United Nations

UNDER Article 71 of the Charter of the United Nations (UN), the Economic and Social Council (ECOSOC) may consult with non-governmental organizations (NGO's) that are concerned with matters within ECOSOC's competence. Five Jewish organizations were among the hundred or so associations granted consultative status by ECOSOC under the aforementioned provision. The following is a review of the activities of the UN during the period from July, 1950 to July, 1951, which were of major interest to the Jewish consultative organizations.

Covenant of Human Rights

Encouragement of respect for human rights is one of the keystones of the UN. In the Charter the member nations pledged themselves to take joint and separate action in co-operation with the UN to "promote . . . universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion."

At its Second Session, in December, 1947, as a means toward fulfilling this pledge, the Commission on Human Rights planned a program under which the UN would adopt a tripartite International Bill of Rights. The first part of this program was completed on December 10, 1948, when the General Assembly adopted the Universal Declaration on Human Rights, a broad statement of principles embracing almost the full range of human rights. At its Sixth Session, in the spring of 1950, the Commission completed the last two parts of its program by drawing up a draft International Covenant of Human Rights and Measures of Implementation; it submitted the text to its parent body, ECOSOC, at its Eleventh Session in Geneva (July 3-August 16, 1950).

However, many of the members of ECOSOC did not consider the draft prepared by the Commission to be entirely satisfactory and were reluctant to forward the document to the General Assembly for adoption by the UN. Instead, ECOSOC decided to request the Assembly to make policy decisions concerning the major points of disagreement; the Commission would reconsider the Covenant in the light of the Assembly's decisions and submit a revised draft to ECOSOC at its Thirteenth Session, scheduled to convene in Geneva on July 30, 1951.

THE ASSEMBLY'S DECISIONS

After considerable discussion the Assembly decided on December 4, 1950 that the first eighteen articles dealing with many of the traditional civil and
political rights "does not contain certain of the most elementary rights," and that the wording of some of these eighteen articles was inadequate.

The Commission was instructed to submit to the Assembly's Sixth Session recommendations for an article securing maximum extension of the Covenant to constituent units of federal states without violating the constitutional requirements of such states. A more definitive position was taken when the Assembly decided that the Covenant should include an article to the effect that its provisions shall extend to non self-governing territories administered or governed by metropolitan states adhering to the Covenant.

The Assembly also directed the Commission "to include in the Covenant a clear expression of economic, social and cultural rights in a manner which relates them to the civic and political freedoms proclaimed by the Covenant."

**RIGHT OF PETITION**

The NGO's were most interested in the Assembly's consideration of the implementation provisions of the Covenant. The Commission's draft, much to the chagrin of the NGO's, had limited the right of complaint to states. This position was defended by the United States, the United Kingdom, France, and others, who argued that the right of petition should not be extended to individuals until the procedure had been tested by the states; moreover, individuals and NGO's, if given the right of complaint, might abuse it. It was further argued in support of this position that the Commission had already considered adopting separate protocols on petitions from individuals and groups. The Soviet bloc was adamant against any international implementation; it contended that all the articles dealing with implementation infringed upon the domestic jurisdiction of the signatory states.

Nevertheless, many of the smaller nations backed the granting of the right of petition to individuals and groups. A solution originally suggested at the Sixth Session of the Commission by the Consultative Council of Jewish Organizations was proposed by Uruguay. Under the Uruguayan proposal, a High Commissioner would be appointed who could intervene, at his own initiative or on receipt of a complaint, in cases of violations of human rights.

Equally interesting was Israel's proposal that the right to petition the Human Rights Committee be extended to those NGO's enjoying consultative status with ECOSOC, as listed by the Secretary General of the UN and the chairman of the implementation agency established under the Covenant.

Out of the debate emerged a resolution directing the Commission to proceed with the consideration of provisions, to be inserted either in the draft Covenant or in separate protocols, for the receipt and examination of petitions from individuals and organizations, taking into consideration in its study of the question the above-mentioned proposals.

When the Commission convened in Geneva for its Seventh Session on April 16, 1951, it had a scant five weeks in which to carry out the Assembly's directives. Pressure of time prevented action on two of the Assembly's four major instructions, revision of the first eighteen articles and the drafting of an article on federal states.
Economic, Social, and Cultural Rights

The greater part of the Commission's time was devoted to drafting articles on economic, social, and cultural rights. With the aid of the International Labor Organization (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), and of the World Health Organization (WHO), the Commission drafted a new chapter of the Covenant by which the states party to the Covenant would "undertake to take steps, individually and through international cooperation, to the maximum of their available resources with a view to achieving progressively the full realization of the rights recognized in this part of the present Covenant." The rights "recognized" in the articles that followed included, equally for men and women, the right to work; to favorable conditions of work; to social security; to adequate housing; to an adequate standard of living and the continuous improvement of living conditions; to the enjoyment of the highest standard of health obtainable; to form and join trade unions; and to education. It was further provided that special protection be given to mothers and children, and that the parties to the Covenant would undertake to conserve, develop, and diffuse science and culture. A United States proposal to recognize the right to own property was omitted. Considerable dissatisfaction was expressed within the Commission at the inclusion of rights of this kind; an Indian proposal to ask the General Assembly through ECOSOC to reconsider its decision, although defeated, won the votes of Denmark, Greece, the United Kingdom, and the United States.

IMPLEMENTATION

The implementation of the above rights in countries with widely varying socio-economic systems and at different levels of development clearly posed different problems from those raised by traditional civil and political rights. Accordingly, the Commission drafted an additional implementation system, without specifying whether it was to be used in the case of political and civil rights, as well as in that of economic, social, and cultural rights. Under the proposed procedure each member state would submit periodic reports on the progress achieved and difficulties encountered in fulfilling the rights recognized in the relevant portions of the Covenant. Such reports would be transmitted to the Commission for study and recommendation.

HUMAN RIGHTS COMMITTEE

The Commission retained the same basic general provisions for implementation that it had adopted at its Sixth Session, that is, a Human Rights Committee to ascertain the facts and to make available its good offices in cases where one state party accused another of not giving effect to a provision of the Covenant. However, the Commission decided to increase the membership of the Human Rights Committee from seven to nine, and provided that such members be elected by the International Court of Justice from candidates nominated by the states parties, rather than directly by the
latter. Similarly, the secretary of the Committee would be elected by the Court from among the Committee's three nominees. Another modification was made permitting the Committee, when it began to function, to request the Court, through ECOSOC, for advisory opinions. The Commission also adopted a proposal, originally made by Israel, for speeding up the procedures of the Committee in cases where human life was in danger.

Despite concerted pressure from many of the twenty-nine NGO's attending the session, the Commission continued to refuse to extend the right of petition to others than states adhering to the Covenant. An Indian proposal not to grant private petition as a right, but to empower the Committee to act if it so decided on receipt of a complaint from individuals, groups, or NGO's, was defeated.

One of the major objections to extending the right of petition was the likelihood that this would lead to non-ratification of the Covenant by many governments. This consideration was especially strong in the case of the United States. Although still in an unfinished state, the Covenant was the object of extensive criticism in the Senate, in the press, and by bar journals in the United States, where it was maintained that the Covenant would change the fundamental legal structure of the government by taking enforcement of human rights out of state control without first amending the United States Constitution. Fearful that the granting of the right of private petition would strengthen this opposition, the United States proposed that it be embodied in a protocol which each state party could elect to ratify or not, as it saw fit. This proposal was not voted upon.

JEWISH CONSULTATIVE NGO'S

All five of the Jewish consultative NGO's—the Agudas Israel World Organization; the Consultative Council of Jewish Organizations (composed of the Alliance Israélite Universelle, the American Jewish Committee, and the Anglo-Jewish Association); the Co-ordinating Board of Jewish Organizations (composed of B'nai B'rith, the Board of Deputies of British Jews, and the South African Jewish Board of Deputies); the World Jewish Congress; and the World Union for Progressive Judaism—actively participated in the Commission's work. On May 18, 1951, all five signed a joint memorandum to the Commission calling attention to the fact that the Iraqi government's discriminatory treatment of its Jewish population violated the Charter and the Universal Declaration of Human Rights.¹

All five organizations supported the right of private petition. The Consultative Council continued to urge the creation of the office of High Commissioner for Human Rights, or Attorney General, to act on complaints received from non-governmental sources.

The World Jewish Congress strongly opposed the protocol proposal, arguing that unless the right of petition were included in the Covenant proper, "all other rights would be of no avail."

On the other hand, the Co-ordinating Board supported the proposed protocol, while also advocating immediate measures other than the Covenant

¹See Iraq, above.
to implement human rights. It suggested that the Assembly urge the establishment of permanent Human Rights Commissions in all countries; these would gather information concerning legal and social developments and report their findings and recommendations to their governments, which would in turn report to the UN Commission on Human Rights. It also proposed that the projected Human Rights Committee be created immediately by General Assembly resolution, and that it be authorized to act with respect to all members of the UN regardless of whether they became parties to the Covenant.

FUTURE OF THE COVENANT

As of this writing (July, 1951), it was difficult to assess the future of the Covenant. Although the Assembly's directive to include economic, social, and cultural rights in the Covenant was complied with, the Commission did not fully discharge its other responsibilities under the Assembly resolution, and did not even complete the drafting of the Covenant. It seemed likely that considerable time would elapse before the Covenant became a significant factor in international law.

Nevertheless, it was possible to be hopeful about the future development of the international protection of human rights. Observers noted that the UN had already dealt with a number of human rights problems as efficaciously as the present status of international policy permitted. They cited as illustrations of the practical implementation of human rights, the UN investigations of forced labor, slavery and prisoners of war; its decisions on radio jamming, on the treatment of people of Indian origin in South Africa, and on the discrimination practiced against immigrant labor; and also the UN program for providing technical assistance to under-developed countries.

Hungarian Deportations

The problem of human rights and fundamental freedoms in Bulgaria, Hungary, and Rumania had been on the General Assembly agenda since its Third Session. At its Fifth Session it adopted a resolution condemning these governments for failure to fulfill their obligations under the provisions of the treaties of peace relating to human rights, and invited members of the UN to submit evidence concerning such violations.

On July 5, 1951 Agudas Israel called the attention of the NGO Committee of ECOSOC to further violations in Hungary and Rumania. The Agudas representative reported that the Hungarian Government had embarked on a program of mass deportations of all classes, including a large number of Jews. He charged that deplorable conditions also existed in Rumania, where hundreds of Jewish leaders had been arrested and were being held incommunicado. At the same meeting the spokesman for the Co-ordinating Board noted that it had received evidence confirming the deportations in Hungary.

TRUMAN'S CONDEMNATION OF HUNGARY

On July 27, 1951, upon the urging of many American NGO's, President Harry S. Truman issued a statement condemning the Hungarian government
for the deportation program. He also stated that the United States would submit evidence concerning Hungarian violations to the UN, an action that will automatically place the matter on the agenda of the Assembly's forthcoming Sixth Session.

**Genocide Convention**

Adopted by the General Assembly on December 10, 1948, at its Third Session, the Convention on the Prevention and Punishment of the Crime of Genocide (the destruction of national, ethnical, racial, or religious groups) continued to present problems at the Assembly's Fifth Session. According to the terms of the Convention, twenty ratifications or accessions were necessary to make the Convention operative among the states adhering to it. At the time the Assembly convened, some nineteen states had deposited their ratifications or accessions with the Secretary General of the UN. But the Philippines and Bulgaria had made certain reservations in regard to the Convention as a condition of their adherence, and these reservations had been objected to by other states. Could then the Philippines and Bulgaria be included among the twenty required to bring the Convention into force? No provision had been made in the Convention to cover such a contingency; accordingly, the Secretary General requested instructions from the Assembly concerning the legal effect of an objection to a reservation.

However, the question became academic when, on October 14, 1950, a sufficient number of states had deposited their instruments of ratification or accession to bring the Convention into force without including the Philippines and Bulgaria. Thus, ninety days later, on January 12, 1951, for the first time in history genocide was outlawed by international convention.

**U. S. Ratification of the Genocide Convention**

The United States Senate's ratification of the Genocide Convention was no further advanced at the time of writing (July, 1951) than it had been in April, 1950, when the Genocide Subcommittee recommended ratification, with "understandings," to the plenary Senate Committee on Foreign Relations. Despite repeated requests from President Truman and frequent appeals by the United States Committee for the Genocide Convention and other interested organizations (including Jewish agencies and other religious and civic groups), the Senate did not act.

Meanwhile, American public opinion, as reflected in the views of organizations, appeared to favor United States' adherence to the Convention. There still remained a hard core of opposition, as manifested by Southern politicians, parts of the press, and by the American Bar Association; these levelled at the Genocide Convention much the same criticism made of the draft Covenant of Human Rights.

In view of Southern predominance in the Foreign Relations Committee and the Senate's general restiveness in matters concerning the UN, it appeared that ratification would be difficult of achievement in the immediate
future. As of July, 1951, France was the only member of the “Big Five” to have become a party to the Genocide Convention.

Refugee Problem

Five years after the end of World War II the refugee problem continued to concern the international community. Aware that it was unlikely that the problem would be solved by the time the International Refugee Organization (IRO) terminated its operations (probably at the end of 1951), the General Assembly and ECOSOC had earlier decided to take measures to afford the refugee some protection.

CONVENTION RELATING TO THE STATUS OF REFUGEES

The text of a proposed Convention Relating to the Status of Refugees, prepared by an ad hoc committee, was submitted on September 19, 1950, to the Fifth Session of the General Assembly, which decided after lengthy debate to convene a Conference of Plenipotentiaries to complete and sign the draft Convention.

The Assembly paid little attention to the substantive aspects of the draft Convention, which dealt with the legal status of refugees; delineated their minimal rights with respect to housing, education, social security, employment, relief, rationing, freedom of movement, and protection against expulsion; and provided for the issuing of a special kind of travel documents to refugees in lieu of passports.

The chief concern of the Assembly was with the kind of definition of a refugee to propose to the Conference of Plenipotentiaries. The Assembly's recommended definition was little more than a starting point for discussions in the Conference, which met in Geneva from July 2 to July 25, 1951. The Convention, as completed, defined a refugee as, first, any person who had been considered such under certain pre-war conventions and under the IRO Constitution, and, second, any person who became a refugee as a result of events occurring before January 1, 1951. At the time of its adhering to the Convention, each state would decide whether it wished to restrict application of the Convention to refugees who had become such as the result of events occurring before the deadline in Europe only. The Convention was not to apply to persons recognized in the countries of their residence as having the rights and obligations attached to the possession of nationality of that country (thus excluding the Volksdeutsche refugees in Germany, who were considered to be German nationals).

The Conference’s revision of the substantive articles reflected the concern for security of the participating states. For example, no protection was extended to political associations formed by refugees (in the earlier draft such associations had received protection). The article concerning travel documents provided that they might be withheld for “compelling reasons of national security or public order.” Additional limitations, for reasons of security, were placed upon the articles aimed at preventing the expulsion of refugees where such expulsion jeopardized their lives or freedom.
In order to encourage ratification of the Convention, adhering states were allowed to make reservations unilaterally to all provisions of the Convention except those prohibiting discrimination against refugees on the ground of race, religion, or country of origin, guaranteeing refugees religious freedom, granting access to courts, and prohibiting forcible return.

Completed on July 25, 1951, the Convention was opened for signature on July 28, when it was signed by Austria, Belgium, Colombia, Denmark, Luxembourg, the Netherlands, Norway, Sweden, Lichtenstein, the United Kingdom, and Yugoslavia. Israel signed a few days later. The Convention was to come into force ninety days after six states had ratified or acceded to the Convention.

In addition to several Protestant, Catholic, and non-sectarian NGO's, the Consultative Council, the Co-ordinating Board, and the World Jewish Congress attended the conference.

**HIGH COMMISSIONER FOR REFUGEES**

In adopting a definition of refugees for the High Commissioner's Office for Refugees, the General Assembly in general followed the definition it recommended for the Convention, but broadened it to include future refugees. A provision designed to exclude the Volksdeutsche was included.

The statute as adopted by the Assembly authorized the High Commissioner to promote international conventions and special agreements to improve the situation of refugees; to seek to obtain their admission to new countries; and to help co-ordinate in a general way the efforts of private organizations concerned with the welfare of refugees. The High Commissioner was also empowered under changes made by the Assembly to promote the admission of refugees to the territories of states; to endeavor to obtain permission for refugees to transfer their assets, especially those necessary for resettlement; and to obtain from governments information on the number and condition of refugees, and on the laws and regulations concerning them.

G. J. Van Heuven Goedhart of the Netherlands was elected to serve as High Commissioner for a term of three years, commencing January 1, 1951. The IRO and the High Commissioner made a working agreement concerning their respective responsibilities while the IRO continued to exist. In his first report in May, 1951, the High Commissioner suggested the establishment of eleven field offices to help governments solve assimilation problems and to enable the High Commissioner to maintain direct contact with refugees and voluntary agencies working on their behalf. The United States was among the seven countries that had already expressed their readiness to receive a field representative of the High Commissioner.

**Migration Problems**

A resolution adopted in August, 1948 by ECOSOC at its Eighth Session requested the Secretary General of the UN to consult with those NGO's interested in migration problems in regard to the co-ordinating of their activities. The UN and the International Labor Organization (ILO) con-
vended conferences of such organizations in Geneva in January, 1950 and March, 1951.

The work of the Second (March, 1951) Conference of NGO's interested in migration largely consisted of a series of appeals for equitable treatment of the migrant. Its Report on General Principles Concerning the Protection of Migrants urged upon "all individuals and all organs of society" a code of rights far more liberal in scope and tenor than the draft Refugee Convention (which dealt with similar problems) as it then stood. The Conference also instructed its Consultative (interim) Committee to prepare a plan for providing information to prospective emigrants on conditions of life and work in the countries to which they were going. The Conference requested governments to make some provision for the needs of indigent aliens, and not to expel them because of their indigence. The Conference took note of the imminent expiration of the IRO, and to bridge the gap made certain suggestions concerning the functioning of the High Commissioner's or Refugee's Office; it also requested that provision be made for the continuation by some other intergovernmental organ of the IRO's machinery for resettlement, assistance, and emergency relief for refugees. Finally, the Conference agreed to hold a third session in New York in 1952.

Like the First Conference, the Second was attended by many social service organizations, Catholic, Protestant, Jewish, and non-sectarian. In addition to the World Jewish Congress, Agudas Israel, the Co-ordinating Board, and the Consultative Council, the American Jewish Joint Distribution Committee, the Comité Israelita de Socorros, and the United Service for New Americans participated actively in the work of the Conference.

**International Law Commission**

The Third Session of the International Law Commission, meeting in Geneva from May 16 to July 27, 1951, continued to examine the implications for international law of the Nuremberg trials of the Nazi war criminals.

At its Second Session, in 1950, the Commission had drafted a formulation "of the principles of international law recognized in the Charter of the Nuremberg Tribunal and in the judgment of the Tribunal." This text was reviewed by the General Assembly at its Fifth Session.

Some governments found the Commission's formulation wanting, particularly as regards its definition of crimes against humanity. Under the Commission's formula (which was the same as that of the Nuremberg Charter), murder, extermination, enslavement, deportation, and other inhuman acts perpetrated against a civilian population, or persecution on political, racial, or religious grounds, were recognized to be crimes against humanity under international law only when committed in execution of or in connection with a crime against peace or a war crime (as conventionally defined). The opponents of this definition argued that it was contrary to existing international law to require crimes against humanity to be inseparably linked with crimes against peace or war crimes; crimes against humanity were generally committed by or with the complicity or connivance of governments
and could only be punished at the international level, regardless of their connection to crimes against peace or war crimes. Similar criticism of the definition was made by the World Jewish Congress in its memorandum of October, 1950.

The General Assembly did not adopt the Commission's formulation, but invited member states to furnish their observations on it; it directed the International Law Commission to take account of such observations, as well as of those made by delegates to the Commission's Third Session, which adopted the draft Code of Offences Against the Peace and Security of Mankind.

The draft Code defined as offenses any act, threat, or preparation for aggression; armed incursion from another state of bands for political purposes; encouragement of civil strife or terrorism by the authorities of another state; violations of certain types of treaty; annexation of territory belonging to another state; and violations of the laws and customs of warfare. Of interest to the various Jewish consultative organizations was the Commission's decision to include in the draft code acts constituting genocide and also the same acts of inhumanity (murder, enslavement, deportation, etc.) which the Commission, on the basis of the Nuremberg Charter, had decided were violations of international law. However, the draft Code did not require that such inhuman acts be committed as part of crimes against the peace or war crimes in order to come under the prescription of international law; it was only required that they be committed in execution of or in connection with the other defined offenses.

The problem of implementing, through the establishment of an international criminal court, the proposed Code and other acts defining crimes under international law, was one which most governments were approaching cautiously. An ad hoc committee was scheduled to meet in Geneva on August 1, 1951, to draft a statute for such a court.

*Convention on the Declaration of Death of Missing Persons*

Adopted and opened for signature at Lake Success on April 6, 1950, the Convention on the Declaration of Missing Persons had still not come into force at the time of this writing (July, 1950). Only China had ratified it, and one more ratification or accession was necessary to make the convention operative. The Convention provided a simplified means for declaring persons who disappeared during World War II legally dead, thus helping relatives and other interested parties more expeditiously to ascertain their status and rights with respect to such missing persons.

Nevertheless, the General Assembly, anticipating the day when the Convention would take effect, approved at its Fifth Session the establishment of an international Bureau for Declaration of Death.
Subcommission on the Prevention of Discrimination and Protection of Minorities

The Subcommission on the Prevention of Discrimination and Protection of Minorities, which had been dormant during the period under review, faced the prospect of being eliminated by ECOSOC at its Thirteenth Session (scheduled to convene on July 30, 1951). A special committee of ECOSOC recommended on April 10, 1951, that the Subcommission be discontinued and its work taken over by its parent body, the Commission on Human Rights.

The Subcommission had on the provisional agenda for its Fourth Session (scheduled to convene in New York on October 1, 1951) a proposal to create a UN agency to carry out independent studies and on-the-spot surveys of discrimination against individuals and minority groups, a program urged upon it by the Co-ordinating Board at its Third Session in January, 1950.

Stanley D. Halperin