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COMMISSION ON HUMAN RIGHTS

Ninth Session

SUMMARY RECORD OF THE THREE HUNDRED AND EIGHTY-FIFTH MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 13 May 1953, at 10.30 a.m.

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(20 p.)

Present:

Chairman: Mr. PEROTTI (Uruguay), Second Vice-Chairman

Rapporteur: Mr. KAECKENBEECK (Belgium)

Members:

Mr. WHITLAM	Australia
Mr. CHENG PAONAN	China
Mr. ABDEL-GHANI	Egypt
Mr. JUVIGNY	France
Mrs. CHATTOPADHYAY	India
Mr. HARFOUCHE	Lebanon
Mr. INGLÉS	Philippines
Mr. DRUTO	Poland
Mrs. RÖSSEL	Sweden
Mr. KRIVEN	Ukrainian Soviet Socialist Republic
Mr. MOROSOV	Union of Soviet Socialist Republics
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mrs. LORD	United States of America
Mr. FORTEZA	Uruguay
Mr. MELOVSKI	Yugoslavia

Representatives of specialized agencies:

International Labour Organisation	Mr. JENKS
United Nations Educational, Scientific and Cultural Organization	Mr. BAMMATE
World Health Organization	Miss HOWELL

Representatives of non-governmental organizations:

Category A

World Federation of United Nations Associations	Mr. de MADAY

Representatives of non-governmental organizations (continued):

Category B

Catholic International Union for Social Service	Miss CALLOU Miss de ROMER
Commission of the Churches on International Affairs	Mr. NOLDE
Consultative Council of Jewish Organizations	Mr. MOSKOWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
International Federation of Business and Professional Women	Mrs. SCHRADER-RIVOLLET
International Federation of Friends of Young Women	Mrs. FIECHTER
International Federation of University Women	Miss BOWIE Mrs. FIECHTER
Liaison Committee of Women's International Organizations	Miss BOWIE
Women's International League for Peace and Freedom	Mrs BAER
World Jewish Congress	Mr. RIEGNER
World Union of Catholic Women's Organizations	Miss de ROMER

Secretariat

Humphrey	Representative of the Secretary-General
Mr. Das) Mrs. Bruce)	Secretaries to the Commission

1. COMMUNICATIONS (item 20 of the agenda) (resumed from the 382nd meeting):

Confidential list of communications concerning human rights received by the United Nations from 7 May 1952 to 13 March 1953

Mr. DRUTO (Poland) said that the provisional summary record of the 381st meeting, which had been held in private, did not accurately describe the explanation he understood the Chairman to have given him.(1) In view of Mr. Azmi's absence, and of the stipulation that corrections to the provisional summary record must be delivered to the Secretariat within three working days, he wished to give notice that he would raise the matter later, when Mr. Azmi was again in the Chair.(2)

Mr. KRIVEN (Ukrainian Soviet Socialist Republic) associated himself with the Polish representative's statement.

2. DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION (item 3 of the agenda) (resumed from the 384th meeting):

(a) Proposals for additional articles relating to the draft covenant on civil and political rights (E/2256) (continued):

Article on right to marriage and right of the family to protection of society and the State (draft resolution adopted by the Commission on the Status of Women) (E/CN.4/686) (concluded)

Mr. MOROSOV (Union of Soviet Socialist Republics), explaining his vote cast at the previous meeting, said that his delegation had voted for the article on marriage and family because, despite the regrettable omission from it of two provisions in Article 16 of the Universal Declaration of Human Rights, it was a step along the path of progress.

Mr. WHITLAM (Australia) explained that he had abstained from voting on the article because he had considerable doubts about the feasibility of enforcing its provisions, especially those concerning equality of rights in paragraph 4.

Mr. ABDEL-GHANI (Egypt) said that, although he had voted in favour of certain parts of the article, he had abstained from voting on the article as a whole because paragraph 4 was unacceptable to his delegation on religious grounds.

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(1) See summary record of the 381st meeting (E/CN.4/SR.381, page 4, and the footnote thereto; and also summary record of the 382nd meeting (E/CN.4/SR.382, and footnote.

(2) See summary record of the 390th meeting (E/CN.4/SR.390), pages 6-10.

He wished to express his regret that at the previous meeting a member of the Commission should have thought fit to advise him to cultivate respect for women. Nothing he had said, either in his personal capacity or as the representative of a Moslem country, could possibly be taken as derogatory to the opposite sex. The words of the Prophet, "Heaven lies at the feet of mothers", were devoutly and unreservedly accepted by all Moslems.

On the general subject of wives and respect for them, it would be enough if he mentioned that the prophet of Allah, referring to his wife Aisha, had said: "Learn half of your religion from this woman". The religion of Islam provided complete civil rights for woman, on an equal footing with men, of which she lost none, either on marriage, during marriage or as the result of dissolution of her marriage. If certain rights had been granted to women in certain parts of the world since October 1917, he could claim that his religion had granted women complete citizenship nearly fourteen centuries earlier.

Mr. HOARE (United Kingdom) explained that the United Kingdom delegation had abstained from voting on the article because, although it did not take exception to the idea expressed in the French proposal for paragraph 4, it doubted whether such a provision was consistent with the terms in which the rest of the draft covenant on civil and political rights had been couched.

Mr. MOROSOV (Union of Soviet Socialist Republics), replying to the Egyptian representative's observations, said that, perhaps because of difficulties of interpretation, his words had been misunderstood. He had had no intention of giving advice to any member of the Commission. He had complete respect for all religious faiths, and his remark had, in substance, affirmed the respect due to wives and mothers. Commenting upon the Egyptian representative's reference to Hitler's humiliating treatment of women in Germany during the second world war, he had said that such practices could not be tolerated by any religion; that, of course, included the Islamic faith. He had merely expressed the opinion that reference to such practices was out of place in the Commission.

(b) Measures of implementation (E/2256) (resumed from the 362nd meeting): Article 53 and Yugoslav, French and Belgian amendments thereto (E/CN.4/L.232, E/CN.4/L.235/Rev.2, E/CN.4/L.245).

Mr. JUVIGNY (France), introducing the amendments (E/CN.4/L.235/Rev.2) submitted by the French delegation to article 53 of the draft covenant on civil and political rights, said that the first might be regarded as a matter of drafting. The proposed insertion, after the words "United Nations" of the phrase "or any organ established under the auspices of the United Nations or of one of its specialized agencies and ...." was present by implication in the text adopted by the Commission at a previous session. Its purpose was simply to prevent any misunderstanding or any restrictive interpretation of the text as drafted. The words "any organ or specialized agency of the United Nations" in the existing text of article 53 might, after all, be interpreted as referring simply and solely to the organs expressly provided for either in the Charter or in the constitutional instruments of the various specialized agencies; and, obviously, the United Nations or the specialized agencies could set up special organs which might in their turn adopt such procedure as they thought fit. As an example, he mentioned the creation of the Fact Finding and Conciliation Commission on Freedom of Association. Hence, the French delegation felt that it would be as well to indicate expressly in the text of article 53 that the Human Rights Committee would not be competent to deal with questions coming within the terms of reference of such organs.

The second French amendment consisted in the addition of a further paragraph giving the Committee competence to deal with any matter concerning the alleged violation of human rights by a State, whenever international instruments to which such State was a party, other than the present covenant, empowered the Committee to examine complaints from other States Parties to those instruments or from sources other than States. The first of the reasons underlying the proposed addition was that, according to the existing text of article 53, the Human Rights Committee would be a body set up to deal with disputes which might arise on matters of human rights between States parties to the covenant on civil and political rights exclusively. But to help promote human rights and good relations between States,

it was desirable that the Committee should be at liberty to deal with certain types of disputes even between States which were not signatories to the covenant. Where, for example, the application of bilateral covenants or regional instruments between certain States raised problems of human rights, it would be wrong to rule out the possibility of recourse to the Human Rights Committee if such States felt that the very fact of the Committee's being a body entirely unconnected with the instruments to which they were parties would provide them with appreciable guarantees of its independence.

It was also conceivable that, outside the framework of any existing international legal instrument, two or more States might wish to approach the Committee concerning a dispute on matters connected with human rights, the Committee in that event simply furnishing its good offices.

The French delegation accordingly considered that it would be desirable to word article 53 in such a way as to make it legally possible for the Committee to comply with an invitation arising out of provisions in instruments other than the draft covenant on civil and political rights.

The other reason which had prompted the French delegation to submit its second amendment concerned an issue which had been discussed at great length in the Commission, namely, the right of petition. While most delegations, including his own, had not been in a position to accept that right at the present time, they had for the most part recognized that in due course it might gradually come to be allowed, in full or in part; and the second French amendment was intended to make it possible for the progress made towards the recognition of that right to be embodied, for example, in instruments of which several States might be signatories. The idea was in fact identical with that which had underlain the protocol submitted on a past occasion by the United States delegation. But there might be other regional instruments which granted individuals or groups the right of petition.

The reason why his delegation had referred to violation of human rights by a State, and not to violation by a State of the rights recognized in the draft covenant on civil and political rights, was that it thought that other international

instruments might recognize human rights not covered by the present covenant. Certain regional agreements might in point of fact go further than that instrument, and it should therefore be made possible for a State to seize the Human Rights Committee, should occasion arise, of a case of violation of any additional rights recognized in them.

He would speak later on the Belgian and Yugoslav amendments to article 53, but could say at once that, in view of the considerations that had prompted the submission of the first French amendment, it would be unable to support the Yugoslav proposal.

Mr. MELOVSKI (Yugoslavia) stressed the importance that the Yugoslav delegation attached to article 53, which would determine the nature and competence of the proposed Committee on Human Rights. According to that article as it stood, the Committee on Human Rights would only be competent to deal with matters which could not be dealt with by another - existing or future - organ of the United Nations or by a specialized agency. Consequently, if a conflict of jurisdiction arose, other organs of the United Nations and the specialized agencies would take precedence. That seemed illogical, to say the least. The Commission had, indeed, taken every precaution to give the Committee the prestige it required for its high tasks, by providing for the election of its members by the International Court of Justice, laying down conditions to ensure the competence and high moral standing of its members and providing that it should submit an annual report of its activities to the General Assembly, which only the most important United Nations organs were entitled or required to do. Hence it was hardly consistent to seek to adopt provisions on jurisdiction which amounted to relegating the Committee to the lowest place in the hierarchy of existing or future organs of the United Nations.

The Yugoslav delegation had no intention of underestimating the work of other United Nations organs and the specialized agencies, which it appreciated at its true value, especially that of the Trusteeship Council and the International Labour Organisation, which had done most useful work. Hence there could be no question of including in article 53 provisions which would obstruct procedures already sanctioned by experience. There was no reason, however, why the Committee on Human Rights should not be competent in matters which also concerned certain other organs of the United Nations or the specialized agencies.

If the Committee's competence were unduly limited, it would not yield the desired results. Moreover, since the right to submit petitions had been granted to States alone, only violations of human rights which might threaten the security of the international community would be brought before the Committee; that being so, action by the Committee should not be precluded on the mere pretext that other United Nations organs, already in existence or created in the future, might also be seized of such matters. In submitting its draft article (E/CN.4/L.232) to replace the present text of article 53, the Yugoslav delegation did not intend that the Committee should duplicate other United Nations organs, but wished it to be given powers which, though consonant with the importance of its functions, would in no way hamper the activities of other United Nations organs or the specialized agencies.

Mr. KAECKENBEECK (Belgium) observed that the Belgian amendments were extremely simple. With regard to the first, he pointed out that, contrary to the text of document E/CN.4/L.245, the proposal was not to replace the first sentence of the present text of article 53 by the words "The Committee shall not take action with regard to any matter....", but simply to replace the second part of the same sentence, namely, the words "save that it shall have no power to deal with any matter", by the words "save that it shall not take action with regard to any matter:". It was not a question of deciding whether the Committee was competent to deal with a matter or not, but of stipulating that it should not deal with matters in respect of which another organ or specialized agency of the United Nations was competent.

The reason why his delegation wished to delete the word "or" from the end of sub-paragraph (a) of article 53 was that sub-paragraphs (a) and (b) did not refer to two different cases, in which the Committee was not competent, but to two similar cases.

The reason for his third amendment, which proposed that sub-paragraph (b) be replaced by the words "With which the International Court of Justice is already seized", was that when an existing organ was competent under international treaties, such competence could in no case be withdrawn from it. Consequently once the Court was seized of a matter by virtue of an international treaty, it remained competent to deal with that matter.

Mr. CHENG PAONAN (China) asked the French representative to clarify the phrase "international instruments" in his second amendment. Did it refer to covenants other than those the Commission was engaged in drafting, or would it embrace all international instruments, including conventions such as those adopted by the International Labour Conference? If the latter interpretation were correct, he would ask the representative of the International Labour Organisation whether, in its conventions, there was any provision precluding other United Nations organs from intervening or hearing complaints other than those emanating from the International Labour Organisation itself.

Mr. JUVIGNY (France) explained that the term "international instruments" meant possible future instruments, since it was not feasible to provide for appeal to a committee which was not yet in existence. Examples of what his delegation had in mind were a convention on human rights signed by two or more States on a regional basis, or a dispute concerning human rights between two or more States, referred, by common consent of those States, to the Human Rights Committee.

With reference to the Chinese representative's reference to International Labour Conventions, he was aware that such conventions contained no clauses dealing with the Committee's powers since, as he had already pointed out, the Committee was not yet in existence; moreover, the Constitution of the International Labour Organisation made special provision for the implementation of such conventions. As matters stood, he believed - and the representative of the International Labour Organisation would correct him if he were wrong - that no provision was written into international labour conventions that might be interpreted as being covered by the second French amendment. What that proposal did cover was international conventions which might be negotiated later, and, citing the Committee's powers, provide for the possibility of appeal to the Committee for the settlement of certain disputes.

Mr. WHITLAM (Australia) said that the Yugoslav amendment was unacceptable. He regarded the Human Rights Committee not as having a place in a hierarchy of United Nations organs, but rather as a body with residuary functions; and such an attitude in no way belittled its importance. Indeed, he thought it probable

that the Committee might succeed to a large area of competence - though it would be generally hoped that the occasions for its exercise would be few.

The authors of article 53 had framed it on the presumption that the competence of existing bodies should not be diminished by the establishment of the Committee. The view was taken that those bodies - such as, for instance, the International Labour Organisation - which brought great experience into the field of human rights should have the advantage of studying the relevant questions in their initial stages. The procedure suggested in article 53 would have the great advantage, by providing for the discussion of problems in their early stages, of preventing differences from deteriorating into disputes. The Committee's function would be to deal with the latter, and, though by definition limited, was important. The Yugoslav amendment would affect the whole structure of the Human Rights Committee as at present conceived, and the Australian delegation was uncompromisingly opposed to it.

Mr. MELOVSKI (Yugoslavia), replying to the Australian representative, repeated [illegible] elaborated the substance of his previous statement, emphasizing that if [illegible]ommittee was to be effective its competence must not be unduly [illegible]lse there would be no point in creating it.

Mr. INGLÉS (Philippines) said that the issue raised by the various amendm[illegible]s to article 53 was that of the delimitation of competence between the Human Rights Committee and other United Nations bodies. The Philippine delegation considered that there could be delimitation only when there was congruence between the respective competences. Failing such congruence, there would be the danger of the greater competence of the Human Rights Committee being ousted by the lesser competence of another United Nations organ. If a complaint of violation of some human right were lodged with the Committee, and the same question were brought before the General Assembly or some other body, would the Committee be automatically disqualified? Again, the Committee on Information from Non-Self-Governing Territories, set up under Article 73 e of the Charter was empowered to study questions relating to the observance of human rights in Non-Self-Governing Territories, and to make recommendations of a general nature, although it was debarred from making recommendations relating to specific territories. Supposing

that a complaint lodged with the Human Rights Committee and alleging violation of human rights in a specific territory also formed part of the general question before the Committee on Information from Non-Self-Governing Territories, would the Human Rights Committee be excluded ipso facto because another organ had a specia though inadequate and less satisfactory, procedure for dealing with the matter?

Furthermore, the memorandum by the Secretary-General on measures of implementation (E/CN.4/675, pages 5 and 6), referring to sub-paragraph (b) of article 53, made the point that "a matter within the competence of the Committee might be part of a larger issue being dealt with by the [International] Court [of Justice]". If the second Belgian amendment were adopted, the Human Rights Committee would in those circumstances at once be disqualified from considering such a matter. He agreed with the interpretation given in the memorandum, inasmuch as it did present an alternative suggestion, and his delegation thought that such decisions should be left to the discretion of the Committee. He considered, however, that sub-paragraph (b) of article 53 could be improved by substituting the words "having regard to the provisions of article 59" for the words "other than by virtue of article ...", since article 59 provided for recourse to the International Court of Justice. If that suggestion were adopted, the Human Rights Committee would have no power to deal with a case once the parties concerned had specifically taken it up to the International Court; but the Committee would not be automatically disqualified simply because a complaint laid before it formed part of a larger issue. The Philippine delegation would support the Yugoslav amendment because it gave the Human Rights Committee a discretion that was made necessary by the risk that the remedies of other United Nations organs might prove less effective than those of the Human Rights Committee.

Mr. JENKS (International Labour Organisation), replying at the invitation of the CHAIRMAN, to the questions put to him by the Chinese representative, said that the explanation already given by the French representative was wholly adequate from the Organisations point of view; but he would add a few points in the light of the subsequent discussion.

The first question was whether the Constitution and procedures of the International Labour Organisation precluded the adoption by the Commission of

any proposal conceived on the lines of the French amendments to article 53. He must respectfully submit that it was difficult to approach the matter from that particular angle, since the Constitution and procedures of the Organisation were not binding on the Commission on Human Rights. The latter was at present engaged in elaborating a procedure that would tally with the procedures followed by any organizations or bodies called upon to collaborate with the proposed Human Rights Committee. But there was no provision in the Organisation's Constitution whereby it would be able to refer a matter to that Committee. If the French amendments were adopted, the inclusion of a suitable provision in the Constitution would have to be considered by the International Labour Conference. It was doubtful, however, whether the latter would be prepared to take such action, since existing procedures were wholly adequate for the examination of all questions arising under conventions negotiated under the Organisation's auspices. Modifications might lead to duplication of effort. He made those comments on his personal responsibility.

He thanked the Yugoslav representative for his generous appreciation of the work done by the organisation, and for his statement that the Yugoslav amendment was in no way intended to encroach upon its work or responsibilities. As for the Organisation, it had no desire to hamper the Commission in discharging its duties and responsibilities in the field of human rights.

In his personal view, the crux of the problem lay not in the establishment of a hierarchical relationship between various international organizations, but rather in the necessity for devising a business-like procedure which would make possible the examination of complaints by the most competent organization without duplication. So far as the draft covenant on civil and political rights was concerned, the interests of the International Labour Organisation centred on articles 17 and 18, which dealt with the right of peaceful assembly and trade union rights, in respect of which the situation was, in practice, perfectly straightforward. Action by the Organisation was taken on the basis of decisions arrived at jointly by the Economic and Social Council and the Governing Body of the International Labour Office, the Council having agreed that certain procedures applied by the International Labour Organisation were the most effective for

dealing with complaints concerning trade-union rights. It would be regrettable if such action as the Commission on Human Rights might eventually take were to lead to the re-opening of a difficult question which had been satisfactorily settled after long and involved discussions. The Governing Body had latterly examined the matter, and had come to the conclusion that article 53 as drafted would usefully serve to ensure sensible and effective co-operation between the United Nations and the International Labour Organisation in the implementation of the draft covenants.

Mr. BAMBATE (United Nations Educational, Scientific and Cultural Organization), speaking at the invitation of the CHAIRMAN, thanked the Commission for the opportunity of stating the point of view of the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO) on the problems under discussion.

In 1952, the Executive Board of UNESCO had set up a special Human Rights Committee to examine the draft covenants prepared by the Commission on Human Rights, and to transmit its observations to the UNESCO General Conference, which had, in due course, endorsed them. On the particular point under discussion, the UNESCO Human Rights Committee had been of the opinion that any examination of charges of violations of human rights which involved a thorough knowledge of the technical conditions of implementation of the right involved ought to be subject to proper safeguards. That view had been expressed at the present meeting by the representative of France and echoed by the Australian representative.

He thought it desirable to emphasize those observations, since they showed clearly how deeply the special Human Rights Committee and General Conference of UNESCO appreciated the importance of the technical aspects of problems involving human rights when it was a question of determining the nature of alleged violations. It was obvious that an element of capital importance in the procedure followed by the Human Rights Committee would be the verification of the facts, since only thus could a reliable opinion be formed as to whether, from a technical standpoint, the charges were well founded. As was well known, the specialized agencies had been granted competence in the economic, social and

cultural field under the Charter of the United Nations, their respective constitutional instruments and certain agreements, including their agreements on working relations with the Economic and Social Council. In his opinion, no question of a hierarchy of competence arose; what was important was to economize effort, to avoid overlapping and to ensure that methods of proved efficacy were employed. As to the international conventions prepared by UNESCO, a set of rules for checking their implementation, had been in operation since 1950.

He was grateful to the Yugoslav representative for his concern to see that the jurisdiction of the specialized agencies in the matter of human rights was respected, but was obliged to point out that in the Yugoslav amendment the clause "The Committee shall decide how far it should make use of the findings of investigations carried out by such bodies" might create difficulties for UNESCO. That clause implied that investigations would be carried out by a specialized agency, in which case the question arose as to who was to ask for such investigations. Moreover, if it was assumed that UNESCO would itself carry out such investigations, would not the organization run some risk of seeing its labours disowned by the Human Rights Committee? In that event, the exercise of its jurisdiction would not be judged by the United Nations or the Economic and Social Council, but by the Human Rights Committee as a sovereign authority, which would thus be acting as both judge and party. Speaking of the Human Rights Committee, the Australian representative had used the expression "residual jurisdiction", which prompted him (Mr. Bammate) to observe that residual jurisdiction did not necessarily lie with the court of lower instance, but that, on the contrary, in civil and criminal proceedings it was often the highest tribunal that enjoyed residual jurisdiction alone. It might therefore be asked whether efforts to extend the jurisdiction of the Human Rights Committee unduly would in fact strengthen its prestige and authority, or whether such a course would not be attended by a risk that the Committee would find itself in the awkward situation of having to pass judgment on extremely technical questions.

He thought that, if it were to confine itself to those questions of human rights which did not come within the jurisdiction of the specialized agencies,

the Human Rights Committee far from losing prestige, would gain in efficacy, because it would then have the opportunity, when such questions arose, of establishing an authoritative body of case law.

Mr. HOARE (United Kingdom) said that the United Kingdom delegation agreed in principle with the interpretation placed on article 53 by the representatives of the specialized agencies. It was in favour of the first French amendment, which clarified the existing text.

The Philippine representative had suggested that the competence of the Human Rights Committee would be excluded in a number of matters, for instance, those in respect of which information was submitted to the United Nations under the terms of Article 73 e of the Charter. He would submit that the obligation of States under Article 73 e was merely to submit information, and, moreover, that there was no obligation to submit information of a political nature. It followed, therefore, that the requirements of that article could in no way affect the competence of the Human Rights Committee to consider issues relating to civil and political rights.

His delegation believed that all matters that fell within the competence of the specialized agencies and their subsidiary organs should be excluded from the province of the Human Rights Committee. Consequently, it would be unable to accept the Yugoslav amendment, which the Philippine representative had supported on the grounds of its greater flexibility. He did not agree that it was in fact flexible. The first two sentences were couched in compulsory terms, making it mandatory on the Human Rights Committee to deal with any matter referred to it under article 52. The third sentence was even more rigid, since it suggested that the action and competence of other bodies were irrelevant, and that the Committee had complete discretion to disregard them. As a result, the Yugoslav amendment ran completely counter to the provisions of article 53, which had the approval of the specialized agencies.

Turning to the Belgian amendments, he observed that the second dealt with the delimitation of the competence of the Committee in respect of matters with which the International Court of Justice had been seized. The Philippine representative, when referring to the Secretary-General's memorandum, had

interpreted the Secretary-General's suggestion in a manner that differed from that given in the memorandum itself (pages 5-6). The Secretary-General had suggested that if a matter within the competence of the Committee formed part of the larger issue being dealt with by the Court, it would seem deisrable that the Committee should not handle that matter at the same time. The Philippine representative appeared to accept the view that the Human Rights Committee should be automatically excluded from taking action in a case where the parties agreed under article 59 to resort to the International Court of Justice. It would seem more logical to accept the principle that the Committee should be excluded from taking action in any matter that was before the International Court. In his (Mr. Hoare's) view, all conflict or doubt about the respective competence of the Human Rights Committee and of the International Court of Justice must be avoided. His delegation would support the idea that the exclusion of the Committee's competence in certain circumstances should be expressed in general terms, as was done in the second Belgian amendment and in the Secretary-General's memorandum.

The second French amendment was intended to meet the point that instruments negotiated in future would not be able to confer powers on a body established by the present draft covenant. But the problem was not solved by that amendment, which defined the issue in the following words: "whenever international instruments ..... empower the Committee to receive complaints". That was precisely what a new international instrument could not do. The powers and duties of the Committee under the covenant related solely to complaints between States, and, as discussions in the Commission had made clear, the possible future submission of petitions by individuals would necessitate the exercise of further powers as well as the application of new procedures. Indeed, he doubted whether the Commission could do more than indicate, without going into details, that the provisions laid down in the covenant would not preclude the Committee from exercising such powers and duties as might devolve upon it in virtue of its assuming functions under instruments concluded subsequently.

Mr. KAECKENBEECK (Belgium) said that his delegation would vote for the first French amendment, since it seemed desirable not to rule out the possibility

of jurisdiction being conferred on some new body, other than the Human Rights Committee, set up under the auspices of the United Nations.

The Yugoslav amendment was based on a thesis that he could not entertain, and the supporting arguments put forward by the Yugoslav representative had failed to convince him. As he saw it, there was no question of any hierarchy of competence; as the representative of UNESCO had so appositely pointed out, what was essential was to avoid any overlapping jurisdiction, since that would be not merely dangerous but disastrous.

In reply to the Philippine representative, he observed that closer study of the existing text of article 53, paragraph (a), would show that the facts that a United Nations organ was competent to deal with any matter, that it had established a special procedure for dealing with such matters, and that the States concerned had accepted that procedure, would provide a threefold guarantee that the question would be settled; no such guarantee would be offered by appeal to the Human Rights Committee, which would be merely a court of conciliation.

Mr. CHENG PAONAN (China) considered that article 53 was extremely restrictive in character. In general, two types of restriction had been imposed on the Committee. It could receive complaints only if it had a majority of seven members present and voting; and it could deal with complaints only if available domestic remedies had been invoked and exhausted (article 54). The more detailed restrictions imposed in article 53 were, first, that the Committee could only deal with matters referred to it under article 52. Secondly, paragraph (a) of article 53 might be interpreted as meaning that the Committee could deal with no issue that was sub judice in the General Assembly or of which the International Court of Justice had been seized. Thirdly, the Committee would be debarred from dealing with matters arising under Article 73 e of the Charter, or with questions which were at present being dealt with by such bodies as the Ad hoc Committee on Forced Labour, the Ad hoc Committee on Slavery and the Commission on the Racial Situation in South Africa. Finally, further restrictions would be imposed in respect of the specialized agencies, International Labour Conventions, and the Convention on Freedom of Association and Protection

of the Right to Organize of 1948. It would seem that the Committee would not be left with very much to do.

As to the amendments, he considered that the Yugoslav proposal was acceptable in principle, on the assumption that the second sentence thereof would not empower the Committee automatically to encroach upon the competence of other United Nations organs or the specialized agencies. He also assumed that the third sentence did not imply that the Committee would be able to reverse decisions taken by other bodies. It would certainly be both logical and practical if the findings of bodies of a temporary character, ad hoc committees and the like, were transmitted to the Human Rights Committee for study and action.

He would be prepared to vote for the Yugoslav amendment, provided that the Commission also adopted the second Belgian amendment and the second French amendment to article 53. The last-mentioned covered the case of instruments wherein no special procedures were prescribed, such as, for instance, the Convention on Prevention and Punishment of the Crime of Genocide, and the Convention on the Political Rights of Women.

Mr. ABDEL-GHANI (Egypt) said that the Egyptian delegation, too, would be prepared to support the Yugoslav amendment, which laid emphasis on the competence of the Human Rights Committee in the field of human rights. But he would ask the Yugoslav representative whether he would not be prepared to compromise by adding at the end of the second sentence of his amendment the words "with the exception of the International Court of Justice when it is already seized of the matter". There was, of course, no doubt as to the competence and efficiency of the Court in all matters pertaining to human rights, but he hoped that a special reference to that organ would not be interpreted as reflecting on the valuable work done by the specialized agencies.

Mr. MELOVKSI (Yugoslavia) repeated that his delegation's amendment was in no way designed to exclude other organs and the specialized agencies of the United Nations from jurisdiction, but simply to prevent the exclusion of the

Human Rights Committee in cases where another United Nations organ or specialized agency might also be competent to deal with a question affecting human rights.

In reply to the representative of China, who had expressed his willingness to support the amendment submitted by the Yugoslav delegation if the latter would at the same time accept the amendment submitted by the Belgian delegation to paragraph (b) of the present text of article 53, he pointed out that it was for the Commission itself to decide whether that suggestion should be regarded as an amendment to the Yugoslav amendment.

The meeting rose at 1 p.m.