Document:-

**A/CN.4/SR.1008**

**Summary record of the 1008th meeting**

Topic:

**Succession of States in respect of matters other than treaties**

Extract from the Yearbook of the International Law Commission:-

**1969**, **vol. I**

asked whether the question should be studied on the basis of the subject-matter of succession, such as financial and economic or territorial questions, or whether it would not be preferable to start from the different types of succession of States.

36. The previous year the Commission had approved the principle of making a more specific study of succession of States due to decolonization, without neglecting the other causes of succession.[24] Solutions would certainly differ according to the origin of the succession: whereas a new State born of decolonization could be absolved from all obligations, a different solution would have to be applied to a State created by the fusion of several States or the partitioning of one State.

37. The Special Rapporteur was, of course, entirely free to approach the subject as he understood it. But perhaps he might once again consider the various ways of studying it and the possibility of adopting different methods according to the type of State succession considered. In any event, he (Mr. Ushakov) was convinced that a special chapter should be devoted to decolonization, covering all the questions of succession of States in respect of matters other than treaties.

38. Mr. CASTAÑEDA, referring to Mr. Ago's comment that the position of the successor State in regard to aliens was, in principle, more or less the same as that of any State in the absence of succession, observed that Mr. Ago had nevertheless made the reservation that there could be exceptions.

39. Those exceptions could be looked for in two opposite directions. First, could the successor State have more extensive obligations than those of the predecessor State? The answer was, of course, in the negative. The fact of succession added nothing. The Special Rapporteur had very well explained, in paragraph 33 of his report, that if succession imposed additional obligations on the successor State, it could only be by "some mysterious phenomenon of legal transmutation". It was, indeed, difficult to see what justification could be adduced for such new obligations.

40. The second type of exceptions had not been brought out clearly enough. Might not the obligations assumed by the predecessor State be diminished for the successor State by reason of the succession, since for the latter State they were *res inter alios acta*? It was not possible to give a general reply. The question must be examined for each type of succession. For instance, in a succession due to decolonization, when concessions had been granted very cheaply or under conditions which had been understandable at one time but were now unacceptable, the fact that the successor State had had nothing to do with the granting of those concessions might have the effect of lessening its obligations. Thus, while it was recognized, as a general principle, that the successor State was in the same position as the predecessor State, it could be recognized, as an exception, that its position could be changed by the very fact of the succession.

41. Mr. BEDJAOUI (Special Rapporteur) contested the premise of continuity upon which Mr. Ago's reasoning was based. If there were no element of rupture, that would indeed mean that the successor State assumed the obligations of the predecessor State. There would be no need to consider whether the successor State could modify or abolish acquired rights. The problem was solved by the premise itself.

42. A clearer situation could be arrived at if another premise, which he would be prepared to accept, were adopted. Instead of proceeding from the principle of continuity, by which the successor State absorbed the old legal order into its own legal order, the successor State could be regarded as being only a State like any other, and reference could be made to the international legal order. There would then be continuity, not of the legal order of the predecessor State, but of the international legal order. Once the successor State was born to international legal life, it immediately accepted the rules in force, namely, the international legal order. On that basis, it would be possible to accept the reasoning by which Mr. Ago drew the line of demarcation between the succession of States, which concerned the substance of the law, and responsibility, which covered the problems of sanction for violations.

43. As Mr. Castañeda had just said, the successor State should even be able to claim the right to be bound by lesser obligations than those of the predecessor State, in so far as it had not participated in drawing up the legal rules imposed on it.

The meeting rose at 12.45 p.m.

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## 1008th MEETING

*Wednesday, 25 June 1969, at 10.10 a.m.*

*Chairman:* Mr. Nikolai USHAKOV

*Present:* Mr. Albónico, Mr. Bartoš, Mr. Bedjaoui, Mr. Castañeda, Mr. Castrén, Mr. Eustathiades, Mr. Ignacio-Pinto, Mr. Kearney, Mr. Nagendra Singh, Mr. Ramangasoavina, Mr. Rosenne, Mr. Ruda, Mr. Tabibi, Mr. Tammes, Mr. Tsuruoka, Mr. Ustor, Sir Humphrey Waldock, Mr. Yasseen.

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### Succession of States and Governments: Succession in Respect of Matters other than Treaties

**(A/CN.4/216/Rev.1)**

[Item 2 (*b*) of the agenda]

*(continued)*

1. The CHAIRMAN invited the Commission to continue consideration of the Special Rapporteur's second report (A/CN.4/216/Rev.1).

[24] See *Yearbook of the International Law Commission, 1968*, vol. II, Report of the Commission to the General Assembly, paras. 61 and 79.

2. Mr. IGNACIO-PINTO said he wished to join in congratulating the Special Rapporteur on the thoroughness and elegance of his report. The question of decolonization had been studied particularly well.

3. The discussion had shown, however, that the succession of States, and more especially its economic and financial aspects, should be considered from a practical angle. The problem of acquired rights was so complex and so controversial that unless it shifted its ground the Commission was in great danger of rapidly reaching a deadlock. It would be better to adopt a pragmatic approach and look for points on which agreement would be possible, with a view to drawing up texts for submission to Governments. That seemed to be the only way to achieve a codification and slow but reliable progressive development of international law on the succession of States.

4. All who had lived under the colonial system would be grateful to the Special Rapporteur for having emphasized that situation. Decolonization, however, had not taken place in a uniform manner. The modes of accession to independence had been very varied and it would be a mistake to overlook that point.

5. The Special Rapporteur's arguments were perfectly appropriate to the context in which he had placed decolonization. When it was not a voluntary act and when a former colony had to be, so to speak, wrenched away, the inevitable conclusion was that there could be no acquired rights.

6. But decolonization might result from agreement between the former colonial Power, the predecessor State, and the former colony, the successor State. The successor State might have freely accepted, by treaty, what had been done by the predecessor State. There was also a question of good faith. For instance, a railway company in Dahomey had sold its business to the new State through the intermediary of the French Government. On Dahomey's accession to independence, the public debt included the balance outstanding on that transaction. He did not think that Dahomey could now simply repudiate the debt.

7. States which had come into existence through decolonization had a major interest in not adopting extreme positions. They were all subject to the imperative needs of development, and development was not possible without the help of investors. That was perhaps a down-to-earth point of view, but it was realistic.

8. On the whole, the arguments in the report concerning the other cases of State succession should be approved. However, since that was shifting ground, too categorical statements should be avoided. As Mr. Rosenne had said at the previous meeting, it was better to seek solutions which had some chance of securing a wide measure of agreement.

9. With regard to the Special Rapporteur's questionnaire,[1] he agreed that in State succession there was a substitution rather than a transfer of sovereignty. Acquired rights should be respected in some cases, as the situations were not always similar. Moreover, it should be borne in mind that decolonization might be completed in the fairly near future, and if the Commission was to work for the future, it must not rigidly adhere to a particular view of the question of State succession.

10. With regard to the tasks and inquiries referred to in question 8, as Mr. Yasseen had said, the Secretariat should not be assigned a task which was the responsibility of the Commission itself.[2]

11. He approved of the report in broad outline and was grateful to the Special Rapporteur for having recognized, in paragraph 156, that the successor State did have certain obligations. It was for the Commission to define those obligations.

12. Mr. KEARNEY said the discussion had shown that it was just as impossible to reject the concept of acquired rights altogether, as the Special Rapporteur proposed in his report, as it was to accept it without any qualification. A number ob members had already pointed out that there was a considerable body of international law which supported the thesis that a successor State was not free from all restraints in dealing with property rights established under the aegis of the predecessor State, and that if the successor State wished to take over such property it was subject to an obligation to compensate the former owners. It would be superfluous to recapitulate all the authorities, decisions and precedents for that point of view, as that had already been adequately done by some of his learned colleagues.

13. The mere assertion, in paragraph 148 of the Special Rapporteur's report, that international law had not raised the concept of acquired rights to the status of a principle, would not do away with that important body of international law. That type of flat assertion could just as well be countered by the assertion that the principle of acquired rights was *jus cogens* and not open to challenge. Both statements were probably equally fallacious.

14. The fact was that quite a large number of States did support the principle that the successor State was obliged to respect acquired rights to the extent of paying compensation in the event of nationalization of foreign property. And it was obvious that no consensus could be reached in the Commission on the basis of any assertion that such a principle did not exist.

15. On the other hand, neither would the Commission be able to reach a solution by ignoring some of the very real problems raised by the Special Rapporteur in his report. He had cited cases in which unduly heavy burdens had allegedly been laid on former colonies and had pointed out that in some former colonies the property holdings of former colonizers might be so large and managed in such retrograde fashion as to constitute a severe limitation on the economic development of the new State. If conditions of that kind did exist on a wide scale, they should certainly be taken into account and appropriate remedies should be devised.

16. The Commission, however, would need much more

[1] See 1003rd meeting, para. 1.

[2] See 1006th meeting, para. 61.

information about the facts of each particular case if it was to make any serious attempt to deal with problems of that kind. It would have to know, for example, to what extent the economy of an ex-colony, or specific sectors of it, was controlled by aliens who had acquired their holdings from the predecessor State. It would also have to know whether thoses aliens were re-investing in the local economy, the extent to which they were supplying expertise not otherwise available, the extent to which they were conducting research and development for the benefit of the local economy, and what indirect benefits or losses to the economy might result from their activities. For example, did they attract and encourage the establishment of additional productive capacity or did they hinder it? Those were only some examples of the type of information which the Commission should have if it was to deal at all satisfactorily with the problems raised by the Special Rapporteur. The practices of the past could not be relied on in laying down general rules: for example, one major complaint often encountered in legal literature was that foreign corporations tended to bleed the economy of a State by withdrawing excessive profits from it. He would like to point out, however, that the United States Treasury Department was greatly concerned by the fact that United States corporations operating in foreign countries were not repatriating their profits, usually for tax reasons, and were attempting to increase their capital holdings abroad.

17. With regard to the Special Rapporteur's questionnaire, and particularly to question 8, if the Commission was to engage in the progressive development of international law, it was far more important that it should ascertain what might be the economic and financial consequences of the maintenance, discontinuance or modification of the principle of acquired rights.

18. As to the major issue of the discussion, namely, the existence or non-existence of acquired rights, it seemed to him that the Special Rapporteur had approached the problem from too narrow a legal concept; for instance, in paragraph 149 of his report, he said: "However, if there has never been an acquired right to the maintenance *ne varietur* of a given situation, the theory of acquired rights is useless". That statement seemed to pay too much deference to legal formalism and too little to the basic principles which law was intended to serve. Law, after all, was not a mere abstraction, but was intended for the achievement of peace and harmony in human society. If the theory of acquired rights was regarded from that point of view, it was difficult to reach the bald conclusion that it was useless, since it undoubtedly did tend to promote stability, especially in the financial and economic spheres, and to encourage capital investment and technical assistance. It also avoided certain possible consequences that might result from a denial of the concept of acquired rights, such as the possibility of a resort to sanctions by a foreign State which had lost what it considered to be acquired rights. Foreign investment, after all, was an important element in the finances of many States, particularly in their balance-of-payments situation, so that any large-scale nationalization without compensation might involve their interests either directly or indirectly.

19. It might be argued that there was a social objective which was hindered by the maintenance of acquired rights, namely, the objective of improving the economic condition of the poorer countries, and particularly of former colonies. That thesis seemed to him to be the foundation of many of the positions taken by the Special Rapporteur in his report. However, in order to reconcile the apparent conflict between two international social objectives, each of which was valid in its particular sphere, it was still necessary to have much more information than was now available to the Commission about the impact of acquired rights on the economic development of former colonies. It was his belief that a solution of the economic and the financial problems of State succession could only be found if the Commission proceeded on the assumption that it was dealing with competing social goals which seemed to come into conflict with each other at certain points, and that the only way to work out a solution was to determine those actual points of conflict and see how they could be eliminated.

20. To return to the Special Rapporteur's questionnaire, he did not think it was necessary to go any further into legal theory under question 1, or into the balance of equities under questions 2 and 3. On question 4, he shared the doubts of other members as to whether the Commission should reach any conclusions about the problem of acquired rights in general. With regard to question 5, if any boundaries were to be drawn, it would have to be done by considering draft articles in greater detail. Concerning question 6, he agreed with the many members who believed that the chances of progress would be considerably greater if the Commission concentrated on concrete problems, rather than on acquired rights in the abstract.

21. The report made no attempt to define acquired rights; indeed, a definition might well be impossible. In his opinion, it was likely that there would be a vast difference in equity, law and fact between a person who held a foreign currency bond issued by a former local authority of the predecessor State, a foreign stockholder in a corporation established under the predecessor State, and a foreigner who owned and operated a farm in the successor State. At times, the discussion of the concept of acquired rights had seemed to him unreal because the range of factual situations involved was so broad that no single theory could possibly embrace them all. He urged, therefore, that the Commission should take up specific topics such as public property and public debts, with a view to determining what specific solutions it could reach for specific problems.

22. He further urged that all aspects of succession, such as the union of States, the division of States and the cession of territory, should also be dealt with, in addition to problems connected with decolonization.

23. Sir Humphrey WALDOCK said that nothing he had heard during the discussion had caused him to alter

in any material way the views he had previously expressed.[3]

24. His primary intention at present was to note the state of the debate. All members, including the Special Rapporteur, would have to agree that there was a great deal of uneasiness over the strong emphasis given in the report to the problem of acquired rights as the point of departure for examining the topic of succession of States in respect of matters other than treaties. The reasons for that uneasiness differed. The concern of some members, such as the Chairman and Mr. Ustor, was due to the fact that they did not believe in acquired rights at all. Other members thought that the discussion of acquired rights in the report was too absolute and amounted to a frontal attack on the whole concept of such rights; those members considered that a better balance was called for in the treatment of the interests at stake.

25. It was thus clear that the subject of acquired rights was a highly controversial one, and was likely to lead the Commission to an early deadlock in an undertaking which all concerned wished to be productive; he hoped the Special Rapporteur would bear that fact in mind in his concluding remarks on the future course of his work.

26. There could be no doubt that the decision which the Special Rapporteur and the Commission itself were about to take with regard to that work would be a very important one, and he had wished to make his own position clear because he would unfortunately be unable to attend the next meeting, at which the Commission was expected to conclude its debate.

27. He believed that the problems of State succession affecting the rights of individuals would prove to be the most controversial ones. They ranged well beyond the question of acquired rights and included a number of other extremely delicate questions, such as those of nationality, which were all the more delicate in the context of decolonization. For example, the demography of certain British territories had been fundamentally affected by the colonial period. Under the protection of British sovereignty, there had been considerable migratory movements spread over long periods. Non-indigenous communities had grown and prospered and, in some cases, had actually come to outnumber the indigenous peoples. Situations of that kind had created grave problems of statehood in connexion with the efforts made by the United Kingdom to carry out the process of decolonization in peace and harmony. Nationality questions of that type were very controversial and involved human problems of great magnitude.

28. The best approach to the topic of succession of States in respect of matters other than treaties was probably through such matters as public property and public debts. The Commission could bring out the basic principles of the topic in the context of those specific subjects; it would then be easier to deal at a later stage with other branches of the topic.

29. On the substance, he would continue to keep an open mind; he did not wish to pronounce on any particular point until the Commission had advanced much farther in its knowledge of the topic. He could, however, already agree with Mr. Ignacio-Pinto that it would be a mistake to lump together all cases of decolonization. In practice, the cases had been very varied and it was necessary to take into account the different situations which had arisen.

30. As the Special Rapporteur on the topic of succession of States and Governments in respect of treaties, he regretted that it would not be possible to make much more progress on that topic until the end of 1969, when he expected to be released from certain other major commitments. When the work on State succession in respect of treaties was more advanced, the Commission would probably find that a technical subject of that type afforded a better medium for the study of problems of acquired rights.

31. His own experience so far had been that many technical treaty problems arose in regard to State succession which could well provide a basis free from controversy for later consideration of some of the same problems in the context of State succession in respect of matters other than treaties. There could be no doubt that the latter topic was by far the most difficult part of State succession for the Special Rapporteur who had to deal with it.

32. Mr. RAMANGASOAVINA said he must pay a tribute to the Special Rapporteur for the quality and solidity of his report. The Commission now had evidence of the wisdom of its choice of Special Rapporteur and of the advantage of dividing the subject of State succession into two parts. It was only natural that the Special Rapporteur should have been rather sensitive to one particular aspect of the problem, namely, decolonization.

33. His report showed that neither practice nor doctrine offered generally accepted solutions from which a rule of international law could be derived. The notion of acquired rights was confused, and the position of States sometimes varied according to circumstances. Thus a State which had firmly rejected claims by aliens to acquired rights in a territory it had conquered at the end of the last century was now, after the recent accession of that same territory to independence, claiming respect for its own acquired rights with equal insistence.

34. The sovereign competence of the new State, its power to establish a new legal order, the imperative needs of its development, which required the total mobilization of its natural wealth and resources, the very vagueness of the concept of acquired rights and the problems relating to the mode and time of acquisition of the rights claimed were all factors which militated against the application of that concept. That was why States wishing to safeguard acquired advantages had arranged for them to be protected in their constitution or in co-operation agreements concluded at the time of the declaration of independence.

35. Nevertheless, it was already apparent that, even when acquired rights had been consolidated in that way,

[3] See 1005th meeting, paras. 7 *et seq.*

some injustice could still result, because nationals of the predecessor State were protected against any subsequent measures which might be taken by the new State, whereas nationals of the new State had to accept them. It must also be noted that, unlike those States which had safeguarded acquired rights in their constitution or by treaty, others, less numerous perhaps, had abolished those rights in the treaties they had concluded.

36. It had been demonstrated that there was no established rule or regular practice in the matter. Solutions varied according to the circumstances which had given rise to the succession. Substitutions of sovereignty which had taken place on amicable terms lent themselves more readily to mutual concessions than those which had occurred as the result of violent rupture. And so, while recognizing that there was no sure criterion, it was impossible to reject outright the theory of acquired rights, since some situations deserved to be preserved if only in the name of justice and equity.

37. At the start, studies would have to be directed towards the problems of acquired rights in economic and financial matters, but in more general terms. Certain aspects of acquired rights might belong to the responsibility of States. The subject as a whole, however, might be studied with reference to other concepts, such as equity, good faith and unjustified enrichment which, though vague perhaps, might shed light on each other. If, instead of being based on the concept of acquired rights, the study were made on the broader basis of the reciprocal rights and obligations of States in economic and financial matters, polemics over the actual concept of acquired rights could be avoided and situations in which obligations were too often regarded as "one-way" obligations could be more satisfactorily dealt with.

38. For the predecessor State could also have obligations to the successor State or its nationals, such as the pensions of ex-soldiers or retired civil servants of the former régime; or strategic debts—criminal expenditure—contracted by the predecessor State to consolidate its power before independence and which the successor State refused to pay; or where the successor State was situated down-stream from the predecessor State and was thus dependent on it.

39. That approach to the problem might perhaps free the discussion from politics and produce a more balanced account of the respective rights and obligations of the predecessor State and the successor State. In the last analysis, the subject might thus link up with State responsibility.

40. Mr. BARTOŠ said he could not refrain from congratulating the Special Rapporteur once more on his excellent report, which offered plenty of food for thought. He noted with regret, however, that the Special Rapporteur had not studied the effects of succession of States on the rights of private persons which, in his view, deserved separate treatment from the economic and financial interests of States and corporations and, moreover, were more important from the point of view of international law.

41. In his report, the Special Rapporteur set out to refute the principle of respect for acquired rights. That was perhaps the direction in which history was moving, since acquired rights used to be regarded as sacred, but nowadays their inviolability was increasingly called in question. With the decolonization process after the Second World War, the question had arisen whether the doctrine of acquired rights in the case of change of territorial sovereignty should be accepted or not. That question had already arisen in Soviet Russia after the October Revolution and in Yugoslavia after the overthrow of the monarchy. The Soviet Union had considered, and still considered, that there was no continuity between the imperial régime and the people's régime and that the Soviet State had therefore not inherited the obligations of the predecessor régime. Yugoslavia, on the other hand, after a period of hesitation, had recognized the external obligations created under the former monarchy, but not obligations connected with the internal public order. In the case of the newly independent States born of decolonization, the attitude varied according to how liberation had taken place. Some of those countries, like Pakistan and India, had recognized the continuity of obligations. In the case of the State of Israel, however, which had been created following the United Kingdom's renunciation of its mandate over Palestine, there had been cessation of one sovereignty and the creation of another, so that a transfer of obligations was out of the question.

42. As to the question of acquired rights in public law, the Special Rapporteur had defended only the *tabula rasa* thesis, which was legally correct, but had never been accepted by creditors. For the report to be complete, he should have mentioned various other theses, such as that of useful debts, although the public utility of such debts was often questionable.

43. With regard to equality of persons, diplomatic protection should not be confused with the capitulations régime. The purpose of diplomatic protection was to safeguard the interests of nationals and corporations of one State in another State, within the limits recognized by international law. But it gave no right to encroach on the jurisdiction of the host State.

44. The concepts of discrimination and an "international minimum standard" in the treatment of aliens were not things of the past, as the Special Rapporteur seemed to believe. The United Nations itself, in the International Covenants on Human Rights,[4] had recognized certain minimum standards, applicable to human beings as such, irrespective of nationality. That heralded a new era in which United Nations practice would be followed.

45. Opinion was divided on the question of compensation. In general, creditor States were in favour of full compensation, whereas debtor States denied the obligation to compensate or recognized it only with reservations. However, refusal to compensate might sometimes put the debtor State in an international situation in which it had no choice but to pay its debts, if it wished to regain access to the world market. Yugoslavia had been in that situation after the Second World War.

[4] See General Assembly resolution 2200 (XXI).

46. It seemed, therefore, that compensation was essentially a political and economic problem, not a legal one. It was a question of the international balance of forces. In the case of States born of decolonization, willingness to pay compensation was often prompted by the desire to establish good political relations with the predecessor State. The matter was then usually settled by agreement.

47. He recognized that large landowners or corporations which had exploited the natural resources of former colonies should not be compensated, because there were good grounds for believing that they had acted in bad faith. There could be no unjustified enrichment when they were expropriated by the successor State, because it was only recovering assets which formed part of the national heritage; that was in accordance with justice and with the resolutions of the General Assembly concerning permanent sovereignty over natural resources.[5] Private persons of humble means, however, like workers or farmers, living in the territory of the predecessor State, had the right to compensation within the limits of what was fair and reasonable, or to facilities for taking their property with them if they left that territory. It could be said that that kind of debt was an obligation of general international law which did not derive from a treaty, though it might be sanctioned by a treaty settling all questions of compensation.

48. The Special Rapporteur should be invited to prepare a definitive set of draft articles in the light of the comments made by the various speakers during the discussion, and to submit it at the Commission's next session.

The meeting rose at 12.40 p.m.

[5] See General Assembly resolutions 1803 (XVII) and 2158 (XXI).

## 1009th MEETING

*Thursday, 26 June 1969, at. 11.15 a.m.*

*Chairman:* Mr. Nikolai USHAKOV

*Present:* Mr. Ago, Mr. Albónico, Mr. Bartoš, Mr. Bedjaoui, Mr. Castañeda, Mr. Castrén, Mr. Eustathiades, Mr. Ignacio-Pinto, Mr. Kearney, Mr. Nagendra Singh, Mr. Ramangasoavina, Mr. Rosenne, Mr. Ruda, Mr. Tabibi, Mr. Tammes, Mr. Tsuruoka, Mr. Ustor, Mr. Yasseen.

### Succession of States and Governments: Succession in Respect of Matters other than Treaties

**(A/CN.4/216/Rev.1)**

[Item 2 (*b*) of the agenda]

*(continued)*

1. The CHAIRMAN invited the Commission to continue consideration of the Special Rapporteur's second report (A/CN.4/216/Rev.1).

2. Mr. ALBÓNICO said he fully supported the political philosophy underlying the Special Rapporteur's excellent report, though he did not agree with some of the legal conclusions. As he understood it, the Commission's terms of reference required it to study in broad outline the main legal systems of the world, regardless of the political views held by its members.

3. He proposed to examine the report in some detail in order to indicate the points on which he agreed with the Special Rapporteur and those on which he disagreed with him. In the first place, he noted that the Special Rapporteur said at the outset (para. 1) that he had made "only a provisional approach to the problem"—which explained certain minor omissions in such matters as citations.

4. The Special Rapporteur said that he was "acting in accordance with the views expressed in the Sixth Committee", and he made special reference to those views in his report (para. 5). It had been suggested that, because of that approach, the report amounted to an advocate's brief rather than a balanced analysis of the position. He (Mr. Albónico) thought that in some respects the Special Rapporteur had gone too far, while in others he had been rather cautious.

5. Contrary to what was maintained in the report (para. 7), the problem of acquired rights did not arise only in cases of social and political upheaval. It figured prominently in conflicts of laws in private international law, and also in disputes arising from intertemporal developments; in neither case was there any question of abrupt social or political change.

6. He agreed with the Special Rapporteur that a law which took effect immediately and affected all the consequences of legal situations which had come into existence before its promulgation was not a retroactive law (para. 11). A law had retroactive effect only when it took away a right already acquired. In Chile, the rule of non-retroactivity of the law was a mere recommendation of the legislators; the legislature had the power to make a law specifically retroactive and had been known to do so, despite a century and a half of uninterrupted democratic rule in that country.

7. He did not think that non-payment of compensation for expropriation amounted to a denial of acquired rights (para. 12). It could result from a state of necessity, though admittedly that idea was not yet part of international law.

8. He fully supported the Special Rapporteur's suggestion that a conspectus of State practice in the matter should be prepared (para. 16). If its work was to be successful, the Commission needed to have full information on the actual practice of States. As no commentaries would be attached to the compilation in question, it would cost less than the Secretariat had estimated.

9. Paragraphs 22 and 23 of the report, which dealt with essential points of substance, had very much impressed him. The Special Rapporteur had rightly stressed that the successor State had the same rights and obligations as the predecessor State (paras. 24