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COMMISSION ON HUMAN RIGHTS

Sixth Session

SUMMARY RECORD OF THE HUNDRED AND EIGHTY-NINTH MEETING

Held at Lake Success, New York,
on Friday, 12 May 1950, at 11.15 a.m.

CONTENTS: Draft international covenant on human rights and measures of implementation: (E/1371, Annex III, E/CN.4/366, E/CN.4/366/Corr.1, E/CN.4/353/Add.10, E/CN.4/353/Add.11)(continued)
Proposal concerning measures of implementation submitted by France, India, United Kingdom of Great Britain and Northern Ireland, and the United States of America, (E/CN.4/474 and E/CN.4/488)(continued)
Articles 4 and 6 to 11

<u>Chairman:</u> Mrs. ROOSEVELT	United States of America
<u>Members:</u> Mr. WHITLAM	Australia
Mr. NISOT	Belgium
Mr. VALENZUELA	Chile
Mr. CHIANG	China
Mr. SORENSEN	Denmark
Mr. RAMADAN	Egypt
Mr. CASSIN	France
Mr. THEODOROPOULOS	Greece

Members (continued):

Mrs. MEHTA	India
Mr. MENDEZ	Philippines
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mr. ORIBE	Uruguay
Mr. JEVREMOVIC	Yugoslavia

Representatives of non-governmental organizations:

Category A:

Miss SENDER	International Confederation of Free Trade Unions (ICFTU)
Mrs. SPRAGUE	World Federation of United Nations Associations (WFUNA)

Category B:

Mrs. NOLDE	Commission of the Churches on International Affairs
Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mr. BEER) Mr. HERLING)	International League for the Rights of Man
Mr. GROSSMAN	World Jewish Congress

Secretariat:

Mr. SCHWELB	Assistant Director, Division of Human Rights
Mr. STAVROPOULOS	Director, Division of Immunities and Treaties
Mr. DAS	Secretary of the Commission

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION:
(E/1371, Annex III, E/CN.4/366, E/CN.4/366/Corr.1, E/CN.4/353/Add.10, E/CN.4/353/Add.1)(continued)

Proposal concerning measures of implementation submitted by France, India, the United Kingdom and the United States of America (E/CN.4/474, E/CN.4/488)
(continued)

1. The CHAIRMAN invited the Commission to resume discussion of the proposal on measures of implementation submitted by France, India, the United Kingdom and the United States of America (E/CN.4/474).

2. Mr. WHITLAM

2. Mr. WHITLAN (Australia) recalled the Chairman's remarks of the previous day regarding the amendments to be made to articles 4, 6, 7 and 12 of the draft in compliance with the Commission's decision on article 5. Although ^{had} he voted against the new article 5, he would vote for the other articles, as amended, on the understanding that the question of principle raised by article 5 would be reconsidered later by the competent organs of the United Nations.

Article 4

3. The CHAIRMAN put the original wording of article 4 to the vote.
The original wording of article 4 was adopted unanimously.

Article 6

4. The CHAIRMAN asked the Commission to state its views on alternative A, to which the Uruguayan delegation had proposed an amendment concerning the quorum necessary for the election of members of the committee (E/CN.4/453).

5. Mr. NISOT (Belgium) thought that the original text would meet the case provided the words "and voting" were deleted, so as to avoid decisions being taken by too small a majority.

6. The CHAIRMAN considered that it would be better to fix a quorum, as suggested by the representative of Uruguay; there might be some difficulty in gathering a sufficient majority of States parties every time elections were necessary.

7. Mr. ORIBE (Uruguay) said that the purpose of his amendment to article 6 was to show clearly the need for a quorum for the election of members of the committee. The Commission would decide on that quorum when it considered the first part of article 6. His amendment corresponded to article 19 of the Rio de Janeiro Inter-American Treaty of Mutual Assistance.

8. Mrs. MENA (India) asked what would happen if the States voting were an even number and the vote were a tie.

9. Mr. CRIBE (Uruguay) replied that the Committee would take a decision on that matter when it adopted its rules of procedure. His delegation's amendment did not mention the size of the quorum; that would have to be decided by the committee itself.

10. Mr. HARRIS (United Kingdom) pointed out that the second sentence of article 6 meant that the number of States voting might be less than the number ratifying the covenant. A tie would make it impossible to elect members to the committee. A provision to that effect should, therefore, be adopted.

11. The Uruguayan representative's suggestion did not seem very ^{practical,} however, as States parties to the covenant would doubtless be anxious to fulfil their obligations under the covenant and would most certainly send representatives for the election of members of the committee. It was therefore very unlikely that the number of States voting would be less than, or equal to, that of the number of States which had failed to send representatives. He was in favour of the original wording A. By adopting the Uruguayan amendment, the Commission would be deciding in advance on a provision which should normally be settled by the committee's rules of procedure.

12. Mr. ORIBE (Uruguay) agreed that States would not fail to fulfil their obligations, but thought that a quorum was nevertheless necessary. The more States voting in the election of members, the greater the prestige of the committee would be. In reply to the United Kingdom representative, Mr. Oribe said that he did not think that the establishment of a quorum was merely a detail to be mentioned in the committee's rules of procedure; on the contrary the very structure of the committee depended on the quorum. A quorum would enable the committee to work better.

13. The CHAIRMAN reminded the Commission that the rules of procedure of every body contained a rule on quorums. She believed that it would suffice to adopt the second sentence in article 6, as most of the States parties to the covenant would be anxious to take part in the election of members.

14. Mr. THEODOROPOULOS (Greece) was in favour of the Uruguayan amendment. The establishment of a quorum would make it possible to assess the interest of States in the committee's work. If the quorum was not reached, it could be assumed that the machinery which the Commission on Human Rights was creating must be improved.

15. Mr. SORENSEN (Denmark) said that there were two questions which would have to be settled: first, the minimum number of States taking part in the elections and secondly, the majority needed for the adoption of a decision. The Uruguayan amendment mentioned a quorum to be determined only when the representatives sent by States parties to the covenant actually met. However, if the Commission wanted to specify the minimum number of States participating in the committee's work, the Uruguayan amendment ought to be altered as follows:

"For the purpose of elections, a quorum shall be constituted
by the majority of States parties to the covenant."

16. Mr. ORIBE (Uruguay) pointed out once more that the adoption of his amendment depended on the adoption of the second sentence of article 6. If that sentence was adopted as it stood, he would have to alter his text accordingly. But if the words "and voting" were eliminated from the second sentence of article 6, he would maintain his amendment in its existing form. He therefore asked the Commission to vote first on the two sentences of text A of article 6.

17. Mr. CHANG (China) wanted the Commission to vote on the words "and voting". The members of the committee ought to be highly respected and ought therefore to be elected by the majority of States parties to the covenant.

18. Mrs. MEHTA (India) agreed with the Chinese representative. She observed that unless the Commission enacted an appropriate provision, the members of the committee might well be elected by a very small number of States parties to the covenant.

19. The CHAIRMAN pointed out that the amendment to the amendment of Uruguay proposed by the Danish representative, met the point raised by the Chinese representative.

20. Mr. CASSIN (France) suggested that the Danish amendment should be altered as follows:

"A quorum shall be constituted by two-thirds of the States parties to the covenant."

21. Mr. SORENSEN (Denmark) accepted the French representative's suggestion.

22. Mr. ORIBE (Uruguay) approved the text proposed by the Danish representative.

The Danish amendment was adopted by 12 votes to none, with 1 abstention.

Text A for article 6 was adopted by 11 votes to none, with 2 abstentions.

Article 6 as a whole, as amended, was adopted by 9 votes to none, with 4 abstentions.

Article 7

23. The CHAIRMAN put the original text of article 7 of the joint draft to the vote.

The original text of article 7 of the joint draft was adopted by 9 votes to none, with 2 abstentions.

Article 8

24. Mr. NISOT (Belgium) would have preferred it to be explained, in the second paragraph of article 8, that any member of the committee elected to replace a member whose term of office had not expired "would only be elected for the remainder of his predecessor's term." However, he would not press that wording.

25. Mr. CASSIN (France) said that the first paragraph of the article should be so altered as to take account of the amendments made in article 3 and the following articles.

26. In answer to the CHAIRMAN, who proposed the formula "shall be filled by the procedure laid down in the preceding articles", Mr. CASSIN (France) pointed out that it was inappropriate to refer to article 2, paragraph 3 of which did not apply to the election of candidates to casual vacancies.

27. Mrs. MEHTA (India) was in favour of the original text of paragraph 3.

28. Mr. WHITLAP (Australia) proposed the formula "the procedure laid down for a regular election".

29. Mr. HOARE (United Kingdom) said that, in virtue of the original text, casual vacancies should be filled in the same way as regular vacancies. With regard to the Australian representative's proposal, he said that as a result of the Danish and French amendments to article 3, the list of candidates nominated by States would be valid for two or three years. If it was provided that in the case of a vacancy the same procedure would be followed as in regular elections, States would be enabled to submit supplementary lists, which was to be avoided. It was necessary to proceed with a great deal of caution.

30. The CHAIRMAN, speaking as the representative of the United States of America, did not think that the Secretary-General would have any difficulty in assembling the members of the permanent delegations of Member States in order to fill vacancies. It would not be appropriate to give the same State the absolute right of having one of its own candidates occupy a seat which had accidentally become vacant. Should there be a large number of contracting States, as many of them as possible should be able to nominate candidates for seats which became vacant.

31. Mr. HOARE (United Kingdom) proposed that the first paragraph of article 8 should be amended as follows: "Vacancies shall be filled by election according to the procedure laid down in articles 3, 4, 5 and 6".

32. The CHAIRMAN, speaking as representative of the United States of America, Mr. CASSIN (France) and Mrs. MEHTA (India) accepted that text.

33. The CHAIRMAN put the United Kingdom representative's proposal to the vote.

The text proposed by the United Kingdom representative was adopted by 7 votes to 1, with 5 abstentions.

34. The CHAIRMAN put the second paragraph of article 8 to the vote.

The paragraph was adopted unanimously.

Article 8 as a whole was adopted by 11 votes to none, with 2 abstentions.

Article 9

35. The CHAIRMAN put article 9 to the vote.

Article 9 was adopted by 11 votes to none, with 2 abstentions.

Article 10

36. Mr. NISOT (Belgium) recalled that the Secretary-General was the person to act in the case of the resignation of a member of the committee. He therefore proposed the following amendment to the text of article 10: "The resignation of a member of the committee shall be addressed to the Secretary-General of the United Nations, who shall inform the chairman".

37. Mr. HOARE (United Kingdom) thought that the principle set forth in article 10, which was in fact the usual procedure, should be retained. If the chairman of the committee was absent, the resignation would be transmitted to the Secretary-General.

38. Mr. NISOT (Belgium) said that, in order to meet the point raised by the United Kingdom representative, he was prepared to change his amendment to read: "The resignation of a member of the committee shall be addressed to the chairman, through the intermediary of the Secretary-General".

39. Mr. MENDEZ (Philippines) agreed with the United Kingdom representative's criticism. It was an elementary rule that the resignation of a member of the committee should be addressed to the chairman. There was no need for the Secretary-General to intervene in the matter.

40. Mr. ORIBE (Uruguay) said that, if he had understood correctly, the representative of Belgium feared that, if the resignation of a member of the committee was addressed to the chairman, the Secretary-General might not always be informed of the matter. He did not think that fear was justified. In any event, the usual procedure was for the resignation of a member of any organ to be addressed to the chairman and he felt that that procedure should be followed. He would therefore vote in favour of the original text.

41. Mr. MENDEZ (Philippines) asked the representative of Belgium for some clarification. If the resignation was addressed to the chairman through the intermediary of the Secretary-General, how would the Secretary-General know that it was a resignation and that he should transmit it to the chairman?

42. Mr. NISOT (Belgium) explained that it might be difficult for the members of the committee to reach the chairman, whereas the Secretary-General had a fixed address.

43. Mr. CASSIN (France) said that the members of the committee should first notify the chairman of their resignation. It might, for example,

be said that members of the committee should address their resignations to the chairman and should inform the Secretary-General. That would be the more correct procedure. Another solution would be to say that the resignation should be addressed to the chairman through the intermediary of the secretary of the committee. Care should be taken, however, to avoid making the Secretary-General intervene as a third party between the members of the committee and the chairman.

44. Mr. HOARE (United Kingdom) supported the French representative's suggestion, which he preferred to the Belgian representative's proposal. The secretary of the committee would be appointed by the Secretary-General. He would therefore be permanently at the Headquarters of the United Nations and would be able to get in touch with the chairman easily.

45. Mr. ORIBE (Uruguay) agreed with the representative of France. The original text might lead to confusion since it could be interpreted as meaning that the resignation of a member of the committee would be valid only after it had been transmitted to the Secretary-General. The resignation should however be effective and valid from the moment that it was brought to the chairman's notice.

46. Mr. MENDEZ (Philippines) thought it was useless to provide for all those details and that it would be better simply to say that the resignation should be addressed to the chairman.

47. Mrs. MEHTA (India) preferred the original text of article 10. The resignation should be addressed to the chairman and the Secretary-General should be informed of it so that he could take all the necessary measures for the election of a new member.

48. Mr. RAMADAN (Egypt) thought that, out of customary respect for the chairman, the resignation of any member of the committee should always be addressed to him. The fact that the resignation was transmitted to the Secretary-General did not in any way prevent its becoming effective from the moment it was sent to the chairman.

/49. Mr. CASSIN

49. Mr. CASSIN (France) proposed the following text: "The resignation of a member of the committee may be addressed to the chairman through the intermediary of the secretary of the committee, who shall immediately inform the Secretary-General of the United Nations".

50. The CHAIRMAN put that proposal to the vote.

The proposal was adopted by 9 votes to none, with 3 abstentions.

51. The CHAIRMAN called for a vote on the whole of article 10 as amended.

The whole of article 10, as amended, was adopted by 9 votes to none, with 4 abstentions.

Article 11

52. Mr. THEODOROPoulos (Greece) asked the authors of the article for some details. He wanted to know whether the members of the committee would enjoy diplomatic privileges and immunities in their own countries.

53. Mr. CASSIN (France) said that the only aim of the Drafting Committee in proposing that article had been to give members of the committee the necessary safeguards for the free exercise of their duties. Those safeguards should protect them within their own countries as well as abroad.

54. Mr. CRIBE (Uruguay) wanted to hear the views of the Secretariat on the question of privileges and immunities of members of the committee because officials of the United Nations enjoyed privileges and immunities which were somewhat different from diplomatic privileges.

55. Mr. STAVROPOULOS (Secretariat) said that the Charter of the United Nations had laid down a system of functional privileges and immunities which were not as extensive as the diplomatic ones. He could not, however, see any objections to granting diplomatic privileges and immunities to the members of the committee inasmuch as they were concerned with a particular covenant which was quite separate from the Charter.

56. The CHAIRMAN put the original text of article 11 of the draft to the vote.

The original text of article 11 of the draft was adopted by 11 votes to none, with 2 abstentions.

The meeting rose at 1 p.m.