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Sixth Session

SUMMARY RECORD OF THE HUNDRED AND EIGHTY-FIFTH MEETING

Held at Lake Success, New York,  
on Wednesday, 10 May 1950, at 11 a.m.

CONTENTS:

Organization of the work of the Commission

Draft international covenant on human rights (annexes I and II to the report of the fifth session of the Commission on Human Rights, document E/1371)

(continued):

Proposed additional articles to be inserted in part II of the draft covenant: draft resolutions submitted by Lebanon and Denmark (E/CN.4/478, E/CN.4/479, E/CN.4/481, E/CN.4/482)

<u>Chairman:</u>	Mrs. ROOSEVELT	United States of America
<u>Members:</u>	Mr. WHITLAM	Australia
	Mr. NISOT	Belgium
	Mr. VALENZUELA	Chile
	Mr. CHANG	China
	Mr. SORIENSEN	Denmark
	Mr. RAMADAN	Egypt
	Mr. CASSIN	France
	Mr. KYROU	Greece

<u>Members (continued):</u>	Mrs. MEHTA	India
	Mr. MALIK	Lebanon
	Mr. MENDEZ	Philippines
	Miss BOWIE	United Kingdom of Great Britain and Northern Ireland
	Mr. ORIBE	Uruguay
	Mr. JEVREMOVIC	Yugoslavia

Representatives of specialized agencies:

Mr. LEMOINE	International Labour Organisation (ILO)
Mr. AINAJDO	United Nations Educational, Scientific and Cultural Organization (UNESCO)

Representatives of non-governmental organizations:

<u>Category B:</u>	Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
	Mr. HALPERIN	Co-ordinating Board of Jewish Organizations
	Mr. CRUICKSHANK	Inter-American Council of Commerce and Production
	Mrs. FREEMAN	International Council of Women
	Miss ROBB	International Federation of University Women
	Mr. BEER	International League for the Rights of Man
	Miss ZIZZAMIA	International Union of Catholic Women's Leagues
<u>Secretariat:</u>	Mr. SCHWELB	Assistant Director of the Division of Human Rights
	Mr. DAS	Secretary of the Commission

## ORGANIZATION OF THE WORK OF THE COMMISSION

1. The CHAIRMAN said the Secretariat had asked her that the Commission should hold the afternoon meeting on Friday in the Economic and Social Council chamber.

It was so decided.

2. Mr. KYROU (Greece) pointed out that the Commission had only eight working days in which to conclude its session and that it was behind its schedule. He suggested that in those circumstances one or two meetings might be held on Saturday, in order to avoid holding evening meetings.

3. The CHAIRMAN agreed that the Commission might meet on Saturday, if the Secretariat had no objections.

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DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS (ANNEXES I AND II TO THE REPORT OF THE FIFTH SESSION OF THE COMMISSION ON HUMAN RIGHTS, DOCUMENT E/1371)

(continued):

Proposed additional articles to be inserted in part II of the draft covenant: draft resolutions submitted by Lebanon and Denmark (E/CN.4/478, E/CN.4/479, E/CN.4/481, E/CN.4/482)

4. The CHAIRMAN stated that the Commission had before it a draft resolution submitted by Lebanon (E/CN.4/478) proposing that those additional articles proposed for inclusion in the draft covenant which had not been examined at the sixth session of the Commission should be considered when the additional covenants on human rights were examined, at the first session in 1951.

5. Mrs. MEHTA (India) wished to explain her delegation's position with regard to that draft resolution. India had no objection to the insertion in the covenant of provisions concerning economic and social rights, the importance of which it fully recognized, but Mrs. Mehta was not sure whether those provisions should be inserted in the first covenant or in a subsequent covenant. Although the Universal Declaration of Human Rights proclaimed economic, social and cultural rights, a considerable amount of time would be needed to cover those rights in the present covenant. Furthermore, measures for the implementation of these rights would have to be provided for and established, and that would be bound to give rise to great difficulties and long debates, whereas it was essential to finish the work as soon as possible, in order that the present covenant might become operative immediately.

6. The Commission had before it two proposals: the Lebanese proposal that the Commission should decide to consider additional covenants on human rights in 1951 and an Australian proposal. The Indian delegation would support the Lebanese draft.

7. Mr. JEVREMOVIC (Yugoslavia) pointed out that the Commission's agenda already provided for the consideration of articles concerning economic, social and cultural rights and of amendments to the proposals submitted. The Lebanese draft resolution was not, therefore, the only document on the subject that the Commission had before it, as the Chairman had stated.

8. The CHAIRMAN pointed out that some speakers had asked to speak on the Lebanese draft which would rule on a question of procedure and that it would therefore have to be considered first. The Commission could then decide upon the action it should take on the other proposals.

9. Miss BOWIE (United Kingdom) emphasized that the Commission had already discussed economic and social rights in 1947 and 1948 but it had drawn up a plan of work and agreed that some human rights would have to be dealt with in the first covenant, while others might be included in subsequent covenants.

10. She recalled the statements made at the time by her predecessor, Lord Dukeston. The United Kingdom delegation had then supported the draft convention, although it seemed to be incomplete, because it covered fundamental freedoms without which the concept of social rights could not develop in the minds of men. It could be said that economic and social rights rested primarily on freedom of speech and freedom of association. The first essential, therefore, was to lay the foundations of the fundamental freedoms.

11. Lord Dukeston had said that human rights had been confirmed and developed primarily through freedom of speech. It was preferable to teach the people how democracy operated than to treat them as children and impose certain rules upon them. The world needed free men, not well-fed slaves. Thus, in proclaiming human rights, it was essential to begin by proclaiming freedom of speech, of association and of thought. Without those fundamental freedoms, there could be no human rights.

12. She recalled that Lord Dukeston, who had expressed those ideas, had devoted his whole life to work in the field of trade union organization. The attitude of those who alleged that rights and freedoms did not exist until they were set down on paper was a regrettable one. The United Nations Charter formed part of positive international law. The Universal Declaration of Human Rights was an interpretation of part of that law and must be recognized as one of the elements of the international order.

13. She reminded the representative of Yugoslavia that in 1947 his country had proposed the preparation of a series of covenants rather than one covenant. It was ridiculous to allege that the United Kingdom was opposed to economic and social rights; it did consider, however, that those rights should be included in a separate covenant, which should be drafted with the utmost care and in close collaboration with the International Labour Organisation.

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14. For all those reasons, the United Kingdom delegation would give partial support to the Australian proposal. It would also support the Lebanese draft resolution but only in so far as it contained the idea that the present covenant should be the first of a series, and not as regards the establishment of any future plan which would be binding on the Commission.

15. Mr. ORIBE (Uruguay) stated that the inclusion of economic and social rights in the covenant should not be dependent on the time factor. He did not think that if the study were confined to traditional rights the importance of economic and social rights would be disregarded as a result. Uruguay had not failed to realize the interdependence of those two categories of rights and could not be accused of indifference towards the economic and social rights. There did, however, seem to be a tendency to attach too much importance to economic, social and cultural rights. There was another type of fundamental rights which should have priority over all the others, since they were the most consistently threatened — the political rights. He would ask the Commission not to forget those rights when it drafted another covenant at a later date.

16. The Uruguayan delegation would not vote against the Lebanese draft resolution. Nevertheless, the Commission had already decided upon its plan of work. If the Lebanese draft were adopted, the Commission's previous decisions would have to be mentioned in the form of an amendment to that draft, since those decisions would in fact be modified.

17. The possibility had been considered of drawing up a separate covenant on economic and social rights. The preparation of a new covenant, however, was bound to raise complex problems. Moreover, if two separate and independent covenants were drafted, certain States might ratify one and not the other. It was essential, therefore, that the two covenants — if there had to be two — should be linked together, for example, by an additional protocol to the present covenant. The representative of France had said that the enforcement measures for the two covenants were entirely different. That was true, but that did not constitute a valid objection to the drawing up of two separate, though interdependent, covenants.

18. The Uruguayan delegation was prepared to attend as many meetings as might be necessary to include all human rights in the covenant under discussion, but if the Commission considered it advisable to postpone to a later session the discussion of certain categories of rights, it would accept that point of view.

/19. The CHAIRMAN,

19. The CHAIRMAN, speaking as representative of the United States of America, stated that economic and social rights were just as important as civil and moral rights. Nevertheless, those rights must be embodied in a complete and carefully drafted covenant. That would call for a considerable amount of work by the Commission, and for the time being it might be satisfied with its work if it succeeded in preparing implementation measures for a first covenant.

20. The United States delegation would support the Lebanese draft resolution. It should be stated forthwith that the Commission was ready to undertake the study of new covenants, but that in no way pre-judged the future work of the Commission.

21. The Uruguayan representative's suggestion to draw up an additional protocol to the first covenant would have to be considered at the Commission's next session.

22. The Commission would have to consider economic and social rights and certain implementation measures, which might be submitted to the Economic and Social Council in order that enforceable instruments might be ratified rapidly.

23. She hoped that the representative of Denmark might consult with the representative of Lebanon to draw up a joint draft.

24. Mr. JEVREMOVIC (Yugoslavia) thanked the representative of the United Kingdom for recalling statements made to the Commission by the Yugoslav representative in 1947, but he could not agree with the conclusions that she had drawn from those statements. Three years had passed and much had happened during that time. At that time, the Yugoslav representative had not thought that it would take three years to draft the covenant. The question of economic and social rights was not a new one. It had been the subject of a resolution adopted by the Commission at its fifth session, which appeared on page 8 of its report. It was now proposed to postpone work for which provision had been made a year ago until the seventh session of the Commission.

25. In reply to the United States representative, who had acknowledged the importance of economic and social rights, he pointed out that the reason why these rights had not yet been included in the covenant, in spite of five years of work, was that certain governments were opposed to such inclusion, as was shown by the resolution adopted by the Commission at its fifth session.

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After the last war, the peoples had been promised that all human rights, including economic and social rights, would be proclaimed and defended, but so far nothing had been done. Yet those rights must be proclaimed if peace was to be safeguarded. The time available to study the matter was limited and there must be no renewal of the wait-and-see policy period between the two wars, for war was an ever-present threat to mankind.

26. Mr. KYROU (Greece) had drawn several conclusions from the discussion. In the first place, none of the members of the Commission wished to discriminate between the various human rights. Those who urged that economic and social rights should be embodied in the first covenant might be the very people who insisted on a distinction being made. Economic and social rights must be studied with a great deal of circumspection and that study should be undertaken in collaboration with competent organs such as the International Labour Organisation. The annual UNESCO conference was soon to be held at Florence, and would deal with cultural human rights. It would therefore be advisable to await the results of its work.

27. The Greek delegation approved the draft resolutions submitted to the Commission by Lebanon and Denmark, but it hoped that the representatives of those two countries would consult together with a view to submitting a single text to the Commission.

28. Mr. RAMADAN (Egypt) stated that his delegation was in favour of the inclusion, in a new covenant on human rights, of articles setting forth economic and social rights. A statement of those rights in an international covenant would undoubtedly raise the problem of implementation and a special supervisory organ would have to be set up. The Egyptian delegation had submitted an amendment (E/CN.4/479) to the Lebanese draft resolution (E/CN.4/478) stressing the importance of economic and social rights. If that amendment were to be added, his delegation would be prepared to vote for the Lebanon draft resolution.

29. Mr. VALENZUELA (Chile) noted that no member of the Commission would deny the importance of economic, social and cultural rights. He had never thought that the speakers, who had maintained that the Commission had not sufficient time to study those rights, had had any mental reservations and had not wished to see those rights set forth in the draft covenant.

30. The economic and social rights were fundamental: it would be unfortunate if those rights were not set forth in the first covenant on human rights. The point at issue was a legal problem of long standing, namely, that of the relationship between the principles of civil law and the economic and social structure. All civil rights were based on an abstract conception of the human person; they were intended to give full scope to freedom of will. But the economic and social conditions of a country frequently restricted the exercise of the abstract rights recognized in this way. That was why all civil legislation which was not accompanied by suitable social and economic legislation did not relate to an actual being but to an abstract being. Civil rights should therefore never be kept apart from economic and social rights. Accordingly, the Charter, the Universal Declaration of Human Rights and the international covenant on human rights would form a whole.

31. It was not enough to acknowledge that respect for civil rights gave rise to difficult problems. All the provisions on civil rights contained in the Universal Declaration were already recognized under the legislation of most Member States. To ensure that those rights were respected, however, was another matter; thus one Member State had contravened the article on discrimination by the recent adoption of an Act dividing the population into three categories according to their ethnic origin. Consequently, it was useless to recognize abstract civil rights if legislation were not adopted to ensure that they were protected.

32. It was, no doubt, true as the United Kingdom representative had said, that the industrialized countries had made considerable progress as regards respect for economic and social rights. But not all countries were industrialized and had vigilant trade unions. For that reason it was useless to require such countries to accord certain civil rights until their economic and social structure was such as to guarantee enjoyment of those rights.

33. It was dangerous to assert that the Commission had not the time to study the matter. He proposed that a sub-committee be set up to draft an article on economic and social rights; the provisions of that article would be binding on  
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the various countries. It could be based on the first three paragraphs of the Australian proposal which was an excellent statement of the nature and aims of economic and social rights. However, if that solution were not adopted, he would vote in favour of the draft resolution submitted by Denmark which, in his view, was the lesser evil.

34. Mr. SORENSEN (Denmark) stated that all members of the Commission were agreed as to the importance of economic and social rights. Some of the specialized agencies and non-governmental organizations had already carried out work in that field and the Secretary-General had, at the Commission's request, drawn up a very full report on the matter. For all those reasons Mr. Sorensen had submitted a draft resolution whereby the Commission noted the Secretary-General's report and the work carried out by other bodies; for instance, the Social Commission had recently adopted a draft Declaration on the Rights of the Child, and the Economic and Employment Commission had adopted a report on full employment a few <sup>months</sup> / previously. In accordance with the draft resolution submitted by Denmark, the Commission would in future devote the greater part of its work to a study of the possible measures to be taken by Member States to ensure the enjoyment by everyone of economic, social and cultural rights.

35. He did not entirely share the views of the representative of Lebanon, whose draft resolution proposed that the Commission undertake the consideration of new covenants on human rights. The representatives of the United Kingdom and Greece had stressed the difficulty of that task. It was not for the Commission to draft texts which came within the province of other bodies; the Commission should merely take into account the work of those bodies and draw from it what it considered essential to ensure respect for economic and social rights. Hence, the working programme proposed by the Lebanese representative did not seem satisfactory. The other paragraphs of the Lebanese draft resolution appeared acceptable, however.

36. Mr. MALIK (Lebanon) noted with interest the statement of the United Kingdom representative on the importance of the Universal Declaration of Human Rights. She had said that the United Nations Charter was a part of <sup>international law</sup> / and that the

Universal Declaration was the expression of that law. She had added that the Declaration was one of the elements of international order. It was important to note that the United Kingdom delegation had, for the first time, recognized the close link between the Charter and the Declaration, both as regards the force and actual nature of those two documents.

37. The representative of Denmark and some other members of the Commission had been inclined to entrust specialized agencies, and particularly the ILO, with work which fell within the province of the Commission. However, neither the representative of the United Kingdom nor the representative of Denmark had specified the nature of the relationship between the ILO and the Commission in that field. Furthermore, it should be remembered that the terms of reference of the Commission were to ensure respect for human rights. It had decided to carry out its work in three stages: first, it was to draft a Universal Declaration; second, it was to prepare one or more (and Mr. Malik would stress the word "more") international covenants on human rights, and lastly it was to adopt measures for their implementation. That working programme had been approved by the Economic and Social Council. If there was now a tendency to entrust part of the Commission's work to other bodies - the Commission might fail to observe its original programme. It should continue its work in that field, taking into account the comments sent to it by the specialized agencies concerned. In that connexion, Mr. Malik recalled<sup>that</sup> the representative of France had, quite rightly, drawn a distinction recently between the legal principles to be embodied in a draft covenant on the one hand, and the technical details which would be dealt with in conventions to be drawn up by the specialized agencies concerned on the other.

38. A specialized agency such as the ILO could not, by reason of its very nature, consider the programme as a whole; that work fell within the province of the Commission on Human Rights which was responsible for setting forth the basic legal principles.

39. As regards the statement of the representative of Denmark, it was admittedly difficult to find a compromise between the draft resolution submitted by Denmark and the Lebanese resolution as regards a working programme. The operative part of the Danish draft resolution was couched, in part, in very vague terms, whereas the Lebanese draft resolution was intended to commit the Commission.

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However, he was in agreement with the preamble of the Danish draft resolution. He was prepared to accept the first paragraph of that preamble, and he would also support the second and third paragraphs provided that, in the operative part, the Commission requested the Secretariat to prepare a working programme for the new draft covenants, in consultation with the specialized agencies. That study would enable the Commission to take up consideration of the new draft covenants on human rights at its first session in 1951.

40. Mr. LEMOINE (International Labour Organisation) recalled the attitude of the ILO towards the problem of the inclusion in the covenant of articles on economic and social rights and quoted in that connexion a passage from a communication dated 30 March 1950, addressed to the Secretary-General by the Director-General of the International Labour Office (E/CN.4/L.403).

41. As regards the activities of the ILO for protection of economic and social rights, Mr. Lemoine referred the members of the Commission to the Secretary-General's report on the activities of bodies of the United Nations and of the specialized agencies, in matters within the scope of articles 22-27 of the Universal Declaration of Human Rights (E/CN.4/L.404).

42. He wished, however, to recall the following events which marked the main stages in the development of the ILO during the previous 30 years.

43. The last article of part XIII of the Treaty of Versailles, which was in a way the first constitution of the ILO, set forth a number of economic and social rights which could be regarded as the first declaration of the economic and social rights of man. During the years which followed the signature of that Treaty, the ILO had endeavoured to give effect to the rights defined therein by the adoption of a large number of detailed conventions drawn up in accordance with a relatively lengthy and complicated procedure. In 1944 the ILO recognized that the principles defined in the Treaty of Versailles no longer met existing needs and adopted a general Declaration, commonly known as the "Philadelphia Declaration", which summarized the aims of the ILO. To give effect to the new guiding principles it had adopted, the ILO revised a number of previous conventions which had become out-dated and adopted new ones. It would now be glad to assist the Commission on Human Rights by placing at its disposal all the experience acquired by the ILO in the field of economic and social rights during the previous 30 years.

44. Referring to the remark of the representative of Lebanon, he stated that the ILO had no intention at all of encroaching upon the work of the Commission. It merely wished to assist it in carrying out its task. It would therefore be fully prepared to assist the Secretariat in drafting the surveys which would be required of it. He agreed with the representative of Lebanon that the specialized agencies might easily acquire a distorted view of the Commission's work. Accordingly, the ILO would not presume to assist the Commission in a field other than that in which it was competent and experienced.

45. The Director-General of the ILO would be glad to inform the Governing Body of any request for consultation received from the Commission and the Governing Body could then consider the best way of furnishing such assistance.

46. Mr. CASSIN (France) considered that his amendment to the Lebanese draft resolution (E/CN.4/482) described the future working programme of the Commission more clearly than did the draft resolution. In the preamble, which it proposed should be added to the Lebanese draft resolution, the French delegation stressed that the international covenant on human rights was the first standard covenant of a series of covenants and measures to cover the whole of the Universal Declaration. The French delegation also proposed that the first paragraph of the Lebanese draft resolution be amended so as to stress that the new covenants and measures contemplated should deal with human rights by categories, including first and foremost, economic and social rights, cultural rights, political rights and the rights of the individual in relation to the groups of which he formed part. That would obviate any criticism that the Commission's working programme did not provide for consideration of family rights.

47. As regards the draft resolution submitted by Denmark (E/CN.4/481), he considered that it was not based on the same principles as the Lebanese draft resolution. The Lebanese draft resolution proposed a general working programme for 1951, whereas the draft resolution submitted by Denmark stressed the need for the study of certain special rights only. The two draft resolutions were not incompatible, since the first advocated a general study of new covenants on human rights, whilst the second requested the Commission to direct its efforts in the future mainly to the study of economic, social and cultural rights.

48. With regard to the comments of the representative of the International Labour Organisation who had, in effect, stated that the assistance of that

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organization was already available to the Commission, Mr. Cassin asked the representative of Denmark whether he could not add to his draft resolution a provision whereby the Commission would immediately ask the ILO to place all its experience in the field of safeguarding economic and social rights at the disposal of the Commission.

49. He still held fast to the opinion which he had expressed in the Commission regarding the need for not confusing the part to be played by the Declaration, the covenant and the special conventions on any particular subject. The Universal Declaration of Human Rights was a great philosophical and psychological document directly intended for the peoples of the world. The covenant was intended to translate the philosophical principles set forth in that instrument into legal principles; the special conventions were intended as a detailed statement of the technical means of application of those principles. As the representative of the ILO had recalled, a draft declaration of economic and social rights existed as far back as 1919. Consequently, the Commission was not breaking any new ground and it would be well-advised to secure the assistance not only of the ILO but also of UNESCO and other specialized agencies.

50. In conclusion, Mr. Cassin urged the members of the Commission not to be discouraged by the difficulties of their task, a task which was unique in its scope, and to continue their efforts to achieve the aspirations of the whole world.

The meeting rose at 1.10 p.m.