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COMMISSION ON HUMAN RIGHTS

Eighth Session

SUMMARY RECORD OF THE THREE HUNDRED AND THIRTY-FOURTH MEETING

Held at Headquarters, New York,
on Thursday, 12 June 1952, at 2.30 p.m.

CONTENTS:

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E/CN.4/L.217, E/CN.4/L.218) (concluded);

Place of next session

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

Members (continued):

Mr. BORATYNSKI	Poland
Mrs. RÖSSEL	Sweden
Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
Mr. MOROZOV	Union of Soviet Socialist Republics
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mrs. ROOSEVELT	United States of America
Mr. BRACCO	Uruguay
Mr. JEVREMOVIC	Yugoslavia

Representatives of non-governmental organisations:

Category B:

Mrs. PARSONS) Mrs. CARTER)	International Council of Women
Miss HYMER) Miss SOUDAN)	International Federation of Business and Professional Women
Miss ROBB	International Federation of University Women
Mr. BEER	International League for the Rights of Man
Miss SCHAEFER	International Union of Catholic Women's Leagues
Miss PHILLIPS	Liaison Committee of Women's International Organizations
Mrs. WALSER	Women's International League for Peace and Freedom
Mr. JACOBY	World Jewish Congress
Mr. PENCE	World's Alliance of Young Men's Christian Associations
Mr. RONALDS) Mrs. POLSTEIN)	World Union for Progressive Judaism

Secretariat:

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

/DRAFT

DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION:
DRAFT RESOLUTIONS ON THE ITEM (E/1992, E/CN.4/L.195, E/CN.4/L.209,
E/CN.4/L.210, E/CN.4/L.216, E/CN.4/L.217, E/CN.4/L.218)(concluded)

The CHAIRMAN called for a continuation of the debate on the procedural resolutions before the Commission, and drew attention to the fact that the word "principles" in the second and third paragraphs of the USSR draft resolution (E/CN.4/L.195) should be changed to "provisions".

Mr. CASSIN (France) was unable to vote for the USSR draft resolution which proposed a single covenant. He had never felt very strongly about the matter, but was now convinced that two separate covenants would be ratified by more States and that the balance established by the General Assembly in deciding that the two covenants should be opened for signature simultaneously should not be impaired.

The French amendment (E/CN.4/L.218) to the draft resolution submitted by Chile, Pakistan and Uruguay (E/CN.4/L.216) would not change a word in that resolution, but would avoid undue rigidity by providing the Economic and Social Council with an alternative solution.

He supported the draft resolution submitted by India, Lebanon, Sweden and the United States (E/CN.4/L.209); the Polish amendments to that resolution, deleting most references to "two covenants", would depend on the fate of the USSR resolution.

With regard to the draft resolution submitted by Australia, France and India (E/CN.4/L.210), he would agree to add a reference to all official languages, thus putting them all on the same footing.

/Mr. MOROZOV

Mr. MOROZOV (Union of Soviet Socialist Republics) remarked that no one had thought it unconstitutional or disloyal to ask the General Assembly to reconsider its original decision to prepare a single covenant on human rights; the USSR delegation, which had co-operated loyally during the current session on the drafting of two covenants, therefore had every right to raise again the question of reconsideration. As the Commission would not complete its work on those instruments until the following year, it would be well to test its opinion on that question of principle, which the USSR would then raise in the Economic and Social Council and in the General Assembly.

The three-Power draft resolution (E/CN.4/L.210) was fraught with dangerous consequences. The first paragraph of the preamble and sub-paragraph(d) of the operative part, in particular, would give the Secretariat the unprecedented powers to revise texts adopted by Government representatives. The Commission, which had on occasion spent hours arguing over a single word, could not permit the Secretariat to make changes which, while bearing on form, might easily affect substance. As it seemed probable that the Commission would have another year before it, its members would have the necessary leisure to perform the work of concordance themselves. He would oppose the draft resolution, and asked for a separate vote on all references to divergences between languages.

He was not in favour of the other three-Power draft resolution (E/CN.4/L.216). It would be difficult for the USSR delegation to attend two sessions. In any case, any such decision would be premature: if the General Assembly decided on a single covenant, the Commission's plan of work would be affected.

He supported the Polish amendments to the four-Power draft resolution (E/CN.4/L.209), which were entirely independent of the USSR proposal. The Polish representative wished to remove the stress on two covenants, while not denying that there might be two; it was a milder position than his own.

Mr. BORATYNSKI (Poland) recalled that the General Assembly's decision that there should be two covenants had been taken hastily just before the end of the sixth session, when not all delegations had been present. Furthermore, it could not be regarded as final until those instruments themselves had been

/completed.

completed. For reasons expounded at length on previous occasions, his delegation was in favour of a single covenant, and he would therefore support the USSR proposal.

He strongly opposed the three-Power draft resolution (E/CN.4/L.210) as, in his experience, drafting changes were all too frequently changes of substance. It was certainly inadvisable -- and was, in fact, against the rules of procedure -- to empower the Secretariat to prepare alternative texts, as texts could be moved only by government representatives.

He agreed with the USSR representative that, for reasons of convenience, one session was preferable to two.

Mr. MARSHALL (Australia) pointed to the consistent policy followed by his delegation on the question of drafting one or two covenants, particularly so far as adhering to the General Assembly's directives was concerned. While the USSR delegation had every right to suggest another course, the Australian delegation preferred to support the four-Power draft resolution (E/CN.4/L.209) as being in keeping with the Assembly directive in resolution 543 (VI) which had not yet been carried out.

He sympathized with the objective of the three-Power draft resolution (E/CN.4/L.216), but there were practical reasons against holding two sessions, and he was therefore unable to support that proposal. The alternative proposed in the French amendment (E/CN.4/SR.218) was more acceptable but he would prefer to re-draft it to read: "or to provide for one session in 1953 to be suitably divided into two parts along the lines indicated above."

He thought that the three-Power draft resolution (E/CN.4/L.210) of which Australia was a sponsor was quite innocuous: it merely suggested that the Secretariat should take on a task which had to be performed by someone at some time. The texts prepared by the Secretariat would naturally be subject to examination and approval by the Commission. He accepted the deletion proposed by the Belgian representative, and the change in the reference to languages suggested by the Uruguayan representative.

Mrs. MEHTA (India) recalled that the General Assembly's original decision to prepare a single covenant had been influenced by the fact that some delegations, fearing that economic, social and cultural rights would be left
/out, had

out, had supported a single covenant including those rights. The work on the instrument had shown, however, that those rights were different in nature and would therefore have to be stated differently and require different measures of implementation. A document containing two kinds of rights drafted in different terms would be confusing; and the General Assembly had quite rightly decided that there should be two separate covenants. Since that decision, nothing had occurred which would furnish the Commission with an argument in favour of a single covenant; she was therefore unable to support the USSR draft resolution (E/CN.4/L.195).

The three-Power draft resolution (E/CN.4/L.210) of which she was a co-sponsor did not appear to her to present any dangers. The texts in the two working languages obviously required concordance; the work done by the Secretariat would of course be examined by the Commission, which would have the final word. She was opposed to the draft resolution submitted by Chile, Pakistan and Uruguay (E/CN.4/L.216) as it would be a hardship for the Indian delegation to travel ten thousand miles twice a year.

She was unable to accept the Polish amendments to the four-Power draft resolution (E/CN.4/L.209), which did not prejudge the issue but merely took cognizance of the General Assembly's decision that there should be two covenants.

Mr. AZKOUK (Lebanon) also opposed those amendments; the Commission was bound by the General Assembly's decision, and any attempt to ignore it would be disrespectful. The USSR delegation, on the other hand, had every right to propose reconsideration of that decision; but the Lebanese delegation was still in favour of two covenants for reasons explained at length in the General Assembly.

He pointed out that the four-Power draft resolution (E/CN.4/L.209), co-sponsored by his delegation, did not ask for a single session but merely assumed that there would be only one session. He had no strong feeling in the matter; his concern was only that the Commission should be given enough time to complete its work.

/The three-Power

The three-Power draft resolution (E/CN.4/L.210) dealt with a very important question. He did not think the Uruguayan amendment was appropriate; in the present fluid state of the covenant, no one could tell whether the French or the English text of any one passage was authentic; it was only after those texts had been concor~~ded~~ded that there would be an agreed text on the basis of which translations into the other official languages could be made. He agreed that the Secretariat could not be asked to take the responsibility for establishing such a concordance, as form and substance were inextricably bound together, and it was impossible to touch one without affecting the other. The only part of the draft resolution which did not present that danger was subparagraph (b), requesting the Secretary-General to report on divergen~~ces~~ces between the English and French texts of the covenants, and that provision was superfluous, since the Secretariat had done such work in the past without special authorization. He would therefore vote against that draft resolution.

Mr. BRACCO (Uruguay) understood that the French and Australian representatives had agreed to delete the reference to French and English texts in the second paragraph of the Australian, French and Indian draft resolution (E/CN.4/L.210). He hoped they would agree to a similar deletion in subparagraph (b). The Uruguayan delegation had submitted to the Economic and Social Council a proposal to make Spanish a working language of the Council and its commissions. Pending the Council's decision on that proposal, references to two working languages were inadvisable.

In the last paragraph of the four-Power draft resolution (E/CN.4/L.209) he would appreciate an elimination of the references to spring and summer, since to representatives of countries in the southern hemisphere those words meant entirely different months of the year.

The three-Power draft resolution (E/CN.4/L.216), of which he was one of the sponsors, was concerned not so much with the holding of two sessions -- which was not the only possible solution -- but with so organizing the Commission's work that for once it would not have to report to the General Assembly that it had been prevented by lack of time from completing the covenants and measures of implementation and dealing with the various items on its agenda which had been deferred from year to year. He was therefore prepared to accept any suggestions which would have that effect.

/Mr. VALENZUELA

Mr. VALENZUELA (Chile) said that his delegation had consistently advocated the drafting of a single covenant and he would therefore vote for the USSR draft resolution (E/CN.4/L.195). He entirely agreed that the three-Power resolution (E/CN.4/L.210) might give rise to serious dangers which the sponsors had obviously not considered. It was logical enough that working papers should be drafted in two languages, English and French; the Spanish-speaking delegations, aware of the technical difficulties involved, had always been willing to look tolerantly upon defective translations provided that the general meaning came through. The situation was inevitably very different, however, when it was a matter of treaty texts defining the obligations which governments were called upon to assume. Governments could not be committed by clauses roughly translated by using the Spanish language as a kind of by-product of French. The Uruguayan oral amendment, though leaving the wording of the draft resolution somewhat vague, at least made it possible to attempt to establish an independent Spanish text that would be an exact equivalent of the English and French texts, instead of a literal translation of dubious meaning and validity. The Secretariat should not be required to assume full responsibility for texts which would eventually be binding on governments.

He would support the Polish oral amendments to the four-Power draft resolution (E/CN.4/L.209), as they were consistent with his delegation's stand in favour of the single covenant, and he shared the Uruguayan representative's feelings about the inappropriateness of the words "Spring" and "Summer" in the operative part.

The other three-Power draft resolution (E/CN.4/L.216) had been intended as an attempt to obtain an authorization for the Commission to organize its own work in such a manner as not to concentrate exclusively on drafting the covenant; the French amendment (E/CN.4/L.218) to it was acceptable.

Mr. HOARE (United Kingdom) said that the USSR representative was perfectly within his rights in proposing the question of a revision of General Assembly resolution 543 (VI) (E/CN.4/L.195) and all that the delegations could do was to vote in accordance with their view whether there should be one or two draft covenants. The question had been thoroughly discussed by the General Assembly. The USSR draft resolution was obviously an attempt to
/recommence

recommends that discussion and carry it from organ to organ yet again. It was very doubtful whether the second paragraph of the preamble embodied a statement of fact. There was a measure of truth in the phrase cited from General Assembly Resolution 421 E (V), but it could not be said that the Commission's re-examination had established any greater degree of interdependence of the various rights than was indicated in the general phrase used in the Resolution. The United Kingdom delegation at least, had been confirmed by that re-examination in its view that the approach, the drafting and the implementation must differ very considerably as between the two categories of rights. The Polish oral amendments to the four-Power draft resolution (E/CN.4/L.209) were open to the same objection. Furthermore, the Polish proposal to delete the second paragraph of the preamble could not be accepted because the Commission had in fact made very substantial progress. Modesty was all very well; but there was something to be said for drawing the attention of the Economic and Social Council to the fact that the Commission in a session of unprecedented length had actually achieved some results. The Uruguayan objection to the words "spring" and "summer" was well taken.

The dire suspicions aroused by the three-Power draft resolution (E/CN.4/L.210) were unfounded. In none of the sub-paragraphs of the operative part was the Secretary-General being asked to do something which he had not usually done or which he had not in fact done for the current session. A more valid objection might be that the draft resolution was unnecessary, since it was simply asking the Secretary-General to do what he normally did, and did very well. The United Kingdom delegation would, however, support that draft resolution, because it felt that the Commission had not paid to the Secretary-General's suggestions the attention they deserved, so that a formal request would show the Commission's appreciation of that work and its intention to take account of it at the next session. There was much to be learned from independent experts experienced in drafting legal documents. The reference in sub-paragraph (b) to the divergencies between the English and French texts was justified, because the Commission knew only too well from experience what difficulties they had caused; but he could accept the Uruguayan oral amendment to that sub-paragraph. He was not sure that the method proposed in the three-Power resolution (E/CN.4/L.216) for dealing with the Commission's growing agenda -- which apart from the draft covenants was being increasingly neglected -- was the best possible. There was much to be said for the French amendment (E/CN.4/L.218)

/to it

to it and for the Australian oral amendment to the latter, since the United Kingdom delegation, like the Australian, was opposed to undue proliferation sessions.

Mrs. RÖSSEL (Sweden) regretted that the problem raised by the USSR draft resolution (E/CN.4/L.195) should have arisen at the very end of the session, as it had at the end of the previous session. Her delegation had not finally made its decision whether it preferred one or two covenants, but felt that the complete final text should be submitted to the General Assembly before the existing decision was reconsidered. She would therefore oppose the USSR draft resolution. She could support the three-Power draft resolution (E/CN.4/L.210) as orally amended. She shared previous speakers' objections to the other three-Power draft resolution (E/CN.4/L.216), but the French amendment (E/CN.4/L.218) would make it more acceptable. She agreed with the views expressed by the sponsors of the four-Power draft resolution (E/CN.4/L.209) and could not, therefore, accept the Polish oral amendments. She agreed, however, about the inappropriateness of the reference to "Spring" and "Summer".

Mr. MOROZOV (Union of Soviet Socialist Republics) said that there was no need to dwell on the arguments adduced by the United Kingdom representative against the proposed revision of General Assembly resolution 543 (VI), but the Commission would not be able to give its full attention to the many other items on its agenda until that question had been settled. Thus, the Commission would be wiser to leave until its following session the decision on how much time should be spent on completing the draft covenant or covenants. With regard to the three-Power draft resolution (E/CN.4/L.210), statements made by previous speakers had only strengthened his feeling that the Secretariat should not be asked to take the responsibility for drafting texts; it would set a dangerous precedent. He agreed with the Chilean representative about the inherent difficulties of translation and shared his experience. The problem could not be solved merely by linguistic means, as implied in the three-Power draft resolution. Throughout the session members had argued fine points of translation and each representative had often offered his own variant to express the same idea. It would be unseemly to ask the Secretariat to abandon its position of neutrality and lend its support to any particular suggestion made by the
/representative

representative of any particular government. He himself had found by experience that a good method was for each representative to have before him the texts in English, French and his own language, try to find an independent text that best expressed the idea desired and then submit his version to the Secretariat for final polishing. He therefore suggested that each member, perhaps with the help of the Secretariat, should work on the texts in the interval before the next session, at which a small drafting committee might perhaps be set up to pool the results. Thus a document could be issued for which the members of the Commission would be responsible and the setting of a very dangerous precedent would be avoided.

Mr. CHENG PAONAN (China) hoped that the Secretariat would be able to supply a Chinese text of the draft articles within a reasonable time and that errors similar to those made in the translation of the Genocide Convention would not be repeated. He would support the four-Power draft resolution (E/CN.4/L.209) and oppose the USSR draft resolution (E/CN.4/L.195). He would support both three-Power draft resolutions (E/CN.4/L.210, E/CN.4/L.216) and the French amendment (E/CN.4/L.218). The Commission must not neglect items other than the draft covenants on its agenda. He moved the closure of the debate.

That motion was adopted.

Mr. CASSIN (France), speaking on a point of order, said that his co-sponsors, the representatives of Australia and India, had authorized him to withdraw the three-Power draft resolution (E/CN.4/L.210). The results contemplated in it would be achieved since all members had expressed their confidence in the Secretariat and expected the Secretariat to assist the Commission in future in the same way as it had done in the past, and as members had pledged themselves to work individually on the translation of the texts.

Mr. MOROZOV (Union of Soviet Socialist Republics) asked that the vote on the USSR draft resolution (E/CN.4/L.195, E/CN.4/L.195/Corr.1) should be taken by roll-call.

/A vote

A vote was taken by roll-call.

The Ukrainian Soviet Socialist Republic, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia, Chile, Egypt, Pakistan, Poland.

Against: United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Belgium, China, France, Greece, India, Lebanon, Sweden.

The USSR draft resolution (E/CN.4/L.195, E/CN.4/L.195/Corr.1) was rejected by 10 votes to 8.

The CHAIRMAN called for a vote on the Polish oral amendment to the joint draft resolution submitted by India, Lebanon, Sweden and United States of America (E/CN.4/L.209) proposing to delete the second paragraph of the preamble.

The Polish oral amendment to delete the second paragraph of the preamble was rejected by 9 votes to 7, with 2 abstentions.

The Polish oral amendment to substitute in the first paragraph of the preamble the words "the work" for "the drafting of two Covenants" was rejected by 9 votes to 7, with 2 abstentions.

The Polish oral amendment to the fourth paragraph of the preamble to substitute the words "this question" for the phrase beginning "on the two Covenants" and ending "taken up by it" was rejected by 9 votes to 7, with 2 abstentions.

The Polish oral amendment to the operative part to delete the words "on the two Covenants" was rejected by 9 votes to 7, with 2 abstentions.

The Polish oral amendment to substitute "the results of its work" for "the draft Covenants" in the operative part was rejected by 9 votes to 7, with 2 abstentions.

Mr. BORATYNSKI (Poland) withdrew his other oral amendment to the operative part.

/Mrs. ROOSEVELT

Mrs. ROOSEVELT (United States of America), with the concurrence of Mrs. MEHTA (India), Mr. AZKOUL (Lebanon) and Mrs. RUSSEL (Sweden), said that, in order to meet the Uruguayan representative's objection to the words "Spring" and "Summer" in the operative part, the words "at its next session in" should be substituted for "in the Spring of" and the words "by the Summer of 1953" should be deleted.

The draft resolution submitted jointly by the delegations of India, Lebanon, Sweden and United States of America (E/CN.4/L.209), thus amended, was adopted by 12 votes to none, with 6 abstentions.

Mr. GHORBAL (Egypt) explained that his delegation had not abandoned its stand in favour of the single covenant and had, indeed, voted for the USSR draft resolution. As that draft resolution had been rejected, it had seen no good reason for voting for the Polish amendments, since the Commission had in fact been working on two draft covenants. If, however, any proposal was made in the future to reconsider the General Assembly's decision that there should be two covenants, the Egyptian delegation would strongly support it.

Mr. CASSIN (France) accepted the Australian oral amendment to the French amendment (E/CN.4/L.218) to the three-Power draft resolution (E/CN.4/L.216).

Mr. HOARE (United Kingdom) suggested that, if the Australian delegation's aim was greater flexibility, the words "along the lines indicated above" should be deleted.

Mr. WHITIAM (Australia) accepted that amendment.

Mr. CHENG PAONAN (China), supported by Mr. WAHEED (Pakistan), explained that he could not vote for the Australian oral amendment because experience had shown how impossible it was to divide the work into two parts in a single session.

Mr. KYROU (Greece) did not agree. There would be a recess between the two parts of the session. There would have to be a structural arrangement of the operative part if the French amended amendment was adopted.

/The French

The French amendment (E/CN.4/L.218), as orally amended by the Australian delegation, to the joint draft resolution by Chile, Pakistan and Uruguay (E/CN.4/L.216) was adopted by 9 votes to 8, with 1 abstention.

The draft resolution submitted jointly by the delegations of Chile, Pakistan and Uruguay (E/CN.4/L.216), as amended, was adopted by 11 votes to 3, with 4 abstentions.

PLACE OF THE NEXT SESSION

Mr. BORATYNSKI (Poland) made the following proposal regarding the next session of the Commission:

"The Commission on Human Rights recommends to the Economic and Social Council to decide that the Commission meet in 1953 in Geneva."

Mr. CASSIN (France) was in principle in favour of meeting in Geneva, but there was a possibility that some Member Government might offer its hospitality to the Commission.

Mr. NISOT (Belgium), Mr. AZKOUL (Lebanon), Mr. WHITIAM (Australia) and Mrs. RÜSSEL (Sweden) supported the Polish proposal, subject to considering the possibility to which the French representative had referred.

Mr. BRACCO (Uruguay) supported the proposal in principle, but reserved his delegation's position in the Economic and Social Council, since hospitality might be offered outside Europe.

Mr. CHENG PAONAN (China) said that his delegation had always opposed the holding of sessions away from Permanent Headquarters, where the facilities were better than they would be elsewhere.

The Commission decided, by 10 votes to 3, with 4 abstentions, to recommend that it should meet in 1953 in Geneva.

Mr. SCHWELB (Secretariat) drew attention to the statement of financial implications submitted by the Secretary-General (E/CN.4/L.217). If the session was held in Geneva the cost of travel for members of the Commission would be:

/ \$10,200

\$10,200 and for travel and subsistence for members of the Secretariat would be \$14,000. There might be additional costs for temporary assistance; they had not been estimated yet, as there had not been time to consult the Geneva Office.

In reply to questions, Mr. Schwelb said that the travel expenses for members of the Commission had been the main item in the sum of \$11,700 provided for the cost of a session at Headquarters. The estimates for 1953 were identical with the actual cost in 1951, when the services of Secretariat members travelling to Europe on home leave or to service other bodies meeting in Europe had been used.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that the General Assembly would have to take the final decision in the light of the general calendar. Some Secretariat members might be able to travel on the budget of the Council or other organs. He could not see why there would be a saving of only \$1,000 if the session was held at Geneva, since most members of the Commission would not have to cross the ocean.

Mrs. ROOSEVELT (United States of America) said that with the permission of the Chairman, and in order to expedite the Commission's work she would not make her statement orally but submit it in writing for distribution to the members of the Commission.

The CHAIRMAN said that in view of the late hour and the fact that the Commission still had a great deal of work to accomplish it would be preferable if the representative of the United States could circulate her statement.

He said that he interpreted the Commission's decision at the preceding meeting to mean that all items remaining on the agenda were automatically deferred to the next session of the Commission.

It was so agreed.

The meeting rose at 5.30 p.m.

27/6 p.m.