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INDIA: PROPOSAL ON IMPLEMENTATION

The Indian delegation has always laid great stress on implementation of human rights. These rights have to be implemented in the first instance by the States themselves, and provision for the state machinery for implementation has been made in the draft covenant. We are here concerned with an international machinery which it is felt is necessary when the States fail to do so. This is a difficult question as it involves the question of national sovereignty.

Among the schemes so far received, the Australian scheme was the most comprehensive. This scheme was examined by the working group appointed at the second session of the Commission at Geneva. It is unfortunate that the report of the working group has not been considered by the Commission due to lack of time.

We have now the United States-China proposals before us. They deal with disputes between two States over the violation of human rights or fundamental freedoms. The machinery for liquidation of such disputes is already there in the Charter. Further, a covenant between States is in the nature of things enforceable between the States inter se under International Law. The scheme, therefore, merely deals with a matter of detail concerning the covenant. It leaves aside the more momentous question of implementing human rights and fundamental freedoms at the instance of agrieved humanity.

The League of Nations used to receive representations from individuals or groups in a certain description of cases. The peoples of the world expect that this function of the League of Nations should be undertaken by the United Nations. The result has been that the United Nations has received a large number of representations from individuals and organizations regarding the violation of human rights and fundamental freedoms. There is a demand, therefore, for an organization to deal with these petitions not necessarily judicially but in a spirit of conciliation.

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It was this consideration which moved the working group at Geneva to put forward a scheme for dealing with these representations judicially by a tribunal, and extra-judicially through a Standing Committee. The scheme was sent for comments to various Governments. The comments received up to now demonstrate that though the setting up of a tribunal is not viewed with favour, the setting up of a Standing Committee is considered a not unsatisfactory solution for dealing with the representations.

The United States-China scheme has also accepted the principle of setting up a committee, but it is not empowered to receive representations from individuals, groups of individuals or organizations to begin with. This is a lacuna which I have tried to remove by my amendment.

I realize the difficulties in the way of dealing with representations from individuals. Such representations will not always be reliable. They may be malicious and even frivolous. But it will not be difficult to weed out such petitions. The committee will not be a judicial committee but a conciliation committee. In spite of these apparent difficulties, therefore, the right to petition the United Nations should not be denied to the individuals, and the committee proposed to be set up should in my opinion be empowered to receive such petitions.
