

COMMISSION ON HUMAN RIGHTS

Fifth Session

SUMMARY RECORD OF THE EIGHTY-THIRD MEETING

Held at Lake Success, New York
on Monday, 9 May 1949, at 10 a. m.

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PRESENT

<u>Chairman:</u>	Mrs. Franklin D. Roosevelt	United States of America
<u>Rapporteur:</u>	Mr. Charles MALIK	Lebanon
<u>Members:</u>	Mr. J. D. L. HOOD	Australia
	Mr. Roland LEBEAU	Belgium
	Mr. Hernan SANTA CRUZ	Chile
	Mr. P. C. CHANG	China
	Mr. Max SOGRENSEN	Denmark
	Mr. Omar LOUFI	Egypt
	Mr. René CASSIN	France

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Members:

Mr. Garcia BAUER	Guatemala
Mrs. Hansa MEHTA	India
Mr. Nasrollah ENTEZAM	Iran
Mr. Carlos P. ROMULO	Philippines
Mr. V. KOVALENKO	Ukrainian Soviet Socialist Republic
Mr. A. P. PAVLOV	Union of Soviet Socialist Republics
Miss Marguerite BOWIE	United Kingdom
Mr. Joza VILFAN	Yugoslavia

Representatives from the specialized agencies:

Mr. Rudolf A. METALL	International Labour Organization (ILO)
Mr. Gerald CARNES	United Nations Educational, Scientific and Cultural Organization (UNESCO)

Consultants of non-governmental organizations:

<u>Category A</u>	Miss Toni SENDER	American Federation of Labour (AF of L)
<u>Category B</u>	Mr. Moses MOSKOWITZ	Consultative Council of Jewish Organizations
	Mr. BERNARD BERNSTEIN)	Co-ordinating Board of Jewish Organizations for Consultation with the Economic and Social Council of the United Nations
	Mr. A. G. BROTMAN)	
	Mr. Joseph B. FREEDMAN)	
	Mr. E. F. CRUICKSHANK	Inter-American Council of Commerce and Production
	Mrs. R. P. PARSONS	International Council of Women
	Mrs. J. ROBB	International Federation of University Women
	Mrs. Frances M. FREEMAN	Liaison Committee of Women's International Organizations

ADOPTION OF THE AGENDA (document E/CN.4/161)

The agenda was adopted unanimously.

ELECTION OF OFFICERS

Mr. CASSIN (France) proposed that Mrs. Roosevelt should be re-elected Chairman of the Commission.

Mr. MALIK (Lebanon), Mr. SANTA CRUZ (Chile), Mr. HOOD (Australia), Mrs. MEHTA (India), and Mr. LOUIFI (Egypt) seconded the French representative's proposal.

Mrs. Roosevelt was unanimously elected Chairman of the Commission.

Mr. SANTA CRUZ (Chile) proposed that the other officers should also be re-elected.

Mr. LEBEAU (Belgium) and Mr. ENTEZAM (Iran) seconded the Chilean representative's proposal.

Mr. Chang (China) and Mr. Cassin (France) were elected respectively first and second Vice-Chairmen of the Commission; Mr. Malik (Lebanon) was elected Rapporteur.

The CHAIRMAN expressed her own and the other officers' thanks to the Commission for the confidence and esteem it had shown them by re-electing them.

INVITATION TO THE OFFICERS OF THE COMMISSION ON THE STATUS OF WOMEN

The CHAIRMAN felt that it should be made possible for the Commission on the Status of Women to be represented at the meetings of the Commission on Human Rights, and asked if any members wished to submit a formal proposal to this effect.

Mr. CASSIN (France) said that liaison between the two Commissions was indispensable and that an invitation should be sent to the Commission on the Status of Women.

In the absence of any objections, this was agreed to.

SUGGESTIONS REGARDING THE PROCEDURE OF THE COMMISSION (E/CN.4/167)

The CHAIRMAN recalled that, when adopting the Universal Declaration of Human Rights in Paris on 10 December 1948 the General Assembly had requested that the Commission on Human Rights give priority to the preparation of a draft Covenant on Human Rights and draft measures of implementation. Hence the Commission should as soon as possible carry on with the work previously begun in this field.

Furthermore, as the Commission's session ending in June would shortly be followed by the opening of the General Assembly session in September, the Economic and Social Council and the member Governments would not have time to study the draft covenant as thoroughly as they should.

For that reason the Commission might be better advised to use the present session for preparing a provisional draft and submit the draft to the Economic and Social Council with the request that it should be transmitted to Governments for comments. The Commission would then, at its session early in 1950, analyze these comments and produce a final draft which would be submitted to the Economic and Social Council and presented to the 1950 session of the General Assembly.

In preparing the Covenant, the Commission should bear two essential considerations in mind:

First, the Covenant should be in clear, precise and carefully chosen language, since it would place legal obligations upon the signatory states and should be ratified by the largest possible number of nations.

Secondly, as regards the implementation of the Covenant it would be preferable, at least in the initial stages, to consider only simple measures capable of being supplemented later in the light of experience. If, for example, provision was made for immediate appeal to the International Court of Justice, many States might refuse to accede.

She then drew attention to the difficulties due to the extension of the General Assembly's session. Some members of the Commission of Human Rights had to attend the meetings of the Commission as well as of the Assembly's Third Committee.

The Secretary-General, anxious to ensure the satisfactory progress of the Commission's proceedings had made some suggestions (E/CN.4/167), which paid due regard to the material difficulties arising from the fact that the Third Committee and the Commission were sitting simultaneously.

Miss BOWIE (United Kingdom) supported the programme proposed by the

/Chairman.

Chairman for the preparation of the Covenant and the study of the measures of implementation. The Covenant was an important document, and it was essential that Governments should have time to examine it thoroughly. Similarly public opinion, which had demonstrated its interest and enthusiasm, should be correctly informed of the contents of this instrument. The programme could not be carried out before the General Assembly met for its 1949 session.

Her delegation felt somewhat uneasy about the suggestions contained in the document produced by the Secretary-General; the work programme to be covered by the Commission before the date fixed for the end of the session struck them as a little artificial.

She proposed that the work of the Commission should not be postponed till the following week. If the proposed committees were constituted forthwith, they would, within two days, be able to cover the work on their agenda for the week. The Commission would then be in a position to hold a plenary meeting on Wednesday 11 May to consider the proposals of the three committees.

Mr. LEBEAU (Belgium) also approved the procedure suggested by the President for the preparation of the international Covenant on Human Rights.

He went on to say that some delegations, including his own, were too small to allow of representation on all the organs of the General Assembly. In addition to the work of the Commission on Human Rights and the Third Committee, the importance of which he did not wish to belittle, these countries also had to take part in the discussions of the political or other questions considered by the General Assembly.

For these reasons, he feared that no member of his Delegation would be able to attend the meetings of the Commission or of the proposed committees. It might be preferable, from the practical point of view, to postpone the plenary meeting of the Commission until the following week, but he hesitated to make any concrete suggestion, because he fully realized that some representatives had come specially to attend the session of the Commission on Human Rights.

Mr. SANTA CRUZ (Chile) entirely agreed with the Chairman's proposal respecting the preparation of the international Covenant on Human Rights.

/As regards

As regards the organization of the Commission's proceedings, he supported the Belgian representative's suggestion. Out of courtesy to the representatives who had come expressly to attend that session of the Commission, perhaps the committees should be constituted forthwith so that they could start work that day.

Mrs. MEHTA (India) agreed with the previous speakers, that it should be made possible for an instrument so important as the Covenant to be ratified by the largest possible number of States. She recalled that the draft Covenant prepared during the second session of the Commission in Geneva, had been sent to Governments for their comments. The Drafting Committee had borne these comments in mind when re-drafting the Covenant. Hence the Commission should not submit a new draft to Governments but should proceed to establish the final text.

As regards postponement of the Commission's work to the following week, Mrs. MEHTA insisted that due attention should be paid to the fact that certain representatives, who had come solely to take part in this work, would not wish to remain idle for a week.

The CHAIRMAN pointed out to the Indian representative that the first text of the Covenant established at Geneva was only a rough draft and that, in any case, it could not be considered as satisfactory in its present form. Nevertheless, she hoped that a text of a less provisional nature could be drawn up during the session which had just opened.

Mr. SOERENSEN (Denmark), who had also come to attend the session in progress, while recognizing the difficulties facing those delegations with insufficient members, agreed with the representatives of the United Kingdom and India. He proposed that that week should be given over to the work of the three Committees but he hoped that plenary meetings would be held whenever possible.

Mr. CASSIN (France), like the Chairman, thought that it would be difficult for the Commission to submit to the General Assembly in September 1949 a draft Covenant which had been examined both by the Economic and Social Council and by the Governments.

He recognized the need to submit to the General Assembly a carefully prepared text, but he thought it was impossible to separate this instrument properly speaking from the measures of implementation.

He agreed with the representatives who, like himself, had come for a very short period, but, anxious to pay due regard to the position of certain delegations, he proposed the following solution:

The Commission should entrust the study of items 4 and 8 on its Agenda to a committee, which should submit proposals to it on 12 May 1949. From 16 May 1949, the Commission could study item 5 (i & ii) and from 31 May 1949, it could study item 5 (iii) and the items following it on the Agenda.

The CHAIRMAN recalled that the suggestions submitted in the Secretary-General's memorandum (E/CN.4/167) paid due attention to the points raised by the French representative.

Mr. PAVLOV (Union of Soviet Socialist Republics) wished to draw attention to the fact that the work of the Commission had started in rather a strange manner.

First, he pointed out that his delegation had been invited to send a representative to the meeting of the Commission on 9 May 1949 at 11 o'clock. Then the date and time fixed for the opening meeting of the Commission had been changed, without the notice required in such cases by the Rules of Procedure. Now, as soon as the session had opened it was suggested that the Commission's work be postponed for a week, after the representatives had been asked to do their utmost to attend the opening meeting of the session.

Passing on to the suggestions contained in Document E/CN.4/167, he pointed out that last year's experience had shown that it was dangerous not to adopt the agenda of the Commission by a formal vote. He referred to Rule 53 of the Rules of Procedure in support of his request for a formal vote on the matter, because he wanted to propose the deletion of three items on the Agenda.

Firstly, he asked for the deletion of item 9: the report by the Secretary-General on the question of the continuing validity of the Minorities Treaties and Declarations.

He saw no need to study treaties which formed part of the succession inherited from the League of Nations. The Treaty of Versailles, for example, had been replaced by instruments such as the United Nations Charter and the Peace Treaties signed in Paris in 1946.

Secondly, he proposed the deletion of item 10 on the Agenda, which he considered quite pointless.

There was no need to embark upon discussions of texts which were perfectly clear and which, in any case, were reproduced in many United Nations documents.

Thirdly, he asked that paragraph (iii) of item 5 in the Commission's Agenda should be deleted.

He was opposed to the principle of entrusting to an international body implementation of the Covenant, a matter which came under the national sovereignty of States.

Further, he declared himself in favour of the French representative's suggestion concerning procedure, adoption of which would tend to speed up the preliminary work of the Commission.

He agreed with the Chairman as regards the procedure to be followed in connexion with the draft covenant: it would not be advisable to submit it to the fourth session of the General Assembly; the preparation of an entirely satisfactory text at leisure was preferable.

He requested that each of the three proposals he had made should be voted on separately.

He suggested that to give satisfaction to the representatives who had come especially to attend the session, a plenary meeting of the Commission should be held that week, since it was only at plenary meetings that the Commission could deal with substantive questions, the useful work of the committees being confined to the task of drafting.

He requested that, in conformity with Rule 52 of the Rules of Procedure, the Commission should postpone until the next day the vote on the Secretariat's suggestions regarding procedure.

/Mr. Hood (Australia)

Mr. HOOD (Australia) said he would be unable to attend the meetings of the Commission on Human Rights until the session of the General Assembly was over. He thought that the best solution, which would take into account the various views of the Commission's members, would be to adopt the French representative's suggestion, namely, to devote the week between 9 and 13 May to the work of the three committees, and to hold only one plenary meeting of the Commission at the end of the week.

Mr. VILFAN (Yugoslavia) stated that he, like many of his colleagues, would be unable to attend the meetings of the Commission while the General Assembly was sitting. Nevertheless, he understood the wish of certain members of the Commission not to remain inactive, since they had come specially for the Commission's session. He was prepared to accept any solution for the ^{Commission's} programme of work which would not involve a superficial and too-rapid consideration of item 4 on the agenda. Many Governments, including the Yugoslav Government, were particularly interested in the work of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities; the Commission on Human Rights should lay down the terms of reference of that Sub-Commission and should elect its new members. These were important questions which could not be dealt with at one or two committee meetings. The Sub-Commission on the Prevention of Discrimination and the Protection of Minorities was to meet on 13 June; thus, although the consideration of item 4 on the agenda was urgent, it was not essential to deal with it during the first week of the Commission's work.

Lastly, he said that whatever programme of work was adopted, no time limit should be imposed for finishing the consideration of item 4 of the agenda.

He would vote for the USSR representative's proposal to delete items 9, 10 and 5 (iii) of the agenda, if those proposals were put to the vote. Item 9 of the agenda was concerned with the report by the Secretary-General on the question of the continuing validity of the Minorities Treaties and Declarations; Yugoslavia was one of the countries on which certain obligations with regard to minorities had been imposed by the Treaty of Versailles; she had struggled during the Second World War to free herself from the consequences of certain unjust clauses of that Treaty; it was therefore impossible for the Government of Yugoslavia to admit that the question of continuing validity of the Minorities Treaties and Declarations could be discussed on the international plane.

Item 10 of the agenda was concerned with a purely theoretical task of doubtful utility, whereas the Commission on Human Rights should carry out certain urgent and concrete tasks of undeniable importance.

Item 5 (iii), suggestions for the implementation of the international covenant on human rights, should not be considered by the Commission, since the problem lay within the exclusive competence of States.

In conclusion, he gave his unreserved support to the USSR proposal for the deletion of these three items from the agenda.

The CHAIRMAN recalled that the Commission had already formally adopted the agenda for the session; nevertheless, Rule 9 of the Rules of Procedure provided that "the Commission may revise the agenda"; the USSR representative's proposal could therefore be put to the vote.

She drew the attention of members of the Commission to the following facts: the question raised in item 9 of the agenda had already been discussed during the second session held at Geneva; as a result of a report submitted to the Economic and Social Council, the Council had adopted a resolution (1116 (VI) C), requesting the Secretary-General to report on the results of his study of the question of the validity of treaties and declarations relating to international obligations undertaken to combat discrimination and to protect minorities. Item 9 of the agenda was concerned with the consideration of this report.

She pointed out that items 9 and 10 of the agenda, unless they were deleted as the USSR representative had requested, would first be examined by the Committee on the Prevention of Discrimination and the Protection of Minorities.

It had to be remembered in connexion with item 5 (iii) that the General Assembly itself had requested the Commission on Human Rights to study simultaneously the draft international covenant on human rights and suggestions for the implementation of that covenant.

In reply to certain remarks made by the USSR representative, she stated that there was no question of convening simultaneously the three committees proposed by the Secretary-General. Furthermore, the provisions of Rule 52 of the Rules of Procedure only applied to resolutions, motions and amendments of substance; that Rule could not therefore be quoted in the case of a procedural question as was the case now raised.

/In reply

In reply to the Yugoslav representative's statement on the importance of item 4 of the agenda, she said that the Secretary-General's report mentioned in item 9 of the agenda would not be ready before the end of the week; thus, the Committee on the Prevention of Discrimination and the Protection of Minorities should hold several meetings, which would enable it to give due consideration to item 4 of the agenda.

She called upon the Commission to vote on the USSR representative proposals that items 5 (iii), 9 and 10 be deleted from the agenda and on the proposals for the programme of work submitted by the United Kingdom and France.

The proposal to delete item 5 (iii) from the agenda was rejected by 12 votes to 3.

The proposal to delete item 9 from the agenda was rejected by 11 votes to 3, with 1 abstention.

The proposal to delete item 10 from the agenda was rejected by 11 votes to 3, with 1 abstention.

Miss BOWIE (United Kingdom) withdrew her proposal in favour of that submitted by the French delegation.

The CHAIRMAN asked the Commission to vote on the French delegation's proposal.

Mr. PAVLOV (Union of Soviet Socialist Republics) asked to speak on a point of order. He pointed out that after the three votes which had just taken place the agenda as a whole should be put to the vote, in accordance with the usual practice and the Rules of Procedure.

The CHAIRMAN said that such a vote would be useless, since the agenda had already been adopted. The proposals for amendments had been put to the vote in accordance with Rule 9 of the Rules of Procedure; since those proposals had been rejected, the agenda remained as it had been at the beginning of the meeting: there was therefore no need to put its adoption to the vote.

Mr. PAVLOV (Union of Soviet Socialist Republics) said he would not appeal against the Chairman's decision. He wished to make it clear, however, that as result of the rejection of his proposals, he wished his vote on the adoption of the agenda to be considered as an abstention, if such a vote had indeed taken place.

/Mr. KOVALENKO

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) stated that he had not been present at the beginning of the meeting, because the timetable had been altered and the delegations had not been informed within the time limit laid down in the Rules of Procedure. He recalled, however, that the agenda had not been adopted by a show of hands, in accordance with the usual procedure.

He therefore asked that his vote on the adoption of the agenda be considered as an abstention, like that of the USSR representative.

The CHAIRMAN stated that at the proposal of the representative of Lebanon, the agenda had been adopted unanimously, in the absence of any objection, before the arrival of the representatives of the USSR and the Ukrainian SSR.

She said that the remarks of the representatives of the USSR and the Ukrainian SSR would be included in the summary record.

She asked the Commission to vote on the French representative's proposal, which read as follows: "The Commission decides: 1. - to consider first of all items 4 and 8 on its agenda. A committee shall submit proposals to the Commission for Thursday, 12 May; 2.- to begin the consideration of item 5(i) and (ii) on 16 May; 3.- to consider item 5 (iii) and subsequent items on the agenda after 31 May".

Miss BOWIE (United Kingdom) said she could accept the first part of the French representative's proposal, but could not approve the second part, since she thought it a mistake to bind the Commission to an excessively rigid programme of work at the beginning of the session.

She therefore asked for a divided vote on the French proposal.

Mr. CASSIN (France) pointed out that his programme provided for a plenary meeting on 12 May, but that no strict programme was laid down thereafter. His intention was to make it clear that the Commission should take up all the items on the agenda, even if the study of those on which discussion was begun immediately were not completed.

The CHAIRMAN put the first part of the French representative's proposal to the vote.

The first part of the French representative's proposal was adopted by 12 votes to none, with 3 abstentions.

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In reply to Mr. SANTA CRUZ (Chile), the CHAIRMAN pointed out that the Committee on the Prevention of Discrimination and the Protection of Minorities would have to examine carefully the question of the terms of reference of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities; the question of election of new members for the Sub-Commission was not, properly speaking, within the competence of the Committee, which would have to confine itself to submitting suggestions for the procedure to be followed in the election and recommend that Governments be requested to send nominations.

Miss BOWIE (United Kingdom) proposed that the second part of the French representative's proposal should be amended to read as follows: "2. to decide at the meeting on 16 May the order in which to consider the other items on its agenda".

Mr. CASSIN (France) regretted that he could not accept the amendment submitted by the United Kingdom delegation, since he feared that the procedure suggested in that amendment might involve a debate which would waste a whole meeting of the Commission.

He stressed that the programme he proposed was intended solely to prevent the Commission from lingering on one item of the agenda, without broaching the consideration of the other questions.

Miss BOWIE (United Kingdom) withdrew her amendment.

The CHAIRMAN put the second part of the French representative's proposal to the vote.

The second part of the French representative's proposal was adopted by 11 votes to 1, with 3 abstentions.

The CHAIRMAN put the third part of the French representative's proposal to the vote.

The third part of the proposal was adopted by 7 votes to 2, with 6 abstentions.

The CHAIRMAN pointed out that the Secretary-General's proposals regarding the Commission's procedure provided for the establishment of two other committees: the communications committee and the yearbook committee. She called upon the Commission to vote on the question whether the establishment of these committees was necessary.

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The Commission decided to set up these two committees by 7 votes to none, with 9 abstentions.

Mr. CASSIN (France) said he was in favour of the establishment of these two committees, but thought it would be preferable for them not to begin their work until the end of the session of the General Assembly, so that all the delegations appointed might be represented. He therefore proposed that the establishment of the Communications Committee and the Yearbook Committee be postponed until the meeting of 16 May.

The CHAIRMAN said that the membership of the Committee on the Prevention of Discrimination and the Protection of Minorities would be as follows: China, Denmark, France, Guatemala, India, Iran, Union of Soviet Socialist Republics, United Kingdom, United States of America and Yugoslavia.

Mr. BAUER (Guatemala) and Mr. ENTEZAM (Iran) asked to be excused from membership of the Committee, on the grounds of their work on the various organs of the General Assembly.

The CHAIRMAN agreed to the request of the representatives of Guatemala and Iran and appointed the Uruguayan delegation in their place.

After a short discussion, the CHAIRMAN remarked that several delegations had proposed that the communications committee and the yearbook committee should not meet until after 16 May; the establishment of these two committees could, therefore, be postponed until the meeting on Monday, 16 May.

It was so decided by 9 votes to none with 6 abstentions.

Miss BOWIE (United Kingdom) suggested that the Committee on the Prevention of Discrimination and the Protection of Minorities should hold its first meeting on 10 May at 10:30 a.m.

It was so decided by 9 votes to none with 5 abstentions.

The meeting rose at 1:55 p.m.
