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DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS
AND MEASURES OF IMPLEMENTATION

Memorandum by the Secretary-General

In this memorandum the Secretary-General has outlined the tasks that remain in the drafting of the International Covenants on Human Rights and has indicated a programme of work to enable the Commission to complete at this session final draft texts which have been called for by the General Assembly and the Economic and Social Council.

I. Resolutions of the Economic and Social Council and the
General Assembly

1. In pursuance of General Assembly and Economic and Social Council resolutions the Commission on Human Rights is engaged in drafting a Covenant on Civil and Political Rights and a Covenant on Economic, Social and Cultural Rights (E/2447, chapter III). The draft Covenants are not yet completed. The texts of the various parts of the draft Covenants and proposals and amendments relating thereto appear in Annexes I and II of the report of the ninth session of the Commission (E/2447).

2. The Economic and Social Council at its sixteenth session on 3 August 1953 adopted the following resolution (501 B (XVI)) on the report of the ninth session of the Commission^{1/}:

"The Economic and Social Council,

"Noting the progress made by the Commission on Human Rights in the drafting of the Covenants on Human Rights,

"1. Requests the Commission to complete the drafting of the Covenants on Human Rights during its tenth session;

"2. Transmits to the eighth regular session of the General Assembly the report of the Commission on Human Rights on its ninth session;

"3. Requests the Secretary-General to communicate the report of the Commission to the Member States, the specialized agencies and the non-governmental organizations concerned for their observations to be submitted not later than 1 January 1954."

3. The General Assembly, at its eighth session, on 28 November 1953 adopted a resolution on federal clause (737 A (VIII)) and a resolution on the right of

^{1/} For proceedings at the sixteenth session of the Council, see documents E/2482 and Corr.1, E/AC.SR.237-240 and E/SR.746.

petition (737 B (VIII)).^{1/} These resolutions were transmitted to the Commission on Human Rights by the Economic and Social Council in resolution 510 (XVI) of 7 December 1953.

4. On the question of a federal clause the General Assembly decided to transmit certain proposals of Egypt, Australia and Guatemala, together with the summary records of the discussion thereon, to the Commission. Egypt proposed (A/C.3/L.366) that the General Assembly should "request the Commission on Human Rights not to include provisions relating to federal States in the draft International Covenants on Human Rights". An amendment (A/C.3/L.388) to the Egyptian draft resolution by Guatemala proposed that the General Assembly should "request the International Court of Justice for an opinion on the desirability or undesirability of including a federal clause in the Covenants on Human Rights, having regard to the universal application of those rights and the constitutional problems of some federal States" and "request the Commission on Human Rights not to consider the question until the International Court has delivered the opinion requested". Australia proposed (A/C.3/L.374) that the General Assembly should direct the attention of the Commission to resolution 421 C (V) of the General Assembly (by which the Commission was requested to prepare "recommendations which will 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"), and should request Member States, specialized agencies and non-governmental organizations to submit their views concerning a federal State article. The Third Committee's discussions on these proposals are contained in documents A/C.3/SR.518-21 (see also the report of the Third Committee, A/2573, paragraphs 69-80).

5. On the right of petition the General Assembly decided to transmit a draft resolution proposed by Ecuador, Egypt, Guatemala and Uruguay, together with the

^{1/} For proceedings at the eighth session of the General Assembly, when the draft Covenants were discussed under the item relating to chapters IV and V of the report of the Economic and Social Council to the General Assembly (A/2430), see the report (A/2573, paragraphs 14, 16, 17, 18 and 69-86) and the summary records of the Third Committee (A/C.3/SR.503-511, 518-521, 523-524).

summary records of the discussion thereon, to the Commission. The draft resolution proposed that the General Assembly should "request the Commission on Human Rights to draft provisions recognizing the right of petition of every natural person, every duly constituted group of individuals and every recognized non-governmental organization, for inclusion in the draft International Covenants on Human Rights in accordance with the decision of the General Assembly contained in its resolution 421 F (V) and in the light of the discussions of its present session". The records of the Third Committee's discussion on this proposal are contained in documents A/C.3/SR.523-524; (see also the report of the Third Committee, A/2573, paras. 81-86). In resolution 421 F (V) the General Assembly requested the Commission to consider provisions "to be inserted in the draft Covenant or in separate protocols, for the receipt and examination of petitions from individuals and organizations with respect to alleged violations of the Covenant"; and by resolution 547 (VI) the General Assembly transmitted to the Commission a number of proposals as "additional basic working papers" (see E/2256, Annex III, section C, and E/CN.4/530 and Add.1).

II. Programme of work on the draft Covenants

6. By the end of the ninth session the following parts of the Covenants had been drafted (E/2447, Annex I, sections A and B):

Covenant on Economic, Social and Cultural Rights

Preamble

Part I Right of self-determination

Part II General provisions

Part III Substantive articles on economic, social and cultural rights

Covenant on Civil and Political Rights

Preamble

Part I Right of self-determination

Part II General provisions

Part III Substantive articles on civil and political rights

Part IV Measures of implementation (Human Rights Committee)

7. Besides these parts of the Covenants the Commission has before it the following drafts (E/2447, Annex I, sections C, D and E):

- (i) The text of the article on territorial application adopted by the General Assembly in its resolution 422 (V)
- (ii) Provisions on measures of implementation based on a system of periodic reports, drafted at the seventh session
- (iii) Certain articles relating to final clauses, drafted at the sixth session.

8. In order to complete the drafting of the Covenants, the Commission still has to deal with the following matters:

A. Measures of implementation

- (a) Applicability of the Human Rights Committee procedure (see E/2447, Annex I, section B, part IV) to the Covenant on Economic, Social and Cultural Rights
- (b) Applicability of the system of periodic reports (see E/2447, Annex I, Section D) to the Covenant on Economic, Social and Cultural Rights
- (c) Applicability of the system of periodic reports (see E/2447, Annex I, Section D) to the Covenant on Civil and Political Rights
- (d) Right of petition (General Assembly resolution 737 B (VIII), see paragraph 5 above)

B. Final clauses

- (a) Federal State clause (General Assembly resolutions 421 C (V) and 737 A (VIII), see paragraph 4 above; for texts of the draft article of the Third session of the Commission and proposals on the subject, see E/2447, Annex II, section B)
- (b) Clauses relating to admissibility or non-admissibility of reservations (General Assembly resolution 546 (VI))
- (c) Clauses relating to signature, ratification, accession, date of entry into force of the Covenants, amendments to the Covenants, etc. (see E/2447, Annex I, section E and for texts of amendments to these clauses see E/2447, Annex II, section D).

9. Other matters before the Commission are:

- (i) A proposal for the establishment of an Office of the UN High Commissioner (Attorney-General) for Human Rights (see E/2447, Annex II, section C)
- (ii) A proposal to add an article on the right of property (see E/2447, Annex II, section A).

10. Observations of Member States, specialized agencies and non-governmental organizations on the completed parts and other matters relating to the two draft Covenants, received pursuant to Economic and Social Council resolution 501 B (XVI) (see paragraph 2 above), are issued, respectively, in documents E/CN.4/692, 694 and 702 and addenda thereto.

11. The Secretary-General has also submitted memoranda on the system of periodic reports (E/CN.4/675, paragraphs 11-13 and 31-35, and E/CN.4/590 and Add.1-5), on the federal clause (E/1721, A/CONF.2/21, E/CN.4/651), on the question of reservations (E/CN.4/677), on the final clauses (E/CN.4/678 and Corr.1), as well as on the substantive articles on economic, social and cultural rights (E/CN.4/673) and on civil and political rights (E/CN.4/674, paragraphs 24-50) drafted by the Commission at its eighth session.
