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Sixth Session

SUMMARY RECORD OF THE HUNDRED AND EIGHTY-FOURTH MEETING

Held at Lake Success, New York  
on Thursday, 11 May 1950, at 12.15 a. m.

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Chairman: Mrs. ROCSEVELT United States of America

Members:

Mr. WHITLAM	Australia
Mr. NISOT	Belgium
Mr. VALENZUELA	Chile
Mr. TSAO	China
Mr. SORENSEN	Denmark
Mr. RAMADAN	Egypt
Mr. CASSIN	France
Mr. KYRCU	Greece

Members: (continued)

Mrs. MEHTA	India
Mr. MALIK	Lebanon
Mr. MENDEZ	Philippines
Miss BOWIE	United Kingdom of Great Britain and Northern Ireland
Mr. ORIBE	Uruguay
Mr. JEVREMOVIC	Yugoslavia

Representatives of specialized agencies:

Mr. LEMOINE	International Labour Organisation (ILO)
Mr. ARNALDO	United Nations Educational, Scientific and Cultural Organization (UNESCO)

Representatives of non-governmental organizations:Category A:

Miss SENDER	International Confederation of Free Trade Unions (ICFTU)
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Category B:

Mrs. AIETA	Catholic International Union for Social Service
Mr. NOLDE ) Mrs. NOLDE )	Commission of the Churches on Inter- national Affairs
Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mr. HALPERIN	Co-ordinating Board of Jewish Organizations
Mr. CRUICKSHANK	Inter-American Council of Commerce and Production
Mr. BEER	International League for the Rights of Man
Miss GARTLAN	International Union of Catholic Women's Leagues

Secretariat:

Mr. SCHWELB	Assistant Director, Division of Human Rights
Mr. DAS	Secretary of the Commission

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS (ANNEXES I AND II OF THE REPORT OF THE FIFTH SESSION OF THE COMMISSION ON HUMAN RIGHTS, DOCUMENT E/1371) (continued)

Draft resolution concerning economic, social and cultural rights, submitted by Denmark, Egypt, France and Lebanon (E/CN.4/485).

1. The CHAIRMAN opened the discussion of the joint draft resolution submitted by Denmark, Egypt, France and Lebanon (E/CN.4/485).

2. Mr. KYROU (Greece) proposed that the joint draft resolution should be discussed and put to the vote, paragraph by paragraph.

It was so decided.

First paragraph

3. Mr. SØRENSEN (Denmark) noted that the provisional English translation of the draft resolution was not in complete conformity with the original French text. In the French text the words "en vue d'assurer" modified the verb "prepared" whereas in the English translation the words "in order to secure" modified the words "Being resolved" which they followed.

It was decided to bring the English translation into line with the French text on the point in question.

4. Mr. NALIK (Lebanon) considered that the English words "in order to secure" were stronger in meaning than the French words "en vue d'assurer." They should therefore be replaced by the words "with a view to assuring".

5. Mr. CRIBE (Uruguay) was in agreement with the comments of the representative of Lebanon.

6. Mr. CASSIN (France) considered that it should be made clear, in the first paragraph, that the Commission was resolved to prepare the "carrying out" of its programme of work, as it had already drawn up its actual programme of work by the resolution adopted on the previous day. He therefore proposed that the words "the programme" be replaced by the words "the carrying out of the programme".

7. Miss BOWIE (United Kingdom) considered that it would be incorrect to say that the Commission was preparing to carry out its programme of work. In fact, it was merely preparing that programme.

8. The CHAIRMAN put to the vote the first paragraph of the joint draft resolution, as modified by Denmark, Lebanon and France.

The first paragraph of the joint draft resolution, as amended, was adopted by 12 votes to none, with 1 abstention.

Second and third paragraphs

The second and third paragraphs of the joint draft resolution were adopted unanimously.

Fourth paragraph

9. Mr. MENDEZ (Philippines) proposed that the words "Accepts with gratitude the offers made by ILO and UNESCO" be replaced by the words "Requests ILO and UNESCO".

10. The CHAIRMAN observed that the Commission was not competent to request the assistance of the specialized agencies in the preparation of any sort of draft text.

11. Mr. KYROU (Greece) proposed the words "Takes into account with gratitude the offers made by ILO and UNESCO".

12. Mr. MENDEZ (Philippines) considered that it would be better to use the words "Welcomes with gratitude the offers made by" or "Notes with gratitude the offers made by".

13. Mr. NISOT (Belgium) noted that the Commission had received an offer of assistance from the ILO which should be accepted.

14. Mr. CASSIN (France) pointed out that the ILO was the only specialized agency which had so far made a formal offer of assistance. As to UNESCO,

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that organization would consider, at its next conference, the extent which it could give its assistance to the Commission. Consequently, the same wording could not be used in respect of both organizations.

15. The CHAIRMAN requested the representatives of the ILO and UNESCO to give their views on the matter.

16. Mr. LEMOINE (International Labour Organisation) reminded the Commission that he had already stated, at a previous meeting, that the Director-General of the ILO would be ready to submit to the Governing Body any request for assistance which the Commission might address to the ILO. On the other hand, the representative of UNESCO had stated that that organization would consider the matter at its next conference. That being so, it would be better to draft the paragraph so as to take account of the position of the two organizations.

17. Mr. ARNALDO (United Nations Educational, Scientific and Cultural Organization) pointed out that the Executive Board of UNESCO had placed the question of economic and social rights on the agenda of the next conference to be held at Florence on 22 May 1950 and that it had given an assurance that the decisions taken at that conference would be duly communicated to the Commission.

18. The CHAIRMAN considered that, in view of the comments just made, the best wording would appear to be "Notes with gratitude the offers made by".

19. Mr. SORONSEN (Denmark), Mr. KYROU (Greece), Mr. CASSIN (France) and Mr. NISOT (Belgium) concurred.

20. Mr. MALIK (Lebanon) had no objection to that wording, but would have preferred the words "Notes with satisfaction the statements made by the representatives of ILO and UNESCO...".

Paragraph 4, as amended, was adopted unanimously.

#### Fifth paragraph

21. Mr. MENDEZ (Philippines) proposed that the word "Invites" in the English text should be replaced by the word "Requests", and that the words "requests him" which appeared further on should be deleted. As regards the French text, this amendment would involve only the deletion of the words "la prie".

/22. Mr. KYROU

22. Mr. KYROU (Greece) proposed that the words "as soon as possible" should be inserted after the word "submit".

23. Mr. MALIK (Lebanon) considered that the request to the Secretary-General to take the necessary steps to secure the co-operation of the specialized agencies and other United Nations organs should be made through the Economic and Social Council. He therefore proposed that the words "Requests the Secretary-General to take" should be replaced by the words "Recommends that the Economic and Social Council request the Secretary-General to take etc."

24. Mr. KYROU (Greece) was not in agreement with the representative of Lebanon. Although it was true that the Secretary-General could not enter in consultations with Member States of the United Nations without the authorization of the Economic and Social Council, the same did not apply to consultations with United Nations organs and the specialized agencies with a view to the preparation of drafts whose formulation was directly within the Commission's terms of reference.

25. Mr. CASSIN (France) supported the views of the representative of Greece. The Commission had been instructed to prepare a draft international covenant on human rights and it was fully entitled to request the Secretary-General to enter into consultation with the specialized agencies in order to gather the necessary documentary material for that work.

26. Mr. MALIK (Lebanon) still believed that the Secretary-General could not enter into consultation with inter-governmental organizations without the authorization of the Council. He asked the members of the Commission to consider the Secretary-General's position if the Economic and Social Council did not confirm the programme of work adopted by the Commission.

27. The Council was very jealous of its prerogatives and it should not be confronted with a fait accompli.

28. Mr. NISOT (Belgium) agreed with the views expressed by the representative of Lebanon and accepted the wording proposed by him, provided that the word "Requests" was replaced by the word "Instructs".

29. Mr. SORENSEN (Denmark) also supported the Lebanon proposal.

30. Mr. RAMADAN (Egypt) was opposed to the Lebanon proposal for the reasons stated by the representatives of Greece and France.

31. Mr. CASSIN (France) stated that the implementation of the draft resolution under discussion was subject to the Council's acceptance of the resolution adopted by the Commission on the previous day. Consequently, there could be no question of confronting the Council with a fait accompli.

32. The CHAIRMAN put to the vote the Lebanon proposal, as amended by Belgium, that the words "Requests the Secretary-General to take the necessary steps" should be replaced by the words "Recommends that the Economic and Social Council instruct the Secretary-General to take the necessary steps".

The proposal was adopted by 9 votes to 4, with 1 abstention.

33. The CHAIRMAN put to the vote the second part of the fifth paragraph of the joint draft resolution beginning with the words "to secure similar co-operation from other United Nations organs....".

The second part of the fifth paragraph was adopted unanimously.

34. The CHAIRMAN put to the vote the joint draft resolution as a whole, as amended.

The joint draft resolution as a whole, as amended, was adopted unanimously.

35. Mr. JLVREMOVIC (Yugoslavia) had no objection to the draft resolution adopted by the Commission and in favour of which he had voted. He wished however to explain his vote on the draft resolution (E/CN.4/484) adopted by the Commission at its previous meeting.

36. The draft resolution submitted by Egypt, France and Lebanon postponed consideration of economic, social and cultural rights until the first session of the Commission in 1951; the Yugoslav delegation in strict accordance with the attitude it had held throughout the discussion of the matter, had voted against the consolidated draft resolution (E/CN.4/484).

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37. In that connexion, he reminded the Commission that the United Nations had, during the Second World War, solemnly declared that international measures to guarantee economic, social and cultural rights would be adopted in the future. The United Nations Charter had set forth those rights, but five years had passed since that time and no decision had been taken in that field. The competent United Nations organs had, however, had sufficient time to study and adopt provisions to ensure respect for those rights. Consequently, there was no basis for the argument that the Commission had not had enough time to take action.

38. At its fifth session, the Commission had adopted a resolution clearly stating the need for inclusion in the covenant on human rights of articles guaranteeing the enjoyment of economic and social rights; in that same resolution the Commission had requested the Secretary-General to prepare for that purpose a "survey of the activities of bodies of the United Nations other than the Commission on Human Rights, and of the specialized agencies, in matters within the scope of articles 22-27 of the Universal Declaration of Human Rights".

39. Nevertheless, the Commission on Human Rights had adopted draft resolution E/CN.4/484 and had thereby rescinded the resolution it had adopted at its fifth session. The wording of that new draft resolution was such that it could well be wondered whether the Commission attached less importance to economic and social rights than to the other rights and, also, whether it proposed to postpone substantially the study of articles on those rights and the inclusion of such articles in the draft covenant. Such an interpretation might well be placed on draft resolution E/CN.4/484 and the Yugoslav delegation was vigorously opposed to that interpretation.

40. If the Commission had really wished to solve the problem it would have done so long before; but it had disregarded its terms of reference and by so doing had taken a decision of very grave significance. Furthermore, the Commission had not taken into account the observations of the Yugoslav delegation whose attitude was based on a constant concern for the problems to which respect for economic and social rights gave rise.

41. The decision taken by the Commission at its previous meeting might lead the Yugoslav delegation to reconsider its position with regard to the draft covenant on human rights as a whole. In any event, the Yugoslav delegation reserved the right to raise the problem again in the Economic and Social Council and the General Assembly.

## MEASURES OF IMPLEMENTATION (E/1371, annex III)(continued)

Proposal concerning measures of implementation submitted by France, India, the United States of America and the United Kingdom (E/CN.4/474)

42. The CHAIRMAN put to the vote paragraph 1 of article 1 of the joint proposal (E/CN.4/474).

Paragraph 1 was adopted by 14 votes to none, with 1 abstention.

43. The CHAIRMAN called upon members of the Commission to give their views on the alternative texts proposed for paragraph 2 of article 1. Text A had been proposed by the United States and the United Kingdom and text B by France and India.

44. Mr. KYROU (Greece) asked the representative of France to explain why he wished the human rights committee also to include "persons who have held high judicial office".

45. Mr. CASSIN (France) stated that his proposal to insert this phrase had been inspired primarily by the wish that the human rights committee should avoid political influence. Although it was true that when a State complained against another State the dispute was of a political character, the persons responsible for settling the dispute should not be political figures. Moreover, it would be advisable for jurists to take part in that committee since their profession would better enable them to determine whether or not a violation of the law had taken place. Finally, he pointed out that text B was based on the same principle as that which had inspired the alternative text proposed for article 5, concerning the election of members of the committee.

46. The CHAIRMAN, speaking as the representative of the United States, thought that it was unnecessary to mention persons who had held high judicial office. Text A was sufficiently explicit in that connexion: it did not exclude the possibility of appointing such persons, but avoided giving the

giving the committee a purely judicial character. In addition, text B in its existing form might be interpreted to mean that persons who had held high judicial office were not necessarily persons of high standing and of recognized experience.

47. Miss BOWLE (United Kingdom) shared the views of the representative of the United States. It was absolutely essential to avoid any overlapping between the functions of the human rights committee and the International Court of Justice. The committee's task was to collect information, ascertain the facts and make available its good offices with a view to a friendly settlement of the matter. The committee should not be a judicial organ.

48. Mr. VALENZUELA (Chile) pointed out that the current debate on texts A and B proved the existence of varying concepts of the very nature of the human rights committee. The Chilean delegation would vote for text A, bearing in mind the basis of the problem.

49. He did not consider that the committee should be a judicial organ; if that were so, the International Court of Justice would take part in the election of its members, as article 1 of the Court's Statute provided that the Court was the principal judicial organ of the United Nations. Furthermore, articles 34 to 38 did not provide for the Court's competence in that matter. The covenant would be ratified by States which might not all be Members of the United Nations. The members of the International Court of Justice being appointed by Member States of the United Nations, the International Court could not, in its turn, appoint as members of the human rights committee nationals of States which might not belong to the United Nations. In order to give such powers to the Court, its Statute would have to be amended. Yet, according to article 69 of the Statute, such amendments had to be effected "by the same procedure as is provided by the Charter of the United Nations for amendments to that Charter". The Chilean delegation was opposed to any modification enabling the International Court to participate in the appointment of members of the human rights committee. It therefore preferred text .

50. Mr. ORTIZ (Uruguay) preferred text B, as he wished to stress the judicial character of the functions to be carried out by the human rights committee and the necessity of preserving that committee from any political influence.

51. Mrs. MEHTA (India) stated that her delegation's principal wish was that the human rights committee should be independent; that was why she had thought it necessary to mention "persons who have held high judicial office" in text B. The appointment of such persons would help to keep the committee out of political intrigues, and, in addition, that provision would in no way preclude the appointment of persons other than jurists, provided that those persons were of recognized experience in the field of human rights.

52. Mr. WHITLAM (Australia) considered that the human rights committee should include persons who had judicial experience, for such experience would be of invaluable assistance in the settlement of disputes.

53. He proposed that text B should be modified to read: "... who shall be persons who have held high judicial office or other persons who are of high standing...". That modification would eliminate the difficulty raised by the Chairman with regard to the drafting of text B.

54. Mr. KYROU (Greece) proposed, as a compromise solution, to add the following phrase after text A: "... it would be advisable for some of the members to be persons who have held high judicial office".

55. Miss ROWLE (United Kingdom) opposed the Greek representative's suggestion; the Commission would thus appear to be stressing the necessity of appointing persons who had held high judicial office.

56. Mr. DALIK (Lebanon) preferred the original version of text A. He hoped that members of the Commission would not be divided on the question of

judicial qualifications. It was possible to be a person of high standing without necessarily having held high judicial office. Text A left that possibility open and was a better text. He could not understand why the representatives of India and France insisted on the qualification at issue, as it would exclude from the committee persons who had not held high judicial office. The representative of India had stated that the committee should be an organ independent of political intrigues. Did she wish to infer that only persons who had held high judicial office were free from political pressure? It would be preferable to leave the settlement of this question to the organs responsible for the election of members of the committee.

57. Human rights would not be more competently defended or protected by professional jurists than by other persons. In fact, jurists often had a tendency only to concern themselves with juridical aspects of a problem, and the human aspects of questions relating to human rights might escape them. He therefore did not consider it desirable to require members of the committee to have held high judicial office and considered the initial version of text A was the most judicious.

58. The CHAIRMAN, speaking as the representative of the United States of America, stated that, in a spirit of conciliation, she was willing to accept the text proposed by the Greek representative, but she still preferred the retention of the original version of text A. Although she understood the anxiety of the representative of India and the representative of France to ensure that the committee would be independent and impartial by including in it high judicial personages, her personal experience enabled her to state that political intrigue was carried on among such persons as it was among others.

59. Mr. NISCF (Belgium) would vote for text A, because it was essential to avoid giving the impression that the Commission wished to set up a judicial organ.

60. Mr. KYROU (Greece) explained that he had submitted his proposal in an attempt to bring about unanimity in the Commission. In reply to the representative of the United Kingdom, he stated that in his opinion his suggestion did not imply laying any special stress on judicial qualifications. His amendment said that it would be advisable for the committee to include persons who had held high judicial office, but that was not made a sine qua non condition.

61. Mrs. MEETA (India) recalled that the original Indian proposal referred to "independent members". She insisted upon that qualification, which seemed to be preferable to that proposed by the Greek representative. If the latter would agree to substitute that wording for his own, the Indian delegation would vote for the Greek proposal.

62. Mr. RAMADAN (Egypt) expressed his approval of text A, as amended by Greece. While it would be useful if the committee included persons who had held high judicial office, it was not absolutely necessary that it should do so. The wording proposed by the representative of Greece was therefore highly judicious.

63. Mr. CASSIN (France) wanted to remove any suggestion of bias which he might have given. It was obvious that the committee should not be composed solely of jurists, and a place would have to be left for thinkers and philanthropists and experienced administrators. Nevertheless, when the question arose whether or not rights had been violated, it would be necessary to refer to jurists. The committee would not be a legislative body and would only draw up reports, but its membership would have to include jurists who could guide the technical side of its work so that it could ascertain the facts and determine competences. In order that unanimity might be reached in the Commission, he was prepared to accept the amendment proposed by Greece to text A which, although imperfect, nevertheless represented a step in the right direction.

64. Mr. MENDEZ (Philippines) found that the shortcoming of text B lay in its implication that persons who had held high judicial office were necessarily persons of high standing. That was not always true. Text A proposed by the United Kingdom and the United States was more likely to ensure the membership in the committee of persons of high standing.

/65. Mr. NISOT

65. Mr. NISOT (Belgium) pointed out that if the Commission were to show any preference for jurists, the Governments would not fail to appoint eminent jurists almost exclusively, so as to ensure that they would not be under-represented in relation to the other States; that would result in giving the committee the character of a judicial organ.

66. Mr. VALENZUELA (Chile) asked that a vote should be taken in the first instance on the part which was common to both texts, namely, from the beginning of the paragraph to the word "covenant", and in the second place, on the amended text, against which the Chilean delegation would vote. He called attention to his preference for text A, for by adopting text B, regulations contrary to the sovereignty of States would be introduced.

67. Mr. TSAO (China) would vote for text A. He appreciated the spirit of conciliation behind the verbal amendment submitted by Greece. The Commission was however drawing up a legal instrument. The text of the Greek amendment merely expressed a preference, whereas the other articles expressed formal conditions.

68. Mr. KYROU (Greece), in reply to the representative of China, recognized that his amendment was of a supplementary character, the text to which it was added being the substantive part of the paragraph.

69. The CHAIRMAN called upon the Commission to vote on the first part of paragraph 2, consisting of the text common to alternatives A and B, from the beginning of the paragraph to the word "covenant".

The text was adopted unanimously.

70. The CHAIRMAN stated that the additional text proposed by the representative of Greece constituted an amendment and that it should therefore be put to the vote first. That text constituted the second sentence in paragraph 2 and was drafted in the following form:

"It would be advisable for some of the members to be persons who have held high judicial office".

The text was not adopted, 7 votes being cast in favour and 7 against, with 1 abstention.

/71. The CHAIRMAN

71. The CHAIRMAN called upon the Commission to vote on the second part of the original text of alternative A, from the words "who shall be persons" to the end of the paragraph.

The text was adopted by 9 votes to 3, with 3 abstentions.

72. The CHAIRMAN called upon the Commission to vote on article 1 as a whole, including the original version of text A as paragraph 2.

The text of article 1 as a whole was adopted by 11 votes to none, with 4 abstentions.

The meeting rose at 1.5 p.m.