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Eighth Session

SUMMARY RECORD OF THE TWO HUNDRED AND SIXTY-SIXTH MEETING

Held at Headquarters, New York,
on Thursday, 24 April, at 10.30 a.m.

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Chairman:

Mr. MALIK

Lebanon

Rapporteur:

Mr. WHITLAM

Australia

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Members:

Mr. NESOT	Belgium
Mr. SANTA CRUZ)	
Mr. VALDIVIA)	Chile
Mr. CHENG PACHAN	China
AZMI Bey	Egypt
Mr. CASSIN	France
Mr. KYROU	Greece
Mrs. MEHTA	India
Mr. AZKOUL	Lebanon
Mr. WAHEED	Pakistan
Mr. BORATYNSKI	Poland
Mrs. ROSSEL	Sweden
Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
Mr. MOROZOV	Union of Soviet Socialist Republics
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mrs. ROOSEVELT	United States of America
Mr. BRACCO	Uruguay
Mr. JEVREMVIC	Yugoslavia

Representatives of specialized agencies:

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

/Representatives

Representatives of non-governmental organizations:

<u>Category A:</u>	Miss SENDER	International Confederation of Free Trade Unions (ICFTU)
	Miss KAHN	World Federation of Trade Unions (WFTU)
<u>Category B:</u>	Mr. NOLDE	Commission of Churches on International Affairs
	Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
	Mrs. SOUTAN	International Federation of Business and Professional Women
	Miss SCHAEFER	International Union of Catholic Women's Leagues
	Mr. JACOBY	World Jewish Congress
	Mr. RONALDS)	World Organization for Progressive Judaism
	Mrs. POLSTEIN)	

Secretariat:

Mr. GEORGES-PICOT	Assistant Secretary-General in charge of the Department of Social Affairs
Mr. LIN MOUSHENG	Division of Human Rights
Mr. IAS)	Secretaries of the Commission
Miss KILSHEN)	

RECOMMENDATIONS CONCERNING INTERNATIONAL RESPECT FOR THE SELF-DETERMINATION OF PEOPLES (A/L.102, A/L.106, A/2112, E/CN.4/657, E/CN.4/516, E/CN.4/649, E/CN.4/662, E/CN.4/663, E/CN.4/664, E/CN.4/L.32/Rev.1, E/CN.4/L.32/Rev.1/Corr.1, E/CN.4/L.33, E/CN.4/L.34/Rev.1, E/CN.4/L.35, E/CN.4/L.37, E/CN.4/L.38, E/CN.4/L.39, E/CN.4/L.40/Rev.1, E/CN.4/L.41, E/CN.4/L.44) (concluded)

Mrs. ROOSEVELT (United States of America) withdrew the revised United States draft resolution (E/CN.4/L.32/Rev.1) because it was incompatible with the Indian draft resolution (E/CN.4/L.26/Rev.1) which the Commission had adopted at the previous meeting.

Mr. CASSIN (France) thought that part II of the revised French draft resolution (E/CN.4/L.34/Rev.1) was not incompatible with the resolution adopted, as it simply recommended studies which could be regarded as supplementary to any action taken. The Commission should decide whether part I was incompatible or not.

/Mr. BORATYNSKI

Mr. BORATYNSKI (Poland) said that not only part I of the operative part, but also part III of the French draft resolution was certainly incompatible with the resolution adopted, because by adopting the Indian draft resolution the Commission had decided that certain action should be taken, whereas the French draft resolution recommended that certain aspects of the right of self-determination should be studied rather than that any action should be taken. Furthermore, the representative of UNESCO had explained that if the French draft resolution were adopted by the General Assembly at its seventh session, the UNESCO General Conference would be able to discuss it only in 1954. The French proposal was therefore tantamount to an effort to delay all action with regard to the right to self-determination, whereas the Commission had already decided that action should be taken.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that the French draft resolution should not be voted upon as all the issues had been settled by the adoption of the Indian draft resolution. The French draft resolution called for studies to be made on the nature, content and legal aspects of the right to self-determination, but obviously the members of the Commission who had voted for the Indian draft resolution must have known what that right was when they had voted that certain action should be taken in connexion with it. To vote on the French draft resolution would be a virtual admission that the Commission had not known what it had been voting about.

Mrs. ROOSEVELT (United States of America) withdrew the United States amendment (E/CN.4/L.44) to the Egyptian amendment (E/CN.4/L.39) to the French draft resolution (E/CN.4/L.34/Rev.1).

AZMI Bey (Egypt) said that part I of the French draft resolution was certainly incompatible with the draft resolution adopted.

Mr. JEVREMOVIC (Yugoslavia) asked for a separate vote on the last paragraph of the preamble and on each of the three paragraphs of the operative part of the French draft resolution.

/Mr. CASSIN

Mr. CASSIN (France) withdrew part I of the French draft resolution and the preamble, with the exception of the last paragraph, and supported the Yugoslav representative's request for a vote by parts.

Mrs. MENKA (India) said that if the remaining paragraph of the preamble meant that effective ways and means of ensuring universal respect for self-determination could not be recommended until a clear idea of the nature, content and manner of exercising that right had been obtained, it was clearly incompatible with the Indian proposal that had been adopted by the Commission.

Mr. CASSIN (France) maintained that part II of his proposal was not incompatible, as the International Law Commission could usefully study, among other questions, the legal procedures best adapted to carrying out the plebiscites recommended in the resolution already adopted.

The CHAIRMAN said that the question whether the French draft resolution should be put to the vote could be settled under rule 61, second paragraph, of the rules of procedure.

Mr. AZKOUL (Lebanon), explaining his vote, said that he saw no contradiction between the French draft resolution and the resolution the Commission had adopted. It would be absurd to think that the latter had exhausted all aspects of the problem. His delegation believed that the studies recommended could be usefully made in addition to the measures recommended in the resolution adopted.

It was decided, by 9 votes to 3, with 5 abstentions, that the French draft resolution should be put to the vote.

Mr. JEVREMOVIC (Yugoslavia) explained that he had voted in favour because his delegation wished to vote for part II, paragraph 3. Although he fully understood the concept of a people and its relation to the concepts of the nation and the State, a study of the national question in general by UNESCO would be valuable.

/Mr. KYROU

Mr. KIROU (Greece) suggested that the difficulty in the remaining paragraph of the preamble to which the Indian representative had drawn attention might be overcome by substituting the words "promoted by" for the words "recommended only to the extent to which" and by deleting the words "has previously been established".

Mr. CASSIN (France) accepted that amendment.

The remaining paragraph of the preamble, as amended, was adopted by 9 votes to 4, with 5 abstentions.

Mrs. MEHTA (India) asked that the three sub-paragraphs of paragraph 1 of the operative part should be put to the vote separately.

Sub-paragraph (a) of paragraph 1 of the operative part was rejected by 7 votes to 6, with 5 abstentions.

Mr. AZKOUL (Lebanon) observed that the rejection of sub-paragraph (a) entailed the rejection of the other sub-paragraphs, as, if the International Law Commission was not to study the right of self-determination, it could not study its relation to other concepts of international law.

Mr. CASSIN (France) agreed. He did not wish to see the French draft resolution (E/CN.4/L.34/Rev.1) adopted in a mutilated form and so withdrew it.

Mr. WHITLAM (Australia), explaining his vote on the French draft resolution, said that his delegation was conscious that further study would be required to establish a clear idea of the nature, content and manner of exercising the right of self-determination and had hoped that the Commission would recommend the Economic and Social Council to undertake it.

/The CHAIRMAN

The CHAIRMAN drew attention to the two Lebanese draft resolutions (E/CN.4/L.40/Rev.1 and E/CN.4/L.41). In the first the beginning of the operative part might more correctly read: "Recommends the Economic and Social Council to request the General Assembly...".

Mr. AZKOUL (Lebanon) accepted that amendment.

The first Lebanese draft resolution (E/CN.4/L.40/Rev.1), as amended, was adopted by 11 votes to 4, with 3 abstentions.

The second Lebanese draft resolution (E/CN.4/L.41) was not adopted, 5 votes being cast in favour and 5 against, with 8 abstentions.

Mr. AZKOUL (Lebanon) said that his delegation did not believe that the draft resolution adopted at the previous meeting exhausted all means of securing international respect for the self-determination of peoples and that other methods would certainly be recommended by other organs. He regretted that the second Lebanese draft resolution had failed to obtain acceptance.

Mr. CASSIN (France) was frankly pessimistic with regard to the consequences of the votes taken at the previous and at the current meeting. The draft article (E/CN.4/663) adopted by the Commission for inclusion in the covenants had seemed equitable in that it affected all countries, but the resolutions just adopted were obviously discriminatory. The Commission on Human Rights worked for all countries; its decisions should be taken with all epochs and circumstances in mind and should not be disturbed by contemporary occurrences. He must accept the Commission's decision that more exhaustive studies should not be made, but he ventured to wonder whether everyone had such a clear idea of the problems involved that no further enlightenment was needed.

/DRAFT

DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION (A/L.100, A/L.101, A/L.102, A/L.103, A/L.104, A/L.105, A/L.106; A/2112; E/CN.4/557, E/CN.4/516, E/CN.4/649; E/1992, E/1992/Add.1; E/CN.4/643; A/C.3/L.191/Rev.2, A/C.3/L.191/Rev.3, A/C.3/L.193, A/C.3/L.195/Rev.2, A/C.3/L.196, A/C.3/L.196/Rev.2, A/C.3/L.198/Rev.2; E/CN.4/515, E/CN.4/515/Add.1, E/CN.4/515/Add.2, E/CN.4/515/Add.2/Corr.1, E/CN.4/515/Add.3, E/CN.4/515/Add.4, E/CN.4/515/Add.5, E/CN.4/515/Add.6, E/CN.4/515/Add.6/Corr.1, E/CN.4/515/Add.7, E/CN.4/515/Add.8, E/CN.4/515/Add.9, E/CN.4/515/Add.10, E/CN.4/515/Add.11, E/CN.4/515/Add.12, E/CN.4/515/Add.13, E/CN.4/515/Add.14, E/CN.4/515/Add.15, E/CN.4/515/Add.15/Corr.1, E/CN.4/515/Add.16, E/CN.4/515/Add.17, E/CN.4/515/Add.18, E/CN.4/552, E/CN.4/654, E/CN.4/654/Add.1, E/CN.4/654/Add.2, E/CN.4/654/Add.3, E/CN.4/654/Add.4, E/CN.4/654/Add.5, E/CN.4/654/Add.6, E/CN.4/655, E/CN.4/655/Add.1, E/CN.4/655/Add.2, E/CN.4/655/Add.3, E/CN.4/655/Add.4, E/CN.4/658, E/CN.4/528, E/CN.4/528/Add.1, E/CN.4/528/Add.1/Corr.1, E/CN.4/650, E/CN.4/530, E/CN.4/530/Add.1, E/CN.4/651; E/1721; A/CONF.2/21; E/CN.4/364/Rev.1, E/CN.4/590, E/CN.4/590/Add.1, E/CN.4/590/Add.2, E/CN.4/523, E/CN.4/532, E/CN.4/524, E/CN.4/554, E/CN.4/659, E/CN.4/660, E/CN.4/661)

The CHAIRMAN invited the Commission to begin its consideration of the draft international covenants on human rights and measures of implementation, an assignment of unprecedented proportions. He drew attention to resolution 415 (S-1) of the Economic and Social Council (E/CN.4/657) transmitting the relevant resolutions of the General Assembly to the Commission and requesting it to complete and submit to the fourteenth session of the Council two draft international covenants on human rights based on the indications given by the General Assembly. He also reviewed a memorandum (E/CN.4/643) prepared by the Secretariat summarizing the resolutions of the Economic and Social Council and the General Assembly in connexion with the draft international covenant on human rights and indicating the relevant documentation on six essential aspects of the drafting. In addition, the Commission should include in the documentation before it the section of the report of the fourth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/641 and E/CN.4/641/Corr.1) containing the Sub-Commission's suggestions for material to be included in the covenant.

/Mr. MOROZOV

Mr. MOROZOV (Union of Soviet Socialist Republics) stated that the Commission would be well advised at that initial stage to consider the purely technical problem of organizing its work.

The Commission was now instructed by the General Assembly to draft two covenants on human rights rather than one. While the resolutions of the General Assembly were binding upon the Commission, he believed that the Commission could however appropriately confirm its preference for a single covenant in submitting its drafts of the two covenants as requested by the General Assembly. At a later stage the USSR delegation would present a formal proposal along those lines.

In complying with the mandate of the General Assembly, the Commission would be ill advised in the preliminary stages of its work to draw a clear-cut line of demarcation between the two covenants. As many provisions had not yet been decided in final form, the best procedure would be to prepare all of the articles to be included in the covenants and then at a later stage to decide whether each article should go in one or both of the covenants. As the Commission's work was based on parts II and III of the draft covenant giving fundamental formulations of specific rights, the Commission should complete its work on the political and civil rights and on the economic, social and cultural rights. Thereafter it could turn to parts IV and V on measures of implementation and to the preamble and the concluding sections which would be fairly similar for both covenants.

The USSR delegation preferred to have the Commission continue the work it had left off at its preceding session and resume its consideration of part III on economic, social and cultural rights. It would not, however, object to starting with part II on civil and political rights and then proceeding to part III.

He stressed the necessity for adopting a decision of principle to deal with the substance of the provisions of parts II and III before deciding in which covenant those provisions were to be placed.

His procedural intervention should not be interpreted to mean that the USSR delegation had altered its consistent position that one covenant on human rights was preferable to two.

He further called upon the Commission to establish a time limit for the submission of proposals for new articles and fundamental amendments to existing texts.

Mrs. ROOSEVELT (United States of America) agreed with the representative of the USSR that the Commission was under an obligation to comply with the decision of the General Assembly and prepare two covenants on human rights. The Commission would then be perfectly in order if it expressed its preference for a single covenant to the General Assembly.

She felt, however, that the USSR representative had unduly emphasized the difficulties which might arise in connexion with parts II and III. Civil and political rights were already separated from the economic, social and cultural rights in the draft.

She agreed that it would be advisable to begin with parts II and III and preferred to consider part III first because the Commission had devoted less attention to it than to part II. She did not, however, consider economic, social, and cultural rights as the basis for civil and political rights. In the final analysis, however, both parts were equally important.

She agreed that a time limit for the submission of proposals and amendments would be desirable and suggested that the Commission might leave it to the Chairman to make a specific proposal on the subject.

Mr. SANTA CRUZ (Chile) agreed that prior attention should be given to parts II and III, and that time limits for the submission of new articles and basic amendments should be fixed without undue delay.

The Commission had an immense task to perform in a very limited time. If the various delegations agreed, it would be advisable for the Commission to sit as two committees of the whole, working simultaneously on both covenants.

/Mr. WHITLAM

Mr. WHITLAM (Australia), Mrs. MEHTA (India), Mr. NISOT (Belgium) and Mr. JEVREMOVIC (Yugoslavia) said that it would be difficult, if not impossible, for their delegations to supply representatives for two committees of the whole sitting simultaneously.

Mr. CASSIN (France) said that the procedure suggested by the USSR representative was not the only possible one. The whole subject of measures of implementation was both extremely difficult and relatively untouched by the Commission, and he feared that if it were left until later it might not receive the time and attention it deserved. The Commission might begin working on parts I, II and III, but should either reserve one day a week for the consideration of measures of implementation or set up a Sub-Committee to begin preparatory work on that subject at once.

Mr. NISOT (Belgium) thought that parallel consideration of the covenants and of measures of implementation was impossible; the latter could not be drafted until the Commission knew precisely what there was to implement.

Mr. AZKOUL (Lebanon) remarked that, while parts I, II and III of the covenant were in different stages of drafting, there was other material, such as the federal state article, the articles on petitions and reservations, and most of the measures of implementation on which the Commission had not as yet reached a decision. He suggested that, if the Commission wished to be able to submit both covenants to the seventh session of the General Assembly, it might be more prudent to begin by working on the new material and to use whatever time was left to improve old texts.

Mr. WHITLAM (Australia) and Mrs. MEHTA (India) felt that parts II and III should be considered first, beginning with part II which required least revision and could be completed relatively quickly.

/Mr. HOARE

Mr. HOARE (United Kingdom) agreed with previous speakers that it would be difficult for the Commission to sit as two committees of the whole.

He also agreed with the USSR representative that, after complying with the General Assembly's instructions and drafting two separate covenants, the Commission would be free to make whatever recommendations it wished with regard to the final form of those texts.

Like a number of other members, he thought that the Commission should first take up part II; in its resolution 384 (XIII) the Economic and Social Council had actually requested the Commission to proceed with "in particular, the revision of the first eighteen articles", a request which had not been set aside by any action of the General Assembly. The Commission was therefore in duty bound to examine part II of the covenant first.

Without in any way establishing an invidious distinction between the two covenants, he felt that it would be advisable to prepare first the whole covenant on civil and political human rights, since it would then be clearer what material should go into the covenant on economic, social and cultural rights and to what extent any of the general provisions decided on for the covenant on civil and political rights would be appropriate for that other covenant.

The CHAIRMAN remarked that the Commission would have to decide between the Lebanese representative's suggestion that it should begin with the new material and the proposal that it should begin with parts II and III. If the latter proposal was accepted, it would be necessary to decide whether part II or part III should be taken up first.

The meeting rose at 1.10 p.m.