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COMMISSION ON HUMAN RIGHTS

Eighth Session

SUMMARY RECORD OF THE TWO HUNDRED AND SIXTY-SEVENTH MEETING

Held at Headquarters, New York,
on Thursday, 24 April 1952, at 2.30 p.m.

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<u>Chairman:</u>	Mr. CASSIN	France
<u>Reporters:</u>	Mr. WHITLAM	Australia
<u>Members:</u>	Mr. HISSOP	Belgium
	Mr. SANTA CRUZ	Chile
	Mr. CHENG PING-AN	China
	AMRI Bey	Egypt
	Mr. JUVIGNY	France
	Mr. KYROU	Greece
	Mrs. MEHTA	India
	Mr. AZKOUJ	Lebanon
	Mr. WASEED	Pakistan
	Mr. DORZYNSKI	Poland
	Mrs. RÖDZEL	Sweden
	Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
	Mr. KOROLYV	Union of Soviet Socialist Republics
	Mr. LOAPE	United Kingdom of Great Britain and Northern Ireland

Members (continued):

Mrs. ROOSEVELT	United States of America
Mr. BUCCO	Uruguay
Mr. JEVLEMOVIC	Yugoslavia

Representatives of specialized agencies:

Mr. PICKFORD	International Labour Organisation (ILO)
Mr. ARNALDO	United Nations Educational, Scientific and Cultural Organization (UNESCO)

Representatives of non-governmental organizations:

Category A:

Miss GENDER	International Confederation of Free Trade Unions (ICFTU)
Miss KJEL	World Federation of Trade Unions (WFTU)

Category B
and Register:

Mrs. VERGARA	Catholic International Union for Social Service
Mr. HOSKOWITZ	Consultative Council of Jewish Organizations
Mrs. CARTER) Mrs. FILLMAN)	International Council of Women
Mrs. SOUDAN	International Federation of Business and Professional Women
Mrs. ROEB	International Federation of University Women
Miss SCHAEFER	International Union of Catholic Women's Leagues
Mrs. ROEB	Liaison Committee of Women's International Organizations
Mr. JACOBY	World Jewish Congress
Mr. ROHALIG	World Union for Progressive Judaism
Mr. FENCE	World Alliance of Young Men's Christian Associations

Secretariat:

Mr. HUMPHREY	Director, Division of Human Rights
Mr. DAS) Miss KITCHEN)	Secretaries of the Commission

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DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION
(Basic documentation as in E/CN.4/SR.266) (continued)

The CHAIRMAN called upon the Commission to resume consideration of the procedure to be followed in examining item 4 of its agenda. Two points of view had been put forward at the preceding meeting; the first was that the Commission should begin by considering parts II and III of the draft covenant and the second that it should begin by considering part I of the draft and the question of including reservation clauses. The representative of Lebanon had suggested that the Commission should give priority to considering the parts that it had not yet examined carefully.

Mr. AZKOUJ (Lebanon) did not insist that the Commission should follow his suggestion. Nevertheless, he wished to point out that it might be wiser to begin immediately to deal with the question of measures of implementation, because the nature of the obligations which would arise out of the articles contained in parts II and III of the draft covenant would depend on the measures of implementation adopted. The nature of the latter would affect the attitude of governments to the various articles of the draft covenant, according to whether they called for the submission of reports by governments, for the establishment of a committee to consider disputes, or for the intervention of the International Court of Justice.

The CHAIRMAN recalled that the Commission had before it a proposal by the USSR representative, supported by the United States representative, to the effect that the Commission should first consider parts II and III of the draft covenant. The order of priority to be given to the consideration of part I was still in doubt.

Mr. SANTA CRUZ (Chile) thought that the Commission should decide to begin with parts II and III and to postpone its decision with regard to the remaining questions contained in item 4 of its agenda.

/Mr. KOROZOV

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Mr. KOSYKOV (Union of Soviet Socialist Republics) supported that suggestion. His delegation had in fact proposed that the Commission should first study part III and then part II of the draft covenant.

Mr. JOURENY (France) would have preferred part I of the draft covenant, which contained quite general provisions laying down the nature and extent of obligations which would be incumbent upon States, to be considered simultaneously with parts II and III. It might be advisable for the Commission to decide to consider the first part immediately after the second and third parts.

The CHAIRMAN asked whether the Commission might not decide, in order to meet the wishes of the French representative, to consider parts I and II simultaneously, immediately after concluding the study of part III.

Mr. JOURENY (France) stated that that solution would meet his wishes.

Mr. KOSYKOV (Union of Soviet Socialist Republics) preferred the French representative's original suggestion. It seemed to be practically impossible to study parts I and II simultaneously. Moreover, it would be impossible to begin with part I, which contained general definitions or statements concerning the various articles contained in parts II and III.

The CHAIRMAN thought that when the Commission began to consider part III, it should first insert at the beginning of that part some of the provisions which appeared in part I; the same could be done when it considered part II. Thus, there would be no objection in principle to considering the question of adapting part I after studying part III or to acting similarly after studying part II.

Mr. SANTA CRUZ (Chile) could see no objection to following the French representative's first suggestion. The adoption of the second solution, however, might mean that the measures of implementation were considered before the fundamental clauses, and the majority of the Commission was opposed to that.

Moreover, that solution would result in accentuating the division between parts II and III, which would become, respectively, the covenant on civil and political rights and the covenant on economic, social and cultural rights; the Chilean delegation would oppose any measure of that kind.

Mr. JUNGNY (France) preferred the Commission to take a decision of principle to consider part I as soon as it had concluded consideration of parts II and III.

Mr. HOARE (United Kingdom) recalled that several delegations, including his own, had expressed the view that they would prefer the Commission to consider part II of the draft covenant first.

The CHAIRMAN put to the vote the USSR representative's proposal that the Commission should consider first part III of the draft covenant.

The proposal was adopted by 10 votes to 4, with 3 abstentions.

Mrs. ROOSEVELT (United States of America) thought that the Commission should take a decision of principle by a vote, so as to make it clear that its consideration of part III of the draft covenant would be undertaken with a view to preparing the covenant on economic, social and cultural rights.

Mr. MURGEV (Union of Soviet Socialist Republics) did not consider that the Commission could decide immediately whether the articles that it would prepare would be included automatically in one or the other covenant. The Commission should be able to make provisions concerning the contents of each covenant after the various articles had been considered.

Mrs. ROOSEVELT (United States of America) thought that the Commission should take a decision on the matter now. The attitude of delegations towards the individual articles might vary according to whether those articles were intended for one or the other covenant. The Commission should therefore clarify its position on the matter by a vote, on the understanding that that did not

exclude the possibility of requesting the General Assembly to reverse its decision and to decide in favour of combining the two covenants in a single instrument.

Mr. JORDA CRUZ (Chile) thought the vote requested by the United States representative was superfluous, since the Commission had been instructed to draft two separate covenants by resolutions of the Economic and Social Council and the General Assembly. That point of view was in conformity with the General Assembly's directives, although that did not imply that his delegation favoured the principle of drafting two separate covenants.

Mr. WROZOW (Union of Soviet Socialist Republics) also did not consider that the Commission should take a vote on the question raised by the United States representative. Part II of the draft covenant would, in principle, constitute the covenant on civil and political rights and part III would constitute the covenant on economic, social and cultural rights. Nevertheless, it had to be made clear that, if a delegation proposed that certain articles should be included in both covenants, that articles in part II should be included in the covenant on economic, social and cultural rights, or that articles in part III should be included in the covenant on civil and political rights, such a proposal should not be declared irreceivable. The General Assembly's recommendation that both covenants should contain the greatest possible number of identical provisions had to be borne in mind. The question of the contents of each covenant could not be settled until the various articles had been drafted.

Mrs. ROOSEVELT (United States of America) understood from the USSR representative's remarks that, by beginning its work with part III of the draft covenant on human rights, the Commission would be drafting a document which would constitute the covenant on economic, social and cultural rights. In instructing the Commission to draft two covenants containing the greatest possible number of similar provisions, the General Assembly had not had in mind the basic provisions, but those relating to measures of implementation. Nevertheless, it had wished the two covenants to be absolutely separate.

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It would therefore be advisable for the Commission to decide that, in giving priority to, its work on part III of the draft covenant, it in fact intended to draw up the covenant on economic, social and cultural rights.

Mr. MARGLOV (Union of Soviet Socialist Republics) quoted the resolution adopted by the General Assembly on 5 February 1952 (A/L.100) and stressed that the recommendation concerning similar provisions was not confined to measures of implementation, as was proved by the use of the words "particularly". In order to comply with the General Assembly's wishes, therefore, the Commission should try to include in the covenants the greatest possible number of identical provisions, both formally and substantively. If it also decided to submit to the General Assembly any other articles or recommendations that it deemed necessary, it had every latitude to do so.

Mr. JARA CARR (Chile) observed that the United States representative wished to avoid the introduction by the advocates of a single covenant of provisions relating to economic, social and cultural rights in the covenant on civil and political rights. The Chilean delegation was strongly of the opinion that there should be only one covenant, since it would hardly be possible for two covenants, even if ratified simultaneously, to achieve a unified conception embracing every sphere of human rights. The Chilean delegation would therefore support any similar provisions for inclusion in the two covenants, although it had no intention of trying to obtain the insertion in the covenant on economic, social and cultural rights of provisions which had no connexion with these rights. Each article ought to be in its logical place. The Chilean delegation reserved the right to reintroduce before the competent body its proposal for the adoption of a single covenant.

Mr. KHAN (India) recalled that the General Assembly had asked the Commission to draft two separate covenants. They would, therefore, have to begin drafting one or the other. Since the Commission took up part III first, it meant that they had started with the Covenant on Economic and Social Rights since part III contained those rights. When those rights were included in one simple covenant the previous year, even then the rights were grouped together separately and the Economic and Social rights were placed in Part III of the covenant. So to begin with part III meant taking up the covenant with economic and social rights

Mr. ROOSEVELT

Mrs. ROOSEVELT (United States of America) said that the Indian representative had completely understood her point of view, and that the United States delegation would not press for a vote.

Mr. HOARE (United Kingdom) thought that there was either a misunderstanding, or such a fundamental difference of opinion as to require that a vote should be taken as the United States had proposed. If it was accepted that the Commission was in fact drafting a separate covenant on economic, social and cultural rights, then there was no need for a vote. But he could not accept the USSR representative's claim that no procedural objections should be made later to any proposals for the inclusion of articles common to both covenants. The admissibility of such proposals should depend on the Chairman's, and ultimately the Commission's, view whether they were within the scope of a covenant on economic, social and cultural rights. Otherwise the General Assembly's recommendation that the two covenants should contain as many similar provisions as possible was capable of application in such a way as to defeat the General Assembly's intention by the production of two identical covenants.

The CHAIRMAN pointed out that the Commission's decision to consider first part III and subsequently part II of the draft covenant signified its intention to draft two separate covenants, one on economic, social and cultural rights and one on civil and political rights. That decision would not prevent the Commission from drafting provisions which would be common to both covenants or from making recommendations to the General Assembly for a reversion to the idea of a single covenant.

AZMI Bey (Egypt) stated that he was taking no part in the procedural discussion because he considered that it was holding up the Commission's work.

/The CHAIRMAN

The CHAIRMAN called upon the Commission to begin its study of part III of the draft international covenant on human rights.

Mrs. ROOSEVELT (United States of America) said that her delegation would propose some amendments of substance to the articles of part III of the draft covenant, but that she was not ready to submit them immediately.

The CHAIRMAN observed that for the time being there was no formal proposal before the Commission.

Mr. AZIMUL (Lebanon) considered that there should be a general debate before the consideration of part III of the draft covenant.

Mr. KYROU (Greece) asked the Lebanese representative what he meant by a general debate on part III of the draft covenant.

Mr. AZIMUL (Lebanon) replied that, for example, the question of improving the drafting of the articles related to the whole of that part and not to any article in particular, and that the members of the Commission should therefore be given the opportunity to make general observations on the subject before beginning the consideration of the articles separately.

Mr. KYROU (Greece) thought that in that case it might be better to wait until proposals had been submitted before discussing the third part as a whole.

Mr. SANTA CRUZ (Chile) did not think that the Commission could refuse to hold a general debate. He would like an immediate decision to be taken on the order in which the Commission would consider the various rights.

Mrs. ROOSEVELT (United States of America) suggested that a time limit should be set for the submission of draft resolutions. The Commission would be unable to make any progress until it had all the proposals before it.

/The CHAIRMAN

The CHAIRMAN suggested that the order of the draft covenant should be followed.

Mr. SANTA CRUZ (Chile) agreed to that proposal.

Mr. MARCUCI (Union of Soviet Socialist Republics) was also in agreement, except that he would like the Commission to postpone its examination of article 19, the so-called "umbrella clause", until it took up part I of the draft covenant; that suggestion would be in conformity with the French representative's proposal. To allay certain misgivings that had been expressed, he promised that his Delegation would not ask that the preamble to both covenants should be identical. He suggested that the Commission should consider articles 20 to 22, part II, part I, the preamble to the first covenant (civil and political rights) and the preamble to the second covenant (economic, social and cultural rights), in that order.

Mr. WEITMAN (Australia), while supporting the USSR representative's proposal, pointed out that the Commission had decided at its seventh session that article 19 could be used as a preamble for the covenant as a whole.

Mr. DOARE (United Kingdom) also agreed to the USSR proposal, but thought that the "umbrella clause" must first be considered in relation to the articles that it was to be applied to.

Mrs. ROOSEVELT (United States of America) agreed with the United Kingdom representative that article 19 should be considered at the same time as the articles to which it related.

Mr. SANTA CRUZ (Chile) suggested that, in order to avoid a long procedural discussion, the Commission should simply decide to examine first articles 20, 21 and 22 of the draft covenant.

In reply to a remark by Mr. WEITMAN (Australia), Mr. SANTA CRUZ (Chile) said that if his suggestion were accepted the Commission would be able, after completing its work on article 22, to decide between the USSR and United Kingdom proposals concerning article 19.

/Mrs. ISHIA

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Mrs. MEHTA (India) suggested that after its consideration of article 32, the Commission should discuss any new articles that might have been proposed and that were not included in the draft covenant.

Mr. MORGONOV (Union of Soviet Socialist Republics) proposed as a compromise that the Commission should first examine articles 20 to 32 and the drafts of any new articles, and then article 19. If a time-limit were fixed for the submission of draft resolutions and amendments concerning articles 20 to 32, the Commission would be able to see more clearly what the general lines of the covenant would be.

Mr. LEROU (Greece) and Mrs. LOOSEBOLT (United States of America) supported the USSR representative's proposal.

The CHAIRMAN pointed out that while the first three paragraphs of article 19 could well be used as a preamble, the fourth related only to articles 20, 21 and 22. In his opinion the Commission should decide whether it would begin its examination of articles 20 to 32 by considering questions of employment and social security.

ADNI Rey (Egypt) reminded the Commission that when discussing the draft covenant at its seventh session, it had considered economic, social and cultural rights in that order, and that there had been a general debate on each subject. He thought that the same procedure should be followed in order to avoid confusion.

The CHAIRMAN asked whether the Commission was prepared to begin by considering economic rights, as suggested by the Egyptian representative, and whether it wished to set a time limit for the submission of proposals and amendments relating to those rights.

/Mr. SANTA CRUZ

Mr. SANTA CRUZ (Chile) asked the Chairman whether he was right in thinking that "economic rights" meant working conditions and social security.

The CHAIRMAN replied in the affirmative.

Mr. AZKOUJ (Lebanon) pointed out that the Egyptian representative's proposal might lead to three general debates, as well as a fourth on the articles as a whole.

Mrs. ROOSEVELT (United States of America) asked what questions the Commission was going to discuss at its next meeting.

Mr. KATOU (Greece) proposed that at the next meeting the Commission should hear general statements concerning the draft covenant, and particularly articles 20, 21 and 22, and that the fixing of a time-limit for the submission of draft resolutions and amendments in that connexion should be postponed.

It was so decided.

The meeting rose at 4.45 p.m.