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COMMISSION ON HUMAN RIGHTS

Ninth Session

SUMMARY RECORD OF THE THREE HUNDRED AND EIGHTIETH MEETING

held at the Palais des Nations, Geneva,
on Monday, 11 May 1953, at 10.30 a.m.

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Country:

Mr. AZMI (Egypt)

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Mr. WHITLAM	Australia
Mr. LEROY	Belgium
Mr. DIAZ-CASANOVA	Chile
Mr. GIUDICIA PAOLINI	China
Mr. ABDEL-GHANI	Egypt
Mr. CASSIN	France
Mrs. CHATTOPADHYAY	India
Sir Abdur RAHMAN	Pakistan
Mr. INGLÉS	Philippines
Mr. DRUTO	Poland
Mrs. RÖSSEL	Sweden
Mr. KRIVEN	Ukrainian Soviet Socialist Republic
Mr. MOROSOV	Union of Soviet Socialist Republics
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mr. ALPERT	United States of America
Mr. PEROTTI	Uruguay
Mr. JEVREMOVIĆ	Yugoslavia

Present:

Mrs. LEFAUCHEUX	Representing the Commission on the Status of Women
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Representatives of specialized agencies:

International Labour Organisation	Mr. BLAMONT
United Nations Educational, Scientific and Cultural Organization	Mr. BARMATE

Representatives of non-governmental organizations:

Category A

World Federation of United Nations Associations	Mr. ENNALS Mr. de MADAY
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Representatives of non-governmental organizations (continued):

Category B and Register

Catholic International Union for Social Service	Miss de ROMER
Commission of the Churches on International Affairs	Mr. NOLDE
Consultative Council of Jewish Organizations	Mr. MOSKOWITZ
Co-ordinating Board of Jewish Organizations	Mr. WARBURG
International Catholic Child Bureau	Mr. COTTIER
International Catholic Press Union	Mr. COTTIER
International Conference of Catholic Charities	Mr. DUBOIS
International Federation of Friends of Young Women	Mrs. FIECHTER
International Federation of University Women	Mrs. FIECHTER
International Union for Child Welfare	Mrs. SMALL
Pax Romana	Miss ARCHINARD
Women's International League for Peace and Freedom	Mrs. BAER
World Jewish Congress	Mr. RIEGNER
World Union of Catholic Women's Organizations	Mrs. DARBRE Miss de ROMER

Secretariat

Mr. Humphrey	Representative of the Secretary-General
Mr. Das) Mrs. Bruce)	Secretaries to the Commission

1. PROGRAMME OF WORK (Continued)

The CHAIRMAN, recalling the suggestions he had made at the previous meeting, ⁽¹⁾ said that, if it was to comply with the instructions of the Economic and Social Council, the Commission would certainly need to speed up its work. He would suggest that of the twenty-five meetings remaining, three should be devoted to the draft article on the right to marriage and right of the family to protection by society and the State, and four to the completion of the articles in Part IV of the draft covenant on civil and political rights, which were mainly procedural, and to the two additional articles proposed by the Belgian and Philippine delegations. If his previous suggestion that the Commission could dispense with the examination of Part V were accepted, the succeeding twelve meetings could be allotted to consideration of items 7 and 11 of the agenda, ⁽²⁾ the three United States draft resolutions submitted thereunder, and, the reports of the fourth and fifth sessions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (item 4 of the agenda), the exact order in which those subjects were taken depending on the dates on which the Chairman of the Sub-Commission could attend. Item 20 (communications) could be allowed two meetings, and the Commission's draft report to the Economic and Social Council four. That was a minimum programme, and he would make the further suggestion that some limitation on the length of statements was required. He proposed that representatives should be limited to two statements, of ten and five minutes respectively, on each item, with a further five minutes for replying, where necessary, to the discussion.

Mr. MOROSOV (Union of Soviet Socialist Republics) agreed in principle with the Chairman's excellent suggestions, and would certainly approve a decision that Part V be not considered. He did not understand, however, what the Chairman had meant when, at the previous meeting, he had described the articles on federal States and reservations as having a political character. The classification of articles of the covenant in political and technical categories was hardly tenable, for many articles possessed both characters. Even accepting the need for speeding

(1) See summary record of the 379th meeting (E/CN.4/SR.379), last page.

(2) Respectively: Development of the work of the United Nations for wider observance of, and respect for, human rights and fundamental freedoms throughout the world; and annual reports on human rights.

up the Commission's work, a rapid, provisional examination of those two articles would be advisable. Not only were they important in themselves, but an exchange of views on them would be of considerable assistance to the Council and the General Assembly in their task; indeed, as neither article had yet been adopted by the Commission, those organs would have nothing to work on unless such an exchange took place.

He thought that, after it had considered the article on the right to marriage, the Commission should round off its work on the preparation of the draft covenants by considering the Soviet Union draft resolution on the question of how many covenants there should be; as that was a familiar subject, its examination should not take long. He agreed with the Chairman that some restriction on the length of statements was called for, and thought the periods proposed reasonable. However, he thought it inadvisable to limit in advance the number of times a representative might speak. After his first two statements a speaker might be limited to, say, three minutes for any subsequent interventions.

The CHAIRMAN explained that, in describing the articles on federal States and reservations as political, he had meant that any decisions taken on them would simply reflect the formal instructions given to each member of the Commission by his Government, which would leave no room for the compromise which marked much of the Commission's conduct of its business. The General Assembly would undoubtedly decide in a similar "political" sense. His suggestion had been prompted by past experience, for he imagined that, for instance, the Soviet Union delegation would strongly oppose an article on federal States, whereas the Australian and United States delegations would with equal vehemence urge its inclusion. Hence, agreement being doomed in advance, he considered that it would be better to send the articles straight to the Council. If, however, the Soviet Union representative really wanted them to be discussed, that could be done - but only by the Commission's meeting on Saturday mornings.

As to the time-limit on statements, he thought there must be some restriction on the number; after all, a series of three-minute statements might in sum amount to a very long time. He thought that, if the Commission would approve the principle that each representative should make only two statements, he might be

entrusted with deciding how far to allow exceptions. He would prefer to take the United States draft resolutions before the reports of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, in order to give representatives time for reflexion before the latter were discussed.

Mr. MOROSOV (Union of Soviet Socialist Republics) said that the Chairman had won him over, although he had - no doubt inadvertently - forgotten one item, namely, the Soviet Union proposal on the number of draft covenants. He would like to thank the Chairman for his helpfulness in the matter of the federal State article and that on reservations. The Soviet Union delegation by no means condemned the federal State provision as such; appropriate provision should certainly be made in the draft covenant. But he thought it important that the Commission should present a text, submitted by one delegation or another, as a basis for the General Assembly's discussion of the issue.

He recalled that it had been agreed that Saturday mornings should be set aside for consultations between delegations and for preparing the following week's work; it would therefore probably be unwise to go back on that arrangement; and, although he had an open mind on the matter, he would suggest that the accelerated procedure proposed by the Chairman be tried out first.

The CHAIRMAN said that his silence on the subject of the Soviet Union draft resolution had been intentional. In the first place, the proposal had not yet reached the Secretariat. Secondly, although it was true that there was nothing to prevent the Commission from re-opening the issue, he very much doubted whether, in view of the General Assembly's express request that the Commission draw up two separate covenants, it would be desirable for the Commission to consider once again whether there should be one instrument or two. However, since the theme of the Soviet Union proposal was so well-known that it would hardly call for prolonged discussion, he was prepared to accept it for consideration after the Commission had finished its work on Part IV, and before it took up the United States draft resolutions and the Sub-Commission's reports.

Mr. WHITLAM (Australia) expressed appreciation of the importance that the Soviet Union representative attached to the federal State article, but was disturbed by the suggestion that it should receive only summary consideration. That was hardly consistent with the attitude taken by the General Assembly at its

fifth session, when it had called upon the Council to request the Commission to study such an article. He would emphasize that in its resolution adopted by the General Assembly had requested the preparation of recommendations which would have as their purpose the securing of the maximum extension of the Covenant to the constituent units of federal States, and the meeting of the constitutional problems of federal States;".

It was quite clear that it had never been the intention of the General Assembly that federal States were to be equated with unitary States in such matters; on the contrary, it had wished to underline the special situation in which the former found themselves. He could not agree that the extremely important issues involved should be brushed aside, for their implications were far wider than the mere extent of the two covenants on which one Commission happened at that moment to be working. What was ultimately involved was the whole question of federal States in relation to the United Nations economic and social programme, and he would refer the Commission to paragraphs 1 and 3 of Article 62 of the Charter, in which the Council's terms of reference were set out. Four States, with a total population of between 500 and 600 million people, which were playing their full part in United Nations activities were involved, and it would be unworthy of the Commission to insert a specific text in the covenants, and then send the latter forward, without fully considering the article. Although agreeing with the Soviet Union representative that it was the Commission's duty to complete the draft covenants, he was convinced that four meetings would prove too short to allow the articles on federal States and reservations to be examined adequately. If there was no chance of a full discussion, he would request that their consideration be deferred.

As to limitations on the length and number of statements, he was in full agreement with the Chairman.

Mrs. LORD (United States of America) supported the Chairman's suggestions, but wondered whether, in view of the importance of the articles on federal States and reservations, delegations might not submit their views on those subjects to the rapporteur, in writing, for inclusion in the report, as an alternative to actual discussion in the Commission.

She agreed with the Soviet Union representative that his proposal on the number of covenants should be considered, and that it should not call for lengthy discussion.

Mr. CASSIN (France) approved in its broad outline the programme suggested by the Chairman for the remainder of the session. He feared, however, that if there were a general discussion on the articles relating to federal States and reservations each delegation might be tempted to define its attitude yet once more in a theoretical statement which would make no positive contribution to the solution of those problems.

He noted, moreover, that the Chairman had referred to two new draft articles submitted by the Belgian and Philippine delegations respectively, which he understood to relate to the right of peoples to self-determination. It should not be forgotten that, under item 21 of the agenda, the Commission had been requested by the General Assembly to formulate recommendations on that subject, not to insert appropriate provisions in the draft covenants. The Belgian and Philippine proposals would thus form a separate item on the agenda, to the consideration of which he would have no objection, should the Commission deem it necessary. He did not, however, regard it as proper to introduce under item 3 of the agenda a question not regarded by the General Assembly as forming part of the Commission's preparatory work on the two draft covenants.

With regard to the Chairman's other suggestions, the French delegation would defer to the will of the majority, and was prepared to agree that the Soviet Union proposal on the number of covenants should be considered.

Mr. CHENG PAONAN (China) said that, having had wide experience of the kind of work being done by the Commission, he felt that the Chairman's proposed programme was somewhat optimistic, and that it would be thrown completely out of gear if other matters were taken up as well. He was uncertain whether the Commission would be able in three meetings to dispose of the draft article on the right to marriage, and was even more doubtful that it would be able to conclude its work on Part IV of the draft covenant, which would virtually entail consideration of fourteen articles - including new texts - in four meetings. Again, though it might indeed prove possible to dispose of items 4, 7 and 11 of the agenda in twelve meetings, the prospects of doing so were not very bright.

In his opinion, it was more necessary for the Commission to discuss which of the important articles should be inserted in both draft covenants than to consider the articles on federal States and reservations, or whether there were to be one or two covenants, both of which subjects had already been discussed.

The only ways in which the Commission could conceivably complete the programme outlined by the Chairman were: by meeting longer every day, by meeting on Saturdays or in the evenings, by prolonging the session, or by leaving the drafting of the report on the session to the Commission's officers and the Secretariat.

The CHAIRMAN said that he would be the first to oppose night meetings. As for extending the length of the session, in that respect the Commission was in the hands of the Council. He did not share the Chinese representative's pessimism, and was still hopeful that the Commission could make good progress by limiting the time allowed to each speaker.

Mr. MOROSOV (Union of Soviet Socialist Republics) said that, in the light of the unduly protracted discussions on certain matters early in the session, it was regrettable that members should now argue that there was no time for consideration of such important questions as the articles on federal States and reservations. In his opinion, it would be pure waste of time to discuss them without coming to any conclusion on them, and it would clearly be wrong to prejudice the success of that discussion by deciding in advance that no formal decision should be taken. Unless it dealt with both articles, the Commission would be guilty of failure to comply with the General Assembly's instructions about the completion of the draft covenants.

He could not agree with the French representative that it would be improper to take up under item 3 of the agenda proposals concerning the right to self-determination. Such a course would be perfectly consistent with the General Assembly's wishes in the matter.

He also believed that it was only logical that his delegation's proposal that there should be a single covenant, not two, be taken up at the end of the discussion on item 3. A decision by the Commission would greatly facilitate the work of the General Assembly, which was more or less equally divided on the issue. It might be possible to dispose of the subject in one meeting.

Mr. HOARE (United Kingdom) said that at first sight the programme of work suggested by the Chairman appeared to be reasonable and well-adjusted to the relative importance of the subjects and the probable amount of time they would take up. However, he was inclined to share the Chinese representative's pessimism about the possibility of carrying it out. Even though the United Kingdom proposals relating to Part IV were purely formal or technical in character, and should not therefore call for much discussion, it was most unlikely that the Commission would be able to complete its consideration of fourteen articles in four meetings.

He agreed that it would be unrealistic to take up Part V, to which he intended to submit certain amendments, for a great deal of substantive modification and editorial emendation would be required. The best procedure might therefore be, as already suggested in part by the United States representative, for all delegations to submit in writing their amendments to Part V, as well as their proposals relating to the articles on federal States and reservations, for inclusion in the report on the session. He entirely agreed that the important problem of reservations should be discussed. Indeed, he would have been in favour of its being taken up earlier; but it was essential to face facts. An inconclusive discussion would be worse than no discussion at all. Either the Commission should allow enough time for the subject to be gone into thoroughly, or it should not take it up at all, confining itself to including any relevant proposals in its report.

He had some sympathy with the Soviet Union representative's view that the number of interventions that a representative might make on any one subject should not be limited, and hoped that the Chairman would be generous with his discretion, having regard to the requirements of effective debate.

The CHAIRMAN assured the United Kingdom representative that he would apply the time-limit flexibly.

Mr. MOROSOV (Union of Soviet Socialist Republics) could not agree with the United Kingdom representative's suggestion that delegations' proposals concerning the articles on federal States and reservations should be written into the report without discussion. There would be very little difference between

that procedure and discussing the two articles without reaching a decision on them. The time had surely come for the Commission to pronounce itself on those matters, and to present some kind of a text on each for the benefit of the General Assembly.

He had no objection to the Chairman's using his judgment in applying the time-limit.

The CHAIRMAN suggested that the Commission should forthwith take a vote on whether or not it would deal at the present session with the articles on federal States and reservations.

Mr. HOARE (United Kingdom) said that, moved in that form, the proposal might place certain delegations in a quandary. What the Commission should vote on was whether or not to allocate time for considering those two articles.

Mr. WHITLAM (Australia) agreed.

The CHAIRMAN suggested that the Commission might defer voting on that particular issue until it had concluded its work on Part IV of the draft covenant.

It was so agreed.

Mr. INGLÉS (Philippines) asked whether the Chairman's programme could be adjusted if the Commission failed to complete its work on Part IV in four meetings.

The CHAIRMAN said that he would prefer not to reply to that question at once. He wished, however, to make clear that the programme he had outlined was not a rigid one, and that the door would be left open for the allocation of more time for Part IV if four meetings proved too short. He appealed, however, for good will on the part of all to enable his suggested time-table to be adhered to.

2. DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION
(item 3 of the agenda) (resumed from the previous meeting):

Proposals for additional articles relating to the draft covenant on civil and political rights (E/2256) (continued)

Article on right to marriage and right of the family to protection by society and the State (draft resolution adopted by the Commission on the Status of Women) (E/CN.4/686)

The CHAIRMAN called upon the representative of the Commission on the Status of Women to introduce the draft article on the right to marriage and right of the family to protection by Society and the State, adopted by that Commission

and submitted to the Commission on Human Rights, through the Economic and Social Council, for possible inclusion in the draft covenant on civil and political rights.

Mrs. LEFAUCHEUX, representing the Commission on the Status of Women, expressed her Commission's thanks to those delegations that had sympathetically received the proposal (E/CN.4/686) it was submitting to the Commission on Human Rights. The position of women in the family was undoubtedly one of the most important aspects of the general problem of the social and legal status of women, but it was also one of the most difficult problems to settle.

In the field of political rights, the Commission on the Status of Women had achieved appreciable results. The text of the Convention on the Political Rights of Women, of which the Commission had made a long study, had finally been adopted by the General Assembly,⁽¹⁾ and had already been signed by nineteen governments. That was a considerable step forward, for the Convention recognized the equal rights of women and men in voting and eligibility for public office, and promoted the access of women to the public service.

In the field of education, her Commission had collaborated with the United Nations Educational, Cultural and Scientific Organization (UNESCO) in initiating inquiries concerning the access of women to education, and had succeeded, in collaboration with the International Labour Organisation, in drafting the text of an international convention which, although not entirely satisfactory, nevertheless marked a considerable advance towards the ultimate goal of equal remuneration for men and women workers for work of equal value. The Commission had also made a detailed study of more general questions, such as the nationality of married women.

It was in the field of private law, however, that traditions and customs through which the inferior status of women had been maintained for centuries were mainly encountered. There the diversity of discriminatory measures was such that many people were unable to imagine an acceptable form of society from which all discrimination against women had been eliminated. It was true that since the beginning of the century - perhaps owing to the important part played by women in

(1) See General Assembly resolution 640 (VII).

national life during the two world wars - the participation of women in political and economic life had increased in most countries; that advance had not, however, brought a corresponding change in private law. Women had won the right to vote and had become members of parliament or even members of their country's government, but that had not induced the legal profession to undertake a reform of the marriage laws in the various countries.

She would not refer to the status of women in under-developed countries, for there was too much to be said on that subject, but would confine herself to mentioning the problems of marriage in countries with a modern civilization, where the free consent of the woman was not always necessary for a valid union; there were still countries in which only the wish of the father or the person possessing rights over the woman determined the legality of a marriage.

In most countries, the civil code upheld the principle that the husband was the head of the family. In some - for example France - that was merely a matter of form, but in others it was a concept implying the complete subordination of the wife. The choice of the couple's domicile was exclusively a matter for the husband. Where the two spouses were of different nationalities at the time of marriage, only the wife's nationality was affected by the marriage, and so on. The law of property almost invariably recognized the sole authority of the husband. The system most generally in force was that of joint estate, where the husband alone administered the property. Where the system of separate estate applied, the wife had more say in the administration of her own property, but she was nevertheless at a disadvantage in respect of the right of succession.

With regard to wives who worked, in some countries the wife was still required to obtain her husband's permission to take a job, and in some cases married women were barred from public office. In some countries the husband actually had control of his wife's earnings and was her legal representative, as she had no legal capacity of her own.

As to the children, in nearly all countries they were under paternal authority, and the principle of parental authority as a satisfactory basis for common agreement between the parents regarding the education of their children was by no means an accepted fact.

Capacity to bring suit in the event of disagreement during marriage differed according to whether the husband or the wife was the plaintiff. The legal consequences of violation of the marriage contract - for example, through infidelity - were different for men and women, as were also the grounds on which divorce could be sought. Incidentally, a number of women's non-governmental organizations had been struck by the proposal of the Commission on the Status of Women that Article 16 of the Universal Declaration of Human Rights, which indirectly raised the question of divorce through its use of the term "dissolution of marriage", should be incorporated in the draft covenant on civil and political rights. The members of that Commission had therefore thought fit to make known their views on the subject. While most of them were convinced that divorce entailed serious danger to the stability of the home, and were not in favour of it, the fact remained that in many countries divorce did exist, and it was therefore important that in the event neither of the parties should be deprived of rights which the other retained. To disregard the problem of divorce would undoubtedly mean ignoring the position of the wife in circumstances which might involve great hardship.

With regard to the use of the word "dissolution" in Article 16 of the Universal Declaration, the members of the Commission on the Status of Women considered that the word applied with equal force both to the natural dissolution of marriage, for example, by the death of one of the partners, and to legal dissolution, and in the light of that principle they saw no objection to its inclusion in the draft covenant on civil and political rights.

The limitations on equality of rights she had mentioned did not exist everywhere. There was the encouraging example of current legislation in Sweden. Unfortunately, that was a rare exception, and in the world at large marriage was an institution still far removed from the ideal definition of it given by the United States representative, namely, an institution in which the two parties acquired the same rights and accepted the same responsibilities.

Some people said that the advantages the woman enjoyed in her subordinate position, namely, protection and support, largely made up for the denial to her of certain rights. That was a masculine point of view. It was not the view adopted

by the Commission on the Status of Women, which had a higher and nobler idea of marriage. Her Commission regarded marriage as a total commitment for better or worse, an indissoluble contract that provided the only possible stable basis for the family. The marriage contract, moreover, involved sacrifices, and those sacrifices themselves contributed to the nobility of the union, provided there was equality, both of obligation and of sacrifices for both partners.

The Commission on the Status of Women did not believe that the advent of equal rights in marriage would mean a future which left the family out of account. It was convinced that most women made the family their central purpose in life, but believed that they should be enabled to do so in freedom. It did not close its eyes to the difficulties raised by the problem of equality in marriage, but believed that that problem must be clearly stated, because it was impossible to go on indefinitely proclaiming principles and then retreating when it came to applying them. The discriminatory measures she had mentioned were so diverse and so numerous that they could hardly be abolished progressively through the agency of an international body like the Commission on the Status of Women, and that was why the latter had taken the realistic view, and thought it preferable first to seek to gain a general objective, namely, the insertion in the draft covenant on civil and political rights of article 16 of the Universal Declaration of Human Rights.

The CHAIRMAN, thanking Mrs. Lefauchaux for her illuminating statement, assured her that the Commission would consider the proposal submitted by the Commission on the Status of Women with all the care due to such an important and delicate problem.

He was personally wholeheartedly in favour of the inclusion of such an article, but was well aware of the many difficulties which might stand in the way of its adoption.

The meeting rose at 12.50 p.m.