

UNITED NATIONS  
ECONOMIC  
AND  
SOCIAL COUNCIL



GENERAL

E/CN.4/SR.197

29 May 1950

ENGLISH

ORIGINAL: FRENCH

COMMISSION ON HUMAN RIGHTS

Sixth Session

SUMMARY RECORD OF THE HUNDRED AND NINETY-SEVENTH MEETING

Held at Lake Success, New York,  
on Wednesday, 17 May 1950, at 2.15 p.m.

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|                  |                |                          |
|------------------|----------------|--------------------------|
| <u>Chairman:</u> | Mrs. ROOSEVELT | United States of America |
| <u>Members:</u>  | Mr. WHITLAM    | Australia                |
|                  | Mr. NISOT      | Belgium                  |
|                  | Mr. VALENZUELA | Chile                    |
|                  | Mr. CHANG )    | China                    |
|                  | Mr. TSAO )     |                          |
|                  | Mr. SORENSEN   | Denmark                  |

Members (continued):

|                |   |
|----------------|---|
| Mr. RAMADAN    | Egypt   |
| Mr. CASSIN     | France  |
| Mr. KYROU      | Greece  |
| Mrs. MEHTA     | India   |
| Mr. MALIK      | Lebanon   |
| Mr. MENDEZ     | Philippines   |
| Miss BOWIE     | United Kingdom of Great Britain and<br>Northern Ireland |
| Mr. ORIBE      | Uruguay   |
| Mr. JEVREMOVIC | Yugoslavia  |

Representative of a specialized agency:

|                |                                 |
|----------------|---------------------------------|
| Miss GRENSTEIN | World Health Organization (WHO) |
|----------------|---------------------------------|

Representative of non-governmental organizations:

|                    |               |   |
|--------------------|---------------|---|
| <u>Category A:</u> | Miss SENDER   | International Confederation of Free<br>Trade Unions (ICFTU) |
|                    | Mrs. BERG     | World Federation of United Nations<br>Associations (WFUNA)  |
| <u>Category B:</u> | Mrs. AIETA    | Catholic International Union for<br>Social Services         |
|                    | Miss ROBB     | International Federation of University<br>Women             |
|                    | Mr. BEER      | International League for the Rights of<br>Man               |
|                    | Miss SCHAEFER | International Union of Catholic<br>Women's Leagues          |
|                    | Mr. HALPERIN  | Jewish Organizations for Consultation                       |
|                    | Mr. GROSSMAN  | World Jewish Congress                                       |

Secretariat:

|               |   |
|---------------|---|
| Mr. SCHWELB   | Assistant Director of the<br>Division of Human Rights |
| Mr. SCHACHTER | Legal Department                                      |
| Mr. DAS       | Secretary of the Commission                           |

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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)  
New proposals concerning reservations to the covenant, submitted by the United Kingdom (E/CN.4/375) and Belgium (E/CN.4/486)

1. The CHAIRMAN called upon the Commission to state its views on the United Kingdom proposal to add a new article on reservations to the draft covenant (E/CN.4/375) and the Belgian proposal for an additional article on the same subject (E/CN.4/486).

2. Miss POWIE (United Kingdom) explained that the laws of some States, which were most anxious to ratify the covenant, might not always conform exactly to the provisions of the covenant. Such States would need time to amend their laws; that might delay the ratification of the covenant. The United Kingdom delegation had submitted its additional article in order to prevent such delays and to enable States to ratify the covenant quickly.

3. The CHAIRMAN, speaking as the United States representative, said that her delegation was opposed to the United Kingdom's proposed new article, which would enable contracting parties to modify their obligations under the covenant to suit themselves. Paragraph 1 of the proposed article provided that a contracting party could make a reservation in respect of any provision of the covenant to the extent that any law then in force in its territory was not in conformity with that provision. Such a provision would be tantamount to inviting the various States to make reservations; the result would be that each contracting party would redraft the covenant on human rights to suit itself. Moreover, according to that same article, there would be no need for the consent of the other contracting parties to such reservations. Contracting parties would thus be given too much freedom.

4. Mr. NISOT (Belgium) said that, according to the system usually adopted by the United Nations, the accession of a State was regarded as invalid with regard to all the contracting parties, if it was accompanied by a reservation which had been rejected by any one of them. On the other hand, according to the additional article proposed by the Belgian delegation, the accession would only be regarded as invalid in respect of the contracting parties which had rejected the reservation and would be valid with regard to all the rest. Thus, being more elastic, the Belgian formula was more favourable to the formation of contractual engagements; it enabled States to assume certain obligations in circumstances in which the United Nations system did not permit them to assume any.

5. The CHAIRMAN, speaking as the United States representative, felt that the proposed Belgian article was preferable to that of the United Kingdom. At the same time, the Belgian proposal would also be in the nature of an invitation to the various States to make reservations. It was obvious that the inclusion, in the covenant on human rights, of a clause providing for reservations would greatly increase the number of reservations.

6. Mr. KYROU (Greece) suggested that the two additional articles proposed by the United Kingdom and Belgium might be combined to form a single article. Paragraph 1 of the Belgian article would become the first paragraph of the combined article, paragraph 2 of the United Kingdom proposal would become the second paragraph of the combined article, while paragraph 2 of the Belgian proposal would become the third paragraph of the combined article. That combined article might be given the form of a resolution to the Economic and Social Council.

7. Miss BOWIE (United Kingdom) could not accept the Greek representative's suggestion, and called attention to the fact that the United Kingdom and Belgian proposals provided for two entirely different forms of procedure.

8. Mr. SORESENSEN (Denmark) readily understood why the United States delegation could not accept the two additional articles, submitted to the Commission. Yet, if neither of those proposals was adopted, many States would consider themselves unable to ratify the covenant. The Governments of Norway and the Netherlands had favoured the insertion of such an article in the covenant.

9. The Belgian additional article could quite well be put into effect if the covenant were of a bilateral character. As things stood, however, a State had to know in advance that all provisions would be accepted by the contracting parties, otherwise it could not ratify the covenant. The United Kingdom proposal, on the other hand, put the problem in a clear setting. It authorized reservations only on limited questions, and for that reason he approved it.

/s/ Mr. NISOT

10. Mr. NISOT (Belgium) thought that the disadvantage of the article proposed by the United Kingdom was that it authorized specific reservations only, and excluded all other categories, including those made in accordance with usual United Nations procedure. In the Commission adopted the United Kingdom article, it should do so in full awareness of the legal consequences involved.

11. Mr. CASSIN (France) pointed out that the United Kingdom article would become important once the whole procedure for accession to the covenant had been settled by the previous adoption of appropriate legislation. But, since the Commission had decided that States could bring their legislation into conformity with the provisions of the covenant "within a reasonable time", the article seemed inappropriate.

12. In connexion with the French text of the United Kingdom article, Mr. Cassin said that the expression "disposition législative" used in the first and second paragraphs should be replaced by the words "règle de droit".

13. Mr. CHANG (China) said that, having heard the explanation given by the representative of Belgium, he could not support the Belgian text. Indeed, it was essential not to give the covenant a bilateral character and, on the contrary, to lay stress on its wider scope.

14. Mr. JEVREMOVIC (Yugoslavia) could support neither the United Kingdom nor the Belgian proposal, and that for the following reasons. First, the covenant itself contained a number of restrictive provisions. Secondly, it had been decided to allow the contracting parties a reasonable time within which to bring their legislation into conformity with the provisions of the covenant. Finally, article 4 of the covenant itself permitted contracting parties to limit the application of its provisions in certain important instances.

15. Respect for human rights would appear from the proposed Belgian article to be a problem arising between two States, whereas, in fact, it concerned the United Nations as a whole. It was therefore not possible to restrict the application of the provisions of the covenant to an extent greater than that already provided for by certain of its articles.

16. Mr. MENDEZ

16. Mr. MENDEZ (Philippines) said that he would vote against the United Kingdom article.

17. Mr. MALIK (Lebanon) shared the view of the representative of Yugoslavia. The provisions of the covenant were so fundamental in character as to make it difficult to envisage the possibility of making reservations in connexion with them. Mr. Malik asked the representative of Denmark if he could give the Commission an example of a provision in regard to which his country would wish to make a reservation.

18. Mr. SORENSÉN (Denmark) replied that in the case of mentally afflicted persons the legislation of his country included no provision of the kind contained in paragraph 5 of article 9 of the covenant. If Denmark agreed to ratify the covenant without reservation it would have to adopt legislation in that respect. On the other hand, if Denmark made such a reservation and another contracting party refused to accept it, then, according to the Belgian article, Denmark would not be bound in relation to that particular contracting party, but would nevertheless remain bound in relation to all contracting parties which had accepted its reservation.

19. Mr. NISOT (Belgium) pointed out that in accordance with the procedure usually employed by the United Nations, Denmark would not be bound in respect of anyone in such a case. Under the system suggested by the Belgian delegation, most international commitments would still hold good.

20. The CHAIRMAN, speaking as representative of the United States of America asked the representative of the United Kingdom how, under the system suggested in her proposal, it would be possible for a State to make a reservation regarding the sense of article 20 if it had no legislation dealing with the subject of that article. Would not such a reservation be excluded by the adoption of the United Kingdom additional article?

21. Miss BOWIE (United Kingdom) replied that it was a question of a reservation as to the interpretation of an article --- not a reservation prompted by considerations of legislation to be adopted later. She did not know whether, under the system applied by the United Nations, it was usual to make reservations on the actual meaning of an article.

/22. Mr. NISOT

22. Mr. NISOT (Belgium) considered that in adopting the proposed United Kingdom article it would not be possible to apply the procedure usually followed by the United Nations in the matter of reservations. In particular, it would be impossible for a Government, acting under pressure from its Parliament, to adopt the text of the covenant while making reservations as to the interpretation of any given article.

23. Mr. SCHACHTER (Secretariat) thought that in the case of reservations not covered by paragraphs 1 and 2 of the United Kingdom additional article, the Secretary-General would follow the normal procedure, which was to bring them to the notice of all contracting parties. If all the parties to the Covenant approved a reservation it would be accepted; if one or two States did not approve it, the reservation and the ratification or accession would be rejected.

24. The reservations provided for by the United Kingdom article could be made by contracting parties without need of the acceptance of the other signatories of the covenant.

25. Miss BOWIE (United Kingdom) stated that if the proposed United Kingdom article were adopted, the procedure it envisaged would be the only appropriate one to follow in making reservations; it would exclude the reservation procedure usually employed by the United Nations.

26. The CHAIRMAN said that, in such conditions, the Commission could adopt either the procedure described in the United Kingdom additional article, which envisaged a very limited reservation system, or that suggested by the Belgian article, or it would reject both articles, in which case the system applied by the United Nations would be used for the covenant.

27. Mr. ORIBE (Uruguay) thought that the interpretation given by the representative of the Secretariat was correct. There were reservations regarding such matters as the date of application of the covenant, the territories in which it would be brought into force, constitutional powers and so on, which would not be covered by the United Kingdom proposal. If the United Kingdom delegation wished to exclude that kind of reservation, it should say so clearly in its text.

28. Miss BOWIE (United Kingdom) said that in the light of the comments of the Uruguayan representative, she would alter the text of paragraph 1 of her proposal as follows: "make a reservation only in respect of..."

29. The CHAIRMAN said that in accordance with rule 61 of the rules procedure she would put the proposed United Kingdom article, which had been the first to be submitted to the Commission, to the vote first.

30. Mr. NISOT (Belgium) asked that the Belgian additional article should be put to the vote before the United Kingdom article, as it was more sweeping than the latter. Moreover, if the Belgian article was not adopted, he might perhaps be able to vote for the United Kingdom article. If the United Kingdom article was put to the vote first, he would be obliged to vote against it.

31. The CHAIRMAN asked the members of the Commission whether they wished to vote first on the Belgian article.

It was decided to put the Belgian additional article to the vote first by 5 votes to 2, with 7 abstentions.

The Belgian additional article (E/CN.4/486) was rejected by 9 votes to 3, with 3 abstentions.

32. The CHAIRMAN put to the vote the word "only" which the United Kingdom representative had proposed to insert in paragraph 1 of her proposed additional article.

It was decided not to insert the word "only" in paragraph 1 of the United Kingdom proposed additional article by 6 votes to 1, with 8 abstentions.

The United Kingdom proposed additional article (E/CN.4/375) was rejected by 9 votes to 4, with 2 abstentions.

33. Mr. NISOT (Belgium) said he interpreted the vote to mean that the system of reservations usually followed by the United Nations would be applicable to the covenant.

Articles 24 and 25 (E/CN.4/365, E/CN.4/353/Add.10, E/CN.4/437, E/CN.4/494)

34. Miss BOWIE (United Kingdom) recalled that it was the Commission's chief duty to communicate to the Economic and Social Council the second part of the draft covenant and the articles on measures of implementation. It would therefore  
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be out of place to enter into a lengthy discussion of articles 24 and 25, since they would be discussed in detail by the Economic and Social Council. She therefore made a formal proposal that the Commission should not discuss articles 24 and 25.

35. Mr. KYROU (Greece) seconded the United Kingdom proposal and added that the Commission could ask the Economic and Social Council to interpret Article 69 of the Charter very broadly when it came to discuss articles 24 and 25 of the draft covenant.

36. The CHAIRMAN, speaking as the representative of the United States of America, said that she was against the United Kingdom proposal. The Commission on Human Rights was the only body competent to discuss articles 24 and 25 in detail and decide on the need for and content of those articles. The Economic and Social Council and the General Assembly would not be able to take any useful decision unless the Commission had first followed such a procedure. She recalled the difficulties which had arisen in the General Assembly when that body had discussed, in the absence of recommendations, the federal and colonial clauses in connexion with the Convention for the suppression of the traffic in persons and of the exploitation of the prostitution of others.

37. Mr. RAMADAN (Egypt) recalled that when the federal clause had come up for consideration, the Third Committee of the General Assembly had decided to refer the problem to the Sixth Committee. The latter had held several meetings without being able to come to any agreement. Finally, the Sixth Committee had decided to delete the federal clause of the Convention on the suppression of prostitution.

38. With regard to the colonial clause, he pointed out that the General Assembly had discussed that question at length at several sessions and the position of each country was clearly defined. It was obviously not the same in the case of the federal clause.

39. Mr. WHITLAM (Australia) supported the United Kingdom proposal. He thought that the two articles 24 and 25 in no way affected the substance of the covenant and that, moreover, the Commission would obviously not have time to discuss them.

/40. Mr. VALENZUELA

40. Mr. VALENZUELA (Chile) pointed out that the federal clause would in fact apply to one country only; namely, the United States of America, as in most of the other federal States the central Government had greater power than in the United States. Since the ratification of the covenant by that country would depend on the action taken on article 24, the article should be discussed.

41. The colonial clause had given rise to lengthy discussion in the General Assembly and the position of each delegation on it was consequently well known. The Chilean representative therefore suggested that the Commission should proceed at once with the consideration of article 24 and that after that article had been discussed the United Kingdom delegation should re-introduce its proposal, limiting it however to article 25.

42. The CHAIRMAN, speaking as the United States representative, emphasized that her Government was not the only one to be affected by the federal clause and that it could not take a decision on the covenant without first having heard the views of the members of the Commission concerning the federal clause. She would readily agree that article 25 should not be discussed at the current session.

43. Miss BOWIE (United Kingdom), in reply to the Chilean representative, said that articles 24 and 25 were closely linked with each other. Ratification of the covenant would largely depend, in the case of a number of States, on the adoption of those articles.

44. Mr. CASSIN (France) shared the United Kingdom representative's view. He pointed out that France could be counted among the federal States; indeed, important territories of the former French empire had recently acquired sovereignty. The Commission should discuss articles 24 and 25 either together or not at all.

45. Mr. MALIK (Lebanon) was opposed to the United Kingdom proposal, and agreed with the Chairman's view. The Commission should transmit recommendations on both articles 24 and 25 to the Economic and Social Council and the General Assembly.

46. Mr. ORIBE (Uruguay) emphasized that both the colonial and federal clauses had legal and political aspects. He added that the Commission could not  
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take up the discussion of the two clauses at the present time as their legal and political consequences had never been studied. It would therefore only be able to deal with the matter superficially. He therefore supported the United Kingdom proposal and suggested that the Secretariat should be asked to study the legal and political implications of the federal and colonial clauses.

47. The CHAIRMAN put to the vote the United Kingdom proposal to postpone the consideration of articles 24 and 25.

The United Kingdom proposal was adopted by 8 votes to 5, with 1 abstention.

48. The CHAIRMAN, speaking as the United States representative, said that in view of the vote just taken by the Commission her Government would not be able to vote on the draft international covenant on human rights.

49. Mr. SORENSEN (Denmark) said that he had voted in favour of the United Kingdom proposal in view of the fact that the Commission did not have the time to discuss articles 24 and 25. Those articles might be studied in detail by the Economic and Social Council which might be asked, as the Greek representative had suggested, to interpret Article 69 of the Charter in a broad sense when discussing the articles in question.

50. Mr. JEVREMOVIC (Yugoslavia) said he had voted against the United Kingdom proposal. Many representatives had stated that the matters in question had been discussed at length on a number of occasions. Consequently the members of the Commission were fully competent to discuss them without further delay.

51. Mrs. MEHTA (India) had voted for the United Kingdom proposal as the Commission did not have the time to discuss articles 24 and 25 which raised a number of constitutional questions and others of a very complicated nature. The whole matter should be decided by the General Assembly which would undoubtedly do so in a satisfactory manner.

52. Mr. KYROU (Greece) said that he had voted for the United Kingdom proposal for the reasons given by the Indian and Danish representatives.

53. Mr. RAMADAN (Egypt) said that he had voted in favour of the United Kingdom proposal. He agreed that the Commission on Human Rights was fully competent to study the colonial and federal clauses; the Sixth Committee of the General Assembly had, however, devoted a whole week to the consideration of the federal clause without reaching an agreement on the question. Everything went to show that for the moment the Commission did not have the time to embark on a thorough discussion of articles 24 and 25.

54. Mr. CASSIN (France) had been unable to vote for the United Kingdom proposal as in his view the Commission should not dissociate itself from the problems raised in articles 24 and 25. It was certain however that just when it was nearing the end of its work the Commission could not take a decision on those articles without full knowledge of the legal implications.

55. Mr. ORIBE (Uruguay) proposed that the Secretariat should be asked to study the legal consequences of articles 24 and 25.

56. Mr. WHITLAM (Australia) supported that proposal, urging that the Secretariat should study the precedents and practices observed by the United Nations.

57. Mr. SCHACHTER (Secretariat) said the Secretariat was quite ready to make an analysis of precedents and practices; he recalled that the Secretariat had already made a study of the texts bearing on the colonial clause. It would however not be possible for the Secretariat to make a study of the political aspects of the question nor of the aspects involving constitutional laws or laws relating to territorial organization.

The proposal of Uruguay was adopted by 10 votes to none, with 5 abstentions.

#### Article 26

58. The CHAIRMAN, speaking as the representative of the United States of America, said her delegation was willing to withdraw the amendment it had submitted to article 26 in favour of the amendment submitted by the French delegation,

/provided

provided that in the third paragraph of the French amendment, the word "ratified" was replaced by the word "accepted" and the words "by accession" were deleted. The terms used in the United States amendment were broader for there were several ways of accepting a covenant, among others signature and ratification; moreover, its terms were in accordance with those used in article 23. In connexion with paragraph 2 of the French amendment, Mrs. Roosevelt accepted the two-thirds majority provided for in the French amendment.

59. Mr. CASSIN (France) accepted the amendments proposed by the United States representative.

60. Mr. NISOT (Belgium) indicated that, in the case of amendments to the covenant, States non-members of the United Nations who were contracting parties would be excluded from the amendment procedure, according to the provisions of the French proposal, as far as the important stage before the Assembly was concerned. It would be preferable, under the circumstances, to provide for a diplomatic conference.

61. Mr. CASSIN (France) replied that the rights of contracting parties not Members of the United Nations would be safeguarded by the fact that proposed amendments to the covenant would be studied by a committee consisting of States parties to the covenant. Approval by the General Assembly would only come after that study. Procedure similar to that provided for in Article 37 of the Charter could no doubt be visualized, but the substance of the French amendment, which was to give the General Assembly the power of taking the final decision on amendments to the covenant, should not be deleted.

62. Mr. NISOT (Belgium) thought the intervention of the General Assembly in the revision of the covenant would create inequality between parties to the covenant depending on whether they were or were not Members of the United Nations. If the principle of supervision by the General Assembly must be maintained, non-member States parties to the covenant should at least be given the right to participate in the Assembly's deliberations. In that connexion, he recalled that States not Members of the United Nations who were parties to the Statute of the International Court of Justice had the right to participate in the latter's elections.

63. Mrs. MEHTA (India) said that such a precaution was unnecessary, as non-member States parties to the covenant remained free not to ratify amendments approved by the General Assembly. At all events, she thought the General Assembly should, in any case, have the right to approve amendments to a covenant drawn up under its auspices.

64. Mr. CASSIN (France), after recalling that the text proposed by his delegation was in substance identical to that submitted by the United Kingdom at the fifth session, emphasized that that text merely sanctioned current practice in the matter of amendments to international conventions.

65. Mr. ORIBE (Uruguay) asked the Secretariat what practice had so far been followed in multilateral conventions concluded under the auspices of the United Nations.

66. Mr. SCHACHTER (Secretariat) explained that in the Convention on Genocide, the article relating to revision provided that any contracting party could make a request for revision by means of a notification in writing addressed to the Secretary-General and that the General Assembly should decide upon the steps to be taken in respect of such requests.

67. Similarly, the Constitution of WHO provided for approval by the Assembly of WHO of any amendment proposed to the Constitution. Finally, similar provisions had been visualized for the Constitution of the International Maritime Consultative Organization.

68. Miss BOWLE (United Kingdom) said her delegation was absolutely convinced that amendments to the covenant should receive the approval of the General Assembly. Those amendments, even when approved by the General Assembly, would not be binding on States which did not wish to ratify them.

69. Mr. NISOT (Belgium) continued to believe that Members of the General Assembly, who were not parties to the covenant and who might even be opposed to it, should not be allowed to hinder the revision procedure. Moreover, although non-member States might not actually be required to ratify amendments approved by the General Assembly, they would nevertheless be placed on a footing of inequality, since they would not have had the opportunity of participating in the Assembly's deliberations.

70. Mr. WHITLAM (Australia) said that in principle his delegation supported the French amendment. It would have liked the insertion of a more precise provision providing for periodical revisions of the covenant, like the provision in Article 109 of the Charter for the review of the latter. However, since the French amendment contained no express provision against a periodical revision, he did not think there was any need to submit a formal amendment on the lines he had just indicated.

71. Mr. MENDEZ (Philippines) pointed out that the French proposal did not state who should have the right to initiate amendments. In that connexion, he drew the members' attention to the Philippine proposal (E/CN.4/365, page 69) for the addition of the following provision to the first paragraph of article 26:

"Any signatory State or Member State of the United Nations shall have the right to initiate amendments to this covenant."

72. Mr. CASSIN (France) said that, to act in accordance with the decisions it had already taken, the Commission could grant the right to initiate amendments only to contracting States.

73. Mr. RAMADAN (Egypt), recalling the Belgian representative's objections to the principle of approval of amendments by the General Assembly, doubted whether the latter would accept such a limitation of its prerogatives.

74. Mr. OPIBE (Uruguay) said the problem raised by the Belgian representative was of fundamental importance and confronted the Commission with two opposing conceptions.

75. According

75. According to the first, contracting States would make the decisions in matters relating to the covenant, once the latter had been drawn up and accepted by the General Assembly. They could amend it as they wished without the General Assembly having any say in the matter. According to the second conception, the General Assembly should not dissociate itself from the covenant, even after its coming into force, and would have to approve any amendment which it was proposed to make to it.

76. His delegation supported the first conception because it thought the covenant was an instrument of public order and, like every instrument of public order, could be amended only by an act contrary to the act which had established it. That was why his delegation would support the French proposal despite the fact that it was not logically compatible with the text of the articles which had already been adopted.

77. Mr. CASSIN (France) regretted that the Commission's decisions had been such as to imply that the number of contracting States would in all likelihood be very small and would, in fact, form what might be called a corpus separatum. Although the French delegation was in favour of the principle that the covenant should be universal, it had found itself obliged to take that situation into account and to grant further guarantees to contracting States. It had however tried to avoid breaking the link with the General Assembly by stating in its draft that the Assembly would have the right to approve proposed amendments to the covenant. It was open to question whether it would not be an infringement of the General Assembly's sovereignty to make of it a kind of parliament which was merely asked to approve or reject amendments.

78. In reply to the objections raised by the Belgian representative, Mr. Cassin recalled that amendments to ILO conventions were subject to approval by all members of that Organisation including those who were not Parties to the conventions in question.



79. Mr. MENDEZ (Philippines) stated that as a result of the discussion which had just taken place, he proposed to modify his amendment so as to confer on contracting States alone the right to take the initiative in amending the covenant. He therefore proposed the following text:

"States Parties to the covenant may initiate an amendment which shall be first voted by a conference consisting of all Parties to the covenant."

80. Mr. KYROU (Greece) thought the word "first" unnecessary. It might perhaps be advisable to add the words "at the Headquarters of the United Nations" in order to indicate that any revision of the covenant was of interest to the United Nations.

81. Mr. CASSIN (France) was not in favour of stating where the conference should be held. Nevertheless, if the Greek representative insisted that his amendment should be retained, the words "or at Geneva" should be added.

82. Mr. KYROU (Greece) withdrew his amendment concerning the meeting place of the conference.

83. Mr. TSAO (China) stated that he would vote against the Philippine amendment since its result would be that the Members of the United Nations which were not Parties to the covenant would not have the right to initiate amendments to the covenant. How could they subsequently adhere to the covenant if they did not have the right to propose the amendments they desired?

84. Mr. NISOT (Belgium) accepted the Philippine amendment.

85. Mrs. MEHTA (India) was opposed to that amendment which would deprive States which were not Parties to the covenant of the right of participating in its revision.

86. The CHAIRMAN, speaking as representative of the United States of America, and Mr. SORENGEN (Denmark) thought that Members of the General Assembly which might be hostile to the covenant should be prevented from undermining its development.

87. Mr. MALIK (Lebanon) considered that the text proposed by the representative of the Philippines was incomplete. It should specify to whom the request for revision should be presented.

88. Mr. MENDEZ (Philippines) proposed to add the phrase: "The request shall be filed with the Secretary-General who shall notify the States Parties to the covenant."

89. In response to a request from the CHAIRMAN, Mr. CASSIN (France) stated that he would accept the text proposed by the Philippines in substitution for the first paragraph of the French amendment.

90. Mr. SCHACHTER (Secretariat) stated that as a general rule the Secretary-General convened a conference only when at least a third of the States Parties to a convention deemed it necessary. He therefore suggested that the Philippine amendment should be redrafted as follows:

"Any State Party to the covenant may propose an amendment and file it with the Secretary-General. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to the covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one-third of the States favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations." (E/CN.4/L.15)

91. Mr. NISOT (Belgium), Mr. CASSIN (France) and Mr. MENDEZ (Philippines) accepted that proposal.

92. The CHAIRMAN put to the vote the text proposed by Mr. Schachter.  
The text was adopted by 13 votes to 1.

93. Miss BOWIE (United Kingdom) proposed that the following sentence should be added to that text: "Any amendment accepted by the majority of the States present and voting at the conference shall be submitted to the General Assembly for approval".

94. She explained that her delegation was of the opinion that there was a certain number of rights, inter alia economic and social rights, which could not be the subject of negotiations between States Parties to the covenant alone.

95. Mr. NISOT (Belgium) stated that in voting for the text just adopted, he had understood that the General Assembly would not intervene in the revision of the covenant. He still considered that the United Kingdom amendment would be tantamount to giving Members <sup>of the Assembly</sup> that were not Parties to the covenant the right of vetoing any amendments that might be proposed.

96. Mr. ORIBE (Uruguay) pointed out that the United Kingdom amendment was a compromise between the two conflicting views of which he had spoken earlier and that it avoided placing questions of human rights outside the competence of the Assembly.

97. Mrs. MISHRA (India) accepted the United Kingdom amendment which merely specified that amendments should be submitted to the General Assembly for "approval".

98. Mr. WHITLAM (Australia) also supported that amendment because it met the essential requirement that the General Assembly's right of control should be safeguarded.

99. Mr. KYROU (Greece) thought that contracting States alone should retain the right to amend the covenant. That would in no way restrict the General Assembly's prerogatives since the Assembly would always be entitled, through the intermediary of the Commission on Human Rights, to initiate studies or the drafting of further covenants.

100. Mr. MENDEZ (Philippines) warned against the possibility that Member States not parties to the Covenant might not look with favour at the ends sought by the Contracting States or defeat any attempts at its improvement.

101. Miss BOWIE (United Kingdom) could not agree with the argument that contracting States should have a monopoly in achieving the fundamental objectives of the Charter.

102. Mr. JEVREMOVIC (Yugoslavia) said that what mattered most was that the covenant should be implemented and, in that respect, the role of the General Assembly was of primary importance. It was the General Assembly which had asked the United Nations to draft the covenant on human rights in order to give effect to the provisions of the Charter. Thus, after having adopted the covenant, the Assembly could not be expected to lose interest in the way in which it was implemented, nor could it be prevented from supervising its application. That was why his delegation was prepared to support the United Kingdom proposal on the understanding that the Assembly would not confine itself to approving amendments to the covenant but would also be able to discuss and change them.

103. Mr. CASSIN (France) thought that what was wanted was a realistic approach to the problem. The Commission had created a small group of States Parties to the covenant. That group should have many members. He hoped therefore that, during the second reading, the Commission would reconsider the question of the number of ratifications necessary before the covenant could come into force. In any event, in view of the Commission's previous decision, the United Kingdom proposal was no longer acceptable.

104. Miss BOWIE (United Kingdom) replied that the Commission's decision that twenty ratifications would be necessary before the covenant could come into force did not necessarily mean that the number of States Parties to the covenant would be limited to twenty. In any event, the Assembly would not accept any limitation of its powers which the Commission might attempt to impose.

105. Mrs. MISHRA (India) mentioned that any amendments to the International Labour Organisation Convention were approved by the General Assembly of Member States.

106. Mr. SCHEWELB (Secretariat) said the Secretariat felt obliged to express its views on the problem under discussion, in accordance with rule 26 of the rules of procedure.

107. The Secretariat fully realized the delicate character of the question. The States which would adhere to the covenant were reluctant to permit interference with matters affecting the covenant by States not parties to it. Nevertheless the Secretary-General would venture to draw the Commission's attention to the seriousness of a solution which would sever the already slender link between the covenant and the General Assembly and between the covenant and the United Nations and would thus affect the jurisdiction of the United Nations in the field of human rights and its responsibility for their promotion.

108. Mr. MALIK (Lebanon) expressed his approval of the United Kingdom representative's attitude.

109. Mr. CHIANG (China) was prepared to support the United Kingdom amendment but thought that approval of an amendment to the covenant made by the General Assembly implied discussion of that amendment. If the United Kingdom representative would accept that interpretation, he was prepared to vote in favour of the United Kingdom proposal.

110. Mr. ORIBE (Uruguay) said there were two separate problems. The first concerned the amendments submitted by States Parties to the covenant and the second concerned amendments submitted by the General Assembly. There should be a different procedure in each case.

111. The CHAIRMAN put to the vote the United Kingdom amendment which was an addition to the text already adopted for paragraph 1 of article 26.

The amendment was adopted by 8 votes to 4, with 3 abstentions.

112. Mr. NISOT (Belgium) proposed the following new amendment to paragraph 1 of article 26: "The General Assembly shall take the necessary steps to ensure that representatives of States Parties to the covenant which are not members of the United Nations may participate in its discussions."

113. Mr. VALENZUELA (Chile) asked the representative of the Secretariat whether the text proposed by the Belgian representative was not incompatible with the terms of the Charter.

114. Mr. SCHACHTER (Secretariat) said that there was no provision for the participation of a non-member State in the discussions of the General Assembly in a situation of that kind, but that precedents did exist for the participation of non-members in Committees, and the Assembly was therefore perfectly entitled to take the action recommended in the Belgian amendment.

115. Mr. KYRCU (Greece), supported by Mr. MALIK (Lebanon), explained that the precedent referred to by Mr. Schachter concerned only the meetings of Committees of the Assembly but not the plenary meetings.

116. Miss BOWLE (United Kingdom) said that the General Assembly had indeed authorized non-member States to intervene in certain question, but only when they had not been able to be represented during the discussions on those questions. That was not, however, the case in the situation under discussion.

117. Mr. JEVREMOVIC (Yugoslavia) endorsed the remarks made by the United Kingdom representative. All the States which would take part in the conference were Members of the United Nations and there was therefore no danger for the non-member States which were not represented in the General Assembly.
118. Mr. CHANG (China) asked whether the participation of non-member States would include the right to vote.
119. Mr. SCHACHTER (Secretariat) replied that, in the precedent he had mentioned, the participation of non-member States had not included the right to vote. Only the Statute of the International Court of Justice included a provision which made it possible to grant the right to vote to States which were not Members of the United Nations but were parties to the Statute of the Court. In other cases the right to vote was governed explicitly by Article 18 of the Charter.
120. Mr. CASSIN (France) said that the question had already been settled by the League of Nations. In that connexion, he quoted Article 35 of the Charter whereby a State which was not a Member of the United Nations could bring to the attention of the Security Council or of the General Assembly any dispute to which it was a party if it accepted in advance the obligations of pacific settlement provided for in the Charter. Non-member States could thus be allowed to take part in the discussion but they could not be allowed the right to vote. That was why his delegation could not vote in favour of the Belgian proposal which would impose a new obligation on the General Assembly.
121. Mr. ORIBE (Uruguay) said it was impossible to grant non-member States the right to vote in the General Assembly. Such action would, moreover, alter the purport of the United Kingdom text which had just been adopted since the actual membership of the General Assembly would be altered.
122. Mr. NISOT (Belgium) withdrew his amendment, realizing that it had very little chance of being adopted, although he still considered it justified.

123. The CHAIRMAN invited the Commission to consider paragraph 2 of the text of article 26 proposed by France.

124. Mr. KYROU (Greece) pointed out that the word "approved" should be substituted for the word "adopted" in paragraph 2 to bring it into conformity with paragraph 1.

The text proposed by the French delegation for paragraph 2 of article 26 was adopted, as amended, by 14 votes to 1, with 1 abstention.

125. The CHAIRMAN invited the Commission to consider paragraph 3 of the text of article 26 proposed by France. She pointed out that the French representative had already accepted a number of amendments to the text.

126. Mr. NALIK (Lebanon) proposed that, in view of the decision taken at the previous meeting, the words "which they have accepted" in the third line of the paragraph should be deleted. States which were parties to the covenant would necessarily have accepted all its provisions and the words in question were therefore redundant.

127. Mr. NISOT (Belgium) had no objection to the proposed Lebanese amendment but pointed out that it would in no way prejudice the question of reservations, which remained untouched.

128. Mr. CASSIN (France) shared the Belgian representative's view.

129. The CHAIRMAN put the text of paragraph 3 of article 26, as amended, to the vote.

The text was adopted unanimously.

130. Mr. ORIBE (Uruguay) pointed out that, as the Commission had laid down the procedure for amendments, it no longer seemed necessary to make provision for the General Assembly to recommend new amendments or agreements at a later stage.



131. The CHAIRMAN and Mr. NISOT (Belgium) pointed out that the provisions of the Charter already empowered the General Assembly to take such action. It was always open to the General Assembly to make recommendations within the framework of the Charter.

132. The CHAIRMAN put to the vote article 26, as a whole, as amended.  
Article 26 as a whole, as amended, was adopted by 13 votes to none, with 2 abstentions.

133. The CHAIRMAN asked the representative of Uruguay to explain the implications of his draft resolution requesting the Secretary-General to make a study of the precedents relating to the federal and colonial clauses.

134. Mr. ORIBE (Uruguay) said he would have liked the Secretariat to make a general study of the question. The representative of the Secretary-General had, however, indicated that he must confine himself to a survey of the precedents existing in United Nations procedures.

135. The CHAIRMAN asked whether the members of the Commission agreed that the Secretary-General's study should be restricted to those precedents.

136. Mr. SCHACHTER (Secretariat) said that the Secretary-General was prepared to undertake the study requested under the conditions stated, i. e. that it was confined to the precedents and practice of the United Nations and the specialized agencies in regard to federal and colonial clauses and did not touch upon national legislations.

137. Mr. VALENZUELA (Chile) pointed out that those precedents and practices were already familiar to all delegations. If the Secretary-General's study was limited to that field, it would not yield results.

138. The CHAIRMAN said the study requested in the Uruguayan text was limited to the precedents and practices of the United Nations.

Draft resolution submitted by France (E/CN.4/501)

139. The CHAIRMAN stated that the Commission had three draft resolutions before it, submitted by France, Lebanon and Denmark.

140. Mr. CASSIN (France) pointed out that the French draft resolution (E/CN.4/501) was concerned with the implementation of the covenant on human rights and should therefore be considered first.

141. Mr. SORENSEN (Denmark) and Mr. MALIK (Lebanon) had no objection, though they could not agree with the reasons given by Mr. Cassin.

It was decided to discuss the French draft resolution.

142. Mr. CASSIN (France) said the French draft resolution proposed that the General Assembly should recommend to Member States to submit an annual report to the Secretary-General on the manner in which respect for human rights had been assured by their domestic law during the year. The General Assembly must assume its responsibilities and require of Member States a minimum respect for human rights. The main purpose of the French draft was to call for observance of the provisions of Article 56 of the Charter.

143. The draft resolution did not specify the year in which the submission of annual reports to the Secretary-General should begin. Nor did it give any indication of their contents or of the procedure for their consideration by the Commission on Human Rights. Although a Yearbook on Human Rights already existed, it was only a reference book, whereas the annual reports would be examined by the Commission as a matter of course and its observations would be submitted to the Economic and Social Council. Annual reports had already proved effective in a number of specialized agencies, and did not constitute any encroachment upon the sovereignty of States.

144. Finally, the French resolution recognized the competence of the Economic and Social Council since it provided that the Commission should submit its observations to that body.

145. Mr. NISOT (Belgium) thought that the French draft resolution did not comply with the provisions of paragraph 7 of Article 2 of the Charter and would therefore vote against it.

146. The CHAIRMAN, speaking as representative of the United States of America, said that there was already a Yearbook on Human Rights; she did not think the annual reports provided for in the French draft resolution were necessary. The last paragraph of the French draft provided that the Commission on Human Rights would decide on the contents of the reports, which might therefore cover information that States would be unable to furnish. The United States delegation would therefore vote against the French resolution, which went beyond the scope of the implementation of the covenant.

147. She called upon the representative of the International Confederation of Free Trade Unions to make a statement.

148. Miss SENDER (International Confederation of Free Trade Unions) fully supported the ideas contained in the French draft resolution. The annual reports provided for in that draft would in no way duplicate the information contained in the Yearbook on Human Rights. The International Confederation of Free Trade Unions was definitely opposed to interference in questions of a national character, but the provisions of the French draft were very moderate and constituted the minimum of control necessary to ensure implementation of the covenant.

149. Mrs. MEHTA (India) supported the French draft resolution. She thought, however, that the Commission on Human Rights would be in a better position than any other body to ensure the respect of human rights throughout the world. The information published in the Yearbook on Human Rights was out-of-date and did not give an exact picture of the situation in the various States. She did not agree with the United States representative that the Commission was exceeding its terms of reference in making a rule to determine the content of the annual reports. The Commission would consider the annual reports but would not specify the measures which should then be taken; the initiative in that connexion would be left exclusively to the General Assembly or the Economic and Social Council.

150. Mr. MALIK (Lebanon) supported the French draft resolution. The last paragraph of the operative part was in complete conformity with the practices followed by the Economic and Social Council. In order to meet the objections of the United States representative it would no doubt be possible to redraft that paragraph in a less formal and more objective manner. With regard to the objection raised by the Belgian representative that the draft in question was incompatible with the provisions of paragraph 7 of Article 2 of the Charter of the United Nations, it would be better to leave the Economic and Social Council to decide on that point; if the Council considered that the draft resolution was not in conformity with the provisions of the said paragraph, it would certainly reject it.

151. He preferred that the vote on the operative part of the draft should be taken paragraph by paragraph.

152. Miss BOWIE (United Kingdom) pointed out that if too much were asked of the States, nothing would be obtained. She thought that the information published in the Yearbook on Human Rights seemed sufficient.

153. Mr. VALENZUELA (Chile) asked for the deletion of the date "31 December" in the first paragraph of the operative part, as the dates of the parliamentary sessions varied in different countries. He supported the Lebanese proposal to vote on the operative part paragraph by paragraph; in that way, if some representatives thought that the last paragraph of the operative part was contrary to the spirit of the Charter they could vote against it.

The meeting rose at 6.50 p.m.