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COMMISSION ON HUMAN RIGHTS

Sixth Session

PROVISIONAL SUMMARY RECORD OF THE TWO HUNDREDTH MEETING

Held at Lake Success, New York,  
on Friday, 19 May 1950, at 10 a.m.

CONTENTS:

Draft international covenant on human rights: second reading  
(concluded) (E/CN.4/L.9, E/CN.4/L.9/Add.1, E/CN.4/L.9/Add.2,  
E/CN.4/L.10, E/CN.4/L.13, E/CN.4/L.15)

<u>Chairman:</u>	Mrs. F. D. ROOSEVELT	United States of America
<u>Members:</u>	Mr. WHITLAM	Australia
	Mr. NISOT	Belgium
	Mr. VALENZUELA	Chile
	Mr. CHANG	China

Members: (continued)

Mr. SORENSEN	Denmark
Mr. RAMADAN	Egypt
Mr. CASSIN	France
Mr. LEROY-BEAULIEU	
Mr. KYROU	Greece
Mrs. MEHTA	India
Mr. MALIK	Lebanon
Mr. MENDEZ	Philippines
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mr. ORIBE	Uruguay
Mr. JEVREMOVIC	Yugoslavia

Also present:

Mrs. GOLDMAN Commission on the Status of Women

Representative of a specialized agency:

Mr. EVANS International Labour Organisation  
(ILO)

Representatives of non-governmental organizations:

Category A:

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

Category B:

Mrs. AIETA	Catholic International Union for Social Service
Mr. NOLDE	Commission of the Churches on International Affairs
Mr. HALPERIN	Co-ordinating Board of Jewish Organizations
Mr. BEER	International League for the Rights of Man
Mr. PERLZWEIG	World Jewish Congress

Secretariat:

Mr. SCHWELB	Assistant Director, Division of Human Rights
Mr. SCHACHTER	Deputy Director, General Legal Division
Mr. DAS ) Miss KITCHEN )	Secretary of the Commission

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DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS: SECOND READING (E/CN.4/L.9, E/CN.4/L.9/Add.1, E/CN.4/L.9/Add.2, E/CN.4/L.10, E/CN.4/L.13, E/CN.4/L.15) (concluded)

Article 13 (former article 16) (E/CN.4/L.10, page 27)

1. Mr. WHITLAM (Australia) drew attention to the fact that the limitations listed in paragraph 2 differed slightly from those set forth in the two following articles. He felt that a greater uniformity of text was desirable, and would raise that point in his delegation's report.

Article 14 (former article 17) (E/CN.4/L.10, page 30)

2. Mr. CASSIN (France) said that the word "communiquer" in the French text of paragraphs 2 and 3 should be replaced by "repandre".

3. Mr. HOARE (United Kingdom) drew attention to the discrepancy between the English and French texts of paragraph 1. The former was somewhat vague and subject to different interpretations, while the latter was far more precise. The two texts should be brought into conformity.

4. Mr. LEROY-BEAULIEU (France) recalled that the French text had served as the basis for the Commission's discussion; it should therefore be regarded as the authentic version of article 14. The English text had been drawn from article 19 of the Universal Declaration of Human Rights.

5. Mr. HOARE (United Kingdom) suggested that paragraph 1 should read:- "Everyone shall have the right to hold opinions without interference". The French text should remain unchanged.

That suggestion was adopted.

6. Mr. HOARE (United Kingdom) said that the term "public order" in paragraph 3 was subject to extremely wide interpretation; the general understanding in the Commission had been that it included everything connected with what were usually known as "reasons of state". That being so, his delegation felt that the presence of those words rendered any guarantee with which the article was concerned ineffective.

/7. Mr. MALIK

7. Mr. MALIK (Lebanon) agreed that the words "public order" were liable to nullify the intention of article 14.

8. The CHAIRMAN remarked that the words appeared also in articles 13, 15 and 16.

9. Mr. CASSIN (France) recalled that his delegation had been disturbed by the use of those words both in the Declaration and in the covenant, and had suggested the insertion of the words "in a democratic society" in order to ensure that the term "public order" would not be misinterpreted.

10. Mr. VALENZUELA (Chile) also felt that the Commission had evolved no clear interpretation of the term "public order".

11. The CHAIRMAN said that the views expressed by various representatives on the first reading of the article were embodied in the summary records. Furthermore, all members were free to state their views in their individual reports. As the representative of the United States of America, she did not believe that the term "public order" was open to misinterpretation.

Article 15 (former article 18) (E/CN.4/L.10, page 32)

12. The CHAIRMAN said that the phrase "health and morals" should be changed to "health or morals", the corresponding change being made in the French text.

That change was noted.

13. Mrs. MEHTA (India) remarked that other articles of the covenant opened with the words "Everyone shall have the right...etc". It would be preferable, for the sake of uniformity, for the same formula to be used in article 15.

14. The CHAIRMAN explained that the purpose of the article was to consecrate the right of peaceful assembly rather than to lay down that everyone should have that right.

15. Mr. CASSIN (France) supported the explanation given by the Chairman and added that the formula suggested by the representative of India was impossible in the present case, since more persons than one were required to form an assembly.

Article 16 (former article 19) (E/CN.4/L.10, page 33)

16. Mr. MALIK (Lebanon) proposed that paragraph 3 should be reworded in accordance with the suggestion by the Secretariat in paragraph 74 of document E/CN.4/L.10.

17. Replying to a question by Mr. KYROU (Greece), Mr. EVANS (International Labour Organisation) said that the Freedom of Association and Protection of the Right to Organize Convention provided for the possibility of amendment after ten years by the ordinary procedures of the Conference. There was no suggestion of a move to the Convention in the near future

18. Mr. CASSIN (France) suggested that the date 1948 should be deleted from the text suggested by the Secretariat, as the Convention might be amended in a later year.

After some discussion, it was decided that paragraph 3 should read as follows: "Nothing in this article shall authorize States parties to the Freedom of Association and Protection of the Right to Organize Convention, to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention."

19. Mr. CASSIN (France) said that, in the French text of article 16 and all other articles of the covenant, all operative verbs now appearing in the future tense should be changed to the present tense.

That change was noted.

Article 17 (former article 20) (E/CN.4/L.10, page 34).

20. The CHAIRMAN remarked that, in the opinion of several members, the entire article had been rendered superfluous by the adoption of former article 2 in its amended form.

21. Mr. CASSIN (France) said that, while the first part of the article down to the words "equal protection of the law" was satisfactory, the remainder of the text was superfluous and added nothing to the substance.

22. Mr. HOARE (United Kingdom) thought that the second part of the article was not only meaningless but even extremely dangerous, since it seemed to imply that everyone enjoyed the same rights. The real purpose of the article, to ensure that the same sets of laws should apply to everyone — was covered in the first part of the text.

23. The CHAIRMAN, as representative of the United States of America, and Mr. KYROU (Greece), associated themselves with those views.

24. Mr. MALIK (Lebanon) said that, while there might be grounds for objecting to article 17, such objections could not be based on former article 2. The two articles dealt with separate subjects and were by no means interchangeable.

25. The CHAIRMAN suggested that the views of members on the substance of article 17 should be stated in their reports.

Article 18 (former article 22) (E/CN.4/L.10, page 36)

26. Mr. KYROU (Greece) suggested that the word "construed" in paragraph 2 of the article should be replaced by "interpreted" to ensure uniformity of style in the two paragraphs.

It was so decided.

27. Mr. MALIK (Lebanon) suggested deletion of the word "already" from paragraph 1. Some of the limitations provided for in the covenant were permissive rather than compulsory in character; moreover, the word "already" was not reproduced in the French text.

It was so decided.

28. Mr. VALENZUELA (Chile) suggested that the word "defined" in paragraph 1 should be replaced by "recognized", in accordance with the practice generally adopted by the Commission.

It was so decided.

#### Measures of Implementation

29. The CHAIRMAN indicated that the articles on measures of implementation, which would appear as part III of the covenant, would be renumbered by the Secretariat at a later stage.

#### Article 1 (E/CN.4/L.2)

30. There were no observations.

#### Article 2

31. Mr. HOARE (United Kingdom) proposed deletion of the word "regular" from paragraph 3.

It was so decided.

32. Mr. NISOT (Belgium) suggested that the words "auront effet" in the French text of paragraph 3 should be replaced by "resteront valables".

It was so decided.

#### Article 3

33. Mr. MENDEZ (Philippines) and Mr. KYROU (Greece) suggested that the last phrase of article 3 should be revised to read "inviting them to submit, within two months, if they have not already done so, their nominations."

34. Mr. SORENSEN (Denmark) observed that, if the article were amended in that way, states might be compelled to submit nominations twice for the same election.

35. Mr. HOARE (United Kingdom) suggested that the article should be amended to read: "Inviting them, if they have not already submitted their nominations, to submit them within two months".

It was so decided.

Articles 4 and 5

36. Mrs. MEHTA (India) pointed out that she differed in principle with the provisions set forth in articles 4 and 5 and that she would present her views in her report.

Certain minor drafting changes were made in the text of article 5.

Article 6

37. Mr. MALIK (Lebanon) wondered whether it would not be better to adhere to the formula "present and voting" in the last line of the second sentence of article 6.

It was so decided.

38. The CHAIRMAN, in reply to Mr. MALIK (Lebanon), explained that for the purposes of article 6, blank ballots would not be counted.

39. Mr. HOARE (United Kingdom) pointed out that, in accordance with the provisions of article 5, governments would appoint representatives to participate in the elections and suggested that article 6 should be amended to read: "States parties to this covenant represented and voting".

40. Mr. NISOT (Belgium) observed that a State which was represented at the elections could be absent at the time of the voting.

41. Mr. KYROU (Greece) proposed the following text for the last part of the second sentence of article 6: "by a majority vote of the representatives of the States parties to this covenant present and voting". That draft would satisfy the representatives of both Belgium and the United Kingdom.

That amendment was accepted.

/Articles 7, 8 & 9

Articles 7, 8 and 9

42. There were no comments on articles 7, 8 and 9.

Article 10

43. In reply to Mr. KYROU (Greece) Mr. MALIK (Lebanon), said he would prefer to maintain the word "addressed". He thought the word "submitted" might imply that the Chairman of the Committee could take certain action with regard to resignations.

It was decided to retain the word "addressed".

One minor drafting change was made in the text of article 10.

Article 11

44. There were no comments on article 11.

Article 12

45. Mr. SCHUELB (Secretariat) pointed out that article 12 introduced a new concept with regard to the functions of the Secretary-General. He accordingly wished to reserve the right of the Secretary-General to explain his position on the matter to the Economic and Social Council.

That reservation was accepted.

Article 13

46. The CHAIRMAN suggested that the heading "Functions and procedures", which introduced article 13, should be deleted.

It was so decided.

Certain minor drafting changes were made in article 13.

Article 14

47. Mr. NISCT (Belgium) suggested that the French text of article 14 should be reworded as follows: "pour un an. Il entreprendra immédiatement la rédaction de son règlement intérieur, qu'il doit établir conformément à l'article 15."

After a short discussion, it was decided to accept the Belgian amendment.

Certain minor drafting changes were made in the text of article 14.

Article 15

48. Mrs. MEHTA (India) said she interpreted the text of article 15 to mean that non-governmental organizations as well as states would have the right to make submissions to the Committee orally and in writing.

Certain minor drafting changes were made in the text of article 15.

Article 16

49. There were no comments on article 16.

Article 17

50. Mr. HOARE (United Kingdom) wondered whether the word "saisi" in the sixth line of paragraph 1 of article 17 was the exact equivalent of the English term "referred". He thought the French text went further than the English.

51. Mr. NISOT (Belgium) said the phrase "lorsqu'il est saisi" was the equivalent of the English text, whereas the phrase "des qu'il est saisi" would not have been a satisfactory translation. He thought, therefore, that the original text could be maintained.

It was so decided.

Certain minor drafting changes were made in the text of article 17.

Article 18

52. Mr. NISOT (Belgium) suggested that the phrase "conformément aux instructions" should be substituted for the phrase "sous la direction", which was not the exact equivalent of the English text.

It was so decided.

53. Mr. MENDEZ (Philippines) wondered whether it was necessary to include article 18 in the measures of implementation.

54. Mr. KYROU (Greece) pointed out that the Charter contained provisions outlining the duties of the Secretary-General. He therefore saw no reason why the measures of implementation should not contain a reference to the duties of the Secretary of the Committee, and suggested that article 18 should be retained.

It was so decided.

Article 19

55. In reply to a question from Mr. KYROU (Greece), Mr. SCHMIDT (Secretariat) said that a copy of the estimate of the financial implications of the provisions of article 19 would be attached to the Commission's report.

Article 20

56. In view of the objections raised to the last part of paragraph 2 of article 20, Mr. HOARE (United Kingdom) suggested that the text should be amended to read as follows: "either State shall have the right to refer the matter to the Committee, by notice given to the Secretary of the Committee and to the other State".

That amendment was accepted.

57. Mr. NISOT (Belgium) suggested that the word "Etat" should be substituted for the word "partie" in the ninth line of paragraph 1 of the French text. He further suggested that the text of paragraph 2 should be amended to read:

"... la question n'est pas réglée à la satisfaction des deux États, l'un comme l'autre auront le droit..."

Those amendments were accepted.

58. In reply to Mr. HOARE (United Kingdom), Mr. NISOT (Belgium) agreed it would be desirable to avoid the word "complaint" but he had not found a satisfactory substitute for the phrase "à l'État plaignant".

Article 21

59. Mr. LEROY-BEAULIEU (France) suggested the deletion of the phrase "en l'occurrence" in the French text, since it added nothing to the sense of the text.

60. Mr. MENDEZ (Philippines) suggested the substitution of the word "after" for "if" in the second line of the English text.

61. Mr. HOARE (United Kingdom) objected to the Philippine proposal. The purpose of article 21 was to lay down conditions under which the committee should function; the important point was the conditions rather than the time element.

62. Mr. MENDEZ (Philippines) withdrew his amendment.

The French amendment was approved.

Article 22 (A/CN.4/L.1/Add.2)

63. There was no discussion concerning article 22.

Article 23

64. Mr. VALENZUELA (Chile) requested the substitution of "recognized" for "defined", in paragraph 1, in conformity with the Commission's previous practice.

65. Mr. NISOT (Belgium) thought that the question of the states to which the report should be communicated, dealt with in paragraph 2, was delicate. He proposed that the phrase "Etats intéressés", in that paragraph, should be replaced by the words "Etats en présence", a phrase which had already been used in article 22. For his part, he would favour the use of the phrase "Etats en présence" throughout the entire text.

66. In reply to Mr. HOARE (United Kingdom), who pointed out that the states in question would not be "present" when the report was sent out, Mr. Nisot explained that the phrase "en présence" could be correctly used in the figurative sense.

67. Mr. LEROY-BEAULIEU (France) felt that the word "intéressés" should be retained, since it was the most commonly accepted term. He asked whether the Belgian representative would accept the retention of that term if it were qualified by such a phrase as "au sens du paragraphe 2 de l'article 20".

68. The CHAIRMAN drew attention to the fact that the English text was satisfactory as it stood, and that no changes should be made in the French text which would render it inconsistent with the English version.

69. Mr. ORIBE (Uruguay) did not feel that the French phrase "solution... qui s'inspire du respect des droits de l'homme" was the exact equivalent of the English phrase "solution...on the basis of respect for human rights". He felt that the English wording was preferable, and that a more accurate French equivalent should be found.

70. Mr. LEROY-BEAULIEU (France) suggested the substitution, in the French text, of the phrase "solution...fondée en même temps sur le respect des droits de l'homme".

71. Mr. HOARE (United Kingdom) proposed that the words of the first sentence of paragraph 3 of the English text should be transposed to read, "If a solution within the terms of paragraph 1 of this article is reached..."

The French and Chilean amendments to paragraph 1, the Belgian amendment to paragraph 2, and the United Kingdom amendment to paragraph 3 were accepted, together with certain minor drafting changes.

#### Part IV

72. Mr. SCHWELB (Secretariat) recalled that of the articles comprising Part IV, namely, the articles previously numbered 23 to 26 inclusive, the Commission had decided not to examine articles 24 and 25.

73. The CHAIRMAN invited the Commission to consider the articles previously numbered 23 and 26, in documents E/CN.4/L.13 and E/CN.4/L.15 respectively.

#### Article 23 (E/CN.4/L.13)

74. The CHAIRMAN speaking as representative of the United States of America, requested the insertion of the words "and ratification", after "signature" in the first line of the article.

/75. Mr. SCHACHTER

75. Mr. SCHACHTER (Secretariat) suggested that the word "between" should be replaced by the word "among", in the first sentence of paragraph 2, in order to make it clear that the covenant was applicable multilaterally, not bilaterally. He also pointed out that under paragraph 3 of that article the information in question would be sent to all signatory States: the word "ratified" was therefore unnecessary in the context.

The United States amendment and the changes suggested by the Secretariat were accepted, together with some minor drafting amendments.

Article 26 (E/CN.4/L.15)

76. Mr. ORIBE (Uruguay) recalled that some discussion had taken place in the Commission concerning the use of the words "adopted" and "approved", in the first line of paragraph 2, and that the word "approved" had been considered preferable. He therefore, suggested the substitution of the word "approuvés" for "adoptés" in the French text.

77. Mr. MENDEZ (Philippines) proposed that the phrase "the earlier amendments" in the last line of paragraph 3 should be altered to read "any earlier amendments".

78. Mr. HOARE (United Kingdom) pointed out that paragraph 1 as it stood did not make provision for a conference which might discuss more than one proposal. He therefore suggested the substitution of the phrase "voting upon amendments" for "voting upon the proposal".

79. Mr. MALIK (Lebanon) thought that the amendments to be discussed at such a conference should be limited to those which had previously been filed with the Secretary-General.

80. The CHAIRMAN pointed out that the original phraseology was the language most commonly used, and that, if more than one amendment had been filed with the Secretary-General, he would naturally submit all such amendments to the conference for examination. She preferred retention of the original wording.

81. Mr. HOARE (United Kingdom) withdrew his amendment.

(The Uruguayan and Philippine amendments were accepted, together with minor drafting changes.

The meeting rose at 1.20 p.m.

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