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*President*: Mr. Hernán SANTA CRUZ (Chile).

*Present*: Representatives of the following countries: Belgium, Canada, Chile, China, Czechoslovakia, France, India, Iran, Mexico, Pakistan, Peru, Philippines, Poland, Sweden, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Representatives of the following specialized agencies:

International Labour Organisation, United Nations Educational, Scientific and Cultural Organization, World Health Organization.

**Report of the Commission on Human Rights (seventh session) (E/1992 and Add.1, E/2044, E/2057 and Add.1 to 5, E/2059 and Add.1 to 8, E/2085) (*continued*)**

1. The PRESIDENT recalled that, at the preceding meeting, the Council had agreed to start work on item 18 of the agenda by deciding what procedures should be followed in relation to the report of the Commission on Human Rights on its seventh session and the draft International Covenant on Human Rights included therein (E/1992 and Add.1).<sup>1</sup> He drew attention to the draft resolution submitted by the Czechoslovak delegation (E/L.231) and the draft resolution submitted jointly by the delegations of Belgium, India, the United Kingdom, the United States and Uruguay (E/L.233).

2. Mr. VAN DER SCHUEREN (Belgium) said that, at the eleventh session of the Council, the Belgian delegation had strongly criticized the draft Covenant contained in the report of the Commission on Human Rights on its sixth session (E/1681)<sup>2</sup>, on the following grounds: In the first place, certain vital articles, for example articles on the right of asylum and property rights, did not then appear in the text of the draft Convention; it had in fact consisted of eighteen articles on civil and political rights, and twenty-three on implementation. Secondly,

there was a lack of balance in the manner in which the rights were proclaimed; some of them took up only one article, generally more or less vague, whereas others consisted of two or even three fairly detailed articles. Thirdly, the terminology used was often vague or capable of various interpretations. Fourthly, the lack of balance was seen to be even more marked if the various parts were compared; the first eighteen articles were in a more or less final form, whereas the measures of implementation appeared to be a mere preliminary outline. Fifthly, it contained no provision covering federal or territorial clauses. Sixthly, it made no mention of economic, social and cultural rights; in that connexion, the Belgian delegation felt that it would be presumptuous to try to establish effective and detailed safeguards for the rights in question in a few articles of the Covenant, when certain very restricted aspects of those rights had been the subject of elaborate conventions concluded after a twofold series of discussions, for example in the International Labour Organisation. Finally, some balance must be sought between the legitimate demands of world public opinion and the grave responsibilities and noble ideals of the United Nations.

3. The Belgian delegation considered that the first attempt to produce a covenant of human rights should constitute a model, a basic covenant; in other words, by careful use of well-chosen wording, it would give binding force to the provisions of the Universal Declaration of Human Rights, while special conventions might be concluded subsequently to provide specific safeguards for each separate group of rights.

4. The Council had made a very general study of the first eighteen articles, the implementation provisions and the question of including in the draft Covenant provisions relating to economic, social and cultural rights, and federal and territorial clauses, and had then adopted resolution 303 (XI), by which it had transmitted the draft Covenant to the General Assembly at its fifth session for consideration, with a view to reaching policy decisions on the general adequacy of the first eighteen articles, the desirability of including articles on economic, social and cultural rights, the desirability of including special articles on federal States, Non-Self-Governing and Trust Territories and the adequacy of the articles relating to

<sup>1</sup> See *Official Records of the Economic and Social Council*, thirteenth session, *Supplement No. 9*.

<sup>2</sup> See *Official Records of the Economic and Social Council*, eleventh session, *Supplement No. 5*.

implementation, and had also asked the Commission on Human Rights to consider the draft Covenant further, bearing in mind the policy decisions of the General Assembly.

5. The Belgian delegation felt that the discussions which had taken place in the Third Committee of the General Assembly at its fifth session had made unusually heavy weather, and that possibly certain governments might still be left with an unfortunate impression. Resolutions 421 (V) and 422 (V) adopted at the end of the discussions had been somewhat unfortunate, as they had reflected only too well the absence of harmony which had prevailed during the discussions.

6. After analysing the two resolutions, he reviewed the discussions which had taken place at the Council's twelfth session. They had been brief. In resolution 349 (XII) the Council had requested the Commission on Human Rights to prepare and submit to the Council at its thirteenth session a revised draft covenant on the lines indicated by the General Assembly. On that occasion, the Belgian delegation had abstained from voting, stating that an affirmative vote would imply sympathy with the resolutions adopted by the General Assembly, whereas it felt unable to support them in view of several of the provisions they contained.

7. The Council now had before it the report of the Commission on Human Rights on its seventh session. It appeared that the Commission had dealt exhaustively with only one question — that of economic, social and cultural rights. On that subject, it had framed fourteen new articles (articles 19 to 32 inclusive) and a further ten articles, also new (articles 60 to 69 inclusive), concerning implementation of the rights covered by articles 19 to 32.

8. The Commission had also revised and completed the articles on general implementation (articles 33 to 59 inclusive) and it had inserted in the text General Assembly resolution 422 (V) on territorial application, calling it article 72.

9. He congratulated the Commission on Human Rights on the important work it had accomplished in a relatively short space of time, and on the effective contribution it had thus made to the solution of a problem of the utmost concern to the United Nations.

10. At the same time, the Commission had by no means exhausted the study of the questions referred to it by the Assembly. Hence the Belgian delegation felt called upon to give its views on the unfinished part of the Commission's work, especially compliance with resolution 421 B (V) concerning revision of the draft Covenant and the inclusion in it of certain articles concerning civil and political rights.

11. The Belgian Government reserved the right to submit further observations on the first eighteen articles in due course should it see fit to do so. It had already made known its views on the subject at the eleventh session of the Council.

12. In that connexion, he paid tribute to the work of the Secretariat, which had made a very full study (E/CN.4/528) of the first eighteen articles of the draft

Covenant. The comments in that document were very much to the point, and they should be taken into account when the articles in question were re-examined in due course. Nevertheless, the work even on those articles, was far from being completed.

13. The Belgian delegation again drew attention to the articles which had not yet been inserted into the draft Covenant, for the inclusion of which it had repeatedly asked—namely, the articles on the right of asylum, property rights, the right to marry, and the right to physical integrity. On the other hand, there were rights included in the Universal Declaration of Human Rights which were still not to be found in the draft Covenant, and it would be desirable to have them inserted. That applied, for example, to article 21 of the Universal Declaration of Human Rights, concerning the right to take part in the government of one's country, the right of equal access to public service, the right to universal and equal suffrage, and to the secret vote.

14. With regard to the observations made by certain Governments, and the amendments proposed by many delegations during the seventh session of the Commission on Human Rights, reproduced in annexes II and III of the report, he drew particular attention to the important amendment submitted by the United Kingdom delegation on reservations which States were at liberty to make when signing the draft Covenant or when depositing their instruments of ratification. In that connexion, the Council should take into account the Secretariat's report on reservations to multilateral conventions (A/CN.4/41) and the advisory opinion of 28 May 1951 given by the International Court of Justice on the subject of reservations to the Convention on the Prevention and Punishment of the Crime of Genocide.

15. On the subject of implementation, too, the Commission had by no means completed its work. While considerable progress had been made, the report indicated that the Commission had decided to postpone the vote on the whole of article 33, regarding the creation of a human rights committee, though that article was the keystone of the implementation provisions. Nor had it decided whether part IV of the draft Covenant, which took over the articles on implementation already included in the report on the sixth session, was to apply to the draft Covenant as a whole or merely to the articles on economic, social and cultural rights. In that connexion, serious differences of opinion had come to light in the course of the debates. The Belgian delegation felt too that, in spite of the stipulation in article 69 that the draft Covenant was not to be interpreted as impairing the provisions of the constitutions of the specialized agencies, there was a danger of conflicting competence between the United Nations, the specialized agencies and the Commission on Human Rights.

16. Among the questions which had not yet been studied was that of the federal article, a subject on which the members had been unable to reach agreement at the sixth session of the Commission. The problem had not been tackled at the seventh session, but the Secretariat had devoted an important study to it (E/1724). The significant problem of petitions, concerning which the

United States had submitted a draft protocol (reproduced in annex V of the report), had also been left in suspense.

17. With regard to the work accomplished—namely, the insertion in the draft Covenant of economic, social and cultural rights and measures of implementation—the Belgian delegation considered that it would be essential to review the relevant articles one by one and to put the finishing touches to a number of them. The terminology called for revision, and the articles needed to be coordinated with some of the provisions already existing in the international conventions drawn up by some of the specialized agencies. Moreover, there was a decided lack of proportion between the importance given to economic and social rights, as opposed to cultural rights. With regard to the former, the Belgian delegation thought it desirable to avoid as far as possible encroaching on the domain of the International Labour Organisation, first of all because that Organisation had done excellent work and overlapping was to be avoided, and secondly because it would be as well in future to obviate any possibility of conflicting procedure and competence which might arise if overlapping were condoned.

18. Referring to article 50, he said that the Belgian delegation was afraid that the wording of the article might lead to confusion, as had very wisely been pointed out by the representative of the World Jewish Congress in his statement to the Council Committee on Non-Governmental Organizations. The statement in question might well be studied by the organs whose duty it would be to examine the implementation provisions of the draft Covenant.

19. The Uruguayan proposal relating to the establishment of an office of the United Nations high commissioner for human rights reproduced in annex VII of the report was likewise important. None of the United Nations organs had so far taken a decision on that proposal.

20. The Belgian delegation reserved the right to revert later to the territorial clause (article 72) inserted in accordance with the terms of General Assembly resolution 422 (V).

21. The Belgian delegation was convinced that the preparation of a covenant on human rights was not yet concluded and that, as it stood at present, the text could by no means be regarded as final. It did not agree with those who believed that no further substantial improvement in the draft Covenant was to be expected. The task which the United Nations had set itself was a vast one, and a valiant effort must be made to see that the final text of the draft Covenant obtained as many accessions as possible. There was no point in trying to proceed too quickly and thus offending national susceptibilities by over-hasty and immediate action, especially if the text produced turned out to be unsatisfactory. The Belgian delegation warned the Council against that danger.

22. Thus, on the face of things, the best course would seem to be to refer the draft back to the Commission on Human Rights so as to enable it to complete the work it had undertaken at its seventh session and to produce a satisfactory text for the draft Covenant. Discussion by the Council of the draft as it now stood would serve only

to increase the present confusion; and there seemed no justification whatsoever for referring the draft without any more ado to the next General Assembly. The General Assembly had already examined the political aspect of certain problems and had made certain decisions; and it hardly seemed likely that it could at present do any more than that on the draft Covenant as a whole. The work of the Commission might, however, already provide the General Assembly with some subjects which it could profitably discuss. Certain difficulties had been clearly brought out—for instance, the difficulty of including in a single covenant economic, social and cultural rights along with civil and political rights. Hence the General Assembly might reconsider section E of its resolution 421 (V).

23. The Belgian delegation felt that the draft resolution which it was submitting jointly with the United States, Indian, United Kingdom and Uruguayan delegations (E/L.233) was more comprehensive and closer to the spirit of General Assembly resolution 421 (V) than the Czechoslovak draft resolution, to which it otherwise had no objections. The Belgian delegation would therefore abstain from voting on the Czechoslovak draft resolution.

24. Mr. NOSEK (Czechoslovakia) said he wished to explain the reasons for his delegation's draft resolution (E/L.231) recommending that the Council refer the draft Covenant back to the Commission on Human Rights for completion. The Commission had stated in paragraph 20 of its report that it had not finished its consideration of item 3 (c) and had not taken up items 3 (a) or 3 (d) of its agenda. That meant that it had not substantively considered the draft Covenant on the basis of section B of General Assembly resolution 421 (V). Neither had the Commission carried out the instructions contained in section C of that resolution, since no article relating to federal States had been included in the draft. Nor had it touched upon section D, which instructed it to study ways and means which would ensure the right of peoples and nations to self-determination. Finally, it had not completed the work assigned to it in section F dealing with the receipt and examination of petitions from individuals and organizations with respect to alleged violations of the Covenant; in fact, its work at the seventh session had been limited to dealing with section E of the General Assembly's resolution. The Commission itself had adopted a resolution (under paragraph 21 of its report) wherein, after referring to General Assembly resolution 421 (V) and Council resolution 349 (XII), it had drawn attention to the fact that, owing to lack of time, it had been unable to complete its agenda, implicitly admitting thereby that the draft Covenant was not yet wholly adequate. His delegation held that the Commission should complete its work.

25. Mr. KRISHNAMACHARI (India) said that, after the detailed *exposé* of the Belgian representative, there was no need for him to discuss the history of the problem in detail. His delegation, in sponsoring with others the draft resolution (E/L.233), had felt that the present was an opportune moment to take stock of the position and make certain comments on the work of the Commission.

26. It was a matter of common knowledge that the problem of human rights was intimately bound up with United Nations history, and different views had been expressed, not only on the definition of human rights, but also on the question whether they should be defined in one or more international instruments. It would suffice at present for the Council to take its stand on General Assembly resolution 421 (V) which recorded the decision that economic, social and cultural rights should be included in the draft Covenant. In the formulation of those rights the determining factor must necessarily be that of implementation. That was the problem which the Council must now examine.

27. Past discussions on whether there should be one or two covenants had been largely governed by experience and the traditions obtaining in international law. Now that economic, social and cultural rights had been set down in black and white, it was clear that the Commission had been brought up against difficulties which the Council must also inevitably face. The Commission had been unable to produce a text which was clear and enforceable.

28. Parts IV and V of the draft Covenant expressed a certain line of thought, and might even be deemed to offer a solution of certain difficulties. But it was clear that, once the Commission and the specialized agencies associated with it in its work had come up against the problem of implementation, they had been unable to take a decision. The Belgian representative's criticisms of article 33 in its as yet provisional form were wholly justified. The article was of very great importance, since the whole of part IV depended upon it. Were it changed, the following articles, and particularly articles 34 to 38 would have to be changed also. The Commission had methodically worked through the series of provisions relating to a human rights committee and the system it proposed was viable. A major difficulty, however, was involved in article 52, which related to complaints by States about infringements of the Covenant. That article was drafted on the orthodox lines of international law, so that if it were adopted in its present form by the Council and the General Assembly, the procedure relating to complaints would be very similar to that applied in the Security Council. Where, then, did the individual come in? Was an individual's complaint to be sponsored by a State which would presumably not be the State of which that individual was a citizen? He put the point to show that thought moved slowly and that the crucial difficulty of the problem turned on the approach that was made to it. The Commission had attempted to define new rights, but it had attempted to secure their application according to old, traditional methods. As he was not an expert in international law, he was not sure whether article 54 was fully compatible with article 52, but it was clear enough that the latter followed the usual pattern of procedure, an appeal to final authority being possible only when all available and normal remedies had been exhausted. Did that, therefore, mean that, before sponsoring an individual's complaint, a State would have to make sure that all other procedures had been exhausted? If so, it would seem that radical changes would be needed in the text.

29. Part V of the draft Covenant dealt with the submission and examination of reports. Taken by itself it was clear enough, but how did the Commission reconcile it with part IV? If article 52 were operative, why was a human rights committee necessary at all, since presumably all complaints made by States would be adjudicated by the International Court of Justice? The competence of the Court ceased only if individual complaints were accepted. Yet again on that point the Commission had hesitated and had obviously felt that it could go no further.

30. The report did not indicate whether the two methods of implementation provided were to apply to parts I, II and III of the draft Covenant, or whether one method should apply to one part and the other to other parts. It might perhaps be safe to assume that the method of implementation described in part IV was intended to apply to political and civil rights and that described in part V to economic, social and cultural rights, but the Commission had made no statement on that question and the Council was left to conjecture. Thus hesitations led straight back to the old issue of a single covenant versus a covenant in two parts. Indeed, the Commission's difficulties on methods of implementation proved the validity of the arguments of those who had been opposed to the inclusion of all rights within one covenant on the grounds that many States might find it impossible to sign and ratify such an instrument.

31. In his country, which had recently had to list the fundamental human rights for inclusion in the Constitution, it had been decided that those rights must be divided according to the procedure of implementation—in other words, there was a group of rights, the infringement of which would be dealt with only by the courts, and there were other rights, in regard to which the State must take action, being impelled to do so through the pressure of public opinion and the operation of democratic process. It so happened that the rights written into the Indian Constitution had been far more clearly and concisely expressed than the rights defined in part III of the draft Covenant. Whereas the political and civil rights defined in parts I and II had been stated in categorical terms, those in part III were expressed rather in the form of recommendations. After careful study, he was convinced that articles 19 to 32, of which part III consisted, were wholly in keeping with the underlying principles accepted by all those nations which had signed the Charter. But the Belgian representative had rightly pointed out that that part of the draft Covenant lacked balance, some provisions being given far greater stress than others. In fact, certain articles clearly reflected the interests and the influence of various specialized agencies. The concise and clear article 21 bore the unmistakable stamp of the International Labour Organisation; article 25 had been inspired by the World Health Organization (WHO); article 28 showed that the United Nations Educational, Scientific and Cultural Organisation (UNESCO) had succeeded in persuading the Commission to adopt its point of view. But even so, those articles did not all go as far as the fundamental principles expressed in national legislations. Certainly the legislative principles adopted in regard to health by one Indian State, with the

provisions of which he was familiar because he had helped to draft them, went quite a long way beyond article 25. And how were the articles in part III to be implemented? No great blame could be attached to a State which did not comply with what were simply recommendations. And how was the extent to which it complied to be measured? The sole method proposed was that of reports to be furnished in stages.

32. He did not know if the intention really was to use technical assistance machinery for the purpose of helping States which were not in a position to raise their standards so as to comply with the provisions in part III of the draft Covenant.

33. Although he was a newcomer to the long series of debates on the subject, he did not see how the Council could fail to admit that two different sets of rights postulated two different approaches as regards implementation. If the Council were to leave aside part IV of the draft Covenant, thus limiting implementation procedure to the submission of periodic reports, he would agree. But even the procedures envisaged in part V involved difficulties arising out of the widely prevailing democratic pattern of government, a pattern which reflected the English concept of law whereby governments could only report on decisions taken by the courts. Thus reports on parts I and II of the draft Covenant would consist of a series of legal decisions only, since the responsibility of the State ended once it had introduced appropriate legislation to be applied through its courts. That he was sure would be the position in the United Kingdom and in his own country. There was not very much point in asking for reports on matters where political authority had no sway.

34. There was still another aspect to that problem. Although prepared to accept a procedure of reports in stages, he would be sorry to see the United Nations whittle down the concept of individual freedom by stipulating that the observance of political and civil rights should be examined in reports which might be of a purely administrative nature.

35. He urged members of the Council to support the joint draft resolution (E/L.233), whereby the Commission would be instructed to complete its task and at the same time the General Assembly would be requested to examine the Commission's report in order that all the nations there represented should consider the difficult issues involved. He would emphasize that if, as a result of further study and debate, certain delegations came to the conclusion that they must abandon the idea of one single covenant, none need feel that such a change of position was tantamount to abandoning a cherished ideal, since the whole issue of implementation had not been clarified until concrete proposals had been put forward. It followed logically from the manner in which the Commission had framed parts IV and V of the draft Covenant that the question must be examined anew, not, however, by the Commission itself, but by the General Assembly.

36. Mr. CALDERÓN PUIG (Mexico) said that, since the Council should decide the procedural problem of what should be done with the draft Covenant before

analysing its substance, he would confine his remarks to the problem of procedure, although he held definite ideas on the substance of the draft Covenant. All members of the Council agreed that the draft Covenant was not complete. The ultimate aim of the entry into force of an international covenant on human rights was still very distant. Nothing useful would be achieved at the present stage by referring the draft Covenant back to the Commission. Such action would delay the achievement of the ultimate goal; for the members of the Commission would be confronted with the same difficulties as those which had prevented them from reaching agreement at their last session. They would still fail to agree on basic items such as the form of the draft Covenant and the mandatory value of certain clauses. Consequently, he was opposed to the adoption of the Czechoslovak draft resolution (E/L.231). To discharge its duty properly, the Council should discuss in detail the substance of the draft Covenant before it; but it had not time to do so at the current session. The Mexican delegation could not agree to the adoption of the joint draft resolution (E/L.233); it was its opinion that section A of the draft resolution was unsatisfactory and it disagreed with the suggestion in section C that it was wrong to include in one covenant articles on economic, social and cultural rights together with articles on civil and political rights. All those rights were laid down in the Mexican Constitution. However, section B of the joint draft resolution was more or less in accordance with reality, and he was of the opinion that it could form the basis of a draft resolution providing a satisfactory solution of the procedural problem.

37. The PRESIDENT said that the Council had a great responsibility in regard to the draft Covenant. As President of the Council, and also as a member of the Commission on Human Rights and the head of a delegation to the General Assembly, he considered it was his duty to point out the reasons for the imperfections of the draft Covenant. The reasons were the difficulties due to fundamental differences of opinion which had arisen in all the United Nations bodies concerned with human rights. Some States represented on those bodies insisted that implementation machinery was essential; others were firmly opposed to provision for such machinery. Some States were unwilling to become parties to a binding instrument such as the Covenant if by doing so they would commit themselves to clauses concerning economic, social and cultural rights; they were unwilling to commit themselves to such provisions, not because they were opposed to granting such rights, but because they considered that they were guaranteed by a sound national economy. Other States insisted on the inclusion of such clauses, arguing that the United Nations should draft the Covenant in such a way as to promote the economic, social and cultural aims laid down in the Charter. Some States considered that mere enunciation of economic, social and cultural rights was enough, others that the Covenant should provide machinery to ensure their implementation. Some Member States insisted on the inclusion of a colonial clause in the draft Covenant; others were firmly opposed to the inclusion of such a clause. Those were the reasons for the long-drawn-out discussion

on the draft Covenant in the United Nations. The fundamental problem was whether or no the United Nations was capable of drawing up a covenant on human rights to which every Member State could subscribe; for it was most important that the draft Covenant should be acceptable to all Member States. It was for the General Assembly to take the final action in regard to the draft Covenant. But, for the sake of the Council's prestige and that of the United Nations, the Council, which was composed of members which had different views on the subject corresponding to the different views of the members of the Commission—although the latter body was technically composed of experts responsible only to the Council—should attempt to solve the difficulties he had described by examining thoroughly the substance of the draft Covenant and connected problems and taking the necessary policy decisions.

38. Mr. DE LACHARRIÈRE (France) said that he would confine himself to giving the reasons why the French delegation did not think it desirable for the draft Covenant simply to be referred to the General Assembly. At the same time, he would explain the position of his delegation with regard to the two draft resolutions before the Council.

39. In the first place, his delegation considered that the work of the Commission on Human Rights was not finished, as the Belgian and Czechoslovak representatives had shown. His delegation realized that the Commission had done excellent work in a very short time, work for which it deserved unreserved congratulations. But the task entrusted to it had been too big for the time at its disposal. At its seventh session the Commission had obtained positive results by formulating economic, social and cultural rights, determining the composition and method of election of the human rights committee, and establishing procedures for supervising the progress achieved in the implementation of human rights. But it had not taken up the important question of petitions submitted by individuals or organizations, the study of the article concerning federal States, the general provisions relating to ratifications, the date of entry into force, etc.

40. The French delegation felt that, if its discussions were to be fruitful, the General Assembly must have before it preparatory work carried out by smaller or more specialized organs such as the Council or the Commission on Human Rights. That work had not been completed. Moreover, the part of its task which the Commission had carried out consisted in drawing up new texts which had not yet received thorough examination by governments.

41. Lastly, as the President of the Council had rightly pointed out, the difficulties and the opposition with which the Council was at present faced had deep-seated causes. His delegation was convinced that those causes did not justify jettisoning the idea of a covenant on human rights and stopping short at the Universal Declaration of Human Rights. Progress would, however, be slow, and present difficulties could not be overcome by a procedural decision of the Council. The difficulties sprang from a divergence of views regarding the covenant; they had been excellently described by the President and he would not revert to

them. He would confine himself to saying that the problem must be left to mature. Nothing would be achieved by securing majority support while profound divisions of opinion remained; the disagreements would recur at the time of signature and ratification. Agreement must therefore not be forced. Progress in the field of international law could arise only from general and fundamental consent on the part of the States, achieved by patient work.

42. The French delegation did not believe that mere wholesale reference of the draft Covenant to the General Assembly would be likely to facilitate a solution. The Assembly would be faced with the same difficulties as the Commission on Human Rights and the Council. The Member States would maintain their position and it would be impossible to achieve agreement. His delegation therefore believed that the work should be continued in the Commission on Human Rights, which was best qualified for the task and whose members included persons of the greatest distinction. Strongly divergent views could sometimes be reconciled by the work of technicians imbued with a spirit of loyalty. Neither would it be a waste of time to refer the draft Covenant to the Commission on Human Rights. A delay of six months counted for little in relation to a covenant which was to last a thousand years. Moreover the object was not to draw up a covenant quickly but to produce one which would be signed, ratified and observed. The enemy was not time, but the outstanding differences of opinion.

43. The necessity for reconciling the opposing points of view led the French delegation to approve section C of the joint draft resolution (E/L.233), requesting the General Assembly to reconsider its decision to include in one covenant articles on economic, social and cultural rights, together with articles on civil and political rights. The French delegation was in favour of a single instrument. It did not abandon that standpoint, but considered that, in view of the grave doubts experienced by a number of Powers in regard to a single covenant incorporating economic, social and cultural rights, Member States should be given the opportunity to review the question. It would be willing to engage in any further discussion which might make possible eventual agreement.

44. For that reason the French delegation would vote in favour of the joint draft resolution, without prejudice to the attitude it might adopt in the General Assembly. It was, however, also in favour of the proposals contained in the draft resolution, submitted by the Czechoslovak delegation (E/L.231).

45. Mr. HADI HUSAIN (Pakistan) said that the President's statement had made clear the reasons for the currents and cross-currents which were visible on the surface during the present discussion, and it had shown him the position which the Pakistani delegation should take. Although the Government of Pakistan had endorsed the report of the Commission on Human Rights, the work on the draft Covenant should be pursued, since there were several gaps and inadequate clauses in it. He was opposed to the adoption of the Czechoslovak

draft resolution to the effect that the Council should simply refer the draft Covenant back to the Commission; that would imply that the Council was not satisfied that the Commission had done its work properly. In fact, the Commission as a body of experts responsible only to the Council had worked properly, within the limits of the time available to it. The draft Covenant, although imperfect, provided a good basis for further work. No legal instrument was ever perfect. It was therefore only right that the Commission should have asked governments for their views on the draft Covenant as it had done. Those views would help the General Assembly to take a satisfactory decision on the problem of what further action should be taken. The Pakistani delegation believed that progress could best be achieved by referring the draft Covenant to the General Assembly; but it found the joint draft resolution (E/L.233) more unacceptable than the Czechoslovak draft resolution, since the adoption of the joint draft resolution would reopen the question of whether clauses relating to economic, social and cultural rights should be included in the draft Covenant and thus undo all the work which had so far been carried out by the United Nations on the problem. The Government of Pakistan fully subscribed to the preamble to General Assembly resolution 421 E (V), which was fully in accordance with the Islamic ideology, to which the Pakistani Government was wedded; Islam provided the world with a code treating man as a complete human being in all his activities. An international covenant on human rights with no provisions concerning economic, social and cultural rights would be incomplete and would not correspond to "the ideal of the free man", mentioned in General Assembly resolution 421 E (V). It would be a great mistake to try to put into force two international covenants, one on political and civil rights and the other on economic, social and cultural rights. All those rights were fundamental; there was no difference of degree in fundamentality. If there were two such covenants, there would be two bases and two edifices, and consequently, there would be no unity in regard to human rights. Such unity was essential. Man's personality could not be divided into civil and political features on the one hand and economic, social and cultural ones on the other. He was surprised that members of advanced countries had suggested that it could be so divided. The General Assembly could reconsider its decision that clauses concerning economic, social and cultural rights should be included in the draft Covenant, but the Council had no right to suggest that that decision was wrong. Therefore, his delegation was firmly opposed to the joint draft resolution.

46. The authors of the joint draft resolution had indicated that difficulties of implementation constituted the main reason why they were proposing that the General Assembly should be invited to reconsider its decision. The Commission on Human Rights had been informed that the Pakistani Government was of the opinion that no new machinery in addition to that provided by existing organs of the United Nations and by specialized agencies was required for the implementation of the Covenant. But the Pakistani Government had accepted the Commission's decision that a human rights

committee should be established, since there was no United Nations body with responsibility for supervising some of the fields covered by the Covenant. His Government had been glad to note that it was not intended that the human rights committee should concern itself with matters within the competence of any specialized agency. The Pakistani Government would be pleased if the whole question of whether new machinery was needed were reopened; but it would prefer it not to be, if, as a result, all that had so far been achieved was thrown back into the melting-pot, as would be the case if the joint draft resolution were adopted.

47. To sum up, the Pakistani delegation wished the report of the Commission on Human Rights to be submitted to the General Assembly, and it considered that the draft Covenant was a good basis for further work.

48. Mr. BIRECKI (Poland) considered that the Council's first duty was to decide on the procedure to be adopted for the implementation of the Covenant. He would therefore do no more than state his position in regard to the draft resolutions under consideration.

49. The Czechoslovak draft resolution seemed to him to correspond most closely to the actual facts—viz., that the Commission on Human Rights had not finished its work. The Belgian representative, joint author of a draft resolution on the same question, had himself been obliged to admit that the Czechoslovak resolution met his views.

50. He stressed the fact that the decisions taken by the General Assembly and the Economic and Social Council on the work of the Commission on Human Rights had not been carried out in their entirety, and that the Commission had still a long way to go before its work would constitute an organic whole on which the Council and the Assembly could take a decision. In the circumstances, the Czechoslovak draft resolution would enable the Commission to finish its work.

51. He did not understand why it was desired to confront the General Assembly with an uncompleted task, and he considered that the joint resolution was illogical. The Assembly had given instructions which had not been carried out and, considering the present state of the draft Covenant, no useful purpose would be served by its issuing others.

52. The Polish delegation therefore supported the draft resolution submitted by Czechoslovakia.

53. Mr. CABADA (Peru) said that, although he did not agree completely with section C of the joint draft resolution (E/L.233), he would support it, since he was anxious that general agreement should be reached on the procedural problem before the Council. He believed that the double procedure for which the joint draft resolution provided would be useful for the reasons given in section B. All Member States should have a say in the work on the draft Covenant at the present stage; the more all their views were taken into account the more comprehensive and universal the covenant would be. The fact that the results of the work on the draft Covenant so far were not very satisfactory merely showed that the work was still in a preliminary stage. Since, despite

the Commission's efforts, the draft Covenant was still an imperfect document, he would not attempt to analyse it at the present session.

54. Mr. INGLÉS (Philippines) said that the Council should not devote too much of its time to procedural questions. The question at present before the Council was merely what procedure to adopt in regard to the report of the Commission on Human Rights in view of the fact that it had not completed its work on the draft Covenant.

55. The Philippines delegation understood the difficulties with which the Commission had been confronted and which had prevented it from completing its work on the draft Covenant at its seventh session. His delegation appreciated the progress which the Commission had made so far. The easiest course which the Council could follow was either to submit the draft Covenant to the General Assembly or to refer it back to the Commission. But the easiest course was not the most logical one. As the President had pointed out, the Council had definite responsibilities in regard to human rights which it could not avoid. The Council's powers, which the Philippines Government firmly believed it should retain, carried with them responsibilities which it could not ignore without loss of prestige. At the twelfth session of the Council, when it had been decided to transmit to the Commission General Assembly resolutions 421 (V) and 422 (V), the Philippines delegation had pointed out that it was the Council's duty to comply with the directives given it by the General Assembly. Article 60 of the Charter, in conjunction with other articles, gave the Council responsibility for various measures including the promotion of universal respect for, and observation of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion, but it clearly gave the General Assembly overriding authority in those fields. He therefore regretted that the Commission on Human Rights, a subsidiary body of the Council, had spent so much of its limited time discussing whether it should follow the directives given by the General Assembly, and in particular whether clauses concerning economic, social and cultural rights should be included in the draft Covenant as the General Assembly had directed, or in a separate instrument. If the Commission had complied promptly with the General Assembly's directives and not dissipated its energy in that way, it would almost certainly have made greater progress. The Philippines delegation strongly deprecated the failure to observe the General Assembly's directives' being repeated in the Council by the submission of the joint draft resolution (E/L.233). If the question of whether clauses relating to economic, social and cultural rights should be included in the Covenant must be reopened, it should be reopened in the General Assembly, not in the Council. The Council had enough work to

do on the substance of the provisions in the draft Covenant without questioning the General Assembly's directives.

56. He regretted that many members of the Council appeared to wish to dispatch the report of the Commission without examining the substance of the draft Covenant because of alleged lack of time. The General Assembly had directed that the Commission should finish its work on the draft Covenant for approval at the sixth session of the General Assembly (resolution 421 A (V)), and the Council had repeated that directive in its resolution 349 (XII). The Council should not merely refer the draft Covenant back to the Commission. It should do all in its power to satisfy the General Assembly. The possibility of convening a special session of the Commission on Human Rights might be examined. If such a session could not be convened, the Council itself should attempt to fill the gaps in the Commission's work. The Council was supposed to be qualified to do so, since it was laid down in Article 62 of the Charter that it might "prepare draft conventions for submission to the General Assembly". If the draft Covenant were submitted to the General Assembly without the Council's examining its substance, the General Assembly could either refer it back to the Council, in which case the Council at its next session would find itself in the same position as at present, or the General Assembly could itself complete the drafting of the document. But the Council could and should provide the General Assembly with important help by itself filling the gaps in the draft Covenant. Firstly, it could draft the federal clause requested by the General Assembly in passing resolution 421 C (V), or at least arrange for work on that clause to be begun. Secondly, it could revise the first eighteen articles as the General Assembly had directed should be done, in view of the fact that they did not cover all political and civil rights and that the provisions they did contain were imperfect. Thirdly, it could discuss procedures for the receipt and examination of claims of both individuals and corporate bodies that human rights had been violated. And, lastly, it could review the clauses drafted at the seventh session of the Commission relating to economic, social and cultural rights and measures for implementation in the same way as it reviewed other drafts submitted by its subsidiary bodies.

57. The Council should instruct the Social Committee to carry out all, or at least some, of those tasks. Only by so doing could it give concrete help to the General Assembly. The decision on the procedural question before the Council would determine whether the Council could rise to the occasion or whether it would fail in its duty.

The meeting rose at 1 p.m.