

The Australian proposal never received impartial examination by the Conference. The Finnish Commission was quick to shift its responsibility by asking the Legal and Drafting Commission to give an opinion, from the legal point of view, upon the merits and practicability of the scheme. Under pressure of the Soviet Union, which expressed strong objection to the principle of interposing an International Court between a State and its control of its subjects, the Commission confined itself to a strict definition of the present position of human rights in international law, making no attempt to study the matter or to advance the law by recommending further joint international action. The Human Rights Commission of the Economic and Social Council of the United Nations, said the Commission's report, is the body which has power to formulate the principles and to decide upon the steps to be taken to ensure that human rights are respected ; but no fundamental understanding has yet been arrived at on the principles involved ; this being so, it is impossible in the present state of international law to compel a State to accept the decisions of an international legal body in the matter ; therefore, the Australian amendment should not be accepted.

The New Zealand delegation, believing the international protection of individual human rights to be a desirable end, even if the specific details of the Australian proposal were capable of improvement, gave consistent support to the Australian delegation on this matter. When it became apparent that the proposal for a European Court of Human Rights would be rejected the New Zealand delegation suggested, as an alternative procedure, that the Peace Conference should express to the United Nations its approval of the establishment by the Economic and Social Council of a Human Rights Commission and should urge upon the United Nations the desirability of setting up international machinery to ensure the practical application of human rights and ultimately to enable individuals and groups to have cases concerning breaches of human rights examined by an international judicial body. In advocating this procedure the delegation maintained that the Peace Conference having been brought face to face with many cases of repression of human liberties and having seen the inter-relation between internal repression and external aggression should pass on its experience to the United Nations ; it argued, further, that the Human Rights Commission of the Economic and Social Council does not entirely serve the purpose aimed at by the Australian proposal because it is a political not a judicial body, because it deals with States not with individuals or groups, and because, since its powers are confined to investigation and report on a rather high political level, it cannot deal in an unobtrusive judicial way with individual cases.

These arguments were of no effect, and though several delegations spoke in support of the " principle " only Australia and New Zealand voted against the adoption by the Commission of the unfavourable report described above.