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COMMISSION ON HUMAN RIGHTS

Seventh Session

SUMMARY RECORD OF THE TWO HUNDRED AND FIFTEENTH MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 25 April 1951, at 3 p.m.

CONTENTS:

Present:

Chairman: Mr. MALIK (Lebanon)

Members:

Australia	Mr. WHITLAM
Chile	Mr. VALENZUELA
China	Mr. YU
Denmark	Mr. SORENSEN
Egypt	Aziz Bey
France	Mr. CASSIN
Greece	Mr. PHILIPPIADES
Guatemala	Mr. DUPONT-WILLEMIN
India	Mrs. MEHTA
Pakistan	Mr. WAHEED
Sweden	Mrs. ROSSEL
Ukrainian Soviet Socialist Republic	Mr. KOVALENKO
Union of Soviet Socialist Republics	Mr. MOROSOV
United Kingdom of Great Britain and Northern Ireland	Miss BOWIE
United States of America	Mrs. ROOSEVELT
Uruguay	Mr. CIASULLO
Yugoslavia	Mr. JEVREMOVIĆ

Representatives of specialized agencies:

International Labour Organisation	Mr. COX
United Nations Educational Scientific and Cultural Organization	Mr. SAHA Mr. BAILATE

Representatives of non-governmental organizations:

Category A

International Confederation of Free Trade Unions	Miss SENDER Mr. PATTEET
International Federation of Christian Trade Unions	Mr. EGGERMANN
Inter-Parliamentary Union	Mr. MOUNET de CLEAY
World Federation of United Nations Associations	Mr. ENGELS

Category B and Register

Caritas Internationalis	Abbé MAAS
Carnegie Endowment for International Peace	Mrs. CARTER
Catholic International Union for Social Service	Miss de ROMER Mrs. SCHRADER
Consultative Council of Jewish Organizations	Mr. BENTWICH
Co-ordinating Board of Jewish Organizations	Mr. MOSHOVITCH
Friends' Committee for Consultation	Mr. BELL
International Association of Penal Law	Mrs. ROMNICIANO
International Council of Women	Mrs. CARTER
International Federation of Business and Professional Women	Miss TOMLINSON
International Federation of University Women	Mrs. ROBB
International League for the Rights of Man	Mr. BALDWIN
International Union of Catholic Women's Leagues	Miss de ROMER Miss MARCHINARD
Liaison Committee of Women's International Organizations	Mrs. ROBB
Pax Romana	Mr. KAPICHT

Women's International League for Peace and Freedom	Miss BAER
World Jewish Congress	Mr. BIENENFELD Mr. HIRSCHER
World's Young Women's Christian Associations	Miss ROBERTS
World Union for Progressive Judaism	Mr. MESSINGER

Secretariat

Mr. Humphrey	Representing the Secretary-General
Mr. Das	Secretary to the Commission

1. DISTRIBUTION OF RECORDS OF THE WORKING GROUP ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The CHAIRMAN recalled that the Working Group set up by the Commission on 19 April 1951 was due to meet the following morning in private session. Rule 40 of the rules of procedure stipulated that records of private meetings should be made available to States Members of the United Nations upon decision of the Commission and might be made public at such time and under such conditions as the Commission might decide. Again, rule 36 stated that, at the close of each private meeting, the Commission might issue a communiqué through the Secretary-General. As the Commission had agreed that representatives of specialized agencies and of non-governmental organizations, and also observers from those Member States which had so requested, should be allowed to attend the meetings of the Group, it would appear that the records should be made available to all States Members of the United Nations. Moreover, the Working Group's discussions would be of interest to other United Nations bodies, to observers and to students in general. He personally felt that, unless there were specific objections, the records of the Working Group should be given the customary general distribution.

Mr. CASSIN (France) had no objection to the procedure suggested by the Chairman, though he wondered whether a formal decision to that effect might not be somewhat premature at the present stage. It might be more logical to take the decision when the Commission had the full facts, that was, the findings of the Working Group, before it. An immediate decision might prejudge those findings, and would be to some extent at variance with the Commission's intention, which was to give the representatives of specialized agencies every opportunity of expressing their views candidly. Hence he felt that the decision called for by rule 40 of the rules of procedure might be deferred.

Mr. VALENZUELA (Chile) pointed out that the summary records of the Working Group's discussions could not be regarded as confidential, since they would deal with subjects and documents which were not confidential. The reason why the Commission had decided that the Working Group should meet in closed

session was simply to facilitate discussion. He therefore proposed that the Commission should decide then and there that the summary records of the meetings of the Working Group would be circulated to Member States and to the specialized agencies as soon as they were ready.

The CHAIRMAN felt that there was no point in deferring a decision, because the records would in any case eventually be given general distribution, since the door had been opened to representatives of specialized agencies, non-governmental organizations and to the observers from Member States. It was inconceivable that the Commission would in the future refuse to allow other Member States to receive the relevant documents.

The Secretariat had also pointed out that certain technical difficulties would arise unless a prior decision was taken.

Miss BOWIE (United Kingdom) supported the Chairman's view. To withhold the records from other Member States would be to invite protests. In any event, Members desirous of obtaining knowledge of the Working Group's deliberations would have other means of access to the documents.

The CHAIRMAN put to the vote the proposal that the records of the Working Group should be given the customary general distribution.

The proposal was adopted by 17 votes to none with 1 abstention.

Mr. CASSIN (France), explaining his abstention, said that he was in no way opposed to the proposal. But he felt that the decision should have been taken only after the Working Group had completed its task.

2. DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION (item 3 of the agenda):

(c) Consideration of provisions for the receipt and examination of petitions from individuals and organizations with respect to alleged violations of the Covenant - studies of questions relating to petitions and implementation (E/1732, E/1927, E/CN.4/513, E/CN.4/515 and Add. 1-17, E/CN.4/525, E/CN.4/527, E/CN.4/530, E/CN.4/549, E/CN.4/550, E/CN.4/551, E/CN.4/553/Rev.1, E/CN.4/555, E/CN.4/556, E/CN.4/557, E/CN.4/558, E/CN.4/559, E/CN.4/560 and Add.1, E/CN.4/561) (resumed from the 214th meeting).

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Mr. BENTWICH (Consultative Council of Jewish Organizations), speaking at the invitation of the CHAIRMAN, said that, to judge from the recent course of the debate, the right of individuals and of non-governmental organizations to lodge petitions would probably be recognized, not in the Covenant itself, but in a separate protocol. He had hoped that provision would have been made in that protocol for petitions from individuals and non-governmental organizations to be accorded the same treatment as complaints emanating from States. Several of the proposals submitted included no such assurance. The United States proposal (E/CN.4/557), for example, stated that the Human Rights Committee should determine which of the petitions received warranted detailed examination, but omitted to prescribe how the petitions were to be presented to the Committee. The Danish amendment (E/CN.4/559) to the United States proposal suggested that the Secretary of the Committee should, at the request of the petitioner, render him such assistance as might be necessary with a view to the adequate presentation of his case before the Committee. He could support that amendment if it implied that the Secretary was to present and defend the petition before the Committee.

The right of the petitioner, whether an individual or a non-governmental organization, to be represented and to make oral statements before the Committee, as proposed in the case of States in the Danish amendment to article 33 (E/CN.4/560/Add.1), should also be recognized in the protocol. For petitions from individuals and non-governmental organizations were to receive proper consideration, some official, or alternatively the individuals or non-governmental organizations themselves, should be empowered to present them before the examining authority. It was essential, unless the common man was to be sadly disillusioned, that States which acknowledged the right of individuals and non-governmental organizations to lodge petitions should also recognize that that right was on a par with the right of States to submit complaints. The common man, for whose benefit the entire machinery for the protection of human rights was being designed, must be enabled to feel that individuals and non-governmental organizations were fully entitled to have their complaints thoroughly examined by the Human Rights Committee, and that such complaints would be competently presented by some responsible person.

Mr. SÖRENSEN (Denmark) assured the representative of the Consultative Council of Jewish Organizations that the Danish amendment to the United States proposal had been submitted in the spirit which illuminated that representative's statement; the Commission had not, however, yet reached that stage of its discussions.

With regard to the election of members of the Committee, there were two distinct questions to be answered, which he hoped the Commission would consider separately; first, whether it was desirable for the International Court of Justice to elect the Members of the Committee; secondly, whether it was possible for the International Court to do so under its Statute. With regard to the first question, the election of its members by the International Court would tend to confer on the Committee the status of an independent body. That could not fail to be of great advantage in securing the observance of human rights. No one had so far argued against the desirability of such a procedure.

Pending a statement by the Secretariat on the legal aspect of the second question, he would recall that it had been pointed out in 1950 that the International Court of Justice would not be infringing its Statute by assuming extra-judicial functions. In the Yearbook of the International Court for 1948-49, mention was made of the appointment by the Court of members of a Rumanian-Swiss Conciliation Commission. Again, as the Greek representative had pointed out, the President of a tribunal set up by the United Nations Educational, Scientific and Cultural Organization, had been appointed by the International Court. Further examples were the appointment by the Vice President of the International Court, at the request of the French Government, of officials to supervise a plebiscite held in French settlements in India, and the appointment, again at the request of the French Government, of observers in the case of the referendum in Tenda and La Brigue on the French-Italian frontier.

Hence his provisional conclusion was that there was nothing in the practice of the International Court that militated against its assuming the function contemplated. The Commission should therefore proceed on the assumption that the International Court would comply with its request. It might be advisable

to ascertain the attitude of the International Court before the Covenant was adopted, signed and ratified. But that could be done later, for example, when the Economic and Social Council was considering the Commission's report.

There was no obstacle to the Commission's adopting the joint Danish-French proposal, and it was therefore unnecessary to draft any alternative texts. The likelihood of the International Court acceding to the Commission's request was so great that other texts would be redundant. In any event, if the International Court did refuse, the Commission could always revert to the 1950 text.

With regard to the qualifications of members of the Committee, he supported the statement made at the previous meeting by the French representative. The joint Danish-French draft did not stipulate that all members should be jurists. The Chairman had suggested that it might be necessary to mention other qualifications, but he (Mr. Sörensen) felt that it would be impossible to ensure that every type of mind was represented on a Committee of only seven members. It would be valuable for the Committee to have at least one or two members with judicial or legal experience, because most of the cases brought before it would raise the issue of whether legal provisions had been violated. Again, complaints would have to be investigated, and both the subjects and the methods of investigation would be important. Furthermore, the judicial tradition of hearing both sides should be maintained in the Committee. It would therefore be advisable to lay down that one or more members of the Committee should have a legal background. The Greek representative had stressed the other qualifications necessary, for example, experience in the field of human rights. The best over-all solution might be to give priority to experience in that field, and to mention the value of legal experience as a supporting qualification.

The question of geographical distribution in the membership of the Committee had also been raised. That principle was one of the most characteristic features of United Nations administrative practice. He agreed with the Egyptian representative, however, that it was not so much a question of equitable geographical distribution, as of assuring the representation on the Committee, of the various forms of world civilization and cultural tradition. He felt that better terminology might be found to express the idea, but had no strong feelings on the matter.

The Indian representative had asked whether it was the intention of the joint Danish-French proposal that States alone should be entitled to refer matters to the Committee, other bodies or international organizations being precluded from doing so. Such was not the intention. Article 35, as drafted in the joint proposal, provided that the Committee, after its initial meeting, should meet whenever a matter was referred to it, whereas in the proposal put forward at the sixth session article 35 had provided that the Committee should meet whenever matters were referred to it under article 38. Article 38 referred to complaints lodged by States against other States, and reference to that article had been deliberately omitted from the Danish-French draft. In article 36 in the joint draft, it was laid down that the Secretary of the Committee should "carry out any other duties assigned to him by the Committee", which was intended to make the procedure in that connexion more flexible. To make the intention clearer still, it might be as well to insert in article 35 words to the effect that the Committee should deal with any questions referred to it, and not exclusively with questions referred to it under article 38.

In reply to the Indian representative's question regarding the financing of the machinery for implementation, he explained that his intention was that its expenses should be met out of the general budget of the United Nations. That would mean that certain States which were not parties to the provisions pertaining to implementation machinery might have to contribute to the funds for the maintenance of that machinery. But the joint proposal was based on the assumption that a very large number of States would accept those provisions; indeed, they might be encouraged to accept them by the very fact that they would have to contribute to the funds for their implementation. He was opposed to a separate budget for the implementation machinery.

The CHAIRMAN, speaking as representative of Lebanon, felt that the Danish and French representatives and their supporters were being unnecessarily cautious in their endeavour to ensure the inclusion of persons with judicial and legal experience as members of the Committee. It was inconceivable that any State, when considering candidates for nomination, would overlook competent jurists. Again, the joint proposal brought the same pre-occupation to the

attention of the International Court of Justice, which was itself a judicial body. He felt that the stress should be laid not so much on judicial qualifications, as on other capabilities. There was, of course, no doubt that jurists should form the nucleus of the Committee's membership, but by overemphasising that point the Commission might seem to have been unduly influenced by the juridical minds of its own members. He therefore felt that either the reference to judicial and legal experience should, as the Chilean representative had suggested at the preceding meeting, either be omitted altogether, or the other qualifications should be given equal prominence.

Every attempt must be made to secure as unanimous agreement as possible on such an important matter, and he therefore submitted, as a compromise, that explicit reference to legal and judicial experience should be omitted, since it was plain that jurists would be more than adequately represented on the Committee.

Mr. SÖRENSEN (Denmark) said that there was general agreement that the Committee should not be entirely made up of jurists, but that it should consist of independent personalities with wide experience in various fields. Even from the Chairman's point of view, it might be as well to mention that attention should be paid to the value of having a few members with judicial training. If article 19 were simply to mention persons possessing high moral qualities and of recognized experience in the field of human rights, a legal body, such as the International Court, might itself decide to elect seven jurists.

Mr. EUST.THIADES (Greece) thought that all members of the Commission were substantially in agreement, and that the only problem was one of wording. The intention of those members of the Commission who were anxious to introduce the criterion of legal qualifications into article 19 was to provide a safeguard; and practically all the other members recognized that it would be desirable to have jurists on the Committee. That was why he had put forward his compromise text at the previous meeting.

Again in the interests of reaching agreement, he would suggest that the Commission's report should confine itself to mentioning the discussions that had

taken place on the qualifications of members of the Committee, especially the first part of the Chairman's statement, made as representative of Lebanon at the preceding meeting. The International Court of Justice would naturally study the Commission's report, and the wishes of the great majority of the members of the Commission would thus be taken into full consideration.

Mr. CASSIN (France) supported the Danish representative. If the large majority of members of the Commission were agreed on the fundamental issue, why should they not give that agreement clear expression in a text?

More important than jurists and other members of the future Committee would be the injured party. It was right that his case should be heard by persons elected to the Committee for their compassion, warm-heartedness and desire to see human rights respected; but he had also the right to be heard by jurists, whose skill would enable them to advise him as to how his case should be conducted.

He thought the wording of the text comparatively unimportant, and had therefore supported the proposal made by the Greek representative at the preceding meeting. Nevertheless, technical qualifications should not be overlooked; the skill of engineers, doctors or administrators in their own specialised fields was readily acknowledged, and that of jurists should not be forgotten. In any case, the mere mention of the fact that their presence on the Committee would be helpful would be a useful guide for the International Court; he failed to see, therefore, why it should not be introduced into the text of article 19.

Mr. VALENZUELA (Chile) wished to explain his delegation's position with regard to the possible part to be played by the International Court of Justice. He had the impression that the majority of members of the Commission were in favour of allowing that part to be a predominant one, although there was apparently some slight difference of opinion. The purpose of the present discussion, questions of drafting apart, was to define precisely the jurisdiction of the International Court of Justice in the matter. Most members of the Commission appeared to feel that the International Court of Justice could assume responsibility for appointing members of certain bodies outside the strictly judicial sphere, in the case in point members of the proposed Human Rights Committee. He would recall, however, that by the terms of the Charter of the United Nations and of the Statute of the International Court of Justice, it was for the Court itself to define its own jurisdiction in the case of functions not specifically provided for in the Statute.

What would be the position, for example, if the Commission unanimously decided that the International Court of Justice was competent to elect the members of the Human Rights Committee, and inserted a clause to that effect in the Covenant, but the Court subsequently declined to recognize its jurisdiction in the matter? It would mean that a Commission of the United Nations would have presumed to define the jurisdiction of the Court, a step which only the Court itself was competent to take. If the Commission took a decision in the opposite sense, and in due course the Court recognised that it was competent to elect the members of the Human Rights Committee, the Commission might even be accused of trying to limit the Court's jurisdiction. There was no reason why the United Nations should not consult the International Court of Justice on the issue of its competence, so that the Court's decision could be known before any action was taken by the Commission.

He had carefully noted the precedents cited by the Danish representative. All of them referred to action taken by the Court outside the judicial sphere, but they appeared to have one common feature - the Court had intervened only where there had been a dispute between States, or in cases in which a State

had a specific direct interest; and he maintained that it was only in such cases that the Court could intervene. The scope of the non-judicial powers of the International Court of Justice were determined by its structure. It was in effect an international tribunal; hence it could only act where a dispute had arisen. He did not think the Court could properly be asked to intervene before a dispute had arisen; otherwise it might have been asked, for instance, to nominate the members of the Peace Observation Commission set up under General Assembly resolution 377(V) (Uniting for Peace).

He felt therefore that the Commission should proceed with the utmost caution. The best plan would be for the Commission to consult the Court before taking a decision. His delegation had no objection to the Court's helping to set up the Human Rights Committee. But it felt that the Commission could not take the initiative and intervene in a question of jurisdiction which was exclusively one for the Court.

Mrs. MEHTA (India) asked for further clarification as to the alternative procedures that had been proposed to meet the eventuality of the International Court's declining to accede to the Commission's request. She did not agree that the proposals put forward in 1950 were still valid, for the Commission had rejected them. If the International Court found itself unable to comply with the Commission's request, it would be for the General Assembly to take a decision or for the Commission to formulate other proposals.

If the United Nations met the expenses of the Human Rights Committee, the latter would become a United Nations organ and would not function, as had been intended as an independent body. And if the Committee became part of the United Nations, a separate protocol would not be required to empower the Secretary-General to refer a matter to it, and that fact should be made clear. She agreed with the other points made in the Danish-French proposal.

Mr. CASSIN (France) reminded the Chilean representative that the International Court of Justice and its President had already on occasion appointed conciliators or arbitrators on a permanent basis to deal with disputes that might

arise out of a treaty. In other words, the Court and its President had appointed arbitrators for possible future disputes before they had arisen.

Participation by the Court in the appointment of members of the Human Rights Committee was not provided for in its Statute, by the terms of which it settled disputes; the selection of arbitrators was a function assumed voluntarily by the Court. It was for the Court itself to determine the boundary line between those two functions. He was to all intents and purposes sure that in view of the importance of protecting human rights the International Court of Justice would not decline to accept the task which the Commission wished to ask it to perform.

The CHAIRMAN asked whether the Commission wished to act on the issue forthwith.

Miss BOWIE (United Kingdom) felt that a decision should be taken immediately, in order that it might be known as soon as possible whether the International Court was prepared to assume the function. She agreed with the French representative that it was not a question of the Statute of the International Court, but simply one of asking one of the principal organs of the United Nations to undertake a service for it. Likewise, the reply of the International Court would be based, not on its Statute, but on its readiness to perform the service requested. She referred to similar instances in the United Kingdom, where when certain public corporations had been established, it had been decided that their members should be appointed by the presidents of named professional institutions. Those officers had been asked if they would accept the duty, and had done so, not under the terms of the charters of their institutions, but as public men of standing with the particular kind of knowledge appropriate to the case.

If the Commission considered that the best solution, it should request the International Court to undertake the desired service; but it would be undignified to propose alternative solutions. If the International Court was unable to accede to the request, a different procedure could be evolved then.

The CHAIRMAN announced that the Guatemalan delegation wished to submit amendments to paragraph 1 of article 19 (relating to the size of the Commission) and to article 33, in both cases of the original text of the Covenant. The Indian delegation had also submitted some amendments (E/CN.4/556); and a new amendment presented by the Chinese delegation would be distributed shortly.

Mr. YU (China) wished to know whether other types of experience or competence were to be mentioned in paragraph 2 of article 19. Only three qualifications had been laid down in the Danish-French text, and a Committee of seven members would not be large enough to include representatives with all the various kinds of competence and experience possible. The French and Danish representatives, conscious that it would be the function of the Committee to enforce the provisions of the Covenant, had mentioned the usefulness of persons with judicial or legal experience. In his opinion, other qualifications should also be included, or alternatively no particular type of experience and training should be specified. In view of the small size of the Committee it might be possible, as a compromise, to combine two qualifications in one person; for example, it might be possible to find jurists with recognized competence in the field of human rights. He therefore proposed that the words "experience or" should be replaced by the words "experience and" (see document E/CN.4/560).

He further suggested that, in order to avoid any possible misunderstanding with regard to article 22, it might be advisable to adopt phraseology similar to that used in Article 7 of the Statute of the International Court of Justice. The Danish-French text might be taken to mean that the Secretary-General was to enjoy exclusive power of selection. He therefore proposed that the matter be clarified by replacing the words "a panel of the persons" by the words "a list in alphabetical order of all the persons".

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The CHAIRMAN put to the vote the Guatemalan proposal that the Human Rights Committee should consist of nine members and not seven as proposed in article 19, paragraph 1 of the original text drawn up at the sixth session.

The Guatemalan proposal was adopted by 13 votes to 2 with 3 abstentions.

Mr. SÖRENSEN (Denmark) recalled his proposal (E/CN.4/542) that the measures for implementation should not apply to the provisions on economic, social and cultural rights and suggested that the Commission should defer its final decision on article 19, paragraph 1, at the present stage.

It was so agreed.

Mr. CASSIN (France) said that he accepted the suggestion put forward by the Greek representative at the previous meeting. Article 19, paragraph 2, in the Danish-French should therefore read: "The Committee shall be composed of nationals of the States Parties to the Covenant who shall be persons of high moral standing and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having judicial or legal experience."

Mr. WHITLAM (Australia) considered that the expanded version of Article 19, paragraph 2, proposed by the French representative would serve no useful purpose; it might, indeed, lead to confusion. He agreed with the view expressed by the Greek representative earlier in the meeting that attention should be drawn to the issue in the Commission's report, which would indicate the views advanced about the qualifications of members of the Committee. From that it would be clear that some members with legal experience should be selected.

Mr. VALENZUELA (Chile) requested that a separate vote be taken on the opening phrase of paragraph 2, down to the word "Covenant".

The CHAIRMAN asked the Chinese representative whether he wished to maintain his first amendment in view of the latest French proposal.

Mr. YU (China) said he would withdraw his first amendment.

Mr. MOROSOV (Union of Soviet Socialist Republics) asked whether the Commission was taking final decisions on part III of the draft Covenant. The Chairman had mentioned at the previous meeting that there might be more than one reading. He would also like to know something about the Commission's future method of work.

The CHAIRMAN said that although he had mentioned the possibility that part III of the draft Covenant be given a preliminary reading, no member of the Commission had taken up the suggestion. He had therefore assumed that, unless the Commission decided otherwise, the decisions at present being taken would be final, with the exception of article 19, paragraph 1, on which the Danish representative had expressed reservations concerning the applicability of the implementation clauses to the provisions on economic, social and cultural rights.

Concerning the second point raised by the Soviet Union representative, the Commission would the following day go into closed session, as a working group, to consider item 3(b) of the agenda. When that had been disposed of, it would return to item 3(c), and then take up item 3(a).

He then put to the vote the opening words, "The Committee shall be composed of nationals of the States Parties to the Covenant", of article 19, paragraph 2, in the Danish-French proposal (E/CN.4/560).

The words in question were adopted by 16 votes to none with 2 abstentions.

The CHAIRMAN said the Commission could proceed to vote on the words "who shall be persons of high moral standing".

Miss BOWLE (United Kingdom) asked that a separate vote be taken on the word "moral", which introduced a new element into the text.

The CHAIRMAN put to the vote the word "moral", in the phrase "who shall be persons of high moral standing".

The word "moral" was adopted by 12 votes to 4 with 2 abstentions.

Mr. CASSIN (France) said that his sole desire was to facilitate the Commission's task. If the whole of paragraph 2, after the word "Covenant", were quoted word for word in the Commission's report, he would be quite satisfied. In his view, it was necessary to mention either all the required qualifications, or none of them.

Mrs. ROOSEVELT (United States of America) asked whether it had in fact been the Greek representative's intention to suggest that paragraph 2 should end at the words "States Parties to the Covenant" on the grounds that members' views on the qualifications of members of the Committee would be adequately summed up in the Commission's report.

Mr. ZOUTHLADES (Greece) said that that was a possible solution, although his proposal had been to the effect that it should be specified in article 19 that members of the Committee should possess recognized competence in the field of human rights, but that the other qualifications required should only be mentioned in the Commission's report. The French representative's proposal seemed to be that all the qualifications required of members of the Committee, including their competence in the field of human rights, should be mentioned in the report alone. He himself was prepared to accept either formula. There was no need to worry unduly about the form if the majority of the Commission was agreed on the substance. Lastly, his own attitude would mainly depend on the part assigned to the International Court of Justice, since if the latter's competence in the matter were denied, all the qualifications required of members of the Human Rights Committee would have to be explicitly specified.

Mr. CASSIN (France) said that it seemed that after all the Commission would have to vote on the two points at issue, namely, the competence of the members of the Human Rights Committee in the field of human rights, and the participation of jurists in the Committee's work.

Mr. WHITLAM (Australia) said that if paragraph 2 were cut short at the words "high moral standing", the provision would constitute a piece of gratuitous

advice to States. He could not vote for such a text, but would do so if the words "and recognised competence in the field of human rights" were retained.

The CHAIRMAN put to the vote the French representative's proposal that the words "consideration being given to the usefulness of the participation of some persons having judicial or legal experience" should be placed at the end of paragraph 2 of the Danish-French text.

The French proposal was adopted by 9 votes to 5 with 4 abstentions.

The CHAIRMAN then put to the vote the amended version of paragraph 2 of the Danish-French text of article 19, which read: "The Committee shall be composed of nationals of the States Parties to the Covenant who shall be persons of high moral standing and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having judicial or legal experience."

Paragraph 2, as amended, was adopted by 10 votes to 4 with 3 abstentions.

The CHAIRMAN invited the Commission to consider paragraph 3 of article 19 as drafted in the Danish-French proposal.

Mrs. ROOSEVELT (United States of America) suggested, as a matter of style, that the words "shall sit in a personal capacity" should be replaced by the words "shall serve in their personal capacities".

The United States representative's proposal was unanimously accepted.

Paragraph 3 of article 19, as drafted in the Danish-French proposal and as amended, was adopted by 16 votes to 2.

Mr. JEVREMOVIĆ (Yugoslavia) observed that article 19 could not be put to the vote as a whole as no final decision had yet been taken on paragraph 1.

The CHAIRMAN, agreeing, invited the Commission to pass to the consideration of article 20 of the draft Covenant.

Article 20

Mr. CASSIN (France) pointed out that the word "ressortissants" would be preferable to the word "nationaux" in the French text.

The CHAIRMAN said that the French text would be amended accordingly.

Article 20 was adopted by 16 votes to 2.

Article 21

Mr. ZOUTAKELIDES (Greece) pointed out that the question of the exact title to be given to what was provisionally called the "Human Rights Committee" had not yet been settled. He therefore hoped that the vote on article 21 would not preclude any subsequent change to that title.

Mr. YU (China) thought that the Commission should exercise caution in choosing a title for the body in question. A final decision on that matter could be taken at a later stage.

Article 21 was adopted by 16 votes to 2.

Article 22

The CHAIRMAN drew attention to the Indian amendment (E/CN.4/556) to article 22 of the draft Covenant, namely, that the words "States Parties to the Covenant" be replaced by the words "General Assembly".

Mrs. MEHTA (India) said she would withdraw her amendment in favour of the Danish-French text in document E/CN.4/550, but wished it to be placed on record so that it could be considered by the General Assembly if it were found that the International Court was unable to help in the appointment of members of the Committee.

The CHAIRMAN recalled the second amendment proposed by the Chinese representative to the Danish-French text, by which the words "panel of" would be replaced by the words "list in alphabetical order of all".

Mr. CASSIN (France) accepted the Chinese amendment. It would be more correct if the French text read: "une liste alphabétique."

The Chinese amendment was unanimously adopted.

Mr. VALENZUELA (Chile) reminded the Commission of the attitude of his delegation in respect of the participation of the International Court of Justice and asked therefore that a separate vote be taken on the phrase in which the Court was referred to.

The CHAIRMAN put to the vote the words "and submit it to the International Court of Justice and to the States Parties to this Covenant."

The phrase was adopted by 12 votes to 5.

The Danish-French text of article 22, as amended, was adopted by 13 votes to 4 with 1 abstention.

Mr. JEVREMOVIĆ (Yugoslavia) said that he had voted against article 22 because he did not believe that the machinery for implementation should be of a legal character.

Article 23

Mrs. MEHTA (India) said that if the words "on behalf of the States Parties to the Covenant" were deleted from paragraph 1 of the Danish-French text she would be prepared to withdraw her amendment (E/CN.4/556) to article 23 of the original draft Covenant.

Mr. CASSIN (France) would have been prepared to accept the amendment proposed by the Indian representative but for the fact that it seemed to him unacceptable from a legal standpoint. The Secretary-General was not a Party to the Covenant and must therefore be expressly appointed to act on behalf of the States Parties to the Covenant.

Mrs. MEHTA (India) pointed out that the goal was universal ratification

of the draft Covenant, and that the Secretary-General could only act on behalf of State Members of the United Nations. It was for that reason that she had submitted her amendment.

The CHAIRMAN asked the Indian representative whether she would be willing to withdraw her amendment if the words "on behalf of the States Parties to the Covenant" were put to the vote separately.

Mrs. MEHTA (India) signified her assent.

The CHAIRMAN put to the vote the words "on behalf of the States Parties to the Covenant".

The words in question were retained by 8 votes to 3 with 7 abstentions.

Mr. YU (China) pointed out that in the light of the decision taken on article 22, a consequential amendment would have to be made to article 23, the word "panel" being replaced by the word "list".

It was so agreed.

The Danish-French text of article 23, as amended, was adopted by 12 votes to 2 with 4 abstentions.

Article 24

Mrs. ROOSEVELT (United States of America) proposed that the following amendments be made to the Danish-French text of article 24. First, the addition of the words "at any time" at the end of paragraph 1; secondly, the insertion of the word "all" after the words "majority of the votes of" in the second sub-paragraph of paragraph 2, and finally, the addition of the words "for the holding of the elections by the Court" at the end of paragraph 3.

Mr. CASSIN (France) accepted the amendments proposed by the United States delegation which meant that when a vote was taken not only members present and voting would be considered, but the total number of members of the Court.

He felt that it would be preferable for the French text to read: "le Comité ne peut jamais....", which was both brief and expressive.

Mr. SÖRENSEN (Denmark) stated that the United States amendments were acceptable to him.

AZMI Bey (Egypt) observed that he had already submitted an amendment to paragraph 2 of article 24 (E/CN.4/567). He had taken over the formula used in Article 9 of the Statute of the International Court of Justice.

Mr. VALENZUELA (Chile) was sorry to have to vote against the interesting amendment submitted by the Egyptian delegation. He quite appreciated that its intention was to make use of the formula in Article 9 of the Court's Statute; but if it were adopted it would give rise to serious practical difficulties. How many civilizations were there, and what did the expression "main types of civilization" mean in law? That was a matter for historians, and one on which opinions were divided. For example, the English historian Arnold Toynbee considered that there were several thousand different civilizations. Such a formula would raise very serious problems in the case of Latin American countries, the civilizations of which had been borrowed from other continents.

AZMI Bey (Egypt) pointed out that the questions raised by the Chilean representative had been answered long ago. The General Assembly had elected the judges to the International Court of Justice on the basis of the criteria set out in Article 9 of the Court's Statute. Moreover, the Egyptian amendment did not refer to all civilizations, but merely to the "main types" of civilization. In any case, not only Latin America, but Chile herself, was represented in the International Court of Justice; hence he felt that the Chilean representative's apprehensions were groundless.

Mr. WHITLAM (Australia) considered that the Chilean representative was right. There were sound reasons for the reference to "the main forms of civilization" in Article 9 of the Statute of the International Court, but he did not

believe that was an appropriate concept to introduce into article 24 of the draft Covenant, where equitable geographical distribution was the only practical procedure. He would accordingly oppose the Egyptian amendment.

Mr. CARRILLO (Uruguay) said that whenever the object was to ensure representation on a truly universal basis, his delegation invariably tried to find the least ambiguous formula. So far, the United Nations had used the expression "equitable geographical distribution". As the Egyptian amendment appeared to provoke certain misgivings, his delegation would reluctantly have to oppose it.

AZMI Bey (Egypt) was surprised that the Australian representative should defend the principle of "geographical" distribution. Australia and Canada belonged geographically to two very different regions, but they nevertheless formed part of a far bigger community with a single cultural structure.

Mr. YU (China) had considerable sympathy for the idea underlying the Egyptian amendment. He believed that it might be possible to introduce both the principle of equitable geographical distribution and that of the representation of the main forms of civilization, which was an apposite concept in a document relating to human rights.

AZMI Bey (Egypt) agreed with the Chinese representative.

Mr. CASSIN (France) agreed to the Egyptain amendment as modified by the Chinese representative.

Mrs. ROOSEVELT (United States of America) said that, as the Egyptian amendment had been taken from article 9 of the Statute of the International Court, it should reproduce the exact terms of that article, and read "to the representation of the main forms of civilization".

It was so agreed.

The CHAIRMAN put to the vote the Egyptian proposal that the words "and

to the representation of the main forms of civilisation" be added at the end of the first sentence of paragraph 2 of the Danish-French text of article 24.

The Egyptian proposal was adopted by 10 votes to none with 8 abstentions.

The CHAIRMAN put to the vote the Danish-French text of article 24, as amended by the Egyptian and United States proposals.

It was adopted by 13 votes to 2 with 3 abstentions.

Article 25

The CHAIRMAN drew the attention of the Commission to the Danish-French amendment to article 25 of the original draft text, whereby the words "Secretary-General of the United Nations" would be replaced by the words "President of the International Court of Justice."

The Danish-French amendment was adopted by 13 votes to 3 with 2 abstentions.

The CHAIRMAN observed that in view of the decision to increase the membership of the Human Rights Committee from seven to nine the second sentence of article 25 required consequential amendment.

Mr. CASSIN (France) agreed that the figure should be changed, and would suggest that it should be fixed at six. No doubt during the first few years after the Covenant came into force further ratifications would occur, and that would mean additional electors. Hence it was desirable that there should be machinery for large-scale renewal of the membership of the Committee at short notice.

Mr. DUFONT-WILLEMIN (Guatemala) proposed that only five members of the Committee should be replaced, so as to keep the same ratio as in the original amendment.

Mr. CASSIN (France) agreed to the Guatemalan proposal.

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It was agreed to replace the word "four" by the word "five" in the second sentence of article 25.

The CHAIRMAN put to the vote article 25 of the original text of the draft Covenant, as amended.

Article 25, as amended, was adopted by 13 votes to 2 with 3 abstentions.

The meeting rose at 6.5 p.m.