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COMMISSION ON HUMAN RIGHTS

Seventh Session

SUMMARY RECORD OF THE TWO HUNDRED AND FORTY-SIXTH MEETING

held at the Palais des Nations, Geneva,
on Thursday, 17 May 1951, at 10.0 a.m.

CONTENTS:

Present:

Chairman: Mr. MALIK (Lebanon)

Members:

Australia	Mr. WHITLAM
Chile	Mr. SANTA CRUZ
China	Mr. YU
Denmark	Mr. SÖRENSEN
Egypt	AZMI Bey Mr. GHANI
France	Mr. CASSIN
Greece	Mr. EUSTATHIADES
Guatemala	Mr. DUPONT-WILLEMIN
India	Mrs. MEHTA
Pakistan	Mr. WAHEED
Sweden	Mrs. KÖSSEL
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. CLASULLO
Yugoslavia	Mr. JEVREMOVIC

Representatives of specialized agencies:

International Labour Organisation	Mr. PICKFORD
United Nations Educational, Scientific and Cultural Organization	Mr. BAMMATE

Representatives of non-governmental organizations:

Category A

International Federation of Christian Trade Unions	Mr. EGGERMANN

Category B and Register

Caritas Internationalis	Mr. PETERKIN
Catholic International Union for Social Service	Mrs. SCHRADER
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
International Association of Penal Law	Mr. HABICHT
International Council of Women	Mrs. CARTER
International Federation of Business and Professional Women	Miss TOMLINSON
International Federation of University Women	Miss ROBB
International League for the Rights of Man	Mr. GRANT Mr. BALDWIN
International Union of Catholic Women's Leagues	Miss ARCHINARD
Liaison Committee of Women's International Organizations	Miss ROBB
World Jewish Congress	Mr. BIENENFELD Mr. RIEGNER

Secretariat:

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

1. POINT OF ORDER RAISED BY THE FRENCH REPRESENTATIVE

Mr. CASSIN (France) observed that during the private (246th) meeting held the previous day to examine communications, the Commission had received certain documents concerning a new communication. He would like to know in what circumstances those documents had come to be distributed. He was anxious to obviate the establishment of a precedent, for if the Commission allowed a communication to be laid before it in such circumstances it might be flooded by them at any time. It was not, he thought, a question of substance, but one of methods of work.

The CHAIRMAN stated that the Secretariat had informed him that the envelopes had been sealed, and that it was customary to deliver sealed envelopes addressed to members of the Commission in person.

Mr. HUMPHREY, representing the Secretary-General, corroborated the statement of the Chairman, and added that if the Commission wished that practice to be discontinued the Secretariat could forward the correspondence of representatives to their hotels.

Miss BOWIE (United Kingdom) noted that by some curious coincidence the envelopes had been delivered during the meeting of the Commission at which the question of communications was being discussed. She suggested that they must have been delivered by some person familiar with the Commission's proceedings and that an enquiry should be held into the circumstances of their delivery.

Mr. CASSIN (France) observed that the letters had been addressed to members of the Commission personally, not to the Commission as such. Although the Commission's work was not appreciably increased by a single communication, a large number might prove burdensome.

2. FUTURE PROGRAMME OF WORK

The CHAIRMAN recalled that at a previous meeting the representative of the Union of Soviet Socialist Republics had proposed that the agenda for the session should be re-examined. Moreover, the Secretariat had asked for clear indications concerning the length of the present session. According to the relevant resolution of the Economic and Social Council, the session was to close on Saturday, 19 May. The Commission had therefore obviously to decide whether to extend the session or revise its agenda in some way.

Miss BOWIE (United Kingdom) pointed out that many representatives had already made other commitments for the following week. Moreover, it would not, she thought, be worth while to prolong the session by so short a period as two or three days, as that would hardly enable the Commission to dispose of the most important outstanding items on its agenda. She proposed therefore that the Commission should hold an extraordinary session in October and deal with the outstanding items then, or alternatively defer discussion of all those items until the next ordinary session.

The CHAIRMAN said that the Commission could not take a decision on that issue while three representatives were still absent. He proposed that further discussion be deferred until the next meeting, when he would put forward definite proposals for the revision of the agenda.

Mr. WHITLAM (Australia) asked the Chairman whether he could give the Commission a general outline of his proposals.

The CHAIRMAN said that his proposals were based on the supposition that the Commission would adjourn on Saturday, 19 May, and on the assumptions that it would meet twice a day, that it would adopt its report on the afternoon of 19 May, and that there would be no attempts to obstruct its work.

Mr. SANTA CRUZ (Chile) saw no reason why that question should not be considered at the next meeting. He nevertheless asked the Chairman to explain how much business he thought the Commission could get through by Saturday, 19 May, and how much more it could accomplish if it sat for an extra week.

The CHAIRMAN said that the Commission could reasonably expect to deal with the implementation of economic and social rights, the implementation of other rights, and the question of the right of petition by the end of the week. If the session was prolonged for a further week, the Commission could probably finish its re-examination of articles 1-18 of the draft Covenant and deal with certain other questions.

Mrs. ROOSEVELT (United States of America) asked how many representatives would be able to stay on for a full week.

The CHAIRMAN stated that the Commission could not go into that matter while three representatives were still absent.

Miss BOWIE (United Kingdom) considered that a vote could be taken forthwith. If, despite the absence of three representatives, ten members voted against the prolongation of the session, the matter would be disposed of immediately. She asked how many representatives were in favour of prolonging the session until the following Tuesday, or, alternatively, by a full week.

Mr. SÖRENSEN (Denmark) considered that the question was not one that could be voted on.

The CHAIRMAN asked which representatives would be able to stay for the periods mentioned by the United Kingdom representative, or arrange for their seats to be filled by an alternate.

Mr. WHITLAM (Australia) stated that he could stay for a full week, but could not agree to the prolongation of the session unless the majority of representatives wished to stay for the whole period.

Mr. SANTA CRUZ (Chile) protested against the method which the Commission seemed inclined to adopt for deciding whether the session should be prolonged or not. It was quite obvious that in arriving at such a decision account must be taken of the presence or absence of members. But he did not think that the question of principle of the prolongation of the session should be decided on the basis of that factor alone. Such a course would be illogical and abnormal.

The CHAIRMAN, agreeing with the Chilean representative, considered that it would be illogical to make the work of the Commission dependent on whether members could attend or not.

Mr. SANTA CRUZ (Chile) thought that it would not be unreasonable for members to be asked to state at the next meeting whether or not they could continue to take part in the Commission's work for another week, and for the Commission to be guided, to some extent, by the information collected. He must repeat, however, that it would be regrettable if the Commission was to base a decision of principle on that consideration alone.

It was agreed that further discussion of the question should be deferred until the next meeting.

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

(b) Inclusion in the Covenant of provisions concerning economic, social and cultural rights:

Draft articles on the implementation of the provisions relating to economic, social and cultural rights (E/CN.4/570/Rev.2, E/CN.4/629, E/CN.4/630, E/CN.4/631/Rev.1) (resumed from the 243rd meeting)

The CHAIRMAN invited the Commission to continue its discussion of the report of the Working Group on Implementation of Economic, Social and Cultural Rights (E/CN.4/629).

Article A (continued)

Mr. CASSIN (France) said that his delegation desired, at one and the same time, that a Covenant should be drawn up and ratified by the largest possible number of States, and that no insuperable barrier should be erected between States Members of the United Nations that signed the Covenant and those which did not. France, being convinced that human rights were confirmed by the Charter, which laid certain obligations in that connexion on all States Members of the United Nations, and considering that the sole object of the Universal Declaration of Human Rights and the First International Covenant on Human Rights

was to define and implement the Charter's provisions, felt that all Member States should be able to make known, in an appropriate manner, the way in which they were fulfilling their obligations under Article 56 of the Charter.

The French delegation was therefore of the opinion that article A in the report of the Working Group was the keystone of the Covenant, and that healthy understanding between Member States depended on it. It therefore proposed adding a provision to the effect that the States parties to the Covenant undertook to submit reports concerning the progress made in achieving the observance of such rights, not only under the terms of the procedures laid down in the Covenant, but also in conformity with any recommendations which the General Assembly and the Economic and Social Council, in the exercise of their general responsibility, might see fit to make to all the Members of the United Nations, that was to say, both those that had ratified only the Charter, and those that had ratified both the Charter and the Covenant. The more rules there were common to all Member States, whether they had signed the Covenant or not, the greater would be the number of accessions to the Covenant. Conversely, the fewer the points in common between the Covenant and the Charter, the greater would be the number of States Members which would hesitate to ratify the Covenant. It was clear that if observance of the obligations assumed by signatory States under the Covenant were to be supervised only by organs set up by those States themselves, there would be no difficulty. But once the signatory States acknowledged the supervision of the United Nations as a whole, through the Commission on Human Rights, the Economic and Social Council and the General Assembly, it became essential to ensure the maximum reciprocity.

Mr. PICKFORD (International Labour Organisation), speaking at the invitation of the CHAIRMAN, drew attention to the footnote to the Lebanese proposals (E/CN.4/570/Rev.2, page 1), in which it was suggested that the implementation of the right to freedom of association and to non-discrimination should be left to the Human Rights Committee visualized in Part III of the draft Covenant. He asked the Chairman how that matter would stand in the light of the present wording of article A in the draft articles appended to the Working Group's report.

The CHAIRMAN stated that that subject had not been explicitly discussed by the Working Group; but his personal opinion, as representative of Lebanon, was that the provisions now under discussion should apply only to economic, social and cultural rights other than those mentioned in the footnote to his delegation's proposals.

Mr. PICKFORD (International Labour Organisation) said that he had asked that question because he might have a point to raise concerning the implementation of the right to freedom of association in the event of that right being made subject to the procedure proposed in the Working Group's report. He was, however, satisfied with the Chairman's explanation and would raise the matter again when the implementation clauses relevant to the first part of the Covenant came up for discussion.

Mr. EUSTATHIADES (Greece) shared the French representative's views on article A. The question was not one of ensuring the greatest possible degree of reciprocity; it was one of guaranteeing a minimum of reciprocity. The effect of the original text of the French proposal (E/CN.4/623) would have been to make it mandatory upon the General Assembly and the Economic and Social Council to issue recommendations. The alternative text for article A proposed by the French delegation, however, did not go so far, since it simply specified that, in the exercise of their general responsibility, the General Assembly and the Economic and Social Council might make recommendations to all the Members of the United Nations. In his opinion, the General Assembly and the Economic and Social Council already enjoyed such a right by virtue of the Charter, but he thought that a provision of that nature might be included in the Covenant in order to ensure a minimum of uniformity in the obligations to be assumed by States for the protection of human rights.

Mr. WHITLAM (Australia) said that his delegation would vote in favour of the addition to article A proposed by the French delegation. Even with that addition the obligations to be assumed by Governments signatories to the Covenant would not in themselves be positive and complete, but would tend to be imperfect. But the Commission would inevitably have to make a choice between a positive Covenant and a Covenant with some such addition; and in order

that the idea behind it and the question of alternative Covenants or cumulative articles embracing both ideas might be submitted to Governments for consideration, he would support the Working Group's text with the French addition subject, as always, to the general reservation that the whole of the articles would have to be reconsidered.

Mr. SANTA CRUZ (Chile) recalled that, in the various organs of the United Nations in which the question of the implementation of the provisions of the Charter with regard to human rights had been raised, his delegation had always maintained that the General Assembly and the Economic and Social Council were competent to make recommendations with regard to the observance of human rights, including recommendations addressed to particular countries.

It would also be recalled that, when the General Assembly had been considering possible means of perfecting the system of international security established under the Charter of the United Nations with a view to achieving united action for peace, the Chilean delegation had submitted a draft resolution to the First Committee inviting States Members to sign a covenant, supplementary to the Charter, which would include the obligation of applying the recommendations of the General Assembly and of the Economic and Social Council with regard to fundamental human rights and to the manner in which they were to be interpreted and observed.

He would therefore give his unreserved support to the French proposal, although it did not go so far as that made on another occasion by his own delegation. Under the French proposal, nevertheless, States parties to the Covenant would undertake to submit reports to the United Nations in conformity with any recommendations which the General Assembly and the Economic and Social Council might make. However, he would regard the adoption of the French proposal as only a preliminary stage, pending the assumption by States Members of a formal undertaking to implement recommendations of the General Assembly and the Economic and Social Council designed to ensure observance of the provisions of the Charter in respect of human rights.

Mr. SÖRENSEN (Denmark) supported the addition proposed by the French representative, which would help to place the States parties to the Covenant on an equal footing with the other States Members of the United Nations. If the General Assembly or the Economic and Social Council made the recommendations provided for in the proposed addition, the States parties to the Covenant would be bound to follow those recommendations and would be able to exert moral pressure on those States which were not parties to the Covenant.

The French proposal was, however, slightly different from the proposal the French delegation had submitted in the Working Group, in which there had been no mention of the fact that reports should be submitted "in conformity with the following articles". The addition of those words meant that the procedure by which States parties to the Covenant would submit reports, which was laid down in those articles, would remain unchanged, whatever recommendations the General Assembly or the Economic and Social Council might make. The result would be either that the procedure laid down in the following articles for the States parties to the Covenant would apply to States not parties to it too, or that some procedure over and above that provided for in the following articles would have to be evolved and made applicable to all Member States.

The representative of the International Labour Organisation had asked whether the articles under discussion were to apply to all the rights in the Covenant, to the economic, social and cultural rights alone, or merely to those economic, social and cultural rights for which no other special implementation procedure had been provided. The Working Group had not discussed that problem at any length; it had been instructed to co-ordinate the texts concerning implementation submitted to the Commission, and it had not had time to go fully into all the implications of the articles it had drafted. A certain inconsistency could be found between those articles if they were examined as a whole; in places they spoke of the rights laid down in "this Covenant", in others of the rights laid down in "this part of the Covenant". He suggested that the decision whether the draft articles of implementation should relate to all the rights provided for in the Covenant, or only to the economic, social and cultural rights, should be deferred until the substance of those articles had been decided upon, or, in other words, that for the time

being, wherever the words "this Covenant" or "this part of the Covenant" appeared, the words "part of the" should be regarded as enclosed in square brackets, and similarly that the words "these rights" should not for the present be further defined. If it were decided to use the words "this part of the Covenant" consistently, the question raised by the representative of the International Labour Organisation would have to be dealt with, namely, whether the system of implementation under discussion was to be adopted without prejudice to other special implementation procedures or whether it was to take precedence over them.

The CHAIRMAN, speaking as the representative of Lebanon, supported the suggestion of the Danish representative, although he would point out that it might be both necessary and appropriate to use the words "this part of the Covenant" in one place and "this Covenant" in another.

Mrs. ROOSEVELT (United States of America) asked whether that question would be referred to the Economic and Social Council or whether the Commission was to take a decision itself.

The CHAIRMAN felt that the Commission should attempt to take a decision itself.

Mrs. ROOSEVELT (United States of America) considered that in most of the articles the words "this part of the Covenant" would have to be used; the only reason for the adoption of the draft articles at present under discussion was that the nature of the articles on economic, social and cultural rights differed from that of the articles relating to civil and political rights.

Her delegation intended to vote against the proposed French addition to article A. She did not see how the States parties to the Covenant and the other States Members of the United Nations could be placed on an equal footing. Under the terms of that article the States parties would undertake to carry out certain tasks, and the adoption of such an amendment would place non-signatory States in an unfair position. The French proposal was based on the Charter; but the Commission was dealing with a Covenant on a specific subject, and the provisions of that Covenant should only affect the States Parties thereto.

However, she agreed with the principle of the French amendment and would support its adoption as a separate resolution

Mr. CASSIN (France) said that his delegation had no intention, for the moment, of asking the Commission to take a decision on whether economic, social and cultural rights should be the only ones covered by the articles under consideration, or whether they should also apply to other rights.

On the other hand, while he would hardly contest the desirability of the suggestion made by the Danish representative so far as the other articles were concerned, he was opposed to it in connexion with article A, since there must be no doubt about the fact that the words "these rights" in that article meant the rights laid down "in this part of the Covenant". If they meant the rights laid down in the Covenant as a whole, it would be impossible for the General Assembly and the Economic and Social Council to address any recommendations regarding the fulfilment of obligations arising out of the Covenant to States Members which had not signed the Covenant.

The object of article A was to ensure general observance of the rights referred to, and it was not the desire of the French delegation to place States Members which did not sign the Covenant under the obligation of drawing up detailed reports or answering questionnaires relating to undertakings they had not given. On that account, he would oppose the Danish suggestion so far as article A was concerned, since were the words "these rights" changed to "the rights laid down in this Covenant", the additional text proposed by the French delegation would lose all meaning.

Mr. JEVREMOVIC (Yugoslavia) stated that Part III of the Covenant already dealt with the general implementation of all human rights. On the other hand, certain representatives wished to see the application of those general measures restricted to civil and political rights. His delegation was opposed to any such restriction, and could not take up a definite position on any clause concerning the implementation of economic, social and cultural rights until a decision had been reached concerning the applicability of the general implementation measures. If the draft articles being discussed were to be considered as supplementary to the general implementation provisions, the question would arise as to whether Governments could submit complaints, invoking the

general implementation clauses concerning the non-observation of economic, social and cultural rights.

Mr. MOROSOV (Union of Soviet Socialist Republics) stated that his delegation had always considered any attempt to interfere in the domestic affairs of any State, on the pretext of exercising international control, as a violation of paragraph 7 of article 2 of the Charter. The endeavour to oblige States to submit reports on the implementation of economic, social and cultural rights was clearly an attempt at such intervention, and as such constituted a violation of the principle of national sovereignty as recognised in the Charter. His delegation, therefore, found all the proposed implementation measures unacceptable.

Under the French amendment to article A Governments would have to sign a blank cheque; its provisions were devoid of any constructive or definite significance, and lent themselves to widely differing interpretations. It proposed that Governments should undertake without reserve to implement any recommendation which the General Assembly or the Economic and Social Council might pass at any time in the future. Recommendations of the General Assembl and the Economic and Social Council could never have any binding force on States Members of the United Nations, and any attempt to make them binding, particularly in such a wide field as the implementation of human rights, would be a violation of the Charter. Furthermore, the French proposal, in addition to violating the letter and spirit of the Charter, ran counter to common sense; no Government in its right senses would ever accept provisions the content and applicability of which were unknown to it.

Article A itself, while not constituting such a flagrant violation of the Charter as the French proposal, was nevertheless an inadmissible attempt to intervene in the domestic affairs of States under cover of vague phrases such as "reports concerning the progress made".

Mr. SANTA CRUZ (Chile) observed that the Soviet Union representative had raised a fundamental issue by maintaining that any international supervision in respect of the implementation of fundamental human rights would constitute an intervention in matters essentially within the domestic jurisdiction

of any State, and would therefore conflict with the provisions of article 2, paragraph 7, of the Charter. The Soviet Union representative had advanced that argument in connexion with that article of the Covenant which imposed on signatory States the very limited obligation to submit reports to organs of the United Nations in certain specific cases.

He (Mr. Santa Cruz) considered, on the contrary, that questions relating to human rights and fundamental freedoms and their observance were not exclusively within the domestic jurisdiction of States. That problem had been examined on several occasions by organs of the United Nations, and the majority of States Members had considered that human rights and fundamental freedoms had been brought into the sphere of international law, by reason of the obligation to respect them laid down in the Charter. That was why the United Nations had taken certain measures and instructed the Commission to prepare a draft international Covenant on human rights, with the idea that certain measures of international supervision should be introduced in order to ensure the application of the provisions contained in that Covenant.

The Soviet Union representative had on several occasions criticized certain provisions of the Universal Declaration of Human Rights and of the draft Covenant because, in his view, they did not provide those entitled to the rights recognized in those documents with sufficient guarantees of their free exercise. He (Mr. Santa Cruz) considered it impossible, without being inconsistent, to maintain on the one hand that the Covenant did not provide sufficient guarantee and, on the other, to oppose the idea of international supervision, when the essential feature of the Covenant was, in fact, that signatory States would assume certain obligations in respect of the individual. He considered that, so soon as reliance was placed exclusively on States to ensure observance of the provisions of the Covenant, respect for the rights of individuals recognised in that instrument would become entirely illusory. In his opinion, there was a complete contradiction between those two views; opposition to international supervision amounted to a denial to individuals of the normal exercise of economic, social and cultural rights in every State.

Pointing out a further contradiction in the attitude of the Soviet Union delegation, he recalled that on frequent occasions in the Economic and Social Council or the General Assembly Soviet Union representatives had maintained that one group of fundamental human rights, namely, trade union rights, should be internationally protected and supervised. The Soviet Union delegation had considered the organs of the United Nations competent to hear complaints in that field submitted to them not only by States Members, but also by any non-governmental organization, whether recognized by the United Nations or not. The Soviet Union delegation had not only advanced that argument, but had also introduced draft resolutions condemning certain governments for infringements of trade union rights. He saw no reason why the States accused should not, on that occasion, have taken refuge behind the provisions of article 2, paragraph 7, of the Charter. Nor did he understand why, in view of the attitude adopted by the Soviet Union delegation with regard to trade union rights, international supervision of the exercise of other economic and social rights should be held to impair the principle of national sovereignty. He asked the Soviet Union representative to be so good as to explain how he reconciled those apparently contradictory ideas.

The CHAIRMAN, speaking as representative of Lebanon, pointed out that under the provisions of Article 55 of the Charter, all Member States were already pledged to "promote universal respect for, and observance of, human rights and fundamental freedoms for all". States Members of the United Nations had fulfilled that pledge by adopting the Universal Declaration of Human Rights, by drafting the First International Covenant on Human Rights, and by other similar measures. Article 56 of the Charter stated that "all members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55". Joint action could be, and was, undertaken at the meetings of the Commission. But Article 56 also referred to separate action; and it was quite proper for each individual government to be asked to submit a report on the progress it had made in achieving the aims set forth in Article 55. If the General Assembly adopted a resolution inviting all Member States to submit reports concerning the progress made in achieving the observance of human rights, those Member States were already pledged in advance,

under Article 56 of the Charter, to act on that resolution. He failed to see how under those conditions any State could refuse to submit a report in conformity with such a resolution. That being the case, the French text did not constitute a blank cheque; the blank cheque was Article 56 of the Charter, which all Member States had accepted. The French text only adapted the terms of Article 56 of the Charter to apply specifically to the implementation of human rights.

When the United Nations decided to recommend that reports should be submitted, Member States would have every opportunity of discussing the nature and scope of those reports. No system of reporting would be recommended without careful examination, but once it had been adopted all Member States would be bound, under the provisions of Article 56, to observe it.

Mrs. ROOSEVELT (United States of America) said that if the Chairman were correct in his contention, there was surely no need to have any provisions relating to measures of implementation at all, because States Members of the United Nations would already be bound to take the steps therein laid down. What her delegation was opposed to was the inclusion in the draft Covenant of provisions affecting non-signatory States. It could not agree that signatory States should be placed in a less favourable position than non-signatory States. All the latter, as Members of the United Nations, had done, was to undertake in a general way, under the terms of Article 56 of the Charter, to carry out certain obligations with regard to the promotion of human rights. The provision embodied in the French amendment to Article 4 had no place in the draft Convention, and should be the subject of a separate resolution.

The CHAIRMAN observed that any State which had ratified the Charter had bound itself to take certain action in pursuance of the provisions of Articles 55 and 56 thereof. If at any time the General Assembly were to elaborate a programme for reporting connected with the provisions of Article 56, could any State Member of the United Nations refuse to participate in such a programme? He did not believe it could. If such were the implication of the addition proposed by the

French representative to article 4 - and personally he had not yet reached a definite conclusion on that point - he believed that that addition would stand up to the most stringent legal scrutiny.

Mr. CASSIN (France) thought that, while the provisions of Article 56 of the Charter should be borne in mind, it was preferable not to overload the Covenant with references which ran the danger of being incomplete. It was in fact, as the Chairman had pointed out, by virtue of the Charter in general that such obligations were incumbent upon States.

In reply to the observations of the United States representative, he must explain that, when the Commission came to consider item 6 of its agenda, relating to annual reports on human rights, he would submit a draft resolution, which would clearly establish that he had no other aim in view but to avoid the creation of a gulf between those States which merely acknowledged the Charter and those which wished, in addition, to accede to a special Covenant.

Mr. MOROSOV (Union of Soviet Socialist Republics) expressed his regret that the Chilean representative should not have been present on the occasions when the Commission had discussed the question of national sovereignty in relation to the provisions of the draft Covenant, as he (Mr. Morosov) was thereby compelled to refer briefly to some aspects of that problem.

The Chilean representative had suggested that in accepting the Charter, States had, in some degree, abandoned the principle of national sovereignty. That argument was entirely incorrect, since the entire Charter was based on respect for the sovereignty of States Members. A misapprehension was frequently voiced, namely, that the acceptance of certain international obligations involved a partial surrender of national sovereignty. Partisans of such a view had clearly misunderstood the nature of international treaties freely concluded by States. The terms of Article 2, paragraph 7, of the Charter, which applied to all the provisions of that instrument, confirmed his thesis, which had been put forward on numerous occasions and by representatives of various governments at the San Francisco Conference. Indeed, to the best of his recollection, the United States representative had in one of the committees on that occasion declared that Article 55 could

not be interpreted as opening the way to interference in the internal affair of States. It was absolutely contrary to the processes of legal or logical analysis to remove Article 55 and 56 from their context and to interpret them arbitrarily, without reference to the provisions of Chapter 1 of the Charter.

The Chairman had argued that if the General Assembly were to put forward a recommendation asking governments to report on certain matters, Member States would be obliged to do so. He (Mr. Morosov) could not subscribe to such a contention, because a recommendation had no mandatory character. A recommendation possessed a certain moral authority, but its application was not enforceable. It was true that a recommendation of the General Assembly would in most cases be complied with in practice, but governments would do so of their own free will in the interests of furthering international co-operation, and without any surrender of their sovereignty whatsoever. It would be quite untrue to suppose that the Soviet Union Government was opposed to reporting in general. It had, for example, submitted reports on the position of women and children, on medical services and social security. But he wished to make it clear that it would be entirely contrary to the spirit and letter of the Charter to regard recommendations of the General Assembly as having binding force of the kind implied in the French amendment to article A. Such an interpretation of the nature of recommendations was not only incorrect, but was opposed to the principle of national sovereignty. He could not therefore accept that amendment.

The United States representative had quite rightly argued that, if the Chairman's contention was correct, there would be no need for measures of implementation. Strict adherence to the principle of national sovereignty in no way precluded the Commission from proceeding with its work on the draft Covenant. The elaboration at international level of provisions guaranteeing the observance of basic human rights need in no way endanger the principle of national sovereignty, since it was obvious that those provisions would have to be applied by governments, either by legislative action or by other means, in accordance with their constitutional structure and internal conditions. He did not suppose, for example, that his Government was in a position to achieve the realisation of economic, social and cultural rights for the people of Chile.

All that could be hoped was that the Chilean Government would do for its citizens as much as was being done in the Soviet Union for the Soviet Union people.

There was no contradiction between his Government's thesis that each State must take every measure to ensure the realization of basic human rights, and the principle of non-interference in the internal affairs of States. The more attempts there were at interference in the guise of international action, the more would the possible field of international conflict be extended. He was unable to understand why the advocates of interference in the internal affairs of States should imagine that governments had a closer concern for the welfare of other peoples than for that of their own. It must be recognized that the proposed machinery for the implementation both of civic, civil and political, and of economic, social and cultural rights had not been designed to achieve their realization. Its objectives were of quite a different character, as had been revealed by the attitude taken by certain delegations in the General Assembly.

The Chilean representative had brought up the question of trade union rights, but that had nothing whatever to do with the present discussion. The Soviet Union Government had always held the view that, in the case of violations of trade union rights, only the complaints of genuine, democratic trade union organizations could be heard, and not those of organizations masquerading as free and independent bodies.

Mr. YU (China) proposed to vote in favour of the French amendment to article 4. He could not agree that such a provision would unduly encroach on national sovereignty, or constitute an unacceptable form of international control. Various interpretations were placed on the concept of national sovereignty, and he considered that in the present stage of world development, States belonged to an international society. Those who had become Members of the United Nations had thereby in some measure delegated their own sovereignty. That was a view that the Chinese Government had consistently advanced since the San Francisco Conference; indeed, it had given it legal recognition by inserting into its Constitution a provision declaring that it would observe the Charter of the United Nations.

International co-operation and the elaboration of international instruments did not involve any sacrifice of national sovereignty. He did not believe that the provision embodied in the French amendment need raise any difficulty, particularly as in adopting it the Commission would not be pre-judging the question of where it would be placed in the draft Covenant. The position of all the articles under consideration would have to be reviewed at some future stage, with a view to possible re-adjustment, so that the draft Covenant might form a harmonious whole. Nor did he consider that the words "in conformity with" would place a heavy obligation on non-signatory States, since those of them that were Members of the United Nations would in any event have to carry out their obligations under the Charter. The French amendment had been conceived in general terms, and would serve to strengthen the link between States Members of the United Nations and the General Assembly.

He agreed with the Chairman and the Chilean representative that no attempt was being made to interfere in the internal affairs of States. On the contrary, national sovereignty was invariably recognized and respected in the activities of international bodies.

Mr. SANTA CRUZ (Chile) remarked that the Soviet Union representative had simply repeated the viewshe had previously expressed on the manner in which he conceived the relationship between the observance of human rights and the national sovereignty of States. On that particular point, it was sufficient to recall that the vast majority of States Members of the United Nations considered that questions relating to the observance of rights and fundamental freedoms were not matters coming solely within the domestic jurisdiction of States. The views of the Soviet Union delegation and of the Chilean delegation, on the question were set forth in detail in the summary records of the meetings

of the Sixth Committee and of the General Assembly itself at the latter's third session.

The argument by which the Soviet Union representative had endeavoured to dispose of the contradictions, to which he (Mr. Santa Cruz) had drawn attention, between the attitude of the Soviet Union delegation with regard to trade union rights and its attitude towards other social, economic and cultural rights had failed to convince him. It was, he considered, impossible to escape from the fundamental idea that it was not the character of the body intervening which determined whether an intervention constituted a violation of the national sovereignty of a State or not. It was impossible to maintain that the intervention of a great non-governmental organization representing the workers was not contrary to Article 2, paragraph 7, of the Charter, whereas the intervention of an organ of the United Nations, on the contrary, constituted a violation of national sovereignty.

There were, however, certain facts which made the contradiction in the attitude of the Soviet Union delegation palpably clear. Not only had the Economic and Social Council considered the complaints of violations of trade union rights submitted to it by important non-governmental organizations; it had even gone so far as to decide to take cognizance of any complaints on that question submitted by any organization. In a number of instances, the delegation of the Union of Soviet Socialist Republics had declared the Economic and Social Council competent to take cognizance of such complaints, and had even introduced draft resolutions relating to their substance.

His delegation refused to accept the idea that international supervision of

the observance of rights and fundamental freedoms implied any surrender of sovereignty on the part of States. It could not see by virtue of what provisions of the Charter States Members of the United Nations could be forbidden to sign of their own free will a Covenant involving more specific obligations than those laid down in the Charter. The argument of the Soviet Union representative involved the assumption that the Charter failed to authorise international supervision of the observance of rights and fundamental freedoms. There was, however, nothing in the Charter to prevent States Members going beyond the provisions of the Charter itself, especially when it was a question of protecting rights which the representative of the Union of Soviet Socialist Republics, together with all other members of the Commission, recognised as fundamental.

While he agreed with the Soviet Union representative that the State, and particularly the democratic State, protected the individual, he would point out that the reason why the United Nations had deemed it necessary to draw up provisions regarding the observance of human rights and fundamental freedoms was that it had been aware that flagrant violations of such rights and freedoms had occurred in a number of countries. In view of those facts, the Commission would achieve nothing by leaving to States the sole responsibility for supervising the observance of human rights.

Mr. CASSIN (France) pointed out that the vote on article A and the addition thereto proposed by the French delegation would in no way involve a decision as to what rights were referred to in the other articles. It was his delegation's view that the rights referred to should be understood to mean <u>all</u> human rights. Other members of the Commission might, however, think differently, and he agreed with the Danish representative that an over all decision should be taken.

Mr. MOROSOV (Union of Soviet Socialist Republics), replying to the Chilean representative, pointed out that as the draft Covenant was being elaborated within the framework of the United Nations, its provisions must conform with those of the Charter. The Commission must be every mindful of

that consideration. He could not subscribe to the view put forward by the Chilean representative that the original significance of the Charter was susceptible of being further developed and expanded.

The CHAIRMAN put to the vote the French amendment to article A, namely that the words

> "in conformity with the following articles and the recommendations which the General Assembly and the Economic and Social Council, in the exercise of their general responsibility, may make to all the Members of the United Nations."

be added after the words "the observance of these rights".

The French amendment was adopted by 12 votes to 5 with 1 abstention.

Article A, as amended, was adopted by 14 votes to 2 with 2 abstentions.

Article B

The CHAIRMAN drew the attention of the Commission to the Indian amendment (E/CN.4/630) to article B.

Mrs. MEHTA (India) explained that the purpose of her amendment was to enable the Economic and Social Council, in the formulation of the programme, to consult not only States parties and the specialised agencies concerned, but also individuals.

The CHAIRMAN, speaking as representative of Lebanon, said he could not vote for the Indian amendment, because he believed it to be unnecessary. The Economic and Social Council was already free to initiate such consultations.

Miss BOWIE (United Kingdom) said she would also vote against the Indian amendment, as she agreed with the Chairman that the Council was already free to consult anyone it wished.

Mr. WHITLAM (Australia) said he could not support the Indian amendment, for the reasons just adduced by the Lebanese and United Kingdom representatives.

The CHAIRMAN put to the vote the Indian amendment, namely, that the words "amongst others" be inserted after the words "after consultation" in article B, paragraph 1.

The Indian amendment was rejected by 5 votes to 3 with 9 abstentions.

Paragraph 1 of article B was adopted by 15 votes to 2, with 1 abstention.

Paragraph 2 of article B was adopted by 14 votes to none, with 4 abstentions.

Mr. CASSIN (France) explained that he had abstained from voting on account of the imperfect drafting of the French text of article B, paragraph 2. In his view, the word "difficulté" included everything to be mentioned in the reports. That word had also been used in conventions of the International Labour Organisation, and covered both objective and subjective factors.

Paragraph 3 of article B was adopted by 15 votes to none with 3 abstentions.

Article B as a whole was adopted by 15 votes to 2 with 1 abstention.

Article C.

The CHAIRMAN drew the attention of the Commission to the Egyptian amendment (E/CN.4/631/Rev.1) to article C, and to the United States amendment to paragraph 2 thereof contained in the report of the Working Group.

Miss BOWIE (United Kingdom) was opposed to the Egyptian amendment, which would entail duplication both of procedure and material. It was not consistent with the agreement reached in the Commission and the Working Group to the effect that, where appropriate, experts of the specialized agencies should in the first instance deal with reports submitted by Governments. If they were first transmitted to the Secretary-General he in turn would be obliged to forward them to the specialized agencies.

Mrs. ROOSEVELT (United States of America) said that the purpose of the United States amendment to article C, paragraph 2, was to limit the reports required from governments to the rights set forth in the Covenant.

Her delegation believed the original provision to have been conceived in terms that were too broad.

Referring to the Egyptian amendment to paragraph 1, she said it would result in duplication, since governments would be required to report not only to specialized agencies, but to the Secretary-General as well. If the Secretary-General were to take action on highly technical reports, he would have to recruit additional expert staff. If he were not to take such action, there could be no justification for imposing an additional burden and expense on governments by asking them to submit extra copies of their reports.

Her would she support the Egyptian amendment to paragraph 2, as it would involve governments having to report on rights not covered by the Covenant. There was no need to lay down a mandatory obligation on specialized agencies to report to the Economic and Social Council, since they were already committed to doing so by the terms of their working agreements with the United Nations.

Mr. GHALI (Egypt) said that his delegation regarded the draft articles submitted by the Working Group as a successful compromise between the views of those who were in favour of governments reporting direct to the United Nations and those who favoured their reporting direct to the specialized agencies concerned. Nevertheless, as most members of the United Nations were also members of the specialized agencies, the provisions of article C were tantamount to saying that all reports should be sent to specialized agencies. It was for that reason that his delegation proposed that they should simultaneously be sent to the Secretary-General also. Such a procedure would surely be logical, since in the last resort the United Nations was the responsible organ. He did not believe that any issue of precedence or relative importance as between the United Nations and the specialized agencies was involved.

The Egyptian amendment to paragraph 2 was based on some suggestions put forward by the representative of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

Mr. CASSIN (France) said he would reluctantly have to vote against the first Egyptian amendment for the reasons mentioned by the United Kingdom and United States representatives. Though the Commission had accepted the principle of the over all supremacy of the United Nations, he did not feel that such supremacy would be properly respected by the despatch to the United Nations of hundreds of reports which no one would read. It would be far preferable for the reports to be sent only to the specialised agencies, on the distinct understanding that the Economic and Social Council would always be at liberty to ask for any original report to be communicated where a dispute had arisen out of it. It was desirable to avoid adding to the office work in the Secretariat and incurring additional expenditure by the adoption of unnecessary measures. On the other hand, he warmly supported the second Egyptian amendment.

He was also unable to vote for the United States amendment, since its adoption would seriously weaken the supervision exercised by the United Nations over the reports furnished to the specialized agencies, merely on the grounds that the reports concerned the observance of rights which were not included in the Covenant. For example, the Covenant contained no provisions relating to recognized rights in connection with nutrition, housing and the protection of authors of artistic, literary and scientific works. The Commission must not prevent the Food and Agriculture Organization the International Labour Organisation or UNESCO, in connection with the rights safeguarded by them in those fields, from submitting reports bearing on human rights as a whole. That would be a grave error.

The CHAIRMAN, speaking as representative of Lebanon, said that if the intention of the Egyptian amendment was substantially different to that of article C, which the Working Group had discussed at great length and had adopted almost unanimously, he would not be in a position to support it. He noted that it omitted the opening words of paragraph 2 of the Working Groups text, which read: "Pursuant to its responsibilities under the Charter in the field of human rights, the Economic and Social Council shall make special arrangements.....". That was an omission of fundamental

significance which he could not endorse. He was doubtful, too, whether the Egyptian amendment did not overlook the need for "special arrangements" to be made between the Council and the specialised agencies concerning the reports. General arrangements were already in existence. In that connection, he would express a preference for the word "arrangements" rather than the word "agreements".

Mr. BOURQUIN (United Nations Educational, Scientific and Cultural Organization), speaking at the invitation of the Chairman, said he wished to comment on the scope of the Egyptian amendment, in view of the Egyptian representative's statement that he had put forward his amendment after informal discussions with the UNESCO delegation. The amendment in question did not in any way constitute an attempt to reverse the decision taken by the Working Group on the subject of article C. Its sole purpose was to make the text of that article clearer and more precise.

Article C, paragraph 2, as adopted by the Working Group stated that: "The Economic and Social Council shall make special arrangements with the specialized agencies in respect of their reporting to it..." But the obligation on the specialised agencies to report to the Economic and Social Council arose out of the Covenant itself. The chief points that needed to be specified in the subsequent arrangements between the Economic and Social Council and the specialized agencies were the form the reports should take, and the time-limit within which they should be submitted, i.e. the procedure for reporting, and not the fact of reporting, which should be regarded as already established. The text adopted by the Working Group seemed almost to make the obligation to furnish reports incidental. It would be clearer if the Covenant first laid down as plainly as possible the actual principle that the specialised agencies should report to the Economic and Social Council, and then dealt with the procedure for reporting, provision being made for that aspect of the matter to be settled by arrangement between the Economic and Social Council and the specialised agencies.

He also thought it necessary to specify that the reports should contain information regarding the decisions and recommendations adopted by the competent organs. If the measures already adopted by States Members of the specialized agencies were known, overlapping could be avoided and the Economic and Social Council would be enabled to give full weight to the technical decisions and recommendations of the competent organs of the specialized agencies.

With regard to the final paragraph of the Egyptian amendment, he thought the Chairman's point would be fully met by replacing the word "agreements" by "arrangements" in the English text. It rested solely with the representative of Egypt, however, to make that suggestion formally, and also to judge whether there was any objection to inserting in the Egyptian text the expression "pursuant to its responsibilities under the Charter in the field of human rights", which appeared in the text adopted by the Working Group. He hoped that no difficulty would be found in drawing up a generally acceptable text, as the sole purpose of the proposed amendment was to clarify the original.

The CHAIRMAN, speaking as representative of Lebanon, said that the Egyptian amendment appeared to limit agreements between the Economic and Social Council and the specialized agencies to the question of the form the reports should take. He could not subscribe to such a proposal. In the light of the explanations given by the Egyptian representative and the representative of UNESCO, it appeared to him that, apart from the second sentence of paragraph 2 of the Egyptian text, which was unexceptionable, the amendment as a whole radically altered the intention of article C and, if adopted, would derogate from the authority of the Council. Unless the members of the Working Group decided to reverse their decision he could not accept the Egyptian amendment.

Mr. GHANI (Egypt) said that his delegation in no way wished to run counter to the agreement reached in the Working Group. It would accept modifications to its amendment designed to enable it to conform with the

original text. His delegation had put forward the amendment in the conviction that it proposed a more logical procedure which could in no way undermine the authority of the Economic and Social Council.

The meeting rose at 1 p.m.