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COMMISSION ON HUMAN RIGHTS

Eighth Session

SUMMARY RECORD OF THE THREE HUNDRED AND THIRTY-THIRD MEETING

Held at Headquarters, New York,
on Thursday, 12 June 1952, at 10.15 a.m.

CONTENTS:

Draft International Covenants on Human Rights and
Measures of Implementation (E/1992; E/CN.4/528, E/CN.4/666/Add.15;
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E/CN.4/L.209, E/CN.4/L.210, E/CN.4/L.216, E/CN.4/L.217 (continued))

<u>Chairman:</u>	Mr. MALIK	(Lebanon)
<u>Rapporteur:</u>	Mr. WHITLAM	Australia
<u>Members:</u>	Mr. MARSHALL	Australia
	Mr. NISOT	Belgium
	Mr. VALENZUELA	Chile
	Mr. CHEN PAONAN	China
	AZMI Bey	Egypt
	Mr. CASSIN	France
	Mr. KYROU	Greece
	Mrs. MEHTA	India
	Mr. AZKOUL	Lebanon
	Mr. WAHEED	Pakistan

Members (continued):

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 Britian and Northern Ireland
Mrs. ROOSEVELT	United States of America
Mr. BRACCO	Uruguay
Mr. JEVREMOVIC	Yugoslavia

Also present:

Miss MANAS	Commission on the Status of Women
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Representatives of non-governmental organizations:

Category A:

Miss SENDER	International Confederation of Free Trade Unions (ICFTU)
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Category B and Register:

Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mrs. SOUDAN	International Federation of Business and Professional Women
Miss ROBB	International Federation of University Women
Miss SCHAEFER	International Union of Catholic Women's Leagues
Mrs. PHILLIPS	Liaison Committee of Women's International Organizations
Mr. PENCE	World Alliance of Young Men's Christian Associations.
Mrs. POLSTEIN) Mr. RONALDS)	World Union for Progressive Judaism

Secretariat:

Mr. HUMPHREY	Representing the Secretary-General
Mr. DAS) Miss KITCHEN)	Secretaries of the Commission

DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION
(E/1992; E/CN.4/528, E/CN.4/666/Add.15; E/CN.4/L.148, E/CN.4/L.194, E/CN.4/L.195;
E/CN.4/L.208, E/CN.4/L.209, E/CN.4/L.210, E/CN.4/L.216, E/CN.4/L.217)(continued)

Preamble (continued)

Mr. WHITLAM (Australia) said, that in deference to the comments made at the preceding meeting and for the sake of reaching unanimity on the text of the preamble, he would modify his delegation's verbal amendments by suggesting merely the insertion in the second paragraph of the preamble of covenant II (covenant on economic, social and cultural rights)(E/CN.4/666/Rav.15), which had been used as a basis for the preamble of covenant I (covenant on civil and political rights), the words "civil and political freedom and" between the word "enjoying" and the words "freedom from fear and want". He therefore withdrew his proposal to delete the last part of the sentence and hoped that his amendment, as modified, would be acceptable to the Polish representative. He had noted with interest the Lebanese representative's intention to propose that the third paragraph of the preamble of the draft covenant should stand, and hoped that that amendment would soon be submitted.

Mr. BORATYNSKI (Poland) recalled that he had suggested that the Commission should use, as a basis, the preamble of covenant II in order to conform to the instructions contained in General Assembly resolution 543 (VI); that was why he could only accept the French but none of the other amendments -- including the latest Australian amendment -- which would disturb the required balance between the preambles of the two covenants.

Mrs. ROOSEVELT (United States of America) supported the Australian amendment and asked for a separate vote on the words "and want" against which she intended to vote. While it was perfectly in order to mention freedom from fear and from want in a covenant on economic and social rights, the same did not apply to a covenant on civil and political rights, which was concerned with man's freedom from fear.

Mr. MEROZOV

Mr. MOROZOV (Union of Soviet Socialist Republics) said that those in favour of drafting two separate covenants had argued, for the sake of gaining the support of the majority, that the two covenants had a single aim and had been divided into two for purely technical reasons. They had, however, lost sight of that singleness of purpose, which should be reflected in identical preambles. He did not agree with the United States view and was convinced that for some, fear of want could be greater than fear of political persecution; if the ideas of fear and want were separated artificially, there was risk of reaching illogical conclusions similar to those mentioned by the representative of the United States.

Mrs. ROSSEL (Sweden) supported both the Polish proposal and the Australian amendment; the words "and want" should be retained because the preamble would mention economic and social rights as well as civil and political rights.

She moved the closure of the debate.

The Commission decided by 9 votes to 4, with 4 abstentions to close the debate.

Mr. HOARE (United Kingdom) explained how his delegation was going to cast its vote. The Commission should settle the question of the similarity between the preambles. He did not agree with the USSR representative that the decision to draft two separate covenants had been taken on the understanding that the preambles would be identical; it had merely been agreed that the covenants should contain as many common provisions as were appropriate. It would have been a different matter had the Commission tried, when drafting the preamble of covenant II, to adopt a text suitable for both covenants. As the text adopted had been drafted expressly as the introduction to the covenant on economic and social rights, it could not be reproduced, unamended, in covenant I, where prominence was given to civil and political rights. He would therefore vote for the Australian amendment.

Mr. CASSIN (France) explaining his delegation's vote said he had always argued in favour of drafting two preambles, which should be as similar as possible, but had never suggested that they should be identical. He too would vote for the Australian amendment.

/Mr. WHITIAM

Mr. WHITLAM (Australia) wished, in the absence of the representative of Lebanon, formally to propose the amendment suggested by the Lebanese representative at the preceding meeting, which was to insert, as a second paragraph in the preamble, the words "Recognizing that these rights and freedoms derive from the inherent dignity of the human person".

Mr. BORATYNSKI (Poland) asked the Australian representative to modify his delegation's first amendment to the second paragraph of the preamble of covenant II so as to make it read "enjoying fundamental rights and liberties and".

The CHAIRMAN said that two fresh amendments were being presented after the closure of the debate; however, as there was no objection, the two amendments were properly before the Commission.

Mrs. MEHTA (India) explained that in accepting two identical, or very similar, preambles the Commission did not mean to express a preference for a single covenant. The great generic difference between the two categories of rights set forth in the covenants, which should be regarded as equally important, should be taken into account. The preamble to covenant I should naturally give prominence to civil and political rights. She would therefore vote for the Australian amendment to the second introductory paragraph of the preamble of covenant II, but against the Polish sub-amendment which was too vague.

Mr. CASSIN (France) thought that the new paragraph proposed by the representative of Australia was a duplication of the first paragraph of the preamble. He added that he would vote against the Polish sub-amendment.

Mr. HOARE (United Kingdom) suggested that it might be preferable not to place the new paragraph of the preamble immediately after the first paragraph.

/Mr. WHITLAM

Mr. WHITLAM (Australia) pointed out that the words "those rights and freedoms" referred to the "equal and unalienable rights" mentioned in the first paragraph of the preamble; preferably, therefore, the new paragraph should follow immediately, in order to bring out the connexion between those rights and human dignity.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that, in a further effort to achieve unanimity, his delegation would vote in favour of the second Australian amendment, provided that the new paragraph of the preamble was also included in the preamble to covenant II.

The CHAIRMAN, speaking as the representative of Lebanon, said that his delegation was ready to accept that solution.

Mr. KYROU (Greece) agreed, adding the suggestion that the words "recognition of the inherent dignity of all members of the human family", in the first paragraph of the preamble, should be deleted in order to avoid the repetition mentioned by the French representative.

The CHAIRMAN, speaking as representative of Lebanon, pointed out that the first paragraph merely recognized the inherent dignity and equal and inalienable rights of all members of the human family, whereas the new paragraph stated that those rights derived from the inherent dignity of the human person.

AZMI Bey (Egypt) said the new paragraph should not be inserted for to some extent it was a repetition of the first; nor did he consider the first Australian amendment vital.

Mr. JEVREMOVIC (Yugoslavia) said it would be preferable not to alter the first paragraph of the preamble, which reproduced the terms of the preamble to the Universal Declaration of Human Rights.

/Mr. KYROU

Mr. KYROU (Greece) explained that his had been merely a suggestion which he would not press.

Mr. VALENZUELA (Chile) suggested that the Commission should first decide whether to adopt two identical preambles, or not; if the decision was in the affirmative, the authors of the various amendments should confer with a view to drafting a text to be examined at the following meeting, while the Commission would forthwith consider the remaining questions.

The CHAIRMAN pointed out that the two preambles could not be absolutely identical, as each would have a paragraph emphasizing the category of rights with which it was particularly concerned.

Mr. WHITLAM (Australia) agreed with the United Kingdom representative that the words "and freedoms" in the second Australian amendment, should be dropped. The amendment would then read: "recognizing that those rights derived from the inherent dignity of the human person".

He commented on the Greek representative's suggestion by saying that its main point was to reveal the need for a better text, but it was not acceptable as an amendment.

To meet the Soviet representative's wish, Mr. Whitlam said that if the Commission adopted the second Australian amendment, it would be agreed that it would also be included in the preamble to the draft covenant on economic, social and cultural rights.

Mr. MOROZOV (Union of Soviet Socialist Republics) explained that he was not insisting upon the preambles of the two covenants being absolutely identical. He realized that the two covenants were not intended to stress the same rights. Accordingly it was not necessary to put the Chilean representative's suggestion to the vote. He thanked the Australian representative for his conciliatory gesture and took it as agreed that if

/the second

the second Australian amendment was adopted, the words "fundamental rights and liberties and", proposed by Poland, would replace the first Australian amendment.

The CHAIRMAN said he gathered, on the contrary, that the Australian representative wanted his first amendment to stand, which was to add to the second paragraph of the preamble (E/CN.4/666/Add.15) the words "civil and political freedoms and" between the words "enjoying" and "freedom".

Mr. WHITLAM (Australia) confirmed that that was so.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that if agreement were not reached on the second paragraph of the preamble, the preamble could not meet with unanimous approval, because he was most anxious that the Polish amendment should be adopted.

The CHAIRMAN put to the vote the first paragraph of the preamble (E/CN.4/666/Add.15) beginning with the words "Considering that, in accordance with the principles...".

The paragraph was adopted unanimously.

The CHAIRMAN put to the vote the Australian oral amendment proposing that the words "Recognizing that those rights derived from the inherent dignity of the human person" should form paragraph 2 of the preamble.

The amendment was adopted by 11 votes to none, with 7 abstentions.

Mrs. ROOSEVELT (United States of America) withdrew her request for a separate vote on the words "and want" in paragraph 2 of the preamble (E/CN.4/666/Add.15).

/The CHAIRMAN

The CHAIRMAN put to the vote the Polish amendment to the Australian oral amendment, to add to the second paragraph of the preamble to the draft covenant on economic, social and cultural rights, the words "fundamental rights and liberties and", after the words "the ideal of free men".

The amendment was rejected by 10 votes to 6, with 2 abstentions.

The CHAIRMAN put to the vote the Australian amendment to add in the second paragraph of the preamble of the draft covenant on economic, social and cultural rights, the words "civil and political freedom and" between the words "enjoying" and "freedom".

The amendment was adopted by 11 votes to none, with 7 abstentions.

The CHAIRMAN recalled that the French proposal to change the order in which the rights were to be mentioned at the end of the second paragraph of the preamble had been agreed to by Poland.

The second paragraph of the preamble as a whole, as so amended, was adopted by 15 votes to none, with 3 abstentions.

The CHAIRMAN pointed out that accordingly the second paragraph of the preamble had become the third paragraph.

The Commission unanimously adopted the fourth paragraph of the preamble.

The Commission unanimously adopted the fifth paragraph of the preamble.

The Commission unanimously adopted the words "agree upon the following articles" at the end of the preamble (sixth paragraph).

The preamble as a whole, as so amended, was adopted by 14 votes to none, with 4 abstentions.

The CHAIRMAN enquired if the Commission wished to include as a second paragraph of the preamble to the draft covenant on economic, social and cultural rights, the second paragraph of the draft covenant on civil and political rights: "Recognizing that those rights derived from the dignity of the human person".

The Commission unanimously decided to do so.

/The CHAIRMAN

The CHAIRMAN announced that accordingly the preambles to both the draft covenants were identical, except for the third paragraph. The next business was to consider in what order the articles adopted should appear in the covenant and how the results of the Commission's proceedings were to be presented to the Economic and Social Council. He enquired how the Commission proposed to deal with fresh draft articles.

Mr. NISOT (Belgium) proposed that consideration of fresh draft articles should be postponed to a later session, as there was no time to consider them at the current session.

Mr. VALENZUELA (Chile) thought that with an effort the Commission might consider the most important of the articles. His delegation had submitted a draft article on the equal right of men and women to the enjoyment of civil and political rights (E/CN.4/L.135/Rev.1) and was very anxious that it should be considered.

Mr. MOROZOV (Union of Soviet Socialist Republics) felt that it would be premature to decide forthwith to postpone consideration of the new articles. The Commission could first deal with the draft resolutions for submission to the Economic and Social Council, and study the proposed new articles if it had time before reading the report.

If the Commission wished to take a decision on the matter, that decision should relate rather to its work as a whole. He therefore proposed that the Commission should immediately suspend its work on the draft covenants and pass to the procedural questions.

The proposal was adopted by 14 votes to 3, with no abstentions.

The CHAIRMAN requested the Commission to take up the question of the order of the articles of the draft covenants.

/Mr. NISOT

Mr. NISOT (Belgium) remarked that that was a substantive question, and that the Commission had just decided to suspend its work on the draft covenants.

Mr. MOROZOV (Union of Soviet Socialist Republics) agreed with the Belgian representative. The articles should appear in the report in the chronological order in which they had been adopted.

Mrs. ROOSEVELT (United States of America) did not see why the Commission could not adopt the order suggested by the Chairman (E/CN.4/L.194), since it was provisional, and would be useful for referring in the report to the articles adopted by the Commission. The substantive aspects of the order could be studied at a later session.

Mr. MOROZOV (Union of Soviet Socialist Republics) preferred the Commission not to take any decision on the order of the articles, since a decision might give the impression that the Commission had completed its work on the covenants. The question of using the order of the articles in the report raised no difficulty, as the sub-headings accompanying each article could be used for that purpose.

Mr. NISOT (Belgium) pointed out that the report should reflect what had happened during the session, and that the articles should therefore appear in the order in which they had been adopted.

The CHAIRMAN observed that it was desirable that the Economic and Social Council should be given an accurate picture of the Commission's work as a whole. It was certainly the Commission's intention to place the preamble before the articles and to arrange the latter in a logical order.

Mrs. ROOSEVELT (United States of America) proposed that for the purpose of drafting its report, the Commission should provisionally adopt the order suggested by the Chairman (E/CN.4/L.194).

/Mr. MOROZOV

Mr. MOROZOV (Union of Soviet Socialist Republics) was prepared to vote for that proposal provided that the articles were not numbered. He agreed to the preamble being placed first, followed by the text of the sub-headings in the order proposed by the Chairman. The article on the self-determination of peoples should precede the article on the right to work. In addition, reference to the first and second parts must be omitted, as the other parts did not yet exist.

The CHAIRMAN saw no reason for objecting to the numbering of the articles if the order of the sub-titles which he had proposed was accepted, since the way in which the order was indicated was unimportant.

Mr. KYROU (Greece) requested the Commission to adhere to the order of articles indicated in the report of its seventh session.

Mr. HOARE (United Kingdom) thought that the Commission should be concerned to present its work to the Economic and Social Council in an orderly manner. It was essential to number the various articles, so as to be able to refer to them easily and mention them in the report.

Mr. NISOT (Belgium) suggested that the Commission should take no decision on the order of articles and should leave it to the Rapporteur to decide, in consultation with the Chairman, on a provisional order which might be used in the report.

The CHAIRMAN remarked that that suggestion was tantamount to an implicit acceptance of the order which he had proposed (E/CN.4/L.194).

Mr. MARSHALL (Australia) said there had been constant references to the way public opinion was following the endeavours of the Commission and it seemed unwise therefore that the texts of the covenants should be presented in anything but a tidy and logical order.

Mr. CASSIN (France) thought that the Rapporteur should be left the greatest possible freedom. The article on the self-determination of peoples should appear either side by side with the preamble or at the end.

/Mrs. ROOSEVELT

Mrs. ROOSEVELT (United States of America) proposed that the Commission should take note of the order suggested by the Chairman, while pointing out that it was omitting the heading of document E/CN.4/L.194. The Rapporteur could thus use it as a basis when drafting the Commission's report.

The CHAIRMAN wished to make it clear that if the Commission so decided, he would follow the order for the report which he himself had suggested.

Mr. JEVREMOVIC (Yugoslavia) reserved his position with regard to the placing of the article on trade union rights; he thought that it should appear at the end of the second part.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that he would not press his proposal, but was concerned about the treatment of the territorial clause; he thought that the relevant article should appear at the end of the second part. The article on the right of self-determination of peoples and the article on the equal treatment of men and women ought in his view to be inserted at the beginning of the second part.

He proposed that the Chairman and the Rapporteur should be requested to prepare the order and numbering of the articles in the report with due consideration to the discussion which had taken place during the meeting.

The CHAIRMAN supported the USSR representative's comments on the placing of the article on the territorial application of the covenants and the article on the right of self-determination of peoples; their place would be the same in both covenants.

AZMI Bey (Egypt) felt that the article on the right of self-determination of peoples should be dealt with in a separate part, and not in the second part, which dealt with work and related rights. The territorial clause, which must appear in both covenants, might provisionally be placed at the end, its final place depending on the adoption of the federal clause.

The CHAIRMAN said that due note would be taken of those observations.

/Mr. NISOT

Mr. NISOT (Belgium) thought that the Rapporteur should be left to decide on the order of the articles. The territorial clause had not been studied during the current session and could not appear in the report. As the Egyptian representative had pointed out, its place was with the federal clause.

Mr. BRACCO (Uruguay) pointed out that a motion to close the discussion had been submitted.

Mr. HOARE (United Kingdom) opposed the closure of the discussion and supported the Belgian representative's comment concerning the territorial clause.

Mr. CASSIN (France) also opposed closing the discussion.

The motion to close the discussion was adopted by 6 votes to 4, with 7 abstentions.

The CHAIRMAN put to the vote the proposal that the Rapporteur should be left to determine, in consultation with the Chairman and giving due consideration to the discussion which had taken place on the matter, the order in which the articles should be presented in the report.

The proposal was adopted by 16 votes to none, with 1 abstention.

Mr. NISOT (Belgium) hoped that the order would not be such that a number of delegations would be compelled to make specific reservations.

The CHAIRMAN pointed out that the Commission had after all only postponed its discussion on the matter.

Mr. AZKOUL (Lebanon) requested the Commission to agree to substituting the words "en commun" for the word "collectivement" in the French text of article 13.

Mr. CASSIN (France) supported the amendment.

/Mr. MOROZOV

Mr. MOROZOV (Union of Soviet Socialist Republics) requested that at the current stage of the Commission's work new proposals, even excellent ones, should not be so submitted, but should be deferred until the final examination of the text of the covenant.

Mr. AZKOUL (Lebanon) stressed that his proposal referred to a particularly glaring mistake.

Mr. MOROZOV (Union of Soviet Socialist Republics) withdrew his objection.

The CHAIRMAN proposed that the Commission should approve the Lebanese representative's proposal.

It was so decided.

Draft resolutions on procedure

Mr. MOROZOV (Union of Soviet Socialist Republics) submitted his delegation's draft resolution (E/CN.4/L.195). The work of the eighth session had shown that the principle set forth in General Assembly resolution 421 E (V) was an excellent one; the task assigned to the Commission could be achieved only by the drafting of a single convention. The Commission should therefore reaffirm the views it had reached on that subject at its seventh session. Resolution 543 (VI) had been adopted by only a very small majority; the Commission should therefore request the Economic and Social Council to ask the General Assembly to reconsider that decision.

Mrs. MEHTA (India) said that her delegation, jointly with the delegations of Lebanon, Sweden and the United States, had submitted a draft resolution (E/CN.4/L.209) requesting the Economic and Social Council to authorize the Commission on Human Rights to complete its work on the two covenants by the summer of 1953 at the latest.

Mrs. ROOSEVELT (United States of America) stressed the importance of that draft resolution.

/Mr. CASSIN

Mr. CASSIN (France) said that his delegation, together with the Australian and Indian delegations, had submitted a draft resolution (E/CN.4/L.210) which would enable the Commission to avoid the terminological difficulties with which it was faced.

Mr. VALENZUELA (Chile) pointed out that the draft resolution submitted jointly by his delegation and the delegations of Pakistan and Uruguay (E/CN.4/L.216), unlike the joint proposal of India, Lebanon, Sweden and the United States (E/CN.4/L.209), related to the Commission's work as a whole and not only to the covenants.

Mr. WAHEED (Pakistan) explained that the proposal submitted jointly by the delegations of Chile, Pakistan and Uruguay requested the Economic and Social Council to arrange for two sessions of the Commission in 1953, one of five weeks, to deal with the covenants, the other of three weeks, to deal with the other items on the agenda. This would enable the Commission to organize its work more efficiently. There were serious disadvantages in a long session and it would be preferable to arrange for two shorter sessions. Of course, that procedure had certain financial implications, but everything must be done to ensure that the Commission should complete its work on the covenants as quickly as possible.

Mr. BORATYNSKI (Poland) proposed a number of amendments to the draft resolution submitted by India, Lebanon, Sweden and the United States (E/CN.4/L.209). The second paragraph should be deleted; in the third paragraph the words "the drafting of the two covenants" should be replaced by the words "its work"; in the fourth paragraph the words "its work on the two covenants and in particular to formulate its recommendations relating to the questions remaining to be taken up by it" should be replaced by the words "this question"; and in the fifth paragraph the words "on the two covenants" and "simultaneously" should be deleted and the words "the draft covenants" replaced by the words "the results of its work".

The question of the two covenants, not having been finally settled, should not be prejudged. He proposed the deletion of the second sub-paragraph of the joint draft resolution (E/CN.4/L.209) as it was not for the Commission to judge its own work.

Referring to the Secretary-General's note (E/CN.4/L.217) on the financial implications of the draft resolution proposed by Chile, Pakistan and Uruguay, he enquired of the amount of 11,700 dollars, estimated as the cost of one session at Headquarters, would not be lower if the Commission met at Geneva.

Mrs. ROOSEVELT (United States of America) said she opposed the USSR proposal (E/CN.4/L.195) because the General Assembly had adopted resolution 543 (VI) after careful consideration. The Commission had in effect been instructed to work out two draft covenants. She also opposed the Polish amendment to the draft resolution submitted by India, Lebanon, Sweden and the United States (E/CN.4/L.209) which stated the facts as they were.

Mr. BRACCO (Uruguay) proposed that in the second paragraph of the preamble to the draft resolution presented by Australia, France and India (E/CN.4/L.210) the words "the English and French texts" should be deleted, and replaced by the words "different texts".

His delegation had always been in favour of a single covenant and would therefore support the USSR draft resolution (E/CN.4/L.195); since, however, at the sixth session of the General Assembly, it had accepted the principle of two covenants by way of a compromise, it wished to reserve its future position on the question.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) supported the USSR draft resolution (E/CN.4/L.195) and the Polish amendment to the joint proposal (E/CN.4/L.209).

Mr. NISOT (Belgium) considered the proposal of Australia, France and India (E/CN.4/L.210) premature, though if it was supported by the majority, he would vote for it, provided that its final passages, beginning with the words "and other problems" were omitted; on no account should the substance of the texts be reviewed.

The meeting rose at 1 p.m.