), referring to the Uruguayan proposal, said that to all outward appearances it would of course be quite reasonable to accord the right of petition to individuals, since it was they who were most directly concerned with the maintennnce of respect for human rights. But the body which the Uruguayan representative proposed should be established would never in practice be able to examine all complaints to determine whether or not they were justified. Most of them, moreover, would probably be devoid of any true basis.

On the other hand, he did not wish to restrict the right of petition and confine it exclusively to non-governmental organizations recognized by the United Nations. He would like it to be extended to every properly constituted organization in every country. An individual who felt himself to have been wronged by his government would be able to get in touch with a

competent national organization, which would make the preliminary investigation and report on the genuineness of the complaint.

So far as the proposal to set up a high commissioner's office was concerned, he feared that the services attached to it might turn into yet another bureaucracy. It would be preferable to set up a committee.

Lastly, he did not see how a violation of human rights, however serious, could endanger international peace and security and thus come within the jurisdiction of the Security Council.

Mrs. ROOSEVELT (United States of America) commenting briefly on the Uruguayan representative's statement, felt that the proposal that an Attorney General or High Commissioner should be appointed to deal with petitions was somewhat too complicated at the present time. Machinery to to deal with petitions from individuals and from non-governmental organizations could be provided for in a separate protocol, but should be much simpler than the system visualized by the Uruguayan delegation.

She considered the implementation articles already included in the draft Covenant to be generally satisfactory, although she might later wish to suggest slight changes in wording. Articles 19 to 41 were acceptable to her delegation.

Mr. CASSIN (France) was unable to take a full part in the general discussion on item 3 (c) of the agenda, since he had only just received the French text of document E/CN.4/530.

His delegation felt that the Commission had done good work in drawing up at its sixth session a first draft of the articles of the Covenant relating to implementation (articles 19 to 41). But while he was still in favour of the establishment of a Human Rights Committee, not as a judicial body but merely to examine complaints with a view to negotiating a friendly settlement, he was not altogether pleased with the drafting of the relevant clauses.

To decrease friction and secure real respect for human rights it would

be necessary to set up a semi-judicial body which could examine complaints without political passion, in peace and quietude. The amendments which he would propose to the text adopted by the Commission at its last session and to the proposals submitted by the French delegation at that time would be drafted [illegible] in view.

He felt that when the Human Rights Committee was set up its activities ought to be co-ordinated with those of the conciliation bodies already in existence, whether established by specialized agencies or in consequence of regional agreements.

The Uruguayan proposal, in which the various elements had been admirably co-ordinated, represented an ideal. It corresponded, in the field of human rights, with the advance represented by the Nuremberg Judgement in the field of criminal law. At Nuremberg an international public prosecutor's office had been established. Similarly, if the Commission decided to establish a court of international criminal law it would be necessary to set up an international ministry of justice, that was, an international public prosecutor's office. Violations of human rights, however, raised a somewhat different problem, since in that case it was largely a question of securing the impartial and amicable redress of injustices done to individuals. The problem raised by the establishment of a ministry of justice was therefore somewhat different.

Mr. BIENENFELD (World Jewish Congress), speaking at the invitation of the CHAIRMAN, wished to comment on the general procedure envisaged in connexion with item 3 (c) of the agenda. Article 33 of Part III of the draft International Covenant stated that the Human Rights Committee should establish its own rules of procedure, but that general provision was limited by the restrictive clauses of Articles 38 to 41. In ordinary circumstances those articles would be applicable, but the Commission would surely agree that in certain cases they would not prove practicable. According to Article 38, the complaint of a State Party to the Covenant against another State Party had to be communicated in writing to the other Party, which was obliged to

reply within three months. Thus, only after three months had elapsed would the Human Rights Committee be able to deal with the dispute, first by ascertaining the facts and then by offering its good offices to the States concerned. Again, article 39 laid down that normally the Committee should deal with a case referred to it only if available domestic remedies had been invoked and exhausted, a procedure which, in ordinary circumstances, would take several years.

He would not venture to criticise the applicability of those articles to ordinary cases of no special urgency. Unfortunately, however, the infringement of human rights frequently called for very urgent action. The Commission knew of the Nuremberg laws and their application. During the nineteenth century the violation of human rights had more than once led to war: in support of that contention he need only cite the Greek War of Independence of 1829 and the Crimean War. If such urgent cases arose, and the procedure for dealing with them tooktwo years before even the preliminary stage could be reached, the Commission would be establishing theoretical principles which would yield no practical results.

The Commission should be free, in dealing with cases which it considered to be urgent, to depart from articles 38 to 41, and in that connexion he wished to submit, on behalf of his organization, the following draft of a proposed new article 42:

> "In cases of urgency, particularly in cases where the rights, liberties or other fundamental human rights of individuals are immediately threatened, the Committee is not bound to follow the procedure specified in Articles 38-41. In such an event, the Committee may decide, by a majority vote, on the procedure to be followed with a view urgently to complete an investigation and to recommend remedies. This rule shall be applied also in cases brought before the Committee by the non-governmental organizations."

By the terms of the draft International Covenant the Human Rights Committee had to submit a report; there was no mention of its making recommendations. While he did not believe that the Committee should be bound to make recommendations, it might be advisable to authorise it to

transmit recommendations to the States concerned. He therefore suggested the addition of the words "and recommendations" in the relevant text without indicating to whom the recommendations were to be addressed.

He felt that all representatives admitted the validity of the principle that not only States, but also individuals, were entitled to lodge petitions. However, the right of individuals to petition raised a very difficult technical problem. Even under the rules at present proposed for the Human Rights Committee the problem of screening the vast number of petitions from individuals with serious grievances, from cranks and from persons with unfounded complaints would present great difficulties.

In practice it would be impossible to investigate each and every complaint. There were two possible ways of screening the petitions. First, as the Uruguayan representative had suggested at the instance of a non-governmental organization, a special United Nations organ could be set up to do the work. He had no objection to such a procedure, but it would have certain financial implications and, as the Egyptian representative had pointed out, might intensify instead of lessening the difficulties. He would welcome the establishment of such an office, but felt that, in view of the technical difficulties involved, it might not be absolutely necessary to set up new machinery. The United Nations Secretariat, and more particularly its Legal Department, might, perhaps, screen the petitions. In his opinion, the vast majority of petitions submitted each month would at first sight appear unfounded, even if political considerations were left out of account.

He fully agreed that, in theory, the right of petition was primarily a right of the individual concerned, but in practice the situation might prove to be different. The citizen of a State which infringed human rights was rarely in a position to lodge petitions. Again, if a government allowed individuals to submit petitions, its legislation on human rights was probably at least relatively satisfactory. It was when individuals became afraid to lodge petitions that the situation might be said to give rise to anxiety; individuals might often be reluctant to submit petitions, even if entitled to do so, for fear of being charged with betraying and indicting their own governments, although even in such circumstances a few heroes and martyrs might venture to complain.

Non-governmental organizations had the function of acting as intermediaries between individuals and the community of the United Nations. That was especially true of international non-governmental organizations, which owed no allegiance toparticular States, and which were bound to defend the interests of humanity as a whole, including the rights of individuals theoretically entitled to petition but in practice prevented from doing so. In endorsing the view that individuals should be granted the right of petition, he suggested that, in order to ensure that petitions were serious and genuine, the international non-governmental organizations should be entitled and required to sponsor them. Another possibility was that the Secretary-General of the United Nations should screen the petitions, but that would entail much hard work. He was convinced that the rights of individuals could be secured to a certain extent if international non-governmental organizations were allowed to sponsor their petitions.

He disagreed with the Egyptian representative's view that there was a tendency to exaggerate the importance of the question of the infringement of human rights. The second world war had arisen as a result of the suppression of human rights by the German Government. Only three weeks previously, the spokesman of the Socialist Party in the Bundestag had asserted that the whole objective of the Third Reich from its very foundation had been the practice of ani-semitism. As was stated in the Constitution of the United Nations Educational, Scientific and Cultural Organization, war started in the minds of men. It was the doctrine of the inequality of races that had led to the second world war that had devastated large areas of the earth's surface. As he had already said, even in the nineteenth century the suppression of human rights in one country had led to the intervention by other countries. He could quote at least fifty examples of such intervention by one or other of the Great Powers, including the United Kingdom, the United States of America, the Russian Empire and France. It had then been recognized as a rule of international law that the infringement of human rights was not to be regarded as merely the domestic concern of the country guilty of it.

Finally, he appealed again for the right of petition to be extended to non-governmental organizations. Petitions submitted by such organisations would, of course, be subject to screening, according to whatever procedure was finally adopted.

Mr. JEVREMOVIC (Yugoslavia) said that for reasons of a legal nature he intended formally to propose that the provisions relating to implementation should form a separate instrument. A very clear distinction should be drawn between the implementation clauses and the rest of the draft Covenant. The former would probably develop in an entirely different way, and perhaps more rapidly. The commitments assumed by governments in that part of the draft Covenant which was not concerned with implementation would not necessarily invalidate all those previously entered into for the protection of human rights. On the other hand, obligations arising from the implementation articles must be regarded as a single, indivisible whole which would supersede any earlier arrangements in the same field, since it was impossible to have two parallel methods of procedure at the same time. But any difficulties in application could be avoided if there were two separate instruments.

Mr. WHITLAM (Australia) had not yet had an opportunity of studying the text of the Uruguayan proposal, but presumed it to be a development of a proposal submitted at the Fifth session of the General Assembly by the Uruguayan delegation (A/C.3/L.93). Much useful work had been done by the formulation of that proposal; indeed, it might be found to have real relevance in the future. However, at the present moment his Government was unable to support it, because it believed that the Secretariat, with additional staff if necessary, could assume responsibility for screening petitions. It viewed with increasing disfavour the tendency to increase the number of United Nations organs without due regard for the importance of their tasks or the additional cost entailed. The Division of Human Rights was of proved competence, and should be perfectly capable of doing the work which the Uruguayan delegation proposed should be carried out by a High Commissioner.

He felt some hesitation in suggesting that the Uruguayan proposal was premature, yet he believed that there was every reason for caution in accepting it. That did not imply that he minimized its real merits, or

was sceptical of the possibility of implementing the Covenant. On the contrary, he was hopeful that a real advance would be made if the Covenant were applied in the spirit of the affirmation in its preamble that the rights and freedoms recognised in the Covenant flowed from the inherent dignity of the human person. If reality and meaning were given to that principle, a great step forward would have been taken and further progress could be achieved by progressively educating peoples, and governments in the high aspirations proclaimed in the Universal Declaration of Human Rights.

Mr. SÖRENSEN (Denmark) said that the Uruguayan proposal had introduced an important new element into the Commission's discussion. Bearing in mind the statement made by the Uruguayan representative in introducing his proposal, and the substance of the earlier proposal submitted by the same delegation in the General Assembly, he must say that he agreed with the representatives of Australia and the United States of America that the Commission should not set up unduly complicated machinery for the implementation of the Covenant. He had grave doubts whether any useful purpose would be served by the appointment of a high commissioner with as extensive powers as was proposed by the representative of Uruguay. He was, however, in favour of the establishment of such an office with more limited functions. The high commissioner should be attached to the Committee provided for in articles 19-41 of the draft Covenant.

It was thought in many quarters that the terms of reference of the Human Rights Committee, as defined in the draft Covenant, were unsatisfactory because they precluded individuals from presenting petitions. To remedy that shortcoming, two different lines would be followed. One possibility was to be found in the Convention for the Protection of Human Rights and Fundamental Freedoms adopted at Rome in 1950 by the Council of Europe, under which petitions from persons, groups of individuals and non-governmental organizations could be received by the Commission set up under the Convention to investigate alleged violations of human rights.

They could be accepted provided the contracting party against which the complaint had been lodged had declared that it recognised the Commission's competence to receive such petitions. Thus the article was optional in character, but it opened the door to individuals by allowing them direct access to a body which could take immediate action.

Another possibility, which seemed preferable so far as the draft Covenant was concerned, was to provide for individual petitions to be channelled through a high commissioner with the strictly limited functions of receiving and reviewing the petitions and transmitting them to the Committee for action. He would not be called upon to investigate the substance of petitions, to negotiate with States or to mediate between plaintiffs, all of which functions would fall to the Human Rights Committee. He (Mr. Sörensen) put forward that suggestion because he believed that the right of the individual to petition should be recognized.

Turning to the question whether the implementation provisions should be included in the Covenant itself or be relegated to a separate protocol, he said that he would have no objection to the latter procedure. It was a matter of considerable importance, and should perhaps be given a trial before a final decision was taken. Governments might be reluctant to accept the implementation clauses without knowing precisely how they would operate in practice. If that were the case, it might be wise to insert them in a separate instrument. Nevertheless, he believed that in the long run the best method would be to include them as an integral part of the Covenant. The Commission would have to review the relevant articles in the light of the suggestions made at the present session, and perhaps a small drafting group should be set up to deal with the extremely important questions of detail.

Mrs. MEHTA (India), observing that she understood the Commission to be still engaged on a general discussion of the provisions relating to implementation, explained that she had not yet submitted any

amendments to the relevant articles. But she considered that as they stood at present in the draft Covenant the articles on implementation were neither adequate nor satisfactory. The machinery set up under them would not be used, because it was extremely unlikely that States as such would lodge complaints against other States before a committee on human rights, in view of the political repercussions such action might have. Furthermore, the proposed committee would be, so to speak, a closed shop, since it would be confined to the signatory countries. That would be entirely contrary to the principle that the obligation to protect human rights rested on the United Nations as a whole. What, for instance, would it be possible to do if human rights were violated in a country which had not signed the Covenant ?

She was convinced that the implementation provisions should form a separate instrument, and that the right of petition of individuals should be recognised, as it had been by the League of Nations. It would be a retrograde step to confine the right of petition to States alone. It was essential to create a non-political body which would take up the cause of individuals, groups or non-governmental organizations. It was, of course, a controversial matter, but the objections to the individual right of petition mostly sprang from the fear that if the right were recognised it would result in an uncontrolled flood of complaints. The Secretariat had already been asked to draw up rules governing the acceptability of petitions. The Committee on Human Rights could adopt such rules and so protect itself from being submerged under petitions, It would be interesting in that connexion to hear from the Secretariat whether the Trusteeship Council had experienced any such difficulties, and, if so, what measures it had taken to overcome them. She felt a certain sympathy for the Uruguayan proposal that a high commissioner should be appointed to screen petitions. Nevertheless, she also viewed with distrust any suggestion that new United Nations organs should be created and would therefore prefer that the Secretariat of the proposed Committee on Human Rights should screen the petitions in accordance with its rules for acceptance.

Mr. MOSKOWITZ (Consultative Council of Jewish Organizations), speaking at the invitation of the CHAIRMAN, said that during the past three years his organization had submitted a number of suggestions relating to the implementation of the provisions of the draft Covenant, and that it had consistently emphasized the justice, feasibility and necessity of recognizing the right of petition of individuals and groups. His organization was not unaware of the many difficult problems involved, and had sought to take them into account in suggesting possible procedures.

His organization's objections to the articles on implementation might be summarized as follows. First, by limiting the right of petition to States alone, they sought to reverse a marked trend in the development of modern international law which was giving increased recognition to the individual as the repository of subjective international rights. It would be paradoxical if the Covenant which purported to place human rights and fundamental freedoms under international protection were to reverse the process of historical development. Secondly, not only were the articles inconsistent with the spirit and the purpose of the Covenant, they were also impracticable, because they did not provide for any means by which a signatory State might secure the necessary information concerning a violation of the Covenant. There were only two ways in which that could be done. One was through the eternal vigilance of diplomatic representatives over the internal affairs of the countries to which they were accredited, since violations of human rights rarely became public knowledge until it was too late. It was doubtful whether States would tolerate such diplomatic activities, and, to avoid the possibility of international conflict, some would prefer not to invoke the Covenant at all. The other method of obtaining the necessary information was through the victims themselves, which would be tantamount to admitting the right of individual or group petition by the back door. That method had disadvantages, in as much as the nationals of one State might be compelled to appeal to another for redress for their wrongs, thereby exposing themselves to the charge of treason and to grave personal danger in their own country. Responsible governments would be unlikely to

encourage such a practice or to accede to requests for intervention on behalf of nationals of another State.

He did not propose to expatiate on the political implications of the implementation articles. He would merely say that by limiting the right of petition to States alone, the issue of human rights had been thrown back into the political arena. A State which invoked the Covenant against another, even if acting from the most altruistic and humane motives, would not escape the charge that it had been moved by political considerations. Complaints would become political issues, and the possibilities of conciliation envisaged by the implementation clauses would become ineffective, thus undermining the whole structure and purpose of the Convention.

It was therefore clear that if it was seriously desired to make the Covenant a reality, individuals, groups and non-governmental organizations or independent bodies acting on behalf of individuals should be allowed the right to invoke the Covenant. If individuals were the victims of the violation of human rights, it was only fitting that they should have access to an international body to secure redress. Those members of the Commission who in the past had favoured the extension of the right of petition beyond States had never challenged the principle of the right of individual petition. Such objections as had been raised had been based on the consideration that the present stage of international organization made it impossible to deal with the problems likely to arise out of individual petitions. Such apprehensions were not without foundation, but he did not believe that they justified the outright rejection of the right of individual petition, since that right could be hedged about with reasonable procedural conditions which would safeguard the interests of all.

The central problem in the question of implementation was to devise a formula guaranteeing that breaches of the Covenant would be brought to the attention of the appropriate international body and acted upon, and that the facts would be examined to establish their authenticity and relevancy

and would receive attention provided the petition complied with generally accepted rules of receivability. A way would have to be found for ensuring a proper hearing for the plaintiff or petitioner. He was confident that such a formula could be found and that, once the Commission had seriously examined all the proposals before it, it would not find that the extension of the right of petition to individuals or groups was beset with insuperable obstacles.

Mr. EUSTATHIADES (Greece) congratulated the Uruguayan representative on his proposal, which revealed much nobility of thought but went even somewhat beyond the establishment of an international court of human rights. The proposal, indeed, went a little too far in that it called for the establishment of an Attorney General's office in a field very different from that of penal law. So far as penal questions were concerned, the International Law Commission, after making progress in the formulation of principles, did not appear to have been unanimous on the establishment of an international criminal court, to which serious objections had been raised. And the International Law Commission was a body of a scientific character, that was to say a body which was not subject to the same scruples as governmental representatives. Such a decision suggested that a long process of development would be required before the procedure envisaged by the Uruguayan delegation could become an accomplished fact. Article 21 of the Uruguayan proposal, on the other hand, contained some very interesting suggestions which could be retained without necessarily establishing a high commissioner's office.

The Egyptian representative had declared that he could not see how the Security Council could have any jurisdiction in questions relating to the violation of human rights. The Greek delegation, on the contrary, considered that it should be possible for a particularly serious violation of human rights, likely to endanger international peace or security or friendly relations between States, to be brought before either the Security Council or the General Assembly, in accordance with the provisions of the Charter. Such cases would, of course, be exceptional, but he did not think that the jurisdiction of those United Nations organs should be ruled out a priori.

It had also been proposed that the rule regarding the exhaustion of domestic

remedies, which accompanied article 38 of the draft Covenant, should be deleted. It would be a mistake to do so, since the rule in question was already deeply rooted international practice, and was reproduced, in more general terms, in the Rome Convention of 4 November 1950.

He expressed his appreciation of the activity of certain non-governmental organizations which played the part of intermediaries between the State and the individual. But it would be inadvisable to rush matters. Hitherto, the sole protector of the individual had been the State. In recent times, however, that role had begun to be allotted to a more or less limited community of States. It would be advisable to improve and extend that procedure, and to give careful study to the part which the non-governmental organisations could play, before making any definite provision for their intervention in that field.

The Danish representative had cited the Rome Convention as a precedent, but had admitted that the procedure set forth in that instrument was of an optional nature only. To that he would add that under the very terms of that Convention the agreement of a certain number of the Contracting States was required. The very fact that the procedure was optional was an indication of certain misgivings on the part of States about that procedure, and he feared that the establishment of a similar system within the United Nations would give rise to even more serious difficulties.

He was, on the other hand, in entire agreement with the Indian representative's view that the system envisaged should be uniformly applicable to all States. It was quite obvious that States Members of the United Nations could not be asked to assume different obligations. Such uniformity of obligation could be secured by drawing up a separate protocol, or by means of a clause providing for general participation.

Mr. WAHEED (Pakistan) said that the present was the first occasion on which his Government had had an opportunity of expressing its views on the much discussed question of whether individuals, groups, and especially non-governmental organizations, should be allowed to lodge complaints concerning the violation of human rights. His Government felt that the right of petition should be granted only to signatory States, because in the present international situation the individual right of petition might be abused, and exploited for purely political

and propaganda purposes. Its recognition might encourage a flood of monster petitions of a malicious and frivolous nature, or might give antagonistic States a weapon with which they could denounce one another and undermine one another's authority.

States signatories to the Covenant might need to amend their constitutions or to adopt specific legislation guaranteeing the rights embodied in the draft Covenant to their citizens, in which case normal judicial machinery would be available to individuals or groups seeking redress in respect of violations of human rights. In that respect, the draft Covenant should require contracting States to make adequate provision for the necessary legal machinery for dealing with petitions.

The Pakistani Government associated itself with those proposals which aimed at making the Covenant a powerful and effective instrument for the protection of human rights, and would accordingly support the suggestion made by the French representative that signatory States should submit annual reports to the Secretary-General of the United Nations on the manner in which they had promoted respect for, and on the progress they had made in the field of human rights in the preceding year. On the basis of such information any State Member of the United Nations which considered that rights and freedoms were not being recognized or adequately protected by any other State could, through the proper organ of the United Nations and the specialized agencies, raise the question of implementation.

His Government would have to wait until the proposal to set up a permanent body for receiving complaints had been formulated more precisely, before it could express a definite opinion. In the meantime it wished to make clear that once the draft Covenant had been ratified, matters arising out of the violation of the rights proclaimed in it would be of a purely legal character, and should therefore properly be dealt with by the International Court of Justice. To be effective, any redress would have to be legal, and therefore determined by a court of law, or by a tribunal whose decisions had the force of law. If the International Court were to hear such complaints, all duplication of functions

would be avoided, and that procedure would also ensure that such petitions were dealt with on a strictly analytical, juridical basis. For these reasons, his delegation would be averse to the establishment of a Human Rights Committee or to the appointment of a high commissioner, or to the Commission itself dealing with petitions. Indeed, he would suggest that the Commission should frankly declare that it did not consider itself competent to decide such questions of international law as would arise out of complaints regarding the non-observance of the provisions of the Convention.

The CHAIRMAN stated that the Secretariat would in due course comply with the request of the representative of India concerning petitions addressed to the Trusteeship Council.

The meeting rose at 1 p.m.