



Sixth session

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS AND  
MEASURES OF IMPLEMENTATION

Memorandum by the Secretary-General

1. The Economic and Social Council, by resolution 303 I (XI) of 9 August 1950, requested the General Assembly to make policy decisions concerning the draft International Covenant on Human Rights and measures of implementation as prepared by the sixth session of the Commission on Human Rights (E/1681), with respect to the following questions:

- (a) the general adequacy of the first eighteen articles;
- (b) the desirability of including special articles on the application of the Covenant to Federal States and to Non-Self-Governing and Trust Territories;
- (c) the desirability of including articles on economic, social and cultural rights; and
- (d) the adequacy of the articles relating to implementation.

2. Acting upon the request of the Council, the General Assembly, at its fifth session, adopted resolutions 421 (V) and 422 (V) concerning the draft Covenant which, inter alia, contained certain directives to the Economic and Social Council and the Commission on Human Rights with respect to questions (a), (b), (c) and (d).

3. Concerning question (a), the General Assembly expressed the opinion that the list of rights in the first eighteen articles "does not contain certain of the most elementary rights" and that the wording of some of the articles "should be improved in order to protect more effectively the rights to which they refer". Accordingly, the General Assembly called upon the Economic and Social Council to request the Commission on Human Rights to revise the first eighteen articles with a view to including additional rights and with a view to defining the rights set forth in the Covenant as well as the limitations thereon.

"with the greatest possible precision" (resolution 421 B (V)).

4. Concerning question (b), the General Assembly called upon the Economic and Social Council to request the Commission on Human Rights to study a federal State article and to prepare recommendations which would have as their purpose "the securing of the maximum extension of the Covenant to the constituent units of federal States, and the meeting of the constitutional problems of federal States" (resolution 421 C (V)); and requested the Commission on Human Rights to include the following article in the Covenant: "The provisions of the present Covenant shall extend to or be applicable equally to a signatory metropolitan State and to all the territories, be they Non-Self-Governing, Trust or Colonial Territories, which are being administered or governed by such metropolitan State" (resolution 422 (V)).

5. With respect to question (c), the General Assembly voiced the opinion that the enjoyment of civil and political freedoms and that of economic, social and cultural rights "are interconnected and interdependent", and called upon the Economic and Social Council to request the Commission on Human Rights "to include in the draft Covenant a clear expression of economic, social and cultural rights in a manner which relates them to the civil and political freedoms proclaimed by the draft Covenant" (resolution 421 E (V)).

6. As to question (d), the adequacy of the articles relating to implementation, the General Assembly called upon the Economic and Social Council to request the Commission on Human Rights 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 to take into consideration in its studies of questions relating to petitions and implementation the proposals presented by Chile, Ethiopia and France, Israel and Uruguay" (resolution 421 F (V)).

7. The General Assembly also called upon the Economic and Social Council to request the Commission on Human Rights "to study ways and means which would ensure the right of peoples and nations to self-determination" (resolution 421 D (V)).

8. The Economic and Social Council, by resolution 349 (XII) of 23 February 1951, transmitted the above-mentioned resolutions to the Commission on Human Rights and requested the Commission to prepare and submit "a revised draft Covenant on the lines indicated by the General Assembly".

9. The Commission on Human Rights, at its seventh session (16 April to 19 May 1951), endeavoured to revise the draft Covenant in accordance with General Assembly resolutions 421 (V) and 422 (V) and Council resolution 349 (XII). It submitted a revised draft Covenant (E/1992) to the Economic and Social Council at its thirteenth session.

10. The new draft Covenant consists of a preamble and six parts. In substance, articles 1 and 2 of Part I and article 18 of Part II deal with certain general obligations of States Parties to the Covenant; articles 3-17 of Part II set forth certain personal and civil rights; Part III (articles 19-32) sets forth certain economic, social and cultural rights; Part IV (articles 33-59) contains provisions regarding the establishment and the functions of a Human Rights Committee; Part V (articles 60-69) provides for the institution of a system of periodic reports; and Part VI (articles 70-73) contains final clauses.

11. It should be noted that, during its seventh session, the Commission on Human Rights was able to draft articles on economic, social and cultural rights, to revise articles relating to the Human Rights Committee, and to prepare articles concerning periodic reports. However, the Commission did not have time to revise the first eighteen articles, to consider provisions for the receipt and examination of petitions from individuals and organizations, or to draft a federal State article (E/1992, paragraph 20). Nor did the Commission decide whether the measures of implementation in Parts IV (Human Rights Committee) and V (periodic reports) related only to certain parts of the Covenant or to the whole Covenant (E/1992, paragraph 22).

12. The question of the "right of peoples and nations to self-determination" constituted item 4 of the agenda of the seventh session of the Commission, the consideration of which was deferred (E/1992, paragraphs 17 and 95).

13. In considering the report of the Commission, the Economic and Social Council, at its thirteenth session, adopted a resolution (E/2105) on 29 August 1951, which reads as follows:

The Economic and Social Council

A.

"1. Takes note of the Report of the Commission on Human Rights (seventh session);

"2. Expresses its appreciation to the Commission for its efforts to

/formulate basic

formulate basic economic, social and cultural rights and measures relating to their implementation;

"3. Notes that lack of time prevented the Commission from undertaking certain of the tasks assigned it under Council resolution 349 (XII), in pursuance of General Assembly resolutions 421 (V) and 422 (V);

"4. Requests the Commission on Human Rights, at its next session, to proceed with these tasks, in particular the revision of the first eighteen articles of the draft Covenant and the preparation of recommendations aimed at securing the maximum extension of the Covenant to the constituent units of federal States and at meeting the constitutional problems of those States.

B.

"Considering the progress made in pursuance of General Assembly resolution 421 (V),

"Considering that, though more work will be required before a Covenant on Human Rights is ready for adoption, a stage has been reached where it would be desirable for governments not represented on the Commission on Human Rights or on the Economic and Social Council to be given an opportunity to express their views upon the work done by the Commission, and in particular its proposals relating to implementation, to this end

"Transmits to the General Assembly for its consideration the report of the Commission on Human Rights on its seventh session, the records of the discussions thereon in the Council at its thirteenth session and the observations of specialized agencies (E/2057 and addenda) and of governments (E/2059 and addenda).

C.

"Having noted General Assembly resolution 421 (V) calling upon the Economic and Social Council to request the Commission on Human Rights to include in the draft Covenant on Human Rights a clear expression of economic, social and cultural rights in a manner which relates them to the civic and political freedoms proclaimed by the previous draft of the Covenant,

"Noting that the revised draft Covenant prepared by the Commission on Human Rights at its seventh session in response to this request contains provisions relating, inter alia, to such rights,

/"Considering that

"Considering that these provisions provide for two different methods of implementation, without indicating which method or methods are to apply:

- (a) To political and civil rights,
- (b) To economic, social and cultural rights,

"Conscious of the difficulties which may flow from embodying in one Covenant two different kinds of rights and obligations,

"Aware of the importance of formulating, in the spirit of the Charter, the Universal Declaration of Human Rights and General Assembly resolution 421 (V), economic social and cultural rights in the manner most likely to assure their effective implementation,

"Invites the General Assembly to reconsider its decision in resolution 421 E (V) to include in one Covenant articles on economic, social and cultural rights, together with articles on civil and political rights".

14. The documents transmitted by section 2 of the above resolution are as follows:

(1) The report of the Commission on Human Rights, seventh session (Official Records of the Economic and Social Council, Thirteenth Session, Supplement No. 9, E/1992 and Add.1).

(2) Summary records of the 522nd to 525th plenary meetings of the Economic and Social Council (E/SR.522 to 525).

(3) Observations of specialized agencies on the Draft Covenant on Human Rights (E/2057 and Adds. 1 to 5). (Attention is also drawn to the observations of the High Commissioner for Refugees on the draft Covenant, E/2085.)

(4) Observations of governments on the Draft Covenant on Human Rights (E/2059 and Adds. 1 to 3).

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