



COMMISSION ON HUMAN RIGHTS

Eighth Session

SUMMARY RECORD OF THE THREE HUNDRED AND THIRTY-EIGHTH MEETING

Held at Headquarters, New York,
on Friday, 13 June 1952, at 8 p.m.

CONTENTS:

Consideration of the draft report of the eighth session
(E/CN.4/L.200/Add.2, E/CN.4/L.200/Add.3, E/CN.4/L.200/Add.4,
E/CN.4/L.200/Add.5, E/CN.4/L.200/Add.6, E/CN.4/L.200/Add.7,
E/CN.4/L.200/Add.8, E/CN.4/L.200/Add.9) (concluded)

<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
	AZMI Bey	Egypt
	Mr. GHORBAL	
	Mr. JUVIGNY	France
	Mr. KYROU	Greece
	Mr. KAPSAMBELOS	

Members (continued):

Mrs. MEHTA	India
Mr. AZKOUL	Lebanon
Mr. BORATYNEKI	Poland
Mrs. RUSSEL	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. FOMTEZA)	
Mr. JEVREMVIC	Yugoslavia

Representatives of non-governmental organizations:Category B

Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mrs. CARTER	International Council of Women
Mrs. SOUDAN)	International Federation of Business and Professional Women
Mrs. HYMER)	
Miss GARTLAN	International Union of Catholic Women's Leagues
Mr. RONALDS	World Union for Progressive Judaism

Secretariat:

Mr. GEORGES-PICOT	Assistant Secretary-General in charge of the Department of Social Affairs
Mr. HUMPHREY	Director, Division of Human Rights
Mr. SCHWEIB	Division of Human Rights
Mr. LIN	Division of Human Rights
Mr. DAS)	Secretaries of the Commission
Miss KITCHEN)	

/CONSIDERATION

CONSIDERATION OF THE DRAFT REPORT OF THE EIGHTH SESSION (E/CN.4/L.200/Add.2, E/CN.4/L.200/Add.3, E/CN.4/L.200/Add.4, E/CN.4/L.200/Add.5, E/CN.4/L.200/Add.6, E/CN.4/L.200/Add.7, E/CN.4/L.200/Add.8, E/CN.4/L.200/Add.9) (concluded)

Chapter IV A: Draft covenant on economic, social and cultural rights
(E/CN.4/L.200/Add.3) (continued)

Paragraphs 17 and 18

Paragraphs 17 and 18 were adopted.

Paragraphs 19 to 23

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) suggested the addition after the second sentence of paragraph 19 of a statement to the effect that the members referred to in the second half of that sentence had stressed that the obligation of States to create the conditions necessary to enable every person to acquire an education without discrimination was particularly important in view of the fact that more than half of the population of the world was still illiterate.

Paragraphs 19 to 23 were adopted subject to the amendment to paragraph 19 proposed by the representative of the Ukrainian SSR.

Paragraphs 24 and 25

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) proposed that the penultimate sentence of paragraph 24 should be completed by a statement to the effect that many members of the Commission had pressed for maintenance of the text of the article since in Trust Territories and Non-Self-Governing Territories in particular the majority of the population did not yet enjoy proper conditions even for primary education.

Mrs. ROOSEVELT (United States of America) objected to the constant reiteration of references to Non-Self-Governing Territories in the various parts of the report.

The CHAIRMAN put to the vote the Ukrainian amendment to paragraph 24.

The Ukrainian amendment was rejected by 5 votes to 3 with 4 abstentions.

Paragraphs 24 and 25 were adopted.

Paragraphs 26 to 28

Mr. AZKOUH (Lebanon) pointed out a discrepancy between the French and English texts of the first sentence of paragraph 26 in connexion with the numbering of the Commission's meetings.

In paragraph 27 he requested the insertion of a reference to show that the United States amendment as adopted (E/CN.4/L.81/Rev.1) had incorporated the text of the Lebanese sub-amendment in document E/CN.4/L.105/Rev.1.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) suggested the insertion in paragraph 26 of a statement to the effect that some members considered it essential to complete the article by adding a provision that States undertake to ensure the development of science and culture in the interest of progress and democracy and in the interests of ensuring peace and co-operation among nations. That amendment would serve to clarify the nature of the proposal which had been rejected.

Paragraphs 26 to 28 were adopted subject to the above amendments.

Paragraph 29 and 30

Paragraphs 29 and 30 were adopted.

Paragraph 31

Paragraph 31 was adopted.

Paragraphs 32 to 34

Mr. HOARE (United Kingdom) suggested a number of drafting changes in paragraph 32.

Paragraphs 32 to 34 were adopted subject to drafting changes in paragraph 32.

Paragraphs 35 to 39

Mr. HOARE (United Kingdom) proposed a number of drafting changes in paragraph 35, and the insertion after "the opinion was expressed that" in paragraph 36 of the words "it was out of place in the present article and that".

Paragraphs 35 to 39 were adopted subject to these proposed changes in paragraphs 35 and 36.

Paragraphs 40 and 41

Mr. HOARE (United Kingdom) noted that the word "in" had been omitted in the first line of page 24 of the English text of paragraph 40.

Paragraphs 40 and 41 were adopted subject to its addition.

Paragraphs 42 and 43

Mrs. RÖSSEL (Sweden) suggested that in the second sentence of paragraph 42 the word "defended" should be changed to "made".

Paragraphs 42 and 43 were adopted subject to that change in paragraph 42.

Paragraphs 44 to 47

Mr. MOROZOV (Union of Soviet Socialist Republics) pointed out that the Commission had had a lengthy discussion of the French proposal relating to the right to own property before adjournment of the debate in the matter. In his opinion that discussion should be reflected in the report and the views set forth by a number of delegations should be added to paragraph 46. He suggested a statement to the effect that some representatives had felt that the question of "fair compensation" fell within the domestic jurisdiction of States and that the concept of "fair compensation" was vague, subject to a variety of interpretations and might serve as a pretext for the continuation of illegal privileges based on unfair treaties or as an excuse for the enslavement of economically under-developed countries.

Mr. JUVIGNY (France) said that while he had no objection in principle to the inclusion of an explicit statement of the views expressed by some members of the Commission, he felt that the addition proposed by the USSR representative would make the relevant section of the report disproportionate and that in the circumstances it was preferable to retain the present text which summarized all points of view briefly.

Mr. HOARE (United Kingdom) suggested that the USSR representative might agree to shorten his proposed addition to paragraph 46.

/Mr. MOROZOV

Mr. MOROZOV (Union of Soviet Socialist Republics), supported by Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) and Mr. BORATYNSKI (Poland), protested against the attempt to prevent full expression of the views of the minority in the report. If the Commission preferred, he was prepared to state explicitly in the text that the views he proposed to add had been expressed by the delegations of the USSR, the Ukrainian SSR and Poland. He would raise no objection if any other member of the Commission wished to state his delegation's views at greater length in the report. It was essential, however, to give an accurate and balanced picture of what had taken place in the Commission.

He noted that in its present form the report lacked balance and did not adequately set forth the views of the minority. It was inadmissible and unprecedented to interfere with the right of the minority to remedy omissions and thus render the report objective.

Mr. JUVINY (France) and Mr. EDWARDS (United Kingdom) said that it was not their intention to prevent the full expression of all views in the report. They had merely sought to point out the need for balance in the text.

Mr. BRACCO (Uruguay) said that in the opinion of the Uruguayan delegation the report was satisfactory. He felt that any political elements which had entered into the debate should be reflected in the report, provided that the right to reply was granted in all cases.

Mr. CHENG PACHAN (China) could not agree that the report was unsatisfactory. It was his view that the Rapporteur had done a very commendable job in the time at his disposal.

After a further exchange of views, it was agreed that the USSR text should be added in paragraph 46.

Mrs. ROOSEVELT (United States of America) proposed the deletion of the words "in the light of these doubts and differences of opinion" at the beginning of paragraph 47. She pointed out that the reason for the adjournment of the debate on the French proposal was not clear and that therefore that phrase should not be retained.

Mr. MOROZOV (Union of Soviet Socialist Republics) agreed that the opening words of paragraph 47 should be deleted.

After a further exchange of views, it was agreed to modify paragraph 47 as follows:

"Finally the Commission decided, by 12 votes to 4 with 2 abstentions, to adjourn the debate on the item under rule 45 of the rules of procedure."

Paragraph 44 to 47 were adopted subject to the USSR amendment to paragraph 46 and the change in the wording of paragraph 47.

Paragraph 48

Paragraph 48 was adopted.

Paragraphs 49 to 54

Mrs. ROOSEVELT (United States of America) suggested the following wording for the penultimate sentence in paragraph 50, in order better to express the particular argument described: "It was pointed out that it was necessary to provide that, as far as concerned more far-reaching legislation which States Parties might have or more liberal conventions to which they were parties, the corresponding provisions in the Covenant would not affect such laws or violate such conventions where the provisions involved were more advanced than those in the Covenant".

With a similar object, Mr. HOARE (United Kingdom) proposed to change the wording of the final sentence of paragraph 52, in the following sense: "It was contended by others that laws and conventions which guaranteed a fundamental human right could not possibly be in contradiction with either the covenant or the Charter, and that the proposed paragraph could not be invoked in support of the any legal provisions directed to the limitation or suppression of the rights".

Paragraphs 49 to 54, subject to the amendments suggested by the United Kingdom and United States representatives, were adopted.

/Paragraphs

Paragraphs 55 to 60

Paragraphs 55 to 60 were adopted, with certain drafting changes in paragraph 56 suggested by the United Kingdom representative.

Paragraph 61

Mr. WHITLAM (Australia), Rapporteur, called attention to three changes necessitated in paragraph 61 by the adoption at the 353rd meeting on the previous day of an additional paragraph for inclusion in the preamble to the covenant on economic, social and cultural rights.

Paragraph 61 was adopted, as thus amended.

Chapter IV: Draft international covenants on human rights and measures of implementation (E/CN.4/L.200/Add.2)

Paragraphs 1 to 5 were adopted, with certain drafting changes in paragraph 4 suggested by the United Kingdom representative.

Mr. BORATYNSKI (Poland) asked for paragraph 6 to be expanded to show that the object of his series of amendments to the draft resolution submitted by India, Lebanon, Sweden and the United States (E/CN.4/L.209) had been to secure deletion of the reference therein to the two covenants, on the ground that there had been no final decision taken in the matter by the General Assembly.

The CHAIRMAN suggested the following wording, which was accepted by the Polish representative: "...aimed at deleting the reference to the two covenants from the draft resolution."

Paragraph 6, thus amended, was adopted.

Replying to Mr. KOVALENKO (Ukrainian Soviet Socialist Republic), the CHAIRMAN said that the texts of the additional articles mentioned in the last sentence of paragraph 7 would be reproduced in annex II A to the Commission's report (E/CN.4/L.200/Add.8). The document reference in the penultimate sentence was to the report of the Commission's seventh session and that might better be indicated in the text.

/Mr. NISOT

Mr. NISOT (Belgium) objected to the first sentence of paragraph 7 as liable to give the impression that the Commission had adopted the draft covenants, and proposed that it should be redrafted to read approximately: "Annex I of the report reproduces in their present form the provisions of the draft international covenants on human rights and measures of implementation".

The CHAIRMAN suggested that the English text of paragraph 7 was not open to the doubt expressed by the representative of Belgium and that it was only necessary to make the French text of the beginning of the paragraph conform to the English text.

Paragraph 7, with the suggestion made by the Chairman for the French text, was adopted.

Paragraph 8 was adopted.

Chapter V: Communications (E/CN.4/L.200/Add.7)

Paragraphs 1 and 2

Paragraphs 1 and 2 were adopted.

Paragraph 3

After a brief discussion regarding the footnote, Mr. HOARE (United Kingdom) proposed that the wording should be rephrased to state that neither the Commission nor the Secretariat expressed any opinion.... He felt that some phrases in the footnote, even as amended, might whet curiosity about the contents of communications. The difficulty was that the Commission wanted to say that it would take no responsibility for deciding whether the facts alleged by the communications were or were not to be classified as violations of fundamental human rights, yet in the body of the text the classification had already been given.

Mr. NISOT (Belgium) and the CHAIRMAN thought that, as the footnote was bound to arouse curiosity, it should be left as vague as possible.

After further discussion the CHAIRMAN proposed that the last part of the footnote should read in English: "the validity of the conclusions which the authors of these communications draw from these alleged facts". A final draft could be worked out by the Rapporteur.

Paragraph 3, as provisionally amended, was adopted.

/Paragraph 4

Paragraph 4

Paragraph 4 was adopted.

Paragraph 5

Mr. MOROZOV (Union of Soviet Socialist Republics) suggested that the third sentence of the paragraph might be deleted.

Mr. AZKUL (Lebanon) opposed that suggestion, because the argument had run that, since the covenants had not been completed, the communications would have to be dealt with somehow in the interim.

Mr. VALENZUELA (Chile) supported the USSR representative's suggestion, since if the paragraph was included, the report would be dealing with irrelevant matter; there was nothing in the draft covenants relating to communications.

Mr. BRACCO (Uruguay) agreed with the Chilean representative, but thought that the problem of communications might be dealt with under the head of the measures of implementation. The following sentence might well be inserted: "for that reason, some delegations felt that resolution 75(V) of the Economic and Social Council should be reconsidered in order to ensure the better protection of human rights".

Mr. NISOT (Belgium), supported by Mr. HOARE (United Kingdom), thought that the arguments advanced against the Indian draft resolution by certain delegations had not been clearly enough expressed. He therefore proposed the insertion of a passage on the following lines: The following arguments had been advanced against the Indian proposal: since the covenants on human rights were not yet in existence, there were no criteria binding on States to determine what was or was not a human right. The Commission would therefore have only vague indications on which to base its assessment of the validity of the conclusions in the communications. A still stronger reason why the Indian proposal was not acceptable was that it entered into details of implementation by providing that, after examining communications, the Commission should make recommendations thereon to the Economic and Social
/Council.

Council. Even at the advanced stage that the Commission had reached in its work, it had taken no action on the implementation of provisions in the covenant. So long as States had not agreed by treaty to confer the necessary powers on organs of the United Nations, the latter were prevented from taking action by Article 2, paragraph 7 of the Charter, which forbade them to intervene in matters which were essentially within the domestic jurisdiction of any State. It would therefore seem, from all points of view, that the Indian proposal must be rejected. He would leave it to the Rapporteur to decide exactly where in paragraph 5 such a passage should be inserted.

Mr. HOARE (United Kingdom) moved the suspension of the meeting.

The meeting was suspended at 11 p.m. and was resumed at 11.35 p.m.

Mr. HOARE (United Kingdom) thought that the sentence beginning "other members pointed to the complexity..." should be completed by the insertion of a reference to the difficulty of sifting such a large number of communications and to the view that the Commission was not either by its composition nor by its terms of reference qualified to deal with complaints, nor had it any authority to make the enquiries which would be necessary before any judgment could be formed upon merely ex parte statements.

Mrs. MEHTA (India) objected that that would imply that the Commission had been asking for judicial powers, whereas the Indian draft resolution had merely asked for an authorization to submit reports and recommendations to the Council on selected communications.

The CHAIRMAN reminded the Commission that, under its terms of reference, it had a wide authorization to report and make recommendations on any matter pertaining to human rights. As some members had argued that the Commission could use those powers if it so wished, it should be very wary in saying anything that might be construed as contrary to its terms of reference.

AZMI Bey (Egypt) said that he had argued in the debate that the Commission was fully empowered to make such recommendations as those referred to in the Indian draft resolution. He must insist that a reference to that point of view should be inserted.

/Mr. MOROZOV

Mr. MOROZOV (Union of Soviet Socialist Republics) said that resolution 75(V) of the Economic and Social Council had settled once and for all that the Commission was not competent to deal with communications in the manner proposed by the Indian delegation.

Mr. BRACCO (Uruguay) supported the Egyptian representative. He did not object to the insertion of the contrary view, but the arguments adduced against it should also be included.

The CHAIRMAN said that the Rapporteur would insert a more adequate account of the views stated by the Egyptian, Indian and Uruguayan representatives on the basis of what had appeared in the summary records of the relevant meetings.

Mr. HOARE (United Kingdom) was prepared in the light of the discussion to agree to some modification of his original proposal, but it should include the statement that some members had expressed the view that if the Commission were to deal with complaints, its terms of reference might have to be modified.

After further discussion, the CHAIRMAN suggested that another sentence should be inserted to present the views of some members to the effect that the Indian proposal had been further defended on the ground that it was uncertain when the covenants would be completed and how many States would eventually be parties to them.

Mrs. MEHTA (India) requested the insertion of the words "each year" after "received" in the sixth line of paragraph 5.

Mr. HOARE (United Kingdom) said that the words "if accepted" should be inserted after the word "proposal" in the thirteenth line.

The CHAIRMAN said that the word "argued" should replace "agreed" in the seventh line.

Paragraph 5 as amended was adopted.

Paragraph 6

Mrs. MEHTA (India) requested the insertion of the words "the remaining part of" before "her draft resolution" in the last sentence.

Paragraph 6, as amended, was adopted.

/Paragraph 7

Paragraph 7

Mr. MARSHALL (Australia) felt that full justice had not been done to the French amendment to which the Australian amendment had been moved.

The CHAIRMAN said that the Rapporteur would expand the reference.

Paragraph 7 was adopted on that understanding.

Paragraph 3

Mr. AZKOU (Lebanon) asked that a brief paragraph should be inserted stating that the Commission had voted that the next session should be held in Geneva on the understanding that it might meet elsewhere, if invited, but in any case not in New York.

Mr. MOROZOV (Union of Soviet Socialist Republics) objected that the Lebanese proposal was unnecessary. The summary record would show that some delegations had interpreted the vote in that manner. In any case, the decision would be made by the Economic and Social Council.

Mr. JUVIGHY (France) and Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) could not see how a vote could be conditional.

Mr. VALENZUELA (Chile) agreed that the interpretation could be found in the summary record; if what the Lebanese representative had in mind had been agreed on, the text adopted would have read "elsewhere than in New York".

Mr. BORATYNSKI (Poland) said that when he had originally made the proposal, no delegation had mentioned any places except Geneva and New York.

Mr. AZKOU (Lebanon) said that all he wished to see inserted was a note to the effect that the reference to Geneva did not exclude the possibility of meeting at some other place, if the Commission was invited. The Rapporteur could decide where that note should be placed, but it should be somewhere before the text of the resolution.

/After

After further discussion, Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) agreed that the Lebanese representative's proposal, thus expressed, would be generally acceptable.

Paragraph 8 was adopted on the understanding that a note on the lines proposed by the representative of Lebanon should be included.

Paragraph 9

The CHAIRMAN asked the Rapporteur to insert a reference to the fact that the items on its agenda which it had not been able to complete had been deferred to a future session.

Paragraph 9, as amended, was adopted.

Chapter IV: B. Draft covenant on civil and political rights (E/CN.4/L.200/Add.4)

Paragraph 1

Paragraph 1 was adopted.

Paragraph 2

Mr. JEVREMOVIC (Yugoslavia) objected to the wording of the paragraph on the ground that it did not restate paragraph 3 (c) of General Assembly resolution 421 B (V). The report should either paraphrase the full text of the resolution, or contain no reference to it at all.

Mr. WHITLAM (Australia), Rapporteur, pointed out that paragraphs 3 (a) and 3 (b) of the Assembly resolution referred specifically to the first eighteen articles, whereas there was no such reference in paragraph 3(c).

Mr. AZKOUL (Lebanon) suggested that the Yugoslav representative's wishes might be met by deleting the end of the second sentence of paragraph 2, from the words "resolution 349 (XII)" onwards.

Mr. JEVREMOVIC (Yugoslavia) agreed that the deletion would eliminate his objection.

Paragraph 2, with the Lebanese amendment, was adopted.

Paragraph 3

Paragraph 3 was adopted.

Paragraph 4

Paragraph 4 was adopted.

/Paragraphs 5 to 7

Paragraphs 5 to 7

Mr. VALENZUELA (Chile) objected to the phrase "Such derogations were characterized as charters of the right to take life and therefore as..." in paragraph 6, on the ground that the report should not recognize a right to take life.

Mr. HOARE (United Kingdom) suggested, to meet the Chilean representative's objection, a re-wording to the effect that the derogations had been characterized as authorizations to take life.

Mr. BRACCO (Uruguay) proposed that a sentence should be added at the end of the first sentence of paragraph 6 to the effect that the opinion had also been expressed that the Commission should maintain the principle that no one should be deprived of life under any circumstances.

Mr. MCROZOV (Union of Soviet Socialist Republics) pointed out that the description in paragraph 7 of the voting on the USSR amendment (E/CN.4/L.122) as amended by the Chilean and United States delegations, gave an unfortunate impression since it implied that the text of the USSR amendment to which the joint proposal was a sub-amendment constituted an attempt to specify a catalogue of exceptions to the right, whereas, in fact, it was only slightly different from the joint proposal that was adopted by the Commission.

After an exchange of views, the CHAIRMAN proposed that the penultimate sentence should be modified to read approximately as follows: "This view the Commission rejected, when at its 311th meeting it adopted by 10 votes to 5, with 3 abstentions, the joint amendment proposed by Chile and the United States of America (E/CN.4/L.176) to the effect that the first sentence of the USSR amendment (E/CN.4/L.122), which read 'No one may be deprived of life', should read 'No one shall be arbitrarily deprived of his life'".

Paragraphs 5 to 7, with the Chilean-United Kingdom and Uruguayan amendments to paragraph 6 and the USSR amendment to paragraph 7, were adopted.

/Paragraphs 8 and 9

Paragraphs 8 and 9

Mr. HRACCO (Uruguay) proposed the addition at the end of the first sentence of paragraph 8 of a sentence to the effect that other delegations had been opposed to capital punishment under any circumstances.

Paragraphs 8 and 9, with the Uruguayan amendment to paragraph 8, were adopted.

Paragraphs 10 and 11

Mr. JUVIGNY (France) proposed that the words "that right being exercisable by the individual, it was felt that, since an amnesty was in the nature of a collective pardon" in paragraph 10 should be replaced by a phrase to the effect that amnesty was a measure decided on proprio motu by the legislature and having a collective nature.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) proposed the deletion of the footnote to paragraph 11, on the grounds that it was unnecessary.

Paragraphs 10 and 11, with the French amendment to paragraph 10 and the Ukrainian amendment to paragraph 11, were adopted.

Paragraphs 12 and 13

Mr. HOARE (United Kingdom) asked that the reference to his oral amendment to the Yugoslav proposal in paragraph 12 should be deleted, since his assistance in modifying that proposal was not to be interpreted as support for the proposal. In fact, he had abstained on the voting.

Mr. VALENZUELA (Chile) suggested that the heading preceding paragraph 12 should be revised to read "Prohibition of the execution of sentence of death on pregnant women".

Paragraphs 12 and 13, with the United Kingdom and Chilean amendments to paragraph 12 and the heading, were adopted.

Paragraphs 14 to 16

Mr. HOARE (United Kingdom) proposed the addition after the second sentence of paragraph 15 of a phrase reading approximately as follows:

/ "particularly

"particularly in cases where circumstances precluded the possibility of obtaining the consent of the person concerned".

Paragraphs 14 to 16, with the United Kingdom amendment to paragraph 15, were adopted.

Paragraphs 17 and 18

Paragraphs 17 and 18 were adopted.

Paragraphs 19 and 20

Mr. HOARE (United Kingdom) proposed the addition after the fifth sentence of paragraph 20 of a phrase as follows: "and since the Commission itself at its sixth session had reached no agreed conclusion on its meaning".

Paragraphs 19 and 20, with the United Kingdom amendment to paragraph 20, were adopted.

Paragraph 21

Paragraph 21 was adopted.

Paragraphs 22 and 23

Paragraphs 22 and 23 were adopted.

Paragraph 24

Paragraph 24 was adopted.

Paragraphs 25 to 27

Paragraphs 25 to 27 were adopted.

Paragraph 28

Paragraph 28 was adopted.

Paragraph 29

Paragraph 29 was adopted.

Paragraphs 30 to 33

Mr. HOARE (United Kingdom) proposed that the phrase "already provided for in the article by the use of the expression..." in paragraph 30 should be re-worded to read "already permitted by the use in the article of the expression..."

Mrs. ROOSEVELT (United States of America) proposed that the adjective "permissible" should precede the word "exceptions" in the sixth, eighth and tenth lines of paragraph 32.

/Mr. HOARE

Mr. HOARE (United Kingdom) suggested that the phrase "in its metropolitan territory" in the last sentence of paragraph 31 should read "even in their metropolitan territories".

Paragraphs 30 to 33, with the United Kingdom amendment to paragraphs 30 and 31 and the United States amendments to paragraph 32, were adopted.

Paragraph 34

Paragraph 34 was adopted.

Paragraphs 35 and 36

Paragraphs 35 and 36 were adopted.

At the suggestion of Mrs. ROOSEVELT (United States of America), the CHAIRMAN stated that the Commission would consider the text article by article, rather than section by section.

Paragraphs 37 to 43

Mr. HOARE (United Kingdom) proposed that before the second sentence there should be added a text to the effect that a number of other representatives had thought that the article as drafted, in its reference to "established legal grounds", confused executive with judicial functions and, on the other hand, formulated no specific safeguards for aliens threatened with expulsion proceedings. Such a text would better express the views advanced by the United Kingdom and French representatives.

Mrs. ROOSEVELT (United States of America) thought that the phrase "While there was no opposition in principle to the desirability..." in the last sentence of paragraph 42 should be changed to read "While many representatives approved the granting of asylum in proper cases".

Mr. BRACCO (Uruguay) proposed that the phrase "...not only that it was desirable to include this right in the covenant on civil and political rights, but also..." at the beginning of paragraph 41 should be replaced by a text reading approximately as follows: "...not only that asylum was one of the fundamental rights of the human being, but also..."

/Mr. JUVIGNY

Mr. JUVIGNY (France) thought that greater emphasis should be laid in the report on his delegation's amendment (E/CN.4/L.191), which the Commission had discussed at length, and proposed the insertion of another sentence after the reference to the amendment in paragraph 41, to the effect that the French proposal stressed the need for international co-operation, which was essential for the effective safeguarding of the right of asylum.

Mr. MOROZOV (Union of Soviet Socialist Republics) considered that the reference to the USSR proposal in paragraph 41 was confused and misleading, and suggested the insertion of a phrase before the reference to the French amendment, to the effect that the USSR proposal specified that the right of asylum should not be granted to persons wanted for prosecution genuinely based on the commission of war crimes or other criminal offences or of acts contrary to the purposes and principles of the United Nations. The reference to such persons in the following sentence of the report should be deleted and the drafting modified accordingly.

Mr. HOARE (United Kingdom) proposed that the reference in paragraph 42 to the first argument against the inclusion of the article on the right to asylum should be amended to the effect that there was no fundamental right of the individual to be granted asylum but only the right of the State to extend its protection to him. He also proposed a drafting change to the last sentence of paragraph 42.

Paragraphs 37 to 43, with the United Kingdom amendment to paragraph 38, the Uruguayan, French and USSR amendments to paragraph 41 and the United States and United Kingdom amendments to paragraph 42, were adopted.

After an exchange of views on the advisability of adjourning the meeting, the CHAIRMAN expressed the view that the meeting should continue.

It was decided to proceed with the meeting after a short recess.

The meeting was suspended at 2.20 a.m. and resumed at 2.35 a.m.

Chapter IV: B. Draft covenant on civil and political rights (continued)
(E/CN.4/L.200/Add.5)

Paragraphs 1 to 19

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) observed that in paragraph 14 the views of the opponents of the text adopted at the sixth session had been set forth in greater detail than those of its supporters. He asked the Rapporteur to bear the need to redress the balance in mind when he revised the report. He could do so by using the summary records more fully to give a picture of the give and take in the debate; otherwise, the reader would be unable to understand why amendments to the original text had been submitted and why the Commission had retained the original text. Not all the amendments had been rejected merely because of the strength of the arguments against them.

Mr. WHITLAM (Australia), Rapporteur, said that he would be glad to comply with the Ukrainian representative's request wherever such changes seemed necessary. He had tried to reproduce the arguments on both sides, but had perhaps overweighted the opposition's case because the text finally adopted had seemed to sum up its supporters' position adequately.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) said that he was sure that the Commission could rely on the Rapporteur to make the necessary changes.

Mr. HOARE (United Kingdom) asked that the last sentence in paragraph 14 should be completed by a phrase showing that in effect the payment of compensation in the case of convictions reversed on appeal would also be required.

Paragraphs 1 to 19 were adopted, it being understood that paragraph 14 would be amended on the lines mentioned.

Paragraphs 20 to 25

Mr. HOARE (United Kingdom) said that the following words should be inserted after the end of the second sentence in paragraph 21: "since the assumption underlying the second sentence was that a penalty must ordinarily be that which was authorized by the law in force at the time of its imposition, the

/adoption

adoption of the third sentence was unnecessary and implied a contradiction of that assumption". At the end of the next sentence the following phrase should be added: "since that would seem to mean that convicted persons should benefit from any change made in the law after their conviction".

Mr. BORATYNSKI (Poland) explained why, in his view, the statements proposed for insertion were an incorrect interpretation of paragraph 1 of article 11.

Mr. HOARE (United Kingdom) thought that the difference in interpretation expounded by the Polish representative arose from the fact that that representative was thinking in terms of Roman law, whereas he himself was basing himself on Anglo-Saxon law. In any case, the arguments he wished inserted had been put forward in the course of the debate.

After a further exchange of views with Mr. HOARE (United Kingdom), Mr. BORATYNSKI (Poland) asked that the report should contain a statement to the effect that the interpretations of the text embodied in the amendments proposed by the United Kingdom representative were rejected by some members.

Paragraphs 20 to 25, with the United Kingdom and Polish amendments to paragraph 21, were adopted.

Paragraph 26

Paragraph 26 was adopted.

Paragraphs 27 to 33

Mr. HOARE (United Kingdom) pointed out, in connexion with the second sentence of paragraph 29, that the Commission had decided at its 333rd meeting to alter the phrase "either individually or collectively" to read "either individually or in community with others". He also proposed that the words "other representatives considered that the conception of 'ordre public' was too vague... could only mean 'the prevention of disorder'" at the end of paragraph 31 should be redrafted to read approximately as follows: "other representatives considered that the conception of 'ordre public' was too wide to be accepted as a proper limitation on the right, since it included the conception of 'public policy'; on the other hand, if it were translated into English as 'public order', that expression could only mean 'the prevention of disorder'".

/Mr. JUVIGNY

Mr. JUVIGNY (France) asked for an exact translation into French of the words "public policy".

After a brief exchange of views, the CHAIRMAN said that, since the terms "ordre public" and "public policy" seemed to be untranslatable, they should be left in the original languages in the English and French texts respectively.

Paragraphs 27 to 33, with the United Kingdom amendments to paragraphs 29 and 31, were adopted.

Paragraphs 34 to 40

Mr. MOPOZOV (Union of Soviet Socialist Republics) proposed the deletion of the phrase "and not merely in the interests of a few" at the end of the first sentence of paragraph 36. He also thought that undue emphasis had been laid in that paragraph on the arguments of the opponents of his views, and proposed the inclusion at the end of the paragraph of a sentence reading approximately as follows: "Some representatives pointed out that in a number of countries the bulk of the information media were in reality under the influence of capitalist monopolies, which used those media for their own narrowly selfish interests and against the interests of democracy and peace".

Mrs. ROOSEVELT (United States of America) thought that the USSR representative's text amounted to an accusation of certain countries, and proposed the addition of another sentence, to the effect that it had been pointed out in reply that the type of control outlined constituted a kind of censorship and the monopoly by the State of information media and thence of everything in the State touching the lives of the people. The monopoly of the State was the worst of all monopolies. She asked for a vote on the sentence that she had suggested.

The CHAIRMAN considered that it would be undesirable to take a separate vote on the inclusion of either the United States or the USSR sentence.

Mrs. MEHTA (India) thought that the Commission should decide whether or not unseemly charges and denials should be included in its report, and asked for a vote on the inclusion of both sentences.

/The CHAIRMAN

The CHAIRMAN put to the vote the question of including the sentences proposed by the USSR and United States representatives in paragraph 36 of the report.

It was decided, by 8 votes to 4, with 3 abstentions, not to include the sentences.

Mr. HOARE (United Kingdom) thought that the report should contain a sentence in paragraph 35 reading approximately as follows: "The view was expressed that the article should be limited to freedom from governmental interference, since it would be impossible to deal in the article with those interferences which arise in the field of personal relationships". He also suggested some slight drafting changes to paragraph 38.

The CHAIRMAN said that the Rapporteur would find an appropriate place in which to insert the sentence proposed by the United Kingdom representative.

Paragraphs 34 to 40, with the USSR amendment to the first sentence of paragraph 36 and the United Kingdom amendment to paragraph 35 and drafting changes to paragraph 38, were adopted.

Paragraphs 41 to 43

Paragraphs 41 to 43 were adopted.

Paragraphs 44 to 46

Paragraphs 44 to 46 were adopted.

Paragraphs 47 to 52

Mr. HOARE (United Kingdom) considered that paragraph 48 should contain a statement of the arguments adduced in favour of an express mention of trade unions in the article on the right of association, since that was the view that had prevailed. The counter arguments were already adequately covered.

The CHAIRMAN asked the Rapporteur to make the changes needed to redress the balance of the report in that respect.

Paragraphs 47 to 52 were adopted, subject to that change.

/Paragraphs

Paragraphs 53 to 57

Mr. MOORE (United Kingdom) found that paragraph 54 omitted reference to an important point in an argument put forward in discussion of the article on equality of rights. Some representatives had construed the existing article, not to relate to the content of laws, but to mean equality before judicial tribunals but if it was accepted that it applied to the content of laws and was also meant to apply to rights and freedoms not mentioned in the covenant, great confusion might arise in law.

The third sentence of the paragraph also needed redrafting to bring out more clearly the suggestion made that, if everyone was equal before the law and had equal protection of the law without discrimination, in the sense that he was entitled to the benefit of all laws and all rights under every law, then a difficulty would arise in respect of certain categories of persons, such as minors, mental defectives and others.

The CHAIRMAN said that the Rapporteur would find an appropriate wording to cover those points.

Paragraphs 53 to 57 were adopted on that understanding.

Paragraphs 58 to 63

Paragraphs 58 to 63 were adopted.

Chapter IV: B. Draft covenant on civil and political rights (continued)

(E/CH.4/L.200/Add.6)

Paragraphs 1 to 8

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) suggested that the words "it was asked how" in the second sentence of paragraph 2 might be redrafted to give a more positive account of the particular discussion described.

The CHAIRMAN said that the Rapporteur would make the necessary changes.

Paragraphs 1 to 8 were adopted on that understanding.

Paragraphs 9 to 16

Paragraphs 9 to 16 were adopted.

Paragraphs 17 to 20

Paragraphs 17 to 20 were adopted.

Annexes to the draft report (E/CN.4/L.200/Add.8)

Annex I

Mr. MOROZOV (Union of Soviet Socialist Republics) asked to be informed where in the annexes the text of the article on the territorial application of the international covenant on human rights, adopted by the Commission at its seventh session in pursuance of the General Assembly's decision, would be reproduced.

The CHAIRMAN answered that it would be included in annex I, section D, which would contain the text of the final clauses of the draft covenant, as given in the report of the Commission's seventh session (E/1992, annex I) but not considered at the eighth session.

Mr. MOROZOV (Union of Soviet Socialist Republics) protested against such a placing as inappropriate and as being an attempt to suppress the article by relegating it to the background. The text had been finally adopted by the General Assembly and the Commission; hence, its proper place was among the articles already adopted for the two draft covenants, i.e. in annex I, sections A and B.

Mr. AZKUL (Lebanon) said that the Egyptian representative, who had left the meeting, had asked him to propose the addition of a new section C, entitled "The territorial application of the international covenant on human rights", and reading: "Text adopted by the General Assembly in resolution 422 (V) and which appears as article 72 in the report of the seventh session of the Commission (for inclusion in both draft covenants)". The text of the article would then follow, and consequential changes would be entailed in the section of the report describing the content of the annexes (E/CN.4/L.200/Add.2, paragraph 7) and in the remaining sections of annex I.

Such a change, by properly drawing attention to a definitive text already adopted by the General Assembly, might serve to avoid further controversy on the point.

/Mr. HIBOT

Mr. NISOT (Belgium) took exception to the reference to the two draft covenants: at the time the General Assembly had adopted the article, only one covenant had been contemplated and no decision had so far been taken on the inclusion of the text in both draft covenants now under consideration. The article should remain where it was, as it was appropriately placed among the final clauses.

Mr. MOROZOV (Union of Soviet Socialist Republics) supported the Lebanese representative's proposal, as designed to secure a more suitable arrangement of the material in annex I. The facts regarding the article in question were not at issue; they were unalterable and could not be disputed.

Mr. HOARE (United Kingdom) could see no advantage in singling out article 72 and placing it in a separate section. The chief objective of the proposal would be equally attained by stating under section D that the article had been adopted by the General Assembly. Furthermore, a territorial application article was invariably placed among the final clauses of any international instrument and there could be no justification for the removal of article 72, more especially if it was intended that article 71 (the federal state article) should remain in that group.

Mr. AZKUL (Lebanon) agreed to withdraw the reference within brackets to the two draft covenants, so as to avoid controversy and any suggestion of prejudging the issue.

He cited several reasons why the article should not be included among the final clauses. First, the General Assembly had not specified that it should be so placed; secondly, its text was definitive and substantive whereas the remainder of the final clauses were still in the provisional stage, and were moreover generally of a formal nature. The Commission's report, as representing a phase of the United Nation's work on human rights, should clearly indicate what had already been adopted by the United Nations and his proposal would serve better to achieve that purpose.

/Mr. MOROZOV

Mr. MOROZOV (Union of Soviet Socialist Republics) proposed the closure of the debate.

The proposal for closure was approved by 13 votes to none, with 2 abstentions.

The proposal of the Lebanese representative, as amended, was approved by 11 votes to 3, with 2 abstentions.

Annex I, as amended, together with the consequential amendments to the earlier section of the report (E/CN.4/L.200/Add. 2, paragraph 7), was adopted.

Annex II

In reply to Mrs. ROOSEVELT (United States of America), the CHAIRMAN said that Section A would contain the proposals for additional articles submitted at the current session and those submitted to the seventh session which had not yet been acted upon.

Mr. MOROZOV (Union of Soviet Socialist Republics) wished to make it clear that his delegation was maintaining the last sentence in No. 2 of the USSR proposals (E/1992, annex IV, section B), which had been rejected on the ground that the right of national minorities to use their native tongue pertained to the rights of minorities rather than the right to self-determination and had not been discussed separately.

In reply to Mr. MARSHALL (Australia), the CHAIRMAN said that section B would contain all the proposals for a federal state article submitted to the seventh and eighth sessions.

Mr. MARSHALL (Australia), Mrs. MEHRA (India) and Mrs. ROOSEVELT (United States of America) withdrew the proposals submitted by their delegation to the fifth session in favour of the joint proposal (E/CN.4/L.199) submitted to the eighth session.

Mr. HOARE (United Kingdom) withdrew the texts submitted by his delegation.

Annex II was adopted.

Annex III

Annex III was adopted.

Annex IV

Mr. BRACCO (Uruguay) proposed that Thursday, 19 June should be set as the time limit for the submission of comments.

The CHAIRMAN observed that the Commission had decided that the time limit should be Tuesday, 17 June.

The Uruguayan proposal was adopted.

Annexes V and VI

Annexes V and VI were adopted.

Chapter VI: Adoption of the report of the eighth session to the Economic and Social Council (E/CN.4/L.200/Add.9)

The CHAIRMAN asked the Commission to act on the adoption of its report, subject to the many delegations of trust made to the Rapporteur.

The report of the eighth session of the Commission on Human Rights was adopted by 11 votes to none, with 5 abstentions.

Mr. MOROZOV (Union of Soviet Socialist Republics) had abstained from voting for the adoption of the report. Something, it was true, had been achieved during the eighth session, notably the drafting of an article on the right of peoples to self-determination and of recommendations concerning international respect for the self-determination of peoples. A few of the texts previously adopted had been improved. Unfortunately, despite the unprecedented length of the session, little else had been achieved. A great deal of time had had to be spent in defending from attack by the United States delegation and its supporters texts for which those delegations had previously voted, rather than in improving them. Inadequate though those articles had been, no effort had been spared to salvage what was good in them. The United States delegation had been guilty of conduct tantamount to the sabotaging of the General Assembly's
/instructions,

instructions, especially with regard to the economic, social and cultural rights. It was to be feared that the retention of the division into two covenants made it more than ever likely that the covenant on the economic, social and cultural rights would be consigned to limbo. Furthermore, the rejection of so many proposals of a progressive nature made by the USSR and other delegations had rendered the text of both covenants highly unsatisfactory. He must take the strongest exception to the ~~unprecedented~~ action of the United States delegation in circulating a statement ~~not made~~ in the course of the debate, thus depriving other delegations of an opportunity to reply to the allegations against them made in it. It was regrettable that the Chairman had been manoeuvred into a position in which he had been virtually compelled to authorize the circulation of such a document. He could refute the allegations point by point, but would not avail himself of his right to do so; he could only hope that such unfair tactics would not be repeated.

The CHAIRMAN explained that he had authorized the distribution of the United States document only after the United States representative had asked him whether such a procedure would help the Commission to speed its work. He would certainly have asked that representative to make her statement orally, had he had the least notion that its distribution in writing would have given rise to such strong objections. Any delegation that felt it necessary to do so had a perfect right to reply to the allegations in writing and to distribute that reply to the members of the Commission or to the press or even to hold a press conference. He appealed to Mr. Morozov, whose courtesy, fairness and tenacity the Commission had appreciated throughout the session, to regard the incident as closed.

Mr. BORATYNSKI (Poland) said that his delegation, a newcomer to the Commission's work, had tried its utmost to contribute to the drafting of an international instrument in the best possible terms. It had submitted proposals and amendments to that end and had supported the proposals of other delegations most likely to achieve it. Several of those proposals had fortunately been adopted, but the United States delegation and its supporters had marred so many articles that he had been compelled to abstain from voting both on them and on the adoption of the report.

/Mr. KOVALENKO

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) had abstained for similar reasons. He fully shared the USSR representative's disapproval of the tactics employed by the United States delegation.

Mr. MEHTA (India) had voted for the report, although she had not had time to peruse it with the close attention it deserved. She was well aware that the Rapporteur and the Secretariat were in no way to blame, and she had full confidence in their ability to revise the text where necessary. The intrusion of unseemly political controversy at that late hour had been painful; it was to be hoped that the Commission would in future rise above such polemics.

Mr. JUVIGNY (France) paid a warm tribute to the Chairman, to the Rapporteur, to the Assistant Secretary-General in charge of Social Affairs, to the Director of the Division of Human Rights, and to all members of the Secretariat concerned.

Mr. ROOSEVELT (United States of America) associated herself with the tribute to all the officers and individuals mentioned by the previous speaker. It was to be hoped that the Commission's work would not in future be hampered by the levelling of accusations and the consequent need to exercise the right of reply.

Mr. BRACCO (Uruguay) and Mr. KAPSANELIS (Greece) joined the previous speakers in expressing their appreciation of the work of the officials of the Commission and the members of the Secretariat concerned.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that if the Commission had made any progress at all, that was directly due to the ability with which the Chairman had conducted its debates. The task laid upon the Secretariat had been a particularly heavy one and it had been performed irreproachably.

/Mr. VALENZUELA

Mr. VALENZUELA (Chile) expressed his appreciation of the manner in which the Chairman, Vice-Chairman and Rapporteur had discharged their duties. He had once again had the particular pleasure of working with Mrs. Roosevelt.

The CHAIRMAN, winding up the longest meeting ever held by an organ of the United Nations -- even longer than the final meeting of the seventh session of the Economic and Social Council -- summed up the work of the eighth session. Whatever success had been achieved might be regarded as something of a miracle in the tense international atmosphere from which the subject of human rights could not be isolated. That was due not only to the fact that the members of the Commission had learned to work together, but also because they had been continuously conscious that the world looked to them to fulfil the obligations assumed by all Member States under the Charter. The debates had been brisk and exhaustive. Fundamental issues had been thoroughly explored. The range and depth of the subject on which the Commission was engaged had been shown, as never before, in the report, which had developed a new and successful technique in the narrative presentation of the proceedings. Both the method and the quality of the report deserved particular attention and special commendation; its drafting had required an unusual amount of work and the result had come up to expectation. He must express his appreciation of and gratitude to the Secretaries of the Commission, to the Assistant Secretary-General, to the Director and other members of the Division of Human Rights, and echo the tributes paid by previous speakers to the other members of the Secretariat concerned.

He declared the eighth session of the Commission on Human Rights closed.

The meeting rose at 5.30 a.m.