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Chairman: Mr. G. J. VAN HEUVEN GOEDHART (Netherlands).

Tribute to the memory of the King of Sweden

1. The CHAIRMAN said that it was with great sorrow that the world had learnt of the death of the King of Sweden. On behalf of the Committee, he wished to express his deep sympathy with the royal family and the people of Sweden in their sad bereavement.
2. He invited the members of the Committee to observe one minute's silence in memory of the late monarch.
3. After the minute of silence, Mr. CASPARSSON (Sweden) thanked the members of the Committee on behalf of his government for their tribute to the memory of King Gustaf V.

Draft first international covenant on human rights and measures of implementation (A/1384, A/C.3/534, A/C.3/535 and E/1681) (*continued*)

[Item 63]*

4. The CHAIRMAN invited the Committee to study the fourth question put to the General Assembly by the Economic and Social Council, namely that of the desirability of including articles on economic, social and cultural rights in the covenant.
5. Mr. Danton JOBIM (Brazil) said that, in principle, his delegation would be in favour of including such articles. An ideal covenant on human rights should guarantee to the individual all the rights set forth in the Universal Declaration on Human Rights. It was assuredly one of the Third Committee's tasks to give expression in contractual form to the mere recommendations of the Declaration.
6. It was quite logical that his delegation should be in favour of including such articles, for the Brazilian Constitution upheld all the principles of social justice that were included in the Universal Declaration of

Human Rights. In Brazil special judicial machinery dealt with labour questions and his delegation would like to see those social principles universally accepted. To that end they should be embodied in an instrument similar to the one in course of preparation.

7. Still, regardless of feelings, the complexity of the problems raised must be taken into account and there must be no hasty action that might result in an international covenant which it would be impossible to put into effect. The covenant must be generally acceptable to the large majority of the Members of the United Nations and it must obtain the subsequent ratification of the signatory Powers.

8. Accordingly, articles relating to the economic and social rights defined in articles 22 to 27 of the Universal Declaration of Human Rights should not be included in the draft covenant; one or more separate covenants relating to economic, social and cultural rights might be prepared later.

9. The most urgent task of the Commission on Human Rights was to settle the "natural and inalienable" rights of the human being in an international covenant capable of being applied throughout the world and protecting the individual against the tyranny of his State. If the individual were guaranteed effective enjoyment of his rights in virtue of a covenant drawn up by an international organization, he would certainly promptly obtain recognition of his other economic, social and cultural rights. On the other hand, if the individual were denied the traditional political guarantees contained in the first eighteen articles of the draft covenant, it would be tantamount to a denial of the enjoyment of his other rights, since he would be placed under the arbitrary rule of the State, and would not be able to fight for his rightful economic, social and cultural guarantees.

10. The covenant should simply give effect to the fundamental principles relating to civil and political rights contained in the Universal Declaration of Human Rights. In addition, a supplementary instrument de-

* Indicates the item number on the General Assembly agenda.

fining the economic, social and cultural rights set forth in the Declaration should be prepared as soon as possible.

11. Mr. DAVIN (New Zealand) expressed the view that articles on economic, social and cultural rights should not be included in the draft covenant. That did not mean that his delegation underestimated the importance of those rights for, quite the contrary, it would be in favour of preparing other covenants in order to bring them into effect.

12. However, it must be remembered that much time and effort would be needed before any agreement was reached on the definition of those rights and the means of bringing them into effect. To try to add additional articles to those relating to fundamental civil and political rights already defined would mean delaying by many months the completion of the work that had been undertaken and might perhaps permanently impair its success. The level of economic and cultural development varied so much from country to country that it was impossible to define the scope of the economic and cultural rights which States ought to accord to their nationals without taking into account the differences that existed between their various economic and political systems. A long time would be needed to reconcile those different theories and to agree on terms which would be acceptable to all governments.

13. The Committee should therefore simply try to guarantee the protection of those rights and freedoms which were universally recognized by all States and which were expressed in the text before the Committee. The Commission on Human Rights might perhaps be asked to consider how to define the economic and cultural rights with a view to incorporating them in a separate draft covenant.

14. Mrs. ROOSEVELT (United States of America) referring to President Truman's speech to the General Assembly on United Nations Day (29th plenary meeting), said he had stressed the great part played by the United Nations in the defence of human rights. He had said that the Organization's work for human advancement was only the beginning of what it could be and would be in the future, that the skill and experience of the United Nations would be put to the test with the approaching end of the struggle in Korea, and that the reconstruction of a free, united and self-supporting Korea would serve as an opportunity to show how international co-operation could lead to gains in human freedom and welfare. That statement showed how firmly the United States supported international co-operation in the United Nations for the improvement of the welfare of human beings and the promotion of human freedom.

15. Under the two resolutions which it had adopted at its sixth session and which had been approved by the Economic and Social Council at its eleventh session, the Commission on Human Rights had decided to proceed at its next session to the consideration of additional agreements and measures dealing with economic, social, cultural, political and other human rights not included in the covenant.¹ The Commission had

¹ See *Official Records of the Economic and Social Council, Eleventh Session, Resolutions, Nos. 303 C (XI) and 303 D (XI)*.

also noted that the International Labour Office and UNESCO were prepared to assist in the preparation of draft texts on economic, social and cultural rights and had recommended the Economic and Social Council to instruct the Secretary-General to take the necessary measures to obtain similar co-operation from other organs of the United Nations and specialized agencies and to submit those texts to the Commission with any documentation he might think necessary.²

16. Accordingly, while the Third Committee was considering the draft covenant, draft texts on questions relating to economic and social rights were being prepared. Her delegation fully approved of that method. It was not because economic and social rights were regarded as less important that there was bound to be a delay, but because it was proposed to guarantee the enjoyment of all those rights without any exception.

17. The covenant on human rights, which was nearly completed, laid down a certain number of rights. It represented four years of intensive work by the Commission on Human Rights and its substantive provisions had been circulated twice to Member States, once in 1947 and again in 1949. Her delegation thought it inadvisable to undertake to add new articles to the covenant. If provisions that had been inadequately considered were added, the completion of the document would be delayed. It would be preferable, instead of adding articles, to follow the suggestion of the Commission on Human Rights and to make the Commission responsible for considering new covenants dealing with economic, social, cultural and political rights. That would require careful study in which three main considerations should be borne in mind.

18. First, it should study the manner in which some of those rights might be given effect. The Secretary-General's report in connexion with matters within the scope of articles 22 to 27 of the Declaration (E/CN.4/364) contained one instance in which the World Health Organization had given practical effect to the principles by assisting member governments to raise standards of health: WHO had given field demonstrations, paid advisory visits, provided literature on medical subjects and granted fellowships. The activities of WHO as a whole implied the recognition of the right to medical care. That example could be used as a basis for studying the methods to be used with respect to other economic and social rights.

19. Secondly, the Commission should take into account the conventions and other legal instruments relating to economic and social rights previously adopted by other organs of the United Nations and specialized agencies in order to avoid any useless duplication. Account should be taken, for example, of the ninety-eight conventions and eighty-eight recommendations drafted by ILO between 1919 and 1950 on such matters as night work, unemployment indemnity, accident insurance, holidays with pay, social security, old-age and sickness insurance, medical examination and hours of work. Many of those conventions had come into force and 1,176 ratifications had been registered in respect of the ninety-eight conventions completed.

20. Thirdly, the Economic and Social Council and the

² *Ibid.*, *Eleventh Session, Supplement No. 5 (E/1681)*, annex IV, draft resolution IV.

Commission on Human Rights should take the necessary steps to obtain the co-operation of other organs of the United Nations and of the specialized agencies to assist in the formulation, consideration and protection of economic and social rights.

21. She hoped that the General Assembly would adopt those recommendations so that the Commission on Human Rights might, as instructed by the Economic and Social Council, proceed to the further consideration of articles relating to economic and social rights not included in the draft covenant.

22. Mr. RODRIGUEZ (Cuba) said the first covenant on human rights ought to include provisions which would give effect to articles 22 to 27 of the Universal Declaration of Human Rights. If the covenant was really to be binding upon States and represent a common law for them all, it had to include economic and social rights together with the natural civil and political human rights which had been recognized since the French Revolution.

23. All the principles proclaimed in the Universal Declaration of Human Rights in the economic and social field had been embodied in the Constitution of his country even before the Declaration was adopted. Cuban social legislation was one of the most advanced in the world and the Cuban Constitution was no less progressive in cultural matters. Accordingly his delegation found it difficult to understand why the inclusion of economic and social rights in the draft covenant should give rise to any difficulties which the Secretariat, in co-operation with specialized agencies such as UNESCO and ILO, could not help to overcome by means of a methodical and careful study. If that work were undertaken immediately, the Secretariat could submit a number of precise proposals to the Commission on Human Rights and the Commission could prepare for the next session of the General Assembly a single draft covenant which would include all the rights pertaining to the individual. Such a solution would be preferable from the legal point of view and would also be more compatible with the wishes of the peoples, since it would take into account the needs of contemporary society.

24. Mr. BEAUFORT (Netherlands) recalled that when he had first spoken in the debate on the covenant of human rights (290th meeting), he had expressed concern at the discrepancies between the views of delegations represented on the Third Committee and those of members of the Commission on Human Rights with regard to the first eighteen articles of the draft. He had wondered whether the aim that had been set was not too high and whether it was possible to hope to draft even a limited covenant of human rights. His confidence had not been increased by the debates which had taken place in the preceding week, although the Committee had then been concerned with the first eighteen articles, most of which related to the most fundamental human rights.

25. The Committee had to face the necessity of including economic, social and cultural rights in the covenant. There did not seem to be room for disagreement on principle, since everyone wished to protect by an international covenant the economic, social and cultural rights of which the acknowledgment represented such great progress in the development of modern life and thought.

26. Nevertheless, it was questionable whether that could yet be achieved. Great difficulties would have to be overcome before the rights laid down in the Universal Declaration of Human Rights could be ensured for everyone. That applied in particular to economic, social and cultural rights, not only because concepts of the freedom of the individual and of the relations between the individual and the community varied in different countries, but especially because the protection of those rights largely depended on the political, social, financial and economic conditions prevailing in each country. That was especially true of rights such as the right to work and the right to social security, the realization of which might involve considerable sacrifices by the national community as a whole.

27. His delegation therefore thought that the draft covenant should be confined to the more general rights and freedoms and should not include social, economic and cultural rights. An exception should, however, be made of the right to own property, which, although a social and economic right, was so closely connected with the human person that it had to be considered indispensable for the full development of the human personality. He then quoted an article of the draft convention for the protection of human rights and fundamental freedoms which had been prepared by the Consultative Assembly of the Council of Europe. That article provided that every person was entitled to the enjoyment of his possessions, which could not be arbitrarily confiscated; nevertheless the State reserved the right to pass necessary legislation to ensure that those possessions were utilized in accordance with the general interest.

28. Although he did not consider that that was the best possible formula, he hoped that the Commission on Human Rights would take it into account in studying the right to property.

29. The Netherlands Government was not opposed in principle to the drafting of a covenant for the protection of economic and social rights, but merely thought that it would be inadvisable to incorporate articles on those rights in the draft under consideration. It hoped that the Commission, in the course of its valuable work, would succeed in reaching agreement on the drafting of further covenants on the most important social, economic and cultural rights. His government was fully aware that the task would be extremely difficult and could perhaps only be carried out gradually.

30. In conclusion, he recalled that his government, commenting on the covenant, had stated that the very nature of the rights dealt with made it essential to try to extend their field of application as far as possible and to ensure their effective international protection. It was more important to find a general formula for human rights which the greatest possible number of States would regard as acceptable, than to draw up a list of human rights that would be as long and as detailed as possible but which only a few States would consent to ratify.

31. Mrs. BEGTRUP (Denmark) said that her delegation was opposed to the inclusion in the covenant on human rights of articles bearing on economic, social and cultural rights. She recalled that during the first part of the third session of the General Assembly the

main principle that had emerged from the debates of the Third Committee had been that not one but several covenants should be drafted to give effect to the principles contained in the Universal Declaration of Human Rights. Her delegation was fully in favour of that idea.

32. It thought that the draft covenant before the Committee, which was the fruit of three years' careful study and had been twice submitted to the governments and then amended and amplified in the light of their comments, was an organic whole to which it would be neither wise nor possible to add new articles which had not been so intensively studied.

33. Her delegation would therefore support the decision of the Commission on Human Rights, approved by the Economic and Social Council resolution (303 C (XI) of the Council), to proceed at its seventh session to the consideration of additional covenants and measures dealing with economic, social, cultural, political and other categories of human rights.

34. Lord MACDONALD (United Kingdom) said that his delegation thought that the first covenant on human rights should be as complete as the needs of practical application would permit. Every single Member of the United Nations wished to see the principles of the Universal Declaration of Human Rights put into effect as soon as possible. The United Kingdom Government considered human rights indivisible and thought that political liberties must necessarily be accompanied by economic and social liberties. It could not, however, be blind to reality. In the existing circumstances it would be much more useful to allow immediate promulgation of the first covenant already drafted and instruct the Commission on Human Rights to proceed without delay, in consultation with the various competent international organizations, to consider covenants to supplement the first instrument. He hoped that the General Assembly would be in a position very soon—perhaps in 1951—to reach agreement on the subject. The ground was, however, not yet prepared, and any premature attempt to supplement the draft under review might delay its entry into effect, to the detriment of the aim for which they were working.

35. Mr. ALTMAN (Poland) recalled that at the 290th meeting he had already stated the position of his delegation on the problem under discussion and had said, in regard to the first eighteen articles, that it considered that the omission of economic, social and cultural rights was a fatal defect in the draft covenant.

36. Both the substance and the form of the covenant called for the insertion of provisions relating to economic, social and cultural rights. In form, the covenant ought to give legal expression to the ideas formulated in the Universal Declaration of Human Rights, which devoted one-fifth of its thirty articles to such rights, defining them in some detail though rather incompletely. If the covenant omitted to mention those rights it would be out of line with the Declaration.

37. Certain delegations to the Third Committee and the majority of the Commission on Human Rights had tried to fend off criticism by saying that the covenant in preparation was only the first of a series and need not mention all human rights. It might indeed be followed by other covenants and other conventions, but the

United Nations had taken no decision, nor did any document exist, to that effect. It was therefore necessary to draft a covenant on human rights embracing all the elementary rights.

38. Turning to the core of the problem, he wondered whether in the middle of the twentieth century anyone could deny that economic, social and cultural rights were among those elementary rights without which the covenant would be nothing but an anachronism. It was hardly necessary to prove that the world had progressed since the Declaration of the Rights of Man and of the Citizen, formulated a century and a half before, and that the fundamental rights which had only recently been the privilege of a minority should be enjoyed by all.

39. No one had raised any valid objection to the inclusion of those rights in the covenant. The general public, however, would seek the underlying reasons for the omission of those articles, and would find there a proof of the organized resistance of persons who wished to perpetuate obvious inequalities. The covenant, minus the essential rights, would be utterly divorced from reality and would disappoint the toiling masses of the whole world.

40. The World Federation of Trade Unions, an organization with consultative status in category A, which was called upon to give the opinion of tens of millions of workers on that point, had been unable to participate in the debates because its representative had been refused admission to the territory of the United States of America.

41. At the 295th meeting the representative of Czechoslovakia had quoted a report addressed to the Economic and Social Council by the World Federation of Trade Unions relating to economic and social discrimination against workers for reasons of race and colour (E/1563 and E/1563/Add. 1). The report gave many instances of discrimination in the Non-Self-Governing Territories administered by Belgium, France, and the United Kingdom and other colonial Powers, and the facts contained in it constituted further evidence of the need to include economic, social and cultural rights in the covenant on human rights.

42. Mr. LESAGE (Canada) did not think there was any need just then to increase the number of fundamental principles contained in the draft covenant.

43. He saw an essential difference between the rights defined in the first eighteen articles and economic, social and cultural rights. The former were primarily the rights of the individual with relation to others and to the State; the latter were only rights in so far as they were derived from the general duty of the State to work for the public good. His delegation considered that difference so fundamental as to forbid the inclusion of the rights of the human individual and of economic, social and cultural rights in the same covenant.

44. If the covenant were to be a binding international instrument, it could properly contain only rights which fulfilled the narrow, technical legal meaning of the word. The covenant was intended to require that the domestic legislation of signatory States should protect the life and liberty of the individual and that any limit imposed upon that protection should call for a legal remedy. A typical example of those rights was the fundamental right of the individual to liberty of person,

which raised a practical legal problem and could be precisely defined.

45. Economic, social and cultural rights were, on the other hand, rights in a very wide sense; they might be regarded as advantages, either material or psychological, conferred upon the individual by a social system. The right to participate freely in the cultural life of the community, dealt with in article 27 of the Universal Declaration of Human Rights, was just as basic to the freedom of personality and the dignity of the individual as rights in the narrower sense, but it could not be formulated in terms that a legal system could recognize and implement before the ordinary courts by an established legal procedure. Those rights, broadly conceived, were really social aims which the public authorities should have in view. They might properly be the subject of a declaration but not, in the existing state of international law, of an international instrument with legal force.

46. If articles on economic, social and cultural rights—with no value other than that of declarations imposing moral obligations—were included in the covenant, it would become difficult to maintain that the other rights set forth in the covenant imposed strict and precise obligations. That would jeopardize the interpretation and execution of the whole covenant.

47. Although the Canadian delegation adopted that realistic point of view, it desired to point out to the Committee that all political programmes in Canada provided for the defence and development of social, economic and cultural rights, which were as indispensable to the liberty and dignity of the person as were human rights in the narrow sense. It was better, however, that a covenant on human rights should contain only rights which were inherent in the human person and respect for which could be enforced by the courts.

48. Mr. PANYUSHKIN (Union of Soviet Socialist Republics) recalled that the USSR representative, in his statement on the first eighteen articles (289th meeting), had denounced what he considered a fundamental fault in the draft under consideration, namely the absence of any provisions relating to economic, social and cultural rights. The Soviet Union delegation had then stressed that the draft did not contain any provisions corresponding to those of the Universal Declaration of Human Rights. Thus the covenant which the Committee was called upon to approve would be even less effective than the Declaration, which was itself incomplete.

49. He recalled that in 1948, when the General Assembly had adopted the Universal Declaration of Human Rights, it had confirmed, by its resolution 217 E (III), that the Commission on Human Rights was to prepare an international bill of human rights, which should include, apart from the Declaration, a covenant of human rights and measures of implementation. The resolution referred to one covenant only, and the covenant should therefore include all the fundamental human rights and freedoms.

50. Nevertheless, neither the Commission on Human Rights nor the Economic and Social Council had taken the provisions of that resolution into account. The Commission on Human Rights had suggested at its sixth session—and the suggestion had been supported by the Council—that it should draw up an initial covenant

which should include only a limited number of rights and supplement it subsequently by other instruments. The USSR delegation considered that decision erroneous, illegal and unjustified, and thought that the Third Committee should not even discuss the principle with which it was confronted as a result of that decision.

51. Under General Assembly resolution 217 E (III), the terms of reference of the Commission on Human Rights were to draw up a single covenant closely connected with the Universal Declaration of Human Rights, to which it had to give legal expression. The undeniable purpose of the covenant was to ensure, in as detailed a manner as possible, the protection of all human rights, including the economic, social and cultural rights without which a person would in fact be debarred from enjoying his other rights.

52. The USSR delegation therefore wished to submit to the Third Committee a number of texts, the inclusion of which it considered essential.

53. In the first place, the covenant should contain the following provision:

“It is the duty of the State to guarantee to everyone the right to work and to choose his occupation in such a manner as to create conditions which will exclude the threat of death from hunger and from exhaustion.”

54. That provision was absolutely necessary in order to give article 3 of the draft covenant, concerning the right to life, a foundation in reality. It was especially necessary because the right to work was as yet effectively guaranteed only by a small number of governments. In the Soviet Union not only were citizens assured of full protection in that respect by the Constitution, but social and economic measures which had abolished economic crises and unemployment represented a guarantee not offered by any other system. The USSR delegation considered that the text which it proposed for the right to work was vitally important.

55. In the second place, the covenant should contain an article stipulating that:

“Social security and social insurance for workers and employees shall be effected at the expense of the State or at the expense of the employers in accordance with the laws of each country.”

56. Although articles 22, 23 and 25 of the Universal Declaration of Human Rights dealt with social security, they were inadequate, since they did not state who was financially responsible for the social security of workers. The purpose of the proposed text was to remedy that serious omission.

57. In the third place, the USSR proposed the inclusion of the following text:

“The right to rest and leisure shall be guaranteed by the State to everyone employed in enterprises and institutions, either by law or on the basis of collective agreements providing, in particular, for a reasonable limitation of working hours and for periodic holidays with pay.”

58. That provision was indispensable to ensure the concrete application of the right laid down in article 24 of the Universal Declaration of Human Rights.

59. In the fourth place, the covenant should include an article on trade unions. The right to strike should be

guaranteed and any legislation directed against trade unions should be prohibited. The USSR therefore proposed the following text:

"The implementation of trade-union rights, which are inviolable and essential for improving the life and economic welfare of workers, shall be guaranteed to all hired workers without distinction as to nationality, race, religion, sex, occupation, political or philosophical views."

60. That text should be supplemented in accordance with the proposals submitted by the USSR delegation at the fifth session of the Commission on Human Rights (E/1681, annex III, page 27).

61. In the fifth place, the covenant should stipulate that:

"The State shall take all necessary measures, legislative measures in particular, to ensure decent living accommodation to every person."

62. He did not consider that the necessity of that text called for special proof or even for comment.

63. In the sixth place, the covenant should stipulate clearly that:

"Women shall enjoy in their work rights and privileges which shall not be less than those enjoyed by men, and they shall receive equal pay with men for equal work."

64. He pointed out that that principle was not applied in certain States, where women were even debarred from access to certain professions, in violation of article 23 of the Universal Declaration of Human Rights and of the United Nations Charter, which proclaimed the absolute equality of men and women. The United Nations could not ignore such a state of affairs.

65. In conclusion, the USSR delegation considered that, in order to guarantee effectively the right to education, the covenant should include the following two provisions:

"The State shall ensure the development of science and education in the interests of progress and democracy and in the interests of ensuring international peace and co-operation."

"Access to education shall be open to all without distinction of race, sex, language, economic situation or social origin, and this right shall be ensured by the State by the provision of free elementary education, a system of scholarships and the requisite system of schools."

66. He did not think that those provisions could give rise to any objection, since they represented the minimum cultural rights which every State should guarantee to its citizens.

67. Although those essential provisions which the USSR proposed to include in the covenant bore very little relation to the provisions which the Soviet Union and the peoples' democracies had inserted in their own constitutions, the USSR would confine itself to that indispensable minimum, knowing that many countries with different economic and political systems could not yet progress so far. Nevertheless, that minimum could and should be guaranteed by all the States Members of the United Nations.

68. The peoples of the world had placed their trust in the United Nations, and the Charter had given rise to great hopes in the hearts of millions of workers; it was essential that those hopes should not be dashed.

69. Mr. SOTO (Chile) stated his delegation's view that a covenant on human rights which did not contain provisions proclaiming and guaranteeing the economic, social and cultural rights which the world already regarded as fundamental would be incomplete.

70. He was aware that the inclusion of such provisions would give rise to practical and legal problems as soon as the covenant was applied. Chile had had similar obstacles to overcome when it had enacted social and economic laws registering such achievements as compulsory social insurance, holidays with pay, shares in profits for workers, bonuses and annual wage increases, and preventive medicine. Chile therefore proposed to generalize such measures in view of the obligations that it would undertake under the covenant.

71. All political and civil human rights would remain ineffective if respect were not ensured for economic, social and cultural rights, since those were the prerogative of human beings, who also had important duties to fulfil. Without economic, social and cultural rights, the covenant on human rights would be a collection of beautiful and lyrical but empty phrases.

72. It was therefore essential to consider and approve an initial covenant on human rights which would guarantee economic, social and cultural rights. In that way results would be achieved by which men might profit, since governments, however good their intentions, were merely temporal expressions of power, the only permanent repository of which was man himself.

The meeting rose at 1 p.m.