

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



GENERAL

E/CN.4/SR.248

10 July 1951

ENGLISH

ORIGINAL: ENGLISH AND FRENCH

Dual Distribution

COMMISSION ON HUMAN RIGHTS

Seventh Session

SUMMARY RECORD OF THE TWO HUNDRED AND FORTY-EIGHTH MEETING

held at the Palais des Nations, Geneva,
on Friday, 18 May 1951, at 10.0 a.m.

CONTENTS:

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
provisions relating to economic, social
and cultural rights (E/CN.4/629,
E/CN.4/630, E/CN.4/631/Rev.2) (continued)

Draft resolution submitted by the delegation
of India (E/CN.4/619/Rev.1)

Present:

Chairman: Mr. HALLA (Lebanon)

Members:

Australia	Mr. WHITLAM
Chile	Mr. SANTA CRUZ Mr. VALENZUELA
China	Mr. YU
Denmark	Mr. SÖRENSEN
Egypt	AMRI Bey
France	Mr. CASSIN
Greece	Mr. EUSTATHIADES
Guatemala	Mr. DUPONT-WILLEMEN
India	Mrs. MENTA
Pakistan	Mr. WAHEED
Sweden	Mrs. RÖSSEL
Ukrainian Soviet Socialist Republic	Mr. KOVALYUKO
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. JEVRENOVIĆ

Representatives of specialized agencies:

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

Representatives of non-governmental organizations:Category B and Register

Caritas Internationalis	Mr. PÉTÉNAIN
Catholic International Union for Social Service	Mrs. SCHNEIDER
Commission of the Churches on International Affairs	Mr. HOLLÉ
Consultative Council of Jewish Organizations	Mr. ROSENWITZ
Co-ordinating Board of Jewish Organizations	Mr. HARBURG
International Council of Women	Miss GLENN
International Federation of Business and Professional Women	Miss TOMLINSON
International Federation of University Women	Miss ROBB
International League for the Rights of Man	Mr. BALDWIN Mr. GUNDT
International Union of Catholic Women's Leagues	Miss ARCHINARD
Liaison Committee of Women's International Organizations	Miss ROBB
Pax Romana	Mr. HEBELT
World Jewish Congress	Mr. BLENFELD Mr. RICHMAN

Secretariat:

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

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 provisions relating to economic, social and cultural rights (E/CN.4/629, E/CN.4/630, E/CN.4/631/Rev.2) (continued)

The CHAIRMAN invited the Commission to resume its consideration of the draft articles on the implementation of economic, social and cultural rights submitted by the Working Group in its report (E/CN.4/629).

Mr. WHITLAW (Australia) wished to explain the votes he had cast at the preceding meeting, with special reference to those on articles D and G.

Article D postulated the continued existence of the Commission on Human Rights. The Commission had been set up to give effect to the provisions of the Charter concerning human rights, and expectations had been fostered throughout the world that it embodied purposeful action; its suppression might therefore be taken as implying that the United Nations was losing interest in the implementation of human rights. In his view, the United Nations could not afford to dash those expectations or to take any action which might warrant so grave an inference. Furthermore, the Commission on Human Rights could be a flexible instrument in the field of human rights. Its terms of reference and its personnel were not fixed under any constitution or permanent arrangement, but could be adjusted from time to time to whatever purposes were considered relevant.

It was open to question how far the procedures provided for in Chapter X of the Charter in relation to the Economic and Social Council and the specialised agencies would be applicable to the proposed Covenant without provision being made in the Covenant as to their application. The Australian delegation therefore considered it advisable and proper to make specific provision in the Covenant for a reporting procedure.

It was customary in the government of a modern democratic State for information collected in one department to be made available in some form to other departments to which it might be of assistance, and what was good practice in that

respect in the governments of States might well be good practice between the various bodies of the United Nations. It seemed the most common sense that the totality of information available to all the bodies of the United Nations should be available to each of them to the extent of their individual competence.

Moreover, the provision in question was a pointer to a constructive end for the process of implementation and helped to make the Charter an expression of positive purpose.

The CHAIRMAN expressed his gratitude to the specialized agencies for the magnificent help they had given the Commission in its work. Their contribution had been of immense value, and without their unstinted co-operation the Commission would never have been able to achieve such success as it had. No other body of the United Nations was inspired by such friendly feelings for the specialized agencies as was the Commission on Human Rights.

Mr. PICKFORD (International Labour Organisation), speaking at the invitation of the CHAIRMAN, thanked the Commission for having constantly given the specialized agencies every opportunity of expressing their views. The International Labour Organisation was grateful for that spirit of co-operation, which it entirely reciprocated.

Mr. BASTIEN (United Nations Educational, Scientific and Cultural Organisation), speaking at the invitation of the CHAIRMAN, remarked that the General Conference of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) was due to open in a few weeks' time. The question of the draft First International Covenant on Human Rights would come before it, and a report would be submitted to enable the Conference to define its attitude to the results achieved at the Commission's seventh session. The Director-General would undoubtedly have occasion to express the gratitude felt by the UNESCO delegation after several weeks of close collaboration with the Commission. He was grateful for the interest and understanding which the latter had shown. The feeling of unreserved co-operation with the Commission on Human Rights and the United Nations in the implementation of human rights was of very special importance to UNESCO.

Draft resolution submitted by the delegation of India (E/CN.4/619/Rev.1)

Mrs. MAHTA (India) said that, in her delegation's opinion, economic, social and cultural rights differed from civil, civic and political rights inasmuch as the former were not justiciable. Moreover, the Commission had itself proposed that separate systems of implementation should be adopted for the two categories of rights. Such being the case, she saw no reason to include both categories in one and the same Covenant. Moreover, civil, civic and political rights had to be drafted in precise legal terms, whereas economic, social and cultural rights could, by their very nature, be drafted only in general terms. A Covenant containing both sets would therefore lack equilibrium.

The reason for which the General Assembly had decided that all rights should be included in a single Covenant was, perhaps, that it had feared that otherwise there would have been considerable delay in framing the articles on economic, social and cultural rights; but those articles had now been drawn up, so that such misgivings were no longer justified. Some States might be prepared to ratify a covenant on civil, civic and political rights at once, whereas their resources and state of economic development did not permit them to implement the economic and social rights at one stroke of the pen. If, therefore, the articles on economic, social and cultural rights were included in the draft Covenant, many States which would be ready to ratify it provided it related only to civil, civic and political rights, would be unable to do so. She therefore proposed that the Economic and Social Council be requested to re-consider the decision that economic, social and cultural rights should form part of the same instrument as did civil, civic and political rights, and that the former category should be dealt with in a separate covenant, which, however, would be recognised to be of equal importance with the Covenant on civil, civic and political rights.

The CHAIRMAN recalled that at a previous meeting he had ruled that the instructions of the Economic and Social Council must be complied with. The Commission had now carried out those instructions, and it would therefore be in order for it to ask the General Assembly to re-consider its decision.

Mr. SANTI CRUZ (Chile) agreed that the Indian proposal was receivable, and that the Commission was entirely competent to address to the Economic and Social Council the recommendation suggested therein. But the point that must be considered was whether the proposal was expedient in the light both of the practical effects that would result from its adoption and of its intrinsic value.

From the practical standpoint, he thought that, if adopted, the Indian proposal would lead to delay in the preparation of the Covenant and involve an unnecessary waste of time. The issue underlying the proposal had, in point of fact, already been studied at length by the General Assembly, and the Indian delegation had then argued the case on which its proposal was now based. But a large majority of the General Assembly had considered that the Indian arguments were not sufficiently convincing, and that other and more important considerations influenced the question.

Personally, he thought that there was a connexion between civil, civic and political rights and economic, social and cultural rights. It could not be said that human dignity and human rights and the fundamental freedoms were being adequately safeguarded unless the whole body of rights - civil, civic, political, economic, social and cultural - were recognized at one and the same time. That was the view taken by the General Assembly, and clearly expressed in resolution 421(V), in which the Assembly had requested the Commission to draw up a single Covenant, linking economic, social and cultural rights with civic and political freedoms, and given the reasons for that decision. There was therefore no point in adopting the Indian proposal. Incidentally, the Chilean delegation had supported the majority which had rejected the same suggestion in the General Assembly.

The Indian proposal suggested that the Commission should recommend to the Economic and Social Council "that the decision to include the economic, social and cultural rights in the same covenant with the civil and political rights, be reconsidered." He did not see how the Council could reconsider a decision taken, not by itself, but by the General Assembly. Actually, in its resolution of 23 February 1951, the Economic and Social Council had confined itself merely to transmitting General Assembly resolution 421(V) to the Commission.

The Chairman, speaking as representative of Lebanon, asked whether the Indian representative could agree to amend the operative paragraph of her proposal to read:

"Recommends the Economic and Social Council to recommend to the General Assembly that the decision to include the economic, social and cultural rights in the same Covenant with the civil and political rights, be re-considered".

Mrs. RAHTA (India) accepted the amendment proposed by the Chairman.

Mrs. ROUSVELT (United States of America) stated that her delegation was co-operating in the drafting of economic, social and cultural rights because such was the wish of the Economic and Social Council. Her delegation was well aware of the importance to mankind of economic, social and cultural rights, and was prepared to take all necessary action for the promotion of those rights in co-operation with the United Nations and the specialized agencies. But it considered, and the Commission as a whole had recognized, that economic, social and cultural rights formed a category of rights separate from civil and political rights. Civil and political rights could be clearly defined and implemented immediately, whereas the whole emphasis of the discussions on economic, social and cultural rights had been on their progressive implementation, that was on the progressive creation of conditions in which those economic, social and cultural rights could be exercised. Moreover, the procedures adopted for the implementation of these two categories of rights were completely different; civil and political rights were to be protected by providing for the receipt and examination of complaints about non-observance, whereas economic, social and cultural rights were to be implemented by a system of reports submitted by governments.

Any co-operation in international action undertaken by the United States of America was the co-operation of the American people as a whole. Certain representatives considered that her country could make large contributions to the improvement of conditions throughout the world without any drain upon her resources, and that therefore the United States of America should be

willing to do anything they were asked to do. The American people, however, did not always understand clearly why they should have to make sacrifices in order to help other peoples to achieve higher standards of living; it was not always immediately clear to them that in the long run such sacrifices would contribute to their own welfare as well as to that of the rest of the world. She expected that the Soviet Union representative would retort that the United States of America was not interested in the fate of the workers of the world. Quite apart from the fact that there were very few people in her country who were not themselves workers, such a statement would be totally unfair. The United States of America was a generous country; it had initiated the programme of technical assistance to under-developed countries, and had been playing an active part in improving conditions in other countries long before the United Nations had come into existence. If the Commission would only try to be a little less critical of the fact that the United States of America did not always quite understand the viewpoint of the majority, it would be seen that they had accepted their full share -- and a large one -- of the burden.

She did not feel that to draw up a covenant which included in one instrument two different types of right, which could not be implemented in the same way, would help the workers of the world. The General Assembly and the Economic and Social Council had decided that both types of right should be included in one and the same covenant, but there was no reason why the Economic and Social Council should not be asked to draw the attention of the General Assembly to the fact that the Commission on Human Rights considered that the two categories were different, and could not be treated identically.

Her delegation therefore supported the Indian draft resolution.

Miss BOWLE (United Kingdom) supporting the Indian proposal, said that her country had always played a leading part in the development of practical systems for implementing economic, social and cultural rights.

Many years of experience had revealed the difficulty and complexity of that task, and in the light of that experience she did not favour the inclusion of economic, social and cultural rights in the present covenant.

The representative of Australia had stated that the peoples of the world were impatiently waiting for the Covenant to be adopted by the United Nations. The Commission had spent two whole sessions on drafting articles 1 to 18, defining civil and personal rights in a precise and inclusive form; those draft articles had been submitted to the Economic and Social Council and to States Members of the United Nations, and were at last nearly ready for adoption in their final form. On the other hand, it was clear that the draft articles on economic, social and cultural rights would require thorough re-examination and, possibly, a good deal of revision. The civil and political rights dealt with in articles 1 to 18 were expressed as general statements of principle. It was extremely difficult to cast the articles on economic, social and cultural rights in the same mould. The Commission had, in fact, proposed methods of working rather than statements of principle. Moreover, further modification of the articles relating to economic, social and cultural rights might be necessary in the light of the experience gained from co-operation with the specialized agencies. A considerable period, therefore, would probably elapse before those articles were ready for acceptance. Hence, it would be unwise to hold up the final acceptance of the draft articles on civil and political rights until the other draft articles were ready. Articles 1 to 18 should therefore be submitted to the Economic and Social Council as the Draft First International Covenant on Human Rights.

AZHI Bey (Egypt) said that he would vote against the Indian proposal, for reasons identical with those given by the Chilean representative. As the latter had rightly pointed out, the issue had already been discussed at length in the General Assembly, and the majority of States Members had agreed that the Covenant should include economic, social and cultural rights. It was true that the Indian delegation to the General Assembly had opposed that view, but when a vote had been taken on the question by roll call, the Indian delegation had voted for the inclusion of economic, social and cultural rights in a single Covenant (see summary record V.C.3/SR.306). That showed that the Indian delegation had been convinced by the arguments advanced against its proposal.

The very length of the discussion on that subject in the General Assembly showed that resolution 421 (V) was well founded; all the preliminary clauses showed the connexion which should be maintained between civic, civil and political rights on the one hand, and economic, social and cultural rights on the other. He drew the attention of the Commission to the following passages in section E of that resolution:

"Whereas the Universal Declaration regards man as a person to whom civic and political freedoms as well as economic, social and cultural rights indubitably belong" (second paragraph of the preamble);

"Whereas the enjoyment of civic and political freedoms and of economic, social and cultural rights are interconnected and interdependent" (third paragraph of the preamble).

The resolution continued by saying that the General Assembly had decided:

"to include in the Covenant ... economic, social and cultural rights ..." (paragraph 7 (a)), and

"to include in the draft Covenant a clear expression of economic, social and cultural rights in a manner which relates them to the civic and political freedoms ..." (paragraph 7 (b)).

It was clear therefore that the General Assembly had urged that economic, social and cultural rights be included in the same Covenant as the other rights and fundamental freedoms.

The Indian proposal recommended that the Economic and Social Council should reconsider the decision taken on that subject. In that connexion, he recalled

that when the Council had decided that the Sub-Commission on Freedom of Information and of the Press should not hold a session in 1951, the General Assembly itself had asked the Council to reconsider the matter; but after re-examining the question, the Council had stuck to its original decision. In those circumstances, he strongly doubted whether the Economic and Social Council would reconsider its attitude at the request of the Commission, especially as that attitude had been taken up in deference to the wishes expressed by the General Assembly.

For those reasons he would vote against the Indian proposal.

Mr. WHEED (Pakistan) had always felt that a Covenant which contained no reference to economic, social and cultural rights would be meaningless. He noted that even those representatives who were now attempting to exclude economic, social and cultural rights from the Covenant recognized that they were just as important as civil and political rights.

His Government was attempting to respect the Islamic ideal of the brotherhood of man and of the equal distribution of wealth and property, and therefore had a special reason for wishing the Covenant to become a powerful instrument for the defence of human rights throughout the world. The absence of means of implementing economic, social and cultural rights had for centuries degraded man, and prevented his full development.

The difficulty of implementing forthwith the provisions concerning economic, social and cultural rights was not sufficient reason for excluding those rights from the Covenant, and their inclusion in a separate Covenant would be tantamount to relegating them to a position of secondary importance, and to condemning the more backward countries to remain in their impoverished condition; thus the lofty ideals of the United Nations would be betrayed. His delegation refused to be party to that betrayal, and would therefore vote against the Indian proposal.

Mr. MOROSOV (Union of Soviet Socialist Republics) observed that once again the question had arisen whether resolution 421 (V) of the General Assembly was to be implemented or not.

A detailed examination of the two paragraphs of the preamble to the Indian proposal would reveal that they completely distorted the facts. The segregation of the rights contained in the Covenant into two separate categories according to whether they were justiciable or not, was completely arbitrary. He assumed that, in using the word "justiciable", the Indian representative had wished to bring out the right of the individual to take legal action in cases of violation of rights, and that the Indian proposal was based on the assumption that the individual could defend his civil and political rights by legal action, whereas he could not defend his economic, social and cultural rights by the same process. That assumption, however, would not bear scrutiny, as in many countries certain civil and political rights, such as, for instance, the right to vote, could not easily be defended by legal action initiated by the individual.

The Indian proposal began:

"The Commission on Human Rights

Considering that the economic, social and cultural rights though equally fundamental and therefore important"

Nobody would deny the truth of that phrase; but the rest of the proposal did not proceed from that first phrase at all; in fact, that phrase was a cogent reason for rejecting the Indian proposal as a whole.

It had been reportedly stated at meetings of the Commission that the Covenant must be a unified whole, and that economic, social and cultural rights must not be relegated to a position of secondary importance, dragged in for reasons of force majeure, as it were. Moreover, without the implementation of economic, social and cultural rights, the implementation of civil and political rights would be illusory. For that reason, too, the Indian proposal was unacceptable.

As had been expected, the Indian proposal had received the unreserved support of the United Kingdom and United States delegations. Those two delegations had from the outset stubbornly but unsuccessfully fought against the inclusion of economic, social and cultural rights in the Covenant. He failed to see the relevance of the United States representative's lengthy description of

the assistance given by her country to other countries. Besides, everyone knew that the effect of that assistance had been to retard the recovery of the countries assisted, in the interest of American monopoly-capitalism. Contrary to the expectations of the United States representative, he had no intention of saying that the United States was not interested in the fate of the workers of the world. He would, however, say that the United States delegation was not interested in the lives of the workers in its own country; the proof of that assertion was to be found in the attitude of the United States delegation, which suggested that, if the Covenant contained provisions calling upon Member States to introduce legislation to relieve their workers of the fear of starvation, to ensure for them the right to health and education, and other economic, social and cultural rights, the United States Government would be unable to ratify it.

He had vivid memories of the strong objections raised by certain delegations to the provisions relating to the right of all to medical services and medical attention in the event of sickness, which would oblige governments to take positive constructive measures. Certain representatives had insisted that such commitments would have to be reviewed. But surely it was a question of domestic legislation alone; no one would pretend that the legislative organs of one country could pass laws affecting another. Each country could take the appropriate action, in full freedom, as a sovereign power. It was entirely improper for a government to object to such provisions on the grounds that their adoption would make other countries dependent on it for assistance. It would have been more candid had the United States representative explained her opposition to such provisions on the grounds that, in its present economic situation, her Government was unwilling to enter into obligations which would effectively better the position of millions of ordinary people. The truth of the matter was, not that the United States Government was concerned about the possibility of other States being unable to implement the provisions on economic, social and cultural rights, but that it did not wish to assume such commitments itself. That was why it had so strenuously supported the federal State clause, which would have enabled it to evade obligations on the grounds that they fell within the jurisdiction of the governments of the constituent States, and not that of the Federal Government.

The United Kingdom representative had argued that the final elaboration of the provisions on economic, social and cultural rights might take so long that it would delay the entry into force of the first eighteen articles of the draft Covenant, which formed a satisfactory and harmonious whole in their own right. The General Assembly had already confuted that argument by adopting resolution 421 (V), in which it was stated that the first eighteen articles of the draft Covenant did not contain certain of the most elementary rights, and that their present wording should be improved, the more effectively to protect the rights to which they referred. The United Kingdom representative's approval of the first eighteen articles could hardly have been sincere, since her Government had submitted a number of amendments to them. Her approval must have been purely formal. What she should have said was that the United Kingdom Government did not intend at the present time to take the necessary measures for the realization of the provisions relating to economic, social and cultural rights. That was the basic fact, which she had attempted to obscure by a number of irrelevant arguments.

The most positive element in the Indian representative's statement had been the admission that some countries which would not be in a position to implement at once all the provisions relating to economic, social and cultural rights, might thereby be prevented from ratifying the draft Covenant. That was a melancholy conclusion to present to the peoples of the world, who were eagerly awaiting the day when governments would undertake to guarantee to them the exercise of their elementary rights.

In the light of all these considerations, he must declare his opposition to the Indian draft resolution.

He would not at the present stage comment on the United Kingdom draft resolution (E/CN.4/638), which was evidently intended as a second line of defence in the event of the rejection of the Indian draft resolution. That, too, represented a veiled but definite attempt to delay the realization of economic, social and cultural rights.

Mr. SØRENSEN (Denmark), intervening on a point of order, said that the Commission had very little time before it, and many of the arguments being used had already been advanced earlier. He would therefore move the closure of the debate.

Mrs. PENTA (India) said that, if adoption of the Danish motion would preclude her from replying to certain points raised in the debate, she could not support it.

The CHAIRMAN observed that even, if the motion for the closure were carried, the Indian representative, as author of the proposal before the Commission, would be given an opportunity to reply.

Mr. SANTA CRUZ (Chile) was unable to accept the Chairman's interpretation of the rules of procedure. He himself considered that, once the Commission had decided to close the debate, the floor could not be given to any further speaker, not even to the mover of a proposal wishing to reply to criticisms. As for the Danish motion itself, he was opposed to it, because those members of the Commission who had not yet spoken on the Indian draft resolution might very well have new arguments to put forward.

Mr. MDROSOV (Union of Soviet Socialist Republics) stated that he must reserve his right to reply before the closure of the debate, if he thought necessary, to any points raised in connexion with his statement.

The CHAIRMAN pointed out that the rules of procedure did not provide for the automatic right of reply. No member of the Commission could therefore be the judge of whether he had the right to reply while a motion for closure was under consideration. That was a matter for the discretion of the Chairman. In the past, the Chairman had always given members an opportunity of replying, but it should be understood that it was open to him to refuse to do so if he thought fit.

He then put to the vote the Danish motion for the closure of the debate on the Indian draft resolution (E/CN.4/619/Rev.1).

The motion for the closure of the debate was carried by 8 votes to 5 with 5 abstentions.

Mrs. MEHTA (India) said that in explaining why she had voted against the motion she was bound to touch on some points of substance relating to her proposal.

The first paragraph of the preamble had been so conceived as to conform to the constitutional position in her country, where civil and political rights were justiciable, whereas economic, social and cultural rights were not. The Commission, by introducing two systems of implementation for those two categories of rights, had recognized that they differed in character. It had been understood from the outset of the discussions on the draft Covenant that it was to be the First International Covenant on Human Rights and that there would be more than one such instrument, particularly as it would have been extremely difficult to include every conceivable right in the first. On that understanding, she believed that homogeneous rights should be grouped together. If civil and political rights were embodied in one instrument, and economic, social and cultural rights in another, the peoples of the world would understand more clearly the nature of the differences between them. As the representative of a country which had been the birth-place of Buddha and of Gandhi, she could not admit the charge that her proposal constituted a betrayal of human rights.

Mr. CASSIN (France) could not vote for the Indian proposal. He had for a long time held the view that it would be possible to produce the Covenant in successive stages. That method would have offered some advantages from the technical point of view, and even from that of encouraging States to ratify it. Such an idea had failed, however, to appeal to the General Assembly, which had decided that economic, social and cultural rights should be linked with civic, civil and political rights in one and the same instrument. That decision of the General Assembly, based on psychological considerations, was of such importance as to overshadow all other factors in the problems.

Technical considerations had, in any case, lost a great deal of their force, since the economic, social and cultural rights had been shown by the work of the Commission to possess certain special features. He did not regret having urged the adoption of clauses containing undertakings which were likely to be fulfilled. The work of the Commission at the present session had shown that substantially similar measures of implementation should be adopted for the different categories of rights, the sole difference being that the specialized agencies were directly concerned in the implementation of the provisions relating to economic, social and cultural rights.

Should the Commission decide to preserve the unity of the Covenant by rejecting the Indian proposal, he would then ask that the principles elaborated by the Commission at the present session in connexion with the implementation of the provisions concerning economic, social and cultural rights be likewise applied to those concerning the civic, civil and political rights covered by the first eighteen articles of the draft Covenant. He felt, therefore, that he must vote against the Indian proposal both out of respect for the instructions given to the Commission by the General Assembly and on logical grounds.

Mr. CLASULLO (Uruguay) recalled the attitude his delegation had taken when the idea underlying the Indian proposal had been discussed in the General Assembly. He would vote against the proposal, since the matter had already been settled by the General Assembly, and it would be improper to re-open the discussion on it. In any case, the provisions of the draft Covenant concerning the various rights recognized therein made allowance for the differences between those rights. The Covenant provided for immediate implementation in the case of civic, civil and political rights, while making the implementation of economic, social and cultural rights part of a plan in the execution of which the specialized agencies would take a direct part. That significant difference in implementation machinery was in keeping with the Uruguayan delegation's views, and it would therefore vote in favour of a single Covenant.

Mr. JEREMOVIC (Yugoslavia) said that he would vote against the Indian draft resolution, because civil and political rights were closely linked with economic, social and cultural rights. If the elementary and basic right to life was to be protected, the means of existence must be guaranteed; that was the whole purpose of the provisions on economic, social and cultural rights. The problem had already been considered at great length and in its entirety in various organs of the United Nations, including the General Assembly. Indeed all States Members, by accepting the Charter, had bound themselves to observe basic human rights, all of which had been subsequently enunciated in the Universal Declaration of Human Rights. General Assembly resolution 421 (V) clearly and unequivocally declared that the draft Covenant should include economic, social and cultural rights. That resolution had been adopted by the will of the majority, and the Commission's behaviour in considering the substantive aspect of that decision was incorrect. If certain governments disagreed with the decision of the General Assembly, they should raise the question of re-consideration in that body, and not in a Commission of only eighteen members. If the majority of State Members of the United Nations had expressed themselves in favour of the inclusion of provisions on economic, social and cultural rights, it was not for the Commission to reverse that decision.

He could not accept the argument advanced by the Indian representative that alleged violations of economic, social and cultural rights could not be brought into court; for, if governments were to assume definite obligations in respect of the observance of such rights, they would have to take legislative and other measures enabling an action to be brought in respect of their non-observance, the courts being empowered to provide redress. That was, in fact, an obligation already entered into by governments under article 8 of the Universal Declaration.

He was also obliged to contest the Indian representative's assertion that the Commission had already decided to deal with economic, social and cultural rights on a different footing to civil and political rights. Though there had

been a quite definite attempt to do so, it had not yet met with success and no formal decision in that sense had been taken. That view was confirmed by the statements of a number of representatives to the effect that there was no need for a non-discrimination clause relating to economic, social and cultural rights, because those rights would already be covered by the non-discrimination clause contained in article 1, paragraph 1, of the draft Covenant.

The CHAIRMAN stated that there was no justification for the Yugoslav representative's contention that the Commission was behaving improperly in examining the Indian draft resolution, or that the Commission was being exploited to reverse a decision of the General Assembly. Any subordinate organ within the United Nations was free to suggest to the General Assembly that it should reconsider any of its decisions. The Indian representative had submitted her draft resolution in accordance with the rules of procedure, and the Commission was free to pronounce on it as it thought fit.

Mr. JEVREHOVIĆ (Yugoslavia) said that he had merely wished to emphasize that the question of principle as to whether provisions on economic, social and cultural rights should or should not be included in the draft Covenant should be dealt with in the General Assembly, and not in the Commission, since it would involve the reconsideration of a decision taken by the former.

The CHAIRMAN observed that the Yugoslav representative was evidently questioning the propriety of the Indian draft resolution.

Mr. SÁNCHEZ CRUZ (Chile) said that, despite the arguments put forward by the Indian, United Kingdom and United States representatives, he would still vote against the Indian proposal. Like the United Kingdom representative, he felt that, in certain respects, economic, social and cultural rights were different in structure from the rest of the rights recognized in the Covenant. They were "dynamic" rights; they were capable of evolving, and the provisions made in respect of them by the Commission might very well become obsolescent sooner or later. But the Commission was not drafting a Covenant for the

benefit of future generations. The draft it had produced was in keeping with the present situation in a world which found itself in the throes of evolution and change. Three-quarters of the human race had too low a standard of living. That was an indisputable fact at variance with the objectives defined in the Charter, and the United Nations, as executor of the Charter, must take every opportunity of re-affirming the notion that free human beings were entitled not only to the enjoyment of civic, civil and political rights, but at the same time to the satisfaction of the minimum material and spiritual needs necessary for their life and development.

If an instrument drawn up and adopted by the United Nations could be interpreted as establishing a difference between the two categories of rights which must be recognized as the due of every human being, the Organisation would have committed a fundamental error of policy. He was sorry to find among the delegations supporting the Indian proposal those of the United Kingdom and the United States of America, the two greatest powers in the free world.

Mr. DUPONT-WILLEMIN (Guatemala) said that, with all due respect to the Indian representative, he would, for the same reasons as those given by other speakers, be unable to vote for her proposal. In particular, like the Soviet Union and Yugoslav representatives, he felt that the statement in the first paragraph of the preamble to the effect that economic, social and cultural rights were "not justiciable rights" was incorrect, and might even prove dangerous.

Mr. WHITLAM (Australia) said that he would abstain from voting on the Indian draft resolution. His Government had every respect for the views of those who believed that the draft Covenant should be confined to civil and political rights, but stood, and always had stood, for a Covenant that included economic, social and cultural rights as well as civil and political rights, even though that might delay its completion.

Mr. YU (China) stated that in the General Assembly his delegation had voted in favour of the inclusion in the draft Covenant of provisions relating to economic, social and cultural rights. Throughout the Commission's deliberations at the present session he had acted on the assumption that these rights would be so included, in conformity with the very definite instructions of the General Assembly. The Indian draft resolution had been submitted towards the end of the session, and he would find it difficult to modify his attitude at the present stage, even were he at liberty to do so. He would therefore vote against it.

It would be extremely difficult to draw a rigid distinction between civil and political, and economic, social and cultural rights. All elementary human rights should be treated on the same footing; any artificial segregation could only lead to difficulties. However, in voting against the Indian draft resolution he would not wish it to be supposed that his delegation would not in the future be in favour of the negotiation of detailed instruments relating to particular aspects of economic, social and cultural rights.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) said he would vote against the Indian draft resolution because economic, social and cultural rights must be included in the draft Covenant. Without them, civil and political rights would be deprived of their natural foundation. If provisions relating to the former were not implemented, the latter would degenerate into a mere declaration of pious hopes. He was also opposed to the Indian draft resolution, because it ran counter to the view expressed by the General Assembly that, when deprived of economic, social and cultural rights, man did not represent the human person whom the Universal Declaration regarded as the ideal of the free man.

Mr. STENSSON (Sweden) said he would vote in favour of the Indian draft resolution. Because, as he had already stated on numerous occasions, he believed that economic, social and cultural rights were essentially of a different character from civil and political freedoms. He had not been convinced by any of the arguments advanced to the contrary. It had been

suggested that the adoption of the Indian draft resolution would have serious psychological repercussions. He could not endorse that view, but considered that the Commission must fight against the tendency to confer a political meaning on the draft Covenant. If that tendency gained ground, the Universal Declaration, which was a political instrument, would be weakened, as would also be the work of the Economic and Social Council, its subordinate organs and the specialized agencies. What was needed was a technical instrument to give effect to the Universal Declaration. Certain representatives seemed to have forgotten the great contribution already made by United Nations bodies to the betterment of standards of living and the promotion of economic, social and cultural rights. The arguments used against the Indian draft resolution failed to take into account what had already been achieved, and were based on considerations that would threaten the whole cause of human rights.

Mr. EUSTATHIADES (Greece) said that he had so far refrained from taking part in the discussion in order to be able to form as objective an opinion as possible on the Indian proposal. He now found himself in agreement with the views expressed by the representative of Denmark.

There were two considerations that the Commission must take into account. In the first place, the need for submitting the texts drawn up by the Commission at the present session to governments and to the specialized agencies had been recognized by a large number of delegations. Secondly, it was necessary to press on with the task of producing a final draft of the first eighteen articles of the Covenant. He would not go so far as to consider that those articles, in their existing form, constituted a final text, and agreed with the Soviet Union representative that they must be subjected to more thorough study. He did, however, think that, from the point of view of the relative state of development of the texts prepared by the Commission, there was a considerable difference between the first eighteen articles and those relating to economic, social and cultural rights and measures of implementation, which had only been considered by the Commission for the first time at the current session.

Thus it was with a view to expediting the implementation of the first part.

of the draft Covenant, already in a very advanced state of preparation, that he would support the Indian proposal. He would, however, like to ask its author whether she would agree to modify the first paragraph of the preamble. The arguments which had been put forward concerning the justiciability of the two categories of rights were, he thought, well founded. While it was possible that the first paragraph of the preamble was in accordance with the Constitution of India, he did not consider that civic, civil and political rights, on the one hand, and economic, social and cultural rights, on the other, could be segregated in watertight compartments on that basis. He would therefore propose that the words "they are not justiciable rights" be replaced by the words "they cannot be brought to court in the same manner".

The arguments advanced against the Indian proposal on the ground that there was no difference in the manner of implementing the two categories of rights were valid only for those who accepted the idea of implementation on a national basis; they did not hold for those who did not, and who consequently considered that a different system of implementation was necessary in the case of economic, social and cultural rights. The implementation of those rights differed from that of the rights dealt with in the first eighteen articles of the draft Covenant in that demands were made upon the available resources of States, and the assistance of the specialized agencies and the idea of international co-operation were also brought into the picture.

Certain members of the Commission had based their argument that the Indian draft resolution could not be entertained on their own entirely subjective forecasts of the attitude which the General Assembly might take, forecasts convincing only to their authors. The Commission would, however, recall that when the vote had been taken on General Assembly resolution 421 (V), a number of delegations had abstained. Nor was there anything to show that other delegations would not be led to change their attitude. The argument could therefore be turned against its authors, and could not be taken seriously. There was, on the contrary, cause to believe that the Indian representative,

who, it would be noted, was not asking the Commission itself to decide whether economic, social and cultural rights should be included in the First International Covenant, had good reasons for asking the General Assembly to reconsider that question in full possession of the facts, that was, with the texts prepared by the Commission on the subject of economic, social and cultural rights actually before it.

He accordingly considered it would be a wise move to bring the question before the General Assembly, and to request the latter to reconsider the matter with an open mind. The General Assembly would not fail to share the feeling of the Commission, all of the members of which, whatever their attitude towards the Indian proposal, were inspired by a common desire to ensure the protection of economic, social and cultural rights, without the enjoyment of which civic, civil and political rights could not be properly exercised. In view of all those considerations, he would vote in favour of the Indian proposal.

The CHAIRMAN asked the Indian representative whether she could accept the Greek amendment.

Mrs. MEHTA (India) said that such an amendment would not be consistent with her purpose. By justiciable rights, she meant those rights for the violation of which governments could be sued. Governments could not be sued for failing to carry out economic, social and cultural rights, since the responsible party might well, for example, be employers. Thus she must reaffirm that from the legal point of view, civil and political, and economic, social and cultural rights, could not be treated on the same footing.

The CHAIRMAN put to the vote the Greek amendment to the Indian draft resolution.

The Greek amendment was rejected by 5 votes to 1 with 12 abstentions.

AZMI Bey (Egypt) requested that, in view of the importance of the issue, the vote on the Indian draft resolution be taken by roll-call.

A vote was taken by roll-call.

The Ukrainian Soviet Socialist Republic, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Denmark, Greece, India, United Kingdom, United States of America,

Against: Chile, China, Egypt, France, Guatemala, Lebanon, Pakistan, Sweden, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.

Abstaining: Australia.

The result of the vote was: 5 in favour, 12 against and 1 abstention.

The Indian draft resolution (E/CN.4/619/Rev.1) was rejected.

The CHAIRMAN, speaking as representative of Lebanon, said, in explanation of his vote, that the issue raised in the Indian draft resolution cut across all existing ideological alignments. It would be encountered at every turn in the work of the United Nations. He had been informed, for example, that it had arisen the preceding day in the Fourth World Health Assembly at present taking place in Geneva. It was quite obvious that something would have to be done about it. During the past 150 years, certain peoples, who had not been in as privileged a position as others, had made their claims with regard to their economic, social and cultural position felt with growing insistence. It was essential to recognize that such rights were of equal importance with others, but they had to be considered in their proper place and in their proper order of importance.

The significance of the sustained, persistent albeit quiet protest of certain under-developed countries against the conditions under which they were labouring, as much as against those existing in the rest of the world, must be given due weight. It would be most dangerous to admit any shadow of doubt that other governments failed to understand its nature. Those other governments, which constituted a minority and were likely to remain in a minority, were doubtless doing their utmost both within and outside the United Nations. They could be proud of what had been accomplished both within and outside their own countries, but the most sincere partisans of peace and concord between nations must earnestly hope that they would reconsider the methods of their co-operation with other States Members of the United Nations, in the economic, social and cultural fields.

The meeting rose at 1 p.m.